

Section I

Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF HEALTH

RULE NO.: 64-4.001 RULE TITLE: Definitions

PURPOSE AND EFFECT: To update the existing definitions rule related to medical marijuana treatment centers in order to add and update definitions necessary for additional rules being promulgated at this time.

SUBJECT AREA TO BE ADDRESSED: Definitions related to medical marijuana treatment centers

RULEMAKING AUTHORITY: 381.986(8)(k), FS.

LAW IMPLEMENTED: 381.986, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850) 245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.001 Definitions.

All the terms defined in section 381.986, F.S., shall have the meanings provided in that section, whenever used in this chapter. For the purposes of Department of Health (the “department”) medical marijuana treatment center rules and regulations, the following words and phrases shall have the following meanings indicated:

(1) AFRNP - The Applicant Fingerprint Retention and Notification Program authorized by section 943.05(2)(b), F.S., and established by the Florida Department of Law Enforcement, as provided in Rule 11C-6.010, F.A.C.

(2)(4) Applicant – An individual or entity that meets the requirements of section 381.986(8)(b), F.S., and applies for licensure registration as a medical marijuana treatment center pursuant to section 381.986(8)(a), F.S., excluding subparagraph 1. and sub-subparagraph 2.a.

(3) Arrest Report – The detailed narrative written by the arresting law enforcement officer explaining the circumstances of the arrest.

(2) through (5) renumbered (4) through (7) No change.

(6) Derivative Product – Forms of marijuana suitable for medical use.

(7) through (9) renumbered (8) through (10) No change.

(11) FDLE - The Florida Department of Law Enforcement.

(10) renumbered (12) No change.

(13)(44) Fulfillment and Storage Facility – Any area designated, which is not open to the public, to be used for order fulfillment, shipping, transportation, or storage of low-THC cannabis, medical marijuana, usable derivative-product or marijuana delivery devices.

(12) renumbered (14) No change.

(15) Livescan Service Provider - A vendor, entity, or agency authorized by s. 943.053(13), F.S., that scans fingerprints electronically and submits them to FDLE.

(13) through (14) renumbered (16) through (17) No change.

(18) MMTC - A medical marijuana treatment center licensed by the department pursuant to s. 381.986(8)(a), F.S.,

(15) renumbered (19) No change.

(20)(46) Processing Authorization – Written notification by the department to a medical marijuana treatment center that it may begin processing marijuana to usable derivative-product.

(21)(47) Processing Facility – Any area designated to be used for processing of usable derivative-product.

(18) Registration as a Medical Marijuana Treatment Center – Licensure as a medical marijuana treatment center pursuant to section 381.986(8), F.S.

(19) renumbered (22) No change.

(23)(20) Routes of Administration – The appropriate method for the usable derivative-product to be taken into the body of the qualified patient, as certified by a qualified physician, but does not include smoking.

(24) Usable Product - All forms of marijuana suitable for medical use by a qualified patient.

(25) Written Notice – Notice sent via email to the MMTC’s email address of record if the notice is intended for the MMTC, or notice sent via email to OMMU at OMMULicenseOperation@flhealth.gov if the notice is intended for the department, unless another means of written notice is specified by rule or statute.

Rulemaking Authority 381.986(8)(k)(4) FS. Law Implemented 381.986 FS. History–New 6-17-15, Amended 9-19-18,

DEPARTMENT OF HEALTH

RULE NO.: 64-4.202 RULE TITLE: MMTC Inspection Procedures

PURPOSE AND EFFECT: The purpose of this rule is to set forth the procedures for inspections of medical marijuana treatment centers (MMTCs) as set forth in section 381.986(10), FS. The effect is to apprise MMTCs of the requirements related to inspections and the procedures to be followed.

SUBJECT AREA TO BE ADDRESSED: Inspection procedures and requirements for medical marijuana treatment centers

RULEMAKING AUTHORITY: 381.986(10)(h), FS.

LAW IMPLEMENTED: 381.986, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850)245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.202 MMTC Inspection Procedures.

(1) The department may conduct random and unannounced inspections of any MMTC facility or vehicle utilized by an MMTC. An MMTC's refusal to allow entry or inspection is grounds for discipline under this chapter.

(2) An MMTC must allow department personnel complete, immediate, and unrestricted access to enter, inspect, monitor, and observe all areas and operations of an MMTC's facilities, vehicles, and all areas where MMTC records are kept. MMTCs must allow department personnel to interview MMTC personnel during any inspection. MMTC personnel must cooperate with the department's inspection and provide responses to inquiries.

(3) An MMTC must maintain at its facilities records necessary to substantiate its compliance with section 381.986, F.S., the department's rules, and the specific representations in the MMTC's application(s) on file with the department, including any department approved amendments or variances. The MMTC must make all such records available to the department for review during any inspection.

(4) During any inspection, an MMTC must demonstrate compliance with section 381.986, F.S., the department's rules, and the specific representations in the MMTC's application(s) on file with the department, including any department approved amendments or variances.

(5) If during any inspection the department identifies any deficiencies or violations of section 381.986, F.S., the department's rules, or the specific representations in the MMTC's application(s) on file with the department, including any department approved amendments or variances, the department will send written notice of the violation to the

MMTC identifying the deficiencies or violations. Within seven calendar days of receipt of a written notice of a deficiency or violation, the MMTC must deliver to the department a written corrective action plan to resolve the deficiencies or violations. The corrective action plan must include, at a minimum, the action steps the MMTC intends to take to resolve the deficiency or violation, the specific deadlines for each action step, and the additional steps the MMTC intends to take to prevent future deficiencies and violations.

(6) Upon review of the corrective action plan by the department, the MMTC may be required to take specific additional action steps to cure the deficiencies or violations. The MMTC must comply with and perform all such additional steps as directed by the department.

(7) An MMTC is subject to additional inspections by the department to confirm that the deficiencies or violations have been resolved and that the corrective action plan has been implemented.

(8) An MMTC's failure to resolve any deficiencies or violations identified during an inspection in the time period required by the department or specified in a corrective action plan is grounds for disciplinary action pursuant to this chapter. Rulemaking Authority 381.986(10)(h), FS. Law Implemented 381.986 FS. History – New.

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:

64-4.207 Marijuana Waste Management and Disposal

PURPOSE AND EFFECT: This rule is intended to dictate the manner in which marijuana waste must be managed and disposed of by licensed medical marijuana treatment centers (MMTCs) in order to protect public health and prevent against diversion.

SUBJECT AREA TO BE ADDRESSED: Management and disposal of medical marijuana waste generated by MMTCs

RULEMAKING AUTHORITY: 381.986(8)(e)11.c., FS

LAW IMPLEMENTED: 381.986(8)(e)11.c., FS

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850)245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.207—Marijuana Waste Management and Disposal

(1) As used in this rule, the term “Marijuana Waste” includes the following materials:

(a) Plant material waste, which means leaves, stalks, stems, and any other part of the marijuana plant that is not processed with solvent or used in the processing of marijuana to generate usable product;

(b) Processing waste, which means spent solvents, lab wastes, and similar materials used in the processing of marijuana;

(c) Product waste, which means marijuana and usable product that is unfit for sale or consumption. Product waste includes unused, returned, surplus, contaminated, recalled, and expired marijuana or usable product; and

(d) Other contaminated materials ready for disposal. “Contaminated materials” mean any item, object, utensil, material, or tool that contained or came in contact with marijuana or usable product and cannot be cleaned of marijuana residue. An MMTC may clean contaminated material using any method that completely eliminates any trace marijuana residuals from the material. Once the material is verified to be void of any marijuana residue, the material may be recycled or disposed of like any other non-marijuana waste that falls outside the scope of this rule.

(e) Notwithstanding the foregoing, Marijuana Waste does not include hazardous waste or universal waste, as those terms are defined in Rule 62-730.020, F.A.C. Nothing herein is intended to relieve an MMTC of its obligation to comply with applicable federal and state laws and regulations for solid and liquid wastes, as required by s. 381.986(8)(e)11.c., F.S.

(2) Marijuana Waste must be rendered unusable and unrecognizable before it leaves an MMTC facility. Marijuana Waste is unrecognizable if all components are homogenous and indistinguishable. Marijuana Waste is unusable if it is incapable of being salvaged and consumed through any means. Marijuana Waste must be rendered unusable and unrecognizable by grinding and mixing the Marijuana Waste with at least an equal amount of other compostable materials (e.g. food waste, yard waste, vegetable-based grease or oils) or non-compostable materials (e.g. paper waste, cardboard waste, plastic waste, or oil), or both. Marijuana Waste that cannot be rendered unusable and unrecognizable, as required herein, must be rendered irretrievable by permanently altering its physical or chemical condition through irreversible means such that it cannot be transformed to a physical or chemical condition or state as marijuana or a substance with a chemical structure or effect that is similar to marijuana.

(a) At least two employees of the MMTC must be present when rendering the Marijuana Waste unusable and unrecognizable or irretrievable. Steps taken to render Marijuana

Waste unusable and unrecognizable or irretrievable shall be conducted under video surveillance.

(b) Until such time that the Marijuana Waste is rendered unusable and unrecognizable or irretrievable, the Marijuana Waste must be stored in a waste receptacle(s) that is:

1. A securely locked, enclosed container;

2. Securely fastened to a permanent structure so that it cannot be removed; and

3. Located in a secured area of the facility.

(c) After Marijuana Waste is rendered unusable and unrecognizable or irretrievable, the Marijuana Waste shall be collected by a waste hauler in conjunction with other non-marijuana waste generated by the MMTC and delivered to a solid waste management facility, as that term is defined in section 403.703(39), F.S., for final disposition.

(3) An MMTC must maintain a waste management plan that will be provided to the department upon request and is subject to the department’s approval. A waste management plan must include, at a minimum:

(a) The identity of the MMTC’s inventory manager and the MMTC employees with access to the Marijuana Waste storage area(s) of its facility(ies);

(b) Procedures for weighing, tracking and manifesting Marijuana Waste out of the computer software tracking system;

(c) Procedures for rendering Marijuana Waste unusable and unrecognizable or irretrievable, as required by this rule;

(d) Procedures for storing Marijuana Waste before it is rendered unusable and unrecognizable or irretrievable;

(e) Employee training materials and exercises concerning the MMTC’s Marijuana Waste management procedures; and

(f) Record maintenance and retention procedures for Marijuana Waste records.

(4) MMTCs must, at all times, maintain records of all Marijuana Waste generated during the immediately preceding five-year period. Such records must account for all activity related to the disposal of the Marijuana Waste, including:

(a) The date, time, and manner of rendering the Marijuana Waste unusable and unrecognizable or irretrievable, along with the names and signatures of the persons who rendered the Marijuana Waste unusable and unrecognizable or irretrievable;

(b) The video recording of the employees rendering the Marijuana Waste unusable and unrecognizable or irretrievable;

(c) The name of the entity hauling the Marijuana Waste and documentation that evidences the MMTC’s subscription to waste collection services from that entity; and

(d) The date, time, and manner of the disposal of the Marijuana Waste.

(5) An MMTC shall provide a minimum of 72 hours’ notice in the computer software tracking system prior to rendering the Marijuana Waste unusable and unrecognizable or

irretrievable and shall record in the computer software tracking system the weight of the Marijuana Waste to be rendered unusable and unrecognizable or irretrievable. At least two MMTC employees must be present when manifesting Marijuana Waste out of the computer software tracking system. Rulemaking Authority 381.986(8)(e)11.c., FS. Law Implemented 381.986(8)(e)11.c., FS. History—New _____.

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:

64-4.208 MMTC Background Screening

PURPOSE AND EFFECT: This rule is intended to outline the process and form necessary for required background screening of medical marijuana treatment center employees, owners, and managers as required by section 381.986, FS.

SUBJECT AREA TO BE ADDRESSED: Background screening requirements for medical marijuana treatment centers
 RULEMAKING AUTHORITY: 381.986(8)(k), 943.05(2)(h)3., FS.

LAW IMPLEMENTED: 381.986(8)(b)8., 381.986(8)(e)4., 381.986(9), 943.05, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850)245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.208 MMTC Background Screening

(1) Required Background Screening.

(a) No person may serve as an employee, owner, or manager, as those terms are defined by this chapter, of an MMTC unless and until the person has undergone and successfully passed a background screening, as provided in s. 381.986, F.S.

(b) An MMTC that allows a person to serve as an employee, owner, or manager without successfully passing a required background screening will be subject to discipline under this chapter.

(2) Background Screening Procedures.

(a) An MMTC must request and obtain clearance from the department before allowing any individual to serve as an employee, owner, or manager of the MMTC.

(b) To request clearance of a prospective MMTC employee, owner, or manager, an MMTC must provide, via

email to OMMULicenseOperation@flhealth.gov, a request that the department process the individual's background screening report. The MMTC's request for clearance of a prospective employee, owner or manager must include the full name of the person(s) submitting to background screening together with Form DH8016-OMMU-12/2019, "Waiver Agreement and Statement" incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>, which must be completed and signed by the prospective employee, owner, or manager.

(c) Persons required to undergo background screening must submit accurate demographic information and a full set of fingerprints to a Livescan Service Provider and, at the time of submission, give to the Livescan Service Provider the ORI number FL924890Z (DOH – OFFICE OF MEDICAL MARIJUANA USE).

(d) Once generated, the background screening report will be sent directly to the department. The department will not process the background screening report unless and until it receives a clearance request from an MMTC, as provided in paragraph (2)(b). If an MMTC does not request clearance from the department within six months from the date the prospective employee, owner or manager submitted fingerprints to a Livescan Service Provider pursuant to paragraph (2)(c), the department will be unable to process the background screening report and the individual will again be required to submit fingerprints to a Livescan Service Provider pursuant to paragraph (2)(c).

(e) After receipt of the background screening report, the department may issue to the individual requests for additional information or clarification necessary to complete the background screening process. Upon assessing the background screening report and any additional information received from the individual, the department will issue notice to the individual stating whether the individual passed the background screening. The department will also issue notice to the MMTC advising whether the individual has been cleared to serve as an employee, owner, or manager of the MMTC.

(f) If an individual's fingerprints are rejected twice for image quality, the individual shall participate in the Federal Bureau of Investigation's name check procedure for fingerprint submissions rejected twice due to image quality.

(g) An MMTC must retain in its records clearance notices from the department for all employees, owners, and managers currently serving the MMTC and must retain the notices for at least five years after the employee, owner, or manager is terminated, removed, or otherwise separated from the MMTC.

(3) Fingerprint Retention Fees and Notifications.

(a) The annual fee for participation in the AFRNP is \$6.00 per individual record retained. There is no fee for the initial year of participation.

(b) The department will direct FDLE to enter and retain the fingerprints of all MMTC employees, owners, and Managers in the ARFRP. MMTCs must notify the department in writing within 30 calendar days of the termination or separation of any employee, owner, or manager so that the individual’s fingerprints may be removed from the AFRNP.

(4) Voluntary Disclosure of Arrest Reports and Continuing Background Clearance.

(a) After becoming aware of the arrest of any employee, owner, or manager of the MMTC for any of the disqualifying offenses provided in s. 435.04, F.S., or for an offense under chapter 837, chapter 895, chapter 896 or similar law of another jurisdiction, the MMTC shall provide notice to the department. Such notice shall be provided to the department in writing within 48 hours of becoming aware of the individual’s arrest and shall include the following information:

1. Name of the arrested individual;
2. Position or job title of the arrested individual; and
3. A copy of the arrest report, if available.

(b) If the department receives an arrest notification concerning an MMTC employee, owner, or manager that renders the individual ineligible to serve as an MMTC employee, owner, or manager, the department will provide written notice to the MMTC. Within 24 hours of receiving written notice from the department, an MMTC must terminate the employee or manager or remove the owner from his or her position.

Rulemaking Authority 381.986(8)(k), 943.05(2)(h)3. FS. Law Implemented 381.986(8)(b)8., 381.986(8)(e)4., 381.986(9), 943.05. FS. History—New .

DEPARTMENT OF HEALTH

RULE NO.: 64-4.210
 RULE TITLE: MMTC Fines, Suspension, and Revocation

PURPOSE AND EFFECT: This purpose of this rule is to set forth guidelines related to fines, license suspension, and license revocation imposed upon medical marijuana treatment centers (MMTCs) for violations of rule and statute. The effect is to establish comprehensive and consistent disciplinary penalties related to MMTCs.

SUBJECT AREA TO BE ADDRESSED: Disciplinary fines, license suspension, and license revocation pertaining to MMTCs.

RULEMAKING AUTHORITY: 381.986(10)(h), FS.

LAW IMPLEMENTED: 381.986(10), FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF

THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850)245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.210 MMTC Fines, Suspension, and Revocation.

(1) Pursuant to section 381.986, F.S., the department provides within this rule disciplinary guidelines that will be imposed upon licensed MMTCs. The purposes of discipline are to punish MMTCs for violations; to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from committing violations.

(2) The department may suspend or revoke an MMTC license, or refuse to renew an MMTC license, if the department finds that an MMTC committed a violation as provided in 381.986(10)(f), F.S. For any such violation, the department may revoke or suspend an MMTC’s license for a period of time based upon the seriousness of the violation. Factors to be considered in determining the seriousness and length of the revocation or suspension include:

- (a) frequency or number of occurrences;
- (b) potential for rehabilitation;
- (c) any prior violations;
- (d) impact on the department;
- (e) potential and/or actual harm to a qualified patient or a member of the public;
- (f) willfulness and deliberateness of the violation;
- (g) severity of noncompliance;
- (h) length of noncompliance;
- (i) any good faith effort made to prevent a violation; and
- (j) any corrective action taken by the MMTC related to the current violation or prior violations.

(3) The department may, in addition to suspension, revocation, and any other penalties imposed under this chapter, impose a fine of up to \$10,000 per violation, as set forth in the schedule provided in subsection (9). The schedule of fines is meant to serve as a guideline. The department will use the factors set forth in subsection (2) to determine the amount of the fine to impose within the range outlined in the schedule. The maximum fines listed in the schedule reflect the maximum fines that the department may impose per violation, per day. Where there are multiple incidents resulting in more than one violation of the same provision, the department may impose a fine, up to the maximum, for each violation, per day.

(4) Unless otherwise ordered by the department, an MMTC, during any period of license suspension, shall not cultivate, process, transport, or dispense marijuana, or allow patients or customers to enter the MMTC’s premises. Unless otherwise ordered by the department, an MMTC, during any

period of license suspension, may continue to possess, cultivate, or process marijuana. The MMTC must fully account for all marijuana and must safeguard any marijuana in its possession or control during suspension. During suspension, the MMTC must maintain its premises in compliance with all representations in the MMTC’s application on file with the department and all requirements set forth in section 381.986, F.S., and department rule. Following a suspension, the department may allow the MMTC to resume operations by written notice after the MMTC has complied with any corrective action directives from the department.

(5) During any period of license suspension, an MMTC must place on all of its dispensary facilities in the front window, or on the front door, a notice indicating the length of the suspension and the reasons therefor. The notice shall measure a minimum of 8.5 inches in height by 11 inches in width and the lettering shall be at least 14-point font. The department will create and furnish the notice to the MMTC. If the MMTC maintains a website, the MMTC shall prominently display on the MMTC’s homepage the identical notice. The notice shall be maintained in place at the dispensaries and on the MMTC’s website until the period of suspension ends.

(6) The issuance of a suspension under this part does not relieve the MMTC of the obligation to timely comply with all license renewal requirements. A license suspension does not toll the MMTC’s license renewal deadline.

(7) No MMTC whose license has been revoked may apply for licensure under s. 381.986, F.S., and this chapter for at least five years from the date of such revocation. However, if an MMTC’s violation of statute or rule is a contributing factor to the death of a patient, the MMTC will be permanently barred from applying for licensure.

(8) If an MMTC’s license is suspended or revoked, no part of the application fee, supplemental licensure fee, or renewal fee will be returned.

(9) The department will use the following schedule as a guideline for disciplinary fines. The complete statutory requirement may be found in the statutory provision cited directly in the violation column.

	<u>VIOLATION</u>	<u>MINIMUM FINE PER VIOLATION, PER DAY</u>	<u>MAXIMUM FINE PER VIOLATION, PER DAY</u>
(a)	Section 381.986(8)(e)4.	\$500	\$1,000

(b)	Section 381.986(8)(e)6.c., F.S.	\$500	\$1,000
(c)	Section 381.986(8)(e)6.d., F.S.	\$500	\$1,000
(d)	Section 381.986(8)(e)7., F.S.	\$500	\$1,000
(e)	Failure to hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and compliance with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder if the medical marijuana treatment center produces edibles. Section 381.986(8)(e)8., F.S.	\$500	\$1,000
(f)	Production and distribution of an edible that contains more than 200 milligrams of tetrahydrocannabinol. Section 381.986(8)(e)8., F.S.	\$500	\$1,000
(g)	Production and distribution of any shapes, forms, and ingredients prohibited for edibles by s. 381.986(8)(e)8., F.S., or department rule.	\$500	\$1,000

	<u>Section 381.986(8)(e)8., F.S.</u>		
(h)	<u>Processing or dispensing edibles prior to the effective date of the department rule on edibles. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(i)	<u>Operating in violation of the standards and requirements for the storage, display, or dispensing of edibles set out in s. 381.986(8)(e)8., F.S., or department rule. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(j)	<u>Section 381.986(8)(e)10., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(k)	<u>Failure to reserve two processed samples from each marijuana batch and to retain such samples for at least nine (9) months. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(l)	<u>Section 381.986(8)(e)16.c., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(m)	<u>Section 381.986(8)(f)1., F.S.</u>	<u>\$500</u>	<u>\$1,000 fine for failure to correct within 30-days of receipt of subsequent notice of</u>

			<u>failure to comply.</u>
(n)	<u>Section 381.986(8)(f)2., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(o)	<u>Section 381.986(8)(f)4., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(p)	<u>Section 381.986(8)(f)5., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(q)	<u>Section 381.986(8)(f)6., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(r)	<u>Section 381.986(8)(f)7., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(s)	<u>Section 381.986(8)(f)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(t)	<u>Section 381.986(8)(f)9., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(u)	<u>Section 381.986(8)(f)10., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(v)	<u>Section 381.986(8)(g)1., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(w)	<u>Section 381.986(8)(g)1.g.(I II), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(x)	<u>Section 381.986(8)(g)2., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(y)	<u>Section 381.986(8)(g)3., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(z)	<u>Section 381.986(8)(g)4., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(aa)	<u>Section 381.986(8)(g)5., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(bb)	<u>Section 381.986(8)(g)6., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>

(cc)	<u>Engaging in advertising that is visible to members of the public from any street, sidewalk, park, or other public place in violation of s. 381.986(8)(h), F.S. Section 381.986(8)(h), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(dd)	<u>Engaging in advertising online and marketing advertising in violation of s. 381.986(8)(h)2., F.S. Section 381.986(8)(h), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(ee)	<u>Section 381.986(8)(i), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(ff)	<u>Section 381.986(10)(f)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(gg)	<u>Section 381.986(10)(f)12., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(hh)	<u>Section 381.986(8)(e)6.b., F.S. and section 381.986(8)(e)11.a., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(ii)	<u>Production and distribution of single serving portion of an edible that exceeds 10 milligrams of tetrahydrocannabinol. Section 381.986(8)(e)8., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(jj)	<u>Production and distribution of an edible with a potency variance greater than 15 percent.</u>	<u>\$1,000</u>	<u>\$2,000</u>

	<u>Section 381.986(8)(e)8., F.S.</u>		
(kk)	<u>Section 381.986(8)(e)9., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(ll)	<u>Section 381.986(8)(e)11.c., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(mm)	<u>Failure to test processed marijuana using a medical marijuana testing laboratory before it is dispensed. s. 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(nn)	<u>Dispensing marijuana when the test results indicate one or more of the following: low-THC cannabis does not meet the definition of low-THC cannabis; the concentration of tetrahydrocannabinol fails to meet the potency requirements of s. 381.986, F.S.; the labeling of the concentration of tetrahydrocannabinol and cannabidiol is not accurate; the marijuana is not free from contaminants that are unsafe for human consumption. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>

(oo)	<u>Failure to take corrective action within 30-days of receiving a Notice of Deficiency from the department that the medical marijuana treatment center test results show non-compliance with Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(ss)	<u>Section 381.986(8)(e)11.f., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(pp)	<u>Failure to retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months; or contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center’s standard operating procedures, testing records, and samples. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(tt)	<u>Section 381.986(8)(e)12., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(qq)	<u>Use of a laboratory that has not been certified by the department under s. 381.988, F.S., when at least one laboratory holds the required certification. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(uu)	<u>Section 381.986(8)(e)13., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(rr)	<u>Section 381.986(8)(e)11.e., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(vv)	<u>Failure to seal each edible in plain, opaque wrapping marked only with the marijuana universal symbol. Section 381.986(8)(e)15., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(ww)	<u>Failure to dispense an edible in a receptacle that is plain, opaque, white and without depictions of the product or images other than the medical marijuana treatment center’s department-approved logo and the marijuana universal symbol. Section 381.986(8)(e)15., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(xx)	<u>Failure to label the receptacle with a list all the following: edible’s ingredients, storage instructions, an expiration date, a legible and prominent warning to keep away from children and pets, a warning that the edible has not been produced or inspected pursuant</u>	<u>\$1,000</u>	<u>\$2,000</u>

	to federal food safety laws.		
(yy)	Section 381.986(8)(e)16.b., F.S.	\$1,000	\$2,000
(zz)	Section 381.986(8)(e)16.d., F.S.	\$1,000	\$2,000
(aaa)	Section 381.986(8)(e)16.e., F.S.	\$1,000	\$2,000
(bbb)	Failure to provide the following where the dispensing of marijuana occurs: a separate waiting area with sufficient space and seating, and at least one private consultation area that is isolated from the waiting area and area where dispensing occurs. Section 381.986(8)(f)3., F.S.	\$1,000	\$3,000
(ccc)	Section 381.986(8)(b)8., F.S.	\$1,000	\$3,000
(ddd)	Section 381.986(8)(e)5., F.S.	\$1,000	\$3,000
(eee)	Display of products in the waiting area of the premises where dispensing of marijuana occurs. Section 381.986(8)(f)3., F.S.	\$1,000	\$3,000
(fff)	Dispensing marijuana or marijuana delivery devices in the waiting area of the premises where dispensing of marijuana occurs.	\$1,000	\$3,000

	Section 381.986(8)(f)3., F.S.		
(ggg)	Section 381.986(8)(e), F.S.	\$2,500	\$5,000
(hhh)	Section 381.986(8)(e)16.f., F.S.	\$2,500	\$5,000
(iii)	Section 381.986(8)(e)16.g., F.S.	\$2,500	\$5,000
(jjj)	Section 381.986(10)(f)3., F.S.	\$5,000	\$10,000
(kkk)	Section 381.986(10)(f)5., F.S.	\$5,000	\$10,000
(lll)	Section 381.986(10)(f)6., F.S.	\$5,000	\$10,000
(mmm)	Section 381.986(8)(c)	\$5,000	\$10,000
(nnn)	Section 381.986(8)(e)2.	\$5,000	\$10,000
(ooo)	Section 381.986(8)(e)6.a., F.S.	\$5,000	\$10,000
(ppp)	Failure to recall edibles, including all edibles made from the same batch of marijuana, which: fail to meet the potency requirements of s. 381.986(8)(e)11.d., F.S.; are unsafe for human consumption; or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. Section 381.986(8)(e)11.d., F.S.	\$5,000	\$10,000

(qqq)	<u>Section 381.986(10)(f)7., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(rrr)	<u>Section 381.986(10)(f)9., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(sss)	<u>Section 381.986(10)(f)10., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(ttt)	<u>Section 381.986(10)(f)11., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(uuu)	<u>Section 381.986(10)(f)13., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(vvv)	<u>Section 381.986(8)(b)9., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(www))	<u>Deviation, without approval of the department, from the criteria demonstrated and representations made in the MMTC's application on file with the department, which includes any amendments or variances that have been approved by the department. Section 381.986(8)(e), F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(xxx)	<u>Section 381.986(8)(b)3., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(yyy)	<u>Section 381.986(8)(b)4., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(zzz)	<u>Section 381.986(8)(b)5., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(aaaa)	<u>Failing to maintain the performance bond required under Section</u>	<u>\$5,000</u>	<u>\$10,000</u>

	<u>381.986(8)(b)6., F.S.</u>		
(bbbb))	<u>Failing to maintain, in lieu of a performance bond, an irrevocable letter of credit required under Section 381.986(8)(b)7.a., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(cccc)	<u>Section 381.986(8)(b)7.b., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(dddd))	<u>Section 381.986(8)(b)10., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(eeee)	<u>Section 381.986(8)(e)11.b., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(ffff)	<u>Section 381.986(8)(e)16.h., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(gggg))	<u>Section 381.986(10)(f)4., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(hhhh))	<u>Section 381.986(10)(f)6., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(iiii)	<u>Section 381.986(8)(b)2., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(jjjj)	<u>A violation of any other provision of section 381.986, Florida Statutes, or department rule, not listed in this chart is subject to the full range of penalties listed in this rule. Section 381.986(10)(f)1., F.S.</u>		

Rulemaking Authority 381.986(10)(h); Law Implemented 381.986(10), FC. History—New _____.

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:
64-4.300 Certified Marijuana Testing Laboratory
Definitions

PURPOSE AND EFFECT: This rule provides definitions necessary for interpreting certified marijuana testing laboratory rules being promulgated.

SUBJECT AREA TO BE ADDRESSED: Definition of terms related to certified marijuana testing laboratories

RULEMAKING AUTHORITY: 381.988(2), 381.988(3), FS

LAW IMPLEMENTED: 381.988, FS

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Courtney Coppola (850)245-4274 or Courtney.Coppola@flhealth.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64-4.300 Certified Marijuana Testing Laboratory Definitions

The following words and phrases have the following meaning and apply to Rules 64-4.301 through 64-4.313:

(1) Acceptable Limit – The maximum concentration allowed for a specified Target Analyte. Any Target Analyte measured above its concentration limit constitutes a failure for that analysis.

(2) Agricultural Agents – Any pesticide, herbicide, fungicide, fertilizer, synergist, or root stimulant applied to the plant or substrate, at any stage of cultivation or manufacturing, for the purpose of increased growth, vigor, or pest resistance.

(3) Analyst – An Employee of an Applicant or Certified Marijuana Testing Laboratory whose duties include conducting analyses on analytical instrumentation, analyzing and recording results, maintaining testing-related workspaces and equipment, and maintaining marijuana samples.

(4) Analytical Batch – a group of no more than 20 Analytical Samples, which behave similarly with respect to the sampling or the testing procedures being employed, that are prepared together.

(5) Analytical Method – An approved procedure used for the testing and analysis of Analytical Samples.

(6) Analytical Sample – A Testing Sample which has gone through all the necessary preparatory procedures and are in a form to be analyzed.

(7) Applicant – An individual or entity that seeks certification as a Certified Marijuana Testing Laboratory pursuant to section 381.988(2), F.S., and Rule 64-4.301.

(8) Calibration – Set of analyses that establish, under conditions specified in the analysis Standard Operating Procedure, the relationship between values of quantities indicated by the measuring instrument or measuring system, or values represented by a material measure of a Certified Reference Material, and the corresponding values realized by standards.

(9) Calibration Curve – The mathematical relationship between the known values, such as the concentrations of a series of Calibration Standards, and their instrument response, prepared at multiple concentrations which cover the working range of the instrument.

(10) Calibration Standard – A Certified Reference Material used to calibrate an instrument.

(11) Cannabinoid Profile – An analysis conducted to determine the level of concentration of d9-THC, d8-THC, THCA, THCV, CBD, CBDA, CBDV, CBG, CBGA, CBN, and CBC in all Final Product meant for sale to qualified patients.

(12) Certificate of Analysis – A document created by a Certified Marijuana Testing Laboratory which certifies the quality and purity of the tested Final Product.

(13) Certified Marijuana Testing Laboratory – A laboratory that meets the requirements of section 381.988, Florida Statutes and Rules 64-4.301 through 64-4.313, and is certified by the department.

(14) Certified Reference Material – A material characterized by a metrologically valid procedure for one or more specified properties, accompanied by a certificate that provides the value of the specified property, its associated uncertainty, and a statement of metrological traceability.

(15) Contaminants Unsafe for Human Consumption – Any Microbe, Mycotoxin, Agricultural Agent, Residual Solvent, Heavy Metal, or Filth and Foreign Material found in an amount that exceeds any of the department's accepted limitations.

(16) Continuing Calibration Verification – A standard solution from a source that is certified and traceable. These standards are used to check the accuracy of a Calibration Curve on a daily basis (before the run and every 12 hours thereafter or every 10 samples, whichever occurs first).

(17) Control – Voting power which includes the power to vote, or to direct the voting, of an owner's interest

(18) Cultivar – A variety, strain, or race that has originated and persisted under cultivation and has been developed through artificial selection for specific morphological, physiological, or chemical characteristics.

(19) Data Packages – Analytical testing data that is prepared by a Certified Marijuana Testing Laboratory and which contains information about the testing performed.

Quality Assurance and Quality Control data, and the results of any tests performed.

(20) Derivative Product – Product created from an extract of Usable Whole Flower Marijuana

(21) Edible – Commercially produced food items made with marijuana oil, but no other form of marijuana, that are produced and dispensed by a Medical Marijuana Treatment Center.

(22) Employee – Any person whose duties involve activities or responsibilities include handling Usable Whole Flower Marijuana or Derivative Products, whether or not they are compensated for their work.

(23) Environmental Testing – Physical and biological analyses, to include chemistry and biochemistry in compliance with Rule 64E-1.005 F.A.C.

(24) Filth and Foreign Materials – Mold, mildew, hair, insects, feces, packaging contaminants, manufacturing waste, or other marijuana cultivation and manufacturing by-products.

(25) Final Product – Any sealed marijuana or Derivative Product in its final container intended for use by a qualified patient.

(26) Formulation – The specific combination of ingredients combined to produce a Final Product

(27) Heavy Metals – A metallic chemical element that has a relatively high density and is toxic or poisonous at low concentrations.

(28) Increment – A subsample taken from an Edible product for the purposes of homogeneity testing.

(29) Initial Calibration Verification – A Calibration Standard from a second source or production lot different from the Calibration Curve lot, that is certified and traceable. These standards are used to check the accuracy of a Calibration Curve.

(30) Initial Display of Competency (IDOC) – An assay, administered by a Certified Marijuana Testing Laboratory, undertaken by an Analyst to determine whether he or she can correctly, accurately, and repeatedly perform a specific analysis or analyze a specific measurement.

(31) Interest – Any form of ownership in or Control of an Applicant, a Certified Marijuana Testing Laboratory, or Medical Marijuana Treatment Center including, but not limited to, ownership of stock, membership Interests, partnership Interests, a sole proprietorship or otherwise which convey to the holder thereof an ownership right or an Interest in or right to the profits, capital, or voting with respect to such Applicant, Certified Marijuana Testing Laboratory, or Medical Marijuana Treatment Center.

(32) Internal Standard – A pure Target Analyte of known concentration, not expected to be found in the Testing Samples, added to the Analytical Samples prior to analysis used to measure the relative response of other Target Analytes and Surrogates to correct for variations.

(33) Investor – Any person who, directly or indirectly, owns a legal or equitable Interest (actually or beneficially), or Controls less than a 5% share of Interests of an Applicant or Certified Marijuana Testing Laboratory.

(34) Laboratory Batch – A series that includes the Analytical Batch as well as all applicable Quality Control samples, to include one Method Blank, duplicate Laboratory Fortified Blanks, duplicate Matrix Spike Samples, and at least one duplicate sample, for Mycotoxins, Residual Solvents, Agricultural Agents, Cannabinoid Profile, and Heavy Metals.

(35) Laboratory Director – An individual who oversees all Analysts, Employees, Managers, and functions of testing Usable Whole Flower Marijuana, Derivative Product, and Edibles at only one physically independent Testing Facility operated by the Certified Marijuana Testing Laboratory.

(36) Laboratory Fortified Blank – A Quality Control sample, created using a Matrix similar to the sample Matrix, and initially without Target Analytes, prepared along with Testing Samples, that have been amended with a known concentration of a Target Analyte or Analytes for competency assessment purposes.

(37) Limit of Detection (LOD) – The lowest quantity of a Target Analyte that can be distinguished from the absence of that Target Analyte within a stated confidence limit. The LOD must be 10% of the Acceptable Limit or less for the Target Analyte tested.

(38) Limit of Quantitation (LOQ) – The minimum concentration of a Target Analyte in a specific Matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision. The LOQ must be equal to the Acceptable Limit or less for the Target Analyte tested.

(39) Manager – Any person with direct or indirect authority to exercise or contribute to the operational Control, direction, or management of an Applicant or a Certified Marijuana Testing Laboratory or who has direct or indirect authority to supervise any Employee of an Applicant or a Certified Marijuana Testing Laboratory. The term includes all officers, Laboratory Directors, and members of the board of directors, as well as any other person engaged to undertake management or Control of the Applicant or a Certified Marijuana Testing Laboratory or any person in Control of an entity engaged to undertake management or Control of the Applicant or Certified Marijuana Testing Laboratory.

(40) Matrix – The component or substrate containing a Target Analyte or Analytes.

(41) Matrix Group – The components of a Testing Sample other than the Target Analytes.

(42) Matrix Spike Sample – An aliquot from a Testing Sample, which has been amended with a known concentration of a Target Analyte or Analytes to test for potential Matrix interference.

(43) Method Blank – A Target Analyte-free Matrix, (Reagent water or appropriate solvent), which is carried through the complete preparation and analytical procedure, used to evaluate contamination resulting from the complete analytical procedure.

(44) Microbe – Any microscopic organism, to include bacteria and fungi.

(45) Microbiological Testing – The analysis of microbes.

(46) Medical Marijuana Treatment Center (MMTC) – An entity certified by the department pursuant to 381.986, Florida Statutes.

(47) Moisture – The total amount of water present in a sample, calculated as percent Moisture

(48) Mycotoxins – Any toxin substance produced by a fungus.

(49) Non-Oral Transmucosal Product – A Derivative Product with administration routes other than oral and heated inhalation, to include, but not limited to, nasal sprays, inhalers, suppositories, and similar transmucosal administration routes.

(50) Owner – Any person who, directly or indirectly, owns a legal or equitable Interest (actually or beneficially), or otherwise Controls, a 5% or greater share of Interests of the Applicant or Certified Marijuana Testing Laboratory. In the event that one person owns a beneficial right to Interests and another person holds the voting rights with respect to such Interests, both persons are the Owner of such Interests. In determining who are Owners of the Applicant or a Certified Marijuana Testing Laboratory, the attribution of ownership rules set forth in the Treasury Regulations cited as 26 C.F.R. 1.414(c)-4(b) and (c) (4-1-17 edition), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>, apply, but with the following exceptions and additions:

(a) The use of the term “Option” in 26 C.F.R. 1.414(c)-4(b) shall be interpreted broadly to include, but not be limited to, options, warrants, calls, rights of first refusal and any other right to acquire an Interest (as defined herein), whether such right is vested or unvested and regardless of whether such right is then exercisable or becomes exercisable at a future date or upon the occurrence of a future event.

(b) The exception for attribution of a spouse’s Interest, as defined in paragraph (aa) above and as set forth in 26 C.F.R. 1.414(c)-4(b)(5)(ii), does not apply.

(c) The age limitation contained in 26 C.F.R. 1.414(c)-4(b)(6) applies only to children who have not attained the age of 18 years. The term “Interest” as used in 26 C.F.R. 1.414(c)-4(b)(6) shall have the meaning as set forth in paragraph (aa) above.

(d) If a person under the age of 18 owns or is deemed an Owner of an Interest, such person must be disclosed to the

department. Persons under the age of 18 must submit to a background screening only in the event that the Interest or ownership was not imputed to another family member or guardian.

(e) To the extent that the above alterations to the provisions of 26 C.F.R. 1.414(c)-4 change the outcome of any of the examples set forth therein, the example does not apply.

(f) As used in 26 C.F.R. 1.414(c)-4(b)(3), the term “Actuarial Interest” shall be interpreted broadly and shall include, but not be limited to, the right of a beneficiary of a trust or an estate to receive either income or principal distributions with respect to an Interest held by such trust or estate.

(g) With regard to publicly-traded companies with ownership Interests in the Applicant, any person who holds 10% or more Interest in the publicly-traded company is an Owner.

(51) Potency Testing – The analysis of the relative strength of cannabinoids, and the total amount, in milligrams, of THC as the sum of (d9-THC + (0.877 x THCA)) and CBD as the sum of (CBD + (0.877 x CBDA)) in the Final Product.

(52) Processed Batch – A portion of Usable Whole Flower Marijuana of uniform Cultivar, cultivated with the same agricultural chemicals, and harvested at the same time, which does not exceed 50 kilograms dry weight, or a Processed Batch of Derivative Product which must contain the same type of product and be produced using the same extraction methods, SOPs, ingredients, and Processed Batch or Batches of Usable Whole Flower.

(53) Proficiency Testing – Testing by an Applicant or Certified Marijuana Testing Laboratory of unknown samples supplied to the labs by an ISO/IEC 17043 accredited body to determine the accuracy of the analysis for specific Target Analytes and Matrix Groups.

(54) Quality Assurance – A set of procedures developed by an Applicant or Certified Marijuana Testing Laboratory to ensure that products and services delivered are as accurate and precise as possible.

(55) Quality Assurance Manual – A written collection of all Quality Assurance systems or protocols to include the management policies, objectives, principles, organizational structure and authority, responsibilities, and implementation of a Certified Marijuana Testing Laboratory to ensure the quality and utility of the service rendered.

(56) Quality Control – A set of procedures developed in accordance with current ISO 17025 standards, to verify that the required level of quality in analyses are met and maintained, including: determination that appropriate equipment and instruments are used, continued inspection and overview of all facets of the testing procedure, and undertaking corrective action as necessary.

(57) Reagent – A compound or mixture added to a system to cause a chemical reaction or test if a reaction occurs.

(58) Relative Percent Deviation (RPD) – A calculation of the precision of the measured recovered concentration of duplicate Laboratory Fortified Blanks, duplicate Matrix Spike Samples, or duplicate Testing Samples, calculated as follows: $RPD = \frac{| \text{quantitative result A} - \text{quantitative result B} |}{((\text{quantitative result A} + \text{quantitative result B}) \div 2)} \times 100$.

(59) Residual Solvents – Volatile chemicals that are used during the manufacturing of a Final Product, which have not been completely removed by practical manufacturing techniques.

(60) Retail Batch – The portion of one Processed Batch used to create a Final Product that consists of one product type at one concentration, intended to have uniform character and quality, and is produced during the same cycle of manufacture.

(61) Sampler – An Employee of a Certified Marijuana Testing Laboratory who collects samples of marijuana from a Medical Marijuana Treatment Center for testing and has undergone required training to fulfill this function.

(62) Secure Storage – The segregation of Usable Whole Flower Marijuana, Derivative Product, or Edibles in a manner that prevents access by unauthorized persons, compromise of the product’s integrity, or premature spoilage.

(63) Spike Solution – A solution of Target Analytes of known concentrations that is used to fortify a Laboratory Fortified Blank or Matrix Spike Sample. For Analytical Methods with multiple Target Analytes, a representative number of Target Analytes may be chosen for the Spike Solution.

(64) Standard Operating Procedure (SOP) – Written documents that detail the methods of an operation, analysis or action whose techniques and procedures are thoroughly described, and which is appropriate as a method of performing certain routine or repetitive tasks.

(65) Surrogate – A Target Analyte or mix of Target Analytes, which behave similarly to the Target Analytes but not expected in the Analytical Sample, may be added to all Testing and Quality Control samples before Testing Sample preparation to measure Analytical Method efficiency.

(66) Tamper Evident Device – A device or procedure which makes unauthorized access to protected objects easily detectable.

(67) Target Analyte – A substance or chemical constituent to be quantitatively measured in an Analytical Method.

(68) Testing Facility – The location of a real property or the area within a real property to be utilized as a Certified Marijuana Testing Laboratory.

(69) Testing Field – The suite of Target Analytes tested within a Matrix Group.

(70) Testing Sample – A homogenized sample for analysis created from a Retail Batch.

(71) Total Combined Yeast and Mold – A test to detect yeast, mold, and other fungi in Final Products.

(72) Total Contaminant Load (TCL) – The sum of all Heavy Metals and Agricultural Agents present above the LOQ, but below the Acceptable Limit.

(73) Usable Whole Flower Marijuana – The flowers of the female cannabis plant, including low-THC cannabis, that is suitable to be dispensed from a Medical Marijuana Treatment Center for medical use by a qualified patient. Usable Whole Flower Marijuana does not include seeds, stems, roots, leaves, resin extracted from any part of the plant, or any compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

(74) Water Activity – The measure of the quantity of free water in a product that is available and therefore capable of supporting bacteria, yeasts, mold, and fungi.
Rulemaking Authority 381.988(2), 381.988(3), FS. Law Implemented 381.988 FS. History–New

Section II Proposed Rules

DEPARTMENT OF FINANCIAL SERVICES

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-193.001	Purpose and Scope
69O-193.007	Manager or Management Company
69O-193.010	Place
69O-193.015	Expansion of a Facility
69O-193.028	Feasibility Studies
69O-193.045	Administrative Supervision Proceedings
69O-193.048	Letters of Credit
69O-193.060	Background Information
69O-193.065	Forms Incorporated by Reference

PURPOSE AND EFFECT: The Office of Insurance Regulation (Office) is updating Chapter 69O-193, F.A.C.

SUMMARY: Chapter 2019-160, Laws of Florida, amended and created new sections in Chapter 651, F.S. The Office is amending Chapter 69O-193 to comply with these statutory changes, as well as amending and repealing existing rules. The Office is repealing nine rules in Chapter 69O-193.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Agency personnel familiar with the subject matter of the rule amendment have performed an economic analysis of the rule amendment that shows that the rule amendment is unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes.

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), 651.015(1), (3) FS.

LAW IMPLEMENTED: 624.307(1), 651.011, 651.018, 651.021, 651.022, 651.023, 651.0235, 651.024, 651.026, 651.033, 651.035, 651.1151, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Lawrence, Jr., Assistant General Counsel, Office of Insurance Regulation, Michael.LawrenceJr@flor.com, (850)413-4112.

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-193.001 Purpose and Scope.

Rulemaking Authority 651.015 FS. Law Implemented 651 FS. History–New 6-25-90, Formerly 4-45.010, 4-193.001, Repealed.

69O-193.007 Manager or Management Company.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.022, 651.023, 651.026, 651.1151 FS. History–New 7-16-92, Formerly 4-193.007, Repealed.

69O-193.010 Place.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.011(5) FS. History–New 7-16-92, Formerly 4-193.010, Repealed.

69O-193.015 Expansion of a Facility.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.021 FS. History–New 7-16-92, Formerly 4-193.015, Repealed.

69O-193.028 Feasibility Studies.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.021, 651.022, 651.023 FS. History–New 7-16-92, Formerly 4-193.028, Repealed.

69O-193.045 Administrative Supervision Proceedings.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.018 FS. History–New 7-16-92, Formerly 4-193.045, Repealed.

69O-193.048 Letters of Credit.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.035 FS. History–New 7-16-92, Formerly 4-193.048, Repealed.

69O-193.060 Background Information.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.022(2)(c), 651.023, 651.0235, 651.026 FS. History–New 7-16-92, Formerly 4-193.060, Repealed.

69O-193.065 Forms Incorporated by Reference.

Rulemaking Authority 624.308(1), 651.013, 651.015(1), (3) FS. Law Implemented 624.307(1), 651.021, 651.022, 651.023, 651.024, 651.026, 651.033, 651.035 FS. History–New 6-25-90, Formerly 4-45.035, Amended 7-16-92, 11-29-98, 12-24-03, Formerly 4-193.065, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Lawrence, Jr., Assistant General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2019
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 30, 2019

DEPARTMENT OF FINANCIAL SERVICES

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-193.002	Definitions
69O-193.003	Applications
69O-193.005	Required Financial Reports
69O-193.006	Financial Viability
69O-193.012	Phases
69O-193.023	Escrow Agreements and Amendments
69O-193.030	Updated Feasibility Study
69O-193.040	Advertisement Enforcement Procedures
69O-193.050	Calculation of the Minimum Liquid Reserve Requirement
69O-193.053	Waiver of Minimum Liquid Reserves
69O-193.055	Accreditation
69O-193.058	Continuous Updates

PURPOSE AND EFFECT: The Office of Insurance Regulation (Office) is updating Chapter 69O-193.

SUMMARY: Chapter 2019-160, Laws of Florida, amended and created new sections in Chapter 651, F.S. The Office is amending Chapter 69O-193 to comply with these statutory changes, as well as amending and repealing existing rules. The Office is amending twelve rules in Chapter 69O-193.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Agency personnel familiar with the subject matter of the rule amendment have performed an economic analysis of the rule amendment that shows that the rule amendment is unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes. 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: 651.015(3), 651.021(2), 651.022(2), 651.0245(3), (5), (6), 651.0246(1), 651.026(2), (3), (9), 651.0261(1), (2), (4), 651.028, 651.034(7), 651.035(9), 651.043 FS.

LAW IMPLEMENTED: 651.011, 651.021, 651.0215, 651.022, 651.023, 651.0235, 651.024, 651.0245, 651.0246, 651.026, 651.0261, 651.028, 651.033, 651.034, 651.035, 651.055, 651.091, 651.095, 651.105, 651.1151, 651.118, 651.125, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Lawrence, Jr., Assistant General Counsel, Office of Insurance Regulation, Michael.LawrenceJr@flor.com, (850) 413-4112.

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-193.002 Definitions.

(1) through (2) No change.

(3) "Affiliate" means any person that exercises control over or is directly or indirectly controlled by the provider, ~~directly or indirectly~~ through:

- (a) Equity ownership of voting interests or securities;
- (b) Common managerial control; or

(c) Collusive participation by the management of the provider and affiliate in the management of the provider or the affiliate; ~~or~~

~~(d) A party as defined by section 624.310, F.S.~~

(4) "Affiliated person" of another person means:

(a) The spouse of the other person;

(b) The parents of the other person and their lineal descendants, or the parents of the other person's spouse and their lineal descendants;

(c) A person who directly or indirectly owns or controls, or holds with the power to vote, 10 percent or more of the outstanding voting interest or securities of the other person;

(d) A person, 10 percent or more of whose outstanding voting interests or securities are directly or indirectly owned or controlled, or held with power to vote, by the other person;

(e) A person or group of persons who directly or indirectly control, are controlled by, or are under common control with the other person;

(f) An officer, director, partner, copartner, or employee of the other person;

(g) If the other person is an investment company, an investment adviser of such company, or a member of an advisory board of such company;

(h) If the other person is an unincorporated investment company not having a board of directors, the depositor of such company; or

(i) A person who has entered into a written or unwritten agreement to act in concert with the other person in acquiring or limiting the disposition of ownership interest or voting securities of a provider or controlling company.

"Audited financial statements" means a statement prepared by an independent Certified Public Accountant, which includes:

(a) An audit opinion from the independent Certified Public Accountant concerning the financial statements;

(b) Balance sheet;

(c) Statement of operations;

(d) Statement of changes in cash flow; and,

(e) Notes to the financial statement prepared on the basis of generally accepted accounting principles on an accrual basis covering the latest annual reporting period.

(5) "Comparable unit" means a unit similar in floor plan, size or design to a unit vacated, but does not necessarily mean the same unit.

(5)(6) "Construction of a model residence unit" means and is limited to the actual construction of a structure containing not more than one unit of each floor plan to be offered to prospective residents of the proposed facility.

(6)(7) "Control," including the terms "controlling," "controlled by," and "under common control with", means the direct or indirect possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of

a person, whether through ownership of voting interests or securities, by contract, or otherwise. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting interests or securities of another person.

~~(8) “Escrow account” means money physically located and deposited in a bank, savings and loan association, or trust company located within the State of Florida in an account governed by an escrow agreement which meets the requirements of section 651.033, F.S., and in the custody of a third party for delivery only upon the fulfillment of the conditions specified by chapter 651, F.S., and the escrow agreement.~~

~~(9) “Food” as used in section 651.011(2), F.S., means meals available or accessible to residents as a covered benefit or on a fee for service basis.~~

~~(10) “Furnishing” as used in section 651.011(2), F.S., means to make available, arrange, or provide through one or more intermediaries shelter, food, or health care as a covered benefit or on a fee for service basis.~~

~~(7)(11) “Independent consultant” means:~~

~~(a) A person who is not related by blood or marriage, employed, affiliated, or controlled by a provider; and,~~

~~(b) An independent actuary or independent Certified Public Accountant who in the regular practice of his profession is engaged by a provider to perform a specific function in accordance with professional standards and conduct required by that profession.~~

~~(8)(12) “Long-term financing or debt” means any debt with a duration of more than twelve (12) months.~~

~~(13) “Manager” or “management company” means a person who, pursuant to a written contract with a provider, agrees to administer the day-to-day business operations of a facility for a provider, subject to the policies, directives, and oversight of the provider.~~

~~(9)(14) “Material adverse deviation or change” means any change or extraordinary occurrence which creates or causes, or could create or cause, a provider or a facility to become insolvent or no longer financially viable.~~

~~(10)(15) “Nominee of” means:~~

~~(a) A person other than the resident who has been designated in writing by the resident to receive any notices given or required to be given to a resident, and who may participate on behalf of the resident in any meetings between the resident and the provider or its agent or employee concerning the resident, the facility, or the rights of the resident, or in any complaint proceeding or legal action on behalf of the resident; and,~~

~~(b) A person who is not a provider or any agent, employee, or affiliate of the provider.~~

~~(16) “Nursing care” as defined by section 651.011(2), F.S., means access to those services or acts that might be rendered to a resident by individuals as defined by chapter 464, F.S.~~

~~(17) “Occupancy” means a date certain on which a resident is notified by a provider in writing that a unit is ready for the resident to move into, or the date on which the resident actually takes possession of the unit, whichever occurs first.~~

~~(11) “Occupied” means a date certain on which a resident takes possession of a unit or begins paying monthly maintenance fees, whichever occurs first.~~

~~(12)(18) “Opening date or commencement of operations” means the day a certificate of occupancy is issued.~~

~~(13)(19) “Payment-in-full” means that 100 percent of the entrance fee charged by a provider to a resident for a residency agreement has been paid by the resident to the provider.~~

~~(14)(20) “Phase” means a planned incremental stage of construction in the development of a facility.~~

~~(15)(21) “Preparation of the construction site” means, and is limited to, the clearing and grading of land of a proposed facility site, except when additional work is required to comply with any city, county, state, or federal laws, rules or ordinances in connection with the clearing and grading of a proposed facility site. Site preparation does not include the pouring of foundations or the stubbing in of plumbing.~~

~~(16)(22) “Reservation agreement” means an agreement executed by a prospective resident or a nominee of a prospective resident for the purpose of reserving a specific unit in a facility.~~

~~(23) “Resident” as used in section 651.011(9), F.S., does not mean a provider or any agent, employee, or affiliate of the provider.~~

~~(17)(24) “Residency agreement” means an agreement executed by a resident or a nominee of a resident which gives the resident the right to occupy a unit and receive continuing care.~~

~~(25) “Shelter” as used in section 651.011(2), F.S., means an independent living unit, room, apartment, cottage, villa, personal care unit, nursing bed, or other living area within a facility set aside for the exclusive use of one or more identified residents.~~

~~(18)(26) “Total operating expenses” means all expenses incurred in the operations of a facility, net of depreciation and amortization.~~

~~(27) “Unincorporated association” as used in section 651.022, F.S., means a Florida limited or general partnership.~~

~~(19)(28) “Unit” means the shelter in which a resident may reside.~~

~~(20)(29) “Waiting list deposit” means any payment made by a prospective resident to a provider in return for a preferential right to subscribe to a continuing care agreement.~~

Rulemaking Authority 651.015(3) FS. Law Implemented 651.011, 651.021, 651.022, ~~651.022(2)(b)10., (7)~~, 651.023, 651.026, 651.033, 651.035, 651.055, 651.091, 651.106, 651.1151, 651.118, 651.125 FS. History—New 7-16-92, Formerly 4-193.002, Amended,

690-193.003 Applications and Management Change.

Substantial rewording of Rule 690-193.003, F.A.C. follows. See Florida Administrative Code for present text.

(1) Application for Certificate of Authority

(a) An application for a person applying for a certificate of authority for a continuing care provider consists of the following:

1. Form OIR-C1-473, “Application for Certificate of Authority for a Continuing Care Provider,” effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-144, “Service of Process Consent & Agreement,” effective 6/04, hereby incorporated by reference and available at www.flrules.org/XXXXX;

3. Form OIR-C1-905, “Instructions for Furnishing Background Investigative Reports,” effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

4. Form OIR-C1-938, “Fingerprint Payment and Submission Procedures,” effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

5. Form OIR-C1-2221, “Management Information Form,” effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX; and

6. Form OIR-C1-1423, “Biographical Affidavit,” effective 4/19, hereby incorporated by reference and available at www.flrules.org/XXXXX.

(b) A person applying for a certificate of authority as a continuing care provider shall submit forms in paragraph (1)(a) as directed by the Office electronically at <https://www.floir.com/iportal>.

(2) Application for Provisional Certificate of Authority

(a) An application for a person applying for a provisional certificate of authority for a continuing care provider consists of the following:

1. Form OIR-C1-471, “Application for Provisional Certificate of Authority for a Continuing Care Provider,” effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-144, incorporated by reference in paragraph (1)(a);

3. Form OIR-C1-905, incorporated by reference in paragraph (1)(a);

4. Form OIR-C1-938, incorporated by reference in paragraph (1)(a);

5. Form OIR-C1-2221, incorporated by reference in paragraph (1)(a); and

6. Form OIR-C1-1423, incorporated by reference in paragraph (1)(a).

(b) A person applying for a provisional certificate of authority as a continuing care provider shall submit forms in paragraph (2)(a) as directed by the Office electronically at <https://www.floir.com/iportal>.

(3) Consolidated Application for Provisional Certificate of Authority and Certificate of Authority

(a) A consolidated application for a provisional certificate of authority and certificate of authority for a continuing care provider consists of the following:

1. Form OIR-C1-2220, “Consolidated Application for Provisional Certificate of Authority and Certificate of Authority for a Continuing Care Provider,” effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-144, incorporated by reference in paragraph (1)(a);

3. Form OIR-C1-905, incorporated by reference in paragraph (1)(a);

4. Form OIR-C1-938, incorporated by reference in paragraph (1)(a);

5. Form OIR-C1-2221, incorporated by reference in paragraph (1)(a); and

6. Form OIR-C1-1423, incorporated by reference in paragraph (1)(a).

(b) A person filing a consolidated application for provisional certificate of authority and certificate of authority for a continuing care provider shall submit forms in paragraph (3)(a) as directed by the Office electronically at <https://www.floir.com/iportal>.

(4) Application for Simultaneous Acquisition of a Continuing Care Facility and Issuance of a Certificate of Authority to a Provider

(a) An application for the simultaneous acquisition of a continuing care facility and issuance of a certificate of authority consists of the following:

1. Form OIR-C1-2219, “Application for Simultaneous Acquisition of a Continuing Care Facility and Issuance of a Certificate of Authority to a Provider,” effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-144, incorporated by reference in paragraph (1)(a);

3. Form OIR-C1-905, incorporated by reference in paragraph (1)(a);

4. Form OIR-C1-938, incorporated by reference in paragraph (1)(a);

5. Form OIR-C1-2221, incorporated by reference in paragraph (1)(a); and

6. Form OIR-C1-1423, incorporated by reference in paragraph (1)(a).

(b) A person applying for simultaneous acquisition of a continuing care facility and issuance of a certificate of authority shall submit forms in paragraph (4)(a) as directed by the Office electronically at <https://www.floir.com/iportal>.

(c) Disclaimer of Control

1. A person may attempt to rebut a presumption of control pursuant to section 651.0245, F.S., by electronically filing at <https://www.floir.com/iportal> one of the following forms with the Office:

a. Form OIR-C1-1467, "Disclaimer of Control Affidavit – Individual", effective 08/18, hereby incorporated by reference and available at www.flrules.org/XXXXX;

b. Form OIR-C1-1468, "Disclaimer of Control Affidavit – Entity", effective 08/18, hereby incorporated by reference and available at www.flrules.org/XXXXX;

c. Form OIR-C1-2211, "Disclaimer of Control Affidavit – Investment Companies," effective 08/18, hereby incorporated by reference and available at www.flrules.org/XXXXX.

2. A person may attempt to rebut a presumption of control pursuant to section 651.0245, F.S., by filing a copy of a Schedule 13G filed with the Securities and Exchange Commission pursuant to Rule 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act of 1934, as amended, to the Office electronically at <https://www.floir.com/iportal>.

3. Pursuant to section 651.0245(6), F.S., the Office is authorized to disallow a disclaimer of control filed pursuant to subparagraphs (4)(c)1. and (4)(c)2.

(5) Application for Expansion

(a) An application for a person applying for expansion of a certificated continuing care facility consists of the following:

1. Form OIR-C1-2218, "Application for Expansion of a Certificated Continuing Care Facility," effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-905, incorporated by reference in paragraph (1)(a);

3. Form OIR-C1-938, incorporated by reference in paragraph (1)(a);

4. Form OIR-C1-2221, incorporated by reference in paragraph (1)(a); and

5. Form OIR-C1-1423, incorporated by reference in paragraph (1)(a).

(b) A person applying for expansion of a certificated continuing care facility shall submit forms in paragraph (5)(a) as directed by the Office electronically at <https://www.floir.com/iportal>.

(6) Manager or Management Company

(a) To comply with the filing requirements of section 651.043(2), F.S., for each new management company or manager not employed by a management company within 10 business days of a change in management, the provider shall submit the following:

1. Form OIR-C1-905, "Instructions for Furnishing Background Investigative Reports," effective 2/15, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-C1-938, "Fingerprint Payment and Submission Procedures," effective 10/18, hereby incorporated by reference and available at www.flrules.org/XXXXX; and

3. Form OIR-C1-1423, "Biographical Affidavit," effective 4/19, hereby incorporated by reference and available at www.flrules.org/XXXXX.

4. A copy of the written management contract, if applicable.

(b) The documents in paragraph (6)(a) shall be submitted to the Office electronically at <https://www.floir.com/iportal>.

Rulemaking Authority 651.015(3), 651.021(2), 651.022(2), 651.0245(3), (5), (6), 651.0246(1), 651.043 FS. Law Implemented 651.0215, 651.022, 651.023, 651.024, 651.0245, 651.0246 FS. History—New 7-16-92, Formerly 4-193.003, Amended, _____.

690-193.005 Monthly, Quarterly, and Annual Required Financial Reports.

Substantial rewording of Rule 690-193.005, F.A.C. follows. See Florida Administrative Code for present text.

(1) Monthly Statements

If required by the Office pursuant to section 651.0261(3), F.S., a provider shall file Form OIR-A3-973 within 25 days after the end of each month. Form OIR-A3-973, "Monthly Financial Report," effective 11/19, is hereby incorporated by reference and available at www.flrules.org/XXXXX. The filing shall be submitted electronically via the Office's system at <https://www.floir.com/iportal>.

(2) Quarterly Statements

(a) As required by section 651.0261(2), F.S., a provider shall file Form OIR-A3-974 within 45 days after the end of the fiscal quarter. Form OIR-A3-974, "Quarterly Financial Report," effective 11/19, is hereby incorporated by reference and available at www.flrules.org/XXXXX. The filing shall be submitted electronically via the Office's system at <https://www.floir.com/iportal>.

(b) In addition to Form OIR-A3-974, a provider shall submit Form OIR-A3-1245, "Sales and Financial Report for a Non-Operational Facility," effective 9/19, for any facility for which a certificate of occupancy has not yet been issued.

(3) Annual Report

An Annual Report shall be filed with the Office, on or before May 1 of each year if the provider’s fiscal year end is December 31 or within 120 days of the last day of the fiscal year of the provider if the provider has declared a fiscal year other than the calendar year, on Form OIR-A3-470, “Annual Financial Report,” effective 9/19, hereby incorporated by reference and available at www.flrules.org/XXXXX. The filings shall be submitted electronically via the Office’s system at <https://www.floir.com/iportal>. Rulemaking Authority 651.015(3), 651.026(2), (9), 651.0261(1), (2), (4) FS. Law Implemented 651.026, 651.0261 FS. History—New 7-16-92, Formerly 4-193.005, Amended, _____.

690-193.006 Financial Viability.

(1) In addition to days cash on hand, debt service coverage ratio, and occupancy as defined in section 651.011, F.S., the Office may utilize measures set forth in this rule to assess the financial viability of a provider. In order to determine the financial viability of a Florida facility or a provider, the Office shall utilize one or more of the factors set forth in this rule to evaluate the financial condition of the facility or provider by comparing the financial information submitted by the provider with prior reports.

(2) The information derived from the factors set forth in this rule shall be used for the purpose set forth in subsection (1), through an evaluation of financial trends of a facility or provider. Due to the diversity in ownership structure, operation, debt structure, and economic models, the information obtained shall not be used as a basis of comparison to other facilities or providers.

(2)(3) The Office may shall analyze the trends in performance of a provider or facility using the information filed pursuant to rule 690-193.005, F.A.C., and any other relevant information available to the Office pursuant to chapter 651, F.S., chapter 690-193, F.A.C., or an order of the Office, and shall consider the effects that any unusual occurrence may have on the outcome of the calculations specified in subsection (6) prior to making a determination regarding the financial condition of a facility or provider.

(3) Prior to making a determination regarding the financial viability of a facility or provider, the Office shall consider the impact of any extraordinary or unusual occurrences affecting the facility or provider.

(4) The Office may seek the assistance of members of the Continuing Care Advisory Council or other experts in reviewing and evaluating the information regarding a obtained from any facility or provider.

(5) In the event that additional information is necessary to assess further evaluate the financial viability condition of a that facility or provider, the Office may shall request and consider such additional information. Additional information includes

information, reports, data, and documentation related to the following: to further evaluate the condition of that facility or provider, and shall consider such factors as:

- (a) The governing body of the provider, and its financial policy statements, and its financial policies;
- (b) The management Management or management company;
- (c) The organization’s financial plans;
- (d) Financial feasibility studies, projections, examinations, professional studies, opinions, reports, or other similar documents prepared by or on behalf of a provider;
- (e) Compliance with local, state and federal laws, rules, or ordinances;
- (f) Marketing plans;
- (g) Continuing care contract benefits and services;
- (h) Pricing;
- (i) Commitment of financial support from other organizations; and,
- (j) Other financial information;

(6) The Office may consider Net Operating Margin – Adjusted Ratio set forth in this subsection in assessing the financial viability of a provider. In calculating the ratio, the Office may use data pertaining to either the facility or provider, as appropriate, based upon the debt and operating structure of a provider. In addition to calculating the ratio, the Office will consider the relevance of the ratio to a provider based on the provider’s debt and operating structure. The ratio will be calculated using corresponding line items in the reports adopted pursuant to rule 690-193.005, F.A.C., and calculations which shall be utilized by the Office to determine the financial viability as provided in subsection (1) are defined below, and are based on Generally Accepted Accounting Principles (GAAP) using the accrual method (unless otherwise defined) except that ratios related to revenue are adjusted and calculated on a basis excluding amortized entrance fees as revenue and including actual entrance fees received net of refunds paid during the period under review. The calculations are divided into four categories: Profitability, Leverage, Liquidity, and Occupancy Ratios.

(a) NET OPERATING MARGIN – ADJUSTED RATIO – The Net Operating Margin – Adjusted Ratio is a measure of the operating performance calculated by dividing operating revenue plus net proceeds from entrance fees minus operating expenses by operating revenue plus net proceeds from entrance fees.

<u>Net Operating Margin – Adjusted Ratio</u>	<u>≡</u>	<u>Operating Revenue</u> <u>+ Net Proceeds from Entrance Fees</u> <u>- Operating Expenses</u>
		<u>Operating Revenue</u>

		+ Net Proceeds from Entrance Fees
--	--	-----------------------------------

(a) PROFITABILITY RATIO:

OPERATING RATIO—The Operating Ratio is a measure of the percentage of expenses incurred based on generated revenue and is defined as cash operating revenues divided by cash operating expenses.

Operating Ratio	=	$\frac{\text{Cash Operating Revenues}}{\text{Cash Operating Expenses}}$
-----------------	---	---

(b) LIQUIDITY RATIOS:

1. **ADJUSTED CURRENT RATIO**—The Adjusted Current Ratio is a measure of liquidity and is defined as the number of dollars held in current assets plus cash and investments that are available for operations without violating loan agreements, contracts, chapter 651, F.S., or any rule promulgated pursuant thereto, per dollar of current liabilities. (Current means occurring within one year.)

Adjusted Current Ratio	=	$\frac{\text{Current Assets}}{\text{Current Liabilities}}$
------------------------	---	--

2. **DAYS CASH ON HAND**—The Days Cash On Hand Ratio reflects the number of days that a facility maintains adequate cash and/or readily marketable securities to cover average cash expenditures.

Cash Expenses per Day	=	$\frac{\text{Cash Operating Expenses}}{\text{\# of Days in Period}}$
Days Cash on Hand	=	$\frac{\text{Unrestricted Cash} + \text{Unrestricted Investments}}{\text{Cash Expenses Per Day}}$

(c) LEVERAGE RATIO:

DEBT SERVICE COVERAGE RATIO—The Debt Service Coverage Ratio is a measure of a facility’s ability to pay its debt service payments through operations and is calculated on a cash flow basis. It is defined as the number of times net revenue is available for total debt service.

Debt Service Coverage Ratio	=	$\frac{\text{Cash Operating Revenues}}{\text{Cash Operating Expenses} + \text{Total Debt Service}}$
-----------------------------	---	---

(d) OCCUPANCY RATIOS:

OCCUPANCY is defined as the total number of occupied units in a facility divided by the total number of units in that facility. Occupancy shall be tracked by each level of care.

1.Occupancy of Independent Living Units (ILU’s)	=	$\frac{\text{Occupied ILU’s}}{\text{Total ILU’s}}$
2.Occupancy of Assisted Living Units (ALU’s)	=	$\frac{\text{Occupied ALU’s}}{\text{Total ALU’s}}$
3.Occupancy of Skilled Nursing Beds (SNF)	=	$\frac{\text{Occupied SNF}}{\text{Total SNF}}$
4.Occupancy of Rental Units (Rentals)	=	$\frac{\text{Occupied Rentals}}{\text{Total Rentals}}$

Notwithstanding the foregoing, the Office shall utilize such other information, criteria, ratios or other factors as necessary in assessing or determining the financial viability of a facility or provider whose financial viability is in question.

(b)(e) DEFINITIONS:

As used in this rule, the following terms shall have the following meanings:

1. **NET PROCEEDS FROM ENTRANCE FEES** means actual entrance fees received under the period under review less actual entrance fees refunded during the same period. **CASH OPERATING EXPENSES** means total expenses less interest, depreciation and amortization expense.

2. **OPERATING EXPENSES** means all expenses for the period under review less interest expense, depreciation, amortization, and other non-cash expenses including a change in the future service obligation. **CASH OPERATING REVENUE** means all revenue excluding amortized entrance fees and including actual entrance fees received during the period under review.

3. **OPERATING REVENUE** means all revenues for the period under review excluding earned/amortized entrance fees, non-cash revenue, and a change in the future service obligation. **TOTAL DEBT SERVICE** is defined as the total principal and interest expense that is due or paid on the facility within the audited period.

4. **TOTAL UNITS** means the sum of independent living units (ILU’s), assisted living units (ALU’s) and skilled nursing beds (SNF’s) in a facility.

(7) **DEFINITIONS:** As used in this rule, the following terms shall have the following meanings:

(a) **CASH OPERATING EXPENSES** means total expenses less interest, depreciation and amortization expense.

(b) **CASH OPERATING REVENUE** means all revenue excluding amortized entrance fees and including actual entrance fees received during the period under review.

(c) **TOTAL DEBT SERVICE** is defined as the total principal and interest expense that is due or paid on the facility within the audited period.

(d) **TOTAL UNITS** means the sum of independent living units (ILU’s), assisted living units (ALU’s) and skilled nursing beds (SNF’s) in a facility.

Rulemaking Authority 651.015(3), 651.026(3) FS. Law Implemented 651.026 FS. History—New 1-5-93, Amended 5-10-94, Formerly 4-193.006, Amended, _____.

69O-193.012 Phases.

(1)(a) No change.

(b) Subsequent to the Office’s approval of an application containing a feasibility study providing for a facility to be developed in phases, a provider must notify the Office in writing within 10 business days of becoming aware of a

material adverse deviation or change. Within 60 days of the provider becoming aware of the material adverse deviation or change, the provider must also submit any necessary revisions or amendments to the feasibility study required to account for the material adverse deviation or change. Any material adverse changes or deviations subsequent to approval by the Office must be immediately reported in writing to the Office and necessary adjustments or corrections made.

(2) The Office shall not deem feasible any project proposed to be built in phases if the initial phase does not include the ability to deliver all contract benefits promised to the residents. Contract benefits may be delivered pursuant to a written contractual agreement, which must be disclosed in the contract for continuing care, until the additional phases are completed. Note that pursuant to section 651.118(6), F.S., the provider must construct the non-nursing home portion of the facility and the nursing home portion of the facility at the same time unless the provider already has a component that is to be a part of the continuing care facility and that is licensed under chapter 395, part II of chapter 400, or part I of chapter 429 at the time of construction of the continuing care facility.

(3) The provider must comply with the reservation and entrance fee ~~The escrow requirements of section 651.0215, 651.023(5), or 651.0246, section 651.023(4) F.S., which shall apply to each phase in the development of a facility. ; The funds for each phase should be escrowed separately as evidenced by a separate escrow accounts or sub-accounts agreement for each phase. The escrow agreement(s) establishing the accounts or sub-accounts for each phase must meet which meets the requirements of section 651.033, F.S.~~

Rulemaking Authority 651.015(3) FS. Law Implemented 651.023, 651.091 FS. History—New 7-16-92, Formerly 4-193.012, Amended, _____.

690-193.023 Escrow Agreements and Amendments.

(1) Each escrow agreement or amendment required by chapter 651, F.S., shall be filed and approved by the Office Department prior to its use in this state.

(2) Each escrow agreement or amendment must be signed by:

- (a) No change.
- (b) The escrow agent, which must be a ~~Florida~~ financial institution or trust acceptable to the Office Department.

(3) Each escrow agreement, in addition to all other requirements of law, must contain:

(a) The escrow account number, which may be added to the agreement after the form of the agreement has been approved by the Office;

(b) A The physical location in Florida where the funds may be accessed; and of each escrow account governed by the escrow agreement;

(c) A statement citing the specific provision of chapter 651, F.S., for which the escrow agreement is drawn and for which the escrow account is established; and

~~(d) A statement that the provider and the escrow agent will notify the Department in writing at least ten (10) days prior to any change in any of the terms and conditions of the escrow agreement, escrow account numbers, or location of the escrow accounts.~~

Rulemaking Authority 651.015(3) FS. Law Implemented 651.022, 651.023, 651.033 FS. History—New 7-16-92, Formerly 4-193.023, Amended 9-15-05, Amended, _____.

690-193.030 Updated Feasibility Study.

Substantial rewording of Rule 690-193.030, F.A.C. follows. See Florida Administrative Code for present text.

(1) Definitions of terms as used in this rule.

(a) An “extraordinary or unusual change” means a material change to the market conditions upon which the feasibility study was based that may cause an adverse impact to the facility.

(b) A “material deviation” includes, but is not limited to, the following:

1. A change to the type or value of the health care benefits provided in the continuing care contracts to be offered by the facility;

2. A change regarding whether entrance fees will amortize to 0% refundability or if a portion of the entrance fee will be refundable regardless of how long the resident resides at the unit;

3. A change or deviation from the projected financial statements provided in the feasibility study that does or will result in a decrease in the days cash on hand or debt service coverage ratio projected in the provider’s application filing;

4. A change of 15% or more in:

a. The number of units at a particular level of care, i.e., independent living units, assisted living units, or skilled nursing units; or

b. The total number of units at the facility; or

5. A change in the healthcare delivery system available at the facility.

(2) If the Office has exempted a provider from sections 651.034(1) or 651.034(2), F.S., pursuant to section 651.034(6), F.S., the Office may require a provider to submit an amended or updated feasibility study when:

(a) An extraordinary or unusual change affecting the viability of the provider’s business plan as approved in an application filing occurs; or

(b) The provider requests in writing to make a material deviation from the feasibility study filed with the Office as part of an application filing under sections 651.0215, 651.023, 651.024, or 651.0246, F.S.

(3) The amended or updated feasibility study must be submitted to the Office:

(a) Within sixty (60) days of the extraordinary or unusual change or

(b) Thirty (30) days prior to any material deviation.

(4) Upon request of the provider and showing of good cause, the Office may extend the time to submit the updated feasibility study.

(5) Based on its review of the amended or updated feasibility study and any additional information requested with respect to the feasibility study, the Office may disapprove a material deviation on the following grounds:

(a) The deviation is not demonstrated to be financially feasible;

(b) The deviation will or is likely to result in the provider or facility failing to meet the requirements of chapter 651, F.S., or this chapter;

(c) The deviation will or is likely to result in the provider being unable to provide continuing care or continuing care at-home pursuant to its continuing care agreements; or

(d) The deviation will or is likely to result in the provider being unable to meet all financial and contractual obligations related to its operations, including obligations to residents.

Rulemaking Authority 651.015(3), 651.034(7) FS. Law Implemented 651.021, 651.022, 651.023, 651.034 FS. History—New 7-16-92, Formerly 4-193.030, Amended, _____.

690-193.040 Advertisement Enforcement Procedures.

(1) Each provider shall maintain for at least three (3) years at its home or principal office in this state a complete file containing every printed, published, or prepared advertisement it has used in this state, with a notation attached to each indicating the manner and extent of distribution and the form number of any contract advertised.

(2) No change.

(3) The file shall be maintained for at least three (3) years for providers subject to triennial examinations or at least five (5) years for accredited providers subject to examination at least once every five (5) years, as provided in s. 651.105(1), F.S. Each provider shall retain the advertisements, notations, and form numbers until such time that an exam report has been issued for the period of time in which the advertisement was used in this state.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.095, 651.105 FS. History—New 7-16-92, Formerly 4-193.040.

690-193.050 ~~Calculation of the~~ Minimum Liquid Reserve Requirement.

(1) A Minimum Liquid Reserve (MLR) Calculation shall be filed with the Office, on or before May 1 of each year if the provider’s fiscal year end is December 31 or within 120 days of the last day of the fiscal year of the provider if the provider has

declared a fiscal year other than the calendar year, on Form OIR-A3-477, “Minimum Liquid Reserve (MLR) Calculation,” effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX. The filings shall be submitted electronically at <https://www.floir.com/iportal>. ~~The minimum liquid reserve (MLR) must be funded not later than sixty one (61) days after the MLR calculation is due to be filed, except as provided in subsection (5) of this rule. Thus, the MLR must be fully funded not later than the first day of the provider’s year, whether fiscal or calendar, or the first day of operations, whichever applies.~~

(2)(a) The Office may require a recalculation of the minimum liquid reserve requirement and resubmission of Form OIR-A3-477 in the event of additional long-term financing or other occurrences resulting in a change to the aggregate amount of all principal and interest payments due during the fiscal year on any mortgage loans or other long-term financing or a change to all leasehold payments and all costs related to such payments financing of the facility. Any increase in required minimum liquid reserves must be funded not later than 61 days after the minimum liquid reserve calculation is filed. ~~If the date for filing the MLR calculation has passed, the MLR may not be recalculated until the next due date for filing.~~

(b) ~~Additional long term financing or other extraordinary occurrences may cause the Office to require a recalculation of the MLR, which could result in an increase or decrease in the MLR, notwithstanding the date of filing the MLR calculation.~~

(3) ~~Pursuant to section 651.041, F.S., an escrow account maintained under chapter 651, F.S., must be funded and meet the diversification requirements as prescribed in part II, chapter 625, F.S.~~

(3)(4) For purposes of the MLR requirement, long-term financing includes, but is not limited to, lease payments, mortgage payments, the long-term portion of any construction loan, and any long-term debt between affiliates or controlling parties of the provider that relate to the real property or fixtures of a facility.

(4)(5) Where a provider has elected to fund the MLR upon release of entrance fees as provided by section 651.023(6)(d) 651.023(4)(e), F.S., the funds shall be deposited directly from the entrance fee account into ~~the MLR accounts account.~~

(5)(6) A provider shall have and maintain reserves for ~~property real estate taxes and hazard insurance~~ as provided in section 651.035, F.S., even ~~if~~ ~~where~~ there is no long-term debt or financing on the facility.

(6) To request Office approval of a withdrawal of MLR funds, a provider must file Form OIR-A3-1284, “Request for Withdrawal from Minimum Liquid Reserves,” effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX. The filing shall be submitted electronically at <https://www.floir.com/iportal>.

(7) If a provider, or its escrow agent or trustee, intends to use funds from a debt service reserve that is included in computing a provider's minimum liquid reserve pursuant to section 651.035(1)(b), F.S., rather than filing Form OIR-A3-1284 as required in (6) above, the following process applies:

(a) The provider, or its escrow agent or trustee if so authorized in the agreement under which such debt service reserve is held, shall submit the documents listed below.

1. An affidavit, sworn to by an officer or director of the provider, stating that the provider anticipates being unable to make its scheduled debt service payment and a withdrawal from the debt service reserve included in the minimum liquid reserves pursuant to section 651.035(1)(b), F.S., is required to avoid a payment default. The affidavit shall include all of the following information:

a. The amount of the payment;

b. The payment due date;

c. The maximum amount of the withdrawal needed to make the payment;

d. The date the anticipated date of the withdrawal;

e. The account(s) from which the withdrawal will be made, which should match the account information and escrow statements previously provided to the Office; and

f. If there is a discrepancy in this account information, a written explanation of the discrepancy and any relevant documentation at the time of filing.

2. A document providing the following information with respect to the effect of the withdrawal on the provider's minimum liquid reserves and compliance with section 651.035, F.S.

a. A statement of whether the lender or trustee will require the provider to deposit additional funds in the debt service reserve to repay the amount withdrawn.

b. If the provider will be required to deposit additional funds in the debt service reserve to repay the amount withdrawn, the anticipated or proposed schedule for funding.

c. If the withdrawal will result in the provider being out of compliance with section 651.035, F.S., the provider shall submit a preliminary plan or anticipated timeline for coming into compliance. If the provider intends to work with a consultant to establish a plan, as proscribed in its financing documents, the provider should provide a brief explanation of that process and the anticipated date that such a plan will be completed.

(b) The request must be made at least 30 days before the anticipated date of the withdrawal.

(c) The Office will approve requests that contain all of the components specified in paragraph (7)(a) within 30 days of filing.

(d) The Office's approval of a withdrawal from a debt service reserve included in the minimum liquid reserves

pursuant to section 651.035(1)(b), F.S., does not constitute approval of the plan submitted pursuant to sub-subparagraph (7)(a)2.c. above.

(e) The filing shall be submitted electronically at <https://www.floir.com/iportal>.

Rulemaking Authority 651.015(3), 651.026(2)(d), 651.035(9) FS. Law Implemented 651.026, 651.035 FS. History--New 7-16-92, Formerly 4-193.050, Amended.

69O-193.053 Waiver of Minimum Liquid Reserves.

Substantial rewording of Rule 69O-193.053, F.A.C. follows. See Florida Administrative Code for present text.

(1) If principal and interest payments are paid to a trust that is beneficially held by residents as described in section 651.023(7), F.S., the Office may waive all or any portion of the escrow requirements for mortgage principal and interest if the Office finds that such waiver is not inconsistent with the security protections intended by Chapter 651, FS.

(2) To obtain a waiver for all or any part of the escrow requirement for mortgage principal and interest contained in section 651.035(1), F.S., the provider must meet the requirements of section 651.023(7), F.S., and file Form OIR-A3-1068, "Request for Waiver of Minimum Liquid Reserve," effective 11/19, hereby incorporated by reference and available at www.flrules.org/XXXXX, electronically at <https://www.floir.com/iportal>;

(3) For a new facility commencing operations, Form OIR-A3-1068 must be submitted no later than 30 days before the provider requests the release of moneys held in escrow pursuant to section 651.023(6), Florida Statutes. For a provider whose after escrowed funds have been released, Form OIR-A3-1068 shall be filed with the Office, on or before May 1 of each year if the provider's fiscal year end is December 31 or within 120 days of the last day of the fiscal year of the provider if the provider has declared a fiscal year other than the calendar year.

(4) Any previous waiver granted by the Office terminates as of the date the provider is required to file its next MLR calculation. If the subsequent request for waiver is denied, the provider shall have 61 days from the date MLR calculation and Request for Waiver of Minimum Liquid Reserve were due to be filed to fully fund the required reserve accounts.

Rulemaking Authority 651.015(3) FS. Law Implemented 651.023, 651.035 FS. History--New 7-16-92, Formerly 4-193.053, Amended.

69O-193.055 Accreditation.

(1) A provider or facility is accredited for the purposes of sections 400.235(5)(b)1. and 651.105(1), F.S., if it is accredited without stipulations or conditions by Commission on Accreditation of Rehabilitation Facilities International ("CARF International"). The Office may, upon written request by the

~~provider, waive the quarterly reporting requirement and the tri-annual examination of a provider for a facility if:~~

~~(a) The facility is accredited by the National Continuing Care Accreditation Commission and submits to the Office current evidence that the facility is in good standing.~~

~~(b) The provider agrees to furnish the Office, within five business days, a copy of any communication from the National Continuing Care Accreditation Commission which may directly or indirectly threaten the facility's accreditation, or the accreditation of any facility owned or operated by the provider, wherever located.~~

~~(2) The provider will file evidence that the provider or facility is accredited and in good standing each year with its annual report filing. Any request for waiver granted by the Office is valid only for the reporting period for which the request is made and may not be approved for subsequent reporting periods if any of the following are applicable:~~

~~(a) Any action by the National Continuing Care Accreditation Commission which results or could result in loss of accreditation.~~

~~(b) Any action by any federal or state agency or regulatory body which could result in revocation, denial or suspension of a license or certificate.~~

~~(c) Any action by any federal or state agency or regulatory body which results or could result in a provider or facility's being out of compliance with the provisions of chapter 651, F.S., or any similar laws or rules of any other state.~~

~~(d) Initiation of any criminal or civil action, including bankruptcy or receivership proceedings by any federal or state agency or regulatory body having jurisdiction over the provider or over any business operations of the provider.~~

~~(e) Failure by a provider to notify the Office of any of the above within five business days.~~

~~(f) Any circumstances that may exist which would be grounds for the Office to conduct an investigation of the provider.~~

~~(3) The provider shall furnish the Office, within five business days, a copy of any communication from CARF International concerning the loss or potential loss of accreditation of the provider or any facility owned or operated by the provider, wherever located. Nothing in this rule shall be construed to restrict or modify the Office's authority to conduct investigations or examinations, request information or otherwise enforce the provisions of chapter 651, F.S.~~

~~Rulemaking Authority 651.015(3), 651.028 FS. Law Implemented 651.028 FS. History—New 7-16-92, Formerly 4-193.055, Amended, _____.~~

690-193.058 Continuous Updates.

~~Each~~ Regardless of the information filed with the annual license renewal application, each provider shall immediately notify the

Office and file pertinent documents within five business days regarding:

(1) through (2) No change.

(3) Any other information that might adversely affect the ability of a provider, facility, or its management to operate under the assumptions made in the most recent license application; or

~~(4) Any change in the management company of a facility; or~~

~~(4)(5) Any change in the name or fictitious name of a provider or facility.~~

Rulemaking Authority 651.015(3) FS. Law Implemented 651.023, 651.0235, 651.026 FS. History—New 7-16-92, Formerly 4-193.058, Amended, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Michael Lawrence, Jr., Assistant General Counsel

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 03, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 30, 2019

DEPARTMENT OF FINANCIAL SERVICES

OIR – Insurance Regulation

RULE NO.: RULE TITLE:

690-193.066 Corrective Action Plan

PURPOSE AND EFFECT: The Office of Insurance Regulation (Office) is updating Chapter 690-193.

SUMMARY: Chapter 2019-160, Laws of Florida, amended and created new sections in Chapter 651, F.S. The Office is amending Chapter 690-193 to comply with these statutory changes, as well as amending and repealing existing rules. 690-193.066 is created to oversee corrective action plans.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Agency personnel familiar with the subject matter of the

rule amendment have performed an economic analysis of the rule amendment that shows that the rule amendment is unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes.

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: 651.015(3), 651.034(7) FS.

LAW IMPLEMENTED: 651.034 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Lawrence, Jr., Assistant General Counsel, Office of Insurance Regulation, Michael.LawrenceJr@flair.com, (850) 413-4112.

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-193.066 Corrective Action Plan

(1) The Office shall approve a corrective action plan submitted pursuant to section 651.034, F.S., if the plan includes:

(a) A statement of the fundamental problems causing the regulatory action level event to occur;

(b) A description of the pricing, operational, or other changes to be made that are reasonably expected to result in the elimination of the regulatory action level event;

(c) A specific reasonable time schedule for implementation of the changes described in (1)(b);

(d) Occupancy projections for three years broken down by level of care;

(e) A financial forecast or projected financial statements for three years demonstrating the effect of the proposed changes;

(f) A forecast or projection of the debt service coverage ratio and days cash on hand for the periods included in the financial forecast or projected financial statements, which may be included in the financial forecast or projected financial statements or provided as a separate document; and

(g) Key assumptions supporting the financial forecast or projected financial statements.

(2) The Office shall accept and approve a document prepared for a lender or other third party by the provider or a consultant as the required corrective action plan if the document complies with paragraph (1) of this rule and is accompanied by a sworn statement of the provider that it is a full and true representation of the provider's plan for coming into compliance with Chapter 651, F.S.

Rulemaking Authority 651.015(3), 651.034(7) FS. Law Implemented 651.034, FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Lawrence, Jr., Assistant General Counsel

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 03, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 30, 2019

Section III

Notice of Changes, Corrections and Withdrawals

NONE

Section IV

Emergency Rules

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:

64ER19-4 Definitions

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Chapter 2019-116, § 41, at 31, Laws of Florida, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Department of Health is directed by Chapter 2019-116, § 41, at 31, Laws of Florida, to adopt emergency rules to implement Section 381.986, Florida Statutes.

SUMMARY: Emergency Rule 64ER19-4 amends the existing definitions in Rule 64-4.001, F.A.C., to update and add new definitions needed for additional rules being promulgated at this time.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Courtney Coppola at Courtney.Coppola@flhealth.gov.

THE FULL TEXT OF THE EMERGENCY RULE IS:

64ER19-4 (64-4.001) Definitions.

All the terms defined in section 381.986, F.S., shall have the meanings provided in that section, whenever used in this chapter. For the purposes of Department of Health (the "department") medical marijuana treatment center rules and

regulations, the following words and phrases shall have the following meanings indicated:

(1) AFRNP - The Applicant Fingerprint Retention and Notification Program authorized by section 943.05(2)(b), F.S., and established by the Florida Department of Law Enforcement, as provided in Rule 11C-6.010, F.A.C.

~~(2)(4) Applicant - An individual or entity that meets the requirements of section 381.986(8)(b), F.S., and applies for licensure registration as a medical marijuana treatment center pursuant to section 381.986(8)(a), F.S., excluding subparagraph 1. and sub-subparagraph 2.a.~~

(3) Arrest Report - The detailed narrative written by the arresting law enforcement officer explaining the circumstances of the arrest.

(2) through (5) renumbered (4) through (7) No change.

~~(6) Derivative Product - Forms of marijuana suitable for medical use.~~

(7) through (9) renumbered (8) through (10) No change.

(11) FDLE - The Florida Department of Law Enforcement.

(10) renumbered (12) No change.

~~(13)(44) Fulfillment and Storage Facility - Any area designated, which is not open to the public, to be used for order fulfillment, shipping, transportation, or storage of low-THC cannabis, medical marijuana, usable derivative product or marijuana delivery devices.~~

(12) renumbered (14) No change.

(15) Livescan Service Provider - A vendor, entity, or agency authorized by s. 943.053(13), F.S., that scans fingerprints electronically and submits them to FDLE.

(13) through (14) renumbered (16) through (17) No change.

(18) MMTC - A medical marijuana treatment center licensed by the department pursuant to s. 381.986(8)(a), F.S.,

(15) renumbered (19) No change.

~~(20)(46) Processing Authorization - Written notification by the department to a medical marijuana treatment center that it may begin processing marijuana to usable derivative product.~~

~~(21)(47) Processing Facility - Any area designated to be used for processing of usable derivative product.~~

~~(18) Registration as a Medical Marijuana Treatment Center - Licensure as a medical marijuana treatment center pursuant to section 381.986(8), F.S.~~

(19) renumbered (22) No change.

~~(23)(20) Routes of Administration - The appropriate method for the usable derivative product to be taken into the body of the qualified patient, as certified by a qualified physician, but does not include smoking.~~

(24) Usable Product - All forms of marijuana suitable for medical use by a qualified patient.

(25) Written Notice - Notice sent via email to the MMTC's email address of record if the notice is intended for the MMTC,

or notice sent via email to OMMU at OMMULicenseOperation@flhealth.gov if the notice is intended for the department, unless another means of written notice is specified by rule or statute.

Rulemaking Authority 381.986(8)(k)(4) FS. Law Implemented 381.986 FS. History-New 6-17-15, Amended 9-19-18,

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: December 9, 2019

DEPARTMENT OF HEALTH

RULE NO.: 64ER19-5
 RULE TITLE: MMTC Inspection Procedures

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Chapter 2019-116, § 41, at 31, Laws of Florida, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Department of Health is directed by Chapter 2019-116, § 41, at 31, Laws of Florida, to adopt emergency rules to implement section 381.986, Florida Statutes.

SUMMARY: Emergency Rule 64ER19-5 sets forth the procedures for inspections of medical marijuana treatment centers.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Courtney Coppola at Courtney.Coppola@flhealth.gov.

THE FULL TEXT OF THE EMERGENCY RULE IS:

64ER19-5 MMTC Inspection Procedures.

(1) The department may conduct random and unannounced inspections of any MMTC facility or vehicle utilized by an MMTC. An MMTC's refusal to allow entry or inspection is grounds for discipline under this chapter.

(2) An MMTC must allow department personnel complete, immediate, and unrestricted access to enter, inspect, monitor, and observe all areas and operations of an MMTC's facilities, vehicles, and all areas where MMTC records are kept. MMTCs must allow department personnel to interview MMTC personnel during any inspection. MMTC personnel must cooperate with the department's inspection and provide responses to inquiries.

(3) An MMTC must maintain at its facilities records necessary to substantiate its compliance with section 381.986, F.S., the department's rules, and the specific representations in the MMTC's application(s) on file with the department,

including any department approved amendments or variances. The MMTC must make all such records available to the department for review during any inspection.

(4) During any inspection, an MMTC must demonstrate compliance with section 381.986, F.S., the department's rules, and the specific representations in the MMTC's application(s) on file with the department, including any department approved amendments or variances.

(5) If during any inspection the department identifies any deficiencies or violations of section 381.986, F.S., the department's rules, or the specific representations in the MMTC's application(s) on file with the department, including any department approved amendments or variances, the department will send written notice of the violation to the MMTC identifying the deficiencies or violations. Within seven calendar days of receipt of a written notice of a deficiency or violation, the MMTC must deliver to the department a written corrective action plan to resolve the deficiencies or violations. The corrective action plan must include, at a minimum, the action steps the MMTC intends to take to resolve the deficiency or violation, the specific deadlines for each action step, and the additional steps the MMTC intends to take to prevent future deficiencies and violations.

(6) Upon review of the corrective action plan by the department, the MMTC may be required to take specific additional action steps to cure the deficiencies or violations. The MMTC must comply with and perform all such additional steps as directed by the department.

(7) An MMTC is subject to additional inspections by the department to confirm that the deficiencies or violations have been resolved and that the corrective action plan has been implemented.

(8) An MMTC's failure to resolve any deficiencies or violations identified during an inspection in the time period required by the department or specified in a corrective action plan is grounds for disciplinary action pursuant to this chapter. Rulemaking Authority 381.986(10)(h), FS. Law Implemented 381.986 FS. History – New .

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: December 9, 2019

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:

64ER19-6 MMTC Fines, Suspension, and Revocation
SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Chapter 2019-116, § 41, at 31, Laws

of Florida, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Department of Health is directed by Chapter 2019-116, § 41, at 31, Laws of Florida, to adopt emergency rules to implement section 381.986, Florida Statutes.

SUMMARY: Emergency Rule 64ER19-6 sets forth disciplinary guidelines imposed upon licensed medical marijuana treatment centers for violations of rule and statute including fines, license suspension and license revocation. This emergency rule supersedes the previous emergency rule, 64ER17-6 "Disciplinary Guidelines and Fines."

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Courtney Coppola at Courtney.Coppola@flhealth.gov.

THE FULL TEXT OF THE EMERGENCY RULE IS:

64ER19-6 MMTC Fines, Suspension, and Revocation.

(1) Pursuant to section 381.986, F.S., the department provides within this rule disciplinary guidelines that will be imposed upon licensed MMTCs. The purposes of discipline are to punish MMTCs for violations; to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from committing violations.

(2) The department may suspend or revoke an MMTC license, or refuse to renew an MMTC license, if the department finds that an MMTC committed a violation as provided in section 381.986(10)(f), F.S. For any such violation, the department may revoke or suspend an MMTC's license for a period of time based upon the seriousness of the violation. Factors to be considered in determining the seriousness and length of the revocation or suspension include:

- (a) frequency or number of occurrences;
- (b) potential for rehabilitation;
- (c) any prior violations;
- (d) impact on the department;
- (e) potential and/or actual harm to a qualified patient or a member of the public;
- (f) willfulness and deliberateness of the violation;
- (g) severity of noncompliance;
- (h) length of noncompliance;
- (i) any good faith effort made to prevent a violation; and
- (j) any corrective action taken by the MMTC related to the current violation or prior violations.

(3) The department may, in addition to suspension, revocation, and any other penalties imposed under this chapter, impose a fine of up to \$10,000 per violation, as set forth in the schedule provided in subsection (9). The schedule of fines is

meant to serve as a guideline. The department will use the factors set forth in subsection (2) to determine the amount of the fine to impose within the range outlined in the schedule. The maximum fines listed in the schedule reflect the maximum fines that the department may impose per violation, per day. Where there are multiple incidents resulting in more than one violation of the same provision, the department may impose a fine, up to the maximum, for each violation, per day.

(4) Unless otherwise ordered by the department, an MMTC, during any period of license suspension, shall not cultivate, process, transport, or dispense marijuana, or allow patients or customers to enter the MMTC’s premises. Unless otherwise ordered by the department, an MMTC, during any period of license suspension, may continue to possess, cultivate, or process marijuana. The MMTC must fully account for all marijuana and must safeguard any marijuana in its possession or control during suspension. During suspension, the MMTC must maintain its premises in compliance with all representations in the MMTC’s application on file with the department and all requirements set forth in section 381.986, F.S., and department rule. Following a suspension, the department may allow the MMTC to resume operations by written notice after the MMTC has complied with any corrective action directives from the department.

(5) During any period of license suspension, an MMTC must place on all of its dispensary facilities in the front window, or on the front door, a notice indicating the length of the suspension and the reasons therefor. The notice shall measure a minimum of 8.5 inches in height by 11 inches in width and the lettering shall be at least 14-point font. The department will create and furnish the notice to the MMTC. If the MMTC maintains a website, the MMTC shall prominently display on the MMTC’s homepage the identical notice. The notice shall be maintained in place at the dispensaries and on the MMTC’s website until the period of suspension ends.

(6) The issuance of a suspension under this part does not relieve the MMTC of the obligation to timely comply with all license renewal requirements. A license suspension does not toll the MMTC’s license renewal deadline.

(7) No MMTC whose license has been revoked may apply for licensure under s. 381.986, F.S., and this chapter for at least five years from the date of such revocation. However, if an MMTC’s violation of statute or rule is a contributing factor to the death of a patient, the MMTC will be permanently barred from applying for licensure.

(8) If an MMTC’s license is suspended or revoked, no part of the application fee, supplemental licensure fee, or renewal fee will be returned.

(9) The department will use the following schedule as a guideline for disciplinary fines. The complete statutory requirement may be found in the statutory provision cited directly in the violation column.

	<u>VIOLATION</u>	<u>MINIMUM FINE PER VIOLATION, PER DAY</u>	<u>MAXIMUM FINE PER VIOLATION, PER DAY</u>
(a)	<u>Section 381.986(8)(e)4.</u>	<u>\$500</u>	<u>\$1,000</u>
(b)	<u>Section 381.986(8)(e)6.c., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(c)	<u>Section 381.986(8)(e)6.d., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(d)	<u>Section 381.986(8)(e)7., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(e)	<u>Failure to hold a permit to operate as a _____ food establishment pursuant to chapter 500, the Florida Food Safety Act, and compliance with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder if the medical marijuana treatment center produces edibles. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(f)	<u>Production and distribution of an edible that contains more than 200 milligrams of tetrahydrocannabinol.</u>	<u>\$500</u>	<u>\$1,000</u>

	<u>Section 381.986(8)(e)8., F.S.</u>		
(g)	<u>Production and distribution of any shapes, forms, and ingredients prohibited for edibles by s. 381.986(8)(e)8., F.S., or department rule. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(h)	<u>Processing or dispensing edibles prior to the effective date of the department rule on edibles. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(i)	<u>Operating in violation of the standards and requirements for the storage, display, or dispensing of edibles set out in s. 381.986(8)(e)8., F.S., or department rule. Section 381.986(8)(e)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(j)	<u>Section 381.986(8)(e)10., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(k)	<u>Failure to reserve two processed samples from each marijuana batch and to retain such samples for at least nine (9) months. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>

(l)	<u>Section 381.986(8)(e)16.c., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(m)	<u>Section 381.986(8)(f)1., F.S.</u>	<u>\$500</u>	<u>\$1,000 fine for failure to correct within 30-days of receipt of subsequent notice of failure to comply.</u>
(n)	<u>Section 381.986(8)(f)2., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(o)	<u>Section 381.986(8)(f)4., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(p)	<u>Section 381.986(8)(f)5., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(q)	<u>Section 381.986(8)(f)6., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(r)	<u>Section 381.986(8)(f)7., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(s)	<u>Section 381.986(8)(f)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(t)	<u>Section 381.986(8)(f)9., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(u)	<u>Section 381.986(8)(f)10., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(v)	<u>Section 381.986(8)(g)1., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(w)	<u>Section 381.986(8)(g)1.g.(I II), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(x)	<u>Section 381.986(8)(g)2., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(y)	<u>Section 381.986(8)(g)3., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>

(z)	<u>Section 381.986(8)(g)4., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(aa)	<u>Section 381.986(8)(g)5., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(bb)	<u>Section 381.986(8)(g)6., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(cc)	<u>Engaging in advertising that is visible to members of the public from any street, sidewalk, park, or other public place in violation of s. 381.986(8)(h), F.S. Section 381.986(8)(h), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(dd)	<u>Engaging in advertising online and marketing advertising in violation of s. 381.986(8)(h)2., F.S. Section 381.986(8)(h), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(ee)	<u>Section 381.986(8)(i), F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(ff)	<u>Section 381.986(10)(f)8., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(gg)	<u>Section 381.986(10)(f)12., F.S.</u>	<u>\$500</u>	<u>\$1,000</u>
(hh)	<u>Section 381.986(8)(e)6.b., F.S. and section 381.986(8)(e)11.a., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(ii)	<u>Production and distribution of single serving portion of an edible that exceeds 10 milligrams of tetrahydrocannabinol.</u>	<u>\$1,000</u>	<u>\$2,000</u>

	<u>Section 381.986(8)(e)8., F.S.</u>		
(jj)	<u>Production and distribution of an edible with a potency variance greater than 15 percent. Section 381.986(8)(e)8., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(kk)	<u>Section 381.986(8)(e)9., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(ll)	<u>Section 381.986(8)(e)11.c., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(mm)	<u>Failure to test processed marijuana using a medical marijuana testing laboratory before it is dispensed. s. 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(nn)	<u>Dispensing marijuana when the test results indicate one or more of the following: low-THC cannabis does not meet the definition of low-THC cannabis; the concentration of tetrahydrocannabinol fails to meet the potency requirements of s. 381.986, F.S.; the labeling of the concentration of tetrahydrocannabinol and cannabidiol is not accurate; the marijuana is not</u>	<u>\$1,000</u>	<u>\$2,000</u>

	<u>free from contaminants that are unsafe for human consumption. Section 381.986(8)(e)11.d., F.S.</u>				<u>required certification. Section 381.986(8)(e)11.d., F.S.</u>		
(oo)	<u>Failure to take corrective action within 30-days of receiving a Notice of Deficiency from the department that the medical marijuana treatment center test results show non-compliance with Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(rr)	<u>Section 381.986(8)(e)11.e., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(pp)	<u>Failure to retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months; or contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples. Section 381.986(8)(e)11.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>	(ss)	<u>Section 381.986(8)(e)11.f., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(qq)	<u>Use of a laboratory that has not been certified by the department under s. 381.988, F.S., when at least one laboratory holds the</u>	<u>\$1,000</u>	<u>\$2,000</u>	(tt)	<u>Section 381.986(8)(e)12., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
				(uu)	<u>Section 381.986(8)(e)13., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
				(vv)	<u>Failure to seal each edible in plain, opaque wrapping marked only with the marijuana universal symbol. Section 381.986(8)(e)15., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
				(ww)	<u>Failure to dispense an edible in a receptacle that is plain, opaque, white and without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol. Section 381.986(8)(e)15., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
				(xx)	<u>Failure to label the receptacle with a list all the following: edible's ingredients, storage instructions, an expiration date, a</u>	<u>\$1,000</u>	<u>\$2,000</u>

	<u>legible and prominent warning to keep away from children and pets, a warning that the edible has not been produced or inspected pursuant to federal food safety laws.</u>		
(yy)	<u>Section 381.986(8)(e)16.b., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(zz)	<u>Section 381.986(8)(e)16.d., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(aaa)	<u>Section 381.986(8)(e)16.e., F.S.</u>	<u>\$1,000</u>	<u>\$2,000</u>
(bbb)	<u>Failure to provide the following where the dispensing of marijuana occurs: a separate waiting area with sufficient space and seating, and at least one private consultation area that is isolated from the waiting area and area where dispensing occurs. Section 381.986(8)(f)3., F.S.</u>	<u>\$1,000</u>	<u>\$3,000</u>
(ccc)	<u>Section 381.986(8)(b)8., F.S.</u>	<u>\$1,000</u>	<u>\$3,000</u>
(ddd)	<u>Section 381.986(8)(e)5., F.S.</u>	<u>\$1,000</u>	<u>\$3,000</u>
(eee)	<u>Display of products in the waiting area of the premises where dispensing of marijuana occurs. Section 381.986(8)(f)3., F.S.</u>	<u>\$1,000</u>	<u>\$3,000</u>

(fff)	<u>Dispensing marijuana or marijuana delivery devices in the waiting area of the premises where dispensing of marijuana occurs. Section 381.986(8)(f)3., F.S.</u>	<u>\$1,000</u>	<u>\$3,000</u>
(ggg)	<u>Section 381.986(8)(e), F.S.</u>	<u>\$2,500</u>	<u>\$5,000</u>
(hhh)	<u>Section 381.986(8)(e)16.f., F.S.</u>	<u>\$2,500</u>	<u>\$5,000</u>
(iii)	<u>Section 381.986(8)(e)16.g., F.S.</u>	<u>\$2,500</u>	<u>\$5,000</u>
(jjj)	<u>Section 381.986(10)(f)3., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(kkk)	<u>Section 381.986(10)(f)5., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(lll)	<u>Section 381.986(10)(f)6., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(mmm)	<u>Section 381.986(8)(c)</u>	<u>\$5,000</u>	<u>\$10,000</u>
(nnn)	<u>Section 381.986(8)(e)2.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(ooo)	<u>Section 381.986(8)(e)6.a., F.S.</u>	<u>\$5,000</u>	<u>\$10,000</u>
(ppp)	<u>Failure to recall edibles, including all edibles made from the same batch of marijuana, which: fail to meet the potency requirements of s. 381.986(8)(e)11.d., F.S.; are unsafe for human consumption; or for which the labeling of the tetrahydrocannabin</u>	<u>\$5,000</u>	<u>\$10,000</u>

	ol and cannabidiol concentration is inaccurate. Section 381.986(8)(e)11.d., F.S.		
(qqq)	Section 381.986(10)(f)7., F.S.	\$5,000	\$10,000
(rrr)	Section 381.986(10)(f)9., F.S.	\$5,000	\$10,000
(sss)	Section 381.986(10)(f)10., F.S.	\$5,000	\$10,000
(ttt)	Section 381.986(10)(f)11., F.S.	\$5,000	\$10,000
(uuu)	Section 381.986(10)(f)13., F.S.	\$5,000	\$10,000
(vvv)	Section 381.986(8)(b)9., F.S.	\$5,000	\$10,000
(www))	Deviation, without approval of the department, from the criteria demonstrated and representations made in the MMTC's application on file with the department, which includes any amendments or variances that have been approved by the department. Section 381.986(8)(e), F.S.	\$5,000	\$10,000
(xxx)	Section 381.986(8)(b)3., F.S.	\$5,000	\$10,000
(yyy)	Section 381.986(8)(b)4., F.S.	\$5,000	\$10,000

(zzz)	Section 381.986(8)(b)5., F.S.	\$5,000	\$10,000
(aaaa)	Failing to maintain the performance bond required under Section 381.986(8)(b)6., F.S.	\$5,000	\$10,000
(bbbb))	Failing to maintain, in lieu of a performance bond, an irrevocable letter of credit required under Section 381.986(8)(b)7.a., F.S.	\$5,000	\$10,000
(cccc)	Section 381.986(8)(b)7.b., F.S.	\$5,000	\$10,000
(dddd))	Section 381.986(8)(b)10., F.S.	\$5,000	\$10,000
(eeee)	Section 381.986(8)(e)11.b., F.S.	\$5,000	\$10,000
(ffff)	Section 381.986(8)(e)16.h., F.S.	\$5,000	\$10,000
(gggg))	Section 381.986(10)(f)4., F.S.	\$5,000	\$10,000
(hhhh))	Section 381.986(10)(f)6., F.S.	\$5,000	\$10,000
(iiii)	Section 381.986(8)(b)2., F.S.	\$5,000	\$10,000
(jjjj)	A violation of any other provision of section 381.986, Florida Statutes, or department rule, not listed in this chart is subject to the full range of penalties listed in this rule. Section 381.986(10)(f)1., F.S.		

Rulemaking Authority 381.986(10)(h); Law Implemented 381.986(10), FC. History—New

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: December 9, 2019

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001 Safety Standards

NOTICE IS HEREBY GIVEN that on November 26, 2019, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for an undisclosed number of New MRL elevators located throughout the State of Florida from Elevator Safety & Technical Services. Petitioner seeks a variance of the requirements of paragraph 2.14.2.2(g)(2), ASME A17.1, 2013, as adopted by Rule 61C-5.001, Florida Administrative Code that requires equipment access panels open only into the elevator car which poses a significant hardship. Any interested person may file comments within 14 days of the publication of this notice with Division of Hotels and Restaurants, Bureau of Elevator Safety, 2601 Blair Stone Road, Tallahassee, Florida 32399-1013 (VW2019-200).

This Notice supersedes the notice previously published on December 9, 2019, in Vol. 45, No. 237, issue of the Florida Administrative Register.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Division of Hotels and Restaurants, Bureau of Elevator Safety, 2601 Blair Stone Road, Tallahassee, Florida 32399-1013. chr.elevators@myfloridalicense.com.

DEPARTMENT OF HEALTH

School Psychology

RULE NO.: RULE TITLE:

64B21-500.011 Examinations

NOTICE IS HEREBY GIVEN that on December 05, 2019, the Department of Health, received a petition for a variance from Nicole L. Hoelz seeking a permanent variance from the examination score reporting requirement of rule 64B21-500.011, F.A.C. that documentation of a passing score be submitted directly to the Department by the test administration

agency allowing the Department to accept proof of the passing score from an alternate source.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Allen Hall, Executive Director, Office of School Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399, (850)245-4374 or Allen.Hall@FIHealth.gov.

Any interested person or other agency may submit written comments within 14 days after the publication of this notice to: Office of School Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399.

Section VI Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF EDUCATION

State Board of Education

The Florida Department of Education announces a public meeting to which all persons are invited.

DATE AND TIME: December 17, 2019, 2:00 p.m.

PLACE: Conference call at 1(888)585-9008 confirmation code, 598732968. Call will continue for 10 minutes after last call; maximum 30 minutes.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Deaccession of art pieces in the FDOE per Florida Statute 255.043, Art in State Buildings.

A copy of the agenda may be obtained by contacting: Taryn Fenske at (850)245-5039.

For more information, you may contact: Taryn Fenske at (850)245-5039.

DEPARTMENT OF LAW ENFORCEMENT

The Criminal and Juvenile Justice Information Systems (CJJIS) Council announces a public meeting to which all persons are invited.

DATE AND TIME: December 17, 2019, 9:00 a.m.

PLACE: Florida Department of Law Enforcement (Classroom B and C), 2331 Phillips Road, Tallahassee, FL 32308

GENERAL SUBJECT MATTER TO BE CONSIDERED: Various topics related to the criminal justice community. Topics include, but not limited to, Sunshine Law Briefing, Criminal Justice Grants, Criminal Justice Data Transparency, Florida Incident-Based Reporting System (FIBRS), and Uniform Arrest Affidavit.

A copy of the agenda may be obtained by contacting: BrendaBoyd@fdle.state.fl.us.

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: BrendaBoyd@fdle.state.fl.us. 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).

For more information, you may contact: BrendaBoyd@fdle.state.fl.us.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

The South Florida Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, December 16, 2019, 5:00 p.m., SFWMD Recreational Forum

PLACE: SFWMD Headquarters, B-1 Building, 3301 Gun Club Road, West Palm Beach, FL 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: The SFWMD Recreational Forum is an important public discussion regarding the public recreational issues and opportunities within the South Florida Water Management District. Public recreation is a meaningful part of the District's effort to encourage safe access to District-managed public lands. The public is advised that it is possible that one or more members of the Governing Board of the South Florida Water Management District may attend and participate in this public forum. No Governing Board action will be taken.

A copy of the agenda may be obtained by contacting: Yvette Bonilla, (561)682-6286, ybonilla@sfwmd.gov, or at SFWMD.gov/meetings.

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: District Clerk at (561)682-6805. 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).

For more information, you may contact: Yvette Bonilla, (561)682-6286.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

The South Florida Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Regulatory Public Meeting, Wednesday, December 18, 2019, 10:00 a.m.

PLACE: SFWMD Headquarters, B-1 Building, 3301 Gun Club Road, West Palm Beach, FL, 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: A public meeting to discuss regulatory matters. The public and stakeholders are invited to participate at District Headquarters,

or any of the locations below, to provide input on certain regulatory matters. The meeting can also be viewed via livestream the day of the meeting, on the District's website SFWMD.gov.

All or part of these meetings will be conducted via videoconference in order to permit maximum participation from the South Florida Water Management District Service Centers located below.

Lower West Coast Service Center, 2301 McGregor Blvd., Fort Myers, FL 33901

Okeechobee Service Center, 316 N.W. 5th Street, Okeechobee, FL 34972

Orlando Service Center, 1707 Orlando Central Parkway, Suite 200, Orlando, FL 32809

A copy of the agenda may be obtained by contacting: NA 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 7 days before the workshop/meeting by contacting: District Clerk's Office, (561)682-6805. 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).

For more information, you may contact: Lisandra Jones at (561)682-6948 or ljones@sfwmd.gov.

DEPARTMENT OF HEALTH

Board of Optometry

The Department of Health announces a public meeting to which all persons are invited.

DATE AND TIME: January 17, 2020, 9:00 a.m.

PLACE: Hilton Garden Inn at Sea World, 6850 Westwood Boulevard, Orlando, Florida 32821

GENERAL SUBJECT MATTER TO BE CONSIDERED: General board business, to include licensure and discipline.

A copy of the agenda may be obtained by contacting: <https://floridasoptometry.gov>.

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 7 days before the workshop/meeting by contacting: 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Anthony.Spivey@flhealth.gov.

DEPARTMENT OF HEALTH

Board of Pharmacy

The Florida Board of Pharmacy Compounding Committee announces a public meeting to which all persons are invited.

DATE AND TIME: February 4, 2020, 1:30 p.m.

PLACE: Sheraton Orlando North, 600 N. Lake Destiny Road, Maitland, FL 32751, (407)660-9000

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business meeting regarding discussion and actions regarding current and proposed rules.

A copy of the agenda may be obtained by contacting: www.floridaspharmacy.gov.

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 7 days before the workshop/meeting by contacting: (850)245-4474. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: (850)245-4474.

DEPARTMENT OF HEALTH

Board of Pharmacy

The Florida Board of Pharmacy announces a public meeting to which all persons are invited.

DATE AND TIME: February 5, 2020, 8:00 a.m.

PLACE: Sheraton Orlando North, 600 N. Lake Destiny Road, Maitland, FL 32751, (407)660-9000

GENERAL SUBJECT MATTER TO BE CONSIDERED: This notice will replace notice # 22284603. General board business and disciplinary matters.

A copy of the agenda may be obtained by contacting: www.floridaspharmacy.gov.

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 7 days before the workshop/meeting by contacting: (850)245-4474. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: (850)245-4474.

DEPARTMENT OF HEALTH

Division of Family Health Services

The Florida Department of Health announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, December 17, 2019, 10:00 a.m. – 11:00 a.m. ET

PLACE: Florida Department of Health, 2585 Merchants Row Blvd., Suite 135Q, Tallahassee, FL 32399 or by telephone at 1(877)309-2073 Access Code: 581-736-117 and online at: <https://global.gotomeeting.com/join/581736117>

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Information Clearinghouse on Developmental Disabilities Advisory Council will provide technical assistance to the Department of Health in the establishment of a website of resource information related to Down syndrome or other prenatally diagnosed developmental disabilities; support programs for parents and families; and developmental evaluation and intervention services.

A copy of the agenda may be obtained by contacting: Anna Simmons, (850)245-4465 or Anna.Simmons@flhealth.gov.

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 days before the workshop/meeting by contacting: Anna Simmons, (850)245-4465 or Anna.Simmons@flhealth.gov. 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).

For more information, you may contact: Anna Simmons, (850)245-4465 or Anna.Simmons@flhealth.gov.

FISH AND WILDLIFE CONSERVATION COMMISSION

The Florida Fish and Wildlife Conservation Commission announces a public meeting to which all persons are invited.

DATE AND TIME: January 6, 2020, 1:00 p.m.

PLACE: Teleconference only. Dial (712) 770-5108 and use participant access code 166264

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of FY 19-20 Florida's Wildlife Legacy Initiative's State Wildlife Grants project proposals.

A copy of the agenda may be obtained by contacting: Andrea Alden, Fish and Wildlife Conservation Commission, State Wildlife Grants Coordinator at (850)617-9558.

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: Andrea Alden, Fish and Wildlife Conservation Commission, State Wildlife Grants Coordinator at (850)617-9558. 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).

For more information, you may contact: Andrea Alden, Fish and Wildlife Conservation Commission, State Wildlife Grants Coordinator at (850)617-9558.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:RULE TITLES:

69A-37.039 Prescribed Forms for Training and Certification

69A-37.065 Programs of Study and Vocational Courses

The Department of Financial Services announces a hearing to which all persons are invited.

DATE AND TIME: January 15, 2020, 10:00 a.m.

PLACE: Florida State Fire College, 11655 N.W. Gainesville Road, Ocala, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Department of Financial Services hereby gives notice that an additional public hearing will be held to discuss the proposed changes to the above referenced rules.

A copy of the agenda may be obtained by contacting: NA 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: Mark Harper at (352)369-2858 or Mark.Harper@myfloridacfo.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).

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Strategic Business Development

The Florida Department of Economic Opportunity announces a public meeting to which all persons are invited.

DATE AND TIME: December 11, 2019, 10:00 a.m. – 12:00 Noon

PLACE: Conference Call Only: 1(888)585-9008; Participant Code: 881-305-135#

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Talent Development Council Strategic Plan.

A copy of the agenda may be obtained by contacting: Lorena Clark, (850)245-7401.

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: Lorena Clark, (850)245-7401. 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).

For more information, you may contact: Lorena Clark, (850)245-7401.

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

The Reemployment Assistance Appeals Commission announces a public meeting to which all persons are invited.

DATE AND TIME: December 18, 2019, 9:30 a.m.

PLACE: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Deliberation for cases pending before the Reemployment Assistance Appeals Commission that are ready for final review and the Chairman's report. No public testimony will be taken.

A copy of the agenda may be obtained by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

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 24 hours before the workshop/meeting by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685. 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).

For more information, you may contact: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

Section VII
Notice of Petitions and Dispositions
Regarding Declaratory Statements

NONE

Section VIII
Notice of Petitions and Dispositions
Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Section IX
Notice of Petitions and Dispositions
Regarding Non-rule Policy Challenges

NONE

Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee

NONE

Section XI
Notices Regarding Bids, Proposals and
Purchasing

DEPARTMENT OF EDUCATION

University of North Florida
 ITB 20-06 Arena Garage 38 Repairs
 NOTICE TO CONTRACTORS

The University of North Florida Board of Trustees, a public body corporate, is soliciting bids to general contractors for the repairs of the Arena Parking Garage 38 located at the University of North Florida, 1 UNF Drive, Jacksonville, FL 32224.

The scope of work includes all labor, materials, equipment and supervision required for the repairs in Arena Garage 38. Parking Garage 38 is a 4-level pre-cast concrete parking structure of approximately 80,400 SF of plan area per level. The structure consists of pre-cast concrete columns, beams, spandrel beams and double-tee floor slabs. The scope of work includes the replacement of backer rod and caulking at all existing

component to component joints as well as the replacement of caulking/sealant at existing and new slab cracking. The scope also includes concrete spalling and crack repairs plus the repair and replacement of corroded rebar. See the construction drawings and specifications for the full scope of work.

The preliminary schedule for this ITB:

Advertisement: December 10, 2019

Mandatory Pre-Bid Meeting: December 17, 2019, 11:00 a.m.

Deadline for questions: December 31, 2019

Response to questions: January 6, 2020

Bids due: January 14, 2020, 2:00 p.m.

Minority business participation is strongly recommended and supported by the University of North Florida.

A performance and payment bond for 100 percent of the amount of the bid will be required of the successful contractor for any project with a cost that exceeds \$100,000.

As required by §287.133, Fla. Stat., a contractor may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected contractor must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor or consultant in excess of \$15,000 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Contractor shall have established equal opportunity practices which conform to all laws against discrimination and prohibits discrimination based on race, creed, color, sex, age, national origin, marital status or religion; neither contractor nor any subcontractor or other person, firm or business entity with whom it would be engaged in a combined effort to perform the services has hired any person who is an officer or employee of UNF.

Full sets of bidding documents and descriptive project information may be obtained online at the UNF Procurement Services website:

http://www.unf.edu/procurement/Bids_and_Notices.aspx.

Submit one complete copy of your bid response in full accordance with the requirements of the bid documents to:

University of North Florida Procurement Services
 4892 First Coast Technology Parkway, Hicks Hall, Suite 2950

Jacksonville, Florida 32224

Sealed bids must be received no later than 2:00 p.m. Eastern Standard Time on January 14, 2020. Facsimile (fax) or email submittals are not acceptable and will not be considered.

REGIONAL PLANNING COUNCIL

Apalachee Regional Planning Council

Attachment A: Scope of Services

The Apalachee Regional Planning Council is currently soliciting proposals for the provision of web-based commuter

ridematching/trip-planning software and associated maintenance and technical support services for Florida Department of Transportation (FDOT) District 3's regional commuter assistance programs (CAPs).

Currently, District 3 sponsors two regional commuter assistance programs (CAPs): *Commuter Services of North Florida* and *RideOn Commuter Services*. As of January 1, 2020, these organizations will function as a single entity, providing both economic and environmentally sustainable transportation options for work commuters across the district's sixteen counties.

CAPs within Florida utilize a variety of transportation demand management (TDM) strategies to achieve their goals. This includes significant employer outreach and engagement as well as coordination with both local and regional transportation planning agencies to affect broader understanding and responses to commuter travel. These programs provide, at a minimum, carpool and vanpool matching, emergency ride home services, marketing and technical assistance support to public transit as well as bicycling and pedestrian initiatives, telework program support, park and ride lot monitoring.

To be eligible for consideration, interested vendors must respond to each Section and subsequent tasks outlined within this Scope of Services below. Responses should be succinct, providing enough detail to fully address each task. Responses must also meet the Applicable Federal Clauses provided by the FDOT procurement guidance handbook for 2019, these are provided in Exhibit A.

Interested entities shall submit one (1) original and two (2) copies of their responses to this Request for Proposal (RFP) in a sealed envelope to the Apalachee Regional Planning Council, Attn: RideOn Commuter Services, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303 by 5:00 p.m. Eastern Time on Friday, December 27, 2019. The envelope must be marked, "RFP for RideOn Ridematching software." Faxed and emailed responses WILL NOT be accepted. Responses received after the deadline will not be considered and the interested entities will be notified. Only responses received on time and addressing every section and subtask will be considered.

Questions should be addressed to Mr. Kwentin Eastberg, Planning Manager, Apalachee Regional Planning Council, at the address listed above. The Apalachee Regional Planning Council reserves the right to accept or reject any and all responses in the best interest of the service area and the State.

SECTION 1 – Scope of Services

Task 1 – Ridematching & Trip Planning Software

Ridematching services are at the core of commuter assistance programming in Florida. However, as work commutes and technology have evolved so have the needs and expectations of commuters, employers, and TDM service providers. With this in mind, the ARPC is looking for comprehensive trip planning software that is robust and adaptable. The preferred system will be web-based, and within their proposal, interested vendors should provide a comprehensive overview of the software's capabilities within each of the task areas outlined below. At the end of this section, the vendor is free to identify and describe any additional and unique features that would strengthen transportation demand management efforts.¹

Task 1.1: Carpool and Vanpool Ridematching

Identify the software features that facilitate carpool and vanpool matching including but not limited to integrated mapping features, vanpool management, etc. Also describe the variety of ways matchlist information is distributed to users.

Current Ridematching System Subscriptions

For estimation purposes, enrollment in the current program is about 3,000 participants. The commuter assistance program serves approximately 16 north Florida counties.

Task 1.2: Emergency Ride Home Program Management

Please provide an overview of the software's emergency ride home program management capabilities; include any customizable features such as integration with trip-tracking, voucher disbursement and tracking, etc.

Current ERHP Enrollment in ERHP

For estimating purposes, current enrollment in the Emergency Ride Home Program is approximately 1,136 participants.

Task 1.3: Multi-Modal Trip Planning

The software should enable planning of trips using multiple modes including carpool/vanpool matching, public transit, bicycling, and pedestrian options. Vendors should identify such features within this section.

Task 1.4: Trip Tracking and Reporting

Florida CAPs utilize commuter travel data to report on program progress and to inform regional marketing efforts. The preferred software will facilitate commuters self-reporting such data within the secure system. Vendors should also identify any special features, including the ability to integrate with popular apps (Strava, Garmin, etc.) as well as those to allow maximum flexibility in data analysis by CAP administrators.

Task 1.5: Incentive Program Management/Gamification

Please describe any features within your software that facilitate management of incentive or rewards programs in support of promotional efforts. Indicate which features are included and which are optional/ cost-added modules.

Within their proposed budget, vendors should specify what features are a component of the basic package price and what components are cost-added services.

Task 1.6: In-System Communications & Surveying

Vendors should describe how their software can facilitate electronic in-system communications between the CAPs, registered commuters, and employers. This should specifically address commuter-to-commuter communications as well as CAP-to-commuter communication—individual, by select criteria (mode, employer, shift, etc.), and a program-wide email blast.

The preferred software will enable automated notifications generated by user profile criteria and/or event triggered.

Within this section, vendors should also describe the software's surveying capabilities which would allow CAPs to periodically survey both commuters and employers. This may include, but is not limited to, mode shift tracking and customer satisfaction. In-system communications and surveying should have overlap with the reporting requirements identified in Task 1.9, below.

Within this section, vendors should also identify data-analysis capability and/or data export functions that would facilitate more extensive data analysis utilizing programs such as SPSS, Tableau, or ArcGIS.

Task 1.7: Mapping & Supportive Travel Infrastructure Integration

Vendors should describe what mapping capabilities – both interactive and static – the software provides. At a minimum, the software should allow for integration of park and ride lot locations and bus stops.

If available, additional capabilities such as identification of car-share and bike-share stations should also be noted in this section.

The preferred software will allow users to filter modes to avoid visual clutter.

Task 1.8: Employer/Client Relations Management

Given the importance of employer outreach and engagement to TDM practice, vendors should identify how their software can or might be used to engage employers and offer work-site specific travel planning. This may include targeted communications (such as creation of employer-specific dashboards, inter-office challenges, etc.).

Task 1.9: Reporting and Data Export Functions

CAPs report progress quarterly data to FDOT District 3. The preferred software would facilitate such reporting. Currently, the minimum data reported to FDOT Districts are:

- (a) Number of commuters requesting assistance
- (b) Number of commuters switching from single occupant vehicles
- (c) Number of agency vans in service, and other coordinating agency vans that are participating in the rideshare-matching program (where applicable)
- (d) Number of vehicle trips eliminated for all commuters participating in the commuter assistance program

(e) Number of vehicle miles eliminated for all commuters participating in the commuter assistance program

(f) Number of employer contacts and employers participating

(g) Description of major accomplishments

(h) Number of parking spots saved / parking needs reduced

(i) Amount of commuter costs saved

It is useful to also collect and report additional data. For this reason, please identify any customization allowed by your system. This may be demonstrated through the use of data export functions; vendors should identify how data can be exported and utilized in various formats (e.g. Excel, SPSS, etc.).

Task 1.10: Other Software Functions

Due to the evolving nature of commuter transportation needs and variations in services offered by CAPs, vendors should identify in their response any unique features of their software that have not been specified elsewhere.

Task 2: Mobile App, Social Media Integration & Other Portability Functions

Given significant advances and reliance on information technology, vendors should describe the portability and compatibility of their software. Preference will be given to vendors whose commuter interface is supported through a mobile application that is compatible with various operating systems including, but not limited to, iPhones and Android-based devices. If available and applicable, vendors should describe how the integral components of their software package interface with social media and what those social media platforms are.

Because the CAPs serve employees of numerous Federal and State agencies, as well as local law enforcement personnel, the database is exempt from the Sunshine Law. Accordingly, the product selected will offer full functionality through desktop alone and the same standard of privacy and security will apply to any and all direct system interface. Users will not be required to use Facebook or any third-party apps in order to participate in ridematching, self-reported trip-tracking, or the Emergency Ride Home Program. The CAP retains exclusive ownership of all user data.

Task 3: System Maintenance, Data Migration, Technical Support & Training

In order to ensure operational continuity and efficiency, vendors will be evaluated on their ability to perform reliable system maintenance and provide ongoing technical assistance and training. An additional component of this task is migration of existing data to the new software platform. In their proposal, vendors should describe their proposed performance in each of the following tasks:

Task 3.1: System Maintenance

Within this section, vendors should identify how their system will be maintained over the course of the project period and the

specific roles and responsibilities of both the vendor and/or its representatives, as well as CAP personnel.

Task 3.2: Technical Support & Training

Vendors should identify what technical support and training services are available for CAP personnel, and whether these are a component of the basic purchase price or cost-added services. Vendors should also describe their response time, customer service practices, and preferred methods of communication.

Task 3.3: Data Migration

The implementation of the new software will need to take place in a fairly abbreviated timeframe. Please explain how data migration from the two existing databases will occur, and the projected timeline; include information about desired file formats and/or preparatory steps that would expedite this data transfer.

Task 4: Brand and URL Domain Integrity & Customization

Each CAP currently operates a website that serves as the portal for their ridematching and ERHP services. These will be combined into a single site, under a unified brand with the adoption of the software.

Vendors should identify all customization and specific features that CAPs can use to direct users and/ or employers to the geographically appropriate field office. If there are costs associated with those options, please indicate that in the pricing section.

Task 5: Security and Privacy

The security of commuter data is of utmost importance to the FDOT and CAPs. It is also a vital sales tool when promoting trip mitigation strategies to commuters and employers. Within this section, vendors should identify the security features of their software. Responses should be as comprehensive as possible. Specific items vendor should address are:

Commuter Privacy and Safety – Describe features that ensure the privacy and safety of commuters. This may include security settings established by the CAPs and/or individual commuters including subscriber profile pictures, criteria to filter matching, etc.

Data Storage – Describe procedures in place to ensure the integrity and security of the data and indicate where the system data will be stored. Explain how security features are communicated to users including commuters, employers, and CAP administrators. If any of the program features require a user to agree to separate—and potentially, more vulnerable—security standards, these are to be clearly delineated.

Browser Compatibility – Vendors should identify any security or operational strengths or weaknesses within their software with respect to specific browsers, including those that restrict hidden tracking, such as DuckDuckGo.

SECTION 2 -- Vendor Experience & Qualifications

Interested vendors should submit a summary of their experience and qualifications in the provision of any or all software

functions identified in Section 1, with priority given to examples where a comparable state government contract was developed. Please provide a minimum of three (3) client references, including contact information.

SECTION 3 – Proposed Budget

Interested vendors are asked to provide a detailed line item budget for their products and services, including cost of initial start up in year one and the cost of maintaining the software in subsequent years. If the base software package comes with included add-ons those need to be listed in the outline of the base software package. If optional add-on modules or services are available, please provide a description and cost associated with those as well.

Exhibit A

FDOT Third Party Checklist – Applicable Federal Clauses

15. NO GOVERNMENT OBLIGATION TO THIRD PARTIES
18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS 49 U.S.C. § 5323(l) (1) 31 U.S.C. §§ 3801-3812 18 U.S.C. § 1001 49 C.F.R. part 31
1. ACCESS TO RECORDS AND REPORTS 49 U.S.C. § 5325(g) 2 C.F.R. § 200.333 49 C.F.R. part 633
FEDERAL CHANGES 49 CFR Part 18
8. CIVIL RIGHTS LAWS AND REGULATIONS
9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 C.F.R. part 26
INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1E or subsequent revisions
11. ENERGY CONSERVATION 42 U.S.C. 6321 <i>et seq.</i> 49 C.F.R. part 622, subpart C
25. TERMINATION 2 C.F.R. § 200.339 2 C.F.R. part 200, Appendix II (B)
13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION 2 C.F.R. part 180 2 C.F.R. part 1200 2 C.F.R. § 200.213 2 C.F.R. part 200 Appendix II (I) Executive Order 12549 Executive Order 12689

For further information or clarification on the above Federal Clauses, please visit:

https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/transit/documents/procurement-guidance-combined.pdf?sfvrsn=df784b3c_2
 Reference pages 136-153 of the document.

**Section XII
 Miscellaneous**

DEPARTMENT OF STATE

Index of Administrative Rules Filed with the Secretary of State Pursuant to subparagraph 120.55(1)(b)6. – 7., F.S., the below list of rules were filed in the Office of the Secretary of State between 3:00 p.m., Tuesday, December 3, 2019 and 3:00 p.m., Monday, December 9, 2019.

Rule No.	File Date	Effective Date
12AER19-03	12/5/2019	12/5/2019
12BER19-02	12/5/2019	12/5/2019
59G-1.060	12/5/2019	12/25/2019
61G15-19.001	12/9/2019	12/29/2019
61G15-19.004	12/9/2019	12/29/2019
61G15-19.0051	12/9/2019	12/29/2019
61G15-19.0071	12/9/2019	12/29/2019
61G15-20.001	12/9/2019	12/29/2019
61G15-20.002	12/9/2019	12/29/2019
61G15-20.006	12/9/2019	12/29/2019
61G15-20.007	12/9/2019	12/29/2019
61G15-20.008	12/9/2019	12/29/2019
61G15-20.0010	12/9/2019	12/29/2019
61G15-20.0015	12/9/2019	12/29/2019
61G15-20.100	12/9/2019	12/29/2019
61G15-22.0002	12/9/2019	12/29/2019
61G15-22.001	12/9/2019	12/29/2019
61G15-22.006	12/9/2019	12/29/2019
61G15-22.009	12/9/2019	12/29/2019
61G15-23.001	12/9/2019	12/29/2019
61G15-24.001	12/9/2019	12/29/2019

61G15-27.001	12/9/2019	12/29/2019
61G15-32.002	12/9/2019	12/29/2019
61N-2.021	12/3/2019	12/23/2019
64ER19-4	12/9/2019	12/9/2019
64ER19-5	12/9/2019	12/9/2019
64ER19-6	12/9/2019	12/9/2019
64B7-26.001	12/5/2019	12/25/2019
64B7-26.002	12/5/2019	12/25/2019
64B7-26.007	12/5/2019	12/25/2019
65C-25.003	12/9/2019	12/29/2019
69N-121.003	12/6/2019	12/26/2019
69O-137.002	12/6/2019	12/26/2019
69O-143.046	12/6/2019	12/26/2019
69O-156.003	12/6/2019	12/26/2019
69O-156.0075	12/6/2019	12/26/2019
69O-156.0086	12/6/2019	12/26/2019
69O-167.007	12/6/2019	12/26/2019
69O-189.003	12/6/2019	12/26/2019

LIST OF RULES AWAITING LEGISLATIVE APPROVAL SECTIONS 120.541(3), 373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES

Rule No.	File Date	Effective Date
60FF1-5.009	7/21/2016	**/**/****
60P-1.003	11/5/2019	**/**/****
60P-2.002	11/5/2019	**/**/****
60P-2.003	11/5/2019	**/**/****
64B8-10.003	12/9/2015	**/**/****

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

WARREN HENRY INFINITI, INC. for the relocation of line-make INFI. to NE St. N Miami.

Notice of Publication for the Relocation of a Franchise Motor Vehicle Dealer in a County of More

than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Nissan North America, Inc. Infiniti Division, intends to allow the relocation of Warren Henry Infiniti, Inc., as a dealership for the sale of automobiles manufactured by Nissan North American, Inc. Infiniti Division (line-make INFI) from its present location at 20850 NW 2nd Ave, Miami, (Miami-Dade County), Florida, 33169, to a proposed location at 2300 Northeast 151st Street, North Miami, (Miami-Dade County), Florida 33181, on or after January 9, 2020.

The name and address of the dealer operator(s) and principal investor(s) of Warren Henry Infiniti Inc are dealer operator(s): Warren Zinn, 20895 Northeast 31st Place, Aventura, Florida 33180, principal investor(s): Henry A. Warren, 2850 Northwest 2nd Avenue, Miami, Florida 33169.

The notice indicates intent to relocate the franchise in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Jaime Williams, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312 MS65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Karla Miranda, Nissan North America Inc. Infiniti Division, One Nissan Way, Franklin, Tennessee 37127.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

GOLF CART CENTER LLC for the establishment of line-make HDKP. Rockledge.

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that HDK Plastic Factory Ltd. Inc., USA, intends to allow the establishment of Golf Cart Center LLC, as a dealership for the

sale of low-speed vehicles manufactured by HDK Plastic Factory Ltd Inc. USA (line-make HDKP) at 6386 U S Highway 1, Rockledge, (Brevard County), Florida 32955, on or after January 9, 2020.

The name and address of the dealer operator(s) and principal investor(s) of Golf Cart Center LLC are dealer operator(s): Jose Salazar, 6386 Us Highway 1, Rockledge, Florida 32955; principal investor(s): Jose Salazar, 6386 Us Highway 1, Rockledge, Florida 32955.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Jaime Williams, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312 MS65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Ling Han Cao, HDK Plastic Factory Ltd Inc. USA, 15830 El Prado Road, Unit D, Chino, California 91708.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
NOTICE OF ENTRY OF FINAL ORDER**

On December 3, 2019, the Governing Board of the South Florida Water Management District issued Order No. 2019-069-DAO-WU, Final Order on 2019 Amendment to Appendix C of the 2017 Lower West Coast Water Supply Plan Update.

The order can be inspected or copied at the South Florida Water Management District Headquarters, 3301 Gun Club Road, West Palm Beach, FL 33406; Contacts: Rosie Byrd, District Clerk, (561)682-6805. Order No. 2019-069-DAO-WU is also available at the District through its website (www.sfwmd.gov).

NOTICE OF RIGHTS

As required by Sections 120.569 and 120.57, Fla. Stat., the following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all of the legal proceedings detailed below

may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Right to Request Administrative Hearing

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a SFWMD decision which affects or may affect their substantial interests shall file a petition for hearing with the Office of the District Clerk of the SFWMD, in accordance with the filing instructions set forth herein, within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, or posting that the SFWMD has or intends to take final agency action, or publication of notice that the SFWMD has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action which materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional Rule 28-106.111, Fla. Admin. Code, point of entry.

Any person to whom an emergency order is directed pursuant to subsection 373.119(2), Fla. Stat., shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk of the SFWMD. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed

filed upon receipt during normal business hours by the Office of the District Clerk at SFWMD headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. It will be necessary to request that the SFWMD's security officer contact the Office of the District Clerk. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

INITIATION OF AN ADMINISTRATIVE HEARING

Pursuant to subparagraph 120.54(5)(b)4. And paragraph 120.569(2)(c), Fla. Stat., and Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 1/2 by 11-inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, SFWMD file number or any other SFWMD identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.

6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD’s proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD’s proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD’s proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401–.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Fla. Stat., and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD’s final decision by filing a notice of appeal with the Office of the District Clerk of the SFWMD in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the clerk of the appropriate district court of appeal.

Section XIII
Index to Rules Filed During Preceding Week

INDEX TO RULES FILED BETWEEN
DECEMBER 2, 2019 AND DECEMBER 6, 2019

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
----------	-----------	----------------	-------------------	------------------

DEPARTMENT OF EDUCATION

State Board of Education

6A-1.0451	12/2/2019	12/22/2019	45/202	
6A-1.0503	12/2/2019	12/22/2019	45/202	
6A-1.0504	12/2/2019	12/22/2019	45/202	
6A-4.0051	12/2/2019	12/22/2019	45/202	
6A-4.0163	12/2/2019	12/22/2019	45/202	
6A-4.0181	12/2/2019	12/22/2019	45/150	45/195 45/208
6A-4.0292	12/2/2019	12/22/2019	45/202	

6A-4.035	12/2/2019	12/22/2019	45/144	
6A-6.053	12/2/2019	12/22/2019	45/204	
6A-6.0574	12/2/2019	12/22/2019	45/205	
6A-6.0786	12/2/2019	12/22/2019	45/202	
6A-6.09091	12/2/2019	12/22/2019	45/202	
6A-10.040	12/2/2019	12/22/2019	45/205	
6A-14.024	12/2/2019	12/22/2019	45/207	

DEPARTMENT OF REVENUE

Sales and Use Tax

12AER19-03	12/5/2019	12/5/2019	45/235	
------------	-----------	-----------	--------	--

Miscellaneous Tax

12BER19-02	12/5/2019	12/5/2019	45/235	
------------	-----------	-----------	--------	--

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

59G-1.060	12/5/2019	12/25/2019	45/88	45/188 45/207
-----------	-----------	------------	-------	------------------

59G-4.050	12/2/2019	12/22/2019	45/209	
-----------	-----------	------------	--------	--

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Drugs, Devices and Cosmetics

61N-2.021	12/3/2019	12/23/2019	45/192	
-----------	-----------	------------	--------	--

DEPARTMENT OF HEALTH

Board of Massage

64B7-26.001	12/5/2019	12/25/2019	45/169	45/211
64B7-26.002	12/5/2019	12/25/2019	45/169	45/211
64B7-26.007	12/5/2019	12/25/2019	45/169	45/211

DEPARTMENT OF CHILDREN AND FAMILIES

Family Safety and Preservation Program

65C-30.006	12/2/2019	12/22/2019	45/212	
65C-30.008	12/2/2019	12/22/2019	45/212	

DEPARTMENT OF FINANCIAL SERVICES

OIR Administration

69N-121.003	12/6/2019	12/26/2019	45/152	
-------------	-----------	------------	--------	--

OIR Insurance Regulation

69O-137.002	12/6/2019	12/26/2019	45/152	
69O-143.046	12/6/2019	12/26/2019	45/152	45/163
69O-156.003	12/6/2019	12/26/2019	45/152	
69O-156.0075	12/6/2019	12/26/2019	45/152	
69O-156.0086	12/6/2019	12/26/2019	45/152	
69O-167.007	12/6/2019	12/26/2019	45/152	
69O-189.003	12/6/2019	12/26/2019	45/152	

**LIST OF RULES AWAITING LEGISLATIVE REVIEW/
APPROVAL PURSUANT TO SECTIONS 120.541(3),
373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES**

DEPARTMENT OF MANAGEMENT SERVICES

E911 Board

60FF1-5.009 7/21/2016 **/**/**** 42/105

Division of State Employees' Insurance

60P-1.003 11/5/2019 **/**/**** 45/191

60P-2.002 11/5/2019 **/**/**** 45/191

60P-2.003 11/5/2019 **/**/**** 45/191

DEPARTMENT OF HEALTH

Board of Medicine

64B8-10.003 12/9/2015 **/**/**** 39/95 41/49

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
