

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-26.003 Massage Establishment Operations.

(1) No change.

(2) Personnel. A licensed massage therapist must be on the premises of the establishment if a client is in a treatment room for the purpose of receiving massage therapy.

(3) through (4) No change.

Specific Authority 480.035(7), 480.043(2) FS. Law Implemented 480.043(2) FS. History—New 11-27-79, Amended 10-13-81, 9-10-84, 9-25-85, Formerly 21L-26.03, Amended 4-30-87, 6-12-89, 8-15-89, 5-31-92, 11-2-92, Formerly 21L-26.003, 61G11-26.003, Amended 2-16-99, 11-4-99.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Board of Massage Therapy

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: October 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: March 17, 2000

Section III

Notices of Changes, Corrections and Withdrawals

PUBLIC SERVICE COMMISSION

DOCKET NO. 981104-EU

RULE NO.:

RULE TITLE:

25-6.049

Measuring Customer Service

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. 42, October 22, 1999, issue of the Florida Administrative Weekly:

The following sentence shall be added to the end of paragraph (5)(a) in Rule 25-6.049:

This paragraph shall not be interpreted to authorize conversion of any such facilities from individual metering to master metering.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE CHAPTER NO.: RULE CHAPTER TITLE:

59A-25

Minimum Standards for Home Medical Equipment Providers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in the above cited rule as published in Vol. No. 26, Florida Administrative Weekly, January 21, 2000,

Purchase Order Number H00973. In response to comments received from the Joint Administrative Procedures Committee the following changes have been made.

In 59A-25.002(3)(a) the following sentences are deleted “However, in the first year of implementation, half of the providers will be given an application for one-year licenses. Those given one-year applications will pay one half of the fees, \$150 for licensing and \$200 for inspection.”

In 59A-25.002(4) the following sentence is deleted “An application for initial licensure shall be made on forms prescribed by AHCA, which is referred to as the Home Medical Equipment Provider Licensure Application that is AHCA form number 3110-1005, Nov. 99.”

In 59A-25.002(4) the following sentences are added “An application for initial licensure shall be made on forms prescribed by AHCA. The application package contains the following forms that are incorporated by reference as part of this rule:

(a) Home Medical Equipment Provider Application for Licensure, form number AHCA 3110-1005; March, 2000;

(b) Affidavit of Good Moral Character, form number AHCA 3110-0001, (Attachment A);

(c) Affirmation of Compliance with Screening Requirements, form number 3110-1006, March, 1999, (Attachment B);

(d) Request for Level 1 Criminal History Check, form number, AHCA 3110-0002, Revised June, 1998;

(e) Florida Abuse Hotline Information System Background Check, form number, AHCA 3110-0003, Revised July 1998; and,

Federal Bureau of Investigation, United States Department of Justice finger print card, form number, FD-258, Revised 12-29-82.” In 59A-25.003(2) the phrase “includes but is not limited to” is deleted.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:

RULE TITLE:

59G-4.130

Home Health Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in the above cited rule as published in Vol. 26, No. 8, Florida Administrative Weekly, February 25, 2000. These changes are in response to written comments received prior to the public hearing date.

The following change was made to the Home Health Services Coverage and Limitations Handbook, March 2000, which is being incorporated by the reference in the rule.

On page 1-10, we deleted the following: “Recipient’s Acknowledgment of Services: The recipient or the recipient’s family must acknowledge in writing and verify that specific home health service(s) were received on each date of service(s) and the specified time.”

Copies of the full text of the Home Health Services Coverage and Limitations Handbook, March 2000, may be obtained by contacting: Peggy Stafford, Medicaid Program Development, (850)922-7348.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE CHAPTER NO.: 60L-20
RULE NO.: 60L-20.002
RULE CHAPTER TITLE: State Child Care Program
RULE TITLE: Statements of Policy

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. 26, No. 8, February 25, 2000, issue of the Florida Administrative Weekly. The changes are in response to comments provided by staff of the Joint Administrative Procedures Committee. Subsection (6) of the rule shall now read as follows:

(6) The sponsoring state agency may elect to operate the center when a second request for proposals fails to procure a qualified service provider or when the service provider's contract is canceled and attempts to procure a qualified provider are unsuccessful, provided plans for the direct operation by the sponsoring agency are approved by the Department.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-23.070
RULE TITLE: Responsibility for Businesses

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 6, February 11, 2000, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-39R
RULE CHAPTER NO.: 62-330
RULE NO.: 62-330.200
RULE CHAPTER TITLE: Environmental Resource Permitting
RULE TITLE: Rules Adopted by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the proposed amendment to the above rule, as noticed in Vol. 26, No. 9, March 3, 2000, Florida Administrative Weekly (FAW) has been withdrawn. The rule notice published on March 3, 2000, was intended merely as a corrective notice to add language relating to submission of a Statement of Estimated Regulatory Cost that was missing from the otherwise identical notice of rulemaking for this same rule published in Vol. 26, No. 7, of the FAW on February 18, 2000. Withdrawal of this notice as published on March 3, 2000, does

not affect the proposed amendment to the rule as published on February 18, 2000. The proposed amendment to the rule as noticed on February 18, 2000, is not changing; only the notice will be corrected through publication of a separate notice of correction to add the missing statement.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-39R
RULE CHAPTER NO.: 62-330
RULE NO.: 62-330.200
RULE CHAPTER TITLE: Environmental Resource Permitting
RULE TITLE: Rules Adopted by Reference

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the notice of proposed rulemaking for the above rule published in Vol. 26, No. 7, February 18, 2000, issue of the Florida Administrative Weekly. That notice failed to include a Summary of Statement of Estimated Regulatory Cost. To correct that error, the following text is hereby to be included as part of the Notice of Proposed Rulemaking to the above referenced rule:

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NOS.: 64B14-5.002
64B14-5.004
RULE TITLES: Continuing Education Requirement
Provider Application

NOTICE OF CHANGE

The Board of Orthotists and Prosthetists gives Notice of Change to the above-referenced rules in response to comments received from the Joint Administrative Procedures Committee. The rules were originally published in Vol. 26, No. 7, February 18, 2000, issue of the Florida Administrative Weekly. When changed, Rules 64B14-5.002(1)(b)5. and 64B14-5.004(1) shall read as follows:

64B14-5.002(1)(b)5. Any licensee holding more than one (1) license must complete a minimum of 30 hours of continuing education.

64B14-5.004(1) Applicants for approval as a continuing education provider shall submit a completed Continuing Education Provider Application (Form No. DH-MQA 1024, effective 12/1/99, incorporated herein by reference), with the application fee stated in Rule 64B14-2.010. The form may be obtained from the Board office 2020 S. E. Capital Circle, Bin #C06, Tallahassee, Florida 32399-32359.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Orthotists and Prosthetists/MQA, 2020 S. E. Capital Circle, Bin #C06, Tallahassee, Florida 32399-0750

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-28.820
 RULE TITLE: Special Parenteral/Enteral Compounding

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 1, January 7, 2000, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Substance Abuse Program Office

RULE NOS.:	RULE TITLES:
65D-30.002	Definitions
65D-30.003	Department Licensure and Regulatory Standards
65D-30.004	Common Licensure Standards
65D-30.005	Standards for Addictions Receiving Facilities
65D-30.006	Standards for Detoxification
65D-30.007	Standards for Residential Treatment
65D-30.008	Standards for Day or Night Treatment with Host Homes
65D-30.009	Standards for Day or Night Treatment
65D-30.010	Standards for Outpatient Treatment
65D-30.011	Standards for Aftercare
65D-30.012	Standards for Intervention
65D-30.013	Standards for Prevention
65D-30.014	Standards for Medication and Methadone Maintenance Treatment

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. 26, No. 6, February 11, 2000, issue of the Florida Administrative Weekly. These changes are in response to comments received during the public hearing and written response to the proposed rulemaking by the Joint Administrative Procedures Committee.

65D-30.002 Definitions.

(1) through (23) No change.

(24) “Financial Ability” means a provider’s ability to secure and maintain the necessary financial resources to provide services to clients in compliance with required licensure standards.

(24) through (64) renumbered (25) through (65) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311, 397.321(1), 397.419 FS. History–New _____.

Editorial Note: Formerly 65D-16.

65D-30.003 Department Licensure and Regulatory Standards.

(1) Licensure. Unless otherwise exempt from licensure, substance abuse providers must be licensed by the department pursuant to section 397.401, F.S. The department’s districts will be responsible for conducting licensure reviews and for issuing licenses, as permitted under section 20.19(10)(c)2., F.S. A license is required for each facility that is maintained on separate premises and operated under the same management. Only one license is required for all facilities that are maintained on the same premises and operated under the same management.

In the case of separate premises, all components provided at each facility shall be listed on the license. However, a district may elect to issue a separate license for each component provided at a given facility on the condition that the amount of licensure fees would be the same as for a single license listing each component service. The license shall be displayed in a prominent, publicly accessible place within each facility. In the case of addictions receiving facilities, detoxification, and residential treatment, each license shall include the licensed bed capacity. In addition, those components provided in each facility that are accredited by the Rehabilitation Accreditation Commission, known as CARF, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or other department approved accrediting organization, shall be indicated on the license.

(2) No change.

(a) through (b) No change.

(c) No change.

1. No change.

2. Reissuing an Interim License. The department may reissue an interim license for an additional 90 days at the end of the initial 90-day period in the case of extreme hardship, in which noncompliance is not caused by the provider. ~~In those instances where failure to comply is directly attributable to the provider, the department shall invoke suspension or revocation proceedings as permitted by section 397.415, F.S.~~

(3) License Non-transferable.

(a) through (b) No change.

(c) Information Required Regarding Relocation. In the case of relocation, the provider shall be required to provide proof of liability insurance coverage and compliance with fire and safety standards established by the State Fire Marshall and health, ~~safety, and occupational~~ codes enforced at the local

level. If there is no change in the provider's services, the provider shall not be required to submit any additional information.

(4) No change.

(5) Licensure Fees. Applicants for a license to operate as a licensed service provider as defined in section 397.311(19), Florida Statutes, shall be required to pay a fee upon submitting an application to the department. The fees paid by privately funded providers shall exceed fees paid by publicly funded providers, as required in section 397.407(1), Florida Statutes. Applicants shall be allowed a reduction, hereafter referred to as a discount, in the amount of fees owed the department. The discount shall be based on the number of facilities operated by a provider. The fee schedules are listed by component as follows:

Publicly Funded Providers	
Licensable Service Component	FEE
Addictions Receiving Facility	\$325
Detoxification	325
Residential Treatment	300
Day or Night Treatment/Host Home	250
Day or Night Treatment	250
Outpatient Treatment	250
Medication and Methadone	350
Maintenance Treatment	
Aftercare	200
Intervention	200
Prevention	200

Schedule of Discounts	
Number of Licensed Facilities	Discount
+	5%
2-5	10%
6-10	15%
11-15	20%
16-20	25%
20+	30%

Privately Funded Providers	
Licensable Service Component	FEE
Detoxification	375
Residential Treatment	350
Day or Night Treatment/Host Home	300
Day or Night Treatment	300
Outpatient Treatment	300
Medication and Methadone	400
Maintenance Treatment	
Aftercare	250
Intervention	250
Prevention	250

Schedule of Discounts	
Number of Licensed Facilities	Discount
+	None
2-5	5%
6-10	10%
11-15	15%
16-20	20%
20+	25%

(6) No change.

(a) No change.

1. A standard departmental application for licensure, C&F-SA Form 4024, June 1999, titled Application for Licensure to Provide SUBSTANCE ABUSE SERVICES, incorporated herein by reference, copies of which may be obtained from the Department of Children and Families, Substance Abuse Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700;

2. through 6. No change.

7. Proof of the applicant's financial ability and organizational capability to operate in accordance with these rules, with the exception of providers which are accredited by department approved accrediting organizations identified in subsection (1) and inmate substance abuse programs operated directly by Department of Corrections staff;

8. Proof of professional and property liability insurance coverage, with the exception of inmate substance abuse programs operated directly by Department of Corrections staff;

9. through 12. No change.

13. The DEA registration for a pharmacy; ~~where required by federal and state regulations;~~

14. The DEA registration for all physicians; ~~where required by federal and state regulations;~~

15. A state of Florida pharmacy permit; ~~where required by state regulations;~~

16. through 20. No change.

Items listed in subparagraphs 1.-11. Must accompany the application for licensure. Items listed in subparagraphs 12.-20. Must be made available for review at the provider facility.

In addition, those items listed in subparagraphs 1.-20. that expire during the licensure period shall be renewed by the provider prior to expiration and verification shall be given to the district office in writing immediately upon renewal.

(7) No change.

(8) No change.

(a) No change.

(b) Department District Office Licensure Procedures. The district offices shall be responsible for licensure of providers operating within their jurisdiction and as permitted under section 20.19(10)(c)2., F.S.

1. through 6. No change.

7. Content of Licensure Records. Districts shall maintain current licensure files on each provider licensed under Chapter 397, F.S. The contents of the files shall include those items listed under paragraph (6)(a) and subparagraph (8)(b)5.

8. through 9. No change.

(c) No change.

1. Records. The department's Substance Abuse Program Office shall maintain a record of all licensed providers; and

2. No change.

~~3. Technical Assistance. The department shall provide technical assistance to each district, when requested, to implement the provisions of this subsection.~~

(9) through (10) No change.

(11) Closing a Licensed Provider. Providers shall notify the department in writing at least 30 days prior to voluntarily ceasing operation. If a provider, facility, or component is ordered closed by the department or a court of competent jurisdiction pursuant to section 397.415(4), F.S., the provider shall maintain possession of all its records until the question of closing is resolved. The provider remains responsible for giving the department access to its records. If the decision is made to permanently close the provider, the provider's records shall be turned over to the department. In the interim, the provider, with the department's assistance, shall attempt to place all active clients in need of care with other providers. The respective department district office shall provide assistance in placing clients and for ensuring that all placements are completed in accordance with Title 42, Code of Federal Regulations, Part 2, and section 397.501(7), F.S. The provider shall return its license to the Regional Alcohol, Drug Abuse, and Mental Health Program Office by the designated date of closure.

(12) No change.

Specific Authority 397.321(5) FS. Law Implemented 20.19(10), 397.321(1), 397.401, 397.403, 397.405, 397.406, 397.407, 397.409, 397.411, 397.415, 397.419. 633.02 FS. History–New _____.

65D-30.004 Common Licensure Standards.

(1) through (2) No change.

(3) No change.

(a) through (b) No change.

(c) Chief Executive Officer. The governing body shall appoint a chief executive officer. The qualifications and experience required for the position of chief executive officer shall be defined in the provider's operating procedures. Documentation shall be available from the governing body providing evidence that a background screening has been completed in accordance with Chapter 435, F.S., and there is no evidence of a disqualifying offense. Providers shall notify the district office in writing when a new chief executive officer

is appointed. Inmate substance abuse programs operated directly by Department of Corrections staff are exempt from the requirements in this paragraph.

(4) No change.

(a) No change.

(b) Screening of Staff. Except as otherwise provided in section 397.451(1)(b)-(g), F.S., all staff, volunteers, and host families who have direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled shall be fingerprinted and have a background check completed in accordance with section 397.451(3), F.S. In addition, individuals shall be re-screened within 5 years from the date of employment. Re-screening shall include a level II screening in accordance with Chapter 435, F.S. Inmate substance abuse programs operated directly by Department of Corrections staff are exempt from the requirements in this paragraph.

(5) through (6) No change.

(7) No change.

(a) Medical Protocol. Each provider's medical director shall establish written protocols for the provision of medical services pursuant to Chapters 458 and 459, F.S., and for managing medication according to medical and pharmacy standards, pursuant to Chapter 465, F.S. ~~Advance directives for medical services shall be given only by the medical director and documented in each client's record.~~ All medical protocols shall be reviewed and approved by the medical director on an annual basis.

In those cases where there is no requirement for a medical director, providers shall have access to a physician who will be available to consult on any medical services required by these rules.

(b) Emergency Medical Services. Providers shall describe the manner in which medical emergencies shall be addressed. Inmate substance abuse programs are exempt from the requirements of this paragraph but shall provide such services as required by Chapter 33-19, Florida Administrative code, titled Health Services.

(8) State Approval Regarding Prescription Medication. In those instances where the provider utilizes prescription medication, medications shall be purchased, handled, administered, and stored in compliance with the State of Florida Board of Pharmacy requirements for facilities which hold Modified Class II Institutional Permits and in accordance with Chapter 465, F.S. This shall be implemented in consultation with a state-licensed pharmacist, and approved by the medical director. The provider shall ensure that policies implementing this subsection are reviewed and approved annually by a state-licensed pharmacist. Inmate substance abuse programs are exempt from the requirements of this subsection but shall provide such services as required by Chapter 465, F.S.

(9) through (10)(b)No change.

1. through 2. No change.

3. Reporting of communicable diseases to the Department of Health in accordance with sections 381.0031 and 384.25, F.S. Inmate substance abuse programs are exempt from the requirements of this subsection but shall provide such services as required by Chapter 945, F.S., titled Department of Corrections.

(11) Universal Infection Control Education Requirements for Employees and Clients. Providers shall meet the educational requirements for HIV and AIDS pursuant to section 381.0035, F.S., and all infection prevention and control educational activities shall be documented. Inmate substance abuse programs are exempt from the requirements of this subsection but shall provide such services as required by Chapter 945, F.S., titled Department of Corrections.

(12) Meals. At least three nutritious meals per day shall be provided to clients in addictions receiving facilities, residential detoxification, residential treatment, and day or night treatment with host homes. In addition, at least one nutritious snack shall be provided each day. For day or night treatment, the provider shall make arrangements to serve a meal to those clients involved in services a minimum of five hours at any one time. Clients with special dietary needs shall be reasonably accommodated. Under no circumstances may food be withheld for disciplinary reasons. The provider shall document and ensure that nutrition and dietary plans are reviewed and approved by a Florida registered dietitian at least annually. Inmate substance abuse programs are exempt from the requirements of this subsection but shall provide such services as required by Chapter 33-204, Florida Administrative Code, titled Food Services.

(13) No change.

(a) through (c) No change.

1. No change.

a. through g. No change.

h. Psychosocial assessment, except for detoxification;

i. and j. No change.

k. Initial treatment plans, treatment plans, and subsequent reviews, except for detoxification;

l. through q. No change.

r. Transfer summary, if transferred necessary; and

s. No change.

In the case of medical records developed and maintained by the Department of Corrections of inmates participating in inmate substance abuse programs, such records shall not be made part of information required in subparagraph sub-paragraph 1. and shall be made available to authorized agents of the department only on a need-to-know basis.

2. through 3. No change.

a. through g. No change.

h. Psychosocial assessment for persons continuing in intervention services beyond 30 days;

i. through o. renumbered h. through n. No change.

~~o.p.~~ A transfer summary, if transferred necessary; and ~~p.q.~~ No change.

4. No change.

a. through i. No change.

Items in sub-subparagraphs a.-i. Are required for indicated prevention services. Items in sub-subparagraphs a.-c. are required for selective prevention services. Items in sub-subparagraphs sub-paragraphs a. and b. are required for universal prevention services.

(14) through (15) No change.

(a) Physical Health Assessment. Inmate substance abuse programs are exempt from the requirements of this paragraph but shall provide such services as required in Chapter 33-19, Florida Administrative Code, titled Health Services.

1. through 9. No change.

(b) No change.

1. No change.

a. through f. No change.

g. Past or current sexual, psychological, or physical abuse or trauma; Physical or sexual abuse;

h. through m. No change.

2. No change.

a. For addictions receiving facilities ~~and for detoxification,~~ the psychosocial assessment shall be completed prior to or within 72 hours of admission.

b. through c. No change.

d. For outpatient treatment, the psychosocial assessment shall be completed prior to or within 4 sessions or 30 days of admission, whichever comes first. For inmate substance abuse programs the psychosocial assessment shall be completed within 30 days of admission.

e. No change.

f. ~~For intervention, the psychosocial assessment shall be completed prior to or within 45 days of admission.~~

3. Psychosocial Assessment Sign-off and Readmission Requirements. The psychosocial assessment shall be completed by clinical staff and signed and dated. If the psychosocial assessment was not completed initially by a qualified professional, the psychosocial assessment shall be reviewed, counter-signed, and dated by a qualified professional within 10 days 48 hours, except for inmate substance abuse programs, in which case this review and sign-off shall occur within 30 days. In those instances where a client is readmitted for services within 180 90 days of discharge, a psychosocial assessment update shall be completed eonducted, if clinically indicated, and as prescribed by the qualified professional. A new assessment shall be completed on clients who are ~~If a client is readmitted for services more than after 180 90 days after discharge, a new assessment shall be conducted.~~ In

addition, the psychosocial assessment shall be updated annually for clients who are in continuous treatment for longer than one year.

(c) No change.

(16) Client Placement Criteria Regarding Admission, Continued Stay, and Discharge/Transfer. This requirement applies to addictions receiving facilities, detoxification, residential treatment, day or night treatment with host homes, day or night treatment, outpatient treatment, intervention, and medication and methadone maintenance treatment.

When determining client placement, providers under contract with the department shall use the Florida Supplement to the American Society of Addiction Medicine Patient Placement Criteria: Florida Supplement, for the Treatment of Substance-Related Disorders (ASAM PPC-2), Second Edition, revised July 1, 1998, for determining client placement, incorporated herein by reference. Copies of the ASAM PPC-2 may be obtained from the Department of Children and Families, Substance Abuse Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Providers that are not under contract with the department shall clearly describe the criteria and process used regarding admission, continued stay, and discharge/transfer of clients. In both cases, decisions regarding admission shall be based primarily on information from the assessment. Decisions regarding continued stay and discharge/transfer shall be based primarily on information from the treatment plan, intervention plan, progress notes, and summary notes.

(17) No change.

(a) Primary Counselor. A primary counselor shall be assigned to each client admitted for services. Providers shall require that each client admitted for services sign a formal consent for services. Following the client's formal consent, providers shall conduct an orientation and shall complete an initial treatment plan. This standard does not apply to detoxification.

(b) through (c) No change.

(d) Initial Treatment Plan. An initial treatment plan shall be completed on each client upon admission. The plan shall specify timeframes for implementing services in accordance with the requirements established for each component. The initial treatment plan shall be signed and dated by clinical staff and signed and dated by the client. This standard does not apply to detoxification.

(18) No change.

(a) No change.

1. through 3. No change.

4. For outpatient treatment, the treatment plan shall be completed prior to or within 4 sessions or 30 days of admission, whichever comes first, except for inmate substance abuse programs, in which case the plan shall be completed within 30 days of admission.

The treatment plan shall be based on the assessment, results of diagnostic services, and special needs of the client. Each client shall be afforded the opportunity to participate in the development and subsequent review of the treatment plan. The treatment plan shall include goals and related measurable behavioral objectives to be achieved by the client, the means of achieving those objectives, the type and frequency of services to be provided, including ancillary services, and the expected dates of completion. The treatment plan shall be signed and dated by the person providing the service, and signed and dated by the client. If the treatment plan is not completed by a qualified professional, the treatment plan and subsequent treatment plan reviews shall be reviewed, countersigned, and dated by a qualified professional within 5 working days of completion, except for inmate substance abuse programs, in which case this action shall occur within 30 days of completion 48 hours.

(b) No change.

(c) Progress Notes. Progress notes shall be entered into the client record documenting a client's progress or lack of progress toward meeting treatment plan goals and objectives. Each progress note shall be signed and dated by the person providing the service. Only clinical staff will be permitted to make these entries, except that in the case of detoxification, nursing staff are permitted to enter progress notes. The progress notes shall be recorded as follows:

1. through 2. No change.

3. For outpatient treatment, progress notes shall be recorded at least weekly or according to the frequency of sessions, except that in the case of inmate substance abuse programs, notes shall be recorded weekly.

4. No change.

(19) through (21) No change.

(22) Control of Aggression. Providers ~~that who~~ use verbal de-escalation or psychological techniques or physical intervention techniques ~~restraint~~ in managing client behavior, shall use ~~department-approved~~ techniques such as Aggression Control Techniques (ACT). Staff who use aggression control shall be trained and certified in the use of said techniques and shall receive at least two hours of training in aggression control each year.

(a) Justification and Documentation of Use. Verbal de-escalation techniques shall be employed before physical intervention is used. In the event that physical intervention ~~restraint~~ is used to restrict a client's movement, justification shall be documented in the client record and a complete, detailed report of the event shall be maintained as part of the provider's administrative records.

(b) Prohibitions. Under no circumstances shall clients be involved in the use of verbal de-escalation or physical intervention ~~restraint~~ to control aggressive behavior of other clients. Additionally, such techniques shall not be employed as punishment or for the convenience of staff.

Department of Juvenile Justice commitment facilities shall implement this subsection in accordance with Florida Department of Juvenile Justice Policies and Procedures, policy Number 8.03, titled Use of Force Policy, July 1995, incorporated herein by reference, that includes policies and procedures on the use of physical force and restraining devices. This policy may be obtained from the Department of Children and Families, Substance Abuse Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

(23) Discharge Plan and Transfer Summary. This requirement applies to addictions receiving facilities, detoxification, residential treatment, day or night treatment with host homes, day or night treatment, outpatient treatment, medication and methadone maintenance treatment, aftercare, and intervention.

A written discharge plan shall be completed for clients who complete services or who leave the provider prior to completion of services. The discharge plan shall include a summary of the client's involvement in services and the reasons for discharge and a plan for the provision of other services needed by the client following discharge, including aftercare. A transfer summary shall be completed for clients who transfer from one component to another within the same provider and from one provider to another. The transfer summary must be completed immediately upon transfer from one component to another within the same provider and within 5 working days following transfer to another provider. An entry shall be made in the client record regarding the circumstances surrounding the transfer. The discharge plan and transfer summary shall be signed and dated by a primary counselor qualified professional.

(24) No change.

(25) Data. Providers shall participate in the reporting of client, service, and fiscal data to the department pursuant to section 397.321(3)(c), F.S., ~~and in a form and manner required by the department.~~

(26) through (29) No change.

(30) No change.

(a) No change.

1. Provisions for informing the client, family member, or authorized guardian of their rights and responsibilities, assisting in the ~~reasonable~~ exercise of those rights, and an accessible grievance system for resolution of conflicts;

2. through 10. No change.

(b) No change.

(c) Implementation of Client Rights Requirements by Department of Corrections. In lieu of the requirements of this subsection, and in the case of inmate substance abuse programs, the Department of Corrections shall establish rules regarding inmate grievances as provided for in section 944.331, F.S., titled Inmate Grievance Procedure.

(31) No change.

(32) Training. Providers shall develop and implement a staff development plan. One staff member with skill in developing staff training plans shall be assigned the responsibility of ensuring that staff development activities are implemented. All ~~administrative, clinical and medical staff and any other staff with direct contact support, and voluntary~~ with clients shall receive four hours of HIV/AIDS/TB training and four hours CPR training within the first six months of employment and two hours every two years thereafter. In addition, each employee and volunteer who provides direct services and whose regular work schedule is 32 hours-a-week or more, and all primary counselors, shall receive a minimum of 20 hours of documented annual training related to their duties and responsibilities, including training in the following subject areas:

Subject	Initial Training	Updates
Ethics	2 hours within 6 months of employment	1 hour every 2 years
Domestic Violence	2 hours within 6 months of employment	1 hour every 2 years
<u>Sexual Abuse and Trauma</u>	<u>2 hours within 6 months of employment</u>	<u>1 hour every 2 years</u>
Dual Diagnosis/ Substance Abuse and Mental Health	4 hours within 6 months of employment	2 hours every 2 years
First Aid	2 hours within 6 months of employment	2 hours every 2 years

(33) through (34) No change.

(35) No change.

(a) No change.

1. Six thousand hours of direct experience as a substance abuse counselor under the supervision of a qualified professional, within the 10 ~~7~~ years preceding the application for certification;

2. through 6. No change.

(b) No change.

(36) Facility Standards. Facility standards in paragraphs ~~sub-subparagraphs~~ (a)-(k) apply to addictions receiving facilities, residential detoxification facilities, and residential facilities. Facility standards in paragraphs ~~sub-subparagraphs~~ (i)-(k) apply to medication and methadone maintenance treatment. Facility standards under paragraph ~~sub-subparagraph~~ (l) apply to all components.

(a) through (k) No change.

(l) Compliance with Local Codes. All facilities used by a provider shall comply with fire and safety standards enforced by the State Fire Marshall, pursuant to section 633.022, F.S., and rules established pursuant to Chapter 4A-44.012, Florida Administrative Code, and health, ~~safety, zoning, and occupational~~ codes enforced at the local level. All providers shall update and have proof of compliance with local fire and safety and health inspections annually.

(37) No change.

(a) though (b) No change.

(c) Staff are permitted to deliver only clinical services at the alternate site.

The following is an example of an overlay service. A comprehensive substance abuse services agency is licensed, among other things, to provide outpatient services located at 6th street. From that facility, the full range of outpatient services are provided as permitted in rule. A number of inmates at a local county jail located on 20th street have been assessed as having substance abuse problems and would benefit from counseling. The substance abuse agency enters into an agreement with the appropriate jail authorities to provide on-site counseling two days per week for four hours each day at the jail facility. When counseling is completed following the prescribed time, the counselor returns to the permanent outpatient offices at 6th street. Any information generated about an inmate during counseling also returns with the counselor to the permanent work site. In this example, the overlay consists of counseling which is provided under the agency's outpatient license.

(38) No change.

(39) Licensure of Department of Juvenile Justice Commitment Facilities. Substance abuse services, as defined in section 397.311(19), F.S., shall be provided within Juvenile Justice commitment facilities under the following conditions:

(a) The commitment facility is licensed under Chapter 397, F.S.; ~~or, in accordance with the requirements in section 65D-30.004 and sections 65D-30.007, 65D-30.009, 65D-30.010, or 65D-30.012~~

(b) The services are provided by employees of the commitment facility who are qualified professionals licensed under Chapters 458, 459, 490, or 491, or are provided by employees who are Certified Addictions Professionals working under the supervision of a licensed qualified professional; ~~or~~

(c) The services are provided by a licensed service provider licensed under Chapter 397; ~~or~~

(d) The services are provided by an independent contractor licensed under Chapters 458, 459, 490, or 491, F.S., or by a Certified Addictions Professional who is an employee of the independent contractor.

(40) Licensure of Department of Corrections Inmate Substance Abuse Programs.

(a) Inmate substance abuse services shall be provided within inmate facilities operated by the Department of Corrections under the following circumstances:

~~(a)1.~~ The inmate facility is licensed under Chapter 397, F.S., in accordance with the requirements in section 65D-30.004 and the appropriate component under sections 65D-30.007, 65D-30.009, 65D-30.010, or 65D-30.012.

~~(b)2.~~ Arrangements are made for inmates to be screened ~~assessed~~ for substance abuse needs upon arrival at a designated reception center, and the screening assessment shall be made either by the Department of Corrections or publicly funded provider of substance abuse services.

~~(c)3.~~ Research, evaluation, and monitoring is conducted relative to inmate participation to ensure the delivery of quality services and that services are based on client needs.

~~(d)4.~~ Relationships and cooperative agreements are developed by the Department of Corrections with publicly funded providers and other agencies that would enhance resources for the provision of services to the inmate.

~~(e)5.~~ Training of all correctional personnel involved in the provision of substance abuse services is conducted on a timely basis.

~~(f)6.~~ The Department of Corrections ensure that all inmates receiving substance abuse services shall be afforded the highest quality services possible.

~~(g)7.~~ The Department of Corrections ensures that each participating inmate shall be afforded the right of individual dignity, non-discriminatory services, right to communication, and that client information shall be maintained as required by Title 42, Code of Federal Regulations, Part 2, and Chapter 397, F.S.

~~(b) Exemption from Licensure Standards. Any inmate substance abuse program operated by the Department of Corrections and using staff employed directly by the Department of Corrections, is exempt from the following common licensure standards:~~

- ~~1. Section 65D-30.003(6)(a)7. And 8.;~~
- ~~2. Section 65D-30.004(3); and~~
- ~~3. 65D-30.004(4)(b).~~

(41) Offender Referrals under Chapter 397, F.S.

(a) through (d) No change.

~~(e) Secure and Non-Secure Services. In those instances where a community-based provider is under contract with the Department of Corrections to provide secure and non-secure services, such services shall be provided under the following licensable components:~~

- ~~1. Non-secure services pursuant to section 944.026(1)(b)1., F.S., in a level 2 residential treatment component; and~~
- ~~2. Secure services pursuant to section 944.026(1)(b)2., F.S., in a level 1 residential treatment component.~~

~~(e)(f)~~ No change.

(42) through (43) No change.

Specific Authority 397.321(5) FS Law Implemented 20.19(10), 232, 384, 397.311(23), 397.311(28), ~~397.321(1)~~, 397.405, ~~397.419~~, 397.451, 397.471, 397.501, 397.601, 397.675, 397.705, 397.707, 633.022, 944.026, 948 FS. History--New _____.

Editorial Note: Formerly 65D-16.

65D-30.005 Standards for Addictions Receiving Facilities. In addition to section 65D-30.004, the following standards apply to addictions receiving facilities.

- (1) through (4) No change.
- (5) No change.
- (a) A voluntary client who has a substance abuse problem to the extent that the person displays behaviors that indicate potential harm to self or others or who meets diagnostic or medical criteria justifying admission to an addictions receiving facility; or
- (b) An involuntary admission who meets the criteria specified in section 397.675, F.S.; or
- (c) An adult or juvenile offender who is ordered for assessment or treatment under sections 397.705 and 397.706, F.S., and who meets diagnostic or medical criteria justifying admission to an addictions receiving facility; or

(d) Juveniles found in contempt as authorized under section 985.216, F.S.

- (6) through (13) No change.
- (14) Restraint and Seclusion. The use of restraint and seclusion shall require justification in writing. Restraint and seclusion can only be used in emergency situations to ensure the client's physical safety and only when less restrictive interventions have been determined to be ineffective, specifically verbal de-escalation techniques. Restraint and seclusion shall not be employed as punishment or for the convenience of staff and shall be consistent with the rights of clients, as described in section 65D-30.004(30).

(a) through (g) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(a), 397.321(1), 397.419, 397.901 FS. History—New _____.

Editorial Note: Formerly 65D-16.

65D-30.006 Standards for Detoxification.

In addition to section 65D-30.004, the following standards apply to detoxification.

- (1) through (2) No change.
- (a) No change.
- 1. through 2. No change.
- 3. Daily Activities. The provider shall develop a schedule of daily activities that will be provided based on the detoxification protocols initial treatment plan. This shall include recreational and educational activities and participation shall be documented in the client's record.

(b) Observation of Clients. Observation of clients by nursing staff, ~~including an assessment of vital signs every 2 hours~~, shall be conducted during the first 12 hours following admission and every 4 hours during the subsequent 72 hours. Beds shall be visible and readily accessible from the nurse's station for close observation.

(c) No change.

(d) Staffing Pattern and Bed Capacity. The staffing pattern for nurses and nursing support personnel for each shift shall be as follows:

Licensed Bed Capacity	Nurses	Nursing Support
1- 15 40	1	1
<u>16</u> 11-20	1	2
21-30	2	2

The number of nurses and nursing support staff shall increase in the same proportion as the pattern described above. In those instances where a residential detoxification component and a licensed crisis stabilization unit are co-located, the staffing pattern for the combined components shall conform to the staffing pattern of the component with the more restrictive requirements.

- (3) No change.
- (a) No change.
- 1. through 3. No change.
- 4. The client's ability to understand the importance of managing withdrawal utilizing medications, ~~if necessary~~, and to comply with the medical protocol; and
- 5. No change.
- (b) through (c) No change.

1. Counseling. Each client shall participate in counseling on a weekly basis. Counseling sessions shall be of sufficient duration to enable staff to make ~~reasonable~~ decisions regarding the client's need for other services and to determine progress.

- 2. No change.
- (d) through (e) No change.
- (4) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(b), 397.321(1), 397.419 FS. History—New _____.

Editorial Note: Formerly 65D-16.

65D-30.007 Standards for Residential Treatment.

In addition to section 65D-30.004, the following standards apply to residential treatment.

- (1) No change.
- (a) No change.
- (b) Level 2 residential treatment will generally be of a duration of 31 ~~30~~ days up to 1 year. This level is typically classified as a therapeutic community and is intended for clients who are characterized as having chaotic, non-supportive and often abusive interpersonal relationships, extensive treatment or substance abuse histories, sporadic work and educational experience, and an anti-social value system. Counseling is provided regularly, as are employment and education services. The goal is to prevent relapse and to promote personal responsibility and positive character change.

- (c) through (d) No change.
- (2) No change.
- (a) No change.
- 1. No change.

a. For clients in levels 1 and 2, 20 hours of counseling shall be provided per client per week. For clients participating under subsection 65D-30.004(40), counseling shall be provided according to the policies established in Chapter 944, F.S., titled State Correctional System. For clients participating under subsection 65D-30.004(41), counseling shall be provided according to the conditions of the Department of Corrections' contract with the provider.

b. For clients in levels 3 ~~and 4~~, 10 hours of counseling shall be provided per client per week.

c. For clients in level 4, 4 hours of counseling shall be provided per client per week.

2. No change.

a. No change.

b. For clients in level 2, services shall include recreational activities, educational groups, and occupational services, and be provided at least 20 hours per week. For clients participating under subsection 65D-30.004(40), counseling shall be provided according to the policies established by the Department of Corrections in Chapter 944, F.S., titled State Correctional System, that require inmates to be available for facility security protocols. For clients participating under subsection 65D-30.004(41), counseling shall be provided according to the conditions of the Department of Corrections' contract with the provider.

c. No change.

d. For clients in level 4, services shall include educational groups and occupational and recreational activities and be provided at least ~~6~~ 20 hours per week.

3. No change.

(b) through (c) No change.

(3) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(c), 397.321(1), 397.419 FS. History–New _____.

Editorial Note: Formerly 65D-16.

65D-30.008 Standards for Day or Night Treatment with Host Homes.

In addition to section 65D-30.004, the following standards apply to day or night treatment with host homes.

(1) through (4) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(e),(d), 397.321(1), 397.419 FS. History–New _____.

Editorial Note: Formerly 65D-16.

65D-30.009 Standards for Day or Night Treatment.

In addition to section 65D-30.004, the following standards apply to day or night treatment.

(1) through (2) No change.

(3) Caseload. No counselor may have a caseload that exceeds 15 currently participating clients. ~~In those instances where services are provided within facilities operated by the Department of Corrections, the caseload shall not exceed 20 currently participating clients.~~

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(d), 397.321(1), 397.419 FS. History–New _____.

Editorial Note: Formerly 65D-16.

65D-30.010 Standards for Outpatient Treatment.

In addition to section 65D-30.004, the following standards apply to outpatient treatment.

(1) No change.

(2) Caseload. No full-time counselor shall have a caseload that exceeds 50 individuals participating in services at any given time. In the case of inmate substance abuse programs, the caseload shall be no more than 30 participants.

(3) through (4) No change.

(a) Services. Intensive outpatient treatment services shall be provided on-site at least nine hours per week per client and shall consist of more structured programming. Services shall consist primarily of counseling and education and at least two hours of individual counseling shall be provided to each client each week. Other programming shall include occupational and recreational services if required by the client's treatment plan.

Inmate substance abuse programs are exempt from the requirement regarding individual counseling but must provide at least three hours of group counseling per week in accordance with Chapter 944, F.S., titled State Correctional System.

(b) Psychiatric and Medical Services. The need for psychiatric and medical services shall be addressed through consultation or referral arrangements. Providers shall develop formal agreements with health and mental health professionals for provision of such services, and shall accommodate the needs of clients on a case-by-case basis. Such services shall be available within 24 hours by telephone and within 72 hours face-to-face.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(e), 397.321(1), 397.419 FS. History–New _____.

Editorial Note: Formerly 65D-16.

65D-30.011 ~~Minimum~~ Standards for Aftercare.

In addition to section 65D-30.004, the following standards apply to aftercare.

(1) through (2) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.321(1), 397.321(7)(e), 397.419 FS. History–New _____.

65D-30.012 Standards for Intervention.

In addition to section 65D-30.004, the following standards apply to intervention.

(1) through (4) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(h)(+), 397.321(1), 397.419 FS. History—New _____.

Editorial Note: Formerly 65D-16.

65D-30.013 Standards for Prevention.

In addition to section 65D-30.004, the following standards apply to prevention.

- (1) No change.
- (2) No change.

(a) Information Dissemination. The intent of this strategy is to increase awareness and knowledge of the risks of substance abuse and available prevention services. ~~The effectiveness of this strategy shall be evaluated by changes in knowledge.~~

(b) Education. The intent of this strategy is to improve skills and to reduce negative behavior and improve responsible behavior. ~~The effectiveness of this strategy shall be evaluated by changes in knowledge, improved skills, a reduction in negative behavior, and an improvement in responsible behavior.~~

(c) Alternatives. The intent of this strategy is to provide constructive activities that exclude substance abuse and reduce anti-social behavior. ~~The effectiveness of this strategy shall be evaluated by a reduction in anti-social behavior.~~

(d) Problem Identification and Referral Services. The intent of this strategy is to identify children and youth who have indulged in the use of tobacco or alcohol and those who have indulged in the first use of illicit drugs, in order to assess whether prevention services are indicated or referral to treatment is necessary. ~~The effectiveness of this strategy shall be evaluated by letters of agreement with primary referral sources and reports of high satisfaction from those sources.~~

(e) Community-Based Process. The intent of this strategy is to enhance the ability of the community to more effectively provide prevention and treatment services. ~~The effectiveness of this strategy shall be evaluated through the development of policies and procedures at the local level that enhance prevention.~~

(f) Environmental. The intent of this strategy is to establish or change local laws, regulations, or rules to strengthen the general community regarding the initiation and support of prevention services. ~~The effectiveness of this strategy shall be evaluated by a reduction in the prevalence of substance abuse in the general population.~~

- (3) No change.

(a) Population Served. Providers shall describe the population to be served, indicating whether the population is universal, indicated, or selected, and include including age, gender, race/ethnicity, and relevant risk and protective factor indicators.

- (b) through (c) No change.

(d) Staff Training. Providers shall have a staff training plan that ensures that all staff receive basic training in science-based prevention and that supports staff in attaining addictions prevention certification. Staff shall receive training specific appropriate to their assigned duties and responsibilities. All staff shall be trained in basic pharmacology, identification of risk and protective factors, the provider's process and outcome evaluation strategy, and methods of accessing and utilizing local provider resources. The successful completion of this training shall be documented in their personnel record.

- (e) No change.

(f) Evaluation. Providers shall evaluate the effectiveness of the services described in subsection (2) at least annually ~~and shall use the evaluation methodology provided in that section.~~ The department shall review the results of providers' program evaluation efforts annually and all technical materials used by providers to ensure consistency with current research in the prevention field.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(g)(+), 397.321(1), 397.419 FS. History—New _____.

Editorial Note: Formerly 65D-16.

65D-30.014 Standards for Medication and Methadone Maintenance Treatment.

In addition to section 65D-30.004, the following standards apply to medication and methadone maintenance treatment.

- (1) through (2) No change.
- (3) No change.

(a) Criteria. New providers shall be established only in response to the department's determination of need, which shall occur annually. The determination of need shall only apply to medication and methadone maintenance treatment programs. In its effort to determine need, the department shall examine information on treatment, the consequences of the use of opioids (e.g., arrests, deaths, emergency room mentions, other incidence and prevalence data that may have relevance at the time, etc.), and data on treatment accessibility. The criteria to be assessed shall include data on the use of opioids and the consequences of use, including epidemiological information. The results of the assessment, along with a recommendation regarding need, shall be published in the Florida Administrative Weekly.

(b) Procedure. The department shall publish the results of the assessment in the Florida Administrative Weekly by June 30. The publication shall direct interested parties to submit applications for licensure to the department's district office where need has been demonstrated and shall provide a closing date for submission of applications. The district shall conduct a formal rating of applicants on a form titled MEDICATION AND METHADONE MAINTENANCE TREATMENT NEEDS ASSESSMENT APPLICATION RATING FORM, March 1, 2000, incorporated herein by reference. The form

may be obtained from the Department of Children and Families, Substance Abuse Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Should the number of responses to the publication for a new provider exceed the determined need, the selection of a provider shall be based on the following criteria:

- (a) through (c) renumbered 1. through 3. No change.
- (4) No change.
- (5) Maintenance Treatment Standards.
- (a) through (d) No change.
- (e) ~~Methadone~~ Take-home Phases.

~~1.~~ To be considered for take-home privileges, clients shall be in compliance with ~~subparagraph~~ ~~sub-subparagraph~~ (d)2. No take-homes shall be permitted during the first 30 days following admission unless approved by the ~~state~~ ~~federal~~ authority.

- a. through f. renumbered 1. through 6. No change.

~~2. Clients who receive over 100 milligrams of methadone per day must attend the provider at least 6 days per week for observation, unless an exemption is granted by the federal authority.~~

(f) Transfer Clients and Takeout Privileges. Any client who transfers from one provider to another within the state of Florida shall be eligible for placement on the same phase provided that verification of enrollment is received from the previous provider within two weeks of admission. The physician at the previous provider shall also document that the client met all criteria for their current phase and are at least on Phase I.

Any client who transfers from out-of-state is required to meet the requirements of ~~subparagraph~~ ~~sub-subparagraph~~ (d)2., and with verification of previous records, the physician shall determine the phase level based on the client's history and established phase guidelines.

- (g) through (n) No change.
- (6) No change.

(a) A satellite maintenance dosing station must be operated by a primary, licensed comprehensive maintenance provider and must meet all applicable regulations in section 65D-30.004 and subsection 65D-30.014(4).

- (b) No change.

Specific Authority 397.321(5) FS. Law Implemented 397.311(19)(f), 397.321(1), 397.419 FS. History—New _____.

Editorial Note: Formerly 65D-16.

Section IV Emergency Rules

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE TITLE: RULE NO.:

Repeal of Emergency Rule 9BER00-1 relating
to supplemental Community Development
Block Grant (CDBG) Disaster
Recovery Funds 9BER00-2

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE: The United States Department of Housing and Urban Development (HUD) has made available \$1,258,000 in additional supplemental CDBG funds for mitigation and recovery from the effects of severe floods, high winds, tornadoes and flooding that occurred between December 25, 1997 and April 24, 1998 (FEMA-DR-1195), \$1,929,000 in supplemental CDBG funds for mitigation and recovery from the effects El Nino fires (FEMA-DR-1223), and \$1,500,000 for mitigation and recovery from the effects of Hurricane Earl (FEMA-DR-1241), pursuant to Public Law 105-174. The Department needs to distribute and use these funds as quickly as possible for disaster relief, long-term recovery, and mitigation activities in communities affected by the Presidentially declared natural disasters described above. The expenditure of the CDBG disaster recovery funds in the areas affected by these storms is essential to the health, safety, and welfare of the public affected in these areas. There were millions of dollars worth of homes, drainage systems, roads, bridges, and other critical public facilities damaged or destroyed by winds, flooding and fires which resulted from the above referenced storms and weather events. The condition of many of these structures poses an on-going threat to the health, safety and welfare of the residents of the affected jurisdictions. Repeal of Emergency Rule 9BER00-1 will enable the Department of Community Affairs, to immediately disburse these funds to affected local governments, so that the dire housing and community development needs of the disaster-affected citizens of Florida can be promptly addressed.

REASONS FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: It has been determined by the Florida courts that, where a determination by a state agency is applicable only to a particular project, it is not a rule because it is limited temporally and has no prospective application to any other project. See, *Neff v. Biltmore Construction Company, Inc.*, 362 So.2d 442 (Fla. 1st DCA, 1978); *State Department of Commerce v. Matthews Corporation*, 358 So.2d 256 (Fla. 1st DCA, 1978)). Since these federal emergency funds are only to be used for the specific emergency events which occurred in 1997 and 1998, they do not have general or prospective application and, therefore, are not rules.