

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE:

RULE NO.:

Remittances to the Preneed Funeral Contract

Consumer Protection Trust Fund

3F-10.003

PURPOSE AND EFFECT: The purpose is to increase the deposits to the fund from those certificateholders that choose to safeguard their contracts with a surety bond or other alternative security as opposed to a trust deposit. As implicitly recognized by the legislature when it created a different range of required deposits to the fund by such alternatively secured certificateholders as opposed to trusting certificateholders, there is a possibly greater likelihood that a failure on the part of an alternatively secured certificate holder would subject the fund to a higher exposure in light of the fact that no monies at all are in trust when such alternatives are used. While the alternative security is intended to take the place of a trust account there are significant restrictions on the accessing of the security, especially when the provisions of Section 497.425, F.S. are utilized by the certificateholder, which may make full access to the security by claimants problematic in some circumstances. Therefore, in order to properly exercise its fiduciary duty to attempt to make sure that the fund is sufficiently solvent to respond to any legitimate claims, the Board has determined to adjust the required contributions to the fund to attempt to reflect the different risks to the fund that may result from the increased number of contracts protected by alternative securities.

SUBJECT AREA TO BE ADDRESSED: Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund.

SPECIFIC AUTHORITY: 497.103(1), 497.417, 497.423, 497.425, 497.429 FS.

LAW IMPLEMENTED: 497.413(12), 497.417, 497.423, 497.425, 497.429 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-10.003 Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund.

For the quarter beginning ~~April 1, 2001~~ ~~January 1, 1997~~, and each quarter thereafter, the following amounts should be remitted to the Preneed Funeral Contract Consumer Protection Trust Fund.

Each certificateholder offering the sale of insurance or by establishing a trust pursuant to s. 497.417 or 497.429, F.S. shall remit the sum of \$1.00 per preneed contract. Each certificateholder ~~or by~~ utilizing s. 497.423 and s. 497.425, F.S. shall remit the sum of ~~\$5.00~~ ~~\$1.00~~ for each preneed contract having a purchase price of \$1500 or less, and the sum of ~~\$10.00~~ ~~\$1.00~~ for each preneed contract having a purchase price in excess of \$1500.

Specific Authority 497.417, 497.423, 497.425, 497.429 FS. Law Implemented 497.413(12), 497.417, 497.423, 497.425, 497.429 FS. History--New 3-19-97, Amended.

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE:

RULE NO.:

Form for School Safety and Discipline

6A-1.04041

PURPOSE AND EFFECT: The purpose of this rule development is to comply with Section 231.0851, Florida Statutes, by developing a standardized form to be used by school districts to report data on school safety and discipline to the Department. The effect will be to have one form for all public schools to use for reporting.

SUBJECT AREA TO BE ADDRESSED: Information to be collected and the format in which it will be reported will be the subject area to be addressed.

SPECIFIC AUTHORITY: 231.0851 FS.

LAW IMPLEMENTED: 231.0851 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A DATE TO BE ADVERTISED IN A FUTURE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, Room 1702, The Capitol, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, PL08, The Capitol, Tallahassee, Florida 32399-0400, (850)413-0555

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Manufactured Buildings	9B-1
RULE TITLES:	RULE NOS.:
Definitions	9B-1.002
Department Activities	9B-1.003
Adoption of Model Codes	9B-1.004
Local Enforcement Authority	9B-1.0055
Delegation of Inspection Authority:	
Qualifications, Acceptance	9B-1.006
Manufacturer Requirements	9B-1.007
Manufacturers Quality Assurance	9B-1.0075
Inspections by Approved Inspection Agencies	9B-1.0085
Design Plan and Systems Approval	9B-1.009
Component System	9B-1.0095
Quality Control Procedures	9B-1.010
Change in Status, Alterations	9B-1.011
Reciprocity	9B-1.014
Department Insignia and Insignia Control Form	9B-1.016
Insignia Application and Issuance	9B-1.017
Insignia Denial	9B-1.018
Removal of Insignia	9B-1.019
Schedule of Fees	9B-1.020
Change of Manufacturer's Status	9B-1.021
Manufacturer's Obligation on Sale	9B-1.022
Oversight; Response to Complaints	9B-1.023
Factory Built Schools, Adoption of Standards	9B-1.025
Factory Built Schools, Certifications	9B-1.026
Factory Built Schools, Plan Review	9B-1.027
Factory Built Schools, Inspections	9B-1.028
Factory Built Schools, Firesafety Criteria and Enforcement	9B-1.029
Factory Built Schools, Insignia and Data Plate	9B-1.030

PURPOSE AND EFFECT: The purpose of the amendment or creation of the above listed rules is to respond to legislative modifications and additions to the authority of the Manufactured Buildings program within the Department of Community Affairs and to respond to a review of the program by the Florida Building Commission in anticipation of the adoption of the Florida Building Code. Specifically, the amendments will modify and update the forms used by the Department, amend the procedures by which buildings are approved, amend the fee schedule and provide for longer term certifications, and provide for regulation of factory built schools.

SUBJECT AREA TO BE ADDRESSED: Multiple changes made to rules pertaining to Manufactured Buildings.

SPECIFIC AUTHORITY: 553.37, 553.38, 553.381, 553.41 FS.

LAW IMPLEMENTED: 553.37, 553.38, 553.381, 553.41 FS.

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

TIME AND DATE: 10:00 a.m., November 6, 2000

PLACE: Randall Kelley Training Center, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Mo Madani, Planning Manager, Codes & Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, Suncom 277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS CURRENTLY BEING DEVELOPED IN LEGISLATIVE FORMAT AND WILL BE AVAILABLE PRIOR TO THE WORKSHOP FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:	RULE NO.:
Equipment Used to Deploy Broadband Technologies in a Florida Network Access Point; Refund Procedures	12A-1.0141

PURPOSE AND EFFECT: The purpose of the proposed creation of Rule 12A-1.0141, F.A.C., is to implement the provisions of s. 37, Ch. 2000-164, L.O.F. These provisions create s. 212.08(5)(p), F.S., which provides a refund of Florida tax that is paid on equipment used to deploy broadband technologies in a Florida network access point.

The purpose of the proposed creation of Rule 12A-1.0141, F.A.C., is to: 1) provide refund procedures for Florida tax paid on eligible equipment; 2) establish criteria to determine when an Application for Refund is complete pursuant to s. 213.255, F.S.; and 3) provide a suggested certificate to be provided with the required refund application.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the proposed guidelines to implement the refund provision of s. 212.08(5)(p), F.S., created by s. 37, Ch. 2000-164, L.O.F., provided for equipment used to deploy broadband technologies in a Florida network access point.

SPECIFIC AUTHORITY: 212.08(5)(p), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.08(5)(p), 213.255 FS.

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

TIME AND DATE: 10:00 a.m., November 9, 2000

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

Copies of the agenda for the rule development workshop may be obtained from Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727.

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.0141 Equipment Used to Deploy Broadband Technologies in a Florida Network Access Point; Refund Procedures.

(1) Equipment used to deploy broadband technologies in a Florida network access point purchased by a communications service provider on or after July 1, 2000, is exempt. The exemption is only available through a refund of tax imposed by Chapter 212, F.S., paid on the purchase of such equipment. Refunds are available only to the extent of the amount appropriated annually by the Legislature for this purpose.

(2) For purposes of this rule:

(a) The term "broadband technology," as defined in s. 212.08(5)(p), F.S., means packaged technology that has the capability of supporting transmission speeds of at least 1.544 megabits per second in both directions.

(b) The term "communications service provider," as defined in s. 212.08(5)(p), F.S., means a company that supports or provides individuals and other companies with access to the Internet and other related services.

(c) The term "equipment," as defined in s. 212.08(5)(p), F.S., includes asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optic connector equipment, database equipment, and other network equipment used to provide broadband technology and information services.

(d) The term "network access point" means a carrier-neutral, public-private Internet traffic exchange point established in this state.

(3) To obtain a refund of tax imposed and paid pursuant to Chapter 212, F.S., on eligible equipment, an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, FAC.) must be filed with the Department within 6 months after the eligible property is purchased. An Application for Refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved until the applicant provides the following information and documentation to the Department and certifies that the provided information and documentation are true and correct:

(a) The name, address, Federal Employer Identification (FEI) number, and Sales Tax Registration Number (if registered) of the applicant;

(b) A copy of the sales invoices, or other documentation, evidencing payment for the eligible equipment;

(c) A schedule of sales invoices, or other documentation, evidencing payment for eligible equipment containing the following information: the invoice date; the invoice number; the name of the selling dealer; a specific description of each item of equipment and its location, including the serial number or other permanent identification number of the equipment; the amount of tax to be refunded that was paid to the selling dealer; the amount of tax to be refunded that was self-accrued and paid directly to the Department; copies of ledgers and journals, as necessary, to evidence the self-accrual and payment of tax for each purchase of equipment; and the total amount of the refund claimed; and

(d) A statement that the equipment is necessary for use in the deployment of broadband technologies in Florida as part of the direct participation by the communications service provider in a project to create and develop a Florida network access point, as provided in s. 212.08(5)(p), F.S., and that the equipment is only for use in a Florida network access point.

(4) The following is a suggested format for a certificate to be provided to the Department when applying for a refund of tax paid on the purchase of eligible equipment:

CERTIFICATE
BROADBAND TECHNOLOGY EQUIPMENT
PURCHASED BY A
COMMUNICATIONS SERVICE PROVIDER

_____ (Name of Communications Service Provider), located at _____, incorporated in the State of _____, with the following federal/state (circle one) identification number _____, certifies that:

1. The purchaser is a communications service provider, as defined in s. 212.08(5)(p), F.S.;

2. The equipment is necessary for use in deployment of broadband technologies in Florida as part of the direct participation by the communications service provider in a project creating and developing a Florida network access point, as provided in s. 212.08(5)(p), F.S., and the equipment is only for use in a Florida network access point;

3. The attached schedule of sales invoices, or other documentation, evidencing payment for eligible equipment, containing the information necessary to substantiate this claim for refunds is incorporated and becomes a part of this certification; and

4. The attached copies of the sales invoices, or other documentation, evidencing payment for eligible equipment, are true and correct.

The undersigned understands that, if such equipment does not qualify for exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to the State of Florida a certificate or statement in writing in which an exemption from sales tax is claimed, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Under the penalties of perjury, I declare that I have read the foregoing Certificate and the attached schedules and the facts stated therein are true.

_____	_____
Purchaser's Name (Print or Type)	Address
_____	_____
Signature and Title	Date
_____	_____
Federal Employer Identification Number (F.E.I.) or Social Security Number	Telephone Number

[Certificate to be attached to the provider's application for refund (form DR-26).]

(5) Any communications service provider who applies for a refund of tax paid to the seller of eligible equipment or self-accrued and paid directly to the Department must maintain adequate records and documentation necessary to substantiate the provider's right to a refund of tax paid until the tax imposed pursuant to Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

Specific Authority 212.08(5)(p), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(p), 213.255 FS. History--New

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Competitive Selection	40C-1.704
Competitive Negotiations	40C-1.705
Proposal Selection	40C-1.716
Competitive Negotiations for Design-Build Services	40C-1.717
Rejection of Proposals	40C-1.718
Emergency Procurement	40C-1.719

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to amend the District's contracting rules with regard to the Consultants Competitive Negotiations Act to provide for the delegation of certain contractual procedures to the Executive Director or designated staff as authorized by Section 373.083, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed by the proposed rules is the delegation of the District Governing Board's authority to contract under Section 287.055, F.S.

SPECIFIC AUTHORITY: 287.055, 373.044, 373.113 FS.

LAW IMPLEMENTED: 287.055, 373.083(1),(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (904)329-4459, Suncom 860-4459

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-1.704 Competitive Selection.

(1) through (2) No change.

(3) District staff will then recommend to the Board that competitive negotiations be instituted with the firms selected. However, when the fee for professional services is no more than \$100,000, District staff will recommend to the Executive Director or his designee that competitive negotiations be instituted with the firms selected, and the Executive Director or his designee is authorized to finalize the list of firms in order of preference. For the purpose of Section 40C-1.704 and 40C-1.705, F.A.C., the term "designee" means: (a) the Assistant Executive Director, or (b) in the absence of the Executive Director and the Assistant Executive Director, the District staff member designated by the Executive Director or the Assistant Executive Director to serve as acting Executive Director.

Specific Authority 373.044 287.055, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History--New 8-1-89, Amended 10-19-89, 3-14-90,

40C-1.705 Competitive Negotiations.

(1) ~~After the Board has authorized the beginning of competitive negotiations have been authorized, the District staff Executive Director, or his designee, shall begin contract negotiations for professional services with the designated firms in order of rank for fair, competitive and reasonable compensation.~~

(2) No change.

(3) If a satisfactory agreement is not reached with any of the initial firms, additional responding firms shall be ranked and listed in the order of their competence and qualifications. Negotiations shall then continue beginning with the first named firm on the second list until an agreement is reached. After successful negotiations, a recommendation shall be made that the contract be awarded. The Executive Director or designee is authorized to award the contract ~~Board award the contract.~~

(4) If, with the concurrence of the Board Chair, the Executive Director, or ~~his~~ designee, determines in writing that an immediate danger to the public health, safety, welfare or other substantial loss to the public requires emergency action, the District staff may proceed with the procurement of professional services necessitated by the emergency without competition, ~~upon approval of the Board.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History—New 8-1-89, Amended 10-19-89, 6-17-91, _____.

40C-1.716 Proposal Selection.

(1) through (5) No change.

(6) District staff will then recommend to the Board that the Board approve a ranking of designated firms and that competitive negotiations be instituted with the designated firms. However, when the fee for design-build services is no more than \$100,000, District staff will recommend to the Executive Director or designee that competitive negotiations be instituted with the firms selected. Therefore, the Executive Director or designee is authorized to approve a ranking of designated firms and to authorize the initiation of negotiations. For the purpose of Section 40C-1.716 through 40C-1.719, F.A.C., the term “designee” means: (a) the Assistant Executive Director, or (b) in the absence of the Executive Director and the Assistant Executive Director, the District staff member designated by the Executive Director or the Assistant Executive Director to serve as acting Executive.

~~(7) After reviewing all the proposals and District staff's recommendations, the Board will select one firm and authorize the Executive Director or designee to contract or negotiate with that firm.~~

Specific Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History—New 9-25-90, Amended 6-17-91, _____.

40C-1.717 Competitive Negotiations for Design-Build Services.

(1) ~~When authorized by the Board, T~~he District staff Executive Director or designee shall begin contract negotiations for design-build services with the designated firms in order of rank for fair, competitive and reasonable compensation.

(2) Should negotiations with the most highly-ranked firm prove unsuccessful, as determined by the Executive Director or designee, negotiations with that firm shall cease and

negotiations shall begin with the next most highly-ranked firm. Negotiations shall continue in accordance with this section until an agreement is reached. The Executive Director or designee is authorized to award the contract.

(3) No change.

Specific Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History—New 9-25-90, Amended 6-17-91, _____.

40C-1.718 Rejection of Proposals.

(1) The Executive Director or designee ~~Board~~ reserves the right to reject any and all proposals, provided such action is done in good faith, and is not arbitrary and capricious.

(2) If the Executive Director or designee ~~Board~~ finds it necessary to reject all the proposals, a written statement to this effect shall be placed in the proposal file and the proposers shall be notified. The District then may republish the request for qualifications, with any appropriate modifications at the direction of the Executive Director or designee ~~Board~~. Any interested firm will have the opportunity to submit or resubmit its qualifications to the District for consideration.

Specific Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History—New 9-25-90, Amended 6-17-91, _____.

40C-1.719 Emergency Procurement.

~~If, with the concurrence of the Board,~~ the Executive Director or designee determines in writing that an immediate danger to the public health, safety, welfare or other substantial loss to the public requires emergency action, the District staff may proceed with the procurement of the design-build services without competition, ~~upon approval by the Board.~~ The Executive Director or designee shall promptly notify the Board Chair or Vice-Chair of the emergency action.

Specific Authority ~~287.055~~, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1),(5) FS. History—New 9-25-90, Amended 6-17-91, _____.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Minimum Surface Water Levels and Flows and Groundwater Levels RULE NO.:

40C-8.031

SUMMARY AND EFFECT: The purpose and effect of this proposed rule amendment is to establish minimum water levels for the following: Boggy Marsh (wetland) and Pine Island Lake in Lake County; Lake Brantley and Lake Howell in Seminole County; Lake Burkett, Lake Irma, Johns Lake, Lake Martha and Lake Pearl in Orange County; Davis Lake and Upper Lake Louise in Volusia County; and Swan Lake in Putnam County.

SUBJECT AREA TO BE ADDRESSED: This proposed rule amendment would establish minimum water levels for the above listed lakes and wetland pursuant to the mandate of section 373.042, Florida Statutes. Except for Swan Lake, each system would have a minimum frequent high level, a minimum average level, and a minimum frequent low level. Swan Lake is proposed to have a minimum frequent high level and a

minimum average level. Each of the proposed levels would have an associated hydroperiod category. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum levels established by the District, if adopted, this rule amendment would require an applicant for a permit pursuant to Chapters 40C-2, 40C-20, 40C-4, or 40C-40, F.A.C., to provide reasonable assurance that the activity for which the permit is sought would not violate these minimum levels.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

TIME AND DATE: 2:00 p.m., November 6, 2000

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (904)329-4459, Suncom 860-4459

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

(1) No change.

(2) The following minimum surface water levels are established:

LAKE NAME	COUNTY	HYDROPERIOD CATEGORY	MINIMUM INFREQUENT HIGH	MINIMUM FREQUENT HIGH	MINIMUM AVERAGE	MINIMUM FREQUENT LOW	INFREQUENT LOW
Boggy Marsh	Lake	Seasonally Flooded		117.3			
		Typically Saturated			115.9		
		Semipermanently Flooded				114.5	
Brantley	Seminole	Seasonally Flooded		46.3			
		Typically Saturated			45.6		
		Semipermanently Flooded				44.1	
Burkett	Orange	Seasonally Flooded		53.5			
		Typically Saturated			52.6		
		Semipermanently Hooded				51.2	
Davis	Volusia	Seasonally Flooded		36.2			
		Typically Saturated			35.4		
		Semipermanently Flooded				34.0	
Howell	Seminole	Seasonally Flooded		53.7			
		Typically Saturated			52.9		
		Semipermanently Flooded				51.5	
Irma	Orange	Seasonally Flooded		55.1			
		Typically Saturated			54.8		
		Semipermanently Flooded				53.4	
Johns	Orange	Temporarily Flooded		95.9			
		Typically Saturated			92.0		
		Semipermanently Flooded				90.3	
Martha	Orange	Seasonally Flooded		53.5			
		Typically Saturated			52.6		
		Semipermanently Flooded				51.2	
Pearl	Orange	Seasonally Flooded		53.5			
		Typically Saturated			52.6		
		Semipermanently Flooded				51.2	
Pine Island	Lake	Seasonally Flooded		107.7			
		Typically Saturated			106.8		

		Semipermanently Flooded				105.4	
Swan	Putnam	Temporarily Flooded		93.0			
		Typically Saturated			90.3		
Upper Louise	Volusia	Seasonally Flooded		35.3			
		Typically Saturated			34.6		
		Semipermanently Flooded				33.2	

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421 373.103, 373.415 FS. History—New 9-16-92, Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Regulation of Wells RULE CHAPTER NO.: 40D-3

RULE TITLE: Well Completion Report RULE NO.: 40D-3.411

PURPOSE AND EFFECT: The proposed rule amendments will revise the time-frame within which well completion reports must be submitted to the District. The amendments will also provide specific provisions regarding information requirements and applicable time-frames regarding District requests for a well construction record prior to the submittal of the well completion report.

SUBJECT AREA TO BE ADDRESSED: The time-frame for submission of well completion reports pursuant to District Rule 40D-3.411, F.A.C., the ability of the District to request a record of well construction prior to the submittal of the completion report, and the information requirements of such a record.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.
LAW IMPLEMENTED: 373.308, 373.309, 373.313, 373.326, 373.342 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-3.411 Well Completion Report.

(1) Well completion reports are required for the construction, repair, modification or abandonment of all wells. The District's receipt of a well completion report raises the rebuttable presumption that all work under the permit has been completed or has ceased.

(a) The water well contractor shall submit to the District the form entitled, "Well Completion Report," form number 41.10-410(2)REV.6/95, within 30 days of the expiration of the permit of completion of the work authorized by the permit.

(b) If no work is performed or if the well is not completed, a completion report shall be filed within 30 days of the expiration of the permit stating that no well construction was performed or completed under the permit.

1. The District shall require a record of the well construction at any time prior to the submittal of the completion report if any drilling problems are encountered during well construction. The District may request a record either orally or in writing. The water well contractor shall provide the record within 7 days of receipt of the District's request.

2. The record of the well construction shall include the depth of the well, the depth of the well casing, the amount of grout material used, and a description of the geologic material and any drilling problems encountered during the well construction.

(2) The water well contractor shall keep or cause to be kept by a person in his employ an accurate field log of all well construction, repair, modification or abandonment activities performed under each permit. Such logs shall be available for inspection at the site during all times when work is in progress.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.308, 373.309, 373.313, 373.326, 373.342 FS. History—Readopted 10-5-74, Amended 10-24-76, Formerly 16J-3.09, 16J-3.14, Amended 7-1-90, 9-30-91, 12-31-92, 10-19-95,_____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Minimum Flows and Levels RULE CHAPTER NO.: 40E-8

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish minimum flows and levels by December, 2000 for Lake Okeechobee, the Everglades (which includes the freshwater regions of Everglades National Park, Water Conservation Areas, and the Holeyland and Rotenberger Wildlife Management Areas), the Biscayne Aquifer in Southeastern Florida, the Lower West Coast Aquifers, and the Caloosahatchee River, in accordance with Chapter 373, Florida Statutes.

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.042, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., November 3, 2000

PLACE: South Florida Water Management District, Ft. Myers Service Center, 2301 McGregor Blvd., Ft. Myers, FL 33901

TIME AND DATE: 10:00 a.m. – 12:00 p.m., November 6, 2000

PLACE: Broward County Library Auditorium, 100 S. Andrews Blvd., Ft. Lauderdale, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues contact: Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov), South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045; For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Disciplinary Guidelines 64B8-8.001

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address disciplinary guidelines with regard to second and subsequent offenses, and to make other changes with regard to violations and penalties.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines.

SPECIFIC AUTHORITY: 458.331(5), 458.309, 455.627 FS.

LAW IMPLEMENTED: 458.331(5), 455.624, 455.627 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-8.001 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section ~~455.627, F.S., 2, Chapter 86-90, Laws of Florida,~~ the Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 458, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; multiple counts of the violated provisions or a combination of the violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and 120.57(2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION	RECOMMENDED RANGE OF PENALTY	
	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>
(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board. (458.331(1)(a), F.S.) (455.624(1)(h), F.S.)	(a) From denial or revocation of license with ability to reapply upon payment of \$5,000.00 fine to denial of license without ability to reapply, or permanent revocation.	(a) <u>From denial or revocation without the ability to reapply and payment of a \$10,000 fine, to denial or revocation without the ability to reapply and a \$10,000.00 fine.</u>
(b) Action taken against license by another jurisdiction. (458.331(1)(b), F.S.) (455.624(1)(f)(h), F.S.)	(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$1,000.00 to \$5,000.00.	(b) <u>From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to revocation or denial of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u>
1. Action taken against license by another jurisdiction <u>relating to healthcare involving Medicare or Medicaid</u> fraud in dollar amounts in excess of \$5,000.00.	1. Revocation or in the case of application for licensure, denial of licensure.	1. <u>Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.</u>
2. Action taken against license by another jurisdiction <u>relating to healthcare involving Medicare or Medicaid</u> fraud in dollar amounts of \$5,000.00 or less.	2. A \$10,000.00 administrative fine, and suspension of the license, followed by a period of probation.	2. <u>Revocation or denial.</u>
(c) Guilty of crime directly relating to practice or ability to practice. (458.331(1)(c), F.S.) (455.624(1)(c), F.S.)	(c) From probation to revocation or denial of the license and an administrative fine ranging from \$1,000.00 to \$10,000.00.	(c) <u>From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u>
1. Involving a crime directly related to <u>healthcare Medicare or Medicaid</u> fraud in dollar amounts in excess of \$5,000.00.	1. Revocation or in the case of application for licensure, denial of licensure.	1. <u>Revocation without the ability to reapply or in the case of application for licensure, denial of licensure, and payment of a \$10,000.00 fine.</u>
2. Involving a crime directly related to <u>healthcare Medicare or Medicaid</u> fraud in dollar amounts of \$5,000.00 or less.	2. A \$10,000.00 administrative fine, compliance with any criminal probation, a reprimand and suspension of the license, followed by a period of probation.	2. <u>Revocation</u>
(d) False, deceptive, or misleading advertising. (458.331(1)(d), F.S.)	(d) From <u>a letter of concern reprimand</u> to one (1) year suspension or denial, and an administrative fine from \$1,000.00 to \$5,000.00.	(d) <u>From reprimand to up to one (1) year suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u>

<p>(e) Failure to report another licensee in violation. (458.331(1)(e), F.S.) (455.624(1)(i), F.S.)</p>	<p>(e) From a <u>letter of concern reprimand</u> to probation or denial, and an administrative fine from \$1,000.00 to \$5,000.00.</p>	<p><u>(e) From probation to suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p>
<p>(f) Aiding unlicensed practice. (458.331(1)(f), F.S.) (455.624(1)(j), F.S.)</p>	<p>(f) From probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p>	<p><u>(f) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p>
<p>(g) Failure to perform legal obligation. (458.331(1)(g), F.S.) (455.624(1)(k), F.S.)</p>	<p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a <u>letter of concern reprimand</u> to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.</p>	<p><u>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</u></p>
<p>1. Failing to register a laser device. (455.624(1)(d), F.S.)</p>	<p>1. If the device is an approved device, from an administrative fine of \$1,000.00 to \$5,000.00; if the device is not approved, from an administrative fine from \$5,000.00 to a suspension or denial and an administrative fine of \$10,000.00.</p>	<p><u>1. If the device is an approved device, from a reprimand to probation or restriction of practice and an administrative fine of \$5,000.00 to \$10,000.00; if the device is not approved, from suspension to revocation and an administrative fine of \$10,000.00.</u></p>
<p>2. Continuing medical education (CME) violations. (455.624(1)(e), F.S.) (455.624(1)(s), F.S.)</p>	<p>2. Within twelve months of the date of the filing of the final order, the licensee must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND:</p>	<p><u>2. Within twelve months of the date of the filing of the final order, the licensee must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND:</u></p>
<p>a. Failure to document required HIV/AIDS and related infections of TB CME, <u>or substituted end-of-life care CME.</u></p>	<p>a. An administrative fine of \$500.00 to \$1,000.00.</p>	<p><u>a. A reprimand and an administrative fine of \$1,000.00 to \$5,000.00.</u></p>
<p>b. Failure to document required domestic violence CME, <u>or substituted end-of-life care CME.</u></p>	<p>b. An administrative fine of \$500.00 to \$1,000.00.</p>	<p><u>b. A reprimand and an administrative fine of \$1,000.00 to \$5,000.00.</u></p>
<p>c. Failure to document required HIV/AIDS and related infections of TB and failure to document domestic violence CME.</p>	<p>c. An administrative fine of \$1000.00 to \$2,000.00.</p>	<p><u>c. A reprimand and an administrative fine of \$5,000.00 to \$10,000.00.</u></p>
<p><u>d. Failure to document some, but not all CME hours.</u></p>	<p><u>d. An administrative fine of \$100.00 per hour not documented.</u></p>	<p><u>d. A reprimand and an administrative fine of \$500.00 per hour not documented.</u></p>
<p><u>e. Failure to document any CME hours.</u></p>	<p><u>e. A reprimand and an administrative fine from \$5,000.00 to \$10,000.</u></p>	<p><u>e. Suspension until documentation of completion, a reprimand and an administrative fine of \$10,000.00.</u></p>

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| <p>3. Failure to comply with the requirements of ss. 381.026 and 381.0261, F.S., to provide patients with information about patient rights. (455.624(1)(t), F.S.)</p> | <p>3. <u>Corrective action for nonwillful violations. Administrative fine of up to \$100.00 for the second and subsequent nonwillful violations; and an administrative fine from \$250.00 to \$500.00 for the second and subsequent willful violations with each intentional and willful violation a separate violation subject to said fine.</u></p> | <p>3. <u>Administrative fine of up to \$100.00 for the second and subsequent nonwillful violations; and an administrative fine from \$250.00 to \$500.00 for the second and subsequent willful violations with each intentional and willful violation a separate violation subject to said fine.</u></p> |
| <p>4. Failing to comply with the requirements for profiling and credentialing. (455.624(1)(v), F.S.); (458.319, F.S.); (458.565, F.S.)</p> | | |
| <p>a. Involving a violation of any provision of Chapter 455, Part II, F.S., for failing to comply with the requirements for profiling and credentialing, by failing to timely provide updated information, on a profile, credentialing, or initial or renewal licensure application.</p> | <p>a. If the licensee complies within six (6) months of the violation, then an administrative fine of up to \$2,000.00; if compliance after six (6) months, an administrative fine of up to \$5,000.00 and a reprimand.</p> | <p><u>a. If the licensee complies within six (6) months of the violation, then a reprimand and an administrative fine from \$5,000.00 to \$10,000.00; if compliance after six (6) months, from suspension to revocation and an administrative fine of \$10,000.00.</u></p> |
| <p>b. Involving violations of any provision of Chapter 455, Part II, F.S., for making misleading, untrue, deceptive or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.</p> | <p>b. Referral to State Attorney for prosecution pursuant to Sections 455.631 and 455.634, F.S., and from suspension and a reprimand and a \$5,000.00 administrative fine to revocation or denial.</p> | <p><u>b. Referral to State Attorney for prosecution and from suspension and a reprimand and a \$10,000.00 fine to revocation or denial.</u></p> |
| <p>5. Failing to report to the board within 30 days after the licensee has been convicted of a crime in any jurisdiction. Convictions prior to the enactment of this section not must be reported in writing to the board, on or before October 1, 1999. (455.624(1)(w), F.S.)</p> | <p>5. From an administrative fine of \$2,000.00 to a fine of \$5,000.00 and a reprimand or denial without the ability to reapply.</p> | <p><u>5. From suspension to revocation without the ability to reapply and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>6. Failing to comply with obligations regarding ownership and control of medical records, patient records; report or copies of records to be furnished. (455.667, F.S.) (458.331(1)(m), F.S.)</p> | <p>6. From a <u>letter of concern to reprimand to denial</u> or two (2) years suspension followed by probation <u>or denial</u> and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>6. From a reprimand to two (2) years suspension followed by probation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>7. Failing to maintain confidentiality of communication between a patient and a psychiatrist. (455.671, F.S.)</p> | <p>7. From a \$5,000.00 administrative fine and a reprimand to suspension and a \$10,000.00 administrative fine or denial.</p> | <p><u>7. From suspension to revocation or denial.</u></p> |

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| <p>8. Failing to report final disposition of professional liability claims and actions.
(455.697, F.S.)</p> | <p>8. If the licensee complies within six (6) months of the violation then an administrative fine of up to \$2,000.00; if compliance after six (6) months, an administrative fine of up to \$5,000.00 and a reprimand.</p> | <p><u>8. If the licensee complies within six (6) months of the violation, then a reprimand and an administrative fine from \$5,000.00 to \$10,000.00; if compliance after six (6) months, from suspension to revocation and an administrative fine of \$10,000.00.</u></p> |
| <p>9. Failing to disclose financial interest to patient.
(455.701, F.S.)</p> | <p>9. <u>A refund of fees paid by or on behalf of the patient and from</u> From an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00.</p> | <p>9. A refund of fees paid by or on behalf of the patient and from restriction of practice and an administrative fine of \$5,000.00 to a reprimand and an administrative fine of \$10,000.00.</p> |
| <p>(h) Filing a false report or failing to file a report as required.
(458.331(1)(h), F.S.)
(455.624(1)(l), F.S.)</p> | <p>(h) From <u>a letter of concern or denial</u> to one (1) year probation to revocation or denial, and an administrative fine from \$1,000.00 to <u>\$5,000.00</u> \$10,000.00.</p> | <p><u>(h) From one (1) year probation to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>1. Involving healthcare Medicare or Medicaid fraud in dollar amounts in excess of \$5,000.00.</p> | <p>1. Revocation or in the case of application for licensure, denial of licensure.</p> | <p><u>1. Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.</u></p> |
| <p>2. Involving healthcare Medicare or Medicaid fraud in dollar amounts of \$5,000.00 or less.</p> | <p>2. A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation.</p> | <p><u>2. Revocation</u></p> |
| <p>(i) Kickbacks or split fee arrangements.
(458.331(1)(i), F.S.)
<u>(455.657, F.S.)</u></p> | <p>(i) <u>A refund of fees paid by or on behalf of the patient and from</u> From six (6) months suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(i) A refund of fees paid by or on behalf of the patient and from a two (2) year suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(j) <u>Sexual misconduct</u> Exercising influence to engage patient in sex-
(458.331(1)(j), F.S.)
(458.329, F.S.)
(455.624(1)(u), F.S.)</p> | <p>(j) From one (1) year suspension and a reprimand and an administrative fine of \$5,000.00 to revocation or denial, and an administrative fine of \$10,000.00.</p> | <p><u>(j) Revocation.</u></p> |
| <p>(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.
(458.331(1)(k), F.S.)
(455.624(1)(a),(m), F.S.)</p> | <p>(k) From probation to revocation and denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(k) From suspension to revocation and denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>1. Deceptive, untrue, or fraudulent representations in the practice of medicine involving <u>healthcare</u> Medicare or Medicaid fraud in dollar amounts in excess of \$5,000.00.</p> | <p>1. Revocation or in the case of application for licensure, denial of licensure.</p> | <p><u>1. Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.</u></p> |
| <p>2. Deceptive, untrue, or fraudulent representations in the practice of medicine involving <u>healthcare</u> Medicare or Medicaid fraud in dollar amounts of \$5,000.00 or less.</p> | <p>2. A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation.</p> | <p><u>2. Revocation</u></p> |

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| (l) Improper solicitation of patients. (458.331(1)(l), F.S.) | (l) From one (1) year suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00. | <u>(l) From one (1) year suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u> |
| (m) Failure to keep appropriate <u>legible</u> written medical records. (458.331(1)(m), F.S.) | (m) From a reprimand to denial or two (2) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$10,000.00. | <u>(m) From probation to suspension followed by probation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u> |
| 1. Failure to keep appropriate legible written medical records <u>involving healthcare that is related to Medicare or Medicaid</u> fraud in dollar amounts in excess of \$5,000.00. | 1. Revocation or in the case of application for licensure, denial of licensure. | <u>1. Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.</u> |
| 2. Failure to keep appropriate legible written medical records <u>involving healthcare that is related to Medicare or Medicaid</u> fraud in dollar amounts of \$5,000.00 or less. | 2. A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation. | <u>2. Revocation or denial.</u> |
| (n) Exercising influence on patient for financial gain. (458.331(1)(n), F.S.) (455.624(1)(n), F.S.) | (n) <u>Payment of fees paid by or on behalf of the patient and from</u> From probation to denial or two (2) years suspension, and an administrative fine from \$5,000.00 to \$10,000.00. | <u>(n) Payment of fees paid by or on behalf of the patient and from suspension to revocation or denial and an administrative fine of \$10,000.00.</u> |
| (o) Improper advertising of pharmacy. (458.331(1)(o), F.S.) | (o) From a reprimand and \$250.00 fine <u>or denial</u> to one (1) year probation, and an administrative fine from \$250.00 to \$5,000.00. | <u>(o) From probation to suspension or denial and an administrative fine of \$5,000.00 to \$10,000.00.</u> |
| (p) Performing professional services not authorized by patient. (458.331(1)(p), F.S.) | (p) From a reprimand or to <u>denial to</u> or two (2) years suspension, and an administrative fine from \$1,000.00 to \$10,000.00. | <u>(p) From probation to revocation or denial and an administrative fine of \$5,000.00 to \$10,000.00.</u> |
| (q) Inappropriate or excessive prescribing. (458.331(1)(q), F.S.) | (q) From one (1) year probation to revocation or denial, and an administrative fine from \$1,000.00 to 10,000.00. | <u>(q) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u> |
| (r) Prescribing or dispensing of a scheduled drug by the physician to himself. (458.331(1)(r), F.S.) | (r) From one (1) year probation to revocation or denial, and an administrative fine from \$1,000.00 to \$5,000.00, <u>and a mental and physical examination.</u> | <u>(r) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00, and a mental and physical examination.</u> |
| (s) Inability to practice medicine with skill and safety. (458.331(1)(s), F.S.) | (s) From probation to denial or indefinite suspension until licensee is able to demonstrate ability to practice with reasonable skill and safety followed by probation, and an administrative fine from \$1,000.00 to \$5,000.00. | <u>(s) From indefinite suspension, followed by probation to suspension for a minimum of five (5) years or until licensee is able to demonstrate ability to practice with reasonable skill and safety followed by probation, and an administrative fine from \$5,000.00 to \$10,000.00.</u> |

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| <p>(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.
(458.331(1)(t), F.S.)</p> | <p>(t) From two (2) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(t) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>1. Gross Malpractice</p> | <p>1. From one (1) year suspension followed by three (3) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00 and licensee shall be subject to reexamination.</p> | <p><u>1. From suspension or denial to revocation or denial and an administrative fine of \$5,000.00 to \$10,000.00, and an evaluation or reexamination by a physician evaluation program approved by the Board.</u></p> |
| <p>2. Repeated Malpractice</p> | <p>2. From three (3) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00 and licensee shall be subject to reexamination.</p> | <p><u>2. From suspension or denial to revocation or denial and an administrative fine of \$5,000.00 to \$10,000.00, and an evaluation or reexamination by a physician evaluation program approved by the Board.</u></p> |
| <p>3. Failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent physician as being acceptable under similar conditions and circumstances.</p> | <p>3. From two (2) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>3. From a reprimand and probation or denial to revocation and an administrative fine of \$5,000.00 to \$10,000.00.</u></p> |
| <p>(u) Performing of experimental treatment without informed consent.
(458.331(1)(u), F.S.)</p> | <p>(u) From one (1) year suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(u) Revocation or denial.</u></p> |
| <p>(v) Practicing beyond scope permitted.
(458.331(1)(v), F.S.)
(455.624(1)(o), F.S.)</p> | <p>(v) From two (2) years suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(v) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(w) Delegation of professional responsibilities to unqualified person.
(458.331(1)(w), F.S.)
(455.624(1)(p), F.S.)</p> | <p>(w) From one (1) year probation to denial or five (5) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(w) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(x)1. Violation of law, rule, or failure to comply with subpoena.
(458.331(1)(x), F.S.)
(455.624(1)(b),(q), F.S.)</p> | <p>(x)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from From a reprimand to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(x)1. From probation to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |

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| <p>2. Violation of an order of the Board.</p> | <p>2. Reprimand and an administrative fine from \$5,000.00 to \$10,000.00, <u>to revocation or denial based upon the severity of the offense and the potential for patient harm and probation.</u></p> | <p><u>2. From suspension and a \$10,000.00 fine or denial to revocation.</u></p> |
| <p>(y) Conspiring to restrict another from lawfully advertising services. (458.331(1)(y), F.S.)</p> | <p>(y) A reprimand <u>or denial</u> and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p><u>(y) Probation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(z) Aiding an unlawful abortion. (458.331(1)(z), F.S.)</p> | <p>(z) From one (1) year suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(z) From suspension to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(aa) Presigning prescription forms. (458.331(1)(aa), F.S.)</p> | <p>(aa) From a reprimand to two (2) years probation, and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>(aa) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(bb) Prescribing a Schedule II substance for office use. (458.331(1)(bb), F.S.)</p> | <p>(bb) From a reprimand to probation with CME in pharmacology, and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>(bb) From probation to suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(cc) Improper prescribing of Schedule II amphetamine or sympathomimetic amine drug. (458.331(1)(cc), F.S.)</p> | <p>(cc) From probation to denial or two (2) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(cc) From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(dd) Failure to adequately supervise assisting personnel. (458.331(1)(dd), F.S.)</p> | <p>(dd) From probation to denial or two (2) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>(dd) From one (1) year suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(ee) Improper use of substances for muscle building or enhancement of athletic performance. (458.331(1)(ee), F.S.)</p> | <p>(ee) From one (1) year suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>(ee) From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(ff) Use of amygdalin (laetrile). (458.331(1)(ff), F.S.)</p> | <p>(ff) From one (1) year suspension to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p><u>(ff) From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(gg) Misrepresenting or concealing a material fact (458.331(1)(qq), F.S.)</p> | <p>(gg) From denial or revocation of license with ability to reapply upon payment of \$1,000.00 fine to denial of license without ability to reapply.</p> | <p><u>(gg) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(hh) Improperly interfering with an investigation or a disciplinary proceeding (458.331(1)(hh), F.S.) (458.331(1)(hh), F.S.)</p> | <p>(hh) From denial or revocation of license with ability to reapply upon payment of \$1,000.00 fine to denial of license without ability to reapply.</p> | <p><u>(hh) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |

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| <p>(ii) Failing to report any licensee in violation who practices in a hospital or an H.M.O.; or failing to report any person in violation of Chapter 455, Part II, F.S.
(458.331(1)(ii), F.S.)
(455.624(1)(i), F.S.)</p> | <p>(ii) From a reprimand to probation or denial and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p><u>(ii) From probation to suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(jj) Providing written medical opinion without reasonable investigation.
(458.331(1)(jj), F.S.)</p> | <p>(jj) From denial or revocation of license with ability to reapply upon payment of \$1,000.00 fine to denial of license without ability to reapply.</p> | <p><u>(jj) From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(kk) Failure to report disciplinary action by another jurisdiction.
(458.331(1)(kk), F.S.)</p> | <p>(kk) From an administrative fine of \$2,000.00 to a fine of \$5,000.00 and a reprimand to denial or revocation of license with ability to reapply upon payment of \$1,000.00 fine to denial or revocation of license without ability to reapply.</p> | <p><u>(kk) From probation to suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(ll) Improper holding oneself out as a specialist.
(458.331(1)(ll), F.S.)</p> | <p>(ll) From letter of concern reprimand to one year suspension or denial and an administrative fine from \$500 to \$5,000.00.</p> | <p><u>(ll) From reprimand to up to one (1) year suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(mm) Improper use of information about accident victims for commercial or any other solicitation of the people involved in such accidents.
(455.624(1)(x), F.S.)</p> | <p>(mm) From an administrative fine of \$1,000.00 to a fine of \$5,000.00, reprimand and probation.</p> | <p><u>(mm) From reprimand to up to one (1) year suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |
| <p>(nn) Theft or reproduction of an examination.
(455.577, F.S.)</p> | <p>(nn) Revocation or denial without ability to reapply.</p> | <p><u>(nn) Revocation or denial without ability to reapply.</u></p> |
| <p>(oo) Violation of Patient Self Referral Act.
(455.654, F.S.)</p> | <p>(oo) In addition to any civil penalty imposed pursuant to s. 455.654, for each separate violation, from an administrative fine of \$5,000.00 to an administrative fine of \$10,000.00.</p> | <p><u>(oo) From probation to suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</u></p> |

(3) through (7) No change.

Specific Authority 458.331(5), 458.309, 455.627 FS. Law Implemented 458.331(5), 455.624, 455.627 FS. History--New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Advertising
 RULE NO.: 64B8-11.001

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to set forth those specialty boards which have been approved by the Board.

SUBJECT AREA TO BE ADDRESSED: Specialty boards approved by the Board for purposes of advertising.

SPECIFIC AUTHORITY: 458.309 FS.

LAW IMPLEMENTED: 458.331(1)(d),(l),(n),(o) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-11.001 Advertising.

(1) through (6) No change.

(7) The recognizing agencies currently approved by the Board of Medicine include:

(a) American Board of Facial Plastic & Reconstructive Surgery, Inc. (Approved February 1997).

(b) American Board of Pain Medicine (Approved August 1999).

Specific Authority 458.309 FS. Law Implemented 458.331(1)(d),(l),(n),(o) FS. History--New 3-31-80, Formerly 21M-24.01, Amended 11-15-88, Formerly 21M-24.001, Amended 12-5-93, Formerly 61F6-24.001, Amended 4-3-95, 4-16-96, 5-29-97, Formerly 59R-11.001, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

RULE TITLE: Contract Penalties for Noncompliance
 RULE NO.: 65-29.001

PURPOSE AND EFFECT: The purpose of this rule is to implement the provisions of Section 402.73(7), Florida Statutes, (F.S.), to provide procedures for incremental financial penalties to be imposed upon a service provider as a result of such a provider's failure to comply with a requirement for corrective action.

SUBJECT AREA TO BE ADDRESSED: Penalties.

SPECIFIC AUTHORITY: 402.73(7) FS.

LAW IMPLEMENTED: 402.73(7) 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., November 9, 2000

PLACE: 1317 Winewood Blvd., Building 5, Room 130, Tallahassee, FL 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65-29.001 Contract Penalties for Noncompliance.

(1) Definitions – For the purposes of this rule, the following definitions shall apply:

(a) Corrective Action Plan – tasks to be performed by a service provider to correct either nonperformance or unacceptable performance of a contract with the department, according to a plan approved by or provided by the department.

(b) Department – the Florida Department of Children and Families.

(c) Service Provider – an organization or individual providing services or materials to the department in accordance with the terms of a contract.

(2) Penalty provision – All contracts entered into by the department with a service provider shall contain penalty provisions for nonperformance or unacceptable performance. Such provisions shall address the following:

(a) Corrective action plans.

(b) Increments of penalty imposition (based on the severity and time period of noncompliance) not to exceed ten (10%) percent of the total contract payments during the period of noncompliance. In the absence of extenuating circumstances, noncompliance having a direct effect on client health and safety shall result in the imposition of a ten (10%) percent penalty of the total contract payments during the period of noncompliance. Issues involving provisions of service not having a direct effect on client health and safety shall result in the imposition of a five (5%) percent penalty, and noncompliance as a result of unacceptable administrative support shall result in the imposition of a two (2) percent penalty.

(c) Timeliness of penalty payment.

(d) Deduction of financial penalty from the Department's payments to a service provider.

(3) Process – If at any time(s) during the effective period of a contract the department gives notice to the service provider that its services are unacceptable, the provider shall submit a corrective action plan without delay. The failure of

such provider to comply with and successfully complete such corrective action shall result in the imposition of a financial penalty.

(4) Financial Penalty – A service provider may not pay a financial penalty with funds intended to be used for or budgeted to provide services to clients nor may such provider reduce the level, quantity or quality of service being delivered to clients as a method of offsetting the impact of the penalty.

(5) Preliminary Findings of Fact – The Department shall send a written Preliminary Findings of Fact and Notice of Intent to Impose a Financial Penalty to the service provider, which shall include:

(a) The factual basis upon which the department determined that performance was unsatisfactory;

(b) A statement of the required corrective action, which was not implemented or satisfactorily accomplished; and

(c) The amount of the administrative penalty to be imposed.

(6) Contested Penalty – Within twenty-one (21) calendar days of the service provider's receipt of the Preliminary Findings of Fact and Notice of Intent to Impose a Financial Penalty, the service provider may file written exceptions. If no exceptions are filed, the Department will adopt such Preliminary Findings of Fact as the Findings of Fact, and shall issue a Final Order Imposing a Financial Penalty. FAILURE TO TIMELY FILE EXCEPTIONS TO THE PRELIMINARY FINDINGS OF FACT SHALL ACT AS A WAIVER OF PROCEEDINGS PURSUANT TO CHAPTER 120, F.S.

(7) Failure to pay financial penalty – The department may, at its discretion, deduct such financial penalty from funds that would otherwise be due a service provider, provided such deduction does not exceed ten (10%) percent of the invoice amount that would otherwise be due such provider for the period of the noncompliance.

(8) Additional department action – If the service provider fails to agree upon a corrective action plan with the department, that failure shall be grounds for termination of the contract. The provisions of this paragraph shall be in addition to all other remedies that may be available to the department.

(9) Imposition of a financial penalty shall not be construed as an election of remedies by the Department.

Specific Authority 402.73(7) FS. Law Implemented 402.73(7) FS. History–New

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES: Eligibility Determination Process 65A-1.205
 Food Stamp Program Case Processing 65A-1.602
 PURPOSE AND EFFECT: The proposed amendment of rule 65A-1.205, F.A.C. revises some of the specific statements about the department's application processing procedures

applicable to all programs. The proposed amendment of rule 65A-1.602, F.A.C. removes rule text that becomes duplicative with the amendment of rule 65A-1.205, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment of rule 65A-1.205, F.A.C. deletes statements requiring an abandonment notice following a request for additional information, incorporates a revised form by reference and clarifies rule statements about the deadline for providing requested information. The proposed amendment of rule 65A-1.602, F.A.C. deletes the existing paragraph (1) because the same policy is being implemented across program lines by the amendment of rule 65A-1.205, F.A.C.

SPECIFIC AUTHORITY: 409.919, 414.45 FS.
LAW IMPLEMENTED: 414.095, 414.31, 409.903, 409.904, 409.919, 410.033 FS.

IF REQUESTED AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 11:00 a.m., November 6, 2000
PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Child Care **RULE NO.:** 65A-4.218
PURPOSE AND EFFECT: The 2000 Florida Legislature enacted Chapter 2000-165, Laws of Florida (LOF), to create the Workforce Innovation Act of 2000 that transferred, renumbered, and amended many provisions of the Work and Gain Economic Self-Sufficiency (WAGES) Act of 1996. Section 414.095(1), F.S., was amended to remove reference to WAGES and to designate regional workforce boards as the entity responsible for temporary cash assistance (TCA) work activities and support services such as child care. Chapter 2000-165, LOF, also amended s. 402.3015, F.S., to remove reference to WAGES and to add the definition of “needy families” for purposes of expending federal Temporary Cash Assistance for Needy Families (TANF) funds for child care for families in diversion or welfare-transition programs. This expands allowable qualifying reasons for families who have lost eligibility for TCA due to earnings, time limits, or redirected from TCA by diversion to receive transitional child care services related to employment.

SUBJECT AREA TO BE ADDRESSED: This rule amendment removes reference to WAGES; designates the regional workforce board as the entity responsible for TCA work activities and related support services; and provides for child care assistance for individuals in temporary cash assistance (TCA) work-related activities. It also expands transitional child care eligibility criteria for TCA participants and individuals redirected by diversion to accept, maintain or actively seek employment if their income does not exceed 200 percent of the federal poverty level. Additionally, criteria relating to receiving TCA for less than three months are removed in relation to eligibility for transitional child care and forms are revised and incorporated by reference to reflect statutory changes.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.095(1), 445.028, 402.3015 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., November 7, 2000

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, telephone (850)488-3090

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

Section II Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLE: Refunds **RULE NO.:** 4-196.010

PURPOSE AND EFFECT: The purpose of the proposed action is to update the procedure for the refund of premiums which occur as the result of non-payment of installments on a premium finance contract.

SUMMARY: The amended rule provides time frames for notices and return of funds by insurers, premium finance companies and agents.

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 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: 624.308(1), 627.848 FS.

LAW IMPLEMENTED: 624.307(1), 627.7283, 627.832, 627.838, 627.848, 627.849 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: 9:00 a.m – 11:00 a.m., November 15, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND A COPY OF THE PRELIMINARY DRAFT IS: Marie Bachman, Bureau of Specialty Insurers, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0326, (850)413-3146

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-196.010 Refunds.

(1) Except as provided in subsection (2), a premium finance company shall be responsible to refund to the insured all moneys due or held on the insureds behalf within 30 days after receipt of the funds from an insurer or other person. Refunds arising for reasons other than cancellation of the contract may be sent directly from the premium finance company to the insured or the insurance agent.

(2) Upon receipt of a cancellation notice from a premium finance company, the insurer shall within thirty (30) days, refund the unearned premium to the premium finance company and notify the insured, agent and premium finance company of the amount of unearned premium which is being returned to the premium finance company and the amount of the agent's unearned commission held by the agent. The notice must indicate to the insured that the amount of unearned premium refunded to the premium finance company and the amount of unearned commission that is held by the agent quoted in this notice will be used by the premium finance company to satisfy the insured's loan balance and other obligations under the premium finance agreement prior to the refund to the insured.

(a) Within 15 days of receipt of the funds, the premium finance company shall notify the insured and the agent of the amount of unearned premium due the insured, if any, and return or credit said funds to the insured or insurance agent. The notice must indicate to the insured that portion of unearned premium returned to the premium finance company and the amount of unearned commission that is held by the agent, as