

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE CHAPTER TITLE: Florida Agricultural Museum
 RULE CHAPTER NO.: 5H-24

Permanent Collections and Archives Administration

PURPOSE AND EFFECT: The purpose of the proposed rule development is to provide procedures which protect the Florida Agricultural Museum's permanent artifact collections and records. The effect of this rule will be to establish procedures for the care of the Florida Agricultural Museum's permanent artifact collection, library and records.

SUBJECT AREA TO BE ADDRESSED: Permanent Artifact and Records Collections of the Museum.

SPECIFIC AUTHORITY: 570.903(8) FS.

LAW IMPLEMENTED: 570.903(8) FS.

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

TIME AND DATE: 10:00 a.m., March 17, 1999

PLACE: Florida Agricultural Museum, 1850 Princess Place Road, Palm Coast Road, Palm Coast, Florida 32137, (904)446-7630

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Richard Gunnels, Florida Department of Agriculture and Consumer Services, Lower Level, Room 28, The Capitol, Tallahassee, Florida 32399-0800

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

DEPARTMENT OF REVENUE

Sales and Use Tax

Admissions 12A-1.005

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.005, F.A.C., is to conform the rule to the decision in Department of Revenue v. John's Island Club, 680 So. 2d 475 (Fla. 1st DCA 1996), by changing department policy regarding assessments imposed upon members of private clubs to be used for capital expenditures. The provision declared invalid by John's Island Club will be deleted (p. 6), and new provisions will provide, consistent with

John's Island Club, that assessments imposed upon members of private clubs used to pay for capital improvements or expenditures are not considered "dues," or "fees," and are thus exempt from sales tax, if they meet certain criteria (pp. 7-8). The criteria are intended to provide an easy to follow standard regarding what constitutes an assessment for capital expenditures.

Another purpose of the rule amendment is to modify and/or delete sections of the rule that were determined to be obsolete or to have exceeded the Department's statutory authority. Specifically, the language dealing with the exemption for admissions to the NFL championship game is being deleted, since it restates the statute almost verbatim, and therefore is unnecessary (p. 1). The language dealing with admissions to athletic or other events sponsored by a government entity is being deleted, since it describes an exemption that was repealed by the legislature in 1994 (pp. 1-2). Since the exemption no longer exists, the definitions and examples provided in the rule that relate to this exemption are also being deleted. Outdated language dealing with initiation fees, membership fees, capital contributions, and assessments paid prior to June 30, 1991, is also being deleted (pp. 5-6).

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop involves contributions or assessments paid to an organization by its members for their share of capital expenditures made by the organization.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(1), 212.031, 212.04, 212.08(6),(7), 240.533(4)(c), 616.260 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., March 17, 1999

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained from: Ralph G. Pepe, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4802.

Pursuant to the provisions of the Americans with Disabilities Act, any persons requiring special accommodations to participate in this program are asked to advise the Department at least five (5) calendar days before the program by contacting Pamela Brown, (850)922-4698. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ralph G. Pepe, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4802

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.005 Admissions.

(1) through (2) No change.

(3) EXEMPT ADMISSIONS.

(a) through (d) No change.

~~(e) Admissions to the National Football League championship game as provided in s. 212.04 (2)(a)4., F.S., are exempt.~~

~~(f)1. From July 1, 1987, through June 30, 1994, no tax was levied on admissions to athletic or other events sponsored by governmental entities as described in s. 212.08(6), F.S. Effective July 1, 1994, admissions to such athletic or other events sponsored by governmental entities are taxable.~~

2. For purposes of this paragraph, an "athletic or other event" is defined as follows:

a. An "athletic event" is an important or remarkable occurrence of limited duration engaged in by one or more humans that involves some movement of the human body; gives enjoyment or recreation; requires physical strength, skill, speed, dexterity, or training; and normally includes competition among participants.

I. Example: Greens fees charged by a governmental entity for routine use of its golf course are taxable. However, the charge for the greens fees during participation in a golf tournament sponsored by a governmental entity was exempt from July 1, 1987, through June 30, 1994, since the tournament was an "athletic event". Effective July 1, 1994, the charge made by a governmental entity for greens fees to participate in a golf tournament is taxable.

H. Example: Greens fees charged by a governmental entity for use of its golf course in a golf tournament sponsored by a for profit private organization or business have been and continue to be taxable as admissions.

b. An "other event" is an important or remarkable occurrence of limited duration. The term "other events" does not refer to routine events sponsored by governmental entities.

I. Example: A municipally owned civic center does not normally sponsor events held at the center. It leases the center to other organizations who sponsor the events. On five occasions over the last seven years the center did sponsor live musical presentations which ran for two weeks each. From July 1, 1987, through June 30, 1994, such presentations were considered to be an "other event" and were exempt. Effective July 1, 1994, admissions to such events are taxable.

H. Example: A municipally owned civic center routinely sponsors various types of events held at the civic center. Since the civic center routinely sponsors events, admissions to such events have been and continue to be taxable.

3. renumbered (e) No change.

a. through d. renumbered 1. through 4. No change.

(g) through (k) renumbered (f) through (j) No change.

(4) TAXABLE ADMISSIONS, PARTICIPATION FEES, ETC.

(a) Every person receiving anything of value by way of an admission charge of 10 cents or more to any place of amusement, sport, or recreation, shall collect on each admission the amount of tax provided for by the applicable tax bracket shown in s. 212.12, F.S. All charges of 10 cents or more made at carnivals, fairs, amusement parks, and similar locations for rides on merry-go-rounds, roller coasters, ferris wheels, etc., are admissions and are taxable, except as provided in paragraph (3)(f)(g) of this rule and in s. 212.08(7)(jj), F.S. For the purpose of collecting this tax, each admission shall be deemed a single sale.

(b) through (d) No change.

(e) Operators of traveling shows, exhibitions, amusements, circuses, carnivals, rodeos, and the like shall, upon request of an agent of the Department of Revenue, produce a cash receipt or other acceptable proof of payment to the State of admission taxes due on any or all previous engagements in Florida during their current tour and shall also furnish an itinerary of future engagements in this State during the current year. Any performance in Florida for which the operator claims exemption on admission charges must be supported by proof that such performance was or is sponsored by a not-for-profit organization exempt under paragraph (3)(f)(g) of this rule and that the admissions were sold by the sponsoring organization.

(f) Admissions to places of amusement, operated under the supervision of the State Racing Commission and any admissions to such place for events not under the supervision of the State Racing Commission, are taxable. The tax imposed under Section 550.09, F.S., by the State Racing Commission on admissions and the federal tax are excluded from the taxable base if separately stated.

(g) All admissions to carnivals, exhibitions, and to fairgrounds are taxable, except as provided in paragraphs (d), (e), and (f), and (g) of subsection (3) of this rule and in s. 212.08(7)(jj), F.S. Fairgrounds shall be deemed to mean any area for which a charge is made to view exhibits or entries. The admissions to rides, attractions, shows, and the like, for which a separate charge is made, are taxable, except as provided in paragraph (3)(f)(g) of this rule.

(h) Charges made for the privilege of bowling, golfing, swimming, fishing, and for playing billiards, ping pong, tennis, squash, badminton, slot racing, and similar sports are taxable, except as provided in paragraphs (3)(f)(g) and (h)(i) of this rule. The charge for the privilege of participating in go-cart races or for the use of the equipment is taxable, except as provided in paragraph (3)(f)(g) of this rule and in s. 212.08(7)(jj), F.S.

(i) No change.

(j) Charges made for participation in fishing tournaments are taxable, except as provided in paragraph (3)(f)(g) of this rule.

(k) Charges made for the privilege of entering or engaging in any kind of activity for which a taxable admission charge is made to spectators are exempt. When no admission charge is made to spectators, such participation or entrance fees are taxable, except as provided in paragraph (3)(f)(g) of this rule. The purchase of taxable gifts, trophies, and promotional items used by an entity sponsoring an event is subject to tax, notwithstanding that these items may be purchased with receipts from charges for participation or entrance fees, unless such purchases are made by a sponsoring organization issuing a valid consumer's certificate of exemption.

1. through 2. No change.

(l) Charges made for the privilege of using trampolines or for live pony rides are taxable, except as provided in paragraph (3)(f)(g) of this rule.

(m) through (q) No change.

(5) DUES AND INITIATION FEES, EQUITY AND NONEQUITY MEMBERSHIPS, CAPITAL CONTRIBUTIONS AND ASSESSMENTS, REFUNDABLE AND NONREFUNDABLE DEPOSITS, AND USER FEES.

(a)1. Dues paid to any organization, including athletic clubs, health spas, civic, fraternal, and religious clubs, and organizations which provide physical fitness facilities or recreational facilities such as golf courses, tennis courts, swimming pools, yachting, boating, athletic, exercise, and fitness facilities, are taxable, except as provided in paragraphs (3)(f)(g) and (i)(f) of this rule.

2. No change.

~~(b) Through June 30, 1991, initiation or membership fees are not taxable as charges for admissions when paid exclusively for membership in the organization and when they do not entitle the payor to use the organization's recreational or physical fitness facilities or equipment without subsequent payments, such as dues or user fees.~~

~~(c) Through June 30, 1991, capital contributions or assessments to an organization by its members are not taxable as charges for admissions when they are in the nature of payments by the member of his or her share of capital costs, not charges for admissions to use the organization's recreational or physical fitness facilities or equipment, and when they are clearly shown as capital contributions on the organization's records. Contributions and assessments will be considered taxable when their payment results in a decrease in periodic dues or user fees required of the payor to use the organization's recreational or physical fitness facilities or equipment.~~

(b)(d)1. The Effective July 1, 1991, the following fees paid to private clubs or membership clubs as a condition precedent to, in conjunction with, or for the use of the club's recreational or physical fitness facilities are subject to tax.

a. Initiation fees when paid to equity or nonequity private clubs and membership clubs, except see sub-subparagraphs 2.c. and e.d., below.

~~b. Any periodic assessments (additional paid in capital) required to be paid by members of an equity or non equity club for capital improvements or other operating costs, unless the periodic assessment meets the criteria of a refundable deposit as provided in sub-subparagraph 2.e. below.~~

c. through f. renumbered b. through e. No change.

2. The following payments made to private clubs or membership clubs are not "fees" which are subject to tax on admissions.

a. through c. No change.

d.(I) A capital assessment paid to a club by its members for their share of capital expenditures made by the club, if such assessment meets the following criteria:

(A) it must be a nonrecurring specific demand or request by the club upon its membership, as a whole or as a class (golf, social, or similar class of membership), for a certain sum of money, which is paid proportionally by each member of the class (which may be payable in installments);

(B) it must be separately stated on a billing to each member;

(C) it must not be paid to obtain membership in the club or to obtain the right to use the club's recreational or physical fitness facilities or equipment;

(D) it must not result in a decrease of membership dues or fees;

(E) when paid, it must be separately accounted for, and not be reflected as an operating revenue account on the club's books and records;

(F) the proceeds from it must be used to pay for capital expenditures or for capital improvements to the club's facilities, or to pay debt service on financing for such capital expenditures or capital improvements, but may not be used to pay for repairs of or maintenance to existing capital assets that do not materially add to the value of or appreciably prolong the useful life of the capital asset; and

(G) the proceeds from it must not be used to pay for any operating expenses.

(II) If any portion of the proceeds from a capital assessment is not used to pay for capital expenditures or for capital improvements to the club's facilities, that portion of the proceeds is taxable when it is used for some other purpose. Proceeds from a capital assessment meeting the above criteria may be accumulated by a club in a separate fund and held to pay for future capital expenditures or capital improvements without being subject to tax.

(III) Nothing contained in sub-subparagraph (5)(b)2.d. of this rule shall be construed to impose a tax on refundable deposits that are not subject to tax under sub-subparagraph (5)(b)2.f. of this rule.

a property item may vary depending on the original vintage falling in the 1985-1990 period, as compared to the same item having the original vintage in the 1991-1995 period.

(b) Book Cost – The amount at which an item of property is included in a plant account, including the costs of all labor, material, and associated installation.

(c) Cost of removal – The cost of demolishing, dismantling, removing, tearing down or otherwise disposing of electric plant, including the cost of transporting and handling.

(d)(~~a~~) Cradle-To-Grave Accounting – An accounting method which treats a unit of plant as being in service from the time it is first purchased until it is finally junked or is finally disposed of in another manner. The period in shop for refurbishing, or in stock/inventory awaiting reinstallation is treated as being in service.

(e)(~~b~~) Item – A single identifiable unit of utility plant. Capitalization criteria shall apply to the single item and not to a block or group of such items purchased on one order.

(f)(~~e~~) Minor Item – Any part or element of plant which is not designated as a retirement unit, but is a component part of the retirement unit.

(g)(~~d~~) Retirement – A retirement unit or unreplaced minor item which has been removed, sold, abandoned, destroyed, or otherwise removed from service, except where that removal is of a “cradle-to-grave” item.

(e) Book Cost – The amount at which an item of property is included in a plant account, including the costs of all labor, material, and associated installation.

(f) Cost of removal – The cost of demolishing, dismantling, removing, tearing down or otherwise disposing of electric plant, including the cost of transporting and handling.

(3) All utility plants shall be considered as consisting of retirement units and minor items of property. Each utility will implement a list of retirement units in conformity with the Commission’s “List of Retirement Units (Electrical Plant) as of January 1, 1999 ~~March 30, 1997~~” (hereinafter referred to as “List”) as of the beginning of the next fiscal year following the adoption of this rule. A utility may further subdivide retirement units in order to achieve a list more reflective of common, major replacement items providing that the cost of the additional subdivided unit is \$1,000 ~~\$500~~ or more. The Director of the Division of Auditing and Financial Analysis, Florida Public Service Commission, shall be notified annually of additions and subdivisions to the utility’s retirement unit List with explanations of the nature and justification.

(4) The addition and retirement of retirement units as set forth in the List incorporated in this rule shall be accounted for as follows:

(a) through (b) No change.

(c) When a retirement unit is replaced, the cost of the replacement should be accounted for in the same manner as in paragraph (4)(a) if the cost meets the criteria set forth in subsection ~~(10)~~ or (11). Otherwise, the charge should be made to the appropriate expense account.

(d) When a retirement unit is retired and removed from service in conjunction with the installation of a replacing unit, the cost of removal of the retiring unit shall be separated from the installation cost of the new replacing unit. Cost of removal shall be debited to the appropriate reserve account as set forth in paragraph (4)(b).

(5) No change.

(6)(a) When a retirement unit is retired and it has a prospect for reuse, the original or estimated original cost of the material subject for reuse shall be credited to the account reserve of the retiring unit as gross salvage with a debit in the same amount to Account 154, Plant Materials and Operating Supplies. When the retirement unit is reused, the original or estimated original material cost shall be credited to Account 154 with a debit to the appropriate plant account. The plant account shall also be debited with costs for new installation and labor.

(b) When it is impractical to determine the original cost for each unit subject to reuse due to the relatively large number or small cost of such units, an appropriate average inventory cost that allows for any difference in size or character shall be used. The cost of repairing such items shall be charged to the maintenance account appropriate for the previous use.

(c) Reusable materials consisting of relatively small minor items, the identity of which cannot be determined without an undue refinement in accounting shall be included in Account 154, Plant and Materials Operating Supplies, at average inventory cost for such new items. The cost of repairing such items shall be charged to the appropriate expense account as indicated by previous use.

(7)(~~6~~) The addition and retirement of items such as meters and transformers may be accounted for as cradle-to-grave, in which case the cost for refurbishing these items shall be charged to the appropriate expense accounts.

(8)(~~7~~) Overhead construction costs such as engineering, supervision, general office salaries and expenses, construction engineering, insurance, taxes, relief and pensions, injuries and damages shall be capitalized only if they are directly associated with the construction project and shall be charged to particular jobs or units on the basis of the amounts of such overheads to the end that each job or unit shall bear its equitable portions of these costs and that the entire cost of the unit both direct and overhead shall be deducted from the plant accounts at the time the property is retired.

~~(9)(8)~~ All maintenance costs, whether the work is done by the utility or under contract, shall be expensed. Unusual or extraordinary expenses can be amortized over a reasonable period of time as determined by the Commission. The costs of keeping equipment and plant in good condition shall be accounted for as maintenance expenses. Included in this classification are the costs of material and labor associated with the upkeep of plant such as:

- (a) The training of maintenance personnel and the testing of equipment and facilities.
- (b) The cost of ordinary repairs, refurbishment, repainting, and rearrangements of plant.
- (c) Miscellaneous expenses like shop repairs, tool expenses, and motor vehicle expenses.
- (d) The cost of performing work to prevent failure, restore serviceability or maintain or realize the life expectancy of the plant.
- (e) The cost of repairing material for reuse.
- (f) The cost of restoring the condition of plant damaged by attrition, acts of nature, fire or other casualties (other than the cost of replacing retirement units).
- (g) The cost of inspecting after repairs have been made.
- (h) Direct field supervision of maintenance.
- (i) The cost of general supervision and engineering associated with maintenance work.

~~(10)(9)~~ Engineering unclassified time shall be expensed.

~~(10) The replacement or removal of an item which constitutes a portion of a given retirement unit for the Structures and Improvements Account, as set forth in the List, shall be accounted for in the same manner as for the replacement of a retirement unit whenever that item has a book cost of \$10,000 or more. Otherwise, the replacement is charged to the appropriate expense account with no retirement recorded.~~

(11) A capitalization criteria of \$1,000 ~~\$500~~ is imposed for each retirement unit as set forth in the List for the Office Furniture and Equipment, Stores Equipment, Tools, Shop and Garage Equipment, Laboratory Equipment, Power Operated Equipment, Communication Equipment, and Miscellaneous Equipment Accounts.

(12) The "List of Retirement Units (Electrical Plant), Effective January 1, 1999 ~~March 30, 1997~~" published by the Florida Public Service Commission is incorporated herein by reference. A copy of the List may be obtained from the Director of the Division Auditing and Financial Analysis, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.04(2)(f), 366.041, 366.06(1) FS. History—New 9-6-87, Amended 3-19-92, 3-18-97, _____.

PUBLIC SERVICE COMMISSION

DOCKET NO: 960725-GU

RULE TITLE:

Transportation Service

RULE NO.:

25-7.0335

PURPOSE AND EFFECT: To require all investor-owned natural gas utilities to file a tariff that offers the transportation of natural gas to all non-residential customers. The rule also sets out the terms and conditions that must be included in the transportation service tariff. The rule also provides that natural gas utilities may offer transportation service to residential customers.

SUBJECT AREA TO BE ADDRESSED: The unbundling of natural gas and the provision of transportation services by natural gas utilities.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1) FS.

LAW IMPLEMENTED: 366.03 FS.

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

TIME AND DATE: 9:30 a.m., Wednesday, March 24, 1999

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, FL 32301

THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE COMMISSION'S DIVISION OF RECORDS AND REPORTING, 2540 SHUMARD OAK BOULEVARD, TALLAHASSEE, FL 32399-0850

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Wayne Makin, Division of Electric and Gas, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-7.0335 Transportation Service.

(1) Each utility must offer the transportation of natural gas to all non-residential customers. Each utility may offer the transportation of natural gas to residential customers.

(2) In order to meet the objective set out in subsection (1), each utility must file a transportation service tariff with the Commission by December 31, 1999. Each tariff must include in its rules and regulations the utility's policy governing the transportation of natural gas. Each tariff must also comply with Rule 25-7.033, F.A.C. In addition, each tariff must set out the following terms and conditions:

(a) The utility is responsible for the transportation of natural gas purchased by the customer. The utility is not responsible for providing natural gas to a customer that elects service under the transportation service tariff. If the customer's marketer, broker, or agent fails to provide the customer with natural gas, the utility may disconnect service to the customer or provide natural gas under its otherwise applicable tariff provision.

(b) For customers that engage a marketer, broker, or agent to arrange and oversee the customer's gas purchase, the utility must obtain from that customer a notarized statement that identifies the legal name, address, and phone number of the marketer, broker, or agent.

(c) At the customer's request, the utility must provide an historical monthly usage summary with sufficient detail so that the customer can calculate its Maximum Daily Transportation Quantity (MDTQ). The utility may charge a cost-based fee for this summary.

(3) The utility must apply its transportation service tariff provisions in the same manner to all similarly situated affiliated and non-affiliated marketers, brokers, and agents.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03 FS. History—New.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Medicare Certified Home Health Agencies
 RULE NO.: 59C-1.031
 PURPOSE AND EFFECT: The agency proposes to modify the methodology used to calculate future need for Medicare-certified home health agencies in light of current statutory language that will exempt such agencies from certificate of need review after the Medicare program implements a per-episode prospective payment system; and because of evidence that an increasing number of agencies which previously received certificate of need approval are now electing not to seek certification as a Medicare provider. There are also a number of Medicare-certified agencies that have closed recently. The amendments will also modify the basis for enumerating the number of "approved" agencies. Need projections published subsequent to amendments that were effective in April 1997 have shown minimal need for additional Medicare-certified home health agencies in Florida. It is anticipated that the proposed amended methodology will show a greater need.

SUBJECT AREA TO BE ADDRESSED: The methodology used to determine need for additional Medicare-certified home health agencies.

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.036(1)(e) FS.

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

TIME AND DATE: 2:00 p.m., March 16, 1999

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Elfie Stamm, Certificate of Need Office, 2727 Mahan Drive, Tallahassee, Florida

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE TITLE: Examination for Licensure
 RULE NO.: 61G2-2.002

PURPOSE AND EFFECT: Rule 61G2-2.002 is being amended to specify that fees paid to the Department may be transferred, as opposed to fees paid to a professional testing service as reflected in the proposed amendments to Rule 61G2-3.003.

SUBJECT AREA TO BE ADDRESSED: Examination for Licensure.

SPECIFIC AUTHORITY: 468.384(2) FS.

LAW IMPLEMENTED: 455.217(1)(b), 468.385, 120.60(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ed Broyles, Executive Director, Board of Auctioneers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G2-2.002 Examination for Licensure.
 (1) through (4) No change.

(5) The Board shall review all applicants for licensure by examination and approve their qualifications before an applicant will be permitted to sit for the examination. The application fee is non-refundable. Should an applicant be denied approval to sit for the examination, the examination fee shall be refunded. The examination fee paid to the Department may be transferred to a subsequent examination upon the applicant's written request, if the request is received in the Board office at least 20 days prior to the scheduled examination date.

(6) No change.

Specific Authority 468.384(2) FS. Law Implemented 455.217(1)(b), 468.385, 120.60(2) FS. History--New 5-10-87, Amended 10-20-87, 6-5-88, 5-11-89, Formerly 21BB-2.002, Amended 9-27-93, 8-20-96, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Restricted Licensure; Restrictions on Practice
 RULE NO.: 64B8-4.026
 PURPOSE AND EFFECT: The Board intends to delete subsection (2) of the rule since the examination requirements are being incorporated in Rule 64B8-5.002.

SUBJECT AREA TO BE ADDRESSED: The examination for restricted licensure pursuant to section 458.3115, F.S.

SPECIFIC AUTHORITY: 458.3115(2)(b),(c),(4) FS.

LAW IMPLEMENTED: 458.3115 FS.

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

TIME AND DATE: 6:00 p.m., April 8, 1999

PLACE: Westin Hotel, I-95 at Cypress Creek Road East, 400 Corporate Drive, Ft. Lauderdale, Florida 33334-3642

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-4.026 Restricted Licensure; Restrictions on Practice.

(1) A physician who is licensed pursuant to subsection 458.3115 must practice the first year only under direct supervision of one physician, approved by the board, who has an active valid, unencumbered, Florida license. Although change from one physician to another is permitted, the licensee must, prior to termination of the period of restricted practice, submit to the Board a signed statement from each physician who acted as a direct supervisor verifying the time during which said supervision occurred. For the purpose of interpreting the restricted practice requirement the physician

must activate the restricted license and begin supervised practice within 12 months of the date of certification by the Board and must successfully complete one year of practice under direct supervision within 18 months of the date of activation of the restricted license.

~~(1)(a)~~ No change.

~~(2)(b)~~ No change.

~~(3)(c)~~ No change.

~~(2) The phrase "successful completion of the licensure examination" is interpreted as requiring a passing score of no less than 75 within the time frame set forth in Section 458.3115, Florida Statutes. Specifically, if the applicant has failed the examination five times within five calendar years, the applicant is no longer eligible for licensure.~~

Specific Authority 458.3115(2)(b),(c),(4) FS. Law Implemented 458.3115 FS. History--New 8-18-98, Amended _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Fees
 RULE NO.: 64B8-41.001

PURPOSE AND EFFECT: The Council proposes to make recommendations to the Board of Medicine to update this rule to amend some of the fees and to notify applicants of the proper rule to refer to when requesting special accommodations.

SUBJECT AREA TO BE ADDRESSED: Fees.

SPECIFIC AUTHORITY: 455.711, 468.507, 468.508 FS.

LAW IMPLEMENTED: 455.641, 455.711, 468.508 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-41.001 Fees.

(1) The application fee for licensure shall be \$75.00 ~~\$50.00~~.

(2) The endorsement fee for an applicant seeking licensure by endorsement shall be 25.00 ~~\$50.00~~.

(3) through (4) No change.

(5) When the Counsel certifies the applicant to sit for the examination or for re-examination, it is the applicant's responsibility to complete the examination process with the national vendor. In compliance with the Americans for

Disabilities Act, any applicant requesting special accommodations shall comply with the Department of Health's rule 64B-1.005, F.A.C. The examination fee for an applicant seeking licensure by examination shall be \$150.00.

~~(6) The re-examination fee for an applicant seeking licensure by examination shall be \$150.00.~~

~~(6)(7) The biennial renewal fee shall be \$50.00 of which \$5.00 is specifically earmarked for the fund to combat unlicensed activity pursuant to Section 455.641, Florida Statutes.~~

~~(7)(8) The reactivation fee for inactive licenses shall be \$50.00 \$40.00.~~

~~(8)(9) No change.~~

~~(9)(10) The inactive status fee shall be \$25.00 \$40.00.~~

~~(10)(11) No change.~~

~~(11)(12) No change.~~

Specific Authority 468.507, 468.508, 455.711 FS. Law Implemented 468.508, 455.641, 455.711 FS. History—New 4-9-89, Amended 8-28-90, 11-9-92, Formerly 21M-47.001, Amended 9-21-93, 11-4-93, 1-3-94, Formerly 61F6-47.001, Amended 12-28-94, 5-2-95, Formerly 59R-41.001, Amended 11-24-97,_____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Temporary Permits
 RULE NO.: 64B8-42.003

PURPOSE AND EFFECT: The Council proposes to make recommendations to the Board of Medicine to update the rule text.

SUBJECT AREA TO BE ADDRESSED: Temporary permits.

SPECIFIC AUTHORITY: 468.507, 468.511 FS.

LAW IMPLEMENTED: 468.511 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-42.003 Temporary Permits.

(1) No change.

(2) An applicant who has been issued a temporary permit based on apparent eligibility to take the ~~for the next scheduled~~ examination but who has never passed an examination to determine competency as recognized by the Board and who is not qualified for licensure by endorsement, may practice

dietetics and nutrition under the supervision of a licensed dietitian/nutritionist until notification of the results of the examination. An applicant must take the examination within six months of the issuance of a temporary permit. ~~A temporary permit shall expire one year from the date of issuance.~~ The expiration date shall be extended for an applicant who did not take the examination due to illness, death of a family member, jury duty, military service, or similar circumstances beyond the applicant's control, provided a notarized statement and supporting documentation is supplied. Such extension is valid only until notification of the results of the next examination.

(3) No change.

Specific Authority 468.511, 468.507 FS. Law Implemented 468.511 FS. History—New 4-9-89, Formerly 21M-48.003, 61F6-48.003, Amended 11-12-95, Formerly 59R-42.003, Amended 11-24-97,_____.

**Section II
 Proposed Rules**

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Chiropractic Services
 RULE NO.: 59G-4.040

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 1999. The effect will be to incorporate by reference in the rule the current Florida Medicaid Chiropractic Services Coverage and Limitations Handbook.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 1999.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m. – 12:00 p.m., March 22, 1999

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room H, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Jackson, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)488-4481