

(b) through (d) No change.

(2) through (3) No change.

Specific Authority 402.305 FS. Law Implemented 402.305 FS. History--New 6-1-97, Amended 3-17-99,_____.

65C-22.006 Record Keeping.

(1) through (4) No change.

(5) Personnel Records. Records shall be maintained and kept current on all child care personnel, as defined by s. 402.302(3) ~~402.302(8)~~, F.S., and household members if the facility is located in a private residence. These shall include:

(a) through (g) No change.

(6) No change.

Specific Authority 402.305 FS. Law Implemented 402.305 FS. History--New 6-1-97, Amended 7-2-98, 3-17-99,_____.

Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Mortgage Brokerage Business License and Branch Office License Renewal	3D-40.053
Change of Name, Change of Entity and Change in Control or Ownership	3D-40.099
Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Renewal	3D-40.205
Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation	3D-40.225

PURPOSE AND EFFECT: Chapter 99-213, Laws of Florida, amended Section 494.0011(2), F.S., to allow the Department to adopt rules to allow electronic submission of any required forms, documents, or fees and to adopt rules to accept certification of compliance with statutory requirements in lieu of requiring submission of documents.

SUMMARY: The proposed amendments will give mortgage brokerage businesses, mortgage lenders, mortgage lenders pursuant to the saving clause, correspondent mortgage lenders and their branch offices the option of renewing their licenses directly on the Department's website. The proposed amendment would also allow mortgage lenders, mortgage lenders pursuant to the saving clause, and correspondent mortgage lenders to certify that they have continuously maintained the net worth requirements of Sections 494.0061, 494.0062, 494.0065, or 494.00721, F.S., in lieu of submitting current audited financial statements to the Department.

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

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

SPECIFIC AUTHORITY: 494.0011, 494.0032, 494.0036 FS.

LAW IMPLEMENTED: 494.0011, 494.0031, 494.032, 494.036, 494.0061, 494.0062, 494.0064, 494.0065 FS.

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

TIME AND DATE: 10:00 A.M., October 2, 2000

PLACE: Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle, Financial Administrator, Division of Securities and Finance, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-40.053 Mortgage Brokerage Business License and Branch Office License Renewal.

(1) Each active mortgage brokerage business license shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.032, F.S., and a completed renewal form. Form DBF-MB-707, Mortgage Brokerage Business License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(2) No change.

(3) Each active mortgage brokerage business branch office license shall be renewed in conjunction with the mortgage brokerage business license renewal upon submission of the statutory renewal fee required by Section 494.032, F.S. and a completed renewal form. Form DBF-MB-708, Mortgage Brokerage Business Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) through (5) No change.

(6) Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

Specific Authority 494.0011(2), 494.0032(2),(3), 494.0036(2) FS. Law Implemented 494.0011(2), 494.0032, 494.0036 FS. History--New 11-2-86, Amended 2-8-90, 10-1-91, 12-12-99,_____.

3D-40.099 Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed as a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender which changes her or his name of record, as filed with the initial application for licensure, or any subsequent change on file and acknowledged by the Department thereafter, shall notify the Department, in writing, of the name change and shall provide documentation authorizing such name change within thirty (30) days of the date effecting such change. Any licensee pursuant to Section 494.0061 or 494.0062, F.S., shall additionally provide a completed surety bond, on Form DBF-ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, which is hereby incorporated by reference (effective 10/91), executed in the new name of the licensee as documented by the requirements of this subsection. The form is available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(2) Each licensed mortgage brokerage business, mortgage lender, or correspondent mortgage lender which proposes to change the entity licensed with the Department shall file a new application for licensure pursuant to Section 494.0031, 494.0061 or 494.0062, F.S. Application forms are available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(3) through (5) No change.

(6) Upon approval of an application, a letter informing the applicant of the Department's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Department's receipt of the original license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued, effective the later of the date of closing or the date of notice of intent to approve, for the remainder of the biennial licensure period. Failure to respond to the Department's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.

Specific Authority 494.0011(2) FS. Law Implemented 494.0031, 494.0061, 494.0062, 494.0065 FS. History--New 1-10-93, Amended 5-14-95, 9-3-95, 12-12-99, _____.

3D-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Renewal.

(1)(a) Each active mortgage lender license and mortgage lender license pursuant to the savings clause shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form, ~~and a copy of the lenders most recent audited~~

~~financial statements.~~ Form DBF-ML-R, Mortgage Lender License Renewal and Reactivation Form, revised 06/00 ~~10/99~~ and Form DBF-ML-RS, Mortgage Lender License Pursuant to Savings Clause Renewal and Reactivation Form, revised 06/00 ~~10/99~~, are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of:

1. \$25,000 or more imposed by Section 494.0065, F.S.; or

2. \$250,000 or more imposed by Section 494.0061, F.S.

Upon request of the Department, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) A license that is not renewed as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form.

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) through (5) No change.

(6) Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. The licensee shall certify that it has continuously maintained the net worth requirements of Sections 494.0061 or 494.0065, F.S.

Specific Authority 494.0011(2) FS. Law Implemented 494.0011(2), 494.0064 FS. History--New 10-1-91, Amended 9-3-95, 8-5-96, 12-12-99, _____.

3D-40.225 Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation.

(1)(a) Each active correspondent mortgage lender license shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form, ~~and a copy of the lender's current audited financial statements.~~ Form DBF-CL-R, Correspondent

Mortgage Lender License Renewal and Reactivation Form, revised ~~06/00~~ ~~10/99~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of \$25,000 or more imposed by Section 494.0062, F.S. Upon request of the Department, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) A correspondent mortgage lender license that is not renewed as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form.

(3) Each active correspondent mortgage lender branch office license shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) through (5) No change.

(6) Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. The licensee shall certify that it has continuously maintained the net worth requirements of Section 494.0062, F.S.

Specific Authority 494.0011(2) FS. Law Implemented 494.0011(2), 494.0064 FS. History--New 10-1-91, Amended 9-5-95, 7-25-96, 12-12-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bob Tedcastle, Financial Administrator, Division of Securities and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Division of Securities and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 30, 2000

DEPARTMENT OF INSURANCE

RULE TITLE: Small Group Health Insurance Availability
RULE NO.: 4-154.530

PURPOSE AND EFFECT: The rule clarifies subparagraph 627.6699(5)(c)2., F.S. (2000), by interpreting it to apply to new coverage. Some insurers of small employer groups are refusing to provide coverage to eligible groups seeking new coverage because they argue the new language just applies to renewals. The rule also requires that if a guaranteed renewable group health insurance policy is renewed the coverage renewed must not be changed.

SUMMARY: The rule clarifies subparagraph 627.6699(5)(c)2., F.S. (2000), and requires that if a guaranteed renewable group health insurance policy is renewed, the coverage renewed must not be changed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 627.6699(16) FS. (2000)

LAW IMPLEMENTED: 624.307, 627.6571, 627.6699(5)(c), 641.31074 FS. (2000)

IF REQUESTED IN WRITING 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: 9:30 a.m., October 5, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rich Robleto, Bureau Chief, Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5110

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 at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-154.530 Small Group Health Insurance Availability.

(1) Section 627.6699(5)(c)2., Florida Statutes, as amended, requires small employer carriers to offer and issue basic and standard small employer health benefit plans to every eligible small employer having fewer than two eligible employees and satisfying the conditions specified in the statute. The provisions of the statute apply only to the initial

33-204.003 Food Services – Standards of Operation.

(1) General. Inmates in general population shall receive three meals per day, of which at least two shall be hot meals. The meals shall be provided at regular meal times during each 24-hour period, with a period of no more than 14 hours between the end of the evening meal and the beginning of the morning meal, weather and security permitting. The warden or work release center major shall be allowed to authorize an altered meal schedule of two meals for approved holidays listed in the master menu manual, but both must be hot meals. Holiday substitutions that deviate from the master menu must be approved in advance by the food service coordinator. ~~An altered holiday meal schedule for therapeutic diets may only be implemented if the chief health officer is on duty on the day that the alternate schedule is to be served.~~ An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and the beginning of the morning meal.

(2)(a) through (d) No change.

(3) Menus. The Recommended Dietary Allowances or the Dietary Reference Intakes of the Food and Nutrition Board National Research Council – National Academy of Sciences shall serve as the standard for the preparation of menus and the evaluation of menus served. The Recommended Dietary Allowances and the Dietary Reference Intakes of the Food and Nutrition Board National Research Council are hereby incorporated by reference. A copy of the Recommended Dietary Allowances or the Dietary Reference Intakes may be obtained from the Bureau of Food Services, Office of Administration, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~If forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope.~~ The effective date of the Revised Recommended Dietary Allowances ~~this form~~ is January 18, 1989. The Dietary Reference Intakes were copyrighted in 2000.

(a) through (b) No change.

(c) Meals for inmates and staff shall be prepared and served in accordance with the master menu in effect. No specially prepared meals shall be served except those approved therapeutic diets that are prescribed by the attending physician, clinical associate or dentist.

(d) through (4)(c)2. No change.

3. Daily inspection of the food service areas, including the recording of the temperatures of coolers, freezers, dishwashers, and hot tap water on the Master Menu Production Log, Form DC2-404. Form DC2-404 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is August 1, 2000.

(d) through (6) No change.

(7) Therapeutic Diets. Therapeutic diets for medical or dental reasons shall be provided as ordered by a Department of Corrections credentialed physician, clinical associate (physicians assistant, advanced registered nurse practitioner) or dentist. All orders for therapeutic diets shall be in writing utilizing the Diet Prescription/Order, Form DC4-728. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is August 1, 2000. Non-standard modified diets shall be approved by the public health nutrition program manager and the regional medical executive director. Therapeutic diets shall be served for a maximum of 90 days. Diets extending for periods longer than 90 days shall require a new diet order from the attending Department of Corrections credentialed physician, clinical associate (physicians assistant or advanced registered nurse practitioner) or dentist. Diet prescription orders must be received in food services prior to the expiration of the current prescription to avoid interruption of the modified diet. The Bureau of Food Services shall be responsible for providing consultation to health and food service personnel regarding therapeutic diets.

(8) Religious Diets. The alternate entree program is designed to provide meal options for ~~meet the needs of~~ inmates whose religions require a pork-free, lacto-ovo, or lacto-vegetarian diets. The vegan (strict vegetarian) meal pattern provides meal options for ~~meets~~ the religious requirements of inmates who choose to ~~must~~ avoid all animal products.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-1-00.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill Thurber

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Work Program
RULE NO.: 33-601.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the statutory authority under which inmates may be required to perform work for the corporation authorized to operate correctional work programs.

SUMMARY: The proposed rule clarifies that inmates may be required to perform work for the corporation authorized to operate correctional work programs pursuant to Part II, Chapter 946, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.10(7), 946.002, 946.006(3), 946.40(1), 946.511(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Giselle Lysten Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.201 Inmate Work Program.

(1) No change.

(2) Inmates may be assigned to perform work for political subdivisions in the state including municipalities and agencies and institutions of the State, or nonprofit corporations that enter into agreements or contracts with the Department pursuant to Department of Corrections Rule 33-601.202, Florida Administrative Code. Inmates may also be required to perform work for the corporation authorized to operate correctional work programs under Part II of Chapter 946, Florida Statutes ~~or Prison Industry Enhancement Programs authorized by s. 946.006(3), F.S.~~

(3) through (6) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09, 944.10(7), 946.002, 946.006(3), 946.40(1), 946.511(1)(b) FS. History—New 10-8-76, Formerly 33-3.03, Amended 4-19-79, 2-27-86, 1-28-98, Formerly 33-3.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Dugger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: Augsut 24, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Community Release Programs	33-601.602
Placement of Inmates into Community Release Programs	33-601.606

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify applicable definitions, update applicable forms, clarify titles, and establish relevant procedures.

SUMMARY: The proposed rules provide and clarify definitions of terms applicable to community release programs and placement therein; update and provide relevant forms; establish procedures relating to community release and placement therein; establish criteria for placement in, and termination from, community release programs; and clarify titles of persons in authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Giselle Lysten Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.602 Community Release Programs.

~~(1) Purpose. This rule sets forth guidelines to be utilized in the extension of the limits of confinement, specifically the Community Release Programs.~~

~~(1)(2) Definitions.~~

(a) Community Release – Any program which allows inmates to work at paid employment or participate in education, training, or substance abuse treatment programs in a work release ~~community correctional~~ center, contract community work release facility, or community contract facility, or voluntarily work with a public or nonprofit agency in the community.

(b) ~~Community~~ Work Release – The community release program which allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined.

(c) No change.

(d) Community Volunteer Service – An activity which allows inmates housed at a work release community correctional center or contract facility to voluntarily work with a governmental or nonprofit agency in the community.

(e) No change.

(f) ~~Non-Advanceable Release Date~~ — Those sentences in which the earliest release date can not be reduced by the application of discretionary gain time.

(g) ~~Inmates~~ — For purposes of this rule, the term “inmates” refers to adults and youthful offenders in the department’s custody.

(h) ~~Center Work Assignment~~ — Inmates assigned to community correctional centers to serve in a support capacity in the areas of maintenance, food service, and transportation and to provide services in the public works under the provisions of rule 33-601.202.

(i) ~~Approving Authority~~ — The term “approving authority” refers to the Secretary of the Department of Corrections, or his designee, who for the purpose of this rule shall be the select exempt status employee who has oversight responsibility of a community correctional center, or the Bureau Chief for Community Residential Programs.

(j) ~~Correctional Officer Major~~ — The chief correctional officer charged with the responsibility of the daily operation of a community correctional center.

(k) No change.

(l) ~~Extenuating circumstances~~ — Factors identified in a particular case which suggest that, in spite of some indications to the contrary, an inmate has become a viable candidate for the community release program due to his or her overall adjustment.

(m) State Classification Office – a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving or rejecting Institutional Classification team (ICT) recommendations.

(3) Policy Statement.

(a) The department shall allow selected inmates to leave the principal places of their confinement for a prescribed period of time not accompanied by a custodial agent, by authorizing the placement of these inmates in community release programs.

(b) All rules and policies of the department apply to inmates in community release programs. The approving authority shall have authority to remove inmates from community release programs whenever the approving authority determines that removal is in the best interest of the safety and security of the public, the department, or the inmate.

(c) The decision as to which inmates shall be allowed to leave the principal places of their confinement shall be based upon criteria listed in (6) of this rule.

(d) ~~Inmate participation in the community release programs shall be voluntary. Inmates who participate in the community release programs shall at all times be considered in the custody of the department.~~

(4) ~~Objectives of Extending the Limits of Confinement.~~ The objectives are to contribute to the total rehabilitation of the inmate by any of the following means:

(a) ~~Ease the transition from incarceration into the community.~~

(b) ~~Place the inmate in employment which may be retained after release.~~

(c) ~~Contribute restitution to the victim of the inmate’s crime and pay any court ordered payments.~~

(d) ~~Permit the inmate to contribute towards the inmate’s own support and the support of the inmate’s family, thus reducing costs to public agencies.~~

(e) ~~Help determine the inmate’s readiness for release.~~

(f) ~~Preserve and strengthen family and community ties.~~

(g) ~~Permit the inmate to develop or maintain occupational skills.~~

(h) ~~Participate in programs that will assist the inmate in becoming a law abiding and productive citizen upon release.~~

(5) ~~Community Release Ineligibility Criteria.~~ The following inmates shall be ineligible to participate in community release programs:

(a) Any inmate convicted of sexual battery pursuant to s. 794.011, F.S.;

(b) Any inmate convicted of escape pursuant to s. 945.092, F.S.

(c) ~~Absent extenuating circumstances, the following inmates shall be ineligible to participate in community release programs:~~

1. ~~Inmates who have been terminated from a community release program on their current commitment for a rule violation or disciplinary action. Inmates removed pursuant to 33-601.602(13)(c) shall be ineligible for return to a community release program unless they successfully complete recommended substance abuse programs or are deemed appropriate for return by the substance abuse or mental health counselor prior to successful completion of the program.~~

2. ~~Inmates who are serving more than their third commitment to prison, including commitments in any other state or federal correctional agency, and who have been given the opportunity to participate in a community release program during a previous commitment.~~

3. ~~Any inmate found guilty of a rule 33-601.314 4-1, violation for escape within the last 5 years.~~

(d) ~~No inmate can participate in community work release, center work assignment or study release if he or she has ever refused to participate in Tier II, Tier III, or Tier IV programs, unless subsequently completing a comparable treatment program.~~

~~(6) Eligibility Criteria.~~

~~(a) Participation in community release programs is not a right, but a privilege which must be earned by the inmate.~~

~~(b) Inmates who are within the last 36 months of confinement are eligible for consideration for participation in the center work assignment, community Tier IV, study release program unless they are serving a sentence which includes a non-advanceable release date or a current commitment of 1st, 2nd, or 3rd degree murder or attempt; then they shall be considered for participation when within 15 months of their earliest release date.~~

~~(c) Inmates who are within the last 24 months of confinement will be considered for participation in the community work release program, (paid employment) unless serving a sentence which includes a non-advanceable release date, or a current commitment of 1st, 2nd, or 3rd degree murder or attempt; then they shall be within 12 months of their earliest release date.~~

~~(d) In addition to these requirements inmates must meet the following criteria:~~

- ~~1. The inmate is minimum custody;~~
- ~~2. The objectives specified in 33-601.602(4) will be served;~~
- ~~3. The best interests for the safety and security of the community and department will be served;~~
- ~~4. There is cause to believe that the inmate will honor the trust bestowed upon him or her;~~
- ~~5. The inmate has remained disciplinary report free for 90 days as outlined on form DC4-840.~~

~~(e) The department shall consider the following factors in assessing an inmate for community work release:~~

- ~~1. The inmate's overall adjustment to incarceration;~~
- ~~2. The inmate's attitude, behavior, and motivation towards successful re-entry into society;~~
- ~~3. Program participation by the inmate within the institution;~~
- ~~4. The length of time which remains to be served by the inmate prior to expiration of sentence;~~
- ~~5. Community safety given the inmate's arrest history;~~
- ~~6. Community safety given the circumstances of the inmate's current and prior convictions; and~~
- ~~7. Additional criteria as specified on Form DC4-840, Checklist for Transfers to Community Residential Facilities.~~

~~(f) Any inmate who has a detainer filed against him or her shall be ineligible for community release unless:~~

- ~~1. The detaining authority has, in writing, not objected to the inmate's placement and furlough participation in the program; or~~

~~2. It can be established that the detainer would be withdrawn upon the payment of restitution, fines, or court costs and it appears likely that the inmate will earn sufficient funds in order to pay the restitution, fines or court costs within the time frame that the inmate is participating in the program.~~

~~(g) Inmates shall serve at least 90 days with the Department of Corrections on their current commitments prior to placement in the community work release program.~~

~~(h) Priority will be given to those inmates with the least amount of time remaining to serve, providing all other considerations are equal.~~

~~(7) Requirements and General Considerations.~~

~~(a) Except as limited in this rule, the limits of confinement for community release will be extended in area and in time to the degree necessary to allow the inmate to travel to the community release destination, accomplish the purpose for which the release was authorized, and return to the facility. The limits will be specified in writing and the inmate will be advised of the limits prior to the community release.~~

~~(b) Community work release, study release or Community Tier IV approval will only be granted after initial recommendation by the inmate's facility, and final decision by the appropriate approving authority, based upon (6) of this rule. If the inmate is disapproved at the facility, or by the approving authority, the inmate shall be advised in writing the reason for the decision.~~

~~(c) A DC4-840 shall be completed on each inmate recommendation for community release, except that any inmate currently housed at a community correctional center or community based Tier IV facility in community work assignment or Tier IV status going to community work release status need not have a DC4-840 completed.~~

~~(d) Upon request, when an inmate is approved for community work release, the approving authority shall notify the state attorney, victim or personal representative of the victim of such approval within 30 days of the approval of the community release recommendation.~~

~~(2)(8) Inmate Conduct While On Community Release.~~

~~(a) During the inmate orientation process, inmates will be instructed of the following conduct requirements. Upon completion of the orientation program, the inmate shall be given a Certificate of Orientation, Form DC4-837. Form DC4-837 is incorporated in (16) of this rule.~~

~~1. through 10. No change.~~

~~(b) No change.~~

~~(c) Every inmate assigned to a community release facility shall immediately, upon arrival, sign a Letter of Notice, Form DC4-866, or the inmate shall be terminated from the program. The inmate shall be furnished a copy of the Letter of Notice and must agree to abide by the conditions of the Letter of Notice. Form DC4-866 is incorporated by reference in (16) of this rule.~~

(d) The work release community correctional center classification probation officer shall complete a personalized program plan for Work Release Centers, Form DC4-838, on all inmates assigned to the work release community correctional center within 14 days of receipt of the inmate at the center. Form DC4-838 is incorporated by reference in (16) of this rule. The completed personalized program plan shall be signed by the inmate, the classification correctional probation officer and the correctional officer major. Once the personalized program plan is signed, it shall be given to the staff member assigned to work with the inmate. Any changes in the personalized program plan shall be discussed with the inmate and shall be documented on Form DC4-838A, Personalized Program Plan – Modification Plan. Form DC4-838A is incorporated by reference in (16) of this rule. The inmate's progress towards achieving the goals of the personalized program plan shall be reviewed bi-weekly with the inmate. The outcome of each review shall be documented on Form DC4-838B, Personalized Program Plan – Monthly Progress Review. Form DC4-838B is incorporated by reference in (16) of this rule. Staff are authorized to schedule subsequent progress reviews upon request of the inmate.

(e) When the inmate is ready for release a Transition Release Plan, Form DC4-838C, shall be completed in order to assist the inmate in his or her release plans. Form DC4-838C is incorporated in (16) of this rule.

(3)(9) Community Study Release.

(a) No change.

1. The inmate meets all criteria outlined in this rule and Rule 33-601.606;

2. ~~The objectives specified in 33-601.602(4) will be served;~~

3. through 5. renumbered 2. through 4. No change.

(b) through (f) No change.

(g) The state classification office approving authority for community correctional centers shall have the authority to approve all requests for Community Study Release, ensuring that the criteria specified in this rule are met.

(4)(10) Center Work Assignment (CWA). Upon request of the inmate, the inmate shall be considered for placement in a center work assignment, providing:

(a) The inmate meets all criteria outlined in this rule and Rule 33-601.606;

~~(b) The objectives specified in 33-601.602(4) will be served;~~

~~(b)(e)~~ The inmate meets criteria specified on Form DC4-840, Checklist for Transfers to Work Release Centers, sections A and B. Form DC4-840 is incorporated by reference in (16) of this rule.

(5)(11) Community Residential Substance Abuse Program Tier IV. Upon request of the inmate, the inmate shall they will be considered for placement into in the community residential substance abuse Tier IV program providing:

(a) through (b) No change.

~~(c) The objectives specified in 33-601.602(4) will be served.~~

~~(6)(12) Status Changes of Center Work Assignment, Program Participation Community Tier IV, Or Paid Employment Status Inmates At Community Residential Facilities.~~ The approving authority shall have the authority to approve all status changes for inmates in the Community Release Program utilizing the criteria set forth in this rule and in Rule 33-601.606, and consistent with the safety and security of the public.

~~(13) Termination From Community Release.~~

~~(a) The approving authority shall consider and have the authority to terminate an inmate from community release if:~~

1. ~~The approving authority, following placement of the inmate in a community release program, receives any information concerning the inmate which would impact adversely on the safety and security of the community;~~

2. ~~The inmate engages in conduct that causes the approving authority to believe that the inmate will not honor the trust bestowed upon him or her;~~

3. ~~The approving authority determines that it is not in the best interest of the safety and security of the public, the department or the inmate to continue the inmate in the program;~~

4. ~~Based on actions and behavior, the inmate is not amenable to the status changes allowed in 33-601.602(12).~~

~~(b) Any time an inmate housed in a community release facility cannot be located, and a concerted effort has failed to locate the inmate, a BOLO (Be On the Lookout For) shall be requested and the inmate shall automatically be terminated from community release in the interest of public safety. Once located, the inmate shall be transferred to a secured facility. If, following investigation, it is determined that the inmate did not escape, as defined in s. 945.091(4), F.S., the approving authority for community correctional centers shall reinstate the inmate unless circumstances exist in which reinstatement would present a risk to security and public safety.~~

~~(c) Any inmate residing at a community release facility who tests positive for drugs or alcohol shall be immediately terminated from the program and placed into administrative confinement at a major institution. After the inmate is secured in confinement, the correctional officer major of the community facility shall ensure that the disciplinary process is initiated and completed.~~

~~(d) When an inmate is removed from a community residential program and placed in a secure facility, the inmate shall be terminated from the community release program.~~

~~(e) Upon the termination of an inmate from the community release program, reasons for the termination will be placed in the inmate's file and a copy of said reasons shall be forwarded to the Bureau of Community Residential Programs via electronic mail.~~

~~(7)(14)~~ Employment.

(a) through (e) No change.

(f) The prospective employer shall sign an Employer Work Release Agreement, Form DC4-826. Form DC4-826 is incorporated by reference in (16) of this rule. Inmates engaged in paid employment are not considered an employee of the state or the department while engaging in or traveling to and from such employment.

(g) through (h) No change.

(i) Facility personnel shall visit the inmate's place of employment for new employers within the first five working days to verify employment. Documentation of on-site employment verification shall be placed in the inmate's file by utilizing Form DC4-832, Employment Contacts. Form DC4-832 is incorporated by reference in (17) of this rule.

(j) through (k) No change.

(l) All inmates employed in the community shall return to the facility no later than 12 midnight. Inmates will not be authorized to leave the facility to work in the community between 12 midnight and 6 a.m. unless an exception is made. Any exceptions must be reviewed and approved on a case by case basis by the warden over the work release approving authority for community correctional centers. No exceptions will be approved unless it is determined that the risk to the community is minimal, and the earning potential and rehabilitative benefits which the job offers the inmate are substantial.

~~(8)(15)~~ Clothing and Equipment.

(a) through (b) No change.

~~(9)(16)~~ Transportation.

(a) No change.

(b) Transportation by department vehicle shall be mandatory after dark unless an exception is granted. For the purpose of this rule, "after dark" is defined as 30 minutes after sunset and extends until 30 minutes before sunrise. Exceptions to this requirement shall be granted on a case by case basis following review and approval by the warden over the work release approving authority for community correctional centers who shall assess whether the rehabilitative benefit to the inmate outweighs the risks to public safety. In making this assessment, the following factors shall be taken into account:

1. through 5. No change.

(c) In order to ensure that inmates are not working long distances from the center, the warden over the work release approving authority for community correctional centers shall establish maximum boundaries for employment sites by center geographic location. The maximum boundaries shall not exceed one hour travel time to the employment site from the facility unless an exception has been granted. Any exceptions must be reviewed and approved on a case by case basis by the warden over the work release approving authority for community correctional centers, who shall assess whether the

rehabilitative benefit to the inmate outweighs risks to public safety. In making the assessment, the factors listed in 33-601.602~~(9)(16)~~(b) shall be taken into account.

~~(10)(17)~~ Disbursement of Earnings.

(a) through (g) No change.

(h) A work releasee who is receiving Worker's Compensation or sick pay shall pay subsistence fees commensurate with the rate set forth in subparagraph ~~(d)(3)~~ above based on the amount of compensation received, less any legally required payroll deductions.

(i) The inmate shall be responsible while in paid employment status for the following:

1. through 4. No change.

(j) through (k) No change.

(l) Any requests for special withdrawal shall be completed on Form DC2-101, Special Withdrawal. Form DC2-101 is incorporated in (16) of this rule.

~~(11)(18)~~ Restitution.

(a) No change.

(b) In those cases where the committing court orders restitution to the victim in a specific amount, the department shall require inmates working at paid employment to pay restitution to the aggrieved party in the ordered amount, ~~or, based upon consideration of factors listed in this rule and the inmate's length of participation in the program, the approving authority is authorized to decrease the monthly payment to less than 10%, but not to reduce the inmate's total restitution obligation.~~

(c) In the event that the committing court fails to order restitution or orders restitution but fails to state a specific amount, the department shall require the inmate, as a condition of working in a paid employment program, to pay restitution to the aggrieved party in an amount to be determined by the Bureau Chief of Classification and central Records approving authority pursuant to s. 945.091, F.S. Restitution which is imposed by the department under this provision shall not be less than exceed 10% of the inmate's net earnings.

(d) No change.

(e) Restitution requirements shall be recorded on Form DC4-803A, Monetary Reimbursement Agreement. Form DC4-803A is incorporated in (16) of this rule.

~~(12)(19)~~ Advance of Funds. The Department of Corrections is authorized to advance monies up to \$75.00 from the Inmate Welfare Fund for an inmate who needs money for clothing, equipment, tools, transportation or incidental expenses in order to begin working at paid employment. The financial plan for the disbursement of the inmate's earnings prepared, as provided in 33-601.602~~(10)(17)~~ shall provide for the repayment of any such advancement of monies from the inmate's earnings. If the inmate's employment is terminated or if for any other reason the advancement of monies is not repaid from the inmate's earnings, the advancement of monies remains a personal obligation of the inmate and, after suitable

proceedings to ensure due process, other sources of funds available to the inmate shall be taken to the extent possible to satisfy the advancement of monies. Any property the inmate has with the department shall be taken to satisfy the debt, provided that before any property is taken, the inmate shall be given a hearing before the classification team to determine the fact and the amount of the debt. The inmate shall be given 24 hours written notice of such hearing. The inmate shall be allowed to present relevant evidence and argument. All or part of the discharge gratuity as provided in Rule 33-601.502 shall be taken, but only if the Department of Corrections finds that such action will not jeopardize the inmate's ability to transition himself into the community.

~~(13)(20)~~ Citizen Committees. The correctional officer major of a work release community correctional center shall establish committees of volunteer citizens in the various communities of the state to assist the Department of Corrections by:

(a) through (e) No change.

~~(14)(21)~~ Program Facilities.

(a) No change.

(b) Inmates participating in the community release programs will be housed in a work release community correctional center or contract facility;

(c) No change.

~~(15)(22)~~ No change.

~~(16)(23)~~ Forms. The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) DC2-101, Special Withdrawal Form, effective ~~December 7, 1997.~~

(b) DC4-803A, Monetary Reimbursement Restitution Agreement, effective ~~December 7, 1997.~~

(c) DC4-822, Center Work Assignment, effective ~~December 7, 1997.~~

(d) DC4-826, Employer's Community Work Agreement, effective ~~December 7, 1997.~~

(e) DC4-832, Employment Contacts, effective ~~December 7, 1997.~~

(f) DC4-837, Certificate of Orientation, effective ~~December 7, 1997.~~

(g) DC4-838, Personalized Program Plan for Work Release Centers, effective ~~December 7, 1997.~~

(h) DC4-838A, Personalized Program Plan – Modification Plan, effective ~~December 7, 1997.~~

(i) DC4-838B, Personalized Program Plan – Monthly Progress Review, effective ~~December 7, 1997.~~

(j) DC4-838C, Transition Release Plan, effective ~~December 7, 1997.~~

(k) ~~DC6-127 DC4-840~~, Checklist for Transfers to Community Residential Facilities, effective ~~December 7, 1997.~~

(l) DC4-866, Letter of Notice, effective ~~December 7, 1997.~~

~~(m) DC4-874A, Inmate Driver Agreement, effective December 7, 1997.~~

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History–New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended _____.

33-601.606 Placement of Inmates into Community Release Programs.

(1) Definitions.

(a) Center Work Assignment (CWA) – refers to an inmate assignment to a work release center to serve in a support capacity.

(b) Institutional Classification Team (ICT) refers to a team at the institutional level consisting of the warden or assistant warden, classification supervisor and chief of security who are responsible for making work, program, housing, and inmate status decisions at a facility and for making other recommendations to the state classification office.

(c) Pre-Work Release Transition Program refers to the department's 100-hour transitional skills program which prepares inmates for employment and re-entry into society prior to an inmate being assigned to work release. The program covers thirteen modules including goal setting, problem solving, social situations, emotional control, job hunting, pre-employment skills, keeping a job, money management, wellness, sexual responsibility and parenting, domestic violence, continuing education, special needs issues and community re-entry support. The program is provided by an OPS teacher position in conjunction with a local community college.

(d) State Classification Office (SCO) refers to a staff member at the central office level who is responsible for inmate classification decisions. Duties include approving or rejecting institutional classification team recommendations.

(e) Work Release refers to the community residential program for incarcerated inmates, which allows them to work at paid employment in the community while continuing as inmates of the facility where they are confined.

(2) Eligibility and Ineligibility Criteria.

(a) An inmate is ineligible for community release programs if he has:

1. Current or prior convictions for sexual battery covered in s. 794.011, F.S.

2. Current or prior convictions for escape covered by s. 945.092, F.S. or had a disciplinary report for escape within the last five years.

3. Been terminated from work release, community-based residential substance abuse program or center work assignment for disciplinary reasons during his current commitment.

4. Been incarcerated four or more times in any state or federal correctional facility.

5. Refused to complete substance programs Tier II, III, or IV.

6. A felony detainer.

7. A misdemeanor detainer, unless it can be established by the inmate's classification officer that the detainer would be withdrawn upon payment of restitution, fines or court ordered obligations and it appears that the inmate will earn sufficient funds to pay the obligation that has caused the detainer.

(b) In order to be eligible for community release programs an inmate must:

1. Be in community custody.

2. Be in Department of Corrections custody for 90 days prior to placement.

3. Be disciplinary report free for at least 90 days prior to placement.

4. Be within 18 months of his earliest release date if the inmate is earning discretionary gain time, or be within 12 months of his earliest non-advanceable release date for CWA, community based residential substance abuse program, or pre-work release program.

5. Be within 12 months of his earliest release date if the inmate is earning discretionary gain time or be within 7 months of his earliest non-advanceable release date for work release.

(3) Reasons For Removal From CWA, Work Release And Community-Based Residential Substance Abuse Programs.

(a) The inmate violates any laws, rules or procedures or tests positive for drugs or alcohol.

(b) Any information is received concerning the inmate that is determined will adversely impact on the safety and security of the inmate, department, or the community.

(c) There is reason to believe that the inmate will not honor the trust bestowed upon him.

(4) Process for Removal from CWA, Work Release, and Community Based Residential Substance Abuse Programs.

(a) When an inmate is removed from CWA, work release or a community based residential substance abuse program and placed in a secure facility, the inmate shall be terminated from the program.

(b) Upon the termination of an inmate from CWA, work release, or a community based residential substance abuse program, the Termination Report, Form EF6-009 will be given to the ICT who shall approve or disapprove the termination. Form EF6-009 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____.

(c) If disapproved, the inmate shall be reinstated to his previous work release status by the ICT. If the ICT determines that there is a need to transfer the inmate to a different work release facility, the ICT shall forward the request to the SCO for approval.

(d) If approved by the ICT, the termination shall be forwarded to the SCO who shall approve or disapprove the termination.

(e) If disapproved by the SCO, the SCO shall ensure that the inmate is returned to his or her previous work release status.

(5) Escape From CWA, Work Release Or Community Based Residential Substance Abuse Program.

(a) Any time an inmate cannot be located at his authorized location, a BOLO (Be On the Lookout For)/Warrant shall be requested and the inmate's assignment shall be terminated in the interest of public safety.

(b) Once located, the inmate shall be transferred to a secure facility.

(c) If, following investigation, it is determined that the inmate did not escape, as defined in s. 945.091(4), F.S., procedures as outlined in Rule 33-601.606(4) shall be followed in order to reinstate the inmate to work release.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Stan Czerniak

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 28, 2000

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Procedural RULE CHAPTER NO.: 40D-1

RULE TITLE: Permit Application Procedures RULE NO.: 40D-1.603

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to restart the permit processing time clocks when an applicant has made a material change to a permit application, and to limit to one the number of Water Use Permit applications that can be pending with the District.

SUMMARY: The proposed rule amendments will restart the permitting time clocks in cases of a material change to a permit application and will define what modifications to an application constitute a material change, the amendments will also limit to one the number of water use permits that can be pending with the District.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-1.603, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.116, 373.118, 373.229, 373.413 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.603 Permit Application Procedures.

(1) through (3) No change.

(3) When information submitted to the District incorporates or results in a material change to the proposed activity for which the applicant seeks a permit, the District shall notify the applicant that the application is deemed to be amended, the proposal contained in the original application is deemed withdrawn and the 30 and 90 day time requirements provided in Section 120.60(1), F.S. shall restart. For purposes of this subsection (1), the term "material change" shall mean information which is reasonably expected to lead to a different agency action on the application or an impact or design specification that is different in degree or kind than previously proposed.

(4) Only one application shall be filed for a permit required under the Part II of Chapter 373, Florida Statutes and District rule Chapter 40D-2, F.A.C. for an activity on or involving the same property and project, including initial permit applications as well as applications for modification of a permit, at any time prior to final action on the application first received by the District. If the District determines that more than one application has been so filed, the District will notify the applicant that the most recent application is deemed an amendment of the pending application, and if the amendment constitutes a material change, the application will be processed in accordance with subsection (1) above.

(4) through (5) renumbered (6) through (7) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.116, 373.118, 373.229, 373.413 FS. History—New 10-1-84, Amended 5-10-88, 12-22-94, 10-19-95, 3-31-96, 12-16-97, 7-2-98, 7-22-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 18, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Fees
RULE NO.: 61-20.504

PURPOSE AND EFFECT: The Council has determined that amendments are necessary to this rule to increase the fees.

SUMMARY: The Council proposes to amend this rule to increase the application fee for continuing education providers from \$100.00 to \$250.00 and to increase the renewal fee for continuing education providers from \$100.00 to \$250.00.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Baker, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61-20.504 Fees.

The following fees are adopted by the Council:

(1) through (12) No change.

(13) Application fee for continuing education providers ~~\$250.00~~ ~~\$100.00~~.

(14) The renewal fee for continuing education providers ~~\$250.00~~ ~~\$100.00~~.

Specific Authority 468.4315 FS. Law Implemented 455.2171, 455.219(3),(6), 455.2281, 455.271, 468.4315(2), 468.433, 468.435 FS. History—New 5-4-97, Amended 5-10-98, 9-9-98, 2-11-99, 3-13-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Regulatory Council of Community Association Managers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Regulatory Council of Community Association Managers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 11, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLES: Continuing Education for Reactivation Criteria for Continuing Education Definitions
RULE NOS.: 61G6-9.001 61G6-9.002 61G6-9.003

PURPOSE AND EFFECT: The Board proposes to amend rules 61G6-9.001, 61G6-9.002, and 61G6-9.003 to improve clarity of the language and facilitate the correct interpretation of the text.

SUMMARY: Rules 61G6-9.001, 61G6-9.002, and 61G6-9.003 are being amended to remove inconsistencies throughout the rule text.

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

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

SPECIFIC AUTHORITY: 455.2123, 489.507(3), 489.519 FS. LAW IMPLEMENTED: 455.2123, 489.513(3), 489.517(3), 489.519 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-9.001 Continuing Education for Reactivation.

As a condition to the reactivation of an inactive license, a licensee must submit proof of the completion of twelve (12) classroom hours of continuing education which meets the criteria set forth in Rule 61G6-9.002 for each year of inactive status, not to exceed forty-eight (48) hours or four (4) years.

Specific Authority 489.507(3), 489.519 FS. Law Implemented 489.519 FS. History-New 1-2-80, Amended 10-13-80, Formerly 21GG-9.01, Amended 2-20-89, Formerly 21GG-9.001, Amended 12-24-97.

61G6-9.002 Criteria for Continuing Education.

The following programs of continuing education may be used to satisfy the continuing education requirement provided that the licensee complies with the terms set forth herein:

- (1) No change.
(2) Noncredited courses conducted by an accredited institution of higher learning, official governmental agency, the military, or recognized national or state trade or civil organization provided the following conditions are met:
(a) through (c) No change.

The licensee must submit a notarized statement affirming the following:

- 1. No change.
2. Provider Sponsor of the course
3. through 6. No change.
(3) No change.

Specific Authority 489.507(3), 489.519(3) FS. Law Implemented 489.513(3), 489.519(3) FS. History-New 1-2-80, Formerly 21GG-9.02, 21GG-9.002, Amended.

61G6-9.003 Definitions.

When used in this rule, the following terms shall have the following meanings:

- (1) through (3) No change.
(4) "Course Provider Sponsor" means the person or legal entity who is registered pursuant to this rule and who is responsible for conducting a course approved pursuant to this rule, maintaining records of those in attendance for three (3) years. The course provider sponsor is responsible for maintaining records.
(5) No change.

(6) "Homestudy Course" means a continuing education course approved pursuant to this rule, that is offered as a correspondence course or through the Internet and requires a multiple-choice test at the end of the session with a minimum passing score of 75%.

Specific Authority 455.2123, 489.507(3) FS. Law Implemented 455.2123, 489.513(3), 489.517(3) FS. History-New 11-30-94, Amended 1-3-96, 6-13-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors Licensing Board

RULE TITLE: Qualifications of Course Instructors
 RULE NO.: 61G6-9.007

PURPOSE AND EFFECT: The purpose of the amendment in this rule is to provide for approval of courses for a sponsor who is not the provider.

SUMMARY: The Board proposed to amend this rule to facilitate the correct interpretation of course sponsors, providers, and approval of courses.

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

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

SPECIFIC AUTHORITY: 489.507(3) FS.

LAW IMPLEMENTED: 489.517 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-9.007 Qualifications of Course Instructors.

(1) through (3) No change.

(4) A course sponsor may request approval by the board regarding the qualifications of a particular provider ~~instructor~~ for a particular course.

(5) No change.

Specific Authority 489.507(3) FS. Law Implemented 489.517 FS. History--New 11-30-94, Amended 6-13-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLES: Required Records Maintained by Course Providers
 RULE NOS.: 61G6-9.009

Advertising of Continuing Education Courses 61G6-9.012

PURPOSE AND EFFECT: The Board proposes to amend rules 61G6-9.009 and 61G6-9.012 to improve clarity of the language.

SUMMARY: Rules 61G6-9.009 and 61G6-9.012 are being amended to remove inconsistencies in the rule text.

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

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

SPECIFIC AUTHORITY: 489.507(3) FS.

LAW IMPLEMENTED: 489.507(3), 489.517 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-9.009 Required Records Maintained by Course Providers ~~Sponsors~~.

Each course provider ~~sponsor~~ must maintain the following records with respect to each course:

(1) through (6) No change.

(7) Each person who completes an approved course shall be issued a certificate of completion by the course provider ~~sponsor~~. The certificate of completion shall contain the name and the license number of the person who completed the course, the course number and letter prefix, the sponsor number, the date of course completion, and the number of approved continuing education hours in the course. The course provider ~~sponsor~~ shall maintain a list of the name and license number(s) of each person who completes each course conducted by the course provider ~~sponsor~~.

(8) No change.

(9) Each course provider ~~sponsor~~ shall provide the board with copies of any of these required records, upon request by the board.

Specific Authority 489.507(3) FS. Law Implemented 489.507(3), 489.517 FS. History--New 11-30-94, Amended 6-13-96, 12-25-96, 3-24-99,_____.

61G6-9.012 Advertising of Continuing Education Courses.

(1) A course provider sponsor may not advertise a course as one approved by the board for continuing education until such approval is granted by the board.

(2) A course provider sponsor may not include any false or misleading information regarding the contents, instructors or number of classroom hours of any course approved under this rule.

(3) If a course is approved, the board shall assign a course number. The course provider sponsor shall use the course number in the course syllabus, in all other course materials used in connection with the course and in all written advertising materials used in connection with the course.

Specific Authority 489.507(3) FS. Law Implemented 489.517(3) FS. History--New 11-30-94. Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 4, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Supervision of Pre-need Agents RULE NO.: 61G8-28.002

PURPOSE AND EFFECT: This rule is being repealed as it is redundant of Rule 61G8-28.001, F.A.C.

SUMMARY: The Board proposes to repeal this rule as the requirements are being published elsewhere in the F.A.C.

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

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

SPECIFIC AUTHORITY: 470.017, 470.019, 455.203(5) FS.

LAW IMPLEMENTED: 470.028 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Program Administrator, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-28.002 Supervision of Pre-need Agents.

Specific Authority 470.017, 470.019, 455.203(5) FS. Law Implemented 470.028 FS. History--New 11-8-82, Formerly 21J-28.02, 21J-28.002, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Directors and Embalmers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2000

DEPARTMENT OF HEALTH

Board of Nursing

Table with 2 columns: RULE TITLES and RULE NOS. containing items like Definitions, Application for Licensure, Qualifications for Examination, etc.

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the licensure requirements for nurses in Florida.

SUMMARY: The proposed rule amendments clarify the various avenues of nursing licensure in Florida and set forth the criteria for said licensure.

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

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

SPECIFIC AUTHORITY: 120.53, 455.564, 455.597, 455.604, 464.006, 464.008, 464.009, 464.012, 464.022(4) FS.

LAW IMPLEMENTED: 112.011(1)(b), 120.53, 455.564, 455.597, 455.604, 464.006, 464.008, 464.009, 464.012, 464.015(1),(2),(3),(4), 464.022(4), 464.018(2)(a), 464.019 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., October 4, 2000

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B9-3.001 Definitions.

(1) through (4) No change.

(5) Direct Supervision – as used herein means the physical presence within the patient care unit of a registered professional nurse who assumes legal responsibility for the nursing practice of the graduate nurse or graduate practical nurse being supervised and who provides direction and consultation for the nursing actions of such graduate or graduate practical nurse. ~~The Board may require periodic reports from the employer regarding the graduate's performance.~~

(6) First examination for which eligible – as used in these rules means the first nursing licensure examination which an applicant is eligible to take within six months following completion of the requirements for the licensure level for which the application is submitted ~~graduation unless the applicant is unable to appear for that examination due to good cause such as illness, accident, or other inability as approved by the Board.~~

~~(7) High School Diploma – a document establishing that an applicant has graduated from public high school or regionally accredited school or has graduated from private school which can provide a transcript evidencing successful completion of the course of study and attendance through the high school years.~~

~~(7)(8) No change.~~

~~(9) Equivalent documentation of official transcript – as used in these rules may consist of a completed Commission on Graduates of Foreign Nursing Schools transcript form or records verified by the International Council of Nurses or licensing authorities of other states or countries.~~

~~(8)(10) Practical Nursing Education Equivalency – professional nursing courses of study, successfully completed with a grade of "C" or better, which meet the standards of~~

practical nursing education required in approved practical nursing programs in Florida. ~~Applicants seeking licensure as practical nurses on the basis of professional nursing education are exempt from the graduation requirement for licensure.~~

~~(9)(11) No change.~~

~~Specific Authority 464.006, 464.022(4) FS. Law Implemented 464.008(1)(b), 464.015(4), 464.022(4), 464.019 FS. History–New 4-27-80, Amended 7-11-83, Formerly 21O-8.20, Amended 3-3-87, Formerly 21O-8.020, 61F7-3.001, Amended 7-5-95, 11-15-95, Formerly 59S-3.001, Amended 11-2-98,_____.~~

64B9-3.0015 Application for Licensure.

~~(1) Any application submitted for licensure may not be used for more than one year from the date of the original submission of the application. A new application and new fee shall be required for any applicant who still seeks to be licensed.~~

~~(2) Courses in HIV/AIDS and domestic violence required by ss. 455.597 and 455.604, F.S., for initial licensure must be taken within two years preceding the application for licensure.~~

~~Specific Authority 120.53, 455.564, 455.597, 455.604, 464.006, 464.008, 464.009, 464.012 FS. Law Implemented 120.53, 455.564, 455.597, 455.604, 464.006, 464.008, 464.009, 464.012 FS. History–New 9-25-96, Formerly 59S-3.0015, Amended_____.~~

64B9-3.002 Qualifications for Examination.

~~(1) An applicant seeking certification to take the licensure examination shall submit, on forms provided by the Department, evidence that he or she meets the qualifications prescribed by the Nurse Practice Act, Chapter 464, F.S. Such evidence shall consist of:~~

~~(a) through (b) No change.~~

~~(c) For graduates of an approved nursing program, If graduated from an approved program in Florida, a notice of graduation or of completion of the requirements for graduation. For graduates of an approved program equivalent, an official transcript ; if not, an official certified transcript from the applicant's program or equivalent documentation which identifies all courses completed that meet graduation requirements specifically sets forth all courses successfully completed, the date of the applicant's graduation, and the degree, certificate or diploma awarded. If the applicant is seeking to qualify to write the examination on the basis of education received in country other than the United States, the applicant must obtain a report by a credentialing agency that meets the requirements of Rule 64B9-3.014, F.A.C.~~

~~(d) No change.~~

~~(e) Proof of the ability to communicate in the English language as indicated by one of the following:~~

~~1. Completion of an approved nursing program or its equivalent in the United States;~~

~~1.2. A minimum score of 550 500 on the TOEFL Examination, or a minimum MELAB converted score of 80% an attainment of 75% total score on the Michigan ECPE Examination;~~

~~2.3.~~ Completion of a nursing program given in English in another country;

~~3.4.~~ A passing score on a nursing licensing examination which is given in English;

~~4.5.~~ A certificate from the Commission on Graduates from Foreign Nursing Schools which indicates successful completion of TOEFL;

~~6.~~ Any method of proof previously accepted by the Board. A list of acceptable methods of proof of the ability to communicate in the English language shall be maintained by the Board office;

~~7.~~ An applicant wishing to demonstrate proof of the ability to communicate in the English language other than as listed above may petition the Board.

(f) Prior to application for examination, convicted felons must obtain a restoration of their civil rights or they are ineligible to sit for the examination.

(2) If an applicant has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, any offense other than minor traffic violation, the applicant shall submit arrest and certified court records stating the nature of the offense and final disposition of the case so that a determination can be made by the Board whether the offense relates to the practice of nursing or the ability to practice nursing. ~~Any convicted felons must submit proof of restoration of civil rights or they are ineligible for licensure.~~

(3) Documents in a foreign language must be accompanied by a certified translation in the English language.

~~(4) An applicant whose education was not in the United States must correct any deficiencies in education determined by the Board after review of the report submitted by the credentialing agency by successfully completing appropriate courses in an approved nursing program and by providing official documentation from the program setting forth the courses successfully completed.~~

~~(4)(5)~~ The applicant shall notify the Board in writing of any change in the information provided on the application which occurs prior to licensure.

~~(5)(6)~~ The applicant must submit proof of graduation before the license will be issued.

~~(7) Applications shall be valid for one year from the original date of submission. Failure to provide all required documentation shall result in the application becoming null and void and requiring the applicant to submit a new application and a new application fee.~~

Specific Authority 464.006 FS. Law Implemented 455.564(1), 464.008, 112.011(1)(b) FS. History—New 4-27-80, Amended 3-16-81, 8-2-81, 7-11-83, Formerly 21O-8.21, Amended 3-3-87, 12-8-87, 6-8-88, Formerly 21O-8.021, Amended 1-30-94, Formerly 61F7-3.002, Amended 9-25-96, Formerly 59S-3.002, Amended 7-27-98, 4-19-00, _____.

64B9-3.003 Practice of Nursing by Applicant for Licensure by Examination.

(1) No applicant for licensure by examination will be permitted to practice nursing unless:

(a) No change.

~~(b) The applicant has been authorized by the Board to practice as a graduate nurse or graduate practical nurse, and has been authorized to test by the examination vendor can produce evidence from the Department, to the employer that the applicant has been scheduled to write, or has written, the first examination for which eligible, and is eligible to practice nursing as a "graduate nurse, or graduate practical nurse," as set forth in Section 464.022(4), F.S.~~

(2) No change.

(3) An applicant who fails the first, or any subsequent examination, shall not practice nursing until such time as the applicant passes a nursing licensing examination. ~~In the event such applicant successfully repeats and graduates from a second course of study in an approved nursing program, the applicant may be granted G.N. or G.P.N. status when reapplying to take the licensing examination.~~

(4) Any applicant who fails to appear for the first examination for which eligible, ~~without good cause,~~ shall not practice nursing until such time as the applicant passes a licensing examination.

~~(5) An applicant who writes the practical nurse examination on the basis of practical nursing education equivalency prior to the completion of the professional program and fails the examination shall be eligible for Graduate Nurse status after meeting the requirements to write the first professional examination for which the applicant is eligible.~~

~~(5)(6)~~ An applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted Graduate Nurse status ~~at such time~~ when the applicant applies to write the professional examination.

Specific Authority 464.006 FS. Law Implemented 464.015(3), (4), 464.022(4) FS. History—New 4-27-80, Amended 3-16-81, 8-2-81, 7-11-83, Formerly 21O-8.22, Amended 3-3-87, 12-8-87, Formerly 21O-8.022, 61F7-3.003, Amended 9-19-94, 5-9-95, Formerly 59S-3.003, Amended _____.

(Substantial rewording of Rule 64B9-3.008 follows. See Florida Administrative Code for present text.)

64B9-3.008 Licensure by Endorsement.

(1) An applicant for licensure by endorsement must apply to the Department on prescribed forms, including verification of licensure forms from every state in which the applicant has been licensed, and pay the required fee. If the applicant:

(a) has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, any offense, other than a minor traffic violation, the applicant shall furnish certified court records stating the nature of the offense and the disposition of the case so that a determination may be made by the Board whether the conviction related to the practice of nursing or the ability to practice nursing.

(b) has ever had disciplinary action taken against a license (including relinquishment or denial of licensure) in another state, territory, or country, the applicant shall submit to the Board documentation pertaining to such action and its final disposition.

(2) To apply for endorsement pursuant to Section 464.009(1)(a), F.S., an applicant shall be required to show current licensure in another state of the United States and the licensure requirements of the original state of licensure at the time of original licensure.

(a) For the purpose of determining if the requirements in the original state of licensure were substantially equivalent to or more stringent than the requirements in Florida at that time, the applicant must demonstrate a passing score on one of the following:

1. the NCLEX examination for professional or practical nurses;

2. the State Board Test Pool Examination for Professional Nurses given between 1951 and 1981, if the applicant passed with a score of 350 in each subject or a total score of 1800;

3. the State Board Test Pool Examination for Practical Nurses given between 1952 and 1981, if the applicant passed with a score of 350;

4. a state licensing examination for professional nurses given prior to 1951 or a state licensing examination for practical nurses given prior to 1952;

5. any licensing examination taken as a condition for state licensure by a professional nurse after 1951 or by a practical nurse after 1952, if the examination meets the following standards:

a. the examination was developed using accepted psychometric procedures;

b. the content and passing score of the examination was substantially equivalent to the examination given in Florida at the time;

c. the security of the examination was maintained;

d. at least one of the reliability estimations for the examination is .70 or higher;

e. the examination was revised after each administration to ensure currency of content;

f. for examinations given after 1984, the test plan was based on a job analysis of new nursing graduates.

(b) Pursuant to s. 464.009(2), F.S., the Board specifies that the requirements of the following states are not presumed to be substantially equivalent to the requirements in Florida because:

1. These states recognize as meeting the educational requirements for RN licensure, graduation from a program that does not integrate clinical experiences with concurrent didactic instruction which is not substantially equivalent or more stringent than that required in Florida:

a. Alabama

b. Alaska

c. Arizona

d. Arkansas

e. California

f. Colorado

g. Connecticut

h. District of Columbia

i. Hawaii

j. Idaho

k. Indiana

l. Iowa

m. Kansas

n. Kentucky

o. Louisiana

p. Maine

q. Maryland

r. Massachusetts

s. Michigan

t. Minnesota

u. Mississippi

v. Missouri

w. Montana

x. Nebraska

y. Nevada

z. New Hampshire

aa. New Jersey

bb. New Mexico

cc. New York

dd. North Carolina

ee. Ohio

ff. Oregon

gg. Pennsylvania

hh. South Carolina

ii. South Dakota

jj. Tennessee

kk. Texas

ll. Utah

mm. Vermont

nn. Virginia

oo. Washington

pp. West Virginia

qq. Wisconsin

rr. Wyoming

2. These states recognize as meeting the educational requirements for nursing licensure, graduation from a program that does not include theoretical and clinical experiences that are substantially equivalent to or more stringent than that required in Florida approved programs:

- a. Alabama
- b. Arizona
- c. California
- d. Connecticut
- e. Illinois
- f. Indiana
- g. Maine
- h. Massachusetts
- i. Minnesota
- j. Mississippi
- k. Montana
- l. New Hampshire
- m. New Jersey
- n. New Mexico
- o. New York
- p. North Dakota
- q. Oregon
- r. Rhode Island
- s. Utah
- t. West Virginia
- u. Wisconsin

3. These states recognize as meeting the examination requirements for licensure, an examination that is not substantially equivalent to or more stringent than that required in Florida:

- a. Alabama
- b. Arkansas
- c. Colorado
- d. Connecticut
- e. Delaware
- f. Hawaii
- g. Idaho
- h. Illinois
- i. Massachusetts
- j. Michigan
- k. Minnesota
- l. New Hampshire
- m. New Jersey
- n. New York
- o. North Carolina
- p. South Carolina
- q. Texas
- ll. Utah
- r. Virginia
- t. Wisconsin

(3) To apply for endorsement pursuant to Section 464.009(1)(b), F.S., an applicant shall meet all requirements for eligibility to take the licensure examination as provided in 64B9-3.002, and demonstrate a passing score on one of the following:

(a) the National Council Licensure Examination for registered nurses with a minimum score of 1600, or, after 1988, a report of Pass;

(b) the National Council Licensure Examination for practical nurses with a minimum score of 350, or, after 1988, a report of Pass;

(c) a state, regional, or national examination which meets the following minimum requirements:

1. The examination is developed using accepted psychometric procedures.

2. The content and passing score of the examination are substantially equivalent to that of the National Council Licensure Examination.

3. The security of the examination is maintained.

4. At least one of the reliability estimations for the examination is 0.70 or higher.

5. The examination is revised after each administration to insure currency of content.

(d) the Canadian Nurses Association Testing Service (CNATS) examination for professional or registered nurses from 1980 up to August 9, 1995, with a minimum score of 400 on the examination or, prior to 1980, either a minimum score of 400 on each portion of the five-part examination or a total score of 2,050, or a minimum score of 400 on each portion of the four-part examination with a combined medical surgical nursing or a total score of 1,640. The criterion referenced Canadian Nurses Association Testing Service (CNATS) examination administered effective August 9, 1995 and with a PASS/FAIL score standard is not deemed substantially equivalent to or more stringent than the examination given in Florida.

(4) A person licensed in the Republic of Cuba prior to December 31, 1961, shall be presumed to have successfully completed an examination equivalent to the one given in Florida, and shall be eligible for licensure by endorsement when he or she has provided proof of licensure in Cuba and has successfully completed a program which is given in an institution of higher learning, is intended to assure current competency of the applicant, and is approved by the Board. An official document which verifies licensure in Cuba shall be acceptable proof. If the applicant has no official document verifying licensure in Cuba, the applicant may provide proof of actual licensure in the manner provided in Rule 64B9-3.002(4)(b)1. and 2.

Specific Authority 464.006, 464.009 FS. Law Implemented 464.009, 464.018(2)(a) FS. History—New 4-27-80, Amended 7-12-81, 7-11-83, 7-3-84, Formerly 21O-8.26, Amended 3-3-87, 12-8-87, 8-3-89, 11-19-91, Formerly 21O-8.026, Amended 9-7-93, Formerly 61F7-3.008, Amended 1-1-96, Formerly 59S-3.008, Amended 2-18-98,_____.

64B9-3.009 Practice of Nursing by Applicants for Licensure by Endorsement.

(1) An applicant for licensure by endorsement holding a current license in another state ~~or Canada~~ may perform nursing services in Florida, ~~and may use the applicable title "R.N." or "L.P.N.";~~ for sixty (60) days after furnishing the employer the following:

(a) Evidence of current licensure in another state ~~or Canada,~~

(b) Verification from the Board that the applicant has submitted proper endorsement form and fee.

(2) No change.

~~(3) An applicant for licensure by endorsement who has applied to take the examination in another state or is awaiting the results from another state of the first licensing examination for which eligible may perform nursing services in Florida under the following conditions:~~

~~(a) The applicant provides evidence to the Board, on forms provided by the Board, that such applicant has met the requirements for graduation or has graduated from an approved program or its equivalent and is scheduled to write, or has written, the first licensure examination for which eligible in another state. Prior to licensure by endorsement, the applicant must submit proof of graduation.~~

~~(b) The applicant provides the employer with a receipt from the Department verifying that such applicant has submitted the proper endorsement form and fee, and a letter from the Department verifying eligibility to practice nursing as a "G.N." or "G.P.N."~~

~~(c) The applicant practices nursing under the direct supervision of a registered professional nurse.~~

~~(d) The applicant provides documentation of applicant's examination results, as soon as they are available, to the employer. Applicants who write the examination in another state shall be endorsed upon receipt by the Board of written verification of successful examination results from the other state. Applicants who have not caused the verification page from the state of original licensure to be received will not be eligible to work beyond 45 days from the date the Florida Board office receives notice of the candidate's passing said examination.~~

~~(e) An applicant who fails the examination shall not continue to practice nursing until such time as such applicant passes a licensing examination.~~

Specific Authority 464.006 FS. Law Implemented 464.009, 464.015(1),(2),(3),(4), 464.022(4),(8) FS. History--New 4-27-80, Amended 7-2-81, Formerly 21O-8.27, Amended 3-3-87, 12-8-87, 6-8-88, 8-2-90, 1-9-91, Formerly 21O-8.027, Amended 9-7-93, Formerly 61F7-3.009, 59S-3.009, Amended 12-30-97, 4-9-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 14, 2000

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: Provisional License

RULE NO.: 64B10-11.011

PURPOSE AND EFFECT: The Board has determined that amendments are necessary to update the rule text.

SUMMARY: The Board has determined that new rule text is required to expand the requirements for those licensees who wish to obtain a provisional license.

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

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

SPECIFIC AUTHORITY: 468.1685(1), 468.1735 FS.

LAW IMPLEMENTED: 468.1735 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.011 Provisional License.

(1) through (4) No change.

(5) An application for a provisional license shall not be granted unless the applicant can demonstrate that he or she possesses a minimum of six (6) months management experience within a skilled nursing facility, hospital, hospice, assisted living facility with a minimum of 60 licensed beds, or geriatric residential treatment program.

(6) A provisional license shall not be granted to any applicant whose Nursing Home Administrator license has been suspended or revoked in any jurisdiction.

Specific Authority 468.1685(1), 468.1735 FS. Law Implemented 468.1735 FS. History--New 12-6-79, Amended 8-17-81, Formerly 21Z-11.11, Amended 4-22-87, Formerly 21Z-11.011, 61G12-11.011, Amended 7-21-97, Formerly 59T-11.011, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 11, 2000

DEPARTMENT OF HEALTH
Board of Opticianry

RULE TITLE: Application and Examination Fees
RULE NO.: 64B12-11.002
PURPOSE AND EFFECT: The Board proposes an amendment to address the change of the examination fee.
SUMMARY: Proposed rule amends the examination fee.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.
Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
SPECIFIC AUTHORITY: 484.005, 484.007(1)(a) FS.
LAW IMPLEMENTED: 484.007(1)(a) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW:
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.002 Application and Examination Fees.
(1) No change.

(2) The examination fee shall be \$325.00 \$275.00, which is refundable if the applicant is determined to be ineligible for licensure or has failed to timely submit a completed application.

Specific Authority 484.005, 484.007(1)(a) FS. Law Implemented 484.007(1)(a) FS. History--New 12-6-79, Amended 6-30-82, 4-10-85, 1-7-86, Formerly 21P-11.02, Amended 7-7-87, 3-30-89, 7-3-91, Formerly 21P-11.002, 61G13-11.002, 59U-11.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2000

DEPARTMENT OF HEALTH
Board of Opticianry

RULE TITLE: Reexamination Fees
RULE NO.: 64B12-11.004
PURPOSE AND EFFECT: The Board proposes amendments to address the change of reexamination fees.
SUMMARY: The purpose of the rule amendments is to update the rule text with regard to reexamination fees.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.
Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
SPECIFIC AUTHORITY: 484.005, 455.574(2) FS.
LAW IMPLEMENTED: 455.574(2) FS.
IF REQUESTED IN WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW:
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.004 Reexamination Fees.

Reexamination fees for the following parts of the examination, in the following amounts, shall be remitted to the Department at least 60 days prior to the examination date:

Table with 2 columns: Category and Amount. Rows include Neutralization (\$120.00 \$85.00), Opticianry Statutes and Rules (\$75.00 \$50.00), and Practical (\$130.00 \$90.00).

Specific Authority 484.005, 455.574(2) FS. Law Implemented 455.574(2) FS. History--New 12-6-79, Amended 6-30-82, Formerly 21P-11.04, Amended 7-7-87, 3-30-89, Formerly 21P-11.004, 61G13-11.004, 59U-11.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2000

DEPARTMENT OF HEALTH
Board of Opticianry

RULE TITLE: Examination Review Fee
RULE NO.: 64B12-11.0045
PURPOSE AND EFFECT: The Board proposes an amendment to address the change of the examination review fee.

SUMMARY: The proposed changes amend the minimum standards for examination review fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 484.005, 455.574(2) FS.

LAW IMPLEMENTED: 455.574(2) FS., Chapter 89-162, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.0045 Examination Review Fee.

The fee for review of an examination pursuant to Rule 64B12-9.003 shall be ~~\$95.00~~ \$50.

Specific Authority 484.005, 455.574(2) FS. Law Implemented 455.574(2) FS., Chapter 89-162, Laws of Florida. History--New 4-22-90, Formerly 21P-11.0045, 61G13-11.0045, 59U-11.0045, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2000

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLES:	RULE NOS.:
Purpose	64B15-19.001
Violations and Penalties	64B15-19.002
Time for Payment of Civil Penalties	64B15-19.004
Citations	64B15-19.007

PURPOSE AND EFFECT: The purpose of the rule amendment is to delete language that is no longer necessary. The Board has determined a substantial rewording of Rule

64B15-19.002 is necessary to update the rule text with regard to first, second and third offenses and the penalty amounts to be assessed by the Board. The purpose of the rule amendments to Rule 64B15-19.004 is to add new rule text. The purpose of the rule amendments to Rule 64B15-19.007 is to expand the violations with accompanying fines which may be disposed of by citation.

SUMMARY: The Board has determined that certain rule text that is no longer necessary should be deleted from Rule 64B15-19.001. The Board has determined that Rule 64B15-19.002 should be substantially reworded to further clarify the violations and penalties. The Board finds it necessary to amend Rule 64B15-19.004 to add the words "unless stated otherwise in the Order" to further clarify time for payment of civil penalties. Rule 64B15-19.007 is being amended to delete unnecessary rule text and to expand the violations with accompanying fines that may be disposed of by citation.

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

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

SPECIFIC AUTHORITY: 455.227(2), 455.617, 455.621, 455.627, 459.005, 459.015(5) FS.

LAW IMPLEMENTED: 455.227(2), 455.617, 455.621, 455.624, 455.627 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B15-19.001 Purpose.

The board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 459, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed during a formal or informal hearing 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; for multiple counts of the violated provisions or a combination of violations, the Board shall consider a higher penalty than that for single, isolated violation.~~ Each range includes the lowest and highest penalty and all penalties falling between. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: letter of concern; reprimand; probation; fine; restriction or certification with restrictions; suspension, revocation or refusal to certify. Pursuant to Section 459.015(2), combinations of these penalties are permissible by law. Nothing in this rule shall preclude any discipline imposed upon an applicant or licensee pursuant to a stipulation or settlement agreement, nor shall the ranges of penalties set forth in this rule preclude the probable cause panel from issuing a letter of guidance upon a finding of probable cause where appropriate.

Specific Authority 455.627, 459.015(5), 459.005 FS. Law Implemented 455.627 FS. History—New 9-30-87, Formerly 21R-19.001, 61F9-19.001, 59W-19.001, Amended 2-2-98,_____.

(Substantial rewording of Rule 64B15-19.002 follows. See Florida Administrative Code for present text)

64B15-19.002 Violations and Penalties.

In imposing discipline upon applicants and licensees, 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 statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited directly under each violation description.

(1) Attempting to obtain, obtaining or renewing a license or certificate by bribery, fraud or through an error of the Department or board (455.624(1)(h) & 459.015(1)(a), F.S.)

FIRST OFFENSE:

MINIMUM
denial with ability to
reapply immediately
upon payment of
\$5,000 fine or
probation and
\$5,000 fine

MAXIMUM
denial with ability to
reapply in not less
than 3 years or
revocation and \$7,500
fine

SECOND OFFENSE:

denial with ability to
ability to reapply in not less
than 3 years and \$10,000
fine or suspension to be
followed by probation and
\$10,000 fine

denial of license with
no ability to reapply or
revocation and
\$10,000 fine

(2) Action taken against license by another jurisdiction (455.624(1)(f) & 459.015(1)(b), F.S.)

FIRST OFFENSE:

imposition of discipline
comparable to discipline
that would have been
imposed in Florida if the
substantive violation
occurred in Florida and
\$1000 fine

imposition of discipline
comparable to discipline
that would have been
imposed in Florida if the
substantive violation
occurred in Florida and
\$5000 fine

SECOND OFFENSE:

imposition of discipline
comparable to discipline
that would have been
imposed in Florida if the
substantive violation
occurred in Florida and
\$5,000 fine

revocation and \$10,000
fine or denial of
license until the
licensee's license is
unencumbered in the
jurisdiction where
disciplinary action was
originally taken

(3) Guilty of crime directly relating to practice or ability to practice (455.624(1)(c) & 459.015(1)(c), F.S.)

FIRST OFFENSE:

probation and \$2,000
fine

revocation and \$5,000
fine or denial of license
with ability to reapply for
licensure in not less than
3 years

SECOND OFFENSE:

suspension to be
followed by probation
and \$5,000 fine

revocation and \$10,000
fine or permanent denial
of license

(4) False, deceptive, or misleading advertising (459.015(1)(d), F.S.)

FIRST OFFENSE:

letter of concern

reprimand and \$1,000 fine

SECOND OFFENSE:

probation and \$2,000 fine

probation and \$5,000 fine

THIRD OFFENSE:

3 month suspension to be followed by probation and \$5,000 fine

1 year suspension to be followed by probation and \$5,000 fine

(5) Failure to report another licensee in violation (455.624(1)(i) & 459.015(1)(e), F.S.)

FIRST OFFENSE:

letter of concern

reprimand and \$1,000 fine

SECOND OFFENSE:

reprimand and \$2,500 fine

probation and \$2,500 fine

THIRD OFFENSE:

probation and \$5,000 fine

suspension to be followed by probation and \$5,000 fine

(6) Aiding unlicensed practice (455.624(1)(j) & 459.015(1)(f), F.S.)

FIRST OFFENSE:

probation and \$2,500 fine

denial or revocation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$5,000 fine

denial or revocation and \$10,000 fine

(7) Failure to perform legal duty or obligation (455.624(1)(k) & 459.015(1)(g), F.S.)

FIRST OFFENSE:

reprimand and \$1,000 fine

denial with ability to reapply after no less than 2 years or revocation and \$5,000 fine

SECOND OFFENSE:

probation and \$5,000 fine

denial or revocation and \$10,000 fine

(8) Giving false testimony regarding the practice of medicine (459.015(1)(h), F.S.)

FIRST OFFENSE:

reprimand and \$2,500 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$5,000 fine

revocation and \$10,000 fine or denial of license

(9) Filing a false report or failing to file a report as required (455.624(1)(l) & 459.015(1)(i), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

revocation and \$10,000 fine or denial with ability to reapply in not less than 1 year

SECOND OFFENSE:

denial with ability to reapply in not less than 3 years or suspension to be followed by probation and \$10,000 fine

denial with no ability to reapply or revocation and \$10,000 fine

(10) Kickbacks and unauthorized fee arrangements (459.015(1)(j), F.S.)

FIRST OFFENSE:

probation and \$2,500 fine

denial or suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

denial or suspension to be followed by probation and \$10,000 fine

denial or revocation and a \$10,000 fine

(11) Failure to provide financial disclosure form to a patient being referred to an entity in which the referring physician is an investor (455.654, F.S.)

FIRST OFFENSE:

reprimand

reprimand and \$2,500 fine

SECOND OFFENSE:

reprimand and \$5000 fine

probation and \$5,000 fine

THIRD OFFENSE:

probation and \$7,500 fine

suspension to be followed by probation and \$10,000 fine

(12) Improper refusal to provide health care (459.015(1)(k), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(13) Sexual misconduct within the patient physician relationship (455.624(1)(u) & 459.015(1)(l), F.S.)

FIRST OFFENSE:

probation and \$10,000 fine

denial of licensure or revocation and \$10,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$10,000 fine

denial of licensure or revocation and \$10,000 fine

(14) Deceptive, untrue, or fraudulent misrepresentations in the practice of medicine (455.624(1)(a) & (m) & 459.015(1)(m), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

denial of licensure or suspension to be followed by probation and \$10,000 fine

SECOND OFFENSE:

denial of licensure or suspension to be followed by probation and \$10,000 fine

denial of licensure or revocation and \$10,000 fine

(15) Improper solicitation of patients (459.015(1)(n), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(16) Failure to keep written medical records (459.015(1)(o), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(17) Fraudulent, alteration or destruction of patient records (459.015(1)(p), F.S.)

FIRST OFFENSE:

probation and \$5,000 fine

suspension to be followed by probation and \$7,500 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(18) Exercising improper influence on patient (455.624(1)(n) & 459.015(1)(q), F.S.)

FIRST OFFENSE:

probation and \$5,000 fine

suspension to be followed by probation and \$7,500 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(19) Improper advertising of pharmacy (459.015(1)(r), F.S.)

<u>FIRST OFFENSE:</u>	<u>letter of concern</u>	<u>reprimand and \$1,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$2,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>THIRD OFFENSE:</u>	<u>probation and \$7,500 fine</u>	<u>suspension to be followed by probation and \$10,000 fine</u>

(20) Performing professional services not authorized by patient (459.015(1)(s), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(21) Controlled substance violations (459.015(1)(t), F.S.)

<u>FIRST OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>suspension to be followed by probation and \$7,500 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(22) Prescribing or dispensing of a scheduled drug by the physician to himself (459.015(1)(u), F.S.)

<u>FIRST OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>suspension to be followed by probation and \$7,500 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(23) Use of amygdalin (Laetrile) (459.015(1)(v), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(24) Inability to practice medicine with skill and safety (459.015(1)(w), F.S.)

<u>FIRST OFFENSE:</u>	<u>denial or probation and \$2,500 fine</u>	<u>denial or suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$5,000 fine</u>
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<u>SECOND OFFENSE:</u>	<u>denial or suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
 (25) Gross Malpractice (459.015(1)(x), F.S.)		
<u>FIRST OFFENSE:</u>	<u>denial or probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
 (26) Repeated Malpractice (459.015(1)(x), F.S.)		
<u>FIRST OFFENSE:</u>	<u>denial or probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
 (27) Failure to practice with level of care, skill, and treatment recognized by a reasonably prudent physician as acceptable under similar conditions and circumstances (459.015(1)(x), F.S.)		
<u>FIRST OFFENSE:</u>	<u>denial or probation and \$5,000 fine</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
 (28) Improper performing of experimental treatment (459.015(1)(y), F.S.)		
<u>FIRST OFFENSE:</u>	<u>denial or reprimand and \$5,000 fine</u>	<u>denial or suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>
 (29) Practicing beyond one's scope (459.015(1)(z), F.S.)		
<u>FIRST OFFENSE:</u>	<u>denial or reprimand and \$5,000 fine</u>	<u>denial or suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>

(30) Delegation of professional responsibilities to unqualified person
(455.624(1)(p) & 459.015(1)(aa), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$2,500 fine</u>	<u>denial or suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>

(31) Violation of law, rule, order, or failure to comply with subpoena
(455.624(1)(q) & 459.015(1)(bb), F.S.)

<u>FIRST OFFENSE:</u>	<u>denial or reprimand and \$5,000 fine</u>	<u>denial or suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>denial or suspension to be followed by probation and \$7,500 fine</u>	<u>denial or revocation and \$10,000 fine</u>

(32) Restricting another from lawfully advertising
services (459.015(1)(cc), F.S.)

<u>FIRST OFFENSE:</u>	<u>letter of concern</u>	<u>reprimand and \$1,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$2,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>THIRD OFFENSE:</u>	<u>3 month suspension to be followed by probation and a \$5,000 fine</u>	<u>1 year suspension to be followed by probation and \$5,000 fine</u>

(33) Procuring, aiding or abetting an unlawful abortion
(459.015(1)(dd), F.S.)

<u>FIRST OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>suspension to be followed by probation and \$7,500 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(34) Presigning blank prescription forms
(459.015(1)(ee), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>revocation and \$10,000 fine</u>

(35) Prescribing a Schedule II substance for office use
(459.015(1)(ff), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>revocation and \$10,000 fine</u>

(36) Improper use of Schedule II amphetamine or sympathomimetic amine drug (459.015(1)(gg), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

probation and \$5,000 fine

revocation and \$10,000 fine

(37) Failure to adequately supervise assisting personnel (459.015(1)(hh), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

probation and \$5,000 fine

revocation and \$10,000 fine

(38) Improper use of substances for muscle building or enhancement of athletic performance (459.015(1)(ii), F.S.)

FIRST OFFENSE:

reprimand and \$5,000 fine

suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

probation and \$5,000 fine

revocation and \$10,000 fine

(39) Misrepresenting, concealing a material fact during licensing, or disciplinary procedure (459.015(1)(jj), F.S.)

FIRST OFFENSE:

denial with ability to reapply immediately upon payment of \$5,000 fine or probation and \$5,000 fine

denial with ability to reapply in not less than 3 years or revocation and \$7,500 fine

SECOND OFFENSE:

denial with ability to reapply in not less than 3 years and \$10,000 fine or suspension to be followed by probation and \$10,000 fine

denial of license with no ability to reapply or revocation and \$10,000 fine

(40) Improperly interfering with an investigation or disciplinary proceeding (455.624(1)(r) & 459.015(1)(kk), F.S.)

FIRST OFFENSE:

probation and \$10,000 fine

revocation and \$10,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$10,000 fine

revocation and \$10,000 fine

(41) Failing to report any licensee who has violated the disciplinary act who provides services at the same office (459.015(1)(II), F.S.)

<u>FIRST OFFENSE:</u>	<u>letter of concern</u>	<u>reprimand and \$1,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$2,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>THIRD OFFENSE:</u>	<u>probation and \$7,500 fine</u>	<u>suspension to be followed by probation and \$10,000 fine</u>

(42) Giving corroborating written medical expert opinion without reasonable investigation (459.015(1)(mm), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>revocation and \$10,000 fine</u>

(43) Failure to comply with guidelines for use of obesity drugs (459.0135, F.S. & Rule 64B15-14.004, F.A.C.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>suspension to be followed by probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>revocation and \$10,000 fine</u>

(44) Falsely advertising or holding oneself out as a board-certified specialist (459.015(1)(nn), F.S.)

<u>FIRST OFFENSE:</u>	<u>reprimand and \$5,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>

(45) Failing to provide patients with information about their patient rights and how to file a complaint (455.624(1)(t) & 459.015(1)(oo), F.S.)

<u>FIRST OFFENSE:</u>	<u>letter of concern</u>	<u>reprimand and \$1,000 fine</u>
<u>SECOND OFFENSE:</u>	<u>probation and \$2,000 fine</u>	<u>probation and \$5,000 fine</u>
<u>THIRD OFFENSE:</u>	<u>probation and \$7,500 fine</u>	<u>suspension to be followed by probation and \$10,000 fine</u>

(46) Intentionally violating any rule adopted by the board or the department (455.624(1)(b), F.S.)

FIRST OFFENSE:

denial or reprimand and \$5,000 fine

denial or suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

denial or probation and \$7,500 fine

denial with no ability to reapply or revocation and \$10,000 fine

(47) Using a Class III or a Class IV laser device without having complied with the rules adopted pursuant to s. 501.122(2), F.S. (455.624(1)(d), F.S.)

FIRST OFFENSE:

reprimand and \$1,000 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(48) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome (455.624(1)(e), F.S.)

FIRST OFFENSE:

reprimand and \$2,500 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(49) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee (455.624(1)(g), F.S.)

FIRST OFFENSE:

reprimand and \$1,000 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(50) Failing to comply with the educational course requirements for domestic violence (455.624(1)(s), F.S.)

FIRST OFFENSE:

reprimand and \$2,500 fine

probation and \$5,000 fine

SECOND OFFENSE:

suspension to be followed by probation and \$7,500 fine

revocation and \$10,000 fine

(51) Failing to comply with the requirements for profiling and credentialing (455.624(1)(t), F.S.)

FIRST OFFENSE:

\$2,500 fine followed by probation probation and \$5,000 fine

suspension to be and \$5,000 fine revocation and \$10,000 fine

SECOND OFFENSE:

(52) Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to a crime in any jurisdiction (455.624(1)(w), F.S.)

FIRST OFFENSE:

\$5,000 fine

denial of licensure or suspension to be followed by probation and \$5,000 fine

SECOND OFFENSE:

probation and \$5,000 fine

denial of licensure with no ability to reapply or revocation and \$10,000 fine

(53) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to s. 316.066, F.S., or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents (455.624(1)(x), F.S.)

FIRST OFFENSE:

letter of concern

reprimand and \$1,000 fine

SECOND OFFENSE:

probation and \$2,000 fine

probation and \$5,000 fine

THIRD OFFENSE:

probation and \$7,500 fine

suspension to be followed by probation and \$10,000 fine

Specific Authority 455.627, 459.015(5) FS. Law Implemented 455.624, 455.627 FS. History—New 9-30-87. Amended 10-28-91, 1-12-93, Formerly 21R-19.002, 61F9-19.002, 59W-19.002, Amended 2-2-98, _____.

64B15-19.004 Time for Payment of Civil Penalties.

In cases where the Board of Osteopathic Medicine imposes a civil penalty for violation of Chapter 455 or 459, Florida Statutes, or the rules promulgated pursuant thereunder, the penalty shall be paid within thirty (30) days of its imposition by Order of the Board unless stated otherwise in the Order.

Specific Authority 455.227(2), 459.005 FS. Law Implemented 455.227(2) FS. History—New 12-23-80, Formerly 21R-11.02, 21R-11.002, 21R-19.004, 61F9-19.004, 59W-19.004, Amended _____.

64B15-19.007 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) Falsely certifying compliance with required continuing medical education hours for the purpose of renewing a license or certificate. The fine shall be \$2,000. (~~See Section 459.015(1)(i), F.S.~~)

(b) Failure to keep current practice address on file with the Board. The fine shall be \$250. (~~See Section 459.015(1)(g), F.S.~~)

(c) Failure to register as a dispensing practitioner. The fine shall be \$500. (~~See Section 459.015(1)(g), F.S.~~)

(d) First time failure of the licensee to satisfy continuing education hours. The fine shall be \$2,000 and for each hour of continuing education not completed or completed late, the licensee shall be required to take 1 additional hour of continuing education for each hour not completed or completed late. All missing CEUs shall be made up within four (4) months of the date the citation becomes a Final Order.

(e) Failure to report to the Board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. The fine shall be \$500.

(f) The fine for falsely certifying compliance with or failing to satisfy the HIV/AIDS course requirement shall be \$2,000.

(g) The fine for falsely certifying compliance with or failing to satisfy the domestic violence course requirement shall be \$2,000.

(4) through (7) No change.

Specific Authority 455.617, 455.621 FS. Law Implemented 455.617, 455.621 FS. History—New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 11, 2000

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Behavioral Health Services	65E-11
RULE TITLES:	RULE NOS.:
Purpose; Construction	65E-11.001
Definitions	65E-11.002
Scope of Behavioral Health Services	65E-11.003
Clinical Guidelines for Referral	65E-11.004
Behavioral Health Services Standards	65E-11.005
Performance-Based Measures and Outcomes	65E-11.006
Practice Guidelines for Behavioral Health	

Services To Ensure Cost-Effective Treatment and to Prevent Unnecessary Expenditures 65E-11.007

PURPOSE AND EFFECT: The purpose of this chapter is to implement the provisions of Section 409.8135, F.S., by setting forth uniform procedures and standards for providing behavioral health services.

SUMMARY: This proposed rule establishes procedures and standards that address the scope of behavioral health services including duration and frequency, clinical guidelines for referral to behavioral health services, behavioral health services standards, performance-based measures and outcomes for behavioral health services, and practice guidelines for behavioral health services to ensure cost-effective treatment and to prevent unnecessary expenditures.

SPECIFIC AUTHORITY: 409.8135(6) FS.

LAW IMPLEMENTED: 409.8135 FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST There are no additional licensure, credentialing, or reporting requirements from those already in existence that would apply to Alcohol, Drug Abuse, and Mental Health providers who may wish to provide services addressed by this rule that would lead to increased cost.

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

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

TIME AND DATE: 9:00 a.m. – 11:00 p.m., October 10, 2000, Eastern Standard Time

PLACE: 1317 Winewood Blvd., Building 6, Conference Room A, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED WITH REGARD TO THE PROPOSED RULES IS: Michael Sorrell, Medical/Health Care Program Analyst, 1317 Winewood Blvd., Bldg. 6, Room 297, Tallahassee, Florida 32399-0700

THE FULL TEXT OF THE PROPOSED RULES IS:

65E-11.001 Purpose; Construction.

(1) The purpose of this chapter is to implement the provisions of Section 409.8135, Florida Statutes, by setting forth uniform procedures and standards for providing behavioral health services to non-Medicaid eligible children with special health care needs who are enrolled in the Title XXI part of the KidCare Program with regard to: the scope of behavioral health services including duration and frequency, clinical guidelines for referral to behavioral health services, behavioral health services standards, performance-based measures and outcomes for behavioral health services, and practice guidelines for behavioral health services to ensure cost-effective treatment and to prevent unnecessary expenditures.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New _____.

65E-11.002 Definitions.

Definitions as used in Chapter 65E-11.

(1) “Alternative Services” means services other than those specified in Section 65E-11.003, that a Lead Agency or a Provider of Behavioral Health Services and district deems necessary to meet the objectives outlined in a child’s treatment plan.

(2) “Assessment” means the systematic collection and integrated review of individual-specific data and completion of evaluations for determining clinical eligibility and treatment planning.

(3) “Behavioral Health Interventions” means the prevention, diagnosis, and treatment of disabling mental and substance dependence disorders covered under the Title XXI part of the Florida KidCare Program, as described in ss. 409.810-409.820, F.S.

(4) “Behavioral Health Liaison” means the primary person designated and employed by the Lead Agency to coordinate care between and among the various departments, agencies, providers, and families and to determine eligibility.

(5) “Behavioral Health Care Network” means the single entity or local alliance of Providers of Behavioral Health Services, who provide behavioral health services to children enrolled in the Behavioral Health Specialty Care Network.

(6) “Behavioral Health Services” means those services, contingent on the child’s presenting condition, that are provided to enrolled children in the Behavioral Health Specialty Care Network for the treatment of mental or substance dependence disorders.

(7) “Behavioral Health Specialty Care Coordinator” means the department’s designated representative for overseeing the enrollment and provision of care by a single entity or local alliance of Providers of Behavioral Health services who comprise a Behavioral Health Care Network.

(8) “Behavioral Health Specialty Care Network” means the statewide network of Providers of Behavioral Health Services who serve non-Medicaid eligible children with mental or substance dependence disorders who are determined eligible for the Title XXI part of the KidCare Program that includes providers who are managed behavioral health organizations, private and state funded mental health and substance dependence providers, and Lead Agencies. The Behavioral Health Specialty Care Network is administered by the Department of Children and Families, Children’s Mental Health State Program Office to provide a comprehensive behavioral health benefits package for children with serious mental or substance dependence disorders.

(9) “Benefit Package” means the required benefits and alternative services made available to each child upon enrollment into the Behavioral Health Specialty Care Network described in section 65E-11.003.

(10) “Child” means any individual five (5) years of age and not yet (19) years of age who is enrolled in the Behavioral Health Specialty Care Network.

(11) “Children’s Global Assessment Scale (C-GAS)” means a clinical instrument used to determine a child’s level of functioning during a specified time period. The instrument contains behaviorally oriented descriptors that depict behaviors and life situations applicable to children.

(12) “Children’s Medical Services Network” means a state wide managed care service system that includes health care providers as defined in Section 391.021, Florida Statutes.

(13) “Eligible” means a child that has been screened by the behavioral health liaison as meeting the Behavioral Health Specialty Care Network clinical and treatability criteria and by the Department for Title XXI financial eligibility criteria but is not yet enrolled in the program to receive Behavioral Health Specialty Care Network services.

(14) “Emergency Behavioral Health Care” means those services necessary to stabilize a child who is experiencing an acute crisis attributable to his or her mental or substance dependence disorder, and without care or treatment, there exist a substantial likelihood the child will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

(15) “Enrollment” means a child’s is eligible for and receiving services in the Behavioral Health Specialty Care Network after an official acceptance into the Behavioral Health Specialty Care Network based on separate determinations of financial eligibility by the Department that the child is eligible for the Title XXI component of KidCare and that the child is clinically eligible for enrollment.

(16) “Enrollment Pool” means the total number of all children enrolled in a Behavioral Health Care Network and who are receiving Title XXI capitated behavioral health services during a specified contract period, where enrollment capacity is calculated as a separate calendar month per child.

(17) “Family” means the individual(s) consisting of parents(s), or adult caretaker(s) that reside with and have legal responsibility for the child.

(18) “Integrated Care System” means a comprehensive contracted program of services for children with special health care needs. This is the core service delivery structure of the Children's Medical Services Network.

(19) “Lead Agency” means a Provider of Behavioral Health Services who is the legal entity within a Behavioral Health Care Network and is responsible for the provision and coordination of medically necessary behavioral health services to children and enrolled in its Behavioral Health Care Network.

(20) “Medically Necessary Behavioral Health Services” means any behavioral health treatment and service necessary to prevent, diagnose, correct, or alleviate, or preclude deterioration of a condition that interferes with a child's ability to function in the home, school and community. Medically necessary behavioral health services shall be individualized and consistent with the symptoms, diagnosis, and treatment of the child's presenting condition; and shall be (1) provided in accordance with generally accepted professional practice standards; (2) shall not be primarily intended for the convenience of the child, the child's family, and the Provider of Behavioral Health Services; (3) shall be the most appropriate level of service for the diagnosis and treatment of the child's condition; and (4) shall be approved by the medical body or health care specialty involved in the child's treatment as effective, appropriate, and essential for the care and treatment of the child's condition.

(21) “Providers of Behavioral Health Services” means those managed behavioral health care organizations, or alcohol dependence and treatment programs, or independent behavioral health providers, or subcontracted providers that directly provide behavioral health services to enrolled children and who also meet the minimal licensure and credentialing standards set forth in statutes and rules of the department or the Department Of Health, Division of Medical Quality Assurance, pertinent to the treatment and prevention of mental and substance dependence disorders.

(22) “Reverification” means the redetermination of the clinical eligibility criteria described in Section 65E-11.004 for the purpose of establishing continuing eligibility for the Behavioral Health Specialty Care Network.

(23) “Risk” means the potential financial liability assumed by the Lead Agency for all behavioral health services included in the behavioral health benefit package, and non-direct client services specified in Section 65E-11.003.

(24) “Routine Care” means Behavioral health services intended to maintain and improve the child's optimal level of functioning in the home, school, and community.

(25) “Rural” means an area which consist of a population density of 100 or fewer individuals per mile.

(26) “Screening” means the preliminary determination of a child's potential eligibility for behavioral health services from a Behavioral Health Care Provider based on the eligibility criteria described in Section 65E-11.004.

(27) “Targeted Outreach” means the planned and coordinated efforts to communicate information about the Behavioral Health Specialty Care Network with an overall intent to increase awareness, participation, and enrollment in the program.

(28) “Treatment Plan” means that identifiable section of the medical record that depicts goals and objectives for the provision of services with specific treatment environments. The treatment plan shall be developed by a team consisting of individuals with experiences and competencies in the provision of behavioral health services to children as described in Section 65E-11.002(17); including if deemed appropriate by the family, the child and family or family representatives; and other agencies, providers or other persons.

(29) “Urgent Care” means those behavioral health services provided to children with mental or substance dependence disorders, whose presenting condition, although not life-threatening, could result in serious injury or disability unless behavioral health services is received.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History–New

65E-11.003 Scope of Behavioral Health Services.

(1) Children eligible for behavioral health services are those children that are Title XXI eligible-enrolled in the Florida KidCare Program and which are at least five (5) years of age and not yet nineteen (19) years of age.

(2) Providers of Behavioral Health Services shall adopt Section 394.491, Florida Statutes, and the legislative intent and purpose described in Chapter 397, Florida Statutes as guiding principles in the delivery of services and supports to children with mental health and substance dependence disorders.

(3) Enrolled children shall be provided any of the medically necessary behavioral health services that are available to Medicaid eligible children under:

(a) Florida's Medicaid benefit package for Community Mental Health, Inpatient and Outpatient Hospitals,

(b) Targeted Case Management, and

(c) Physician and Pharmaceutical services.

(4) Notwithstanding Section 65E-11.003(3) above, enrolled children are eligible for up to 30 days of medically necessary residential care.

(5) Notwithstanding Section 65E-11.003(3) above, a crisis stabilization unit licensed under Chapter 394, Florida Statutes or addictions receiving facility licensed under Chapter 397, Florida Statutes, is deemed to be an acceptable alternative to the inpatient care provision so long as it represents a clinically appropriate level of care for the child.

(6) Notwithstanding Section 65E-11.003(3) above, Alternative Services shall be provided to enrolled children when deemed necessary to meet the objectives outlined in a child's treatment plan.

(a) Alternative Services shall be approved so long as they are related to the child's treatment services plan. Documentation of approved Alternative Services shall include the name of the district Behavioral Health Specialty Care Coordinator with signature and shall contain the following elements:

1. District identifier.
2. Provider name.
3. Provider Federal Identification number (FID).
4. Description of alternative service.
5. Definition of alternative service.
6. Unit Type, and
7. Unit Cost.

(b) To track the provision of Pharmaceutical and approved Alternative Services, documentation shall contain the following elements:

1. County in which service was provided.
2. Provider Federal Identification number (FID).
3. Client social security number.
4. Alternative service provided.
5. Name of medication, strength, and schedule if applicable.
6. Units, and
7. Unit Cost.

(7) The Lead Agency shall include within its behavioral health care network at a minimum, a psychiatric hospital licensed under Chapter 395, Florida Statutes, a crisis stabilization unit licensed under Chapter 394, Florida Statutes, and an addiction receiving facility, licensed under Chapter 397, Florida Statutes, to which an enrolled child is to be sent.

(8) Coordination with Children's Medical Services and the Department. The name and supporting credentials for the candidate for the behavioral health liaison position shall be submitted by the Lead Agency or Provider of Behavioral Health Services to the district Alcohol, Drug Abuse, and Mental Health Program Office and the Children's Medical Services area office for approval prior to the liaison assuming duties.

(9) If neither the district Alcohol, Drug Abuse, and Mental Health Program Office nor the Children's Medical Services area office disapproves the candidate within ten (10) working days after the submission is received, the candidate will be deemed approved.

(10) The Behavioral Health Liaison shall be a licensed professional as defined in Chapters 490, or 491, Florida Statutes or a masters level certified professional as defined in Chapter 397, Florida Statutes, and shall:

(a) Have a minimum of three years experience working with children with Serious Emotional Disturbances and their families.

(b) Be knowledgeable of mental health and substance dependence diagnosis and treatment; and

(c) Have demonstrated ability to interact in a medical environment as determined by professional references.

(11) In order to coordinate care in an efficient manner, the Behavioral Health Liaison shall be accessible and shall serve as the coordinator of care across agency and program lines. The liaison shall conduct targeted outreach to include:

(a) Regular contacts with all Florida Healthy Kids' local outreach projects and coordinating committees.

(b) Health maintenance organizations or other licensed insurers.

(c) Area schools in order to facilitate their referrals and answer questions, exceptional education programs, and school nurses, and school social workers.

(d) Children's Medical Services area offices.

(e) Substance dependence and mental health providers serving children within the district where the Behavioral Health Liaison is employed.

(f) Local child advocacy agencies and organizations such as Healthy Start, Early Childhood Services, and Healthy Families.

(g) Serve as the principal liaison to the department's designated Behavioral Health Specialty Care Coordinator.

(h) Provide ongoing training to the local Children's Medical Services staff on identification and intervention with children who exhibit behavioral health problems as a result of their mental or substance dependence disorder and be available for consultation regarding general behavioral health care issues.

(i) Participate in joint treatment plan staffings as required by the Children's Medical Services Area Office.

(j) Be located within the local Children's Medical Services area office for a portion of a Full Time Equivalent (FTE) staff. The portion of the FTE shall be determined by the district Alcohol, Drug Abuse, and Mental Health Program Office.

(k) Share and communicate information between the Behavioral Health Specialty Care Network, Children's Medical Services Network, the child's primary care doctor and parents or legal guardians.

(l) Accept and process referrals that result from outreach activities, including assisting families with the preparation, submission, and completion of the KidCare application.

(m) Discuss behavioral health screening or assessment results with families, especially those in the process of completing the KidCare application.

(n) Provide each enrolled family with culturally-competent training regarding the behavioral health services benefits; the nature and extent of the child and

family's respective rights; what constitutes emergency, urgent and routine care; and where to go to get questions answered and grievances resolved.

(o) Complete the Behavioral Health Specialty Care Network Screening and Eligibility Tracking form, July 1, 1999 version hereby incorporated by reference as if fully set out here. The Behavioral Health Specialty Care Network Screening and Eligibility Tracking form may be obtained from the district Alcohol, Drug Abuse, and Mental Health Program Office. Upon completion, the Behavioral Health Liaison shall submit a copy of the Behavioral Health Specialty Care Network Screening and Eligibility Tracking form to the Children's Medical Services area office and the district Alcohol, Drug Abuse, and Mental Health Program Office.

(12) Providers of Behavioral Health Services shall cooperate with the district Alcohol, Drug Abuse, and Mental Health Program Office and the Children's Medical Services area office to establish procedures for referral to and clinical interaction with any integrated care system established by Children's Medical Services.

(13) A parent or guardian of an enrolled child shall be allowed to change his direct service practitioner(s) within the Lead Agency's Behavioral Health Network as well as participate in decision-making regarding care. Once begun, the Lead Agency or Provider of Behavioral Health Services shall be responsible for services without interruption so long as the child remains Title XXI eligible as described in Section 409.814, Florida Statutes.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New _____.

65E-11.004 Clinical Guidelines for Referral.

(1) Every child referred to a Behavioral Health Specialty Care Network shall be screened as a first step in determining the child's clinical eligibility for services. If the screening indicates the child has the potential to meet the Behavioral Health Specialty Care Network clinical eligibility criteria described in this section, and there is available capacity within the network to enroll the child, an assessment shall be conducted.

(2) A child shall be considered eligible for behavioral health services from the Behavioral Health Specialty Care Network when the child is determined to be Title XXI eligible for the Florida KidCare Program, be at least five (5) years of age and not yet nineteen (19) years of age, and

(a) The child requires a level of care not available in the other KidCare programs and care is in excess of the benchmark behavioral health benefit package as described in Chapter 409, Florida Statutes, and

(b) The child is expected to show improvement or achieve stability as a direct result of the services to be rendered under the benefit package specified in Section 65E-11.003, and

(c) At the time of assessment, the child requires no more than 30 days of residential treatment, and

(d) The child's family indicates a willingness to participate in the goals and objectives outlined in the child's treatment plan, and

(e) The child meets one of the following clinical eligibility criteria described below as determined by the Lead Agency or their designee for making clinical eligibility determinations:

1. Criteria Set 1:

a. The child has a DSM-IV Axis I clinical classification of mental disorders or substance dependence disorders,

b. Attention-Deficit and Disruptive Behavior disorders shall be excluded as DSM-IV Axis I mental disorders in determining clinical eligibility for the Behavioral Health Specialty Care Network, and

c. The child is experiencing significant functional impairment as a result of his or her condition, or

2. Criteria Set 2: The child is in a school-based program for children with serious emotional disturbance, or

3. Criteria Set 3: The child has been committed for the treatment of substance dependence disorders under the Hal S. Marchman Act of 1993, Section 397.01, Florida Statute, at least once within the last six months.

(3) Ineligibility Criteria. A child shall be considered ineligible for Title XXI Behavioral Health Specialty Care Network behavioral health services if any one of the following criteria is met:

(a) The child does not meet the Title XXI eligibility criteria with regard to age, income, premium payment, and other insurance coverage or does not meet the Behavioral Health Specialty Care Network eligibility criteria described in 65E-11.004 above.

(b) The child is placed in long-term residential care exceeding 30 days.

(c) The child moves out of the state of Florida.

(4) The department shall be the final authority on all admissions, transfers, and discharges of children into and from the Behavioral Health Specialty Care Network and retains the right to override any decision of a Lead Agency with regard to a child's admission, transfer, and discharge.

(5) In the case of any dispute between the department and a Lead Agency, an enrolled child shall remain in the Behavioral Health Specialty Care Network and continue to receive care at the expense of the Lead Agency for the duration of the resolution of the dispute.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New _____.

65E-11.005 Behavioral Health Services Standards.

(1) Lead Agencies shall adopt and distribute to their network members and subcontracted Providers of Behavioral Health Services, clinical practice guidelines and practice parameters for providing behavioral health services to enrolled

children and their families that are based on the service standards and clinical guidelines described in this rule and Section 65E-11.006, F.A.C.

(a) The clinical practice guidelines and practice parameters, shall be in writing and available to the department upon request and shall be based on national behavioral health standards developed by the American Academy of Child and Adolescent Psychiatry, or the American Managed Behavioral HealthCare Association, or the treatment improvement protocols developed by the Federal Center for Substance Abuse Treatment (CSAT) of the Substance Abuse and Mental Health Services Administration (SAMHSA), or on behavioral health standards reviewed and accepted by national accrediting bodies such as the Rehabilitation Accreditation Commission (CARF), or the National Committee for Quality Assurance (NCOA), or the Council on Accreditation (COA), or the Joint Commission on Accreditation of Health Care Organizations (JCAHCO), or based on any combination of the standards developed by the organizations described in this chapter.

(b) Deemed Status. A Provider of Behavioral Health Services that becomes unconditionally accredited to provide behavioral health services either through The Joint Commission on Accreditation of Healthcare Organizations, or the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation, shall be deemed to have complied with all minimal clinical practice guidelines, practice parameters, and credentialing standards required by this rule for so long as the accreditation is maintained in good standing. Notwithstanding this requirement, Providers of Behavioral Health Services who provide services for the treatment and prevention of substance dependence shall have met the minimum standards for licensure as set forth in Chapter 397, Florida Statutes.

(2) In addition to the practice guidelines described in Section 65E-11.007, Lead Agencies and Providers of Behavioral Health Services that do not meet the criteria for deemed status as defined in this chapter, shall develop behavioral health services standards that address the following:

(a) Standards for accessibility, availability, referral, and triage.

(b) Standards for credentialing, recredentialing and reappointment of behavioral health providers.

(c) Standards for credentialing shall be no less restrictive than those staffing and direct services standards found in the Community Mental Health Coverage and Limitation Handbook, version July, 1999, herein incorporated by reference as if fully set out here. A copy of the Community Mental Health Coverage and Limitation Handbook can be obtained from the district Agency for Health Care Administration program Office.

(d) Standards to establish a uniform protocol for assessing and confirming qualifications and competencies of licensed behavioral health providers including those licensed behavioral

health providers that are subcontracted to provide behavioral health services. Said protocol shall be submitted to the department for review and shall address:

1. Criteria for and the primary source of verification of each behavioral health provider's current license, education, relevant training, board certification, and experience, and

2. Solicitation of reference checks from professional peers regarding each behavioral health provider's competence and past practice.

3. Standards to ensure clinical evaluation, and treatment records review and confidentiality that are consistent with statutes and rules of the department.

4. Standards for the enrolled child's rights and responsibilities that are consistent with Sections 397.501 and 394.459, Florida Statutes.

5. Standards for managing the enrolled child and his or her family's complaints and appeals.

6. Standards for subcontracting with Providers of Behavioral Health services.

7. Standards to assess and ensure the enrolled child and his or her family's satisfaction with services, and knowledge of grievance and appeals procedures.

8. Standards to ensure that enrolled children and their families are given information necessary for them to be informed about services for which they are eligible.

9. Care Planning Standards that includes significant child and family participation.

10. Treatment Services Standards that assure children and their families have access to a broad array of flexible, community-based services and supports; and

11. Discharge Planning Standards that describe procedures to effect transfer to a different service, a more appropriate level of care, and to an out-of-network provider on behalf of the child and his family:

a. When a child completes the prescribed behavioral health services treatment outlined in the treatment plan and is discharged from the service.

b. When a child is placed in an emergency status and is transferred to an out-of-network provider.

c. When a child's episode of emergency behavioral care treatment with an out-of-network provider is completed and the child is ready to be transferred back to the Provider of Behavioral Health Services.

4. When a child does not complete the prescribed behavioral health services treatment outlined in his or her treatment plan and is transferred to an out-of-network provider.

5. Providers of Behavioral Health Services providing treatment for substance dependence disorders shall follow the Florida Supplement to the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition (ASAM PPC-2) Revised July 1, 2000 criteria as a clinical placement guide.

hereby incorporated by reference as if fully set out here. A copy of the ASAM PPC-2 can be obtained from the district Alcohol, Drug Abuse, and Mental Health Program Office.

(4) Lead Agencies shall not offer their network members and subcontracted Providers of Behavioral Health Services, financial incentives for limiting the number of referrals, tests, and services based on the cost of said referrals, tests, and services.

(5) Providers of Behavioral Health Services shall not prohibit their behavioral health services providers from discussing with the child and his family the full range of treatment options.

(6) Providers of Behavioral Health Services shall have demonstrated experience in the diagnosis and treatment of children with serious mental or serious substance dependence disorders, as appropriate to the child's presenting condition.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New _____.

65E-11.006 Performance-Based Measures and Outcomes.

(1) Contractual agreements between the department and Providers of Behavioral Health services shall minimally contain performance-based measures addressing the standards described in Sections 65E-11.005 and practice guidelines in 65E-11.007.

(2) Providers of Behavioral Health Services which hold current accreditation for behavioral health services from the accrediting bodies described in Section 65E-11.005, shall be deemed to have met the minimal standards described in this chapter. Notwithstanding the previous statement, no program shall be exempted from any of the fiscal and accounting requirements described in Chapter 287, Florida Statutes, rules of the department, and federal statutes and regulations governing the state's implementation of the Title XXI program.

(3) Providers of Behavioral Health services, within their scope of services, shall assist enrolled children to achieve the following outcomes:

(a) Children are connected to natural support networks when such connection is in the best interest of the child or adolescent.

(b) Children have access to services.

(c) Children receive individualized services based on their presenting condition.

(d) Children and families are active participants in the planning and selection of treatment.

(e) Children receive services in the least restrictive appropriate environments.

(f) Children are linked to integrated and community-based services.

(g) Children are provided with supports and skills to prepare for adulthood.

(4) Reports. Providers of Behavioral Health Services shall submit all applicable reports required by state or federal law, regulation, and rule.

(a) Providers of Behavioral Health services shall report the services provided to each enrolled child by complying, whenever applicable, with the Department's Substance Abuse and Mental Health Integrated Data System.

(b) For those alternative services not specifically included in the Department's Substance Abuse and Mental Health Integrated Data System, Providers of Behavioral Health Services shall follow the reporting requirements found in Sections 65E-11.003(6)(a) and 11.007(14).

(5) Subcontractors. Subcontractors in coordination with the Lead Agency shall be responsible for monitoring the behavioral health services standards, performance measures and practice guidelines described in this rule for each subcontracted behavioral health services in order to assure that the provisions of this rule have been fully met.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—New _____.

65E-11.007 Practice Guidelines for Behavioral Health Services to Ensure Cost-Effective Treatment and to Prevent Unnecessary Expenditures.

(1) Treatment Plan. A written service plan shall be developed within 10 working days of enrollment into the Behavioral Health Specialty Care Network for each enrolled child. At a minimum, the plan shall include clear time-limited treatment objectives, related interventions, clinical criteria for discharge, and evidence that the child and family, consistent with the statutes and rules of the department for family involvement, has been included in the development of the treatment plan.

(a) A board certified child psychiatrist with experience treating children who have mental or substance dependence disorders shall serve as the authorizing authority for necessary services. The Lead Agency shall communicate the details of the plan to the local Children's Medical Services Area Office. The plan shall be reviewed and updated no later than ninety (90) days apart.

(b) Notwithstanding 65E-11.007(1)(a) above, if the provider can demonstrate that a board certified child psychiatrist with experience treating children who have mental or substance dependence disorders is not available for participation due the lack of availability, a psychiatrist with experience treating children who have mental disorders or a medical doctor with experience treating children for substance dependence disorders shall serve as the authorizing authority for necessary services.

(2) Behavioral health services financed through the Behavioral Health Specialty Care Network shall not begin until after the child's enrollment as defined in Section 65E-11.003.

(3) Written Policies and Procedures. The department shall not enter into any contract with a Provider of Behavioral Health Services unless the provider has developed written policies and procedures to comply with the requirements of this rule.

(4) Written policies and procedures shall be approved by the department prior to implementation of said policies and procedures and shall be based on the standards described in Section 65E-11.005, for treating behavioral health disorders and shall additionally address the following:

(a) The operation of the utilization management program.

(b) An annual review by a quality improvement committee.

(c) Documentation required for specific service approvals and denials, along with the timeframes for communicating decisions to the appropriate Behavioral Health Services provider.

(d) Collection of data to review the criteria and process used to evaluate services for medical necessity as described in Sections 65E-11.002(20).

(e) Collection of data measuring lengths of stay, utilization of services, and the procedures to be followed when the data indicates patterns of deviation from the norm.

(f) The review of procedures to be used in formulating recommendations for admission, discharge, and disenrollment consistent with Sections 65E-11.005(2) and 65E-11.007(4).

(g) The review of client service utilization data in the aggregate, with a targeted focus on high users and low users of service as compared to the norm. Such client service data shall minimally include length of service by treatment modality, office visits, days per intake, and the penetration and length of stay in intensive outpatient and acute inpatient services.

(h) Procedures to ensure that a professional described in Chapter's 490, 491, or 397, Florida Statutes and who also has 5 year experience in the diagnosis and treatment of children with mental or substance dependence disorders supervise utilization management decisions.

(i) A comprehensive quality assessment and performance improvement program consistent with the provisions of Section 394.907, Florida Statute. Such program shall include an analysis of a representative sample of both current and closed cases to determine whether:

1. The intake assessments performed after enrollments are thorough, timely, complete, and appropriate to the child's presenting condition.

2. The service goals and objectives are based on the results of the intake assessments and include the concerns of the enrolled child and his family.

3. The services delivered are consistent with the service goals and objectives outlined in the Treatment Plan.

4. The services delivered are appropriate based on the enrolled child's presenting condition and are in compliance with the Lead Agency's clinical policies, scope of services and practice guidelines as indicated.

5. The management information system tracks how client data is monitored and reported, ensures it is complete and accurate based on the presenting conditions of the children being served, and is utilized in performance improvement.

6. The process for grievances and appeals is accessible, and affords the child and his family due process in circumstances where behavioral health services were denied, suspended or reduced and that a child and his family grievances and appeals are documented, implemented, and resolved within 45 days of the filing of the grievance or appeal, and

7. All protocols developed or adopted by the Lead Agency for the provision, monitoring and reporting of services, are being followed by its network members and subcontracted Providers of Behavioral Health Services.

(5) Continuity. Lead Agencies shall ensure continuity and coordination of services throughout their Behavioral Health Care Network in order to improve access and quality of care for enrolled children by:

(a) Coordinating available services within and without the Lead Agency's Behavioral Health Network.

(b) Sharing and exchanging information across all levels of care and all behavioral health providers, to the extent authorized by the child and the family and allowed under state statute and federal regulation.

(c) Developing written policies and procedures approved by the department to ensure that enrolled children and their families receive timely access to and follow-up with appropriate behavioral health providers, including a psychiatrist for medication management and psychiatric assessment.

(d) Developing written policies and procedures approved by the department in conjunction with Children's Medical Services to ensure that enrolled children receive continuity and coordination of behavioral health services with general medical care.

(e) Developing written policies and procedures approved by the department to ensure continuity of services for children being disenrolled by the network as well as children being received or transferred to and from out-of-network providers upon entry into service and disenrollment is accomplished without disruption of services to the child, and

(f) Developing written policies and procedures approved by the department to ensure prior authorization for all urgent and routine care provided outside of any contracted or subcontracted out-of-network arrangement. These policies and procedures shall include provisions for the enrolled child's access to and payment for Behavioral Health Services provided out-of-network.

(6) Out-of-Network Service Utilization. The Lead Agency shall make available its approved policies in accessing out-of-network coverage and ensure all children and all children at their families are aware of its written policies and procedures governing out-of-network service utilization. The Lead Agency shall provide enrollees identification card and outreach materials, the telephone number that an enrolled child and out-of-network provider may call for information about covered service.

(7) The Lead Agency shall ensure that enrolled children and their families are advised that with the exception of emergency services the Lead Agency shall not be liable for the cost of out-of-network services the child accesses that are available through its Behavioral Health Care Network in which the child is enrolled unless specifically authorized by the Lead Agency.

(8) Emergency Out-of-Network Service Utilization. A Provider of Behavioral Health Services shall not require prior authorization for the provision of Emergency Behavioral Health Care to an enrolled child.

(a) If the out-of-network provider fails to provide the Lead Agency with an accounting of the child's presence and status within 24 hours for the authorization of other services, the Lead Agency shall be obligated to pay only for the emergency services related to the behavioral health assessment and treatment, as documented in the child's medical record.

(b) The Lead Agency shall reimburse out-of-network providers for properly completed and submitted claims for Emergency Behavioral Health Care provided that such claims are submitted within 90 days of the date of service. The Lead Agency shall adjudicate such claim within 60 days of receipt. A claim shall be considered properly completed and submitted when the following occurs:

1. The claim documents psychiatric admission for the treatment of Emergency Behavioral Health Care as defined in Section 65E-11.002(14) and includes the date of admission, reason for admission, location of the treatment facility, duration of service noted, and any Behavioral Health services authorized by the referring Lead Agency.

2. The claim includes documentation of the out-of-network provider's notification to the Lead Agency of the presenting child receipt of services within 24 hours of learning the child's identity or its attempts to notify the Lead Agency of the child presenting for Emergency Behavioral Health Care and the circumstances that precluded its attempts to notify the Lead Agency, and

3. Charges mutually agreed to by the Lead Agency and the provider within 60 days after submittal of the claim.

(9) The Lead Agency shall be liable for charges for Emergency Behavioral Health Care pursuant to the provisions of section 394.451 the "The Florida Mental Health Act" also known as "The Baker Act," with regard to admissions and

assessments with reimbursement to the treating facility not to exceed the Medicaid approved rate for Baker Act admissions and assessments.

(10) Lead Agencies shall be responsible for the management of the enrollment pool which shall include the application of screenings and assessments to potential entrants to the pool and the conducting of reverification screenings among existing enrolled children. The costs of such services shall be borne by the Lead Agency.

(11) Service Delivery Location. All behavioral health services shall be accessible in a setting which is located no further than a thirty (30) minute typical drive time from the residence of the enrolled child accessing the care.

(12) Exceptions to the drive-time provision shall be made by the Behavioral Health Specialty Care Coordinator to address the lack of specialty providers or other service constraints existing in rural areas.

(13) Service Times. Providers of Behavioral Health Services shall at a minimum, be available during normal business hours to provide direct services to children and to carry out activities related to clinical administration and shall comply with the following service standards:

(a) Emergency Behavioral Health Care shall be unrestricted and directly accessible to the enrolled child, twenty-four (24) hours a day and seven (7) days a week.

(b) Urgent Care as defined in Section 65E-11.002(29) shall be evaluated and delivered within twenty-four (24) hours.

(c) Routine Care must be provided within ten (10) days of the request from a child or the family.

(14) Records and Documentation. Providers of Behavioral Health Services shall maintain written service documentation to support each service rendered on behalf of the enrolled child. Service documentation must contain all of the following:

(a) Recipient's name.

(b) Date the service was rendered.

(c) Start and end times for the services.

(d) Identification of the setting in which service was rendered.

(e) Reference to the treatment plan goal and objectives for which service is being provided.

(f) Description of the specific service rendered, including the specific intervention.

(g) Updates regarding the recipient's progress toward meeting goals and objectives identified in the treatment plan, and

(h) Original signature, credential and functional title of the person providing the service.

Specific Authority 409.8135(6) FS. Law Implemented 409.8135 FS. History—
New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Sorrell
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Sue Ross
 DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 28, 2000
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 27, 1999
 Purchase Order No.: 039937

(3) The processing fee is subject to the trusting requirement for services unless the seller has qualified to write contracts pursuant to s. 497.423, F.S. or s. 497.425, F.S.

(4) This rule does not apply to contracts written prior to this rule's effective date.

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

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE NO.: RULE TITLE:
3F-8.007 Processing Fee

NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 25, No. 31, August 8, 1999, issue of the Florida Administrative Weekly. In response to comments received from the staff of the Joint Administrative Procedures Committee, the Board, at its November 17, 1999 and July 17, 2000 meeting, voted to change the rules.

The Rule shall now read as follows:

3F-8.007 Processing Fee.

(1) As used herein, a "processing fee" means a fee paid by a customer for services provided to process and archive a contract and related documents.

(2) If a licensee or certificateholder includes a processing fee on a preneed or at need contract, the following requirements shall be met:

(a) The fee shall be disclosed to the purchaser on the licensee's or certificateholder's General Retail Price List, Disclosure Price List or any printed or typewritten disclosure of fees that the licensee uses to comply with s. 497.333(2), F.S.

(b) The fee shall be clearly disclosed as a processing fee in the contract.

(c) The fee shall not be included, or implied to be included, in any other fee charged to the purchaser.

(d) The fee may be charged on any contract for burial rights, merchandise or services even if the rights, merchandise or services were purchased on separate contracts at different dates. However, a licensee shall not charge the fee on a contract for the purchase of an opening and closing of a grave or installation of a vault in a grave in which burial rights have previously been purchased.

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE NOS.: 3F-13.001 3F-13.002 3F-13.003 3F-13.004	RULE TITLES: General Provisions Definitions General Construction Specifications Additional Non-Building Code Standards for Mausoleum and Columbarium Construction
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NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 25, No. 32, August 13, 1999, issue of the Florida Administrative Weekly. In response to comments received from the staff of the Joint Administrative Procedures Committee, the Board, at its November 17, 1999 and July 17, 2000, meeting, voted to change the rules.

The rules shall now read as follows:

CHAPTER 3F-13

FLORIDA MAUSOLEUM CONSTRUCTION

The Board of Funeral and Cemetery Services Construction Specifications are intended to establish minimum standards for all newly constructed and significantly altered or renovated mausolea and columbaria. The Board of Funeral and Cemetery Services Construction Specifications, form DFB-CONS1, incorporated herein by reference (effective _____) are to be used until July 1, 2001, at which time the State Minimum Building Code will take effect.

3F-13.001 General Provisions.

(1) These rules shall establish minimum standards for all newly constructed and significantly altered or renovated mausolea and columbaria.

(2) These rules are intended to insure that no new structure shall be built or significantly altered for use for interment, entombment or inurnment purposes, unless such new structure or new alteration or new renovation is constructed of such materials as will ensure its durability and permanence, as well as the safety, convenience, comfort and health of the community in which it is located.