

(a) "Citation" means an instrument which meets the requirements set forth in s. 455.617 ~~455.224~~, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;

(b) No change.

(2) In lieu of the disciplinary procedures contained in s. 455.617 ~~455.225~~, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is basis for the citation.

(3) The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

(a) through (h) No change.

(i) Failure of a massage therapist to notify the Board of a change of address as required by Section 455.717(1), F.S.

(j) Advertising massage therapy services under a name under which a license has not been issued in violation of Section 480.046(1)(d), F.S. shall result in a penalty of \$250.00.

Specific Authority 455.617 FS. Law Implemented 455.617 FS. History—New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98, _____.

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLES: RULE NOS.:
Use of Prescription Devices 64B11-4.001
Occupational Therapy Aides and Other
Unlicensed Personnel Involved in the
Practice of Occupational Therapy 64B11-4.002

PURPOSE AND EFFECT: The Board proposes to discuss the above rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Use of prescription devices; occupational therapy aides and other unlicensed personnel involved in the practice of occupational therapy.

SPECIFIC AUTHORITY: 468.203(4), 468.204 FS.

LAW IMPLEMENTED: 468.203(4),(5) 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: 9:00 a.m., March 26, 1999

PLACE: The Marriott North, 6650 N. Andrews Avenue, Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Emergency Medical Services 64E-2

PURPOSE AND EFFECT: To discuss revisions of rules 64E-2.013(1) through (9) related to submission and collection of prehospital forms and information. The workshop will address a proposal to use 15 aggregate prehospital data categories and sub-categories of information in lieu of existing data collection and reporting requirements. The proposed rule amendment would enable ambulance services to design a run report to better meet local needs, reduce workload related to completing the current form, and allow purchase of less expensive forms.

SUBJECT AREA TO BE ADDRESSED: Records and Reports.

SPECIFIC AUTHORITY: 401.30 FS.

LAW IMPLEMENTED: 401.30 FS.

RULE WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 11:00 a.m., March 22, 1999

PLACE: Metro Dade Fire Rescue, 8175 N. W. 12th Street, Suite 301, Miami, Florida

TIME AND DATE: 10:00 a.m., March 23, 1999

PLACE: Florida College of Emergency Physicians, 3717 South Conway Road, Orlando, Florida

TIME AND DATE: 10:00 a.m., March 24, 1999

PLACE: Department of Health, Bureau of Emergency Medical Services, 2002 Old St. Augustine Road, Building D, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 2002 Old St. Augustine Road, Building D, Tallahassee, Florida 32310

P.O. EU 0568

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: RULE NO.:
Cemetery By-laws 3F-6.003

PURPOSE AND EFFECT: The purpose of substantially rewording and amending this rule is to update the rule and allow the rule to be in compliance with the underlying statutes.

SUMMARY: Under the authority of the Board, the rule is being updated with current language in order to allow the rule to be in compliance with the underlying statutes.

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

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

SPECIFIC AUTHORITY: 497.103 FS.

LAW IMPLEMENTED: 497.305(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana M. Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 3F-6.003 follows. See Florida Administrative Code for present text.)

3F-6.003 Cemetery By-laws.

(1) Each cemetery company may adopt by-laws regulating the activities within its boundaries as provided in Section 497.301(1)(d) and (3), F.S. As provided therein, all such by-laws and any amendments thereto shall be subject to the approval of the Board of Funeral and Cemetery Services prior to becoming effective. Decisions approving, rejecting or modifying cemetery by-laws shall be considered agency action for purposes of Chapter 120, F.S.

(2) Any by-laws which had been submitted to the Department of Banking and Finance and approved prior to the effective date of Chapter 93-389, Laws of Florida (September 30, 1993), shall remain in full force and effect so long as such by-laws do not conflict with the provisions of Chapter 497, F.S., or the rules promulgated thereto.

(3) A cemetery company which seeks to amend its existing by-laws need only submit to the Board of Funeral and Cemetery Services the amendments thereto and those sections of the by-laws which are affected by such amendments. When submitting the amendments, the cemetery company shall submit to the Department of Banking and Finance a copy of its previously approved by-laws in order to update the Department's files.

(4) Upon receipt of a set of proposed by-laws or amendments thereto, the Department shall publish notice of the filing of such by-laws or amendments thereto in the Florida

Administrative Weekly and a newspaper of general circulation in the county in which the applicant cemetery is located, so that substantially affected parties may file comments. A period of thirty (30) days for such comments shall be provided.

(5) Upon receipt of proposed by-laws or amendments thereto and any comments thereon provided by the published notice, the Executive Director of the Board of Funeral and Cemetery Services shall provide the cemetery and the substantially affected persons with an informal conference in accordance with the DBF-BYLAW1 pamphlet, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, The Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350. Within fifteen (15) days after the conclusion of the informal conference, the Executive Director shall forward a recommendation to the Board and give notice to all affected persons that filed written comments of the time and place when the Board of Funeral and Cemetery Services will consider the proposed by-laws or amendments thereto.

(6) If the by-laws or amendments thereto are approved by the Board of Funeral and Cemetery Services, a notice shall be published in the Florida Administrative Weekly announcing the approval and the date the approval will become effective. The notice shall inform substantially affected parties who object to the by-laws that they may request a hearing in accordance to Chapter 120, F.S.

(7) Each cemetery company, in addition to any by-laws, may adopt cemetery company operating procedures, so long as such operating procedures:

(a) are not in conflict with Chapter 497, F.S., the rules promulgated thereto and approved by-laws for the said cemetery;

(b) are applicable to all similarly situated individuals;

(c) are enforced uniformly;

(d) are posted by notice at the cemetery, together with by-laws; and

(e) are readily accessible for inspection and copying by interested parties.

Operating procedures are not subject to review or approval by the Board of Funeral and Cemetery Services or the Department of Banking and Finance. Operating procedures may be changed from time to time by the cemetery company, but shall only become effective when notice thereof is posted by the cemetery company and a copy thereof is mailed to the Regional Office of the Comptroller which examines the concerned cemetery. Nothing contained herein shall permit a cemetery company to state or imply that its operating

procedures have been approved by either the Board of Funeral and Cemetery Services or the Department of Banking and Finance.

Specific Authority 497.103 FS. Law Implemented 497.305(3) FS. History--New 11-2-78, Formerly 3D-30.23, 3D-30.023, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral and Cemetery Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 1998

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: RULE NO.:

Duties and Powers of Trustee; 3F-7.016
Authorized Investments

PURPOSE AND EFFECT: Under the authority of the Board, some of the rule's language is being deleted in order to allow the rule to be in compliance with the underlying statutes.

SUMMARY: The proposed rule is being amended due to recent changes to the underlying statutes.

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

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

SPECIFIC AUTHORITY: 497.103 FS.

LAW IMPLEMENTED: 497.417 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana M. Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350

THE FULL TEXT OF THE PROPOSED RULE IS:

3F-7.016 Duties and Powers of Trustee; Authorized Investments.

(1) through (5) No change.

~~(6) If the trustee chooses to purchase life insurance policies or annuity contracts pursuant to section 497.417(4)(b), F.S., such policies or contracts shall:~~

~~(a) be purchased from an insurer authorized to transact business in the State of Florida and who shall be a member insurer of the Florida Life and Health Insurance Guaranty Association;~~

~~(b) have a face value of at least an amount equal to the preneed trust funds applied toward its purchase; and~~

~~(c) not be a term life policy.~~

~~Prior to the purchase of such a policy or contract, the trustee shall assure there exists, within the trust assets, sufficient liquidity to fund the reasonably anticipated refunds of canceled preneed contracts. Any shortfall of sufficient liquidity which may arise to make refunds for canceled preneed contracts shall be reimbursed by the certificateholder to the trust corpus.~~

Specific Authority 497.103 FS. Law Implemented 497.417 FS. History--New 8-9-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Board of Funeral and Cemetery Services

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: November 17, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: December 18, 1998

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Florida Grade and Quality Standards 20-35
for Fresh Fruit

RULE TITLE: RULE NO.:

Grapefruit – Florida Grades and Standards 20-35.005

PURPOSE AND EFFECT: Would provide that both the Florida and U.S. No. 1 grades may be shown on a carton when packing fresh grapefruit under the Florida Fancy grade classification.

SUMMARY: Providing for both the Florida and U.S. No. 1 grades to be shown on cartons of fresh Florida grapefruit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 601.10(1), 601.11, 601.45 FS.

LAW IMPLEMENTED: 601.16, 601.45, 601.51 FS.

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

TIME AND DATE: 10:30 a.m., April 21, 1999

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joan B. Martin, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-35.005 Grapefruit – Florida Grades and Standards.

Florida State Grades and minimum quality standards shall be identical to those established by the United States Department of Agriculture as prescribed in 7 CFR Part 51 “United States Standards for Grades of Florida Grapefruit” as amended August 1, 1996, incorporated herein by reference, with the exception that, exclusive of Russet and Bronze, U.S. No. 1 grade classifications shall be divided into two Florida No. 1 grades as follows:

(1) Florida Fancy which shall have the same minimum requirements of the U.S. No. 1 Bright grade as defined in 7 CFR Part 51.751.

(2) Florida Choice which shall have the same minimum requirements as the U.S. No. 1 Golden Grade as defined in 7 CFR Part 51.753.

(3) All cartons packed utilizing the Florida grades shall note ~~only~~ the Florida grade on the carton.

Specific Authority 601.10(1),(7), 601.11, 601.45 FS. Law Implemented 601.16, 601.45, 601.51 FS. History--Formerly 105-1.02(5), Revised 1-1-75, Amended 9-15-75, Formerly 20-35.05, Amended 8-30-95, 12-10-95, 6-29-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Clark R. Jennings, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Clark R. Jennings, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: January 20, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 5, 1999

PUBLIC SERVICE COMMISSION

DOCKET NO. 980500-PU

RULE TITLES:

Membership	25-21.001
Members	25-21.002
Chairman	25-21.003
Disqualification	25-21.004
Quorum	25-21.005
Minutes	25-21.006
Orders	25-21.007
Organization	25-21.020
Office of the General Counsel	25-21.021
Office of the Executive Director	25-21.022
Division of Administration	25-21.023
Division of Auditing And Financial Analysis	25-21.024
Division of Communications	25-21.026
Division of Consumer Affairs	25-21.027
Division of Electric And Gas	25-21.028
Division of Records And Reporting	25-21.030
Division of Research And Regulatory Review	25-21.031
Division of Water & Wastewater	25-21.032
Designation of Agency Clerk	25-21.033
Principal Office	25-21.040
Conferences	25-21.041
Agenda Conferences	25-21.042
Internal Affairs Meetings	25-21.043

PURPOSE AND EFFECT: To comply with new requirements of the Administrative Procedures Act, Chapter 120, F.S.

SUMMARY: The rules being repealed are no longer necessary because they are either covered by the Uniform Rules of Procedure or the information will now be located in the Statement of Agency Organization and Operation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Preparation of a SERC was found to be unnecessary.

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: 120.53 FS.

LAW IMPLEMENTED: 120.53 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

NO HEARING WILL BE HELD BECAUSE THIS RULE RELATES EXCLUSIVELY TO THE COMMISSION'S ORGANIZATION, PROCEDURE, OR PRACTICE.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I MEMBERSHIP

25-21.001 Membership.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.01, 11-30-81, Formerly 25-21.01, Repealed.

25-21.002 Members.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.02, 11-30-81, Formerly 25-21.02, Repealed.

25-21.003 Chairman.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.03, Amended 11-30-81, Formerly 25-21.03, Repealed.

25-21.004 Disqualification.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.04, Amended 11-30-81, Formerly 25-21.04, Repealed.

25-21.005 Quorum.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.05, Amended 11-30-81, Formerly 25-21.05, Amended 2-12-86, Repealed.

25-21.006 Minutes.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.06, Amended 11-30-81, Formerly 25-21.06, Repealed.

25-21.007 Orders.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.07, Amended 11-30-81, Formerly 25-21.07, Repealed.

PART II DIVISIONS

25-21.020 Organization.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.20, Amended 11-30-81, Formerly 25-21.20, Amended 2-12-86, 11-19-86, 8-11-92, Repealed.

25-21.021 Office of the General Counsel.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 2-19-82, Formerly 25-21.21, Amended 11-19-86, 8-11-92, Repealed.

25-21.022 Office of the Executive Director.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.21, Amended 11-30-81, Formerly 25-21.22, Amended 11-19-86, Repealed.

25-21.023 Division of Administration.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.23, Amended 11-30-81, Formerly 25-21.23, Amended 11-19-86, 8-11-92, Repealed.

25-21.024 Division of Auditing and Financial Analysis.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 11-30-81, Formerly 25-21.24, Amended 2-12-86, 11-19-86, 8-11-92, Repealed.

25-21.026 Division of Communications.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 11-30-81, Formerly 25-21.26, Amended 11-19-86, 8-11-92, Repealed _____.

25-21.027 Division of Consumer Affairs.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.32, Amended 11-30-81, Formerly 25-21.27, Amended 11-19-86, 8-11-92, Repealed _____.

25-21.028 Division of Electric and Gas.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 11-30-81, Formerly 25-21.28, Amended 11-19-86, 8-11-92, Repealed _____.

25-21.0301 Division of Records and Reporting.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.22, Amended 11-30-81, Formerly 25-21.025, Amended 11-19-86, 8-11-92, Repealed _____.

25-21.031 Division of Research and Regulatory Review.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.29, Amended 11-30-81, 2-11-86, Formerly 25-21.31, Amended 11-19-86, 8-11-92, Repealed _____.

25-21.032 Division of Water and Wastewater.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 11-30-81, Formerly 25-21.32, Amended 11-19-86, Repealed _____.

25-21.033 Designation of Agency Clerk.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 8-11-92, Repealed _____.

PART III OFFICE AND CONFERENCES

25-21.040 Principal Office.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.38, Amended 11-30-81, Formerly 25-21.40, Repealed _____.

25-21.041 Conferences.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-21.39, Amended 11-30-81, Formerly 25-21.41, Repealed _____.

25-21.042 Agenda Conferences.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-1.40, Amended 11-30-81, Formerly 25-21.42, Repealed _____.

25-21.043 Internal Affairs Meetings.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 10-4-93, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Noreen Davis

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULES APPROVED BY AGENCY
HEAD: February 16, 1999

PUBLIC SERVICE COMMISSION

DOCKET NO. 980500-PU

RULE TITLES:

RULE NOS.:

Notice of Meeting or Workshop	25-22.001
Agenda of Meetings	25-22.002
Emergency Meeting	25-22.003
Commission Forms	25-22.004
Noticing Address Files	25-22.005
Practitioners	25-22.008
Petitions to Initiate Rulemaking Proceedings	25-22.012
Commission Action on Petitions to Initiate Rulemaking Proceedings	25-22.013
Rulemaking Materials	25-22.014
Rulemaking Proceeding – No Hearing	25-22.015
Rulemaking Proceeding – Hearing	25-22.016
Rulemaking Proceeding – Adoption	25-22.017
Emergency Rule Adoption	25-22.018
General	25-22.020
Purpose and Use of Declaratory Statement	25-22.021
Disposition	25-22.022
Scope and Title of Rules	25-22.025
Parties	25-22.026
Filing, Service of Documents and Computation of Time	25-22.028
Point of Entry Into Proposed Agency Action Proceedings	25-22.029
Discovery	25-22.034
Miscellaneous Matters	25-22.035
Assignment of Formal Proceedings	25-22.0355
Initiation of Formal Proceedings	25-22.036
Answers and Motions	25-22.037
Pleadings	25-22.0375
Prehearing Officer, Prehearing Statement, Prehearing Conferences and Prehearing Order	25-22.038
Notices of Hearings	25-22.0405
Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies	25-22.0406
Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities	25-22.0407
Continuances	25-22.041
Dismissal	25-22.042
Subpoenas	25-22.045
Witnesses and Witness Fees	25-22.046
Evidence	25-22.048
Recordation	25-22.049
Post-Hearing Filings	25-22.056
Final Orders	25-22.059

PURPOSE AND EFFECT: To conform the rules to the Uniform Rules of Procedure and to the exceptions granted thereto.

SUMMARY: The rules being amended are procedural rules which need to be retained for the efficient operation of the agency and to benefit practitioners so they can readily ascertain the required procedures. The rules being repealed are no longer necessary because they are either covered by the Uniform Rules of Procedure or the information will now be located in the Statement of Agency Organization and Operation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Preparation of a SERC was found to be unnecessary.

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: 350.127(2), 350.01(7), 366.05, 367.121(1)(f) FS.

LAW IMPLEMENTED: 120.525, 120.54(3), 120.569, 120.57, 366.06, 367.081, 367.081(4)(a), 367.0817, 120.58, 350.123, 364.03, 364.04, 364.035, 364.05, 364.057, 364.335, 364.337, 366.03, 366.04, 366.041, 366.06, 366.071, 366.076, 366.8255, 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082, 367.0822, 367.091, 367.101, 367.121, 367.171, 367.161, 364.035(1), 364.07, 364.14, 364.15, 364.16, 364.27, 366.05, 367.111, 367.0814(1) FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

NO HEARING WILL BE HELD BECAUSE THIS RULE RELATES EXCLUSIVELY TO THE COMMISSION'S ORGANIZATION, PROCEDURE, OR PRACTICE.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I GENERAL PROVISIONS

25-22.001 Notice of Meeting or Workshop.

~~(1) Except in the case of emergency meetings the Commission shall give at least seven (7) days' public notice of any meeting or workshop by publication in the Florida Administrative Weekly.~~

~~(2) The Commission shall use the following form in providing notice of the meeting or workshop.~~

~~NOTICE OF PUBLIC MEETING OR WORKSHOP~~

~~The Florida Public Service Commission announces a public meeting or workshop to which all persons are invited.~~

~~DATE AND TIME: _____~~

~~PLACE: _____~~

~~PURPOSE: _____~~

~~A copy of the agenda for any public meeting may be obtained by writing to the Division of Records and Reporting at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~

~~(1)(3) A public meeting, for the purposes of notice in Rule 28-102.001, F.A.C. herein, is limited to a gathering of Commissioners for the purpose of conducting public business. The term meeting includes Agenda Conference.~~

~~(2)(4) A workshop, for the purposes of notice in Rule 28-102.001, F.A.C., is a gathering where Commissioners may be present or Commission staff or person(s) designated by the commission are meeting with interested persons for a specific purpose as designated in the notice. The term workshop includes gatherings for the specific purpose of rule drafting at which time no official votes are taken or policy adopted.~~

Specific Authority 350.127(2) 420.53 FS. Law Implemented 120.525 420.53 FS. History--New 12-21-81, Formerly 25-22.01, Amended _____.

25-22.002 Agenda of Meetings.

~~(1) The agenda for meetings shall be prepared by the Commission in time to insure that a copy may be received at least seven (7) days before the meeting by any person in the State who has requested a copy and pays \$1.00 per copy.~~

~~(2) The agenda shall list and specify the items to be considered at the meeting.~~

~~(3) For good cause stated on the record, the person designated to preside may make specific changes in the agenda after it has been made available for distribution. A majority vote of a quorum of the Commission is required to modify the presiding officer's decision to make a specific change in the agenda.~~

~~(4) Copies of staff recommendations for items on the agenda may be obtained from the Division of Records and Reporting upon request and the payment of the applicable copying fee. Parties to a proceeding are entitled to one copy of the staff recommendation filed in the proceeding at no cost.~~

Specific Authority 350.127(2) 420.53 FS. Law Implemented 120.525 420.53 FS. History--New 12-21-81, Formerly 25-22.02, Amended 4-18-94, _____.

25-22.003 Emergency Meeting.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.03, Repealed _____.

25-22.004 Commission Forms.

Specific Authority 120.53(1)(b) FS. Law Implemented 120.53(1)(b) FS. History--New 6-7-84, Formerly 25-22.04, Amended 4-16-90, 8-21-90, 8-23-90, Repealed _____.

25-22.005 Noticing Address Files.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 8-21-84, Formerly 25-22.05, Amended 7-11-96, Repealed _____.

25-22.008 Practitioners.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 9-24-81, Formerly 25-22.08, Amended 3-21-94, Repealed _____.

PART II RULEMAKING PROCEEDINGS

25-22.012 Petitions to Initiate Rulemaking Proceedings.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.12, Repealed.

25-22.013 Commission Action on Petitions to Initiate Rulemaking Proceedings.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.13, Repealed.

25-22.014 Rulemaking Materials.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.14, Repealed.

25-22.015 Rulemaking Proceeding – No Hearing.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.15, Repealed.

25-22.016 Rulemaking Proceeding – Hearing.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81. Amended 10-23-83, Formerly 25-22.16, Repealed.

25-22.017 Rulemaking Proceeding – Adoption.

(1) No change.

(2) Oral argument and petitions for reconsideration are not appropriate to the rulemaking process. However, any interested person may petition the Commission after a rule is adopted or amended, for initiation of rulemaking proceedings pursuant to Rule ~~28-103.006~~ 25-22.012, to amend or otherwise modify the adopted rule or amendment.

~~(3) Where a variance from a rule is requested, the Commission shall treat the request as a petition for a §120.57, F.S., hearing. Unless waived by all parties, the provisions of §120.57(1), F.S., and Part IV of these rules shall apply whenever the proceeding involves a disputed issue of material fact. In cases where the provisions of §120.57(1), F.S., do not apply, the provisions of §120.57(2), (3), F.S., shall be followed.~~

Specific Authority ~~350.127(2)~~ 120.53 FS. Law Implemented ~~120.525, 120.54(3)~~ 120.53 FS. History–New 12-21-81, Amended 10-25-83, Formerly 25-22.17, Amended.

25-22.018 Emergency Rule Adoption.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.18, Repealed.

PART III DECLARATORY STATEMENTS

25-22.020 General.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.20, Repealed.

25-22.021 Purpose and Use of Declaratory Statement.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.21, Repealed.

25-22.022 Disposition.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-20-81, Formerly 25-22.22, Repealed.

PART IV DECISIONS DETERMINING SUBSTANTIAL INTERESTS

Subpart A General Provisions

25-22.025 Scope and Title of Rules.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.25, Repealed.

25-22.026 Parties.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History–New 12-21-81, Formerly 25-22.26, Amended 8-25-91, Repealed.

25-22.028 Filing, Number of Copies ~~Service of Documents, and Computation of Time.~~

(1) Filing. Filing shall be accomplished by submitting the original document and the appropriate number of copies, as provided by rule, to the Division of Records and Reporting (Division). Filing may be made by U.S. Mail, hand delivery, or courier service. Filings on behalf of companies with gross annual operating revenues derived from intrastate business in excess of \$750,000, Class A water and sewer utilities, and parties to proceedings affecting these entities, shall also include a copy of the document on diskette in word processing or spreadsheet format, whichever is appropriate, when filing documents capable of being generated by word processing or spreadsheet software. Material for which a request for confidential classification is pending under Rule 25-22.006, Florida Administrative Code, should not be included in a diskette copy. The diskette filing need not recreate document attachments not originally generated for the purpose of filing with the Commission, such as exhibits attached to a petition. The copy of the document on diskette shall be filed within 1 working day of the date the original printed document is filed. Information about the word processing and spreadsheet software preferred by the Commission may be obtained from the Director of the Division. Each diskette shall be accompanied by a statement specifying the density of the diskette, the operating system and the software used to prepare the document on diskette. For purposes of the requirement that copies of documents be filed on diskette, “document” means all prehearing statements regardless of length, and pleadings, post hearing statements of positions on issues or briefs, proposed findings of fact and conclusions of law in excess of 5 pages exclusive of the service list. ~~The prehearing officer assigned to the proceeding may grant exceptions to the requirement for filing documents on diskette on a case-by-case basis, for good cause shown.~~ In case of a discrepancy between an original printed document that is filed and the document on diskette, the filed original document shall prevail. ~~Filing shall be completed upon receipt by the Division; provided, however, that during the course of a hearing before the Commission or a~~

panel thereof, the presiding chairman may accept a document for filing and shall note the filing date and transmit it to the Division. If the filing is made with the presiding officer during the course of a hearing, as provided by Rule 28-106.104(1), in this situation the responsible party shall ensure that a copy of the document is submitted on diskette to the Division within 5 working days. The date a document is submitted for filing shall be noted by the person making the filing on the first page of the document filed. Where a document is served upon a party pursuant to these rules, its original and the appropriate copies, or, in the case of interrogatories or production of documents, a notice of service, shall be filed with the Division no later than 5 days after service.

(2) Number of Copies. The original and seven copies of all pleadings shall be submitted to the Division of Records and Reporting. However, initial pleadings for increases in rates, except rate increases by water and wastewater utilities, shall be filed with 20 copies. The requirement for filing 20 copies shall apply to all exhibits appended to the original petition, prepared testimony and exhibits, briefs and other supplemental data requested by the Commission.

~~(2) Service. A copy of all documents filed pursuant to these rules shall be served on each of the parties no later than the date of filing. In the event that the parties are so numerous that this requirement is onerous, the Commission on motion may limit the number of copies to be served. Service by mail shall be completed upon mailing.~~

(3) Method and Proof of Service.

~~(a) When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the Commission. Service on the attorney or party shall be made by hand delivery or by mail to the last known address. Delivery of a copy within this rule shall mean handing it to the attorney or to the party, or leaving it at the party's or attorney's usual office with the clerk or other person in charge, or if there is no one in charge, leaving it in a conspicuous place within the office, or if the office is closed, leaving it at the party's or attorney's usual place of abode with some person of the family above fifteen years of age and informing that person of the contents.~~

~~(b) When an attorney or a party certifies in substance: "I certify that a copy hereof has been furnished to (here insert name or names) by (delivery) (mail) this _____ day of _____, 19--;~~

~~_____
Signature"~~

~~the certificate shall be taken as prima facie evidence of service in compliance with this rule.~~

~~(4) Additional Time after Service by Mail. Whenever a party is required or permitted to do an act within a prescribed time after service of a document, and the document is served by mail, five days shall be added to the prescribed time, except~~

that responses to notices pursuant to Sections 350.113, 364.335 and 367.045, F.S., shall be filed within the time specified by statute. Any action required by a Commission order shall be completed on the specified date, if any, in the order.

~~(5) Computation of Time. In computing any period of time prescribed or allowed by these rules, by order of a presiding officer, or by any applicable statute, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. As used in these rules, legal holiday means those days designated in §110.117, F.S., and any other day the Agency's offices are closed.~~

Specific Authority 350.01(7), 350.127(2) ~~420.53~~ FS. Law Implemented 120.569, 120.57 ~~420.53~~ FS. History—Formerly 25-2.58, Amended 10-21-81, Formerly 25-22.28, Amended 2-11-92,_____.

25-22.029 Point of Entry Into Proposed Agency Action Proceedings.

~~(1) At any time subsequent to the initiation of a proceeding before the Commission, the Commission may give notice of proposed agency action. Proposed agency action shall be made upon a vote of the Commission, and may be reflected in the form of an order or a notice of intended action.~~

(1)(2) After agenda conference, the Division of Records and Reporting shall issue written notice of the proposed agency action (PAA), advising all parties of record that they have 21 days after issuance of the notice in which to file a request for a §120.569 or 120.57 hearing. For good cause shown the Commission may provide that The time for requesting a §120.569 or 120.57 hearing shall be 14 days from issuance of the notice for PAA orders establishing a price index pursuant to section 367.081(4)(a), F.S. The Commission will ~~may~~ also serve copies of its notice on interested persons and may require a utility to serve written notice of the PAA on its customers if the Commission finds that it is necessary in order to afford adequate notice.

~~(2)(3) The Commission may publish notice of its proposed agency action in the Florida Administrative Weekly or newspapers of general circulation in the area affected by its action and may will require a utility to publish notice of the decision in newspapers of general circulation in its service area if the Commission finds that it is necessary in order to afford adequate notice.~~ Any such publication may be used in establishing the date of receiving notice.

~~(3)(4) One whose substantial interests may or will be affected by the Commission's proposed action may file a petition for a §120.569 or 120.57 hearing, in the form provided by Rule 28-106.201, F.A.C. 25-22.036. Any such petition shall be filed within the time stated in the notice issued pursuant to subsection (1)(2) of this rule. However, when a person has not~~

been served notice of the decision and notice has been published, such person may file a petition within 14 days after publication of the notice.

~~(5) Any person who receives notice and who fails to file a timely request for a §120.57 hearing shall have waived his or her right to request a hearing on the decision.~~

~~(6) In the absence of a timely request for a §120.57 hearing, and unless otherwise provided by a Commission order, the proposed action shall become effective upon the expiration of the time within which to request a hearing.~~

Specific Authority 350.01(7), 350.127(2) ~~120.53~~ FS. Law Implemented 120.569, 120.57, 364.05, 366.06, 367.081, 367.081(4)(a), 367.0817 ~~120.53~~ FS. History—New 12-21-81, Formerly 25-22.29, Amended 7-8-92, _____.

25-22.034 Discovery.

Specific Authority 120.53 FS. Law Implemented 120.53. FS. History—New 12-21-81, Formerly 25-22.34, Repealed _____.

25-22.035 Miscellaneous Matters.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 12-21-81, Formerly 25-22.35, 25-22.035, Repealed _____.

25-22.0355 Assignment of Formal Proceedings.

Specific Authority 120.53 FS. Law Implemented 120.53, 120.57(1)(a), 350.01, 350.125 FS. History—Transferred from 25-2.501 and Amended 12-21-81, 9-20-83, formerly 25-22.355, Repealed _____.

Subpart B Prehearing Procedures

25-22.036 Initiation of Formal Proceedings.

~~(1) Applicability. This section shall apply to all §120.57(1) and (2) hearings including a hearing requested by a substantially affected person subsequent to proposed agency action. This rule shall not apply to the extent that a proceeding is governed by rules or statutes that prescribe alternative procedures.~~

~~(2) Initial Pleading. The initial pleading shall be entitled as either an application, petition, complaint, order, or notice, as set forth in subsections (3), (4), (5), and (6). Where the Commission has issued notice of proposed agency action, the initial pleading shall be entitled "Petition on Proposed Agency Action."~~

~~(1)(3) Application. An application is appropriate when a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction.~~

~~(4) Petition. A petition is appropriate when:~~

~~(a) A person subject to Commission jurisdiction seeks authority to change its rates or service, or seeks some other Commission action not otherwise specified in these rules; or~~

~~(b) A substantially affected person seeks Commission action to change the rates or service of a person subject to Commission jurisdiction, or seeks some other Commission action not otherwise specified in these rules.~~

~~(2)(5) Complaints. A complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's~~

substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order.

~~(3)(6) Orders and Notices. Upon its own motion, the Commission may issue an order or notice initiating a proceeding. Such order or notice shall be served upon all persons named therein. The Commission may also transmit notice of its action to other persons requesting such notice, and may publish such notice in appropriate newspapers of general circulation and the Florida Administrative Weekly.~~

~~(4)(7) Form and Content.~~

~~(a) Generally. Except for orders or notices issued by the Commission, each initial pleading should contain:~~

~~1. The name of the Commission and the Commission's docket number, if known;~~

~~2. The name and address of the applicant, complainant or petitioners, and an explanation of how his or her substantial interests will be or are affected by the Commission determination;~~

~~3. A statement of all known disputed issues of material fact. If there are none, the petition must so indicate;~~

~~4. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief;~~

~~5. A demand for relief; and~~

~~6. Other information which the applicant, complainant or petitioner contends is material.~~

~~(a)(b) Application. An application shall be governed by the statute or rules applicable to applications for authority. In the absence of a specific form and content, the application shall conform to this rule.~~

~~(b)(e) Complaint. Each complaint, in addition to the requirements of paragraph (a) above shall also contain:~~

~~1. The rule, order, or statute that has been violated;~~

~~2. The actions that constitute the violation;~~

~~3. The name and address of the person against whom the complaint is lodged;~~

~~4. The specific relief requested, including any penalty sought.~~

~~(d) When a petitioner seeks relief against another person, the petition shall include the name and address of the person against whom relief is sought in addition to the requirements of paragraph (a) of this subsection.~~

~~(e) Petitions for rate relief shall conform to all applicable rules and statutes as to form and content, in addition to the requirements of paragraph (a) of this subsection.~~

~~(f) Petition on Proposed Agency Action. When a petition is filed in response to proposed agency action the petition shall also contain a statement of when and how notice of the Commission's proposed agency action was received.~~

(8) ~~Amendments.~~ A petition, application or complaint may be amended prior to the filing of a responsive pleading or the designation of a presiding officer by filing and serving an amended initial pleading in the manner prescribed for filing and serving an original petition, application or complaint. The petitioner, complainant, or applicant may amend its initial pleading after the designation of the presiding officer only upon order of the presiding officer.

(9) ~~Disposition.~~

(a) ~~Where an application, petition, or complaint has been filed, and Commission action has not yet been proposed, the Commission may:~~

1. ~~Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is untimely;~~

2. ~~Issue notice of proposed agency action where a rule or statute does not mandate a hearing as a matter of course, and after the time for responsive pleadings has passed;~~

3. ~~Set the matter for hearing before the Commission, or member thereof, or request that a hearing officer from the Division of Administrative Hearings be assigned to conduct the hearing. The assignment of a matter for hearing shall be pursuant to Rule 25-22.0355;~~

4. ~~Dispose of the matter as provided in §120.57(2).~~

(b) ~~Where a petition on proposed agency action has been filed, the Commission may:~~

1. ~~Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is untimely.~~

2. ~~Grant the petition and determine if a Section 120.57(1) hearing or a Section 120.57(2) hearing is required.~~

(c) ~~The Commission shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefore.~~

(d) ~~If the Commission elects to request that a Hearing Officer of the Division of Administrative Hearings be assigned to conduct the hearing, the Commission shall forward the initial pleading, and all materials filed with the Commission, to the Division of Administrative Hearings, and shall notify all parties of its action.~~

(10) ~~Service of Initial Pleadings.~~ Where a petition seeks relief against a person, or a complaint is filed, a copy of the petition or complaint shall be served on all persons named therein. Where a petition on proposed agency action is filed, a copy shall be served on all parties of record.

Specific Authority 350.01(7), 350.127(2), 120.53 FS. Law Implemented 120.569, 120.57, 364.035, 364.05, 364.057, 364.335, 364.337, 366.04, 366.06, 366.071, 366.076, 366.8255, 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082, 367.0822, 367.091, 367.101, 367.171, 120.53 FS. History—New 12-21-81, Formerly 25-22.36, Amended _____.

25-22.037 Answers and Motions.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 12-21-81, Formerly 25-22.37, Repealed _____.

25-22.0375 Pleadings.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—New 12-21-81, Formerly 25-22.375, Repealed _____.

25-22.038 Prehearing Officer; Prehearing Statement; Prehearing Conferences; and Prehearing Order.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History—Formerly 25-2.68, Amended 12-21-81, Formerly 25-22.38, Amended 9-3-95, Repealed _____.

25-22.0405 Notices of Public Hearings.

(1) ~~The provisions of this rule shall apply to all public hearings conducted by the Commission, except rulemaking hearings held pursuant to Rules 25-22.010 through 25-22.018, F.A.C.~~

(2) ~~Notice of such public hearings shall be given by the Commission to the clerk of the board of county commissioners of each county affected, the chief executive officer of each municipality to the area affected, all parties of record and all persons who have requested notice of such proceedings.~~

(3) ~~A summary of the subject matter and notice of hearing shall be published by the Commission in the Florida Administrative Weekly. The summary shall be drawn and notice given as required by the provisions of the statute under which relief is sought, if applicable, but shall not be published less than 14 days prior to the hearing.~~

(4) ~~The Commission will may require any public utility in a such proceedings to publish additional notices of hearing in newspapers of general circulation in the area affected and to give notice to its customers by mail, if as may be deemed reasonably necessary by the Commission finds that it is necessary in order to afford adequate notice to the customers of the utility.~~

(5) ~~When the Commission determines that the health, safety, or welfare of the public requires an emergency hearing, notice may be accomplished by giving notice to those parties listed in subsection (2) not less than 48 hours prior to the time scheduled for the hearing.~~

Specific Authority 350.127(2), 366.05, 367.121(1)(f) FS. Law Implemented 120.569, 120.57, 364.03, 364.035(1), 364.07, 364.14, 364.15, 364.16, 364.27, 366.04, 366.05, 367.081, 367.111 FS. History—New 1-27-72, Formerly 25-2.981, Amended 12-21-81, 9-27-83, _____.

25-22.0406 Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies.

(1) through (2) No change.

(3)(a) Within 15 days after it has been notified by the Commission that the Minimum Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its official headquarters and at its business office in each municipality in which service hearings were held in the last general rate case of the utility. Within 15 days after the time schedule has been mailed to the utility, copies of the MFRs shall be placed in the utility business office in each additional

city in which service hearings are to be held. Upon customer request a copy of the MFRs shall be placed in a utility business office not located in a city where a service hearing is to be held. The copies of the MFRs shall be available for public inspection during the utility's regular business hours.

(b) In addition to the locations listed above, if the Commission determines that the locations listed above will not provide adequate access, the Commission will ~~may~~ require that copies of the MFRs be placed at other specified locations.

(4)(a) through (8) No change.

Specific Authority 350.127(2), 366.05 FS. Law Implemented 120.569, 120.57, 364.035(1), 364.01(4), 364.04(3)(4), 364.05(1)(2), 364.19, 366.03, 366.041(1), 366.05(1), 366.06(1) FS. History--New 9-27-83, Formerly 25-22.406, Amended 5-27-93, _____.

25-22.0407 Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.

(1) through (2) No change.

(3) Within 30 days after the official date of filing established by the Commission, the utility shall place a copy of the petition and the MFRs at its official headquarters and at any business offices it has in the service areas included in the rate request. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in a service area included in its rate request, the utility shall place a copy of the petition and the MFRs at the main county library, the local community center or other appropriate location which is within or most convenient to the service area and which is willing to accept and provide public access to the copies. If the Commission determines that these locations will not provide adequate access, ~~t~~The Commission will ~~may~~ require that copies of the petition and MFRs be placed at other specified locations.

(4)(a) through (10) No change.

Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 120.569, 120.57, 367.081(2)(a), 367.0814(1), 367.0817, 367.091, 367.121 (1)(a) FS. History--New 5-27-93, Amended _____.

25-22.041 Continuances.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.41, Repealed _____.

25-22.042 Dismissal.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.42, Amended 7-11-96, Repealed _____.

Subpart C Conduct of Formal Hearings

25-22.045 Subpoenas.

(+) When the proceeding is before the Commission or member thereof, subpoenas may be issued by the presiding officer or the Division of Records and Reporting on subpoena forms supplied by the Commission. When the proceeding is before an administrative law judge a hearing officer of the Division of Administrative Hearings, subpoenas may be issued by the Administrative Law Judge Hearing Officer.

~~(2) A party shall apply in writing for the issuance of subpoenas requiring the attendance of witnesses or production of records, files, and memoranda from any place in the state, at any designated place of hearing before the presiding officer, for the purpose of taking the testimony of such witness or inspection of documents. An application for the subpoena shall state the name and address of the witness for whom the subpoena is to be issued, and the time and place for the witness to appear.~~

~~(3) Any party or person against whom a subpoena is directed may file a motion to quash or limit the subpoena with the agency having jurisdiction of the dispute. The motion shall set forth the grounds relied upon.~~

~~(4) A subpoena may be served by any person authorized by law to serve process or by any person who is not a party and who is of majority age. Service shall be made by delivering a copy thereof to the person named in the subpoena. Proof of service shall be made by affidavit of the person making service if service is not made by an officer authorized by law to do so.~~

~~(5) Service of a subpoena may also be effected by certified mail, in which case the return receipt must be signed by the person named in the subpoena.~~

Specific Authority 350.127(2) FS. Law Implemented 120.569, 120.57, 350.123 FS. History--Formerly 25-2.100, Amended 12-21-81, Formerly 25-22.45, Amended _____.

25-22.046 Witnesses and Witness Fees.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.46, Repealed _____.

25-22.048 Evidence.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.48, Repealed _____.

25-22.049 Recordation.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.49, Repealed _____.

Subpart D Post-Hearing Procedures

25-22.056 Post-hearing Filings.

Specific Authority 120.53 FS. Law Implemented 120.53, 120.57, 120.58 FS. History--New 12-21-81, Formerly 25-22.56, Amended 3-23-93, Repealed _____.

25-22.059 Final Orders.

Specific Authority 120.53 FS. Law Implemented 120.53 FS. History--New 12-21-81, Formerly 25-22.59, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Noreen Davis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 1998, Vol. 24, No. 50

PUBLIC SERVICE COMMISSION

DOCKET NO. 980500-PU

RULE TITLE:

RULE NO.:

Exceptions to Uniform Rules of Procedure

25-40.001

PURPOSE AND EFFECT: To comply with s. 120.54(5)(a)3., F.S., each agency that adopts rules that provide exceptions to the uniform rules must publish a separate chapter in the FAC that delineates clearly the agency's rules that provide exceptions to the uniform rules.

SUMMARY: Provides list of rules that are an exception to the uniform rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Preparation of a SERC was found to be unnecessary.

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: 120.54(5)(a)3. FS.

LAW IMPLEMENTED: 120.54(5)(a)3. FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

NO HEARING WILL BE HELD BECAUSE THIS RULE RELATES EXCLUSIVELY TO THE COMMISSION'S ORGANIZATION, PROCEDURE, OR PRACTICE.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-40.001 Exceptions to the Uniform Rules of Procedure. The following provisions of the Commission's rules are exceptions to the uniform rules of procedure:

<u>UNIFORM RULE</u>	<u>COMMISSION RULE THAT IS AN EXCEPTION</u>
<u>CHAPTER 28-102 AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS</u>	<u>25-22.0021 Agenda Conference Participation.</u>
<u>28-102.001 Notice of Public Meeting, Hearing, or Workshop.</u>	<u>25-22.001 Notice of Meeting or Workshop.</u>
<u>28-102.002(2) Agenda of Meetings, Hearings, and Workshops.</u>	<u>25-22.002 Agenda of Meetings.</u>
<u>CHAPTER 28-103 RULEMAKING</u>	<u>25-22.017 Rulemaking Proceeding – Adoption.</u>

<p><u>CHAPTER 28-106</u> <u>DECISIONS DETERMINING SUBSTANTIAL INTERESTS</u></p>	<p><u>25-22.006</u> <u>Confidential Information.</u> <u>25-22.029</u> <u>Point of Entry Into Proposed Agency Action Proceedings.</u> <u>25-22.0376</u> <u>Reconsideration of Non-Final Orders.</u> <u>25-22.0406(7)-(8)</u> <u>Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies.</u> <u>25-22.0407(8) and (10)</u> <u>Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.</u> <u>25-22.058</u> <u>Oral Argument.</u> <u>25-22.060</u> <u>Motion for Reconsideration.</u></p>
<p><u>28-106.104</u> <u>Filing.</u></p>	<p><u>25-22.028</u> <u>Filing, Number of Copies.</u></p>
<p><u>28-106.205</u> <u>Intervention.</u></p>	<p><u>25-22.039</u> <u>Intervention.</u></p>
<p><u>28-106.208</u> <u>Notice of Hearing.</u></p>	<p><u>25-22.029</u> <u>Point of Entry into PAA Proceeding.</u> <u>25-22.0405</u> <u>Notices of Hearings.</u></p>
<p><u>28-106.212</u> <u>Subpoenas.</u></p>	<p><u>25-22.045</u> <u>Subpoenas.</u></p>
<p><u>CHAPTER 28-107 LICENSING</u></p>	<p><u>25-22.075</u> <u>Transmission Line Permitting Proceedings.</u> <u>25-22.080</u> <u>Electrical Power Plant Permitting Proceedings.</u></p>

Specific Authority 120.54(5)(a)3. FS. Law Implemented 120.54(5)(a)3. FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Noreen Davis
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 24, No. 50, December 11, 1998

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Unemployment Compensation

RULE TITLE: Definitions
RULE NO.: 38B-2.022
PURPOSE AND EFFECT: Deletion of rule sections containing definitions which lack specific statutory authority; renumbering sections.
SUMMARY: Deletes certain definitions and terminology not specifically authorized by Chapter 443, F.S.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule is anticipated to have no cost to the agency other than the normal expenses incurred in the promulgation of administrative rules; will have

no special or particular impact upon the small business, counties, or cities; and will not adversely impact competition and the open market for employment.

SPECIFIC AUTHORITY: Chapter 98-149, Laws of Florida.

LAW IMPLEMENTED: 443.036(19)(d)6.,(g),(n)4.,(34), 443.131, 443.171(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric R. Hurst, Esquire, Department of Labor and Employment Security, 2012 Capital Circle, Southeast, Room 307, Hartman Building, Tallahassee, Florida 32399-2189, (850)488-6556

THE FULL TEXT OF THE PROPOSED RULE IS:

38B-2.022 Definitions.

For the purpose of administering Chapter 443, Florida Statutes, the following definitions apply:

(1) through (6) No change.

~~(7) Domestic service: Pursuant to Section 443.036(19)(g), includes work performed by maids, cooks, maintenance workers, chauffeurs, social secretaries, caretakers, private yacht crews, butlers, and houseparents.~~

~~(8) Family relationships: For the purpose of Section 443.036(19)(n)4., Florida Statutes, the relationships include step relationships.~~

~~(7)(9) Holiday: Those dates designated by Section 110.117(1) and (2), Florida Statutes, and any other day that the offices of the United States Postal Service are closed, according to 5 U.S.C. §6103 (1989).~~

~~(10) Mass separation: The permanent or temporary separation on or about the same time of 25 or more workers from a single establishment.~~

~~(8)(11) Predecessor: A legal entity which has transferred all or part of its business to another.~~

~~(9)(12) Reimbursable employer: An employer which is liable for reimbursement payments in lieu of contributions.~~

~~(13) Substantially: For purposes of Section 443.091(5), Florida Statutes, the term "substantially all" shall mean 90% or more.~~

~~(10)(14) Wages:~~

(a) Gross wages: Total wages for insured employment.

(b) Excess wages: The difference between total wages and taxable wages.

(c) Taxable wages: That portion of an employer's payroll upon which contributions are due.

Specific Authority 120.53(1)(b), 443.171(2)(a) FS. Law Implemented 443.036(19)(d)6.,(g),(n)4.,(34), 443.131, 443.171(1) FS. History--New 8-25-92, Amended 12-28-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric R. Hurst

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth E. Holmes

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 23, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 1999, Vol. 25, No. 7, Page 685

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Workers' Compensation

RULE TITLE: Florida Workers' Compensation Reimbursement

RULE NO.: 38F-7.501

Manual for Hospitals

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt by reference the Florida Workers' Compensation Reimbursement Manual for Hospitals, 1999 Edition, and LES Form DWC-90. The Florida Workers' Compensation Reimbursement Manual for Hospitals, 1999 Edition, contains reimbursement policies and per diem rates approved by the Three-Member Panel pursuant to Section 440.13(12), F.S., for use in the workers' compensation system. Deletes references to maximum reimbursement allowances (MRAs).

SUMMARY: This rule sets forth reimbursement policies and per diem rates in the Florida Workers' Compensation Hospital Reimbursement Manual, 1999 Edition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule is anticipated to have no cost to the agency other than the normal expenses incurred in the promulgation of administrative rules; will have no special or particular impact upon small businesses, counties, or cities; and will not adversely impact competition and the open market for employment.

SPECIFIC AUTHORITY: 440.13(4)(b), 440.13(6), 440.13(11), 440.13(12), 440.13(14) FS.

LAW IMPLEMENTED: 440.13(4)(b), 440.13(6), 440.13(7), 440.13(11), 440.13(12), 440.13(14) 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: 10:00 a.m., March 30, 1999

PLACE: Suite 301F, Forrest Building, 2728 Centerview Drive, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Reynolds, Registered Nursing Consultant, Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, Room 100, Forrest Building, 2728 Centerview Drive, Tallahassee, FL 32399-0664, (850)488-3431, ext. 333

THE FULL TEXT OF THE PROPOSED RULE IS:

38F-7.501 Florida Workers' Compensation Reimbursement Manual for Hospitals.

(1) The Florida Workers' Compensation Reimbursement Manual for Hospitals, 1999 ~~1992~~ Edition, is adopted by reference as part of this rule. The manual contains reimbursement policies and per diem rates ~~maximum reimbursement allowances~~ for hospital services and supplies as well as basic instructions and information for all hospitals and ~~insurance~~ carriers in the preparation and reimbursement of bills ~~claims~~ for hospital services.

~~(2) A maximum reimbursement allowance (MRA) is listed for 300 common service codes which is the dollar amount equal to 80 percent of the 50th percentile of charges from Florida's hospital price masters for each code. For the hospital services and MRAs listed in the manual, the following reimbursement methodology is applied to determine the reimbursement amount:~~

~~(a) when a hospital's usual and customary charge is equal to or less than the MRA listed for the common service code, the hospital must be reimbursed 80 percent of its usual and customary charge or the MRA, whichever is less; or~~

~~(b) when a hospital's usual and customary charge is greater than the MRA listed for the common service code, the hospital must be reimbursed 65 percent of its usual and customary charge or the MRA, whichever is greater. When a service is performed which is not listed in the schedule of maximum reimbursement allowances, the hospital must develop an appropriate common service code and descriptor pursuant to the requirements provided on pages 43 and 44 of the manual and must be reimbursed at 70 percent of the hospital's usual and customary charge until such time as these services are itemized in the schedule of maximum reimbursement allowances.~~

~~(3) All medical services, which include hospital services, must be "medically necessary" as defined in s. 440.13, Florida Statutes. Medical services which are of an experimental, investigative or research nature must be approved by the Division of Workers' Compensation prior to authorization by a carrier.~~

(2) LES Form DWC-90, also known as the UB-92, or HCFA-1450, is hereby incorporated by reference as part of this rule.

(3)(4) The Florida Workers' Compensation Reimbursement Manual for Hospitals, 1999 ~~1992~~ Edition, and LES Form DWC-90, are available for inspection during normal

business hours, at which contains the common service codes, reimbursement policies and maximum reimbursement allowances is distributed by the Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, 100 Forrest Building, 2728 Centerview Drive, Tallahassee, Florida 32399-0664, or via the Division's home page at <http://www.wc.les.state.fl.us/DWC/>.

Specific Authority 440.13(4)(b), 440.13(6), 440.13(11), 440.13(12), 440.13(14), 440.594 FS. Law Implemented 440.13(14)(b), 440.13(6), 440.13(7), 440.13(11), 440.13(12), 440.13(14), 440.13(4)(a),(c),(f) FS. History—New 6-9-87, Amended 6-1-92, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Reynolds

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Reginald Watkins, Chief, Bureau of Rehabilitation and Medical Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 1999, Vol. 25, No. 7, Page 685

DEPARTMENT OF ELDER AFFAIRS

Assisted Living Program

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Adult Family-Care Homes	58A-14
RULE TITLES:	RULE NOS.:
Definitions	58A-14.002
License Application, Renewal and Conditional Licenses	58A-14.003
License	58A-14.004
Admission and Appropriateness of Placement	58A-14.0061
Residency Agreement	58A-14.0062
Standards and Practices for Care and Services	58A-14.007
Staff Qualifications, Responsibilities and Training	58A-14.008
Records	58A-14.0085
Physical Site Standards	58A-14.009
Fire Safety Standards and Emergency Procedures	58A-14.0091
Administrative Enforcement	58A-14.010

PURPOSE AND EFFECT: During the 1998 session there were several bills that amended part VII, chapter 400, F.S., relating to the regulation of adult family care homes: Chapter 98-338, L.O.F., relating to licensing and regulation; chapter 98-148, L.O.F., relating to rule promulgation authority; and chapter 98-171, L.O.F., relating to licensing and background screening. The purpose of this proposed rule is to implement all of these bills and carry out the agency rule directives provided in section 120.536 and 120.74, F.S.

SUMMARY: Rule 58A-14.002, relating to definitions, is amended to delete definitions, add new definitions, and update remaining definitions. Rule 58A-14.003, relating to licensing procedures, is amended to incorporate new background screening requirements, delete provisions permitting restrictions on a license, and update and reorganize remaining provisions. Rule 58A-14.004, relating to license, is amended to delete grounds for license denial now in statute, delete restrictions on capacity, add transferred provisions relating to advertising, and to re-organize and update remaining provisions. Rule 58A-14.0061, relating to resident admission, is amended to broaden the criteria for admission and continued residency, provide standards for hospice care, delete transferred provisions relating to the residency agreement, and to update, reorganize and streamline provisions. Rule 58A-14.0062, relating to residency agreements, is created and transferred provisions are clarified and reorganized. Rule 58A-14.007, relating to standards of care, is amended to provide greater guidance with respect to medications, clarify provisions relating to supervision and health monitoring, add standards for nursing care, delete requirement for a resident "needs assessment," delete transferred provisions relating to emergencies, and update, streamline and re-organize provisions. Rule 58A-14.008, relating to staffing requirements, is amended to clarify responsibilities, add and delete training requirements, add a training fee provision, delete transferred provisions relating to records and advertising, and to reorganize and update provisions. Rule 58A-14.0085, relating to facility, staff and resident records, is created and transferred provisions are reorganized and updated. Rule 58A-14.009, relating to physical site requirements, is amended to delete duplicate requirements covered by the Department of Health, the fire code, or local zoning ordinances, and to streamline, reorganize and update remaining provisions. Rule 58A-14.0091, relating to fire safety standards, is amended to add additional fire safety requirements, add transferred emergency procedures, and to streamline and update provisions. Rule 58A-14.010, relating to administrative enforcement, is amended to delete list of violations and fines now in statute, and to update and reorganize remaining provisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 400.617, 400.619, 400.6196, 400.621, 400.6211, 400.625 FS.

LAW IMPLEMENTED: Part VII, Chapter 400 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., Monday, March 29, 1999

PLACE: Florida Department of Elder Affairs, Conference Room 225F, 4040 Esplanade Way, Tallahassee, Florida 32399-7000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pat Dunn, Office of General Counsel, (850)414-2000; Meta Calder, Assisted Living Program, (850)414-2309; Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 58A-14.002 follows. See Florida Administrative Code for present text.)

58A-14.002 Definitions.

The following terms or phrases are defined in s. 400.618, F.S., and are applicable to this rule chapter: activities of daily living (ADLs), adult family-care home (AFCH), agency (AHCA), aging in place, appropriate placement, chemical restraint, department, disabled adult, frail elder, personal services or personal care, provider, relative, relief person, and resident. Additional definitions applicable to this rule chapter are as follows:

(1) "Adult household member" means the provider and any person, 18 years of age or older, who is permanently or regularly present in the home for more than a few hours at a time. A person shall be considered a household member even though the person has another residence if the person is in a position of familial authority or perceived familial authority.

(2) "Advertise" means any written, printed, oral, visual, or electronic promotion, statement of availability, qualifications, services offered, or other similar communication appearing in or on television, radio, the Internet, billboards, newspapers, newsletters, magazines, business cards, flyers, brochures or other medium used for the purpose of attracting potential residents to an adult family-care home. A complimentary listing of the licensed AFCH's name, address, and telephone number in the telephone directory shall not be considered advertising.

(3) "Applicant" means an individual applying for an adult family-care home license.

(4) "Assistance with activities of daily living" means individual assistance with the following:

(a) Ambulation – Providing physical support to enable the resident to move about and maintain balance and providing necessary assistance with walking, stair climbing, or pushing a wheelchair.

(b) Bathing – Assembling towels, soaps, and other necessary supplies, helping the resident in and out of the bathtub or shower, turning water on and off, adjusting water temperatures, washing and drying portions of the resident’s body which are difficult to reach, or being available while the resident is bathing.

(c) Dressing – Helping the resident to choose and to put on and remove appropriate clothing.

(d) Eating – Helping with cutting food, pouring beverages, and hand feeding residents who are unable to feed themselves.

(e) Grooming – Helping the resident with shaving, oral care, care of the hair, and nail care.

(f) Toileting – Reminding the resident about using the toilet, assisting the resident to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including changing adult briefs.

(5) “Bedridden” means confined to bed because of inability to ambulate or transfer to a wheelchair even with assistance, or to sit safely in a chair or wheelchair without personal assistance or physical restraint.

(6) “Capacity” means the number of residents for which an adult family-care home has been licensed to provide room, board and personal care.

(7) “Case manager” means an individual employed by or under contract with any agency or organization, public or private, who has responsibility for assessing resident needs, planning services, coordinating and assisting residents to gain access to needed medical, mental health, social, housing, educational or other services, and monitoring and evaluating service delivery.

(8) “Deficiency” means an instance of non-compliance with the requirements of part VII, chapter 400, F.S., and this rule chapter.

(9) “Health care provider” means a physician or physician’s assistant licensed under chapter 458 or 459, F.S., or advanced registered nurse practitioner licensed under chapter 464, F.S.

(10) “Long-Term Care Ombudsman Council” (LTCOC) means the State Long-Term Care Ombudsman Council or the district long-term care ombudsman councils established under part I of chapter 400, F.S.

(11) “Moratorium” means that an AFCH may not admit a new resident from the date the moratorium is imposed by AHCA until the date the moratorium is lifted by AHCA.

(12) “Nurse” means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP) under chapter 464, F.S.

(13) “Nursing progress notes” or “nursing notes” means a written record of nursing services, other than medication administration or the taking of vital signs, provided to each resident who receives such services. The notes shall be completed by the nurse who delivered the service and shall describe the date, type, scope, amount, duration, and outcome

of services that are rendered; the general status of the resident’s health; any deviations; any contact with the resident’s health care provider; and contains the signature and credential initials of the person rendering the service.

(14) “Optional state supplementation (OSS)” means the state program providing monthly payments to eligible residents pursuant to s. 409.212, F.S., and rule chapter 65A-2.

(15) “Physical restraint” means a device or item which physically limits, restricts, or deprives an individual of movement or mobility. The term also includes any device which was not specifically manufactured as a restraint but which has been altered, arranged or otherwise used for this purpose or otherwise modified to be used as a physical restraint. The term does not include an item or device which the individual can remove or avoid without assistance.

(16) “Pressure ulcer” means a breakdown in skin integrity caused by immobility and prolonged pressure.

(17) “Resident’s representative” means a guardian, attorney-in-fact, next-of-kin, health care surrogate or proxy, or other responsible party with authority to make decisions on behalf of a resident.

(18) “Staff” means any person employed by or under contract to the provider, who directly or indirectly provides services to residents. Staff does not include persons contracting directly with a resident.

(19) “Twenty-four-hour nursing supervision” means nursing services that are ordered by a physician for a person whose condition requires physician supervision and continued monitoring of vital signs and physical status. Such services must be medically complex enough to require the constant supervision, assessment, planning, or intervention by a nurse; be performed by or under the direct supervision of a nurse; required on a daily basis; and consistent with the nature and severity of the resident’s condition or the disease state or stage.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.618, 400.619, 400.619b, 400.621, 400.628 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.002, Amended 9-19-96, _____.

(Substantial rewording of Rule 58A-14.003 follows. See Florida Administrative Code for present text.)

58A-14.003 License ~~License~~ Application, and Renewal and Conditional Licenses.

(1) LICENSE APPLICATION.

(a) Any individual desiring to obtain an initial license to operate an adult family care home shall file an application, AHCA Form 3180-1022, February 1999, which is incorporated by reference, with the Assisted Living Unit, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5402, Phone 850-487-2515. The completed application must be signed by the applicant, notarized, and be accompanied by the following:

1. A completed Request for Level 1 Criminal History Check, AHCA Form 3110-0002, June 1998, and Florida Abuse Hotline Information System Background Check, AHCA Form 3110-0003, July 1998, which are incorporated by reference, for the applicant, each relief person, all adult household members, and all staff. The completed forms will not be required for persons who:

a. Submit proof of Level I screening conducted within the last 5 years pursuant to a facility or professional license requirement of AHCA or the Department of Health and provide a copy of the professional or facility license, and an affidavit of current compliance with the background screening requirements of s. 435.03, F.S.; or

b. Have been continuously employed in the same type of occupation for which the person is seeking employment without a break in service that exceeds 180 days, and can provide proof that level 1 background screening has been conducted within the last 2 years. Proof of compliance must be obtained by the applicant from the person's previous employer and not from the person.

2. A description and explanation of any exclusions, permanent suspensions, or involuntary terminations of the applicant from the Medicaid or Medicare programs or any other governmental health care or health insurance program.

3. If located in an area zoned single-family or multi-family, a community residential home certification form signed by the Department of Children and Family Services' district community residential home coordinator. If not located in an area zoned single-family or multi-family, Local Zoning Form, AHCA Form 3180-1021, September 1996, which is incorporated by reference, or a letter from the local zoning authority, signed by the county zoning official, which states that the applicant is in compliance with local zoning ordinances.

4. Documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009.

5. Documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091.

6. Income and Expense Statement, AHCA Form 3180-1017, September 1996, which is incorporated by reference.

7. Documentation of radon testing as mandated by s. 404.056(5), F.S.

8. Written assurance affirming that the applicant is aware of and will complete the training requirements as described in Rule 58A-14.008.

9. A licensing fee of \$100.

(b) During the licensing process, the agency shall:

1. Conduct Level 1 background screening on the applicant, all adult household members, each relief person, and all staff pursuant to chapter 435, F.S.

2. Conduct an on-site survey of the prospective AFCH. During the survey the agency shall:

a. Visually inspect all rooms and outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009 prior to resident occupancy; and

b. Determine the capacity of the home.

(c) Any deficiencies identified during the survey must be corrected prior to issuance of a license.

(d) If, at the time of applying for an initial license, an applicant is already providing room, board, and one or more personal services to persons who will be considered residents, the provider must be in compliance with all admission and care standards applicable to residents under this rule chapter upon licensing.

(2) LICENSE RENEWAL.

(a) Application forms for license renewal, AHCA Form 3180-1022, shall be mailed annually by the agency to the AFCH provider at least 120 days prior to the expiration of the current license. The provider shall mail or hand-deliver the license renewal application to the agency a minimum of 90 days prior to the expiration date appearing on the currently held license.

(b) In addition to AHCA Form 3180-1022, all applicants for license renewal shall provide the following:

1. Written documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009. Documentation of a satisfactory sanitation inspection shall be provided at the time of the agency's annual survey.

2. Written documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091. Documentation of a satisfactory fire safety inspection shall be provided at the time of the agency's annual survey.

3. A licensing fee of \$100, or \$150 if not filed 90 days prior to the license expiration date.

(c) During the license renewal process the agency shall:

1. Conduct an on-site survey of the AFCH. During the survey the agency shall:

a. Visually inspect all rooms and the outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009. The agency shall refer all safety and sanitation concerns to the county health department, and all fire safety concerns to the local authority with jurisdiction over fire safety

b. Verify that residents meet the criteria for continued residency in an AFCH as provided in Rule 58A-14.0061, and that resident services are being provided in accordance with the standards established in Rule 58A-14.007.

c. Verify that the AFCH provider is complying with all facility, staff, and resident records requirements as provided in Rule 58A-14.0085.

2. Obtain information from the district Long-Term Care Ombudsman Council regarding complaints and whether complaints have been successfully resolved.

3. Request documentation of adequate financial resources to operate the adult family-care home in compliance with health and safety standards if the agency has reasonable cause to believe that the financial stability of the AFCH is in question. Indicators of financial instability include filing of bankruptcy; issuance of checks returned for insufficient funds; non-payment of rent, mortgage, utilities, staff wages or salaries, or taxes; and confirmed complaints to the agency or ombudsman council regarding withholding of funds or refunds due residents.

(3) CONDITIONAL LICENSE. The agency may issue a conditional license to an AFCH if, at the time of license renewal the facility is found to have uncorrected violations.

(a) The issuance of a conditional license shall be contingent upon agency approval of a written plan of correction which includes corrective steps that will be taken to eliminate the deficiencies and a timetable for correction of the deficiencies by the expiration date of the conditional license.

(b) A conditional license shall be issued by the agency only for that time period necessary to comply with applicable licensing standards and complete license renewal procedures, but not to exceed 6 months.

(c) A conditional license shall be revoked and license denied if subsequent follow-up surveys by the agency indicate that necessary progress has not been made toward compliance with applicable licensing standards.

(d) The issuance of a conditional license does not change the annual license expiration date.

(4) LICENSE DENIAL. Applicants and providers denied a license shall be notified by the agency of their right to appeal the denial of the license, the remedies available, and the time limit for requesting such remedies as provided under part II of rule chapter 59-1 and chapter 120, F.S.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.003, Amended 9-19-96,_____.

(Substantial rewording of Rule 58A-14.004 follows. See Florida Administrative Code for present text.)

58A-14.004 License.

(1) Except for conditional licenses, all AFCH licenses shall be effective for 1 year from the date of issuance.

(2) A license to operate an AFCH is not transferable and is valid only for the provider named, the capacity stated, and the premises described on the license.

(3) The licensed provider shall give at least 60 days written notice to the AHCA Assisted Living Unit, each residents or resident's representative, and case managers of OSS recipients, of any intent to voluntarily close or sell a currently licensed AFCH.

(4) LICENSED CAPACITY.

(a) There shall be no more than 5 residents in any AFCH. The number of residents permitted in a particular adult family-care home will be determined by the agency based upon the fire safety standards provided under Rule 58A-14.0091, and compliance with physical site standards established in Rule 58A-14.009. An increase in capacity may not be made without the prior approval of the agency.

(b) Adult relatives of the provider who require personal care and supervision and reside in the home for more than 30 days shall be considered residents only for the purposes of determining capacity.

(c) Except homes licensed as adult foster homes or adult congregate living facilities prior to January 1, 1994, each AFCH must designate at least one licensed space for a resident receiving optional state supplementation.

(5) ADVERTISING. A licensed adult family-care home may advertise accommodations and services consistent with its license.

(a) The AFCH may not be listed in the yellow pages of the telephone directory under the heading of "nursing home" or "assisted living facility."

(b) An advertisement for an adult family-care home must include the term "adult family-care home" and the home's license number.

(c) Pursuant to s. 400.6255, F.S., an AFCH claiming to provide special care for persons with Alzheimer's disease or other related dementias must disclose those special care services in any advertisement or in a separate document, which shall be distributed to the public upon request.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621, 400.6255 FS. History--New 5-14-86, Amended 2-2-95, Formerly 10A-14.004, Amended 9-19-96.

(Substantial rewording of Rule 58A-14.0061 follows. See Florida Administrative Code for present text.)

58A-14.0061 Admission and Appropriateness of Placement.

(1) ADMISSION. In order to be admitted as a resident to an AFCH an individual must:

(a) Be at least 18 years of age.

(b) Be free from apparent signs and symptoms of any communicable disease, including tuberculosis which is likely to be transmitted to other residents, as documented in the Health Assessment Form described in subsection (2). A person who has HIV infection may be admitted provided the person would otherwise be eligible for admission according to this rule.

(c) Be capable of self-preservation in an emergency situation involving the immediate evacuation of the AFCH, with assistance with ambulation if needed.

(d) Be able to perform, with supervision or assistance, activities of daily living.

(e) Not be a danger to self or others as determined by a health care provider or licensed mental health professional.

(f) Not require licensed professional mental health treatment on a 24-hour a day basis.

(g) Not have special dietary needs which cannot be met by the provider.

(h) Not be bedridden.

(i) Not have stage 3 or 4 pressure ulcers. An individual with a stage 2 pressure ulcers may be admitted only if the individual is under the care of a nurse pursuant to a plan of care issued by a health care provider. Such nursing service must be provided in accordance with Rule 58A-14.007.

(j) Not require the use of chemical or physical restraints.

(k) Not require 24-hour nursing supervision.

(1) Not have personal care and nursing needs which exceed the capability of the provider to meet or arrange for such needs. The provider is responsible for determining the appropriate placement of the individual in the AFCH.

(2) HEALTH ASSESSMENT. Prior to admission to an AFCH, the individual must be examined by a health care provider using the Resident Health Assessment, DOEA Form 1110, February 1999, which is incorporated by reference, and available from the Assisted Living Program, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000.

(3) HOUSE RULES AND COMPLAINT PROCEDURES. Prior to, or at the time of admission a copy of the AFCH house rules, the Resident's Bill of Rights established under s. 400.628, F.S., the name, address, and telephone number of the district long-term care ombudsman council and the Florida Abuse Hotline, and the procedure for making complaints to the ombudsman council and the abuse registry must be provided to the resident or the resident's representative.

(4) TEMPORARY EMERGENCY SERVICES. Residents placed on an emergency basis by the Department of Children and Family Services pursuant to ss. 415.105 or 415.1051, F.S., must meet the admission requirements of this rule. However, only residents whose stay in the home exceeds 30 days, must be examined by a health care provider under subsection (2) of this section, and covered by a residency agreement under Rule 58A-14.0062. A temporary emergency placement may not be made if the placement causes the home to exceed licensed capacity.

(5) CONTINUED RESIDENCY.

(a) The criteria for continued residency shall be the same as the criteria for admission, except that:

1. A resident may be bedridden for up to 7 days for a temporary illness.

2. A resident with a stage 2 pressure ulcer must be discharged if the pressure ulcer has not healed within 30 days or has not reduced to a stage 1.

3. A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the AFCH if:

a. The resident qualifies for, is admitted to, and consents to the services of a licensed hospice which coordinates the additional care that may be needed;

b. Continued residency is agreeable to the resident and the provider; and

c. An interdisciplinary care plan is developed and implemented by the hospice in consultation with the provider.

(b) If the resident no longer qualifies for continued residency, the provider shall assist the resident to obtain another placement.

(c) The provider is responsible for monitoring the continued appropriateness of placement of a resident in the home.

(6) DISCHARGE.

(a) Except as provided in paragraph (b), a resident shall not be discharged without 30 days' written notice stating reasons for the move or transfer. The notice shall be delivered to the resident or the resident's representative. A resident or resident's representative who objects to the move shall be given the opportunity of an informal conference if requested in writing within 10 days of receipt of notice. Participants shall include the resident or resident's representative, and at the resident's or representative's request, a family member, the resident's case manager, a district long-term care ombudsman council representative (LTCOC), a Human Rights Advocacy Committee (HRAC) representative; and the provider and representation from a provider association if the provider requests it. The purpose of the conference is to determine if a satisfactory resolution can be reached. This is not to be considered an administrative hearing.

(b) Residents shall only be moved or transferred without the required 30 day notice for the following reasons:

1. The resident's health requires an immediate relocation to a facility which provides a more skilled level of care as certified by a physician;

2. The resident's behavior poses an imminent danger to self or others, significantly interferes with the orderly operation of the home, or is continually offensive to other residents; or

3. The AFCH has had its license denied, revoked, not renewed, or has voluntarily surrendered its license.

Specific Authority 400.621 FS. Law Implemented 400.618, 400.621, 400.625, 400.628, FS. History--New 2-2-95, Formerly 10A-14.0061, Amended 9-19-96,_____.

58A-14.0062 Residency Agreement.

(1) Pursuant to s. 400.625, F.S., before or at the time of admission to an AFCH, the provider and the resident or the resident's representative must sign an agreement, a copy of

which must be given to the provider and kept on file for 5 years after the expiration of the agreement, and a copy of which must be provided to the resident or resident's representative.

(2) The residency agreement must include the following:

(a) A list specifically setting forth the services and accommodations to be provided by the adult family-care home.

(b) The daily, weekly or monthly rates and charges and a statement that the provider will provide at least 30 days' notice before implementing a rate increase.

(c) A bed hold policy for residents who request the provider to reserve a bed for the resident if the resident's health requires the resident to be admitted to a nursing home or hospital. The bed hold policy shall permit the provider to continue to charge the agreed upon daily rate until the provider receives notification in writing from the resident or the resident's representative that the resident will not be returning to the home. However, the provider may not continue to charge the agreed upon daily rate if the resident's physical or mental condition prevents the resident from giving notification and the resident does not have a representative to act on the resident's behalf.

(d) The AFCH's discharge policy and a statement that if the resident is given a notice of discharge an informal hearing can be requested as provided under Rule 58A-14.0061.

(e) A refund policy to apply when a resident is discharged or dies. The refund policy shall state that:

1. The resident or resident's representative is entitled to a prorated refund for any unused portion of payment beyond the discharge or termination date. The refund will be less the cost of documented damages to the AFCH caused by the resident before the discharge or termination date that results from circumstances other than normal use. Claims against the refund must be in writing and must include a list of all documented damages and costs.

2. The refund must occur within 45 days of receipt of a written notice of discharge, or 15 days after the resident has moved or dies, whichever occurs later.

(3) An addendum shall be added to the residency agreement to reflect any additional services and charges not covered by the original agreement. Such addendum must be dated and signed by the provider and the resident or resident's representative and a copy given to the provider and the resident or the resident's representative.

Specific Authority 400.625 FS. Law Implemented 400.625, 400.628 FS. History--New _____.

(Substantial rewording of Rule 58A-14.007 follows. See Florida Administrative Code for present text.)

58A-14.007 Standards and Practices for Care and Services.

The adult family-care home provider shall ensure the provision of the following in accordance with part VII of chapter 400, F.S., this rule chapter, and the residency agreement:

(1) PERSONAL SERVICES.

(a) Assistance with or supervision of the activities of daily living as required by the resident. For a diabetic resident or a resident who has documented circulatory problems, cutting toenails shall only be permitted with written approval of the health care provider.

(b) Assistance with or supervision of the self-administration of medication, or medication administration.

1. Residents who are capable of self-administering their medications shall be encouraged and allowed to do so.

2. For residents who require supervision or assistance with self-administration, the provider or staff shall, as needed:

a. Remind residents when to take medications;

b. Prepare and make available such items as water, juice, cups, spoons, or other items necessary for administering the medication;

c. Obtain the medication and provide it to the resident.

d. Observe the resident take the medication and verify that the resident is taking the dosage as prescribed; and

e. Provide any other assistance at the express direction of the resident or the resident's representative, except for administering the medication as defined in s. 465.003, F.S.

3. Medication administration in an AFCH is a nursing service and may only be provided as described in subsection (5) of this rule, except that instead of nursing progress notes, a record of medication administration shall be maintained which includes the name of the resident and any known allergies the resident may have; the name of the resident's health care provider and the health care provider's telephone number; the name of each medication prescribed, its strength, and directions for use; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The chart must be updated each time the medication is administered.

4. A list of currently prescribed medications shall be maintained for all residents who self-administer or who require supervision or assistance with medications which includes the name of each medication prescribed, its strength and directions for use, and common side effects.

5. Nurses may manage weekly pill organizers for residents who self-administer or who require supervision or assistance with self-administration.

6. Prescription medications which are centrally stored by the provider shall be appropriately stored in their legally dispensed, labeled, original containers. Appropriately stored means that the medication be kept in an area free of dampness and abnormal temperatures, except that a medication requiring refrigeration shall be refrigerated.

(2) SUPERVISION.

(a) The AFCH provider shall provide general supervision which includes being aware of the resident's general whereabouts and well-being while the resident is on the premises of the AFCH in order to ensure the resident's safety and security, and reminding the resident of any important tasks or activities, including appointments, as needed by the resident. The provider is responsible for determining and providing adequate supervision, however, under no circumstances shall a resident be left unattended for more than 2 hours.

(b) Any major incident and the action taken in response to that incident must be documented in the resident's record. A major incident includes:

1. An injury to a resident which requires assessment and treatment by a health care provider. The resident's record must include a description of the circumstances under which the injury occurred.

2. Determining that a resident is missing. Whenever a resident is determined to be missing, the provider, relief person, or staff-in-charge shall notify the local law enforcement agency within 1 hour. The resident's representative, next-of-kin, and case manager shall be notified within 4 hours or within a time frame previously agreed upon in writing between the provider and the resident's representative, next-of-kin, or case manager.

3. Any event, such as a fire, natural disaster, or other occurrence which results in the disruption of the AFCH's normal activities.

4. The death of a resident. The resident's representative, next-of-kin, and case manager must be notified within 4 hours of death or within a time frame previously agreed in writing upon between the provider and the resident's representative, next-of-kin, or case manager.

(3) HEALTH MONITORING. The AFCH provider shall be responsible for observing, recording and reporting any significant changes in the resident's normal appearance, behavior or state of health to the resident's health care provider and representative or case manager. Significant changes include a sudden or major shift in behavior or mood; a deterioration in health status, such as unplanned weight change, stroke, heart condition, a stage 2 pressure ulcer. Ordinary day-to-day fluctuations in functioning and behavior, short-term illness such as a cold, or the gradual deterioration in the ability to carry out the activities of daily living that

accompanies the aging process are not considered significant changes. As part of health monitoring, residents shall be weighed on a monthly basis.

(4) FOOD SERVICE.

(a) For residents not routinely absent from the home for a day program or other purpose, at least 3 meals shall be prepared and served in the home where the resident lives during each 24 hour period. Beverages and nutritious snacks shall be made available between meals.

(b) If residents are routinely absent from the AFCH during a regular meal time, they must be provided with take-out meals if other provisions have not been made by the resident or the day program.

(c) Payment for meals eaten away from home for the convenience of the provider (i.e., restaurants or senior meal sites) is the responsibility of the provider. However, meals and snacks as part of an individually arranged recreational outing are the responsibility of the resident.

(d) In order to ensure adequate nutrition and variety, meals shall be planned based on the recommendations of the U.S. Department of Agriculture's Food Guide Pyramid – A Guide to Daily Food Choices, prepared by methods which conserve nutritional value, and served in a form easy for the residents to manage.

(e) Special diets are to be provided as prescribed in written orders by the resident's health care provider.

(f) Consideration shall be given to the resident's cultural and ethnic background and individual preferences in food selection and preparation.

(g) Dining and serving arrangements shall provide an opportunity for residents to make food selections.

(h) All residents shall be given the opportunity to eat with the AFCH provider, other residents, and other members of the household.

(5) NURSING SERVICES. In order to permit the resident to age in place, any nursing service needed by the resident can be provided or arranged for by the provider, or the resident or the resident's representative may directly contract with a licensed home health agency or nurse to provide these services, provided that:

(a) The resident does not exceed the admission and continued residency standards provided under Rule 58A-14.0061; and

(b) If provided or arranged for by the AFCH provider, the nursing service must be:

1. Authorized by a health care provider's order;

2. Medically necessary and reasonable for treatment of the resident's condition;

3. Properly provided pursuant to chapter 464, F.S., and the prevailing standard of practice in the nursing community;

4. A service that can be safely, effectively, and efficiently provided in the home;

5. Recorded in nursing progress notes; and

6. Provided in accordance with the residency agreement.

(6) ADDITIONAL SERVICES. The adult family-care home provider shall also ensure the provision of the following:

(a) The arrangement of, transportation to, and for someone to accompany the resident to medical, dental, nursing, or mental health appointments, to the extent needed by the resident.

(b) Clothing that is in good repair, consistent with general standards of dress in the community, and appropriate for the season.

(c) Linens and laundry services shall be furnished as needed by the provider. Residents who wish to use their own linens, or who are willing and able to do their own laundry shall be permitted to do so.

(d) Securing social and leisure services for the resident.

(e) Arranging for participation in religious activities, if requested by the resident.

(f) A congenial and homelike atmosphere within the residence.

Specific Authority 400.621(4) FS. Law Implemented 400.621, 400.6255, 400.628 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.007, Amended 9-19-96, _____.

(Substantial rewording of Rule 58A-14.008 follows. See Florida Administrative Code for present text.)

58A-14.008 Staff Qualifications, Responsibilities and Training.

(1) MINIMUM STAFF REQUIREMENTS.

(a) The provider, all staff, each relief person, and all adult household members must submit a statement from a health care provider, based on an examination conducted within the last six months, that the person is free from apparent signs and symptoms of communicable diseases including tuberculosis. Freedom from tuberculosis must be documented on an annual basis. Persons with a positive tuberculosis test must submit a physician's statement that the persons does not constitute a risk of communicating tuberculosis.

(b) The provider, all staff, each relief person, and all adult household members must meet Level 1 background screening requirements established in s. 435.03, F.S., or have been exempted from disqualification as provided in s. 435.07, F.S. The provider must submit completed AHCA Forms 3110-0002 and 3110-0003, or other evidence of compliance as provided in s. 400.619, F.S., and Rule 58A-14.003, for any staff, relief persons, or adult household members not screened at the time of initial license application pursuant to the screening schedule provided in s. 435.05, F.S.

(c) The provider, each relief person, and all staff must comply with the training requirements provided in subsection (4) of this rule.

(2) PROVIDER

(a) An adult family-care home provider must:

1. Be at least 21 years of age.
2. Live in the home.
3. Be able to read, write and complete written materials involved in applying for an AFCH license and maintaining an AFCH.

4. Complete required training.

(b) An adult family-care home provider is responsible for:

1. The operation and maintenance of the AFCH in accordance with part VII of chapter 400, F.S., and this rule chapter.

2. Ensuring that residents are appropriate for placement and continued residency in the home as provided under Rule 58A-14.0061, and that care and services are provided for residents in accordance with Rule 58A-14.007.

(c) In the event of severe illness, incapacity, or death of the provider, the relief person or staff in-charge shall notify each resident's representative or case manager, and the AHCA Area Office within 24 hours.

(3) RELIEF PERSONS.

(a) The adult family care home provider must designate one or more relief persons to assume responsibility for the care of residents if the provider is not available to perform that duty.

(b) The relief person must be:

1. At least 21 years of age; and
2. Knowledgeable about and able to provide for all care needs of the residents.

(c) The provider must notify the agency in writing within 30 days of a change in relief persons and ensure that the relief person is appropriately background screened and trained as described in this rule.

(4) TRAINING.

(a) All AFCH providers must attend a 12-hour basic adult family-care home training program provided by the department which covers the minimum requirements of s. 400.6211, F.S., prior to accepting any residents, or for providers who already have persons residing in the home that will be considered residents, prior to licensing.

(b) The AFCH provider shall annually obtain 3-hours of continuing education in topics related to the care and treatment of frail elders or disabled adults, or the management and administration of an adult family-care home.

(c) AFCH providers must attend update training for any portion of the basic course which has been updated as the result of new legislation or rule amendment.

(d) The AFCH provider, each relief person, and any person left in sole charge of residents, which may include staff, household members or volunteers, must hold a currently valid card documenting completion of courses in First Aid and CPR. A nurse shall be considered as having met the training requirement for First Aid.

(e) Prior to assuming responsibility for the care of residents or within 30 days of employment, the AFCH provider shall ensure that each relief person and all staff receive training in areas that are relevant to the person's job duties, including, emergency and evacuation procedures, universal precautions, food safety, reporting abuse and neglect, and resident rights.

(f) The department's AFCH trainer in the planning and service area where an AFCH is located shall notify AFCH providers of record, and others who request notification, of AFCH training offered by the department. A schedule of department training offered and a list of trainers is available from the Assisted Living Program, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, phone number (850)414-2309.

(g) Fees.

1. Except for licensed AFCH providers, each relief person, and AFCH license applicants, the department shall charge the following fees for training provided under this rule:

- a. AFCH basic training \$50
- b. Update training \$25

2. The department shall charge the following fees for printed materials available from the department printed or on diskette:

- a. Adult Family Care Home Provider's Guide \$25
- b. Adult Family Care Home Law and Rule \$ 5

Specific Authority 400.619, 400.621, 400.6211 FS. Law Implemented 400.619, 400.621, 400.6211 FS. History--New 2-2-95, Formerly 10A-14.008, Amended 9-19-96,_____.

58A-14.0085 Records.

(1) RESIDENT RECORDS. The AFCH provider shall maintain a separate record for each resident on the premises and available for inspection by the agency.

(a) The record shall, at a minimum, contain:

1. The Resident Health Assessment, DOEA Form 1110, required by Rule 58A-14.0061. A completed and signed form faxed by the health care provider shall be acceptable.

2. A copy of the residency agreement which meets the requirements of Rule 58A-14.0062, including a copy of any notices of rate increases sent to the resident or the resident's representative and any addendums.

3. For residents who are OSS recipients, a copy of the Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, March 1998, provided by the Department of Children and Family Services.

4. Resident information which includes:

a. The name, address and telephone number of the resident's guardian, attorney-in fact, health care surrogate, next-of-kin, and any other responsible party with authority to make decisions on behalf of the resident.

b. The name, address and telephone number of the resident's health care provider, health maintenance organization, dentist and case manager as applicable.

5. A complete accounting of any resident funds being received or distributed by the provider as required by s. 400.628, F.S.

6. For residents who self-administer, with or without supervision or assistance, a list of the resident's current medications; or for resident's receiving administration, the record of medications administered, as required under Rule 58A-14.007.

7. For residents receiving nursing services provided or arranged for by the provider, the nursing progress notes required under Rule 58A-14.007, and the health care provider's order authorizing the nursing service.

8. A copy of any special diet order prescribed by the resident's health care provider as required under Rule 58A-14.007.

9. A record of any major incidents or significant health changes and action taken in response to such incidents or changes as required under Rule 58A-14.007.

10. The resident's monthly weight record as required by Rule 58A-14.007.

11. Documentation that the resident's bill of rights and the procedure for lodging complaints has been discussed with the resident or the resident's representative, as required by Rule 58A-14.0061.

12. Documentation that the house rules have been discussed with the resident or the resident's representative as required by Rule 58A-14.0061.

13. A copy of any notice of discharge sent to the resident or the resident's representative pursuant to Rule 58A-14.0061.

14. For AFCHs which claim to provide special care for persons with Alzheimer's disease or related disorders, a copy of all advertisements or documents distributed to the public as described in Rule 58A-14.004.

(b) Closed resident records shall be retained for a period of 5 years after the resident leaves the AFCH. The provider shall be permitted 1 working day to produce closed records.

(2) STAFF RECORDS.

(a) An AFCH provider shall, at a minimum, maintain the following personnel records on the premises and available for inspection by the agency:

1. For the AFCH provider, each relief person, each household person, and each staff person verification of freedom from communicable disease as required under Rule 58A-14.008.

2. For the AFCH provider, each relief person, and each staff person

a. Written documentation of all training required by Rule 58A-14.008.

b. A copy of any professional license.

3. For each staff member employed by the provider, a copy of the employment application which shall include the date of beginning employment.

4. For any person left in sole charge of residents written documentation of First Aid and CPR training as required by Rule 58A-14.008.

(b) If the AFCH provider contracts with a staffing agency to provide services to residents, the contract between the AFCH provider and the staffing agency must specifically describe the services the agency will be providing to residents. The AFCH provider is not required to maintain personnel records for staff provided by a staffing agency.

(3) FACILITY RECORDS. The AFCH provider shall maintain the following records on the premises and available for inspection by the agency:

(a) The AFCH license issued by the agency, which shall also be available to the public upon request.

(b) A copy of the most recent county health department inspection required by Rule 58A-14.009.

(c) A copy of the most recent fire safety inspection required by Rule 58A-14.0091.

(d) Documentation of radon testing.

(e) The emergency plan required by Rule 58A-14.0091.

(f) An up-to-date log listing all residents, and each resident's:

1. Date of admission, the place admitted from and the reason for moving into the home, if known; and

2. Date of discharge, the reason for discharge, and the location to which the person has been discharged, or if the person is deceased, the date of death.

(g) All completed survey and complaint investigation reports, and notices of sanctions and moratoriums issued to the AFCH by the agency within the last 3 years, which shall also be available to the public upon request.

Specific Authority 400.619, 400.621, 400.6211, 400.625 FS. Law Implemented 400.619, 400.621, 400.6211, 400.625, 400.628 FS. History—New _____.

(Substantial rewording of Rule 58A-14.009 follows. See Florida Administrative Code for present text.)

58A-14.009 Physical Site ~~Standards Requirements~~.

(1) GENERAL REQUIREMENTS.

(a) The AFCH shall be located, designed, equipped, and maintained to ensure a home-like environment, and to provide safe care and supervision for all residents. Residents shall be allowed free use of all space within the home except when such use interferes with the safety, privacy, and personal possessions of household members and other residents.

(b) The AFCH shall be structurally sound and in good repair. Windows, doors, plumbing, and appliances shall be functional and in good working order. All furniture and furnishings shall be clean and functional.

(c) In order to ensure a safe and sanitary environment, the AFCH shall be subject to inspection by the county health department, pursuant to rule chapter 64E-12, at the time of license application and prior to license renewal.

(2) COMMON AREAS

(a) At a minimum, there must be 40 square feet of common space per each resident and household member, or a total of 150 square feet of common area, whichever is greater. Common space includes the living room, family room, and dining room. The basement and garage shall not be included in the total common area unless such space was constructed or renovated to be used as a common area pursuant to a lawfully issued permit.

(b) The furnishings in common areas shall be adequate to accommodate all residents and household members, including allowing the residents and household members to eat together in the dining area. The provider shall assist the resident to use any adaptive equipment for eating if such equipment has been ordered by the resident's health care provider.

(c) The AFCH shall, at a minimum, maintain a telephone in the home which is available and accessible for the residents' use at all times.

(d) Pursuant to s. 400.0071, F.S., the procedures for lodging complaints with the long-term care ombudsman council must be posted in full-view in a common area accessible to all residents.

(3) BEDROOMS.

(a) Single bedrooms for residents shall provide at least 80 square feet of floor space for each resident. Multi-occupancy bedrooms shall provide at least 60 square feet of floor space per resident. Any area where a sloped ceiling does not allow a person to stand upright shall not be counted as part of the required floor space. Homes licensed for the first time after February 2, 1995, or already licensed homes who increase their maximum capacity after February 2, 1995, may not have more than two residents per room.

(b) Bedrooms for all residents shall be finished with walls or partitions which go from floor to ceilings and which have a door which opens directly to a hallway or common area without passage through another bedroom or common bathroom. Bedroom doors shall not have vision panels. Window drapes or shades shall be provided to ensure resident privacy.

(c) There shall be a separate bed at least 36 inches wide and 72 inches in length for each resident consisting of a mattress and frame at a comfortable height to assure easy access by the resident. Cots, rollaways, bunks, trundles, couches, and folding beds may not be used for residents.

(d) A household member may not sleep in areas designated as common areas, nor share a bedroom with a resident. Married residents shall be provided the option of sharing bedroom accommodations, but non-related residents of different genders shall not be required to share bedroom accommodations.

(e) In addition to closet space, each bedroom shall have separate and private storage space for each resident's clothing and personal effects. Residents shall be allowed to keep and

use reasonable amounts of personal belongings, and shall be allowed to decorate their private quarters in an individual style provided such decor does not damage the provider's property.

(f) Bedrooms shall be on a ground level for residents who are non-ambulatory or have impaired mobility.

(4) BATHROOMS.

(a) A toilet and sink shall be provided on each floor with resident bedrooms. There shall be at least one toilet and sink for each 4 household occupants, and at least one tub or shower for each 6 household occupants. Household occupants include residents and household members, 2 years of age and older, who reside in the AFCH.

(b) Bathrooms shall have a finished interior, a mirror, and a door which insures privacy and opens to a hall or common area. Access to a bathroom may not be through another person's bedroom.

(c) Glass shower doors shall be tempered safety glass; shower curtains shall provide privacy. Non-slip floor surfaces shall be provided in tubs and showers. Residents shall have racks or hooks for drying bath linens and be provided a separate place for tooth brushes and towels.

(d) Bathrooms used by physically handicapped residents shall have grab bars for toilets, tubs, and showers. Hot water temperature shall be supervised for persons unable to self-regulate water temperature.

(e) If the home has a hot tub or spa, it shall have a safety cover when not in use.

(5) OUTDOOR AREAS. The AFCH shall have a yard available and accessible for use by residents.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History—New 2-2-95, Formerly 10A-14.009, Amended 9-19-96,_____.

(Substantial rewording of Rule 58A-14.0091 follows. See Florida Administrative Code for present text.)

58A-14.0091 Fire Safety Standards and Emergency Procedures.

(1) FIRE SAFETY STANDARDS.

(a) Each adult family-care home shall be subject to chapter 21, section 22-3.3.5.3 of chapter 22, sections 23-2.2.1 and 23-2.3.4.3 of chapter 23, and sections 31-7.1, 31-7.2, and 31.7.3 of chapter 31 of the National Fire Protection Association Life Safety Code, NFPA 101, 1994 edition, which is adopted by reference.

(b) At the time of license application, prior to license renewal, and prior to an increase in capacity, the provider shall request the local authority having jurisdiction over fire safety to inspect the home for compliance with local codes and ordinances and the minimum standards of this rule. The inspection may be made by an employee of the agency who has a certification in fire safety, if the local fire authority indicates

in writing that there is no inspector available to conduct an inspection. However, only the local fire authority shall give approval for multi-storied frame buildings.

(2) EMERGENCY PROCEDURES.

(a) The AFCH shall have a written plan which specifies emergency and evacuation procedures for fires and such natural disasters as hurricanes, floods, and tornadoes. The provider shall review the plan's emergency and evacuation procedures with the residents, the relief person, all staff, and all household members.

(b) The provider shall at all times maintain first aid and emergency supplies including a 3-day supply of non-perishable food based on the number of residents and household members currently residing in the home, and 2 gallons of drinking water per current resident and household member.

(c) Emergency telephone numbers shall be present by a designated telephone and include the following:

1. The emergency number 911;

2. Police;

3. Fire department;

4. Ambulance;

5. The Florida Poison Information Center 1(800)282-3171;

6. Abuse Hotline 1(800)962-2873;

7. District Long-Term Care Ombudsman Council;

8. AHCA's Area Office; and

9. The Relief Person.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History—New 9-19-96, Amended_____.

(Substantial rewording of Rule 58A-14.010 follows. See Florida Administrative Code for present text.)

58A-14.010 Administrative Enforcement.

(1) GENERAL REQUIREMENTS

(a) The provider shall cooperate with agency personnel during surveys or inspections, complaint investigations, implementation of correction plans, license application and renewal procedures, and other activities necessary to ensure compliance with part VII of chapter 400, F.S., and this rule chapter.

(b) In addition to agency personnel, any designated agent of the department, the Department of Health, the local authority with jurisdiction over fire safety, the Department of Children and Family Services, the Long-Term Care Ombudsman Council, and the Human Rights Advocacy Committee may enter and inspect the home at any time between the hours of 8:00 a.m. and 8:00 p.m., or any other time if necessary to investigate a complaint.

(2) INSPECTIONS.

(a) The agency shall conduct a survey or inspection of an adult family-care home:

1. Prior to issuance of a license;

2. Prior to annual renewal of a license;

3. Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;

4. At any time if the agency has reason to believe an AFCH has violated a provision of part VII of chapter 400, F.S., or this rule chapter;

5. To determine if cited deficiencies or noticed violations have been corrected; and

6. To determine if an adult family care home is operating without a license.

(b) The inspection shall consist of full access to and examination of the home's physical premises, including the buildings, grounds, and equipment, and facility and resident records.

(c) Agency personnel may interview the provider, relief person, staff and residents. Interviews shall be conducted privately.

(d) Agency personnel shall respect the private possessions of residents, providers, household members, and staff while conducting the inspection.

(e) At the time of the inspection, the provider will be orally advised of any deficiencies found by agency personnel and a time frame established for correction of the violations. The time frame for the correction of violations starts from the date of the inspection. Cited deficiencies must be observed or otherwise substantiated by agency personnel. A written statement listing the deficiencies found, the rules or statutes violated, any corrections required, and time frames for correction shall be mailed to the AFCH by the agency within 10 working days after the date of inspection.

(f) For Class I violations that present an imminent danger to the health, safety or welfare of residents, the provider must correct the violation and abate the conditions no later than 24 hours after agency inspection, unless a different time frame has been fixed by the agency as required by s. 400.6196, F.S. The agency shall inspect the AFCH after the 24 hour period to determine if the violations have been corrected.

(g) For deficiencies found following an initial license or license renewal survey, a follow-up survey will be conducted to determine if the deficiencies have been corrected within the required time frame.

(3) COMPLAINT INVESTIGATIONS.

(a) The agency shall investigate any complaints regarding alleged practices in an AFCH that threaten the health, safety, or welfare of residents and shall notify the provider of the nature of the complaint, the results of the investigation, and any proposed action or sanction.

(b) If a complaint pertaining to the health, safety or welfare of residents is substantiated, the license of the provider shall be subject to agency actions or sanctions as provided in part VII of chapter 400, F.S., and this rule.

(c) Pursuant to s. 400.628, F.S.:

1. The provider may not retaliate against any resident by increasing charges; decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; by taking or threatening to take any action to coerce or compel the resident to leave the home or by harassing, abusing or threatening to harass or abuse a resident in any manner after the resident has filed a complaint with the agency or with the long-term care ombudsman council.

2. Any complainant, witness or staff shall not be subject to any retaliation, including restriction of access to the home or a resident, staff dismissal or harassment by a provider for filing a complaint or being interviewed about a complaint or being a witness.

(4) PLAN OF CORRECTION. For deficiencies found following a complaint investigation or other monitoring visit, the provider must provide a written plan of correction for each deficiency cited and a time frame for the correction of the deficiencies within the time frame discussed at the time of the complaint investigation or monitoring visit. The plan of correction must be returned no later than 10 working days after receipt of written notice.

(5) INFORMAL CONFERENCE Informal Conference. At any time after receipt of an oral or written notice of deficiencies, but prior to the expiration of the time frame for making corrections, the licensee or the agency may request a conference. The purpose of the conference is to discuss the deficiency and to provide information to the licensee or to the agency to assist the licensee in complying with the requirements of part VII of chapter 400, F.S., and these rules. The request by a licensee or the agency for a conference does not extend any previously established time limit for correction.

(6) ADMINISTRATIVE SANCTIONS.

(a) If, after inspection the deficiencies have not been corrected within the time frame specified, or if the agency has not otherwise received sufficient evidence of compliance by the provider, the agency shall serve notice of administrative complaint upon the licensee in the manner provided under chapter 120, F.S., and part II of Rule Chapter 59-1, and impose one or more administrative sanctions as provided under ss. 400.6194 and 400.6196, F.S.

(b) Notice of a license suspension or revocation shall be posted in the AFCH and visible to the public entering the home and residents.

(7) MORATORIUMS.

(a) An immediate moratorium on admissions to an AFCH shall be placed on the home by the agency when it has determined that any condition or practice in the home presents a serious threat to the health, safety, or welfare of the residents.

(b) Following the imposition of the moratorium, the provider shall be provided with written confirmation of the placing of a moratorium by the agency, which notice shall be posted in the AFCH such that it is visible to the public entering the home, and shall:

1. Explain the reasons the moratorium was imposed;
2. Advise the provider how to arrange for an appraisal inspection by agency personnel to verify that corrections have been made;
3. Advise the provider of his/her right to request an administrative hearing pursuant to s. 120.57, F.S., and part II of rule chapter 59-1.

(c) While the moratorium is in effect, residents who have been temporarily discharged from the AFCH to a nursing home or hospital at the time the moratorium is imposed may not be re-admitted without agency approval.

(d) Moratoriums shall not be lifted until the violations have been corrected and the agency has been assured by an appraisal inspection that there is no longer any threat to the residents' health, safety, or welfare. The lifting of a moratorium will be confirmed by written notification.

Specific Authority 400.619, 400.6196, 400.621 FS. Law Implemented 400.619, 400.6194, 400.6196, 400.628 FS. History--New 2-2-95, Formerly 10A-14.010, Amended 9-19-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Meta Calder

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 1998

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE TITLE: Application Procedure; Application Form; Fees; Confidential Information; Denial of Application; Request for Hearing

RULE NO.: 61G7-5.001

PURPOSE AND EFFECT: Under the authority of the Board, the proposed rule is being amended in order to no longer require information be received 10 working days prior to the Board meeting.

SUMMARY: The proposed rule is being amended in order to update the current rule's requirements.

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

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

SPECIFIC AUTHORITY: 120.53(1), 455.2281, 468.522, 468.5245, 468.5275 FS.

LAW IMPLEMENTED: 468.524(2), 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-5.001 Application Procedure; Application Form; Fees; Confidential Information; Denial of Application; Request for Hearing.

(1) through (3) No change.

(4) The Board shall review every applicant's completed application and shall decide by majority vote in open meeting whether to certify to the Department that the applicant is qualified for licensure. New applications for employee leasing company or employee leasing company group and controlling person(s) will not be considered separately, but will be presented to the Board only after all information for the company and controlling person(s) is complete. Applications for additional controlling person(s) or changes in existing controlling person(s) do not require employee leasing company or employee leasing company group applications to be completed in order to be considered by the Board. ~~All information, including licensure fees, must be received in the Board office 10 working days prior to the Board meeting, in order for the Board to consider the information submitted.~~ Financial information, including client lists, obtained by the Board or the Department in connection with the application process shall, pursuant to s. 455.229, F.S. Florida Statutes, be kept confidential and exempt from the public disclosure requirements of Chapter 119 F.S.

(5) through (12) No change.

Specific Authority 120.53(1), 455.2281, 468.522, 468.5245, 468.5275, 455.2281 FS. Law Implemented 468.524(2), 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529 FS. History--New 5-5-92, Amended 7-15-92, 10-20-92, Formerly 21EE-5.001, Amended 10-24-93, 3-14-94, 7-4-94, 9-8-94, 11-13-94, 2-13-95, 6-4-95, 11-9-95, 5-26-96, 5-19-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Employee Leasing Companies
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 1999

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Employee Leasing Companies
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

Board of Employee Leasing Companies

RULE TITLE: Tangible Accounting Net Worth; Intangible Assets
RULE NO.: 61G7-6.006

RULE TITLE: Annual Financial Statements
RULE NO.: 61G7-10.0011

PURPOSE AND EFFECT: Under the authority of the Board, the proposed rule is being amended in order to allow the terms of the rule to apply to "initial applicants" and not to "applicants and licensees" as it is so worded in the current rule's language.
SUMMARY: The proposed rule is being amended in order to update the current rule's language.

PURPOSE AND EFFECT: Under the authority of the Board, the proposed rule is being amended in order to delete the word "tangible" from the current rule's language allowing the rule to be in compliance with the underlying statute.
SUMMARY: The proposed rule is being amended in order to update the current rule's language.

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

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

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

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

SPECIFIC AUTHORITY: 468.522 FS.

SPECIFIC AUTHORITY: 468.522 FS.

LAW IMPLEMENTED: 468.525 FS.

LAW IMPLEMENTED: 468.525 FS.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Executive Director, Board of Employee Leasing Companies, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-6.006 Tangible Accounting Net Worth; Intangible Assets.

61G7-10.0011 Annual Financial Statements.

To enable initial applicants and licensees to properly report their financial assets to meet the requirements for licensure, the Board hereby defines the following terms:

Each employee leasing company shall submit, not later than 120 days after their fiscal year end, a copy of their current fiscal year end financial statements, prepared in accordance with generally accepted accounting principles, which shall include statement of income and retained earnings, balance sheet, statement of changes in financial position (cash flows), and applicable footnotes. This information shall be submitted on the standard financial statement form, DPR/EL-006, herein incorporated by reference and which can be obtained from the Board office. The financial statements are to reflect positive working capital and positive tangible accounting net worth, as

- (1) through (2) No change.

Specific Authority 468.522 FS. Law Implemented 468.525 FS. History--New 11-22-93, Amended 5-29-94,_____.

required in s. 468.525(3). Financial statements which are not audited must be accompanied by a completed form DPR/EL-003, as required in rule 61G7-5.003, F.A.C.

Specific Authority 468.522 FS. Law Implemented 468.525 FS. History--New 5-8-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Employee Leasing Companies
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 1999

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: RULE NO.:

Licensure by Endorsement through 64B1-3.009
National Certification

PURPOSE AND EFFECT: The purpose was to clarify that endorsement applicants must meet all requirements of the statute, and to correct the name of the approved certification body.

SUMMARY: The amendment recognizes that endorsement applicants must meet all requirements of the statute, and to correct the name of the approved certification body.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 457.104 FS.

LAW IMPLEMENTED: 457.105 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: 11:00 a.m., March 29, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-3.009 Licensure by Endorsement through National Certification.

Pursuant to Section 457.105(2)(c), F.S., the Board of Acupuncture will certify for licensure by endorsement those applicants who establish successful completion of a board-approved national certification ~~or recertification~~ process; ~~or recertification~~ within the three years preceding the application, and demonstrate they meet the requirements of Section 457.105(2)(a) and (b). The applicant must establish successful completion of a board-approved national certification process by requesting notification of certification or recertification be provided to the Board by the national certification organization. For the purpose of this requirement the Board approves the National Commission for Certification of Acupuncturists' and Oriental Medicine certification.

Specific Authority 457.104 FS. Law Implemented 457.105 FS. History--New 10-1-89, Amended 2-27-92, Formerly 21AA-3.009, 61F1-3.009, Amended 3-31-96, 11-13-96, Formerly 59M-3.009, Amended 10-15-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Acupuncture
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 1998

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:

Biennial Renewal of Massage 64B7-28.001
Therapist's License

PURPOSE AND EFFECT: The purpose of the amendment is that the Board decided that it was no longer appropriate to approve Cosmetology and Barbers' Board courses now that the Board of Massage is under the Department of Health.

SUMMARY: The rule amendment revises the approved HIV/AIDS courses and corrects references in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.607, 480.035(7), 480.0415, 480.044 FS.

LAW IMPLEMENTED: 455.607, 480.0415, 480.044(I)(f),(m) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., March 29, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Buckhalt, Executive Director, Board of Massage, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.001 Biennial Renewal of Massage Therapist's License

(1) All license renewals for massage therapists shall meet the requirements as set forth in Chapters 480 and 455, Part II, F.S., these rules, and the rules of the Department of Health. All massage therapists shall renew their licenses on or before January 31, of each biennial year, according to the fee schedule as set forth in Rule 64B7-27.006.

(2) ~~Effective December 31, 1992, no~~ No license shall be renewed unless the licensee submits confirmation on a department form ~~provided by the board~~ that the licensee has completed an education course on HIV/AIDS which meets the requirements of Section 455.607, F.S. which consisted of education on transmission, control, treatment and prevention of human immunodeficiency syndrome, with emphasis on appropriate behavior and attitude change. If the licensee has not submitted confirmation which has been received and recorded by the Board, the department shall not renew the license. The Board approves courses that have been approved by regulatory Boards or Councils under the Division of Medical Quality Assurance, Courses that have received Board approval are sponsored by: the Agency for Health Card Administration, ~~Division of Health Quality Assurance~~, the Department of Health, the American Red Cross, or directly by the Board, and courses sponsored or presented by Board-approved Massage Schools or by the Cosmetology and Barbers' Board.

Specific Authority 455.607, 480.035(7), 480.0415, 480.044 FS. Law Implemented 455.607, 480.0415, 480.044(1)(f),(m) FS. History--New 11-27-79, Amended 12-18-84, Formerly 21L-28.01, Amended 3-12-90, 1-3-91, Formerly 21L-28.001, Amended 9-30-93, 6-12-95, 9-25-95, 7-17-97, Formerly 61G11-28.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 13, 1998

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: Examination Security

RULE NO.: 64B9-3.007

PURPOSE AND EFFECT: The purpose of the amendment is that the Department of Health will implement security and monitoring procedures pursuant to rule 64B-1.010, F.A.C. The Department shall also comply with and implement those security measures set out in the examination contract negotiated between the Department and the National Council of State Boards of Nursing, Inc.

SUMMARY: The amendment will implement security and monitoring procedures pursuant to rule 64B-1.010, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.574(1)(d) FS.

LAW IMPLEMENTED: 455.574(1)(d) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., April 14, 1999

PLACE: Jacksonville Marriott Hotel, 4670 Salisbury, Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-3.007 Examination Security.

In addition to those security and monitoring procedures implemented by the Department of ~~Health Business and Professional Regulation~~ pursuant to Rule ~~64B-1.010 64-11.014~~, F.A.C., the Department, when administering a licensing examination to applicants for nursing licensure, shall comply with and implement those security measures set out in the examination contract negotiated between the Department and the National Council of State Boards of Nursing, Inc.

Specific Authority ~~455.574 (1)(d) 455.217(1)(d)~~ FS. Law Implemented ~~455.574(1)(d) 455.217(1)(d)~~ FS. History—New 10-6-82, Formerly 21O-17.01, 21O-17.001, 61F7-3.007, 59S-3.007, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 1998
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: The Probable Cause Panel
RULE NO.: 64B9-8.001

PURPOSE AND EFFECT: The purpose of the amendment is to reflect a change in the number of probable cause panels established by the Board.

SUMMARY: The rule reflects the number of probable cause panels established by the Board.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 464.006, 455.621(1),(3) FS.

LAW IMPLEMENTED: 455.621 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

TIME AND DATE: 2:00 p.m., April 14, 1999

PLACE: Jacksonville Marriott Hotel, 4670 Salisbury, Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.001 The Probable Cause Panel.

(1) The determination as to whether probable cause exists shall be made by a majority vote of a probable cause panel of the Board.

(a) the Board establishes ~~three~~ two probable cause panels of two persons each to be appointed by the Chairman of the Board. Each panel may have one former Board member serve, and at least one member of each panel must be an active licensee of the Board. No more than one member of each panel shall be a consumer member. One member of each panel shall be designated chairman. The Board may designate one panel to review the cases closed by the Department.

(b) One panel shall be designated as the North Florida probable cause panel and shall consist members residing in the northern/~~central~~ part of the state. Cases arising from the southern part of the state shall be referred to the North Florida panel.

(c) One panel shall be designated as the Central Florida probable cause panel and shall consist of members residing in the middle part of the state. Cases arising from the northern part of the state shall be referred to the Central Florida panel.

~~(d)~~(e) One panel shall be designated as the South Florida probable cause panel and shall consist of members residing in the southern part of the state. Cases arising from the central ~~northern/central~~ part of the state shall be referred to the South Florida panel.

~~(e)~~(d) It is the Board's intent to distribute the workload equitable among ~~between~~ the three ~~two~~ panels and to conduct meetings in a geographically convenient and economical manner for the panel members. A panel may refuse to consider a case that clearly belongs to another ~~the other~~ panel. However, it is not the intent of the Board to require mathematical and geographic precision. That one panel acted on a case which arguably should have been considered by another ~~the other~~ shall not be grounds to invalidate that panel's action.

~~(f)~~(e) If a case needs to be reconsidered by the probable cause panel for any reason, the case must be taken to the panel which initially considered it.

(2) No change.

Specific Authority 464.006, 455.621(1),(3) FS. Law Implemented 455.621(3) FS. History--New 11-29-79, Amended 11-22-84, Formerly 210-10.04, Amended 4-8-92, 9-22-92, Formerly 210-10.004, 61F7-8.001, Amended 5-1-95, Formerly 59S-8.001, Amended 8-18-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Board of Nursing
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 1998
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF CITRUS

RULE CHAPTER NO.: 20-69
RULE CHAPTER TITLE: Processing Imported Citrus Fruits and Products
RULE NO.: 20-69.003
RULE TITLE: Identification of Imported Product

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule amendment published in the Florida Administrative Weekly, Vol. 24 No. 45, November 6, 1998 has been withdrawn.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-7.006
RULE TITLE: Discharge Gratuity

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 3, January 22, 1999, issue of the Florida Administrative Weekly:

33-7.006 Discharge Gratuity.

(1) The secretary shall authorize the payment of a discharge gratuity to inmates discharged from the custody of the Department of Corrections in such amounts as the Legislature may from time to time provide. A discharge gratuity check shall be provided to any inmate released on parole, expiration of sentence, pardon or permanent court order, except those inmates released in any of the following situations:

(a) Any inmate to be released who has participated in paid employment through PIE programs or the Work Release Program for a period of at least 120 days immediately preceding release;

(b) Any inmate to be released to another jurisdiction for which there is an existing judgment and sentence or detainer;

(c) Any inmate to be released to the Department of Children and Family Services under an order for involuntary commitment.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NOS.: 64B17-6.0042, 64B17-6.0044
RULE TITLES: Medical Records of Deceased Physical Therapists or Physical Therapist Assistants, Medical Records of Physical Therapists or Physical Therapist Assistants Relocating or Terminating Practice

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 24, No. 25, of the June 19, 1998, issue of the Florida Administrative Weekly. The changes are being made in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The Board, at its meeting on January 15, 1999, determined that the rules should be changed as follows:

1. In Rule 64B17-6.0042, a new subsection (4) shall be added to read, "(4) Any records shall be disposed of in a manner that would secure the permanent confidentiality of records."

2. In Rule 64B17-6.0044, a new subsection (3) shall be added to read, "(3) Any records shall be disposed of in a manner that would secure the permanent confidentiality of records."

3. In addition to the changes set forth above, the following citation shall be added to the law implemented in both rules: 486.021(6),(11), F.S.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE NO.: 65A-4.203
RULE TITLE: Personal Care of a Disabled Family Member

NOTICE OF CHANGE

Notice is hereby given that changes are being made to the rule identified above as published in Vol. 24, No. 50, Florida Administrative Weekly, on December 11, 1998. These changes are the result of comments made by staff of the Florida Developmental Disabilities Council in the public hearing on January 5, 1999, and the statutory requirement to state how copies of forms incorporated by reference may be obtained.

The specific changes are as follows:

In the second sentence of paragraph 65A-4.203(2) following the words, "a statement that the family member is disabled", insert the word, "by". Move the resulting clause from the end