

similar or opposite effect. The usual action of the Board shall be to impose a reprimand, up to a fine of \$1,000 plus costs \$500.

(r) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid. The usual action of the Board shall be to impose a reprimand, up to a fine of \$1,000 plus costs \$500.

(s) Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual person, when such is not the case. The usual action of the Board shall be to impose a reprimand, up to a fine of \$1,000 plus costs \$500.

(t) Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing. The usual action of the Board shall be to impose a reprimand, up to a fine of \$1,000 plus costs \$500.

(u) Failure to submit to the Board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the Board. The usual action of the Board shall be to impose a fine of \$500 \$250, up to a fine of \$1,000 and costs \$500.

(v) Failing to provide all information as described in Section 468.1245(1). The usual action of the Board shall be to impose a reprimand, up to a fine of \$1,000 plus costs \$500.

(w) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party. The usual action of the Board shall be to impose a fine of \$1,000 – \$10,000 plus costs \$500, up to a 6 months' suspension.

(x) Sexual misconduct. The usual action of the Board shall be licensure denial for applicants and revocation for licensees.

(y) Impairment under 455.707, Florida Statutes. The usual action shall be referral to the Department's impaired practitioner program, up to suspension until the licensee can demonstrate ability to practice with reasonable skill and safety.

(2) When the Board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:

(a) through (b) No change.

(c) Imposition of an administrative fine not to exceed \$10,000 \$1,000 for each count or separate offense and costs of investigation and prosecution.

(d) through (f) No change.

(3) No change.

Specific Authority 468.1135(4) FS. Law Implemented 455.624, 455.567, 455.707, 468.1295, 468.1296 FS. History—New 2-7-91, Amended 11-9-92, Formerly 21LL-7.001, 61F14-7.001, 59BB-7.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 1999

### Section III Notices of Changes, Corrections and Withdrawals

#### DEPARTMENT OF INSURANCE

##### Division of State Fire Marshal

RULE NO.: RULE TITLE:  
4A-51.005 Definitions

#### 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)l., Florida Statutes, published in Vol. 26, No. 17, April 28, 2000, of the Florida Administrative Weekly:

4A-51.005(32) The new language proposed has been deleted and will be changed to read ["Special Inspectors" means an inspector who holds a Florida Certificate of Competency and who is regularly employed by an insurance company authorized to insure against loss from explosion of boiler and pressure vessels in this state.]

The remainder of the rule reads as previously published.

#### DEPARTMENT OF COMMUNITY AFFAIRS

##### Division of Housing and Community Development

RULE NO.: RULE TITLE:  
9B-3.047 State Building Codes Adopted

#### NOTICE OF CORRECTION

The Florida Building Commission hereby gives notice of a correction to the Notice of Change published in Vol. 26, No. 30, July 28, 2000, issue of the Florida Administrative Weekly. The section title of Section 412.10.4 as it appears on page 3495 of the Florida Administrative Weekly is revised as follows:

412.10.4, (Automatic fire sprinklers Flood—plain management)

#### DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: RULE CHAPTER TITLE:  
14-91 Administration of Combined  
Design and Construction  
Contracts (Design-Build)  
RULE NO.: RULE TITLE:  
14-91.005 Public Announcement Procedures

# NOTICE OF CHANGE

SUMMARY OF CHANGES: In response to a review by the Joint Administrative Procedures Committee, the following change is being made:

Rule 14-91.005 is revised to clarify the use of other forms of communications. The rule is changed to read as follows:

## 14-91.005 Public Announcement Procedures.

Except in emergency situations where a proper declaration of emergency has been executed, the Department shall publish an announcement on the Internet web site at <http://www.dot.state.fl.us>, in the ~~Florida Administrative Weekly~~, setting forth a general description of the project requiring design-build services and defining the process for interested ~~Firms to submit a letter of interest. For major bridge projects (or other design-build projects under Section 337.025, Florida Statutes), this announcement shall be sent to all prequalified contractors as well.~~ The announcement will state where the letters of interest are to be sent. Additionally, the Department may utilize other forms of communication, such as newspapers or magazines, mailouts, or television or radio, to announce the Project when:

(1) There is a likelihood of limited interest in the project;  
or

(2) There is specific expertise necessary for the design or construction of the project; or

(3) There is a need for a wider variety of bidders because of the nature, size, or scope of the project.

Specific Authority 334.044(2), 337.11(7)(b) FS. Law Implemented 337.11(7), 337.025 FS. History—New 3-13-88, Amended 2-20-96, 9-3-96,\_\_\_\_\_.

Notice was published in Florida Administrative Weekly, Vol. 26, No. 28, July 14, 2000.

## DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:  
33-602.201 Inmate Property

### SECOND 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. 22, June 2, 2000, issue of the Florida Administrative Weekly:

33-602.201 Inmate Property.

(1) through (6)(g) No change.

(h) Except in emergency situations such as transfers immediately following a disturbance or institutional evacuation, wWhenever an inmate is transferred from one institution to another, the inmate's personal property and personal property file shall be transferred with him. The sending institution shall have the responsibility of ensuring that the inmate being transferred has only that property which belongs to him and that such property is authorized. The inmate and the officer inspecting the property shall sign and

date Form DC6-227, Receipt for Personal Property, at the time of transfer. Any property that is left behind or missing shall be noted on the form.

(i) If an inmate is transferred without his personal property, the property shall be forwarded to the inmate by the sending institution within five working days, or as soon thereafter as possible if conditions resulting from the emergency preclude forwarding within five days. The property, along with an itemized list, shall be placed in a sealed container for transporting. A staff member at the receiving institution shall, in the presence of the inmate to whom the property belongs, check the property against the property list to ensure that all property is accounted for. The inmate shall sign Form DC6-227, Receipt for Personal Property, when the property is given to the inmate. Any discrepancies shall be noted on the form. If the inmate refuses to sign Form DC6-227, Receipt for Personal Property, a notation to that effect shall be placed on the form and a second employee shall witness and sign the form.

(7) through (16) No change.

## APPENDIX ONE PROPERTY LIST

This list incorporates all property authorized to be possessed by inmates in all Department institutions and facilities except community correctional centers. Except for items specified below as "exemptions", property received ~~on or after January 1, 1996~~ must be in compliance with this list. ~~Inmates in possession of property previously approved for receipt prior to January 1, 1996, but which is not in compliance with the property list, shall be allowed to retain this property until January 1, 1998, but upon that date the property must be disposed of unless the item is specifically exempted as set forth below. Effective January 1, 1998 all inmates must be in compliance with this list except for items specifically exempted below.~~ Inmates in possession of previously approved property which meets the description of property on the list shall be allowed to retain the property.

Remainder of Appendix One – No change.

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NOS.:	RULE TITLES:
61-20.5011	Prelicensure Education Requirements
61-20.510	Prelicensure Education Provider Approval

### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 26, No. 31, August 4, 2000, Florida Administrative Weekly has been withdrawn.

# DEPARTMENT OF HEALTH

## Board of Acupuncture

RULE NO.:

64B1-8.006

RULE TITLE:

Laboratory Testing

### NOTICE OF PUBLIC HEARING

The Board of Acupuncture hereby gives notice of a public hearing on the above-referenced rule to be held on September 13, 2000, Hilton Miami Airport, 5101 Blue Lagoon Drive, Miami, Florida 33126, 9:00 a.m. or soon thereafter as possible. The rule was originally published in Vol. 26, No. 21, of the May 26, 2000, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

# DEPARTMENT OF HEALTH

## Board of Nursing Home Administrators

RULE NO.:

64B10-14.004

RULE TITLE:

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

### 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. 23, June 9, 2000 issue of the Florida Administrative Weekly. The Board received a request for hearing on this rule and comments were provided by the staff of the Joint Administrative Procedures Committee. An additional public hearing was noticed and the Board met on August 10, 2000, in Miami, Florida, and voted to change subsections (1),(2)(r),(3)(b), and (4) to read as follows:

(1) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapters 455 and 468, Part II, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapters 455 and 468. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of Chapters 455 and 468, Part II, or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties. All penalties at the upper range of the sanctions set forth in the

guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, reprimand, or probation which may be included in the final penalty at the Board's discretion.

(2)(r) Inability to practice with skill and safety due to mental or physical impairment.

(468.1755(1)(l), F.S.)

First Offense:	probation	suspension until the licensee can demonstrate to the Board that he/she is able to practice with reasonable skill and safety and \$500 fine
Second Offense:	probation and \$1000 fine	suspension until the licensee can demonstrate to the Board that he/she is able to practice with reasonable skill and safety and \$1000 fine
Third Offense:	suspension until licensee can demonstrate to the Board that he/she is able to practice with reasonable skill and safety and \$1000 fine	revocation and \$1000 fine

(3)(b) Circumstances which shall be considered for purposes of mitigation or aggravation of penalty shall include the following:

1. The danger to the public.
2. The number of repetitions of offenses.
3. Previous disciplinary action against the licensee in this or any other jurisdiction.
4. The length of time the licensee has practiced.
5. The actual damage, physical or otherwise, caused by the violation.
6. The deterrent effect of the penalty imposed.
7. The effect of the penalty upon the licensee's livelihood.
8. Any efforts at rehabilitation.
9. Attempts by the licensee to correct or stop violations, or refusal by the licensee to correct or stop violations.
10. Any other mitigating or aggravating circumstances.

(4) The Board shall impose one or more of the following penalties, listed in increasing order of severity:

(a) Fine not to exceed \$1000 for each separate count or offense.

(b) Reprimand.

(c) Probation, with terms including but not limited to: reports from the licensee, and his employer, supervision of practice by the Board or another licensee, continuing education courses, personal appearances before the Board, and counseling or treatment.

(d) Suspension.

(e) Revocation.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

## DEPARTMENT OF HEALTH

### Board of Respiratory Care

RULE NO.: 64B32-3.005  
 RULE TITLE: Fees for Application, Examination, Initial and Renewal Licensure

#### NOTICE OF ADDITIONAL PUBLIC HEARING

The Board of Respiratory Care hereby gives notice of an additional public hearing on the above-referenced rule to be held on October 13, 2000 at 9:00 a.m., at The Clarion Hotel, 2108 Dixie Clipper Road, Jacksonville, Florida 32218, (904)741-1997. The rule was originally published in Vol. 26, No. 6, of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

## DEPARTMENT OF HEALTH

### Division of Environmental Health and Statewide Programs

RULE CHAPTER NO: 64E-22  
 RULE CHAPTER TITLE: Rural Hospital Capital Improvement Grant Application Procedures

#### NOTICE OF CORRECTION

This Rule was published as Chapter 64E-19 but was adopted as Chapter 64E-22 due to a numbering error. This rule was filed for adoption on August 7, 2000.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mike Walsh, Health Services and Facilities Consultant, Florida Office of Rural Health; Division of Emergency Medical Services and

Community Health Resources, Department of Health, 4052 Bald Cypress Way, Bin #C-15, Tallahassee, Florida 32399-1735, (850)245-4340, Ext. 2705  
 P.O. X05593

## Section IV Emergency Rules

### DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 308, WIN \$1,000,000  
 RULE NO.: 53ER00-36  
 SUMMARY OF THE RULE: Instant Game Number 308, "WIN \$1,000,000" will be sold by Florida Lottery retailers on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, procedures to be followed on how to play the game, and the number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER00-36 Instant Game Number 308, WIN \$1,000,000.

(1) Name of Game. Instant Game Number 308, "WIN \$1,000,000."

(2) Price. WIN \$1,000,000 tickets sell for \$2.00 per ticket.

(3) WIN \$1,000,000 Lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a VIRN under the latex area on the ticket. To be a valid winning WIN \$1,000,000 Lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), F.A.C. In the event a dispute arises as to the validity of any WIN \$1,000,000 Lottery ticket, the VIRN number under the latex shall prevail over the bar code.

(4) The play and prize symbols and captions in Game 1 are as follows:

#### INSERT SYMBOLS

(5) The "WINNING NUMBER" play symbols and play symbol captions in Game 2 are as follows:

#### INSERT SYMBOLS