

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 36, September 8, 2000, of the Florida Administrative Weekly. These changes are being made to address concerns expressed.

The rule has been changed to read as follows:

4-154.530 Renewal of Group Health Insurance.

An insurer or health maintenance organization that issues a group health insurance policy must renew or continue in force such coverage at the option of the policyholder. Employers are eligible to renew that exact coverage, subject to the participation requirement provisions of sections 627.6571(2) and 641.31074(2)(c), Florida Statutes.

Specific Authority 624.308(1), 627.6699(16) FS. Law implemented 624.307, 627.6571, 641.31074 FS. History—New _____.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Emergency Management

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
9G-6	Review of Local Emergency Management Plans and Programs
RULE NOS.:	RULE TITLES:
9G-6.002	Definitions
9G-6.0023	County Comprehensive Emergency Management Plans
9G-6.0025	The County Radiological Emergency Plan for Nuclear Power Plants
9G-6.005	Schedule for Development and Review of County and Municipal Comprehensive Emergency Management Plus
9G-6.006	County Comprehensive Emergency Management Plans – Review by Division
9G-6.0095	Municipal Comprehensive Emergency Management Plans
9G-6.010	Municipal Comprehensive Emergency Management Plans – Review by County Emergency Management

NOTICE OF CHANGE

Notice is hereby given that changes have been made to the proposed rule which was published September 15, 2000, in Vol. 26, No. 37 and it now reads as follows:

9G-6.002 Definitions.

(1) through (6) No change.

(7) “County Radiological Emergency Plan for Nuclear Power Plants” means the plan to be prepared by the Division and county governments within 50 miles of a commercial nuclear power plant.

(8) “County Emergency Management Program” means the emergency management program authorized and mandated by Section 252., F.S. to be created by each legally constituted county in the state.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(v) FS. History—New 1-18-81, Amended 2-24-85, Formerly 9G-6.02, Amended 2-5-91, 5-11-95,_____.

9G-6.0023 County Comprehensive Emergency Management Plans.

(1) Each county emergency management agency established pursuant to the authority contained in Section 252.38(2), F.S., shall develop and submit to the Board of County Commissioners for adoption a County Comprehensive Emergency Management Plan in compliance with the requirements, format and standards contained in this rule chapter.

(2) County Comprehensive Emergency Management Plans will be coordinated and consistent with the provisions of the State Plan. The county emergency management plan will include an evacuation component, a shelter component (risk and host events), and a post-disaster and recovery component and will consist of provisions addressing aspects of preparedness, response, recovery and mitigation. The county plan will assign lead and support responsibilities for county agencies and personnel that coordinate with the emergency support functions outlined in the State Plan.

(3) The County Comprehensive Emergency Management Plan shall be specific and shall address responses and actions in the event of an emergency. It shall clearly identify those positions or agencies responsible for specific functions under given circumstances. Responsibilities must be assigned by position title or agency name, and specific duties for each position or agency must be listed. Checklists and other readily accessible and easy-to-use guidelines are encouraged. Where appropriate, the county plan shall contain maps, diagrams and other visual aids. Copies of the forms the local government will use shall be available for review.

(4) The County Comprehensive Emergency Management Plan shall be divided into a minimum of two components: the Basic Plan and the Capability ~~Assessment Demonstration~~. The Basic Plan shall be narrative in form and generally describe responsibilities within the emergency management framework. It shall include but not be limited to two annexes addressing the recovery and mitigation functions of the county emergency management program. The Basic Plan and the Recovery and Mitigation Annexes shall include organizational charts, maps and checklists. The Capability ~~Assessment Demonstration~~ shall demonstrate competencies and present information outlined in the County Comprehensive Emergency Management Plan, standard operating procedures and other supporting documents that are involved in the emergency management program, i.e., emergency response, recovery and mitigation activities.

(5) The County Comprehensive Emergency Management Plan shall cover county agencies and resources and should cover applicable municipal agencies and resources. County plans shall interface with plans of contiguous jurisdictions, regional, municipalities and the state comprehensive emergency management plans.

(6) The County Comprehensive Emergency Management Plan or supporting operating procedures referred to in the plan shall provide a detailed description of the process to be followed at the local level whenever an emergency or disaster occurs as a result of the many consequences generated by natural, technological or manmade causes. Such emergencies include, but are not limited to: tornadoes, hurricanes, flooding, freezes, extreme temperatures, disease outbreaks, wildfires, terrorism, drought, hazardous materials releases or spills and civil disturbances. The plan shall identify and describe pre-emergency warning systems, evacuation and sheltering plans, hazard mitigation and other anticipatory actions as well as post-event response and recovery actions.

(7) The Division hereby adopts and incorporates by reference “Local Comprehensive Emergency Management Plan Compliance Criteria” and the “Emergency Management Capabilities Assessment Checklist” ~~“Capabilities Assessment”~~ (Form Numbers CEMP-001 and CEMP-002, 2000 Edition) as part of this chapter. County Comprehensive Emergency Management Plans and County Emergency Management Programs shall comply with these criteria. These criteria are available from the Division and may be obtained by writing the Division at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399 or online at www.floridadisaster.org. These criteria shall be used in the development and review of County Comprehensive Emergency Management Plans and Programs. Counties shall complete the compliance criteria prior to the Division's review of their Comprehensive Emergency Management Plan and have them available to the Division thirty days after receiving notification of the Division's intent to review. Counties shall demonstrate satisfaction of the required plan criteria by noting the page and section in their plan, or supporting documents, where each criterion is satisfied. Counties shall provide the documentation needed to satisfy the requirements of the Capabilities Assessment Demonstration.

(8) Counties are encouraged to follow the format of the State Plan in development of the County Comprehensive Emergency Management Plan. County emergency management agencies are not required to duplicate the suggested format, but should be able to demonstrate the ability to communicate with those emergency support functions and state agencies that support the State Plan.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(v), 252.38(1) FS. History–New _____.

9G-6.0025 The County Radiological Emergency Plan for Nuclear Power Plants.

This county plan shall provide a detailed description of the process to be used to protect the public from the potential health effects associated with a radiological emergency at a commercial nuclear power plant. Only those counties within a 50 mile radius of a commercial nuclear power plant are required to develop this plan. This plan shall be developed with direct assistance from the Division and shall be incorporated into the appropriate site plan contained in Annex A of the State Plan. This plan shall comply with the Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (NUREG-06541 FEMA REP-1 Rev.1). These criteria are available from the Division and may be obtained by writing the Division at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399. This plan or annex shall be submitted to the Federal Emergency Management Agency for review and approval.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(v), 252.60 FS. History–New _____.

9G-6.005 Schedule for Development and Review of County and Municipal Comprehensive Emergency Management Plans.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(2)(a),(b),(c),(d),(k),(v) FS. History–New 1-18-81, Amended 2-24-85, Formerly 9G-6.05, Amended 2-5-91, 5-11-95, Repealed.

9G-6.006 County Comprehensive Emergency Management Plans – Review by Division.

(1) No change.

(2) The Division shall review each county comprehensive emergency management plan at a minimum of every four years and shall offer the affected Regional Planning Council an opportunity to participate in the review. The Division shall review the county plan in accordance with the criteria CEMP-001 and CEMP-002. The Division shall provide notice of its intent to review a County Comprehensive Emergency Management Plan at least 60 days prior to initiation of the review. Within 30 days of receipt of this notification the county shall provide to the Division three copies of the plan to be reviewed with three copies of the completed compliance criteria. The county may waive the 60 day review notification. Upon receiving notification of the intent to review, the county and the Division shall coordinate to finalize the Capabilities Assessment prior to the date of the plan review. The Division will provide the county with the results of its review and its finding as to the compliance of the plan within 60 days of its initial review. If the Division finds the county plan meets the requirements of this chapter it shall issue a notice of compliance.

(3) If the Division finds that a county plan does not meet all of the criteria established in this chapter the Division shall withhold a notice of compliance and issue an official

notification by certified mail specifically stating the reasons the plan does not meet the criteria. Upon receipt of the official notification the county shall either:

(a) Within 60 days, revise its plan, notify the Division of the changes and make the changes available to the Division for review;

(b) Within 60 days develop a workplan to be approved by the Division which addresses all changes necessary for compliance and a timetable for completion or;

~~(c)(b)~~ In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

(4) If the county does not submit a revised plan or a workplan 60 days after the receipt of the official notification or request an administrative hearing ~~60 days after the receipt of the official notification~~ the Division shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance the county shall either:

(a) Within 30 days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

~~(5) If the county does not revise the plan within 30 days or request an administrative hearing, the Division shall notify the county by certified mail that it may withhold funding until the county resolves all issues of non-compliance to the satisfaction of the Division.~~

~~(5)(4)~~ If upon the submittal of the revised plan, either after the 60 days allotted or upon completion of the workplan, the Division finds that the revised plan is not in compliance the Division shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance the county shall either:

(a) Within 30 days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

~~(7) If the county does not revise the plan within 30 days or request an administrative hearing, the Division shall notify the county by certified mail that it may withhold funding until the county resolves all issues of non-compliance to the satisfaction of the Division.~~

~~(6)~~ If the workplan is not completed in the time frame established, the Division shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of the notice of non-compliance, the county shall either:

(a) Within 30 days revise the plan, notify the Division of the changes and make the changes available to the Division for review; or

(b) In accordance with Section 120.57, F.S., request an administrative proceeding regarding the Division's non-compliance determination within 21 days of receipt of the determination.

~~(9) If the county does not revise the plan within 30 days or request an administrative hearing, the Division shall notify the county by certified mail that it may withhold funding until the county resolves all issues of non-compliance to the satisfaction of the Division.~~

~~(7)(5)~~ No change.

~~(8)(6)~~ If the Division is unable, for any reason, to provide notice to the county regarding the results of its initial review within 60 days, it will forward a notice to the county stating its intent to extend the review period for the specifically identified time period necessary to provide notice.

~~(9)(8)~~ In order to ensure that County Comprehensive Emergency Management Plans can be implemented in the event of a disaster or emergency, each agency assigned responsibility in the plan must coordinate the development of implementation procedures. The jurisdiction promulgating the plan shall document this coordination.

~~(10)(9)~~ After a determination that a County Comprehensive Emergency Management Plan is in compliance with the terms of this chapter the approved plan must be adopted by resolution of the governing body of the jurisdiction within 60 days of receiving notification of compliance from the Division before it becomes the Comprehensive Emergency Management Plan for such local government. If the county is unable to adopt the plan within 60 days the county may request in writing to the Division, stating just cause, an extension of no more than an additional 90 days to adopt the plan. Adoption must occur, at a minimum, every four years. Notification of the date of adoption shall be sent to the Division. Failure to adopt, to notify the Division of an adoption date or make available for review a revised plan will constitute non-compliance. Upon adoption of the plan, the county shall submit a copy of the adopted plan to the Division.

Specific Authority 252.35(2)(u), 120.53, 120.57 FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(v), 120.57 FS. History--New 1-18-81, Amended 2-24-85, Formerly 9G-6.06, Amended 2-5-91, 5-11-95.

~~9G-6.0125~~ 9G-6.0095 Municipal Comprehensive Emergency Management Plans.

Municipal Comprehensive Emergency Management Plans must comply with all the standards and requirements applicable to County Comprehensive Emergency Management Plans.

Municipal Comprehensive Emergency Management Plans shall comply with the Local Comprehensive Emergency Plan Compliance Criteria adopted by reference in Rule 9G-6.0023(7). These criteria are available from the Division and shall be used in the development and review of Municipal Comprehensive Emergency Management Plans.

Municipal Comprehensive Emergency Management Plans are encouraged to follow the suggested format for County Comprehensive Emergency Management Plans. Municipal emergency management programs are not required to duplicate the suggested format, but should conform to it as closely as possible.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(u), 252.38(2) FS. History–New _____.

9G-6.010 Municipal Comprehensive Emergency Management Plans – Review by County Emergency Management.

(1) The provisions of this section shall apply to either initial review by the County Emergency Management Agency, or to review of revised information as a result of a determination by the County Emergency Management Agency that a Municipal Comprehensive Emergency Management Plan is not in compliance with the terms of this chapter.

(2) If a municipality elects to prepare a Comprehensive Emergency Management Plan, the plan shall be periodically reviewed by its County Emergency Management Agency to determine compliance with the established criteria.

(3) The County Emergency Management Agency shall provide initial notice to the chief elected official of each municipality in the county of the county's intent to establish a schedule to review municipal comprehensive emergency management plans. A county shall provide notice to the municipalities of its intent to review a Municipal Comprehensive Emergency Management Pan at least 60 days prior to the initiation of the review. This notice shall also advise the municipalities, in general terms, of the applicable plan requirements.

Each municipality must respond to this notice and advise the county of the existence of a municipal comprehensive emergency plan or program. Each municipality shall also provide a copy of this response to the Division. If any municipality creates a comprehensive emergency management plan or program subsequent to this initial notice, it must advise the county emergency management director and the Division in writing, and request that the municipality be included in the county's plan review schedule.

(4) The County Emergency Management Agency shall provide the municipal emergency program with the results of its review and its finding as to the compliance of the municipal comprehensive emergency management plan within 60 days of completion of its initial review. If the County Emergency Management Agency determines that the Municipal Comprehensive Emergency Management Plan complies with the requirements of this rule chapter it shall issue a notice of compliance to the Municipal Emergency Management Program and to the Division.

(5) When the County Emergency Management Agency determines that a Municipal Comprehensive Emergency Management Plan is not in compliance with the requirements of this rule chapter it shall issue a notice of non-compliance specifically stating the reasons for non-compliance. Upon receipt of a notice of non-compliance, the municipal emergency program shall, within 60 days, revise its plan, notify the county emergency management agency and make the revised information for review by the county emergency management agency.

(6) No change.

(7) In order to ensure that Municipal Comprehensive Emergency Management Plans can be implemented in the event of a disaster or emergency, each agency assigned responsibility in the plan must coordinate the development of implementation procedures. The jurisdiction promulgating the plan shall document this coordination.

(8) After a determination that a Municipal Comprehensive Emergency Management Plan is in compliance with the terms of this chapter, the approved plan must be adopted by resolution of the governing body of the jurisdiction before it becomes the Comprehensive Emergency Management Plan for such local government.

Specific Authority 252.35(2)(u) FS. Law Implemented 252.35(1),(2)(a),(b),(c),(d),(k),(v), 252.38(1),(2) FS. History–New 5-11-95, Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Denise Imbler, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)413-9916

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-506.106	Youthful Offender Program Participation
33-506.206	Basic Training Program Operation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 47, November 22, 2000, issue of the Florida Administrative Weekly:

33-506.106 Youthful Offender Program Participation.

(1) through (3)(b) No change.

(c) Upon the approval of the ICT and SCO, the recommendation for sentence modification shall be forwarded to the Chief of the Bureau of Classification and Central Records for review by the central office screening committee who shall review the recommendation. If approved by the central office screening committee, the recommendation will be forwarded to the Deputy Director of the Office of Institutions (classification) for review. If the Deputy Director concurs with the recommendation for sentence modification, the Office Chief of the Bureau of Classification shall transmit a recommendation to the sentencing court for consideration. If the Deputy Director does not concur with the recommendation for sentence modification, the Chief of Classification will notify the ICT at the facility where the inmate is housed. The ICT will notify the inmate of the decision.

Specific Authority 958.11(1) FS. Law Implemented 958.11, 958.12 FS. History--New 10-11-95, Amended 9-11-97, Formerly 33-33.013, Amended _____.

33-506.206 Basic Training Program Operation.

(1) No change.

(2) Inmates who have satisfactorily completed the requirements of the basic training program shall be released to a term of probation as specified and modified by the sentencing court. ~~Upon the approval of the ICT and SCO, the recommendation for sentence modification shall be forwarded to the Chief of the Bureau of Classification and Central Records for review by the central office screening team. If approved by the central office screening team, the recommendation will be forwarded to the Deputy Director of the Office of Institutions (classification) for review. If the Deputy Director concurs with the recommendation for sentence modification, the Chief of the Bureau of Classification shall transmit a recommendation to the sentencing court for consideration. If the Deputy Director does not concur with the recommendation for sentence modification, the Chief of Classification will notify the ICT at the facility where the inmate is housed. The ICT will notify the inmate of the decision.~~

(3) through (4) No change.

Specific Authority 20.315, 944.09, 958.045 FS. Law Implemented 20.315, 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.006, Amended _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-601.602 Community Release Programs
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 36, September 8, 2000, issue of the Florida Administrative Weekly:

33-601.602 Community Release Programs.

(1) through (7)(e) No change.

(f) The prospective employer shall sign an Employer Work Release Agreement, Form DC6-124 DC4-826. Form DC6-124 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 (16)(c) No change.

(d) DC6-124 DC4-826, Employer's Community Work Agreement, effective _____.

(e) through (l) No change.

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 _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.220 Administrative Confinement
SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 35, September 1, 2000, issue of the Florida Administrative Weekly, as amended in the first notice of change, published in Vol. 26, No. 45, November 9, 2000.

33-602.220 Administrative Confinement.

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

(e) ~~Confinement~~ Review – where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate's confinement status to determine if changes or modifications are required or recommended.

(f) ~~Confinement~~ Visit – where used herein, refers to the official inspection and tour of a confinement unit by a staff member.

(g) Clinical health care personnel – where used herein, refers to a physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist, psychology intern, psychology resident, or psychological specialist.

(h) through (3)(c) No change.

(d) Inmates who present a signed written statement alleging that they are in fear of staff, ~~feel that there is no other reasonable alternative~~, and provide specific information to support this claim shall also be placed in administrative confinement. These cases shall be reported via e-mail to the Office of the Inspector General for review and possible investigation. After completion of the review and investigation, the inspector general shall submit the case to the ICT or SCO with recommendations for disposition. If the case is submitted to the ICT, the ICT shall docket the case for

consideration no later than the next ICT meeting. If the case is submitted to the SCO, the SCO shall coordinate with the ICT regarding recommendations.

(e) An investigation, evaluation for change of status or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution. An investigating officer shall have the authority to request that the senior correctional officer place the inmate in administrative confinement for this reason and the length of time spent in this status shall not exceed 15 working days unless one 10 day extension is granted by the ICT. This extension shall be documented on the Daily Record of Segregation, DC6-229. If it is necessary to continue the inmate's confinement beyond this first extension, written authorization must be obtained from the SCO for a 30 day extension. This authorization shall be attached to the DC6-229. The SCO shall have the authority to authorize an additional 30 day extension as necessary. Examples of circumstances for placing an inmate in administrative confinement for this reason include:

1. through 2. No change.

3. Pending an investigation into allegations that the inmate is in fear of a staff member. The protection process outlined in subsection (d) above shall not be utilized for this purpose. Paragraph (c) above shall not apply.

4. No change.

(f) Health reasons. Clinical health care personnel shall have the authority to place an inmate in administrative confinement for mental health ~~this reasons.~~ and ~~the~~ length of time spent in this status shall not exceed five working calendar days. If it is necessary to continue the inmate's confinement beyond this time, written authorization shall be provided by the institutional health services administrator for an additional five working day extension.

(g) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director and the emergency action center in central office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director to continue to house inmates beyond the 24 hour period. Prior to placing inmates in the same cell, a determination shall be made that none of the inmates constitute a threat to any of the others.

(b) through (5)(g) No change.

(h) Counseling and Interviews. Counseling shall be provided to inmates in disciplinary confinement in-cell or out of cell when deemed necessary by mental health staff. The ICT

shall determine whether an inmate in disciplinary confinement may be removed to attend individual or group counseling sessions or interviews when they determine that it is safe to do so, or whether counseling must take place in-cell.

(i) through (j) No change.

(k) Legal Access – Legal materials shall be as accessible to inmates in administrative confinement as to inmates in general population as long as security concerns permit. An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps shall be taken to ensure the inmate is not denied needed access while in confinement. Although the inmate may not be represented by an attorney at any administrative hearing, access shall be granted for legal visits at any reasonable time during normal business hours to the inmate's attorney or aide to that attorney. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent shall be allowed to purchase paper and envelopes for this purpose through a canteen order. Typewriters or typing services are not considered required items and shall not be permitted in confinement cells. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader) ~~or an inmate assistant in order to prepare legal correspondence.~~ An inmate who ~~is has been~~ provided an auxiliary aid shall also a ~~“writer/reader”~~ will be allowed access to ~~such a~~ certified law clerk person for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in administrative confinement shall possess only a security pen. Other types of pens and pencils shall be confiscated and stored until the inmate is released from administrative confinement status. If a security pen is unavailable, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of reading or preparing legal documents, legal mail, filing a grievance or preparing general correspondence.

(n) Reading materials – Reading materials, including scriptural and devotional materials and books that are in compliance with admissibility requirements in rule 33-501.401 shall be permitted for those inmates in administrative confinement units unless there is an indication of a threat to the safety, security or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials shall

be documented on Form DC6-229 in accordance with (8)(c) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have his or her ~~their~~ tape players and devotional and scriptural materials and any other books on tape that are in compliance with admissibility requirements in rule 33-501.401, F.A.C. ~~If it is determined that there is a safety security or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with (8)(c) of this rule.~~

(o) Library – only one ~~Two~~ books at a time may be checked out. Books shall be checked out once weekly and inmates may possess no more than one soft-back book at any given time. Inmates who receive services from the Bureau of Braille and Talking Book Library will be allowed to check out one book on tape per week and possess no more than one at any given time. The actual number of tapes may be more than one per book ~~have their tape players and devotional and scriptural materials and any other books on tape that are in compliance with admissibility requirements.~~

(p) through (7)(a) No change.

(b) Any inmate assigned to administrative confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine his or her mental condition. The assessment shall include a personal interview if determined necessary by mental health staff. All such assessments shall be documented in the mental health record. The psychologist or psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from administrative confinement shall be forwarded by the ICT to the SCO. ~~All such assessments shall be documented in the mental health record.~~ If the decision is to continue confinement, a psychological screening assessment shall be completed ~~required~~ at least every 90-day period.

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

(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as he is in administrative confinement. The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is ~~to~~ be removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be

documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing area for one week, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) through (10) No change.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.221
 RULE TITLE: Protective Management
 THIRD NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 25, June 21, 2000, issue of the Florida Administrative Weekly, revised by the first notice of change published in Vol. 26, No. 35, September 1, 2000, and the Second Notice of Change published in Vol. 26, No. 45, November 9, 2000.

33-601.221 Protective Management.

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

(h) Clinical Health Care Personnel – where used herein, refers to a Physician, Clinical Associate, Nurse, Correctional Medical Technician Certified (CMTC), Psychologist, psychology intern, psychology resident, or Psychologist Specialist.

(i) through (j) No change.

(k) Senior Correctional Officer refers to a staff member with the rank of Correctional Officer Lieutenant or above.

(l) through (m) No change.

(n) State Classification Office (SCO) refers to a staff member at the Central Office level who is responsible for the review of inmate classification decisions. Duties include the approving approval or rejecting rejection of Institutional Classification Team recommendations.

(o) No change.

(p) Visit, where used herein, refers to the official inspection and tour of a protective management unit ~~personal contact by a~~ staff members ~~with inmates in protective management status to ensure that their welfare is properly addressed.~~

(2) through (3) No change.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that

issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235 and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover himself or herself. Form DC6-235 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. The effective date of this form is _____.

(b) through (g) No change.

(h) Counseling Interviews – Counseling shall be provided to protective management inmates in-cell or out of cell when deemed necessary by mental health staff. The ICT will determine whether an inmate in protective management may be removed from his or her cell to attend interviews and counseling sessions when they determine that it is safe to do so, or whether counseling must take place in-cell.

(i) through (j) No change.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided through correspondence or visits from the inmate law clerk. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units. However, an inmates with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer reader) or an inmate assistant in order to prepare legal correspondence. An inmates who is ~~have been~~ provided an auxiliary aid a “writer/reader” will be allowed access to a certified law clerk for the purpose of preparing legal documents, legal mail, or filing a grievance, or general correspondence.

(l) No change.

(m) Writing utensils – Inmates in protective management shall be allowed to possess pens and pencils of the same type and number as those in general population. If it is determined that there is a safety, security or sanitation risk these items shall be confiscated and stored until the inmate is released from protective management status. The inmate shall be issued a

security pen; if a security pen is unavailable the inmate shall be allowed to sign out a regular pen from the housing officer. All care shall be taken to ensure that an inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail documents or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of preparing legal documents, legal mail, grievances or general correspondence.

(n) Reading materials – Reading materials, including scriptural and devotional materials and books that are in compliance with admissibility requirements in rule 33-501.401 for inmates in general population are allowed for those inmates in protective management units. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-235 in accordance with (4)(c) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have their tape players and devotional and scriptural materials and any other books on tape that are in compliance with admissibility requirements in rule 33-501.401, F.A.C. ~~If it is determined that there is a safety, security or sanitation risk, items will be removed. Such removal of reading materials will be documented on Form DC6-235.~~

(o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length the shortest length of time to accomplish the goal of safety, security and order within the institution and shall be documented on Form DC6-235, Record of Protective Management. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Form DC6-229 is incorporated by reference in rule 33-602.220(10). Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will

accomplish the need for exercise and take into account the particular inmate's limitations. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Report of Protective Management, Form DC6-235.

(q) through (6) No change.

(7) Contact by Staff.

(a) ~~The following Designated staff members shall will be required to officially inspect and tour the visit protective management units. All and document the visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if, during the visit by staff, any discussion of significance, requiring action or involving the behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management confinement is revealed, this information will also be documented by the staff member on the Daily Record of Segregation, Form DC6-229.~~ These visits shall be conducted at a minimum of:

1. through 9. No change.

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

(b) Any inmate assigned to protective management for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine his or her mental condition. The assessment shall include a personal interview if deemed necessary by the mental health professional. All such assessments shall be documented in the mental health record. The psychologist or psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of the protection needs. Any recommendations by the psychologist or psychologist specialist that the inmate be released from protective management shall be forwarded by the ICT to the SCO. ~~All such assessments shall be documented in the mental health record.~~ If the decision is to continue protective management, a psychological screening assessment shall be conducted required at least every 90-day period.

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

(c) A Record of Protective Management, Form DC6-235 shall be maintained for each inmate as long as the inmate is in protective management. Once the inmate is released from protective management, Form DC6-235 will be forwarded to classification to be filed in the institutional inmate record. This form shall be used to record any action, remarks or disposition made on a specific inmate. Notations shall be made on Form DC6-235 by medical staff, the ICT, the SCO or other staff dealing directly with the inmate. If items are denied or removed from the inmate, the senior correctional officer on duty must approve the action. The central office ADA

coordinator will be contacted within 24 hours if any item is ~~to~~ be removed that would be considered an auxiliary aid or device that ensures a disabled inmate of equal opportunity as a non-disabled inmate. The items denied or removed will be documented on the Form DC6-235 and the chief of security will make the final decision in regard to the appropriateness of that action no later than the next working day following this action. The supervising officer will document any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action will also be documented.

DEPARTMENT OF CORRECTIONS

RULE NO.:
33-602.222

RULE TITLE:
Disciplinary Confinement

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 32, August 11, 2000, issue of the Florida Administrative Weekly as amended in the first notice of change, published in Vol. 26, No. 45, November 9, 2000.

33-602.222 Disciplinary Confinement.

(1) Definitions.

~~(a) Clinical Health Care Personnel, where used herein, refers to a physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist or psychological specialist who is employed with the department and works in an institution or correctional facility.~~

(b) through (c) renumbered (a) through (b) No change.

(c) Clinical Health Care Personnel – where used herein, refers to a physician, clinical associate, nurse correctional medical technician certified (CMTC), psychologist, psychology intern, psychology resident, or psychological specialist ~~who is employed with the department and works in an institution or correctional facility.~~

(d) through (h) No change.

(i) Institutional Classification Team (ICT) refers to the team consisting of the warden or assistant warden, classification supervisor and chief of security that is responsible for making work, program, housing and inmate status local classification decisions at a facility and for making other recommendations to the state classification office as defined in rule and procedure. ~~The ICT shall be comprised of the warden or assistant warden who shall serve as chairperson, the classification supervisor, the chief of security, and other members, as necessary, when appointed by the warden or designated by rule.~~

(j) through (4)(g) No change.

(h) Counseling and Interviews. Counseling shall be provided to inmates in disciplinary confinement in-cell or out of cell when deemed necessary by mental health staff. The ICT

shall determine whether an inmate in disciplinary confinement may be removed to attend individual or group counseling sessions or interviews when they determine that it is safe to do so, or whether counseling must take place in-cell.

(i) through (j) No change.

(k) Legal Access.

1. No change.

2. Indigent inmates shall be provided paper, envelopes, and writing utensils in order to prepare legal papers or notify visitors of confinement status. Typewriters or typing services are not required items and shall not be permitted in disciplinary confinement. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader) or an inmate assistant in order to prepare legal correspondence. An inmate who ~~is has been~~ provided an auxiliary aid shall also a "writer/reader" will be allowed access to ~~such a~~ certified law clerk person for the purpose of preparing legal documents, legal mail or filing a grievance.

(l) Telephone. ~~Inmates in disciplinary confinement shall not be allowed Telephone privileges are allowed for except in cases of emergency situations, or when necessary to ensure the inmate's access to attorneys or the courts, or in any other circumstances when a call is authorized by the warden or duty warden. Telephone privileges shall only be allowed when alternate means of access is not feasible. Calls to attorneys shall not be monitored.~~

(m) No change.

(n) Writing utensils. Inmates in disciplinary confinement shall possess only one security pen. If no security pens are available, the inmate shall be allowed to sign out a regular pen from the confinement housing unit officer. All care shall be taken to ensure that an inmate has access to a pen for a time period sufficient to prepare legal documents or legal mail, to file a grievance, or to notify family of confinement status. An inmate who has been provided a "writer/reader" shall be allowed access to such for the purpose of reading or preparing correspondence documents referenced above.

(o) Reading Material. Reading materials, including scriptural and devotional materials and books that are in compliance with admissibility requirements in rule 33-501.401, F.A.C., shall be permitted for those inmates in disciplinary confinement units unless there is an indication of a threat to the safety, security or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with (8)(c) of this rule. Inmates in disciplinary confinement shall be allowed, at a minimum, a copy of a testament or bible and religious tracts. All books must be in softback cover. Safety, sanitation, and security concerns may limit the amount of reading material authorized. An inmate who receives services

from the Bureau of Braille and Talking Book Library shall be allowed to have their tape players and devotional and scriptural materials that are in compliance with this rule.

(p) 1. through 2. No change.

3. The ICT warden or assistant warden is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery, attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be no more than 15 days per incident and for no longer than 30 days cumulative length and shall be documented on Form DC6-229, Daily Record of Segregation. Exceptions to this restriction may be made only when documented facts show that such exercise periods should not be granted. Restrictions may also be placed on the exercise periods by professional medical staff. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) through (5)(b) No change.

(c) Prior to escorting an inmate from a cell, the inmate shall be thoroughly searched. If the inmate is being taken outside the immediate housing unit, leg irons and other appropriate restraint devices shall be applied ~~placed on the inmate.~~

(d) through (e) No change.

(6) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. Disciplinary confinement areas housing inmates shall require visits by various institutional staff. All visits by staff shall be documented on the Inspection of Special Housing Record DC6-228. Form DC6-228 is incorporated in rule 33-602.220(10). The sStaff member shall also document his or her their visit on the Daily Record of Segregation DC6-229, if including any discussion of significance, action or behavior of the inmate, or any other important evidential information is obtained which may have an influence or effect on the status of confinement. These vVisits shall will be conducted a minimum of at least:

1. through 10. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally disordered, or self-destructive behavior, the medical

department shall be immediately contacted by correctional staff to determine if special watch or suicide watch procedures should be initiated. Suicidal inmates shall be removed to a designated area an isolation management room or to alternate housing designated by the authorized Health Care Staff where a correctional officer or medical staff can provide observation. Visual checks shall be made in accordance with medical protocols or the Inmate Suicide Precautions procedure at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is incorporated by reference in rule 33-602.220(10). All actions taken by staff with regard to concerning special risk inmates shall be documented noted on Form DC6-229 and shall be followed with an incident report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210.

(7) Review and Release from Disciplinary Confinement.

(a) A member of the ICT shall review the cases of inmates in disciplinary confinement every week. ~~If, in the opinion of the reviewing member, an inmate should be considered for early release from confinement, the reviewer shall place a recommendation on the docket for the ICT's evaluation and consideration.~~ The goal shall be toward returning an inmate to the open general population as soon as the facts of the case indicate that this can be done safely when the ICT determines the inmate can reasonably be expected to satisfactorily conform to institutional rules and regulations.

(b) Any inmate assigned to disciplinary confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional staff to determine the inmate's mental condition. The assessment shall include a personal interview if deemed necessary by the mental health professional. ~~The psychological specialist may complete the record review and gather other needed information. However, the psychologist or psychiatrist must render his or her professional opinion about the offender's mental capacity to tolerate continued confinement. Should the inmate be deemed significantly maladjusted, the doctor shall advise the ICT and Warden.~~ The psychologist or psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations the facts of the case. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from disciplinary confinement shall be forwarded by the ICT to the SCO. ~~All such assessments shall be documented in the mental health record.~~ If the decision is to continue confinement, a psychological screening assessment shall be completed required at least every 90-day period.

(c) through (d) No change.

(e) The confinement housing supervisor is authorized to have an inmate released from disciplinary confinement upon completion of his disciplinary confinement time, unless the ICT has determined that a need exists to modify the inmate's status to disciplinary administrative confinement.

(8) Daily Record of Segregation.

(a) A Daily Record of Segregation, Form DC6-229, shall be maintained ~~for~~ on each inmate as long as he is in confinement.

(b) The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in disciplinary confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. The shift supervisor of all three shifts, health care staff, classification staff and the ICT or SCO shall sign the DC6-229 form whenever they make a visit to a specific inmate.

(c) The DC6-229, Daily Record of Segregation, shall be maintained in the housing area for one week, at which time the form shall be forwarded to the ICT warden for review. Once reviewed, the form shall be forwarded to classification to be filed in the institutional inmate record. ~~Full and complete remarks shall be made in the DC6-229, Daily Record of Segregation, in the following situations by:~~

(a) Security Department — Shift Supervisor.

1. Whenever a staff member has requested that a specific inmate be interviewed or upon the shift supervisor's observation of a particular inmate's behavior, or significant discussion with a particular inmate;

2. ~~When there is a noticeable deviation in the inmate's behavior;~~

3. ~~When it becomes necessary to notify the medical department of an inmate's bizarre or self-destructive behavior, or the inmate appears to be ill;~~

4. ~~When it becomes necessary to restrict any privilege or remove any clothing, bedding or comfort item for the inmate's own protection, to prevent destruction, or if it poses a threat to institutional security or staff. The central office ADA~~

coordinator shall be contacted if any item is to be removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate.

- 5. When the inmate refuses food,
- 6. When the inmate's cell assignment is changed,
- 7. When the inmate is released to general population,
- 8. To further explain a notation made under the "Physical Appearance" or "Attitude" sections of the Daily Record of Segregation, Form DC6-229, or
- 9. Whenever an inmate's prescribed medication is confiscated by correctional staff, maintained in a secure location, and dispensed to the inmate in accordance with the prescription label.

(b) Medical Department.

- 1. When the inmate is ordered removed from confinement for medical reasons and where the inmate is relocated,
- 2. When the inmate's diet is ordered changed,
- 3. When changes of clothing, bedding or other restrictions are ordered,
- 4. When medical complaints are received and treatment is given,
- 5. When deviations in behavior are observed, or
- 6. When medication is dispensed.

(c) ICT.

- 1. Upon each review of the case, or
- 2. Upon release from confinement.

(d) SCO.

- 1. Upon each review of the case, or
- 2. Upon release from confinement.

(9)(a) No change.

(b) Each staff person shall sign the form when entering and leaving the disciplinary confinement area. Prior to leaving the disciplinary confinement area, each staff member shall indicate any specific problems, including identification of any inmate who requires special attention.

~~(e) Correctional staff assigned to this area shall use this form to document all routine security checks. The shift supervisor shall sign the DC6-228 when conducting his or her daily routine visit to the confinement area. Entries on this form by security staff, as referenced above, shall specifically state that each cell in the disciplinary confinement area has been visited and shall indicate any specific problem, including identification of any inmate who required special attention.~~

~~(c)(d)~~ No change.
(10)(a) No change.

(b) The Inspector General shall notify the warden and regional director of any officer involved in eight or more use of force incidents in an 18 month period. The Regional Director of Institutions shall review the circumstances for possible reassignment Inspector General's report and determine

whether correctional officers involved in eight or more use of force incidents need to be reassigned. The warden shall ensure that the regional director's directive is followed.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, _____.

**AGENCY FOR HEALTH CARE ADMINISTRATION
Health Facility and Agency Licensing**

RULE NO.: 59A-4.165
RULE TITLE: Nursing Home Guide
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule, in accordance with 120.54(3)(d)1., F.S., published in Vol. 26, No. 42, October 20, 2000, issue of the Florida Administrative Weekly.

59A-4.165 Nursing Home Guide.

(1) through (5)(i) No change.

(j) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality division, 2727 Mahan Dr., Tallahassee, FL 32308. The agency shall further score and rank facilities in accordance with the "Nursing Home Guide Performance Measures Algorithm" document, dated July 2000, incorporated by reference herein.

(6) The internet version of the guide will be available at www.fdhc.state.fl.us and www.floridahealthstat.com.

Specific Authority 400.191(6) FS. Law Implemented 400.191 FS. History--New _____.

**AGENCY FOR HEALTH CARE ADMINISTRATION
Health Facility and Agency Licensing**

RULE NO.: 59A-4.166
RULE TITLE: Nursing Home Consumer Satisfaction Survey
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule, in accordance with 120.54(3)(d)1., F.S., published in Vol. 26, No. 42, October 20, 2000, issue of the Florida Administrative Weekly.

59A-4.166 Nursing Home Consumer Satisfaction Survey.

(1) through (3) No change.

(4) The Agency or its contractor shall conduct these surveys and interviews at each nursing facility at least annually approximately once per twelve months.

(5) No change.

(6) Only data summarized to the level of the facility may be released. The data collected from these surveys and interviews shall be summarized and presented in the Nursing Home Consumer Guide required by s. 400.191, F.S. The summarized data will also be available to the Governor's Panel on Excellence in Long-Term Care as described in s. 400.235, F.S.

~~(7) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., Tallahassee, FL 32308. The data collected from these surveys and interviews shall not be released to any member of the public, including any nursing facility, except as provided for in (6).~~

Specific Authority 400.0225 FS. Law Implemented 400.0225 FS. History—New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:
61C-4.023 Manager Certification and Food
 Service Employee Training

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 43, October 27, 2000, issue of the Florida Administrative Weekly. The changes are in response to written comments received by the Joint Administrative Procedures Committee on December 5, 2000. Paragraph (3) of the proposed rule has been changed so that when it is adopted it will read:

~~(3)(4) The Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, as adopted by the Conference for Food Protection on April 12, 2000 and herein adopted by reference, shall be the division standard for the recognition of certifying organizations who provide food manager certification examinations. The Division of Hotels and Restaurants shall accept all certification examinations approved by the Conference for Food Protection. Certifying organizations that are accredited by a Conference for Food Protection sanctioned accreditor shall be recognized by the division as approved providers of a Food Protection Manager Certification Program division, as the certifying state agency for food managers, shall demonstrate testing program compliance with one or more generally recognized measurement standards such as the Standards for Educational and Psychological Testing. Documentation of conformance shall include organization review and program evaluation by qualified psychometricians and shall demonstrate adherence in the areas of administrative independence; fairness; technical standards for test construction and evaluation including validity, reliability and errors in measurement, test development and revision, scaling, norming, score comparability and equating, and test publication; professional standards for test use including employment testing and professional and occupational certification; and related standards for testing linguistic minorities, testing people who have handicap conditions, test administration, scoring and reporting, protecting the rights of test takers and public information. The division, or its~~

~~contracted testing agent, must routinely update the tests used to provide consistency and compliance with revised laws and rules.~~

The remainder of the rule will read as published.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: RULE TITLE:
64B1-4.010 Traditional Chinese Medical
 Concepts, Modern Oriental
 Medical Techniques

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 39, September 29, 2000, issue of the Florida Administrative Weekly.

The rule shall now read as follows:

64B1-4.010 Traditional Chinese Medical Concepts, Modern Oriental Medical Techniques.

Traditional Chinese medical concepts and modern oriental medical techniques shall include diagnosis and treatment to prevent or correct malady, illness, injury, pain, addictions, other conditions, disorders, and dysfunction of the human body; to harmonize the flow of Qi or vital force; to balance the energy and functions of a patient; and to promote, maintain, and restore health; for pain management and palliative care; for acupuncture anesthesia; and to prevent disease by the use or administration of: stimulation to acupuncture points, ah-shi points, auricular points, channels, collaterals, meridians, and microsystems which shall include the use of: akabane; allergy elimination techniques; breathing; cold; color; correspondence; cupping; dietary guidelines; electricity; electroacupuncture; electrodermal screening (EDS); exercise; eight principles; five element; four levels; hara; heat; herbal therapy consisting of plant, animal, and/or mineral substances; infrared and other forms of light; inquiring of history; jing-luo; listening; moxibustion; needles; NAET; observation; oriental massage – manual and mechanical methods; palpation; physiognomy; point micro-bleeding therapy; pulses; qi; xue and jin-ye; ryodoraku; san-jiao; six stages; smelling; tongue; tai qi; qi gong; wulun-baguo; yin-yang; zang-fu; Ayurvedic, Chinese, Japanese, Korean, Manchurian, Mongolian, Tibetan, Uighurian, Vietnamese, and other east Asian acupuncture and oriental medical concepts and treatment techniques; French acupuncture; German acupuncture including electroacupuncture and diagnosis; and, the use of laboratory test and imaging findings.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History—New _____.

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

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-4.011
 RULE TITLE: Diagnostic Techniques
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 39, September 29, 2000, issue of the Florida Administrative Weekly.

The proposed rule shall now read as follows:

64B1-4.011 Diagnostic Techniques.

Diagnostic techniques which assist in diagnosis, corroboration and monitoring of an acupuncture treatment plan or in making a determination to refer a patient to other health care providers shall include: traditional Chinese medical concepts and modern oriental medical techniques, recommendation of home diagnostic screening; physical examination; use of laboratory test findings; use of imaging films, reports, or test findings; office screening of hair, saliva and urine; muscle response testing; palpation; reflex; range of motion; sensory testing; thermography; trigger points; vital signs; first-aid; hygiene; and sanitation.

Specific Authority 457.102(1), 457.104 FS. Law Implemented 457.102(1) FS. History–New _____.

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

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-4.012
 RULE TITLE: Acupoint Injection Therapies
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 39, September 29, 2000, issue of the Florida Administrative Weekly.

The rule shall now read as follows:

64B1-4.012 Acupoint Injection Therapies.

Effective March 1, 2002, adjunctive therapies shall include acupoint injection therapy which shall mean the injection of herbs, homeopathics, and other nutritional supplements in the form of sterile substances into acupuncture points by means of hypodermic needles but not intravenous therapy to promote,

maintain, and restore health; for pain management and palliative care; for acupuncture anesthesia; and to prevent disease.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History–New _____.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE NOS.:	RULE TITLES:
65A-1.701	Definitions
65A-1.703	Family-Related Medicaid Coverage Groups
65A-1.705	Family-Related Medicaid General Eligibility Criteria
65A-1.707	Family-Related Medicaid Income Criteria
65A-1.708	Family-Related Medicaid Budgeting Criteria
65A-1.716	Income and Resource Criteria

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules identified above as published in the Vol. 26, No. 32, August 11, 2000, issue of the Florida Administrative Weekly in accordance with subparagraph 120.54(3)(d)1., F.S. These changes are the result of written comments provided by Florida Legal Services, Inc. in a letter dated August 29, 2000. Additionally, they are the result of written comments provided on November 29, 2000, in conjunction with a noticed public hearing held on November 17, 2000.

In rule 65A-1.701, Definitions, insert paragraph (22) as follows:

“(22) Payment Standard Eligibility/Payment Standard Coverage Group: Low income families who have their Medicaid eligibility determined according to AFDC eligibility rules that existed on July 16, 1996 as modified by certain less restrictive income and resource methodologies adopted in the Medicaid State Plan in accordance with section 1931 of the Social Security Act.”

As a result the re-numbered paragraphs (22) through (34) in rule 65A-1.701 will be numbered (23) through (35).

In rule 65A-1.703, Family-Related Medicaid Coverage Groups, paragraph (1), the first sentence following “section 409.903, F.S.,” insert the words, “section 1931 of the Social Security Act and other”.

In rule 65A-1.705, Family-Related Medicaid General Eligibility Criteria, paragraph (1) at the end of the sentence between the stricken phrases, the sentence is amended to read, "apply to all coverage groups as follows".

Rule 65A-1.705, Family-Related Medicaid General Eligibility Criteria, paragraph (1)(a) is re-numbered paragraph (2).

Rule 65A-1.705, paragraph (1)(b) is re-numbered paragraph (3). The same rule paragraph [re-numbered paragraph 65A-1.705(3)] is amended by striking the words, "~~To be living in the home of a specified relative;~~" in the single sentence and, changing the following word to "The".

Rule 65A-1.705 paragraphs (1)(c) and (1)(d) are re-numbered paragraphs (4) and (5).

Rule 65A-1.705 paragraphs (2) through (5) are re-numbered paragraphs (6) through (9).

In rule 65A-1.707, amend the title as follows: "Family-Related Medicaid Income and Resource Criteria". In rule 65A-1.707, Family-Related Medicaid Income Criteria, paragraph (1), the first sentence, after the word "income" insert "resources (assets),". In the same sentence, after the word "requirements", insert "as follows" and, delete the words, "~~set forth in Rule paragraph 65A-4.209(1) and (3) through (5), F.A.C.~~". Additionally delete the following sentence, "~~Appropriate deductions are set forth in Rule 65A-4.210, F.A.C., except that work related cost of care disregards of up to \$200 per month are allowed per child under age two and up to \$175 per month per child age two or over or per incapacitated adult, and a child support disregard is allowed of up to \$50 per month.~~"

In rule 65A-1.707 following paragraph (1), insert:

"(a) Income. Income is earned or non-earned cash received at periodic intervals from any source such as wages, self-employment, benefits, contributions, rental property, etc. Cash is money or its equivalent, such as a check, money order or other negotiable instrument. Total gross income includes earned and non-earned income from all sources. To be financially eligible for family-related Medicaid, except for Medically Needy coverage, the coverage group's gross income minus the \$90 earned income disregard cannot exceed the consolidated need standard (CNS) (100% of the federal poverty level). For Medically Needy coverage groups, the amount by which the gross income exceeds the applicable payment standard income level is a share of cost as defined in rule 65A-1.701. For the CNS criteria, refer to rule paragraph 65A-1.716(1). For the payment standard income levels, refer to rule paragraph 65A-1.716(2).

(b) Resources. Resources are items of value that are owned singly or jointly by an individual who has access to the cash value upon disposition. To be financially eligible for family-related Medicaid, the coverage group's resources cannot exceed the limits specified in Rule 65A-1.716(4). If countable resources are below the resource limit at any time

during the month, the coverage group is eligible on the factor of resources for that month. The following resources are excluded in determining the coverage group's eligibility:

1. a home, if the principal place of residence;
2. One licensed vehicle valued at not more than \$8,500 or, if vehicles are needed for training, employment, or education, one vehicle per employable adult in the coverage group, the combined value which does not exceed \$8,500, or any vehicle necessary for transportation of a physically disabled member of the family;
3. Funds paid to a homeless shelter which are being held for the family to enable them to pay deposits or other costs associated with moving to a new shelter arrangement;
4. Funeral agreements up to \$1500;
5. One burial plot for each member of the coverage group;
6. student grants, loans and scholarships; and,
7. assets excluded by express provision of federal law.

(c) Whose Income and Resources Are Considered. The income and resources of the following individuals are considered.

1. All coverage group members. However, there is no resource test for the coverage groups specified in rule 65A-1.703(3) through (5).

2. The income of a parent living in the home with a child under age 18 or, if a full-time student, under age 19, or of the individual sponsor and the sponsor's spouse of certain non-citizens is considered in determining the gross non-earned income of the coverage group.

3. When a non-citizen sponsor is involved, the non-citizen, whether or not the sponsor remains involved with the non-citizen, is required to have the sponsor provide information about their income and assets. If the sponsor does not give complete information and will not provide complete information upon request by the department, the non-citizen and other members of the assistance group sponsored by that individual will be found ineligible for Medicaid assistance because available income and assets cannot be determined. Eligibility of the non-citizen and other sponsored members of the assistance group cannot be established when required documentation is not obtained. Un-sponsored members of the coverage group are not affected by this policy.

(d) Income Disregards. Only the income remaining after the following disregards are applied is counted towards eligibility:

1. A standard disregard of \$90 is allowed from the gross earned income of each employed person in the coverage group in determining eligibility.

2. A gross income disregard of \$200 that includes the \$90 standard disregard and one half of the balance is allowed in determining eligibility for coverage groups who: have been eligible for and received benefits under a payment standard

Medicaid coverage group in one of the past four months; or, have gross income less the \$90 standard disregard, which is less than or equal to the Consolidated Need Standard.

3. Work related cost of care disregards of up to \$200 per month are allowed in the budget per child under age two and up to \$175 per month per child age two or over or per incapacitated adult.

4. A child support disregard of up to \$50 per month is allowed in the budget.

5. A full-time student or a part-time student who is not a full-time employee, who is under age 19 or is under age 21 if in a coverage group for children under age 21, and who is in a secondary school or the equivalent level of vocational or technical training will have his gross earned income disregarded in the budget. A full-time student includes a participant in the Job Corps. The income of such a student also does not count toward determination of eligibility against the CNS. Earnings for classroom attendance negates student status except when in relation to income under the Workforce Investment Act of 1998 (WIA, formerly JTPA). Student refers to the minor child whose needs are included in the coverage group as a minor child, not as a parent or relative. A part-time student who is not a full-time employee is defined as one whose school or training schedule is at least one-half of a full-time curriculum and who is regularly employed less than 30 hours per week. Definition of secondary school is found in Rule 6A-5.0752(2)(g), F.A.C. Definition of full-time attendance is found in Rule 65A-4.207(1)(b), F.A.C.

6. For children under 18 years of age, all non-earned income received under the WIA is disregarded in budgeting. All earned income from the WIA is disregarded for six months in a calendar year.

7. Small nonrecurring gifts which do not exceed \$30 per recipient in a calendar quarter are not considered as income; for example, gifts for Christmas, birthdays and graduations.

(e) Verification and Documentation.

1. Except for Transitional Medicaid, and when reporting changes in income at times other than the twelve month complete Medicaid review, income must be verified or documented by the employer as a condition of eligibility for family-related Medicaid. Note that separate verification and documentation requirements for KidCare are stated in rule paragraph 65A-1.705(5). Income will be verified through a telephone call or face-to-face contact with the employer or source of income or by documents such as wage stubs or correspondence signed by the employer or employer's authorized representative. Income from self employment must be verified. The applicant or recipient must make all business records available to the eligibility specialist upon request.

2. A loss or reduction of income which occurred within the 60 days preceding an application date and the cause of the reduction or loss must be verified. Availability of replacement income will be discussed with the applicant or recipient. The applicant or recipient must provide the date of expected return to work when on leave, vacation, or furlough.

3. Changes in income and assets reported at times other than a twelve month complete Medicaid review process will be acted upon based on the client's self-declaration. These changes will be verified subsequent to their implementation using the FLORIDA Data Exchange System. Questionable information or information that will result in loss of Medicaid coverage must be verified using standard application verification requirements.

(f) Money Management. Money management is the comparison of the income received and major expenses paid by the applicant or recipient. When currently paid expenses exceed acknowledged income, possible sources of other income must be determined and verification or documentation of that income must be obtained.

1. An applicant or recipient shall be required to explain money management during the month of application or redetermination. Eligibility shall not be determined if an individual fails to do so. However, a case shall not be denied or canceled solely because of a person's failure to explain how bills are paid. In the instance of failure to explain how bills are paid, the eligibility specialist shall request the applicant or recipient to furnish additional information. Failure by the applicant or recipient to provide the additional information during the time requested will result in the denial of the case because eligibility cannot be determined, except when the family is eligible for transitional Medicaid.

2. An applicant or recipient shall also be required to explain money management for the month prior to or after the month of application or redetermination when the paid expenses for that month exceed the income for that month. However, a case shall not be denied or canceled solely because of a person's failure to explain how bills are paid in the month prior to or after the month of application. In the instance of failure to explain how bills are paid for months prior to or after the month of application, the eligibility specialist shall request the applicant or recipient to furnish additional information. Failure by the applicant or recipient to provide the additional information during the time requested will result in the denial of the case because eligibility cannot be determined, except when the family is eligible for transitional Medicaid."

In rule 65A-1.708, Family-Related Medicaid Budgeting Criteria, prior to the existing sentence, insert:

"(1) The department uses a prospective budgeting system. In a prospective budgeting system, eligibility is based on the department's best estimate of the coverage group's income and

circumstances. This estimate shall be based on the department's reasonable expectation and knowledge of current or future circumstances. When eligibility is being determined for a month which has passed, the actual income and circumstances for that month shall be used. In converting weekly income to monthly income, the conversion factor of 4.3 shall be used; in converting biweekly income to monthly income, the conversion factor of 2.15 shall be used. Converting semi-monthly income to monthly income will be made using a conversion factor of 2. When averaging income, all income from the most recent eight weeks shall be used if it is representative of the individual's future earnings. In budgeting income received by an individual on a contractual basis, at the option of the individual, the income is prorated over the period of the contract or counted when received, in the amount received.

(2) Payment standard eligibility is determined by subtracting the net available income, rounded to the nearest dollar, from the applicable payment standard found in rule paragraph 65A-1.716(2).

(3) Self Employment Income.

(a) Operating costs of producing self-employment income, except depreciation and capital expenditures, are deducted from gross income. These costs include: labor, raw materials (stock, livestock/workstock feed, seed, fertilizer), rent/building maintenance, business telephone, solely business-related motor vehicle costs, interest paid to purchase income producing property, insurance and taxes on income producing property, meals and equipment necessary to provide daycare in the home, and travel and lodging (but not meals) away from home.

(b) A standard deduction of \$58 per month for each boarder is allowed for individuals providing room and board in their home.

(c) One dollar per day per child is deducted from the self-employment income of individuals providing child care in their home. This deduction is not allowed if the child for whom care is being provided is a resident of the same dwelling in which the person providing care resides.

(d) Twenty-five percent of the gross rental receipts from improved property owned by the parent or relative is deducted, if they are responsible for the costs of repairs and upkeep.

(e) Fifteen percent of gross rental receipts from unimproved rental property owned by the parent or relative is deducted if they are responsible for the costs of upkeep of such things as fences and wells.

(f) A deduction from rental income is also recognized for taxes and mortgage payments on property other than homestead property. Homestead property is determined by the local property appraiser's office.

(4) Child Support Payments. Child support payments, received or expected to be received, are counted as income subject to the \$50 child support disregard. Fees charged by the court or another agency for collecting the payments are deducted."

In the chart in rule paragraph 65A-1.716(1), add the last column:

<u>200% of</u>
<u>Poverty</u>
<u>Guideline</u>
<u>\$1,392</u>
<u>1,875</u>
<u>2,359</u>
<u>2,842</u>
<u>3,325</u>
<u>3,809</u>
<u>4,292</u>
<u>4,775</u>
<u>5,259</u>
<u>5,742</u>
<u>\$ 484</u>

In rule paragraph 65A-1.716(4), at the end of the last sentence, before "and" insert "through", then delete the "~~and (4)~~" and retain the stricken (5) (remove the strikethrough).

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 328, COOL 7'S RULE NO.: 53ER00-52

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 328, "COOL 7'S," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prizewinners and the number and size of prizes in the game.

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

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER00-52 Instant Game Number 328, COOL 7'S.

(1) Name of Game. Instant Game Number 328, "COOL 7'S."

(2) Price. COOL 7'S tickets sell for \$1.00 per ticket.

(3) COOL 7'S lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a VIRN under the latex area on the ticket. To be a valid winning COOL 7'S lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), F.A.C. In the event a dispute arises as to the validity of any COOL 7'S lottery ticket, the VIRN number under the latex shall prevail over the bar code.