

PLACE: The FIND District Office, 1314 Marcinski Road, Jupiter, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Mark Crosley, Assistant Executive Director, (561)627-3386. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone number: (561)627-3386

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

Section II Proposed Rules

DEPARTMENT OF EDUCATION

Education Practices Commission

RULE NO.: 6B-11.009 RULE TITLE: Documentation of Mitigation, Aggravation, and Legal Argument

PURPOSE AND EFFECT: The Commission proposes the promulgation and adoption of the new rule to set forth procedures for documentation of mitigation, aggravation and legal arguments.

SUMMARY: The new rule will set forth procedures for documentation of mitigation, aggravation and legal arguments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Commission determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 1012.79(7), 1012.796 FS.

LAW IMPLEMENTED: 1012.79(7), 1012.796 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathleen Richards, Executive Director, Education Practices Commission, Turlington Building, Suite 224, 325 West Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6B-11.009 Documentation of Mitigation, Aggravation, and Legal Argument.

(1) Any documents a party wishes the Education Practices Commission panel members to consider relating to mitigation, aggravation, and legal argument shall be submitted to the Education Practices Commission at least 21 days prior to the scheduled hearing in order to allow adequate time for review and incorporation into the electronic agenda materials.

(2) A party submitting documents to the Education Practices Commission shall serve the other parties with a copy of the documents.

(3) Late filed exhibits may be accepted by the panel for good cause.

Rulemaking Authority 1012.79(7), 1012.796 FS. Law Implemented 1012.79(7), 1012.796 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Education Practices Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Education Practices Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

EXECUTIVE OFFICE OF THE GOVERNOR

Office of Tourism, Trade and Economic Development

RULE NOS.:	RULE TITLES:
27M-5.001	Definitions and Forms
27M-5.002	Application Process
27M-5.003	Qualification Process
27M-5.004	Certification Decision Process
27M-5.005	Verification of Actual Qualified Expenditures
27M-5.006	Withdrawal of Tax Credit Eligibility
27M-5.007	Award of Tax Credits
27M-5.008	Election of Tax Credits
27M-5.009	Transfer of Tax Credits

PURPOSE AND EFFECT: This new rule implements the Entertainment Industry Financial Incentive Program (the "Program") established in the Office of Tourism, Trade and Economic Development by Section 288.1254, F.S.

SUMMARY: This rule establishes a process by which production companies may apply for qualification and certification for allocation of Program tax credits.

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

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

RULEMAKING AUTHORITY: 288.1254(8)(a) FS.

LAW IMPLEMENTED: 288.1254 FS.

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

DATE AND TIME: Tuesday, November 30, 2010, 2:00 p.m.

PLACE: Room 2103, The Capitol, 400 S. Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Niki Welge at (850)410-4765 or the below information. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michelle Dennard, (850)922-9448, michelle.dennard@eog.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

27M-5.001 Definitions and Forms.

This section defines terms and phrases used throughout Chapter 27M-5, F.A.C. In this chapter, terms and phrases shall have the meanings defined in Section 288.1254, Florida Statutes, or in this section. Terms and phrases not defined by statute or rule shall be construed according to their plain meaning, and in all cases with the objective of advancing the purpose of the rule in which they appear. All referenced forms are available on the internet at <http://www.filminflorida.com> or may be obtained from OFE.

(1) “Act” means section 28 of Chapter 2010-147, Laws of Florida, codified at Section 288.154, Florida Statutes (formerly known as the Don Davis Entertainment Industry Economic Development Act, Chapter 2007-125, Laws of Florida).

(2) “Agreement” means the standard “Assurance of Compliance Agreement” form OTTED 1254-1 (12/10), which is hereby incorporated by reference.

(3) “Applicant” means a Production company that seeks qualification and certification under the Act for allocation and award of tax credits.

(4) “Application” means the standard “Florida Entertainment Industry Financial Incentive Application” form OTTED 1254-2 (12/10), which is hereby incorporated by reference.

(5) “Award Letter” means the standard “Florida Entertainment Industry Financial Incentive Program Award Decision Letter” form OTTED 1254-3 (12/10), signed by OTTED and provided to the Certified Production, which is hereby incorporated by reference.

(6) “Certification Letter” means the standard “Florida Entertainment Industry Financial Incentive Program Certification Decision Letter” form OTTED 1254-4 (12/10), signed by OTTED and provided to the Certified Production, which is hereby incorporated by reference.

(7) “Commercial and Music Video Queue” means the queue of Certified Productions, other than those eligible for the General Production Queue or the Independent and Emerging Media Production Queue.

(8) “Declaration of Florida Residency Form” means the standard “Florida Entertainment Industry Financial Incentive Program Declaration of Florida Residency” form OTTED 1254-5 (12/10), which is hereby incorporated by reference.

(9) “Florida Worker” means a person who is either:

(a) A legal resident of the State, as demonstrated by a valid Florida driver’s license or other State-issued identification accompanied by a completed and signed Declaration of Florida Residency Form; or

(b) A student enrolled full-time in a film-and-entertainment-related course of study at an institution of higher education in the State.

(10) “Florida Qualified Vendor” means a vendor or supplier in the State that is registered with the Department of State or the Department of Revenue, has a physical location in the State, and employs one or more Florida Workers (when provided services include personal services or labor, only personal services or labor provided by Florida Workers will qualify).

(11) “General Production Queue” means the queue of Certified Productions, other than those eligible for the Commercial and Music Video Queue or the Independent and Emerging Media Production Queue.

(12) “Independent and Emerging Media Queue” means the queue of Certified Productions, other than those eligible for the General Production Queue or the Commercial and Music Video Queue.

(13) “OFE” means the Office of Film and Entertainment, whose address is The Capitol, 400 S. Monroe Street, Tallahassee, Florida 32399.

(14) “OTTED” means the Office of Tourism, Trade and Economic Development, whose address is The Capitol, 400 S. Monroe Street, Tallahassee, Florida 32399.

(15) “Program” means the Entertainment Industry Financial Incentive Program established by the Act.

(16) “Qualification and Recommendation Memo” means the standard “Florida Entertainment Industry Financial Incentive Program Qualification and Recommendation” form OTTED 1254-6 (12/10), submitted to OTTED by the OFE Director (Film Commissioner), which is hereby incorporated by reference.

(17) “Queue” means one or all, as the context makes clear, of the General Production Queue, the Commercial and Music Video Queue, or the Independent and Emerging Media Queue.

(18) “Reasonable Schedule” means that the Recipient maintains its production schedule as provided to OFE, which includes beginning principal photography or the production project in the State no more than forty-five (45) calendar days before or after the principal photography or project start date indicated in the Application.

(19) “Recipient” means an Applicant that, after a certification process, OTTED certifies to receive Program credits and that enters into an Agreement with OFE.

(20) “Request for Confidentiality Form” means the standard “Florida Entertainment Industry Financial Incentive Program Request for Confidentiality” form OTTED 1254-7 (12/10), which is hereby incorporated by reference.

(21) “Summary Statement” means the standard “Florida Entertainment Industry Financial Incentive Program Summary Statement” form OTTED 1254-8 (12/10), which is hereby incorporated by reference.

(22) “State” means the State of Florida, either as a political entity or in the sense of geographical boundaries, as made clear from the context.

(23) “Tax Credit Election Form” means the standard “Florida Entertainment Industry Financial Incentive Program Tax Credit Election” form OTTED 1254-9 (12/10), which is hereby incorporated by reference.

(24) “Tax Credit Transfer Form” means the standard “Florida Entertainment Industry Financial Incentive Program Tax Credit Transfer” form OTTED 1254-10 (12/10), which is hereby incorporated by reference.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254 FS. History–New _____.

27M-5.002 Application Process.

(1) No earlier than 180 days before the first day of principal photography or project start date, an Applicant shall electronically submit its Application to the address indicated on the Application; provided, however, that that once a High-Impact Television Series has been certified, it may submit an Application for future seasons. The time of Application receipt by OFE shall be determined by reference to State computer server records.

(2) By 5:00 p.m. (Tallahassee time) on the next business day following the date of electronic Application submittal, OFE must receive from the Applicant all required supporting schedules and documents, as specified in the Application,

along with the original, signed, Application. These items must be provided as both hard copy and electronic files on an optical disc or flash drive. Upon OFE’s timely receipt of these materials, the Application shall be deemed complete.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(3) FS. History–New _____.

27M-5.003 Qualification Process.

(1) Once an Application is complete, OFE shall review it to determine whether it contains all required information and meets the Program criteria. The review will include an interview with the contact person listed on the Application.

(2) Based on its review, OFE shall either deny the Application or qualify the Applicant and recommend to OTTED that the Applicant be certified for a tax credit award, if available, based upon its approved Qualified Expenditures budget. OFE shall document its recommendation using the Qualification and Recommendation Memo.

(3) OFE shall prioritize all Qualified Productions on a first-come, first-served basis within the appropriate Queue, based on the time the Application was electronically received; provided, however, that a High-Impact Television Series shall be allowed first position in the General Production Queue (priority between High-Impact Television Series shall be determined on a first-come, first-served basis).

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(3) FS. History–New _____.

27M-5.004 Certification Decision Process.

(1) OTTED shall consider OFE’s recommendation and make a final determination of the actual maximum tax credits to certify, if available, to the Qualified Production. OTTED shall document its certification decision using the Certification Letter, the original of which OFE shall send to each Certified Production, with a copy to the Department of Revenue.

(2) Certification of tax credits is conditioned upon their availability pursuant to the fiscal year allocation specified in Section 288.1254(7), Florida Statutes.

(a) Certification of tax credits shall be tied to the fiscal year(s) in which the Certified Production is scheduled for completion. For example, a Certification Letter issued in one fiscal year may certify credits from a future fiscal year credit allocation.

(b) If OTTED certifies a Production for credits during a fiscal year in which the amount of credits remaining for certification during that fiscal year is greater than the amount of credits certified to the Production, then the Certification Letter shall indicate certification of current year credits.

(c) If OTTED certifies a Production for credits during a fiscal year in which the amount of credits remaining for certification during that fiscal year is less than the amount of

credits certified to the Production, then the Certification Letter shall distinguish between certification of current fiscal year credits and certification of future fiscal year credits.

(d) If OTTED certifies a Production for credits during a fiscal year in which all allocated credits have already been certified, but future fiscal year allocations remain available, then the Certification Letter shall indicate certification of future year credits. The Certification Letter shall specify the future fiscal year allocation to which it pertains.

(e) If no credits are available in the present or future fiscal years, then the Certification Letter shall indicate that certification is conditional and dependent upon credits becoming available in the future.

(f) If credits for a particular fiscal year become available in the future, either through non-award of previously certified credits or through legislative changes or otherwise, then OTTED shall distribute them on a first-come, first-serve basis, based on the time the original Application was received, and in descending order of priority to Productions previously certified under paragraphs (c), (d), and (e). OFE shall document this later certification by a supplemental Certification Letter, the original of which OFE shall send to the Certified Production, with a copy to the Department of Revenue.

(3) As an absolute condition precedent to award of credits, every Certified Production shall execute the Agreement before the first day of principal photography or project start date.

(4) Certification decisions shall be subject to review under Chapter 120 of the Florida Statutes.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(3) FS. History–New _____.

27M-5.005 Verification of Actual Qualified Expenditures.

(1) After all Qualified Expenditures have been made, the Certified Production shall hire an independent Florida-based and Florida-licensed Certified Public Accountant (CPA) of the Certified Production's choosing, at the Certified Production's expense, to verify the Qualified Expenditures.

(2) After the CPA verifies the actual Qualified Expenditures, the Certified Production company shall submit to OFE a final report, which shall include:

(a) The CPA's compliance audit.

(b) A letter from the CPA outlining its verification procedures.

(c) Proof the CPA has been fully paid. Such payment shall not be considered a Qualified Expenditure.

(d) A final report on the agreed upon procedures by the CPA determining the amount of Qualified Expenditures incurred by the Certified Production.

(e) Qualified Expenditures broken out by type: accounts payable to Florida Qualified Vendors, petty cash, and Florida Worker payroll (the latter being provided as separate files for the cast, crew, and extras).

(f) A completed Summary Statement signed by an authorized officer of the Certified Production company.

(g) A copy of all data substantiating the Qualified Expenditures (receipts, invoices, cancelled checks, payroll records, etc.). Any substantiation which OFE considers not a Qualified Expenditure will be returned to the Certified Production company for written rebuttal. If no written rebuttal is received within 10 business days, the expenses will not be considered a Qualified Expenditure. If written rebuttal is submitted within the required 10 business days, OFE will review the written rebuttal and, in the event OFE's decision remains the same, the rebuttal will be referred to OTTED for final determination.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(3) FS. History–New _____.

27M-5.006 Withdrawal of Tax Credit Eligibility.

OTTED shall withdraw the tax credit eligibility of a Certified Production that does not continue on a Reasonable Schedule. Failure to provide information requested by OTTED to demonstrate progression on a Reasonable Schedule shall result in certification being withdrawn and the loss of tax credit eligibility.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(4)(c) FS. History–New _____.

27M-5.007 Award of Tax Credit.

(1) OFE shall review the accountant's final report, submitted under subsection 27M-5.005(2), F.A.C., and then report to OTTED the final verified amount of actual Qualified Expenditures made by the Certified Production.

(2) OTTED shall determine and approve the final tax credit award amount to each Certified Production. OTTED shall document its award using the Award Letter, the original of which OTTED shall send to each Qualified Applicant, with a copy to the Department of Revenue.

(3) The final tax credit award amount may not exceed the maximum tax credit award amount certified, neither per fiscal year nor in the aggregate. The Award Letter shall specify the fiscal year(s) in which the awarded credits may be applied against tax liability.

(4) Awarded tax credits may later be revoked or forfeited as provided in Section 288.1254(9), Florida Statutes.

(5) Award decisions shall be subject to review under Chapter 120 of the Florida Statutes.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(3)(f), 288.1254(9) FS. History–New _____.

27M-5.008 Election of Tax Credits.

(1) Within fourteen (14) days after receipt of the Award Letter, the awardee shall file with OTTED a completed Tax Credit Election Form, which shall constitute an irrevocable election to apply the tax credit against taxes due under Chapter

220, Florida Statutes, against taxes collected or accrued under Chapter 212, Florida Statutes, or against a stated combination of the two taxes.

(2) Within fourteen (14) days after OTTED receives a completed Tax Credit Election Form, OTTED shall provide a copy of the form to the Department of Revenue.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(4)(d) FS. History--New

27M-5.009 Transfer of Tax Credits.

(1) A Recipient electing to transfer credits shall apply for the transfer using the Tax Credit Transfer Form.

(2) Within fourteen (14) days after the receipt of a completed Tax Credit Transfer Form, OTTED shall determine whether transfer is authorized under Section 288.1254(5), F.S., and, if it so authorized, provide a copy of the form to the Department of Revenue.

Rulemaking Authority 288.1254(8) FS. Law Implemented 288.1254(5) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:

Lucia Fishburne, State Film Commissioner

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Crist

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July, 23, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.206
 RULE TITLE: Emergency Management

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update the department's emergency preparedness and response programs.

SUMMARY: The proposed rule clarifies and updates the department's emergency preparedness and response plans to include reference to the Incident Command System, which is the department's standard operating procedure for managing and responding to incidents outside the normal operation of the department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.34, 944.43, 944.44, 944.45 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.206 ~~Emergency Management Riot and Disorder Plan.~~

(1) Definitions.

(a) Incident Command System (ICS) – a standard operating procedure that can be employed in establishing command in a correctional setting during any incident or event outside of normal operations and that provides a means for the effective management of personnel and resources that respond to the incident as it escalates.

(b) Incident commander – the individual assuming and having responsibility for the management of all incidents and events outside of normal operations.

(c) National Incident Management System (NIMS) – a system created under Homeland Security Directive #5 (February 2003) that directs the comprehensive, national approach to incident management by federal, state, territorial, tribal, and local responders. There shall be a Riot and Disorder Plan at each major institution, road prison and vocational center, that sets forth procedures for dealing with riots and disorders. Each such plan shall be approved by the warden of the institution and the Security Coordinator of the Department. Such plans shall be confidential and care shall be taken that their contents are not disclosed to inmates.

(2) The department will respond to all emergencies using ICS in conjunction with NIMS. A state of riot or disorder may be declared by the Regional Director in conjunction with the warden of the institution involved whenever:

(a) ~~Two or more inmates act in concert, with or without preconceived plan, to resist authority, or~~

(b) ~~Any inmate takes any person hostage or threatens to cause injury to any person and has the apparent ability to carry out such a threat.~~

(3) The department will ensure that there are critical incident plans in place at each facility that houses inmates.

(4)(3) ~~Upon determining that a critical incident an emergency situation has occurred or is about to occur, the incident commander warden or his designee shall immediately notify the department's Emergency Action Center, the appropriate prison inspector, Prison Inspector and then the regional director Office of the Regional Director. The regional director Regional Director or his designee shall in turn immediately notify the Office of the Secretary, and the Secretary or his designee shall notify the Office of the Governor and appropriate central office Central Office~~

personnel. Notification shall include the essential facts of the situation, and persons notified shall be kept informed of new developments as they occur by the same process.

(5)(4) The following tactical priorities ~~considerations~~ shall govern the measures taken to resolve a critical incident ~~deal with a riot or disorder~~:

(a) Provide for the safety, accountability, and welfare of the general public, personnel, and inmates. This priority is ongoing throughout the incident.

(b) Stabilize, isolate, and contain the incident and provide for preservation of life, property, and order. ~~The safety of any hostages;~~

(c) Remove endangered persons and obtain treatment for the injured. ~~The welfare and safety of staff and inmates;~~

(d) Conserve expenses and damage to ~~The protection of~~ property;

(e) Resolve the incident and return the institution to normal operations. ~~The restoration of order and control;~~

(f) Ensure the ~~The~~ identification, arrest, and prosecution of persons violating the law.

(6)(5) Force may be used to restore order subject to the provisions of Rule 33-602.210, F.A.C.; ~~Use of Force.~~ No personal weapons or ammunition of any kind will be used except as specifically authorized by the incident commander ~~warden~~.

(7)(6) Until order is restored no employee shall give any information to the news media without the authority of the incident commander, regional director ~~warden, Regional Director,~~ or Secretary. News media representatives shall not be allowed to enter any area where active rioting is taking place. The incident commander ~~warden~~ has the responsibility of advising the news media of appropriate information, with the advice and assistance of the director of the Office of Communications ~~Central Office Information Services Director~~.

(8)(7) There shall be no bargaining with or concessions to inmates who continue in a state of revolt or insurrection. An appropriate official may talk to and attempt to reason with the rebellious inmates in an attempt to regain control by peaceful means. Demands of inmates that they be permitted to negotiate only with the Governor, news media, or other specified party will be refused.

(9)(8) Dealing with inmate leaders in regard to hostages will be handled by the incident commander ~~warden~~ or other designated, trained officials of the institution or department ~~Department~~. Immediate efforts will be directed toward the liberation of said hostages without undue delay. Any employee taken hostage has no authority regardless of his rank or position; while he is a hostage. An inmate(s) who demands to be released from custody by threatening to do bodily harm to a hostage if he is not released; will not be released, even if all efforts to secure the hostage fail.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09, 944.34, 944.43, 944.44, 944.45 FS. History--New 11-3-82, Formerly 33-3.16, 33-3.016, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2010

COMMISSION ON ETHICS

RULE NO.: 34-7.010
 RULE TITLE: List of Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed amendment is to transfer the forms used for filing financial disclosure into Rule Chapter 34-8, Florida Administrative Code – the substantive rule chapter implementing the financial disclosure requirements of Article II, Section 8, Florida Constitution, and Sections 112.3144 and 112.3145, Florida Statutes.

SUMMARY: CE Form 1, CE Form 1X, CE Form 1F, CE Form 6, CE Form 6X, and CE Form 6F are affected by this rulemaking.

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

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

RULEMAKING AUTHORITY: Art. II, Sec. 8(i), Fla. Const., 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS.

LAW IMPLEMENTED: Art. II, Sec. 8(a), (f), (h), Fla. Const., 112.313(9), (12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS.

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

DATE AND TIME: December 3, 2010, 9:00 a.m.

PLACE: Senate Office Building, Room 37S, 404 South Monroe Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Julia Cobb Costas, Assistant General Counsel, telephone: (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julia Cobb Costas, Assistant General Counsel, telephone: (850)488-7864

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.010 List of Forms and Instructions.

(1) The following forms and instructions are adopted by reference and are used by the Commission in its dealings with the public:

~~(a) Form 1, Statement of Financial Interests. To be utilized by state officers, local officers, candidates for state or local office and specified state employees for compliance with Sections 112.3145(2) and (3), F.S. Effective 1/2011.~~

~~(a)(b) No change.~~

~~(c) Form 6, Full and Public Disclosure of Financial Interests. To be utilized by all elected constitutional officers, candidates for such offices, other statewide elected officers, and others as prescribed by law for compliance with Article II, Section 8(a) and (h), Florida Constitution, as specified in Chapter 34-8, F.A.C., of these rules. Effective 1/2011.~~

~~(d) through (n) renumbered (b) through (l) No change.~~

~~(l) Form 1F, Final Statement of Financial Interests. To be filed within 60 days of leaving public office or employment. Effective 1/2011.~~

~~(m) Form 6F, Final Full and Public Disclosure of Financial Interests. To be filed within 60 days of leaving public office. Effective 1/2011.~~

~~(n) Form 1X, Amendment to Form 1 Statement of Financial Interests. To be used to amend a previously filed CE Form 1. Effective 1/2011.~~

~~(o) Form 6X, Amendment to Full and Public Disclosure of Financial Interests. To be used to amend a previously filed CE Form 6. Effective 1/2011.~~

(2) No change.

Rulemaking Authority Art. II, Sec. 8(i), Fla. Const., 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS. Law Implemented Art. II, Sec. 8(a), (f), (h), Fla. Const., 112.313(9), (12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS. History—New 4-11-76, Formerly 34-7.10 through 7.22, 8.10, Amended 2-23-77, 4-7-77, 5-17-77, 10-20-77, 2-25-79, 1-29-80, 4-29-81, 1-12-82, 3-25-82, 2-21-83, Formerly 34-7.10, Amended 7-10-88, 3-4-91, 10-6-91, 10-29-91, 12-22-91, 7-5-92, 10-15-92, 12-6-92, 11-10-93, 12-27-93, 11-21-94, 2-16-95, 12-26-95, 1-27-97, 1-1-98, 1-1-99, 1-1-00, 1-1-00, 12-4-00, 12-21-00, 10-14-01, 11-22-01, 1-1-02, 1-1-03, 1-1-04, 1-1-05, 1-1-06, 6-15-06, 1-1-07, 1-1-10, 1-1-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Julia Cobb Costas, Assistant General Counsel, telephone: (850)488-7864

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Philip C. Claypool, Executive Director and General Counsel

COMMISSION ON ETHICS

RULE NOS.:	RULE TITLES:
34-8.002	General Rule for Filing Full and Public Disclosure of Financial Interests
34-8.008	Final Filing
34-8.009	Amended Filing
34-8.202	General Rules for Filing a Statement of Financial Interests
34-8.208	Final Filing
34-8.209	Amended Filing

PURPOSE AND EFFECT: The purpose of the proposed amendment is to transfer the forms used for filing financial disclosure into Rule Chapter 34-8, Florida Administrative Code—the substantive rule chapter implementing the financial disclosure requirements of Article II, Section 8, Florida Constitution, and Sections 112.3144 and 112.3145, Florida Statutes.

SUMMARY: CE Form 1, CE Form 1X, CE Form 1F, CE Form 6, CE Form 6X, and CE Form 6F are affected by this rulemaking.

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

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

RULEMAKING AUTHORITY: Art. II, Section 8, Fla. Const., 112.3144, 112.3144(7), 112.3145, 112.3145(9), 112.3147, 112.322(9) FS.

LAW IMPLEMENTED: Art. II, Section 8, Fla. Const., 112.3144, 112.3144(6), 112.3144(7), 112.3145, 112.3145(2)(b), 112.3145(9) FS.

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

DATE AND TIME: December 3, 2010, 9:00 a.m.

PLACE: Senate Office Building, Room 37S, 404 South Monroe Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Julia Cobb Costas, Assistant General Counsel

THE FULL TEXT OF THE PROPOSED RULES IS:

34-8.002 General Rule for Filing Full and Public Disclosure of Financial Interests.

(1) Every person who holds an office specified in Rule 34-8.003, F.A.C., must file full and public disclosure of his or her financial interests with the Commission by July 1 of each year during which he or she is in office, and every person who held an office specified in Rule 34-8.003, F.A.C., on December 31st of a year must file full and public disclosure of his or her financial interests with the Commission by July 1 of the following year. Full and public disclosure of financial interests means filing a sworn statement showing net worth, assets and liabilities on the form prescribed by the Commission, CE Form 6 – Full and Public Disclosure of Financial Interests, ~~adopted by reference in Rule 34-7.010(1)(e), Florida Administrative Code~~, together with either a copy of the person's most recent federal income tax return, including all attachments, or the completed income disclosure portion of CE Form 6. The CE Form 6 (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us. A candidate for an elective office specified in Rule 34-8.003, F.A.C., or otherwise specified by law must file this information prior to or at the time he or she qualifies as a candidate.

(2) through (3) No change.

Rulemaking Specific Authority Art. II, Section 8, Fla. Const., 112.3144, 112.3147, 112.322(9) FS. Law Implemented Art. II, Section 8, Fla. Const., 112.3144 FS. History–New 4-7-77, Amended 10-3-84, Formerly 34-8.02, Amended 8-7-94, 7-2-00, 11-7-01, _____.

34-8.008 Final Filing.

(1) Each person who is required to file full and public disclosure of financial interests shall, within 60 days of leaving his or her public position, file with the Commission a final disclosure statement covering the period between January 1 of the year in which the person leaves and his or her last day in the position, unless he or she takes another position within that 60-day period which requires full and public disclosure. The final filing shall be on the form prescribed by the Commission, CE Form 6F – Final Full and Public Disclosure of Financial Interests, ~~adopted by reference in Rule 34-7.010, F.A.C.~~ The CE Form 6F (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us.

(2) No change.

Rulemaking Specific Authority 112.3144, 112.3147, 112.322(9) FS. Law Implemented 112.3144(5), 112.3144(6) FS. History–New 11-7-01, Amended _____.

34-8.009 Amended Filing.

(1) A person may amend his or her full and public disclosure of financial interests to add to or modify the information reported on the form as originally filed at any time after filing the disclosure form. The amended filing shall be filed with the same office where the original form was filed and shall be on the form prescribed by the Commission, CE Form 6X – Amendment to Full and Public Disclosure of Financial Interests, ~~adopted by reference in Rule 34-7.010, F.A.C.~~ The CE Form 6X (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us.

(2) No change.

Rulemaking Specific Authority 112.3144(6), 112.3144(7), 112.3147, 112.322(9) FS. Law Implemented ~~112.3144(6)~~, 112.3144(7) FS. History–New 11-7-01, Amended _____.

34-8.202 General Rules for Filing a Statement of Financial Interests.

(1) A person who was a local officer as defined in Section 112.3145, F.S., on December 31st of a year must file by July 1 of the following year a statement of financial interests on the form prescribed by the Commission, CE Form 1 – Statement of Financial Interests, ~~adopted by reference in Rule 34-7.010, F.A.C.~~, with the supervisor of elections in the county where he or she permanently resides, or, if the person does not permanently reside in Florida, with the supervisor of elections in the county of his or her agency's headquarters. The CE Form 1 (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us.

(2) A person who was a state officer or a specified state employee as defined in Section 112.3145, F.S., on December 31st of a year must file with the Commission by July 1 of the following year a statement of financial interests on the form prescribed by the Commission, CE Form 1 – Statement of Financial Interests, adopted by reference in subsection 34-8.202(1) ~~34-7.010~~, F.A.C.

(3) A person who assumes a public position defined in Section 112.3145, F.S., as a state officer, specified state employee, or local officer must file within 30 days of taking that position a statement of financial interests on the form prescribed by the Commission, CE Form 1 – Statement of Financial Interests, adopted by reference in subsection Rule 34-8.202(1), F.A.C. ~~34-7.010~~, provided that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first. The disclosure statement of a state officer or specified state employee must be

filed with the Commission. The disclosure statement of a local officer must be filed with the supervisor of elections in the county where he or she permanently resides, or, if the person does not permanently reside in Florida, with the supervisor of elections in the county of his or her agency's headquarters.

(4) through (5) No change.

(6) A candidate for an elective state or local office specified in Section 112.3145, Florida Statutes, must file with the officer before whom he or she qualifies a statement of financial interests on the form prescribed by the Commission, CE Form 1 – Statement of Financial Interests, adopted by reference in Rule ~~34-8.202(1)~~ ~~34-7.010~~, F.A.C., together with and at the same time he or she files qualifying papers as a candidate.

Rulemaking Specific Authority 112.3145, 112.3147, 112.322(9) FS. Law Implemented 112.3145 FS. History–New 11-7-01, Amended_____.

34-8.208 Final Filing.

(1) No change.

(2) The final filing shall be on the form prescribed by the Commission, CE Form 1F – Final Statement of Financial Interests, ~~adopted by reference in Rule 34-7.010, F.A.C. The CE Form 1F (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us.~~

(3) through (4) No change.

Rulemaking Specific Authority 112.3145, 112.3147, 112.322(9) FS. Law Implemented 112.3145(2)(b) FS. History–New 11-7-01, Amended_____.

34-8.209 Amended Filing.

(1) A person may amend his or her statement of financial interests to add to or modify the information reported on the form as originally filed at any time after filing the disclosure form. The amended statement shall be filed with the same office where the original form was filed and shall be made on the form prescribed by the Commission, CE Form ~~1X~~ – Amendment to Form 1 Statement of Financial Interests, ~~adopted by reference in Rule 34-7.010, F.A.C. The CE Form 1X (1/2011) is adopted by reference herein and may be obtained without cost from the Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, Florida 32317-5709, and may also be downloaded from the Commission's website: www.ethics.state.fl.us.~~

(2) No change.

Rulemaking Specific Authority 112.3145(9), 112.3147, 112.322(9) FS. Law Implemented 112.3145(9) FS. History–New 11-7-01, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Julia Cobb Costas, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Philip C. Claypool, Executive Director and General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

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 is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan, effective July 1, 2010, providing clarifying and editorial changes to the Florida Title XIX Long-Term Care Reimbursement Plan along with detail regarding nursing home staffing ratios found in House Bill 5301, Medicaid Services, and compliance with Section 409.913(15)(c), F.S., regarding late cost reports, and Section 409.9082 F.S., regarding the nursing home quality assessment.

1. Reorganization of Section V. B of the Title XIX Long Term Care Reimbursement Plan regarding the chronology of reimbursement rate reductions and define Medicaid trend adjustment.
2. Interim rate requests: Section IV. J. 4 – Deletion of “resulting from 1. and 2”, Section IV.J.7, delete “effective January 1, 2007” and “as providers incurring additional costs to meet the new minimum staffing standards will receive a “gross-up adjustment” as described in section V.B.4.a. and b.”
3. Definitions added regarding cost report acceptance and due dates.
4. AHCA reserves the right to submit any provider found to be out of compliance with any of the policies and procedures regarding cost reports to the Bureau of Medicaid Program Integrity for investigations.
5. Providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports. A cost report is late if it is not received by AHCA, Bureau of Medicaid Program Analysis, on the first cost report acceptance cut-off date after the cost report due date.
6. AHCA will reserve the right to submit any provider found to be out of compliance with any of the new policies and procedures regarding cost reports to the Bureau of Medicaid Program Integrity for investigations.
7. Addition of Appendix C to the Title XIX Long-Term Care Reimbursement Plan detailing the Medicaid Trend Adjustment to include percentages, annualized reduction amounts, and sample calculations.

8. The agency shall develop efficiency and outcome measures in order to assess the value for patients including both outcomes and costs over the full cycle of care.

9. Revisions to the nursing home quality assessment fee in accordance with Section 409.9082, F.S.

10. Minimum staffing changes:

a. A minimum weekly average of certified nursing assistant and licensed nursing staffing combined of 3.9 hours of direct care per resident per day. A week is defined as Sunday through Saturday.

b. A minimum certified nursing assistant staffing of 2.7 hours of direct care per resident per day. A facility may not staff below one certified nursing assistant per 20 residents.

c. A minimum licensed nursing staffing of 1.0 hour of direct care per resident per day. A facility may not staff below one licensed nurse per 40 residents.

SUMMARY: The proposed rule incorporates changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2010, including editorial changes along with detail regarding nursing home staffing ratios found in House Bill 5301, Medicaid Services, and compliance with Section 409.913(15)(c), F.S. regarding late cost reports, and Section 409.9082, F.S. regarding the nursing home quality assessment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: December 1, 2010, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)412-4077 or by e-mail at edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services.

Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version XXXVIII Effective Date July 1, 2010~~09~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The Plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Rulemaking Authority 409.919 FS. Law Implemented 409.908 FS. History--New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99, 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-08-03, 6-11-03, 12-3-03, 2-16-04, 7-21-04, 10-12-04, 4-19-06, 8-26-07, 2-12-08, 9-22-08, 3-3-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

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 is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan effective July 1, 2010, in accordance with the 2010-11 General Appropriations Act, House Bill 5001, Specific Appropriations 189 and 190, along with the addition of language regarding the Agency’s compliance with Section 409.913(15)(c), F.S.

1. 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 or any leased public hospital found to have sovereign immunity or hospital with graduate medical education positions that does not qualify for the elimination of the inpatient ceilings under this section of proviso or any other proviso listed, such hospitals shall be exempt from the inpatient reimbursement ceilings contingent on the hospital or local governmental entity providing the required state match. The agency shall use the average of the 2003, 2004 and 2005 audited DSH data available as of March 1, 2009. 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 2003, 2004 and 2005 that are available. Any hospital that was exempt from the inpatient reimbursement ceiling in the prior state fiscal year, due to their charity care and Medicaid days as a percentage to total adjusted hospital days equaling or exceeding 11 percent, but no longer meets the 11 percent threshold, because of updated audited DSH data, shall remain exempt from the inpatient reimbursement ceilings for a period of two years.

2. 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.

3. 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 designated or provisional trauma centers on July 1, 2010, and any hospitals that becomes a designated or provisional trauma center during Fiscal Year 2010-2011. Included in these funds are the annualized amounts to offset the reductions taken against certified trauma centers as identified in section 12, Chapter 2007-326, Laws of Florida. The agency shall use the average of the 2003, 2004 and 2005 audited Disproportionate Share Hospital (DSH) data available as of March 1, 2009. In the event the agency does not have the prescribed three years of audited Disproportionate Share Hospital (DSH) data for a hospital, the agency shall use the average of the audited DSH data for 2003, 2004 and 2005 that are available.

4. \$9,932,000 is provided for global fees for providing liver transplant services to Medicaid beneficiaries.

5. 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. Included in these funds are the annualized amounts to offset the reductions taken against hospitals defined in Section 408.07(45), Florida Statutes, that are not certified trauma centers, as identified in section 12, chapter 2007-326, Laws of Florida.

6. Buy back of the Medicaid trend adjustment that is being applied against the Medicaid inpatient rates for the following three categories of hospitals. Of these funds.

- \$31,984,943 is provided to the first category of hospitals, which are those hospitals that are part of a system that operates a provider service network in the following manner: \$18,773,903 is for Jackson Memorial Hospital; \$2,133,277 is for hospitals in Broward Health; \$4,906,684 is for hospitals in the Memorial Healthcare System; and \$760,226 is for Shands Jacksonville and \$5,410,853 is for Shands Gainesville. In the event that the above amounts exceed the amount of the

Medicaid trend adjustment applied to each hospital, then the excess funds will be used to buy back other Medicaid reductions in the inpatient rate.

- \$12,139,819 shall be used for the second category to buy back the Medicaid trend adjustment that is being applied against the Medicaid inpatient rates for those hospitals that are licensed as a children's specialty hospital and whose Medicaid days plus charity care days divided by total adjusted patient days equals or exceeds 30 percent. In the event that the funds under this category exceed the amount of the Medicaid trend adjustment, then any excess funds will be used to buy back other Medicaid reductions in the inpatient rate for those individual hospitals.

- \$5,475,985 shall be used for the third category to buy back the Medicaid trend adjustment that is being applied against the Medicaid inpatient rates to rural hospitals. In the event that the funds under this category exceed the amount of the Medicaid trend adjustment, then any excess funds will be used to buy back other Medicaid reductions in the inpatient rate for those individual hospitals.

The agency shall use the 2003, 2004 and 2005 audited DSH data available as of March 1, 2009. 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 2003, 2004 and 2005 that are available.

7. Public hospitals, including any leased public hospital found to have sovereign immunity, teaching hospitals as defined in Section 408.07(45) or 395.805, Florida Statutes, which have seventy or more full-time equivalent resident physicians, hospitals with graduate medical education positions that do not otherwise qualify, and for designated trauma hospitals to buy back the Medicaid inpatient trend adjustment applied to their individual hospital rates and other Medicaid reductions to their inpatient rates up to actual Medicaid inpatient cost.

8. Hospitals not previously provided this authority, may buy back the Medicaid inpatient trend adjustment applied to their individual hospital rates and other Medicaid reductions to their inpatient rates up to actual Medicaid inpatient cost.

9. \$40,000,000 is provided for hospital exemptions from inpatient reimbursement limitations for any hospital, not elsewhere qualifying for an exemption, that has local funds available for intergovernmental transfers.

10. \$6,000,000 is provided for Medicaid payments for multi-visceral transplant and intestine transplants in Florida. The agency shall establish a reasonable global fee for these transplant procedures and the payments shall be used to pay approved multi-visceral transplant and intestine transplant facilities a global fee for providing transplant services to Medicaid beneficiaries.

11. Adjust the Medicaid rate for any rural hospital that moved into a replacement facility during calendar year 2009 to reflect Medicaid costs for the period of time from moving into the replacement facility to when the rate would reflect the costs of

the replacement facility through the routine rate setting process. To qualify for this adjustment, a hospital must have a combined Medicaid and charity care utilization rate of at least 25 percent based on the most recent information reported to the Agency for Health Care Administration prior to moving into the replacement facility.

12. Funds in Specific Appropriation 190 shall be used for a Disproportionate Share Hospital Program as provided in Sections 409.911, 409.9113, and 409.9119, Florida Statutes:

- \$155,223,205 – Payments to public hospitals;
- \$66,131,172 – Payments to Teaching hospitals;
- \$2,000,000 – Payments for Graduate Medical Education (GME);
- \$13,020,000 – Payments to family practice teaching hospitals;
- \$800,000 – Payments to hospitals licensed as specialty children’s hospitals; and
- \$9,216,200 – Payments to Provider Service Network hospitals.

15. Clarifying the definition of cost report acceptance and due dates.

16. Providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports. A cost report is late if it is not received by AHCA, Bureau of Medicaid Program Analysis, on the first cost report acceptance cut-off date after the cost report due date.

17. Addition of an appendix displaying the rate semester, amount, and percentages of all Medicaid trend adjustments

18. Revisions to the global fee maximum rate for transplantation surgery.

SUMMARY: The proposed rule, effective July 1, 2010, brings the Title XIX Inpatient Hospital Reimbursement Plan into compliance with House Bill 5001, 2010-11 General Appropriations Act, Specific Appropriation 194, and compliance with Section 409.913(5)(c), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908, 409.911, 409.9112, 409.9113, 409.9115, 409.9116, 409.9117 409.9118 and 409.9119 FS.

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

DATE AND TIME: December 1, 2010, 10:00 a.m. – 11:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)412-4077 or edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version XXXVII, Effective Date ~~July~~ ~~January~~ 1, 2010 and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.908, 409.911, 409.9112, 409.9113, 409.9115, 409.9116, 409.9117, 409.9118, 409.9118, and 409.9119 FS. History—New 10-31-85, Formerly 10C-7.391, Amended 10-1-86,1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, 7-3-03, 2-1-04, 2-16-04, 2-17-04, 8-10-04, 10-12-04, 4-19-06, 12-11-06, 3-4-08, 6-10-08, 1-11-09, 3-24-10, 7-5-10, 7-15-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

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

PURPOSE AND EFFECT: 1. Elimination of 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 or any leased public hospital found to have sovereign immunity or hospital with graduate medical education positions that does not qualify for the elimination of the outpatient ceilings, such hospitals shall be exempt from the outpatient reimbursement ceilings. The agency shall use the average of the 2003, 2004 and 2005 audited DSH data available as of March 1, 2009. 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 2003, 2004 and 2005 that are available. Any hospital that was exempt from the outpatient reimbursement ceiling in the prior state fiscal year, due to their charity care and Medicaid days as a percentage to total adjusted hospital days equaling or exceeding 11 percent, but no longer meet the 11 percent threshold, because of updated audited DSH data shall remain exempt from the outpatient reimbursement ceilings for a period of two years.

2. Elimination of 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.

3. Elimination 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, 2010 or become a designated or provisional trauma center during Fiscal Year 2010-2011. Included in these funds are the annualized amounts to offset the reductions taken against certified trauma centers as identified in section 13, Chapter 2007-326, Laws of Florida. The agency shall use the average of the 2003, 2004 and 2005 audited DSH data available as of March 1, 2009. 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 2003, 2004 and 2005 that are available.

4. Revisions to the outpatient revenue codes and the addition of a reference to the Florida Medicaid Hospital Services Coverage and Limitations Handbook incorporated by reference in Rule 59G-4.160, F.A.C.

5. \$12,226,583 is provided to buy back the Medicaid trend adjustment that is being applied against the Medicaid outpatient rates for the following three categories of hospitals:

- \$3,372,389 is provided to the first category of hospitals, which are those hospitals that are part of a system that operate a provider service network in the following manner:

\$570,978 is for Jackson Memorial Hospital;

\$458,668 is for hospitals in Broward Health;

\$840,958 is for hospitals in the Memorial Healthcare System;

\$256,166 to Shands Jacksonville and

\$1,245,619 to Shands Gainesville.

In the event that the above amounts exceed the amount of the Medicaid trend adjustment applied to each hospital, then the excess funds will be used to buy back other Medicaid reductions in the outpatient rate.

\$4,221,468 shall be used for the second category of hospitals to buy back the Medicaid trend adjustment that is being applied against the Medicaid outpatient rates for those hospitals that are licensed as a children's specialty hospital and whose Medicaid days plus charity care days divided by total adjusted

patient days equals or exceeds 30 percent. In the event that the above amounts exceed the amount of the Medicaid trend adjustment applied to each hospital, then the excess funds will be used to buy back other Medicaid reductions in the outpatient rate.

\$4,632,726 shall be used for the third category of hospitals to buy back the Medicaid trend adjustment that is being applied against the Medicaid outpatient rates for rural hospitals. In the event that the funds under this category exceed the amount of the Medicaid trend adjustment, then any excess funds will be used to buy back other Medicaid reductions in the outpatient rate for those individual hospitals.

The Agency shall use the average of 2003, 2004 and 2005 audited DSH data available as of March 1, 2009. 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 2003, 2004 and 2005 that are available.

6. \$66,317,949 is provided for public hospitals, including any leased public hospital found to have sovereign immunity, teaching hospitals as defined in Section 408.07(45) or 395.805, Florida Statutes, which have seventy or more full-time equivalent resident physicians, hospitals with graduate medical education positions that do not otherwise qualify, and designated trauma hospitals to buy back the Medicaid outpatient trend adjustment applied to their individual hospital rates and other Medicaid reductions to their outpatient rates up to actual Medicaid outpatient cost.

7.a) Hospitals may buy back the Medicaid outpatient trend adjustment applied to their individual hospital rates and other Medicaid reductions to their outpatient rates up to actual Medicaid outpatient cost.; and

b) \$15,000,000 is provided for exemptions from outpatient reimbursement limitations for any hospital that has local funds available for intergovernmental transfers, not elsewhere qualifying for an exemption. The agency shall not include the funds described in this paragraph for the buy back of reductions to outpatient hospital rates in the calculation of capitation rates for Health Maintenance Organizations unless the nonfederal share is provided through grants and donations from state, county or other governmental funds.

8. Clarifying the definitions of cost report acceptance and due dates.

9. AHCA reserves the right to submit any provider found to be out of compliance with any of the policies and procedures regarding cost reports to the Bureau of Medicaid Program Integrity for investigations.

10. Providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports. A cost report is late if it is not received by AHCA, Bureau of Medicaid Program Analysis, on the first cost report acceptance cut-off date after the cost report due date.

SUMMARY: The proposed rule effective July 1, 2010, brings the Title XIX Outpatient Hospital Reimbursement Plan into compliance with House Bill 5001, 2010-11 General Appropriations Act, Specific Appropriation 194, and Section 409.913(15)(c), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: December 1, 2010, 10:00 a.m. – 11:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)412-4077 or edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.030 Payment Methodology for Outpatient Hospital Services.

Reimbursement to participating outpatient hospitals for services provided shall be in accordance with the Florida Title XIX Outpatient Hospital Reimbursement Plan, Version ~~XXI~~ ~~XX~~ Effective date: ~~July 1, 2010~~ ~~July 1, 2009~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.908 FS. History—New 10-31-85, Amended 12-31-85, Formerly 10C-7.401, Amended 10-1-86, 3-26-90, 9-30-90, 10-13-91, 7-1-93, Formerly 10C-7.0401, Amended 4-10-94, 9-18-96, 9-6-99, 9-20-00, 12-6-01, 11-10-02, 2-16-04, 10-12-04, 7-4-05, 4-19-06, 12-11-06, 3-4-08, 6-10-08, 1-11-09, 7-5-10, 7-15-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)412-4077 or edwin.stephens@ahca.myflorida.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:

59G-6.045

RULE TITLE:

Payment Methodology for Services in Facilities Not Publicly Owned and Publicly Operated (Facilities Formerly Known as ICF/DD Facilities)

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to incorporate changes to the Florida Title XIX Intermediate Care Facilities (ICF) for the Mentally Retarded and the Developmentally Disabled Facilities not Publicly Owned and not Publicly Operated Reimbursement Plan (the Plan).

1. AHCA reserves the right to submit any provider found to be out of compliance with any of the policies and procedures regarding cost reports to the Bureau of Medicaid Program Integrity for investigations.
2. Providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports. A cost report is late if it is not received by AHCA, Bureau of Medicaid Program Analysis, on the first cost report acceptance cut-off date after the cost report due date.
3. The addition of cost report related definitions.

SUMMARY: Effective July 1, 2010, providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: December 1, 2010, 11:00 a.m. – 12:00 Noon

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)412-4077, edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.045 Payment Methodology for Services in Facilities Not Publicly Owned and Publicly Operated (Facilities Formerly Known as ICF/DD Facilities).

Reimbursement to participating facilities for services provided shall be in accord with the Florida Title XIX ICF/MR-DD Reimbursement Plan for Facilities Not Publicly Owned and Not Publicly Operated (Formerly known as ICF-MR/DD Facilities), Version VI, Effective Date July 1, 2010 ~~October 1, 2009~~ incorporated herein by reference. A copy of the Plan may be obtained by writing to the Deputy Secretary for Medicaid, Agency for Health Care Administration, Mail Stop 8, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.908 FS. History--New 3-14-99, Amended 10-12-04, 2-22-06, 4-12-09, 3-3-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.090
 RULE TITLE: Payment Methodology for County Health Departments

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to incorporate changes to the Florida Title XIX County Health Department Reimbursement Plan in accordance with House Bill 5001, 2010-11 General Appropriations Act, Specific Appropriation 212, and Section 409.913(15)(c), F.S.

1. The Agency shall implement a recurring methodology in the Title XIX County Health Department Reimbursement Plan to achieve a \$40,379,100 rate reduction to modify the reimbursement rates for county health departments. In establishing rates through the normal process, prior to including this reduction, if the unit cost is equal to or less than the unit cost used in establishing the budget, then no additional reduction in rates is necessary. In establishing rates through the normal process, prior to including this reduction, if the unit cost is greater than the unit cost used in establishing the

budget, then rates shall be reduced by an amount required to achieve this reduction, but shall not be reduced below the unit cost used in establishing the budget.

2. \$42,631,388 is provided for county health departments to buy back clinic services rate adjustments, effective on or after July 1, 2008.

3. AHCA reserves the right to submit any provider found to be out of compliance with any of the policies and procedures regarding cost reports to the Bureau of Medicaid Program Integrity for investigations.

4. Providers are subject to sanctions pursuant to Section 409.913(15)(c), F.S., for late cost reports. A cost report is late if it is not received by AHCA, Bureau of Medicaid Program Analysis, on the first cost report acceptance cut-off date after the cost report due date.

SUMMARY: July 1, 2010 County Health Department Reimbursement rates late cost report sanctions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: December 1, 2010, 1:00 p.m. – 2:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308 or edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.090 Payment Methodology for County Health Departments.

Reimbursement to participating county health departments for services provided shall be in accordance with the Florida Title XIX County Health Departments Reimbursement Plan Version VIII Effective Date July 1, 2010 ~~March 1, 2009~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.908 FS. History--New 6-3-93, Formerly 10P-6.090, Amended 7-21-02, 11-21-04, 1-11-09, 3-24-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: 61B-39.003 RULE TITLE: Filing of Single-Site Timeshare Plans

PURPOSE AND EFFECT: Implement changes required by Chapter 2010-134, Laws of Florida, requiring lien disclosure information in all new timeshare public offering statements filed with the division which are not multisite timeshare plans.

SUMMARY: This rule amendment provides the location where the lien disclosure information must appear in the public offering statement. It also provides for circumstances where the division has already approved the disclosure in another location in the POS and where the managing entity does not intend to implement the use of the trustee foreclosure procedure.

Other rules incorporating this rule: This rule is referenced in Rules 61B-39.002, 61B-39.004, 61B-39.005, 61B-39.006, 61B-39.008 and 61B-41.003, F.A.C.

Effect on Other Rules: The amendments to this rule will not affect Rule 61B-39.002, 61B-39.006 or 61B-39.008. Compliance with paragraphs 61B-39.004(1)(a) and 61B-39.005(2)(h), F.A.C., will now require the new elements of the POS added by this amendment to Rule 61B-39.003, F.A.C.

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

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

RULEMAKING AUTHORITY: 721.07(5), 721.26(6) FS.

LAW IMPLEMENTED: 721.05, 721.06(1), 721.07(5), (6), 721.52(4), (5) FS.

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

DATE AND TIME: November 29, 2010, 10:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Sharon A. Malloy, Senior Management Analyst II at (850)488-1631. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-39.003 Filing of Single-Site Timeshare Plans.

(1) No change.

(2) Every single-site registered POS must organize the required information and disclosures in the following manner and format:

(a) through (f) No change.

(g) The next consecutive pages shall be labeled “III. Public Offering Statement Text” and shall contain the subject matter indicated by, and be organized by section according to, the Index to Public Offering Statement Text, and contain the information and disclosures required in Sections 721.07(5)(e)-(jj)(~~ii~~), 721.55, F.S., in the following order:

1. through 17. No change.

18. Section 7.d. shall contain the information required in Sections 721.07(5)(p)1., ~~and (p)2.~~, ~~and (5)(ii).~~, and (jj), F.S.;

19. No change.

(3) through (6) No change.

(7) The developer of a single-site timeshare plan shall not be required to amend the single-site POS in order to relocate, reorder, rearrange, or renumber the statement in conspicuous type required by Section 721.07(5)(jj), F.S., if such statement is in a section of the POS other than Section 7.d. and such single-site POS has been approved by the division; provided however, that in any subsequent amendment the developer shall amend the POS to place the statement in Section 7.d.

(8) The developer of a single-site timeshare plan with a POS approved by the division prior to the division's implementation of Section 721.07(5)(jj), F.S., shall not be required to amend the single-site POS to include the statement in conspicuous type contained in Section 721.07(5)(jj), F.S., until such time that the managing entity intends to implement the use of the trustee foreclosure procedure permitted pursuant to Section 721.855, F.S.

Rulemaking Authority 721.07(5), 721.26(6) FS. Law Implemented 721.05, 721.06(1)(g), 721.07(5), (6), 721.52(4), (5) FS. History--New 5-8-94, Amended 12-11-94, 6-12-96, 12-18-01, 12-10-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Cochran, Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-29.002 RULE TITLE: Temporary License

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide the circumstances in which a CPA, licensed in another state, would not be required to obtain a temporary license to perform a specific engagement in Florida.

SUMMARY: Language concerning the circumstances in which a CPA, licensed in another state, would not be required to obtain a temporary license to perform a specific engagement in Florida, will be added to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.305, 473.314 FS.

LAW IMPLEMENTED: 473.314, 473.315 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Voloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

- 61H1-29.002 Temporary License.
- (1) through (8) No change.

(9) Notwithstanding the above-stated requirements, a temporary license will not be required for an individual meeting one of the following requirements:

(a) Holds a valid license as a certified public accountant from a state that has adopted the substantially equivalency standards set forth in Section 5 of the Uniform Accountancy Act, fifth edition revised July 2007, incorporated herein and available at <http://www.aicpa.org/Advocacy/State/Documents/UAA%20Fifth%20Edition%20Final%20Version.pdf>; or

(b) Holds a valid license as a certified public accountant and obtains verification from the National Association of State Board of Accountancy CredentialNet service that the individual meets the substantially equivalency standards set forth in Section 5 of the Uniform Accountancy Act, fifth edition revised July 2007. CredentialNet can be reached at credentialnet@nasba.org or (866)350-0017.

Rulemaking Authority 473.304, 473.305, 473.314 FS. Law Implemented 473.314, 473.315 FS. History--New 12-4-79, Amended 2-3-81, 10-19-83, Formerly 21A-29.02, Amended 5-3-88, 12-3-89, 6-13-90, 3-29-92, 12-2-92, Formerly 21A-29.002, Amended 6-28-94, 1-11-95, 8-28-06, 12-10-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-8.006 RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The purpose of this amendment is to include the penalties and sentencing guidelines for health care fraud of Chapter 2009-223, Laws of Florida.

SUMMARY: The purpose of this amendment is to include the penalties and sentencing guidelines for health care fraud of Chapter 2009-223, Laws of Florida.

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

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

RULEMAKING AUTHORITY: 456.072, 456.079 FS.

LAW IMPLEMENTED: 456.079, 464.018 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (3)(bbb) No change.

	<u>First Offense</u>	<u>Second Offense</u>
<u>(ccc) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.</u> (456.072(1)(ii), F.S.)	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	
<u>(ddd) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.</u> (456.072(1)(jj), F.S.)	<u>Reprimand, suspension until restitution made. Fine of 10% of overpayment, maximum of \$5,000.00.</u>	<u>Reprimand, and suspension to revocation. Fine of 20% of overpayment, maximum of \$5,000.00.</u>
<u>(eee) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.</u> (456.072(1)(kk), F.S.)	<u>Reprimand to suspension and a fine of \$250.</u>	<u>From suspension and a fine of \$500 to revocation.</u>
<u>(fff) Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.</u> (456.072(1)(ll), F.S.)	<u>(fff) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	

(4) through (6) No change.

Rulemaking Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History—New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00, 5-2-02, 1-12-03, 2-22-04, 8-3-05, 7-5-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.005	Food and Nutrition
65C-22.008	School Age Child Care
65C-22.010	Enforcement

PURPOSE AND EFFECT: The rule modifications were implemented based on the passage of House Bill 5311. This bill eliminated the Department of Health’s ability to conduct food service inspections in child care settings. In an effort to protect the health and safety of children in child care, the sections of the administrative code have been revised to incorporate standards for the continued regulation of food

safety in licensed child care facilities. Additional modifications were implemented in the School Age section regarding Background Screening and Fire Safety.

SUMMARY: The rule modifications expand the Department's regulation of food safety standards. Modifications to background screening standards were made in this section in accordance with the new law implemented by Senate Bill 7069. Additional modifications were made based on request for clarification to the current fire safety language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rules impose no new transactional cost to child care providers. The elimination of the Department of Health's food hygiene regulatory authority over child care facilities means that facilities will see a reduction in overall annual licensing/permit fees. The proposed rules include a new requirement that a facility that provides food service must have a staff person who is a certified food service manager. The food service manager certification will require the designated facility personnel to complete a course offered by an approved private provider, but the fee charged for that course is more than offset by the elimination of the annual permit fee previously charged by the Department of Health. Therefore, there is no adverse fiscal impact on licensed facilities.

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

RULEMAKING AUTHORITY: 402.305 FS.

LAW IMPLEMENTED: 402.305 FS.

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

DATE AND TIME: November 29, 2010, 10:00 a.m.

PLACE: Public Hearing held via teleconference: To join the Teleconference go to https://www.livemeeting.com/cc/1317_winewood_blvd/join?id=N3Q72K&role=attend&pw=PRF%2Fz%40q3m and call 1-888-808-6959, enter conference code 488-4900.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Dinah Gallon, Child Care Program, 1317 Winewood Blvd., Bldg. 6, 3rd Floor, Room 388, Tallahassee, Florida 32399-0700 or call (850)488-4900. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dinah Gallon (850)488-4900

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-22.001 General Information.

(1) No change.

(a) Application for a license or for renewal of a license to operate a child care facility must be made on CF-FSP Form 5017, October 2010 ~~March 2009~~, Application for a License to Operate a Child Care Facility, which is incorporated by reference. CF-FSP Form 5017 may be obtained from the department's website at www.myflorida.com/childcare.

(b) No change.

(c) The completed CF-FSP Form 5017 must be signed by the individual owner, prospective owner, or the designated representative of a partnership, association, or corporation, and must include submission of background screening documents for the owner/operator, and an approved fire ~~and environmental health~~ inspections.

(d) through (e) No change.

(2) through (11) No change.

Rulemaking Authority 402.305, 402.309 FS. Law Implemented 402.305, 402.309, 402.3055, 402.308, 402.310 FS. History--New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10, 7-29-10, _____.

65C-22.005 Food and Nutrition.

(1) Nutrition.

(a) If a facility chooses to supply food, it shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA MyPyramid, September ~~April~~ 2005, which is incorporated by reference, shall be used to determine what food groups to serve at each meal or snack, and the serving size of the selected foods for children ages two and older. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA MyPyramid may be obtained from the USDA website at www.mypyramid.gov. Using the USDA MyPyramid, breakfast shall consist of at least three different food groups, lunch and dinner shall consist of at least four different food groups, and snacks shall consist of at least two different food groups. If a facility chooses to serve breakfast and lunch, milk must be served with at least one of the meals provided. If a facility chooses to serve dinner, milk must be served with this meal.

(b) Operators who participate in the USDA Food Program shall provide nutritious meals and snacks in accordance with the Department of Health and the USDA requirements.

~~(c)~~ (b) If a facility chooses not to provide meals and snacks, arrangements must be made with the custodial parent or legal guardian to provide nutritional food for the child.

~~(d)~~ (e) If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet shall be maintained in the child's file. If the custodial parent or legal guardian notifies the child care facility of any known food allergies, written documentation must be maintained in the child's file

for as long as the child is in care. Special food restrictions must be shared with staff and must be posted in a conspicuous location.

~~(e)(4)~~ Meal and snack menus shall be planned, written, and posted at the beginning of each week. Menus shall be dated and posted in the food service area and in a conspicuous place accessible to parents. Any menu substitution shall be noted on the menu. Daily meal and snack menus shall be maintained for a minimum of ~~twelve~~ ~~four~~ months for review by the Department ~~licensing purposes~~. Operators who participate in the USDA Food Program must keep menus in accordance with the Department of Health and the USDA requirements.

(2) Food ~~Hygiene Preparation Area~~. All licensed child care facilities ~~that store, prepare, and/ or serve food to the children in care must comply with the following requirements: approved by the Environmental Health Section to prepare food shall have documentation on file from the Department of Health verifying the facility meets the applicable requirements as specified in Chapter 64E-11, F.A.C., Food Hygiene.~~

(a) Application acknowledging food service. All child care facilities that store, prepare, and/or serve food to the children in care must identify annually the type of food services provided on CF-FSP Form 5017, March 2009, Application for a License to Operate a Child Care Facility, which is incorporated by reference. A copy of the application may be obtained from the Department's website at www.myflorida.com/childcare.

(b) Facilities must comply with the following rules from Chapter 64E-11, F.A.C., which are incorporated by reference:

1. 64E-11.001, Food Hygiene – General;
2. 64E-11.002, Definitions;
3. 64E-11.003, Food Supplies;
4. 64E-11.004, Food Protection;
5. 64E-11.005, Personnel;
6. 64E-11.006, Food Equipment and Utensils;
7. 64E-11.007, Sanitary Facilities and Controls;
8. 64E-11.008, Other Facilities and Operations;
9. 64E-11.009, Temporary Food Service Events;
10. 64E-11.010, Vending Machines;
11. 64E-11.011, Procedure When Infection is Suspected;
12. 64E-11.014, Mobile Food Units.

(c) Manager Certification and Training.

1. All child care facilities that store, prepare, and/or serve food to the children in care shall designate in writing a food service manager.

2. The designated food service manager shall have passed a written certification test from one of the following providers: National Registry of Food Safety Professional (800)446-0257, National Restaurant Association (800)765-2122, or Thomson Prometric (800)624-2736.

The certified manager shall also maintain a copy of their active manager certification on site for review by the Department. The manager certification is active for five years from the date of issuance and must be renewed timely.

3. All additional food service employees or any employee who works in the kitchen and/or serves food shall complete the "Serving Safe Food in Child Care" course offered by the National Food Service Management Institute at The University of Mississippi. The course is a four-hour online course that can be accessed via the National Food Service Management Institute website. A copy of the certificate indicating course completion must be available for review by the Department. This is a one-time training requirement that must be completed prior to preparing and/or serving food to the children in care. This training may be counted toward completion of the employee in-service training requirement only one time for each employee.

4. The facility must, within 90 days of the date that the certified food service manager separates from employment at the facility or is relieved of food service management responsibilities, designate in writing a food service manager ~~that~~ who has passed a written certification test from one of the providers listed in paragraph (2)(c)2. of this rule.

(d) Inspections, violations, and administrative action

1. Facilities will be subject to inspections that must be documented on Department of Health form DH 4023, Jan. 2005, which is incorporated herein by reference.

2. The food service operations of the facility must close down immediately if there is a loss of power services, and/or water services, and/or sewage issues that affect the kitchen area. The operator must notify the Department within four hours as to their operational status in order for the Department to ensure health standards are being met for continued operation.

3. In the event that a child or children at the facility are sickened as a result of a violation of the food hygiene standards established by this rule, the facility will be subject to progressive sanctions in accordance with the schedule for Class I violations provided in Rule 65C-22.010, F.A.C.

4. A "stop sale action" means that a violation of food service standards has been observed that poses an immediate threat to the safety of food requiring the food item(s) in question be destroyed or otherwise rendered unusable at the time of inspection. Violations resulting in a "stop sale action" must be documented on Department of Health DH form 4045, Feb. 1999, which is incorporated herein by reference. Re-occurring "stop sale actions" subject the facility to progressive sanctions in accordance with the schedule for Class II violations provided in Rule 65C-22.010, F.A.C.

5. Other violations of food service standards that do not result in a "stop sale action" will subject the facility to progressive sanctions in accordance with the schedule for Class III violations provided in Rule 65C-22.010, F.A.C.

6. In the event that the Department determines that a child care facility's regular food service operation fails to comply with the food hygiene standards established in this rule such that continued operation of regular food service presents an imminent danger to the health and safety of the children being served, the Department will require that the facility immediately cease regular food service. Closure of the regular food service operation will not otherwise affect the operation of the facility, provided that the facility makes alternative arrangements to provide food for the children as needed. The facility must notify parents that the regular food service has been closed and must inform them of the alternate arrangements that have been made. The Department will document the closure on Department of Health form DH 4023, Jan 2005 used for inspection purposes. The facility must post the food service inspection report in a conspicuous place accessible to parents for the duration of the closure. Any food service operation closed under this rule shall remain closed until the standards violation that produced the closure has been remedied.

(e) Any organized food preparation activity in which children in care may participate as part of a planned curriculum must be under the direct supervision of a staff person who is knowledgeable in food hygiene safety and who has completed at minimum the "Serving Safe Food in Child Care" course required in paragraph (c) of this section.

(3) No change.

Rulemaking Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, Repromulgated 5-1-08, Amended 1-13-10, _____.

65C-22.008 School Age Child Care.

(1) through (2)(c) No change.

(d) Application for licensure. Application for a license or for renewal of a license to operate a school-age child care program must be made on CF-FSP Form 5017, October 2010 ~~March 2009~~, Application for a License to Operate a Child Care Facility, which is incorporated by reference. CF-FSP Form 5017 may be obtained from the department's website at www.myflorida.com/childcare.

1. No change.

2. The completed CF-FSP Form 5017 must be signed by the individual owner, or prospective owner, or the designated representative of a partnership, association, or corporation, and must include submission of background screening documents for the owner/operator, and an approved fire ~~and environmental health~~ inspections.

3. through 4. No change.

(e) No change.

(3) No change.

(a) through (d) No change.

(e) General Requirements.

1. All school-age child care program facilities must be clean, in good repair, and free from health and safety hazards and from vermin infestation. During the hours that the program is in operation, no portion of the building shall be used for any activity which endangers the health and safety of the children. It is the responsibility of the director/owner that all areas of the facility are free from fire hazards, such as candles, incense, plug-in air fresheners, lint and dust build up in heating and air vents, filters, exhaust fans, ceiling fans, and dryer vents.

2. through 8. No change.

(f) through (j) No change.

(k) Health and Sanitation.

1. No change.

2. Employees, volunteers, and children shall wash their hands with soap and running water, dry thoroughly and follow personal hygiene procedures for themselves, or while assisting others, prior to eating, and immediately after outdoor play.

3. No change.

~~4. School age child care programs must have written documentation from the local Environmental Health Unit that they have either met or have been exempted from local environmental health standards.~~

(l) through (o) No change.

(p) Nutrition.

1. If a school-age child care program chooses to supply food, it shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA My Pyramid, September ~~April~~ 2005, shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods for children ages two and older. Using the USDA My Pyramid, breakfast shall consist of at least three different food groups, lunch and dinner shall consist of at least four different food groups, and snacks shall consist of at least two different food groups. If a facility chooses to serve breakfast and lunch, milk must be served with at least one of the meals provided. If a facility chooses to serve dinner, milk must be served with this meal. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA My Pyramid may be obtained from the USDA website at www.mypyramid.gov.

2. through 4. No change.

(q) Food Hygiene ~~Preparation Area~~.

1. All licensed school-age child care facilities that store, prepare, and/or serve food to the children in care must comply with the following requirements: ~~approved by the Environmental Health Section to prepare food shall have documentation on file from the Department of Health verifying the facility meets the applicable requirements as specified in Chapter 64E-11, F.A.C., Food Hygiene.~~

~~2. School age child care programs must have written documentation from the local Environmental Health Unit that they have either met or have been exempted from local~~

environmental health standards, specified in Chapter 64E-11, F.A.C., Food Hygiene, as it pertains to the food preparation area defined above.

a. Application acknowledging food service. All child care facilities that store, prepare, and/or serve food to the children in care must identify annually the type of food services provided on CF-FSP Form 5017, Application for a License to Operate a Child Care Facility, which is incorporated by reference. A copy of the application may be obtained from the Department's website at www.myflorida.com/childcare.

b. Facilities must comply with the following rules from Chapter 64E-11, F.A.C., which are incorporated by reference:

I. 64E-11.001, Food Hygiene – General;

II. 64E-11.002, Definitions;

III. 64E-11.003, Food Supplies;

IV. 64E-11.004, Food Protection;

V. 64E-11.005, Personnel;

VI. 64E-11.006, Food Equipment and Utensils;

VII. 64E-11.007, Sanitary Facilities and Controls;

VIII. 64E-11.008, Other Facilities and Operations;

IX. 64E-11.009, Temporary Food Service Events;

X. 64E-11.010, Vending Machines;

XI. 64E-11.011, Procedure When Infection is Suspected;

XII. 64E-11.014, Mobile Food Units.

c. Manager Certification and Training.

I. All child care facilities that store, prepare, and/or serve food to the children in care shall designate in writing a food service manager.

II. The designated food service manager shall have passed a written certification test from one of the following providers: National Registry of Food Safety Professional (800)446-0257, National Restaurant Association (800)765-2122, or Thomson Prometric (800)624-2736.

The certified manager shall also maintain a copy of their active manager certification on site for review by the Department. The manager certification is active for five years from the date of issuance and must be renewed timely.

III. All additional food service employees or any employee who works in the kitchen and/or serves food shall complete the "Serving Safe Food in Child Care" course offered by the National Food Service Management Institute at The University of Mississippi. The course is a four-hour online course that can be accessed via the National Food Service Management Institute website. A copy of the certificate indicating course completion must be available for review by the Department. This is a one-time training requirement that must be completed prior to preparing and/or serving food to the children in care. This training may be counted toward completion of the employee in-service training requirement only one time for each employee.

IV. The facility must, within 90 days of the date that the certified food service manager separates from employment at the facility or is relieved of food service management responsibilities, designate in writing a food service manager that who has passed a written certification test from one of the providers listed in subparagraph (2)(c)2. of this rule.

d. Inspections, violations, and administrative action.

I. Facilities will be subject to inspections that must be documented on Department of Health form DH 4023, Jan. 2005, which is incorporated herein by reference.

II. The food service operations of the facility must close down immediately if there is a loss of power services, and/or water services, and/or sewage issues that affect the kitchen area. The operator must notify the Department within four hours as to their operational status in order for the Department to ensure health standards are being met for continued operation.

III. In the event that a child or children at the facility are sickened as a result of a violation of the food hygiene standards established by this rule, the facility will be subject to progressive sanctions in accordance with the schedule for Class I violations provided in Rule 65C-22.010, F.A.C.

IV. A "stop sale action" means that a violation of food service standards has been observed that poses an immediate threat to the safety of food requiring the food item(s) in question be destroyed or otherwise rendered unusable at the time of inspection. Violations resulting in a "stop sale action" must be documented on Department of Health DH form 4045, Feb. 1999, which is incorporated herein by reference. Re-occurring "stop sale actions" subject the facility to progressive sanctions in accordance with the schedule for Class II violations provided in Rule 65C-22.010, F.A.C.

V. Other violations of food service standards that do not result in a "stop sale action" will subject the facility to progressive sanctions in accordance with the schedule for Class III violations provided in Rule 65C-22.010, F.A.C.

VI. In the event that the Department determines that a child care facility's regular food service operation fails to comply with the food hygiene standards established in this rule such that continued operation of regular food service presents an imminent danger to the health and safety of the children being served, the Department will require that the facility immediately cease regular food service. Closure of the regular food service operation will not otherwise affect the operation of the facility, provided that the facility makes alternative arrangements to provide food for the children as needed. The facility must notify parents that the regular food service has been closed and must inform them of the alternate arrangements that have been made. The Department will document the closure on Department of Health form DH 4023, Jan 2005 used for inspection purposes. The facility must post the food service inspection report in a conspicuous place accessible to parents for the duration of the closure. Any food

service operation closed under this rule shall remain closed until the standards violation that produced the closure has been remedied.

e. Any organized food preparation activity in which children in care may participate as part of a planned curriculum must be under the direct supervision of a staff person who is knowledgeable in food hygiene safety and who has completed at minimum the “Serving Safe Food in Child Care” course required in paragraph (c) of this section.

(r) No change.

(s) Fire and Emergency Safety.

1. through 4. No change.

5. During the facility’s licensure year, the facility must conduct either a fire or emergency preparedness drill each month. Fire drills shall be conducted a minimum of 10 times annually and be conducted at various dates and times when children are in care, and shall not occur less than 30 days apart. A current attendance record must accompany staff out of the building during a drill or actual evacuation, and be used to account for all children. The fire drills conducted must include, at a minimum:

a. through b. No change.

6. through 7. No change.

8. The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures to be taken by the child care facility during a fire, lockdown, and inclement weather (tornadoes). The plan shall describe how the facility will meet the needs of the children during and after an emergency event, including facilitating parent/guardian reunification.

9. through 12. No change.

(t) No change.

(u) Record Keeping.

1. through 4. No change.

a. through c. No change.

d. Prior to beginning volunteering in a school-age program, a CF-FSP 5217, August 2010 ~~March 2009~~, Volunteer Affidavit, which is incorporated by reference, and may be obtained from the department’s website www.myflorida.com/childcare, must be completed and on file at the facility for the volunteer.

e. No change.

(I) Level 2 screening as defined in Section 435.04., which includes at a minimum, a national criminal records check conducted by the Federal Bureau of Investigations (FBI), a criminal history check conducted by the Florida Department of Law Enforcement (FDLE), and a local criminal records check through local law enforcement agencies ~~FBI, FDLE, and local law enforcement records checks.~~

(II) No change.

(III) CF Form 1649A, August 2010, Affidavit ~~Child Care Attestation~~ of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel at time of initial screening or upon a change in employers annually. CF Form 1649A may be obtained from the department’s website at www.myflorida.com/childcare.

f. Re-Screening. A screening conducted under this rule is valid for five years, at which time a statewide re-screen must be conducted in the same manner as the initial screening.

(I) No change.

(II) The five year re-screen must include, at a minimum, a national criminal records check conducted by the Federal Bureau of Investigations (FBI), a criminal history check conducted by through Florida Department of Law Enforcement (FDLE), and a local criminal records check through local law enforcement agencies ~~statewide criminal records checks through the Florida Department of Law Enforcement (FDLE) and a local criminal records check.~~

~~(III) CF 1649A, Child Care Attestation of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel annually. A copy of the CF 1649A may be obtained from the department’s website at www.myflorida.com/childcare.~~

~~(III)(IV)~~ A copy of all background screening clearance documents for the director and owner must be included in the department’s official licensing file or in accordance with the appropriate local licensing agency requirements.

g. through j. No change.

5. No change.

(4) No change.

Rulemaking Authority 402.305 FS. Law implemented 402.305 FS. History–New 9-12-04, Amended 4-12-07, 5-1-08, 1-13-10, 7-29-10, _____.

65C-22.010 Enforcement.

(1) Definitions.

(a) through (d) No change

1. “Class I Violation” is an incident of noncompliance with a Class I standard as described on CF-FSP Form 5316, October 2010 ~~March 2009~~. Child Care Facility Standards Classification Summary, which is incorporated by reference. A copy of the CF-FSP Form 5316 may be obtained from the department’s website at www.myflorida.com/childcare. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

2. through 4. No change.

(2) No change.

Rulemaking Authority 402.305,402.310 FS. Law Implemented 402.305, 402.310 FS. History–New 5-1-08, Amended 1-13-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dinah Gallon
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Don Winstead
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-137.001
RULE TITLE: Annual and Quarterly Reporting Requirements

PURPOSE AND EFFECT: This rule is being amended to adopt the 2010 NAIC Quarterly Statement Instructions and also adopts the 2010 NAIC accounting practices and procedures manual.

SUMMARY: Section 624.424, Florida Statutes, requires insurers to file quarterly and annual financial reports with the Office of Insurance Regulation and allows the Office to enact rules setting the standards for those reports. By adopting the current versions of these NAIC instructions and manuals, the Office is establishing up-to-date, uniform standards for annual and quarterly reports which will provide the information necessary for the Office to evaluate insurers’ financial conditions.

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

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

RULEMAKING AUTHORITY: 624.308(1), 624.424(1) FS.

LAW IMPLEMENTED: 624.424(1) FS.

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

DATE AND TIME: December 1, 2010, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-137.001 Annual and Quarterly Reporting Requirements.

(1) through (3) No change.

(4) Manuals Adopted.

(a) Annual statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC’s Annual Statement Instructions, Property and Casualty, 2010 ~~2009~~;

2. The NAIC’s Annual Statement Instructions, Life, Accident and Health, 2010 ~~2009~~;

3. The NAIC’s Annual Statement Instructions, Health, 2010 ~~2009~~;

4. The NAIC’s Annual Statement Instructions, Title, 2010 ~~2009~~; and

5. The NAIC’s Accounting Practices and Procedures Manual, as of March 2010 ~~2009~~.

(b) Quarterly statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC’s Quarterly Statement Instructions, Property and Casualty, 2010 ~~2009~~;

2. The NAIC’s Quarterly Statement Instructions, Life, Accident and Health, 2010 ~~2009~~;

3. The NAIC’s Quarterly Statement Instructions, Health, 2010 ~~2009~~;

4. The NAIC’s Quarterly Statement Instructions, Title, 2010 ~~2009~~; and

5. The NAIC’s Accounting Practices and Procedures Manual, as of March 2010 ~~2009~~.

(c) No change.

Rulemaking Specific Authority 624.308(1), 624.424(1) FS. Law Implemented 624.424(1) FS. History–New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, 4-4-99, 11-30-99, 2-11-01, 4-5-01, 12-4-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-137.001, Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2010

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-138.001
 RULE TITLE: NAIC Financial Condition Examiners Handbook Adopted

PURPOSE AND EFFECT: This rule is being amended to adopt the 2010 NAIC Financial Condition Examiners Handbook. The current rule adopted the 2009 version.

SUMMARY: Section 624.316, Florida Statutes, requires the Office to examine insurer’s financial condition, using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule ensures that the procedures used by the Office to examine insurers are the current generally accepted accounting practices.

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

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

RULEMAKING AUTHORITY: 624.308(1), 624.316(1)(c) FS.
 LAW IMPLEMENTED: 624.316(1)(c) FS.

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

DATE AND TIME: December 1, 2010, 9:30 a.m.
 PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-138.001 NAIC Financial Condition Examiners Handbook Adopted.

~~(1)(a) The National Association of Insurance Commissioners Financial Condition Examiners Handbook (2006) is hereby adopted and incorporated by reference.~~

~~(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2010 2009 is hereby adopted and incorporated by reference.~~

(2) through (3) No change.

~~Rulemaking Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History—New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2010

**Section III
 Notices of Changes, Corrections and
 Withdrawals**

**DEPARTMENT OF COMMUNITY AFFAIRS
 Division of Housing and Community Development**

RULE NO.: 9B-70.002
 RULE TITLE: Commission Approval and Accreditation of Advanced Building Code Training Courses
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 29, July 23, 2010 issue of the Florida Administrative Weekly.

This is the second Notice of Change for this rule. The first notice was published in Vol. 36, No. 40, October 8, 2010, edition of the Florida Administrative Weekly.

(1) through (3)(f) No change.

(g) If an approved accredited course requires revision to correct or update a reference, table, diagram, or quoted provision of code, law, or administrative rule, the training provider may submit the revised course and complete Form FBC-ED-002 ~~9B-70.002(4)(a)~~, effective September 10, 2010, adopted herein by reference and available from the Building Code Information System at www.floridabuilding.org. The training provider must list the exact change, the specific location of the change, and reason for the change in the course and affirm this is the only change. The changes to the course shall be approved by the administrator of the education program subject to ratification by the Florida Building Commission.