

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
PART I ADMINISTRATION	
Purpose and Intent	67-50.001
Definitions	67-50.005
Fees	67-50.010
Notice of Funding Availability (“NOFA”)	67-50.020
Application and Selection Procedures for Developments	67-50.030
Administrative Appeal Procedures	67-50.040
Credit Underwriting Procedures and Loan Origination	67-50.050
Disbursement of Funds, Draw Requests, and Loan Servicing	67-50.060
Compliance and Monitoring	67-50.070
PART II HOMEOWNERSHIP ASSISTANCE PROGRAM	
General Program Restrictions	67-50.080
Terms and Conditions of HAP Construction Loans	67-50.090
Terms and Conditions of HAP Permanent Loans	67-50.100
PART III HOME INVESTMENT PARTNERSHIP PROGRAM	
General Program Restrictions	67-50.110
Match Contribution Requirement	67-50.120
Eligible HOME Activities	67-50.130
Eligible HOME Applicants	67-50.140
Eligible & Ineligible Development Costs	67-50.150
Eligible Applicant’s Responsibilities	67-50.160
Terms and Conditions of HOME Construction Loans	67-50.170
Terms and Conditions of HOME Permanent Loans	67-50.180

PURPOSE AND EFFECT: The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

- (1) Administer the Application process, determine loan amounts, and make and service mortgage loans for new construction of housing under the Florida Home Ownership Assistance Program (HAP)/Construction Loan Program, authorized by Sections 420.507 and 420.5088, Florida Statutes; and
- (2) Administer the Application process, determine loan amounts, and make and service mortgage loans for new construction of housing under the HOME Investment Partnerships (HOME) Homeownership Construction Loan Program, authorized by Section 420.5089, Florida Statutes.

The adoption of this rule chapter will increase the efficiency and effectiveness of Program service and will provide greater clarification of the Program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-50, Florida Administrative Code.

SPECIFIC AUTHORITY: 420.507, 420.5088, 420.5089 FS.

LAW IMPLEMENTED: 420.507(23), 420.5088, 420.5089(2) FS.

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

TIME AND DATE: 11:00 a.m., Tuesday, November 27, 2001

PLACE: Florida Housing Finance Corporation, Seltzer Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

TIME AND DATE: 11:00 a.m., Wednesday, November 28, 2001

PLACE: East Central Florida Regional Planning Council, 631 N. Wynmore Road, Suite 100, Maitland, Florida 32751

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lainie Lowery, HOME Homeownership Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Elections

RULE TITLE:	RULE NO.:
State Write-in Ballot	1S-2.028

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to prescribe the form of the state write-in ballot as required by Section 48, Chapter 2001-40, Laws of Florida.

SUMMARY: An overseas voter who is not able to receive an absentee ballot may request a state write-in ballot up to 180 days before the election. Section 48, Chapter 2001-40, Laws of Florida, provides the procedures for the state write-in ballot. This rule provides the actual form of the state write-in ballot.

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: 101.6951 FS.
LAW IMPLEMENTED: 101.6951 FS.
A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 3:00 p.m. - 6:00 p.m., December 3, 2001
PLACE: Room 116, Knott Building, 415 West St. Augustine Street, Tallahassee, Florida 32399
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy K. Tuck, Assistant General Counsel, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200
Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Amy K. Tuck, (850)245-6200, at least three days in advance of the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.028 State Write-in Ballot.

(1) The following is the form of the state write-in ballot.

(2) The form provides those offices to be filled in a general election. Offices shall be arranged in the order named below.

(3) STATE WRITE-IN ABSENTEE BALLOT

COUNTY

TO VOTE: For each race that you intend to cast a vote, write in the name of the candidate on the line provided or write in the name of a political party, in which case the ballot will be counted for the candidate of that political party, if there is such a party candidate on the ballot.

PRESIDENT AND VICE PRESIDENT:

CONGRESSIONAL

UNITED STATES SENATOR, DISTRICT :

REPRESENTATIVE IN CONGRESS, DISTRICT

STATE

GOVERNOR AND LT. GOVERNOR:

ATTORNEY GENERAL:

CHIEF FINANCIAL OFFICER:

COMMISSIONER OF AGRICULTURE:

STATE ATTORNEY, JUDICIAL CIRCUIT :

PUBLIC DEFENDER, JUDICIAL CIRCUIT :

LEGISLATIVE

STATE SENATOR, DISTRICT :

STATE REPRESENTATIVE, DISTRICT :

COUNTY

CLERK OF CIRCUIT COURT (OR COUNTY COURT):

SHERIFF:

PROPERTY APPRAISER:

TAX COLLECTOR:

DISTRICT SUPERINTENDENT OF SCHOOLS:

SUPERVISOR OF ELECTIONS:

BOARD OF COUNTY COMMISSIONERS, DISTRICT
(List any other county and district offices involved in the appropriate general election.)

NONPARTISAN JUDICIAL/SCHOOL BOARD

JUSTICE OF THE SUPREME COURT (Add appropriate offices)

Shall Justice of the Supreme Court, be retained in office?

Yes No

DISTRICT COURT OF APPEAL (Add appropriate offices)

Shall Judge of the District Court of Appeals, be retained in office? Yes No

CIRCUIT JUDGE JUDICIAL CIRCUIT, GROUP

COUNTY COURT JUDGE, GROUP :

MEMBER SCHOOL BOARD, DISTRICT :

PROPOSED EFFECTIVE DATE: January 1, 2002

Specific Authority 101.6951 FS. Law Implemented 101.6951 FS. History- New 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Amy K. Tuck, Assistant General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: L. Clayton Roberts, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:

Eligibility for Late Registration by Overseas Voters 1S-2.029

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to prescribe specific documentation that is sufficient to determine eligibility for late registration pursuant to Section 47, Chapter 2001-40, Laws of Florida.

SUMMARY: This rule provides specific documentation required for late registration for an individual or accompanying family member who has been discharged or separated from the uniformed services, Merchant Marine, or from employment outside the territorial limits of the United States after book closing.

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: 97.0555 FS.

LAW IMPLEMENTED: 97.0555 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 3:00 p.m. – 6:00 p.m., December 3, 2001
 PLACE: Room 116, Knott Building, 415 West St. Augustine Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy K. Tuck, Assistant General Counsel, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Amy K. Tuck, (850)245-6200, at least three days in advance of the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.029 Eligibility for Late Registration by Overseas Voters.

(1) Pursuant to section 97.055, Florida Statutes, an individual or accompanying family member, who has been discharged or separated from the uniformed services after the book closing for an election, who is otherwise qualified, may register to vote in such election until 5 p.m. on the Friday before that election. Such persons must provide one of the following pieces of documentation showing evidence to qualify for late registration:

- (a) Form DD-214 or
- (b) Orders to home of record while awaiting a DD-214.

(2) Pursuant to section 97.055, Florida Statutes, an individual or accompanying family member who has been discharged or separated from the Merchant Marine or employment outside the territorial limits of the United States after the book closing for an election, who is otherwise qualified, may register to vote in such election until 5 p.m. on the Friday before that election. Such persons must provide a notarized letter from the Human Resources department of the Merchant Marine or their previous employer that notes the following:

- (a) That the person has been discharged or separated from that employment; and
- (b) The date of discharge or separation.

PROPOSED EFFECTIVE DATE: January 1, 2002

Specific Authority 97.0555 FS. Law Implemented 97.0555 FS. History—New 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Amy K. Tuck, Assistant General Counsel, Division of Elections

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: L. Clayton Roberts, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Electronic Transmission of Absentee Ballots
 RULE NO.: 1S-2.030

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to authorize a supervisor of elections to accept a request for an absentee ballot and a voted absentee ballot by facsimile or other electronic means from overseas voters.

SUMMARY: This rule authorizes a supervisor of elections to accept a request for an absentee ballot and a voted absentee ballot by facsimile or other electronic means from overseas voters. The rule provides required voter information for an absentee ballot request from an overseas voter via facsimile or electronic mail. The rule provides that an overseas voter may request an absentee ballot by facsimile or electronic mail, but must provide the voted absentee ballot via facsimile. The rule provides for verification and security of transmission as well as proper recording of absentee ballots sent and received. Finally, the rule provides for an authorization to process and record and electronic ballot form that includes a waiver of secrecy of ballot.

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: 101.697 FS.

LAW IMPLEMENTED: 101.697 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 3:00 p.m. – 6:00 p.m., December 3, 2001
 PLACE: Room 116, Knott Building, 415 West St. Augustine Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy K. Tuck, Assistant General Counsel, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Amy K. Tuck, (850)245-6200, at least three days in advance of the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.030 Electronic Transmission of Absentee Ballots.

(1) A supervisor of elections may accept a request for an absentee ballot via facsimile or electronic mail from an overseas voter, as defined by section 97.021, Florida Statutes.

(a) The following information is required before the request for an absentee ballot may be accepted:

- 1. The name of the voter requesting a ballot.
- 2. The voter's address, which must include:
 - a. An APO/FPO or other deliverable overseas address if requesting a standard absentee ballot; and
 - b. The overseas voter's county of legal residence.
- 3. A secure, restricted facsimile machine number where return information will be received.
- 4. The overseas voter's date of birth; and
- 5. The overseas voter's written signature (written requests only).

(b) The supervisor must verify the information provided by the overseas voter and may only provide an absentee ballot if the supervisor determines that the overseas voter is a qualified and registered voter for the election in question.

(c) Upon verification of the overseas voter's eligibility, the supervisor shall provide the appropriate absentee ballot style to the overseas voter via facsimile or electronic mail. The ballot sent to the overseas voter for electronic voting shall have a signature section and shall be numbered.

(d) The supervisor of elections shall ensure that his or her transmitting equipment is in a secure location and that the ballot is sent directly to the address provided by the overseas voter.

(e) For each request for an absentee ballot from an overseas voter, the supervisor shall record the date the request was made and the date the absentee ballot was sent via facsimile or electronic mail.

(2) An overseas voter may return a voted ballot by facsimile only. An overseas voter wishing to vote by facsimile must:

(a) Submit the following Overseas Voter Authorization to Process and Record an Electronic Ballot form.

OVERSEAS VOTER AUTHORIZATION TO PROCESS AND RECORD AN ELECTRONIC BALLOT

I, _____, request a facsimile or electronic mail transmission of an official ballot for the primary/general/special/city election. The ballot should be sent to _____ (facsimile or electronic mail address). This address is a secure address with limited access. I will return the ballot by facsimile transmission only to the secured fax address provided by my supervisor of elections. I will sign and date my ballot to allow for the verification of my status as a qualified overseas voter by the comparison of my signature on file with the supervisor of elections. I hereby waive my right to absolute ballot secrecy.

Voter's signature

Date

Date of Birth (MM/DD/YYYY)

(b) It is the voter's responsibility to ensure the security of the receiving facsimile.

(c) The overseas voter will fill out and sign the ballot provided.

(d) The overseas voter shall fax both signed documents to the supervisor of elections only at the fax number provided by the supervisor.

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority 101.697 FS. Law Implemented 101.697 FS. History--New 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Amy K. Tuck, Assistant General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: L. Clayton Roberts, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLE: _____ RULE NO.: _____

Exemption for Issuers of Section 4(2) Offerings 3E-500.016

PURPOSE AND EFFECT: The National Securities Markets Improvement Act of 1996 ("NSMIA") preempted state securities registration laws with respect to "covered securities" as defined in Section 18(b) of the Securities Act of 1933 ("1933 Act"). Included in the definition of covered securities are securities issued pursuant to Section 4(2) of the 1933 Act. The SEC promulgated Rule 506 of Regulation D, which further defines the types of transactions exempt under Section 4(2). NSMIA, however, does not preempt state registration requirements for broker dealers, issuers and other sellers of such securities.

Currently, issuers of Rule 506 offerings must register as issuer dealers pursuant to Section 517.12(1), Florida Statutes, or rely on a transactional exemption pursuant to Section 517.061, Florida Statutes. Therefore, additional burdens are placed upon issuers in order for them to offer and sell Rule 506 offerings.

SUMMARY: Pursuant to Section 517.061(19), Florida Statutes, the Department finds that the registration provisions of Sections 517.07 and 517.12, Florida Statutes, are not necessary in the public interest and for the protection of investors because of the limited nature of the offering. The proposed rule will provide an exemption from the registration requirements of Section 517.12, Florida Statutes, for issuers and their bona fide employees who offer and sell Rule 506 offerings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost 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: 517.03(1), 517.061(19) FS.

LAW IMPLEMENTED: 517.061(19) 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., December 3, 2001

PLACE: Room 547, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick White, Financial Administrator, Division of Securities and Finance, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

3E-500.016 Exemption for Issuers of Section 4(2) Offerings.

Securities offered or sold in a transaction exempt under a rule or regulation issued by the Securities and Exchange Commission under Section 4(2) of the Securities Act of 1933, as it existed on January 1, 2001, are hereby exempted from the filing requirements of Section 517.07, F.S. An issuer of such securities and each of its bona fide employees who satisfy the criteria set forth in Section 517.021(6)(b)6., F.S., and through whom the issuer elects to sell such securities, shall be exempted from the registration requirements of Section 517.12(1), F.S.

Specific Authority 517.03(1), 517.061(19) FS. Law implemented 517.061(19) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick White, Financial Administrator, Division of Securities and Finance

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2001

DEPARTMENT OF INSURANCE

RULE TITLE:
Notification of Insured's Rights; Personal Injury Protection Benefits

RULE NO.:
4-176.013

PURPOSE AND EFFECT: SB 1092 revised the term, "medically necessary" and changed time frames for the submission of bills by medical providers, and made other minor revisions, requiring adoption of an updated form.

SUMMARY: The rule adopts updated form DI4-1149, "Notification of Personal Injury Protection Benefits", which insurers are required to send to PIP claimants.

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), 627.7401(1) FS.

LAW IMPLEMENTED: 624.307(1), 627.736, 627.7401 FS.

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: 10:30 a.m., December 6, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shirley Kerns, Chief, Bureau of Property and Casualty Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0330, (850)413-5310

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 the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-176.013 Notification of Insured's Rights; Personal Injury Protection Benefits.

Each insurer issuing a policy in this state providing personal injury protection benefits shall mail or deliver form DI4-1149 10/01/01 ~~(1/1/00)~~ "Notification of Personal Injury Protection Benefits" which is hereby incorporated herein by reference, to an insured within 21 days after receiving from the insured notice of an automobile accident or claim involving personal injury to an insured who is covered under the policy. Form DI4-1149 is available from the Bureau of Property and Casualty Forms and Rates, 200 E. Gaines St., Tallahassee, FL 32399-0330.

Specific Authority 624.308(1), 627.7401(1) FS. Law Implemented 624.307(1), 627.736, 627.7401 FS. History--New 10-1-94, Amended 12-6-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Shirley Kerns, Chief, Bureau of Property and Casualty Forms and Rates, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Roddenberry, Deputy Director, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Purpose and Scope	4-204.001
Definitions	4-204.002
Form Filings	4-204.004
Forms Review	4-204.006
Viatical Settlement Contracts and Forms Related Thereto	4-204.010
Viatical Settlement Purchase Agreements	4-204.012
Required Business Records in General	4-204.022
Department Forms	4-204.025

PURPOSE AND EFFECT: To promulgate a rule chapter to implement the Viatical Settlement Act, Part X of Chapter 626, Florida Statutes. The rule is mandatory.

SUMMARY: This rule is mandated by the Viatical Settlement Act, Part X of Chapter 626, Florida Statutes. The rule contains, among other things, definitions of terms used in the act, disclosure for purchases of viatical settlements, record keeping requirements related to executed viatical settlement contracts and viatical settlement purchase agreements, collection of date, advertising and reporting of life expectancies. There have been to (2) previous workshops on this matter.

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: 626.9921, 626.9922, 626.9923, 626.99235, 626.99236, 626.9924, 626.9925 FS.

LAW IMPLEMENTED: 626.9911, 626.9922, 626.9923, 626.99235, 626.99236, 626.9924, 626.9925, 626.99277 FS.

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: 9:00 a.m., December 3, 2001
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ted Straughn, Specialty Insurers, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0331, phone (850)413-2474

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

THE FULL TEXT OF THE PROPOSED RULES IS:

4-204.001 Purpose and Scope.

The purpose of this rule chapter is to administer the provisions of Part X of Chapter 626, Florida Statutes (2000), governing the issuance of a license and the regulation and operations of viatical settlement transactions as provided therein.

Specific Authority 626.9925 FS. Law Implemented 626.9925 FS. History—New

4-204.002 Definitions.

The following terms as used in Part X of Chapter 626, Florida Statutes (2000), are defined as follows:

(1) “Advertising” means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of inducing a person to sell a life insurance policy or an interest in a life insurance policy pursuant to a viatical settlement contract or to purchase an interest in an insurance policy pursuant to a viatical settlement purchase agreement.

(2) “Affiliated person” as used in Section 626.9911(2), Florida Statutes, has the same definition as an affiliated party as defined by Section 624.310, Florida Statutes.

(3) “Control,” including the terms “controlling,” “controlled by,” and “under common control”, as used in Section 626.9911(2), Florida Statutes, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a viatical settlement provider or viatical settlement broker, whether through the ownership of voting securities, by contract, or otherwise.

(4) “Escrow Form” as used in Section 626.9921, Florida Statutes, means a written agreement between a viatical settlement provider and an independent third-party trustee or escrow agent which specifies the duties and responsibilities of the independent third-party trustee or escrow agent with regard to a viatical settlement transaction.

Specific Authority 626.9925 FS. Law Implemented 626.9911, 626.9925, 626.99277, 626.9921 FS. History—New

4-204.004 Form Filings.

(1) Any form that had been previously approved that is subsequently changed or modified must be filed with the Department for approval and be approved prior to its use. The new filing must include the Florida file number of the original approved filing.

(2)(a) All form filings shall be made in accordance with paragraph (2)(b) below. All materials submitted shall be legible. A form filed which is illegible or which contains illegible materials will be returned unprocessed.

(b) A form filing must include:

1. A transmittal letter explaining the type and nature of the filing, stating whether the form is an escrow form, a viatical settlement contract, a viatical settlement purchase agreement, or a related form. If the filing is a related form, it must reference and include the form with which it will be used. The transmittal letter shall also indicate if the form filing is new or is a resubmission. If the form filing is a resubmission, the letter shall indicate when the previous filing was submitted and the date of the approval or disapproval and a reference to the previous Department file number. The resubmission shall also include copies of all prior correspondence.

2. A copy of the form being submitted.

(c) Each form must have a unique identifying form number in the lower left-hand corner of the first page of the form.

(3) Each form filing shall contain forms for only one licensee.

(4) Form filings that are not part of an application for licensure shall be mailed to: Bureau of Life and Health Forms and Rates, Florida Department of Insurance, P. O. Box 8040, Tallahassee, FL 32301-8040. All filings sent to the Department by Federal Express or any other form of special delivery shall be delivered to: Department of Insurance, Bureau of Life and Health Forms and Rates, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0331. Form filings may be submitted by e-mail to: LHFRBureau@doi.state.fl.us (Note: address is case sensitive).

(5) Definitions: As used in this rule:

(a) New filing – A new filing is one that is being submitted for the first time. This includes submission of revisions to a previously approved form.

(b) Resubmission – A filing submission in response to a final disapproval from the Department is a resubmission. The Department gives it a new filing number. This term does not apply to ongoing correspondence under the same filing number before an affirmative approval or disapproval by the Department.

Specific Authority 626.9925 FS. Law Implemented 626.9921 FS. History–New _____.

4-204.006 Forms Review.

(1) Form filings intended to be used in multiple jurisdictions, including Florida, must comply with Florida law and rules.

(2) A related form as defined by Section 626.9911(13), Florida Statutes, will be deemed incomplete and returned without processing unless the related form is accompanied by the form with which it will be used.

(3) After reviewing a form filing, the Department may issue a letter of clarification. The licensee shall submit the required data by a date certain stated in the letter of clarification, to allow the Department sufficient time to perform a proper review. Failure to correct the deficiencies by the date certain in the letter of clarification will result in an affirmative disapproval of the filing by the Department.

Specific Authority 626.9925 FS. Law Implemented 626.9925, 626.9921 FS. History–New _____.

4-204.010 Viatical Settlement Contracts and Forms Related Thereto.

(1) The viatical settlement contract must provide the following minimum information:

(a) The name and address of the viator and the name and address of the insured if different from the viator;

(b) The legal name of the insurance company;

(c) The insurance company's policy number;

(d) The issue date of the insurance policy and, if the policy has been converted, the date of conversion and the new policy number, if there is one;

(e) The face amount of the insurance policy and the percentage of the policy being viaticated;

(f) The type of insurance policy being viaticated (e.g. group, term, universal or whole life);

(g) The name and address of the independent third-party trustee or escrow agent;

(h) The agreed upon settlement amount;

(i) The disclosures required by Section 626.9923, Florida Statutes, which shall be made on a separate page, and require a separate signature and date by the viator; and,

(j) The disclosures required by Section 626.9924(1), Florida Statutes, which shall be made on a separate page, and require a separate signature and date by the viator.

(2) The last page of the viatical settlement contract must be a signature page which contains the following:

(a) The typed or printed name of the viator, the signature of the viator, and the date the viator signed the viatical settlement contract;

(b) The typed or printed name and signature of the person authorized to act on behalf of the viatical settlement provider, the viatical settlement provider's Florida license number and the date such person signed the viatical settlement contract;

(c) The typed or printed name, address and Florida license number of the broker who brokered the viaticated policy; and

(d) The state(s) and dates in which executions of the viatical settlement contract occurred by each party to the viatical settlement contract.

(3) Viatical settlement contracts must be signed and dated by the viatical settlement provider or its approved related provider trust.

(4) The disclosures mandated by Section 626.99181, Florida Statutes, shall be memorialized for all executed viatical settlement contracts by means of the viatical settlement broker completing Form DI4-1508, "Viatical Settlement Broker Compensation Disclosure". The completed form is to be retained by the viatical settlement broker for three years after the date of the death of the viator.

Specific Authority 626.9925, 626.9921, 626.9923, 626.9924 FS. Law Implemented 626.9925, 626.9921, 626.9923, 626.9924 FS. History—New

4-204.012 Viatical Settlement Purchase Agreements.

(1) The viatical settlement purchase agreement must provide the following minimum information:

(a) The name and address of the viatical settlement purchaser;

(b) The name, address, state of domicile, and license number of the viatical settlement provider who viaticated the policy;

(c) The name and address of the independent third-party trustee or escrow agent utilized or to be utilized in effectuating the transaction;

(d) The name and address of the person responsible for tracking the insured; and

(e) The name and address of the person responsible for paying the premiums until the death of the insured.

(2) The last page of the viatical settlement purchase agreement shall be a signature page that contains the following:

(a) The typed or printed name and signature of the viatical settlement purchaser and the date and place (city and state) the viatical settlement purchaser signed the viatical settlement purchase agreement; and

(b) The typed or printed name, address, and Florida license number of the sales agent who had direct contact with the viatical settlement purchaser in the offering or selling of the policy, and a signed certification by the sales agent that he or she was so involved and the dates and location (city and state) the contacts were made.

(3) The disclosures required by Section 626.99235(2), Florida Statutes, shall be contained within the body of the viatical settlement purchase agreement under the heading:

"DISCLOSURES REQUIRED BY FLORIDA LAW"

(4) Each viatical settlement purchase agreement must also give notice to the viatical settlement purchaser of the disclosures mandated by Section 626.99236, Florida Statutes. The notice required by this sub-paragraph shall be made as follows, in not less than 10 point type, under the heading:

"FURTHER DISCLOSURES TO BE MADE":

"No later than 5 days prior to transferring all or any part of an interest in an insurance policy or certificate of insurance to you the viatical settlement purchaser, Florida law requires that the following information be provided to you in writing:

1. All life expectancy certifications obtained by the viatical settlement provider on the life or lives of the insured or insureds in whose policy or policies you will be given an interest in return for your investment;

2. The name and address of the insurance company, the insurance company's policy number, and the date the policy was issued;

3. The experience and qualifications of the person issuing the life expectancy certification(s) and that person's relationship, if any, to the viatical settlement provider, the viatical settlement broker involved in obtaining the policy from the viator, the viatical sales agent who has solicited or sold you this viatical settlement purchase agreement, and the viator;

4. The name and address of the person providing escrow services and that person's relationship, if any, to the viatical settlement provider, the viatical settlement broker involved in obtaining the policy from the viator, the viatical sales agent who has solicited or sold you this viatical settlement purchase agreement, and the viator;

5. The type of life insurance policy offered or sold to you, e.g. whole life, term life, universal life or a group policy certificate;

6. Whether or not the policy is in a lapse status or has lapsed in the last two years;

7. Whether or not you are entitled to any benefits contained within the policy other than the death benefit of the policy;

8. A written explanation of the procedures the provider will follow to tell you the status of the health condition of the insured or insureds;

9. That you are entitled to void this viatical settlement purchase agreement without penalty at anytime within three (3) days after these written disclosures mandated by Florida law have been provided to you; and

10. You will be advised to seek independent financial advice from a person not compensated by the viatical settlement provider, viatical settlement broker, or viatical settlement sales agent making this offer to you. You will also be required to sign an affidavit that you have received these disclosures and understand their importance."

Specific Authority 626.9925, 626.9921, 626.99235, 626.99236 FS. Law Implemented 626.9925, 626.9921, 626.99235, 626.99236 FS. History—New

4-204.022 Required Business Records in General.

(1) For all executed viatical settlement contracts and all executed viatical settlement purchase agreements, each licensee and related provider trust shall establish a viatical settlement transaction file for each viator, which shall be maintained for at least 3 years after the death of the insured.

(a) A viatical settlement transaction file shall contain original or true and correct copies of all documentation sent, received or obtained by or on behalf of the viatical settlement provider, broker or related provider trust with respect to any viatical settlement transaction involving that viator and contract.

(b) A viatical settlement transaction file shall also include all information, correspondence, memoranda, analysis, disclosures, medical records, life expectancies, and work papers relating to any viatical settlement contract transaction involving that viator and contract. Such information includes, but is not limited to, correspondence, memoranda, and notes, from or to: a viator, a broker, a sales agent, an independent third party trustee or escrow agent, a medical professional, a viatical settlement provider, an insurer, an insured, a viatical settlement purchaser, a viatical settlement purchaser's representative, an officer, a director, an employee, a financing entity, a special purpose entity, a controlling person, a person responsible for tracking the insured, a government agency or regulatory body, or any person acting on behalf of such persons.

(c) A viatical settlement transaction file shall also contain original or true and correct copies of all viatical settlement purchase agreements involving the viator to which the licensee or related provider trust is a party, and all documentation sent, received or obtained by or on behalf of a provider, broker, related provider trust, sales agent, special purpose entity or financing entity with respect to those viatical settlement purchase agreements. Such documentation includes, but is not limited to, correspondence, memoranda, and notes, from or to a sales agent, an independent third party trustee or escrow agent, a broker, a viatical settlement provider, an insurer, an insured, a viatical settlement purchaser, a viatical settlement purchaser's representative, an officer, a director, an employee, a financing entity, a special purpose entity, a controlling person, a person responsible for tracking the insured, a person responsible for paying premiums on the viaticated policy, a government entity or regulatory body, or any persons on behalf of such persons.

(d) For each viaticated policy in the viatical settlement transaction file that is either not the subject of a viatical settlement purchase agreement, or is a subject of a viatical settlement purchase agreement to which the licensee or related provider trust is not a party, the viatical settlement transaction file shall also contain all documentation relating to the disposition of that viaticated policy.

(e) A viatical settlement transaction file shall also contain original or true and correct copies of all life expectancy certifications for the insured, as well as all correspondence, notes, and memoranda relating to the life expectancy of the insured.

(2) Each viatical settlement provider shall establish and maintain, as a permanent file, a forms file. The forms file shall contain a true copy of each and every form approved by the Department.

(3) Each viatical settlement licensee shall establish and maintain at its office of record an advertising file containing a true copy of each and every advertisement. Each advertisement shall become part of the file as of the date the advertisement is first published or otherwise used, and must be maintained in the file for at least 3 years after the last date of publication or use of the advertisement.

Specific Authority 626.9925, 262.9922 FS. Law Implemented 626.9925, 262.9922 FS. History--New

4-204.025 Department forms.

(1) The following forms are incorporated into this rule chapter by reference to administer the provisions of Part X, Chapter 626, Florida Statutes:

<u>Title</u>	<u>Form Number</u>
<u>(a) Application for a Certificate of Authority</u>	<u>DI4-1227(06/07/00)</u>
<u>(b) Fingerprint Card Instructions</u>	<u>DI4-938 Rev 7/99</u>
<u>(c) Invoice for payment of Fingerprint Charges</u>	<u>DI4-903 Rev 4/97</u>
<u>(d) Service of Process Consent</u>	<u>DI4-144 Rev 1/97</u>
<u>(e) Viatical Bond Form</u>	<u>DI4-1228(10/03/96)</u>
<u>(f) Biographical Statement and Affidavit</u>	<u>DI4-422 10/26/98</u>
<u>(g) Authority for Release of Information</u>	<u>DI4-450 Rev 5/00</u>
<u>(h) Instructions for Background Reports</u>	<u>DI4-905 Rev 2/01</u>
<u>(i) Notice of Intent to Use Related Viatical Settlement Provider Trust</u>	<u>DI4-1294 Rev 06/98</u>
<u>(j) Viatical Settlement Provider Annual Report</u>	<u>DI4-1288 Rev 01/01</u>
<u>(k) Management Information Form</u>	<u>DI4-844 Rev 10/91</u>
<u>(l) Management Information Listing of Stockholders</u>	<u>DI4-973 Rev 10/91</u>
<u>(m) Viatical Settlement Broker Compensation Disclosure</u>	<u>DI4-1508 8/01</u>

~~(2) These forms shall become effective on the date this rule becomes effective. Copies of the forms may be obtained from the Department of Insurance, Application Coordination Section, Larson Building, Tallahassee, Florida 32399-0300.~~

~~Specific Authority 626.9925 FS. Law Implemented 626.9925 FS. History--New _____.~~

~~NAME OF PERSON ORIGINATING PROPOSED RULE: Al Willis, Bureau Chief of Bureau Specialty Insurers~~

~~NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Roddenberry, Deputy Division Director~~

~~DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2001~~

~~DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 13, 2000~~

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Appointment and Jurisdiction

RULE NO.: 6D-1.002

PURPOSE AND EFFECT: The purpose of this Rule is to establish the composition and jurisdiction of the Board of Trustees of the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the Florida School for the Deaf and the Blind shall be governed by a Board of Trustees as stipulated in state statute.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.002 Appointment and Jurisdiction.

(1) The coordination, control and operation of the Florida School for the Deaf and the Blind shall be managed by a Board of seven (7) Trustees, in accordance with statutory guidelines as indicated in Chapter 242.331, F.S. all of whom shall have resided in the State of Florida for a period of at least ten years.

~~Of these seven (7) members, at least one (1) appointee shall be a blind person; and at least one appointee shall be a deaf person. Such Board of Trustees shall have full control over the affairs of the School and shall be authorized to exercise all powers given to it by the 1963 Florida Legislature, acting at all times in conjunction with the rules of the State Board of Education.~~

~~(2) Each Trustee shall be appointed by the Governor for a term of four (4) years except the first members, one of whom shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and two for term of four years. The Governor may remove any member for cause. All vacancies on the Board of Trustees shall be filled by the Governor.~~

~~(2)(3) General information concerning the Florida School for the Deaf and the Blind.~~

(a) Location. The Florida School for the Deaf and the Blind and its principal office shall be located at 207 North San Marco Avenue, St. Augustine, Florida. Its normal office hours shall be from 8:00 a.m. until 4:30 p.m. Members of the public may obtain information concerning the Florida School for the Deaf and the Blind, any forms used in operation of the School and a copy of these rules by contacting the President's office in St. Augustine at the School's principal office.

(b) Public records. Public records may be copied or inspected by contacting the President's office at 207 North San Marco Avenue, St. Augustine, Florida. The agency shall impose a charge for the service and cost of copying public records, which shall be no more than the agency cost. There shall be no charge for inspection or copying of these rules, agency orders or rules index.

~~Specific Authority 242.331(3) FS. Law Implemented ~~120.53(1)(a)~~, 242.331(4) FS. History--New 12-19-74, Amended 9-8-85, 2-2-95, Formerly 6D-1.02, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Meetings

RULE NO.: 6D-1.003

PURPOSE AND EFFECT: The purpose of this Rule is to establish the frequency of meetings, location, quorum and agenda of the Board of Trustees of the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the Board of Trustees of the Florida School for the Deaf and the Blind will meet on a monthly basis, unless otherwise agreed to by the Board, stipulates a quorum and agenda format to be followed for such meetings.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.003 Meetings.

(1) Unless otherwise directed by the Board, the Board of Trustees shall hold monthly meetings, on the campus of the Florida School for the Deaf and the Blind at a date and time determined by the Board. A regular meeting of the Board of Trustees shall be held each month at a date, place and time to be set at the prior meeting of the Board, unless otherwise directed by the Board.

(2) A quorum at any meeting shall consist of four (4) members of the Board. A majority of such quorum shall decide any questions that may come before the meeting. If at any meeting, less than a quorum is present, the Trustees present or a majority of them, may adjourn the meeting to another time and/or place.

(3) "Roberts Rules of Order, Revised", shall be followed in conducting the meetings of the Board unless otherwise provided by the Board.

(4) The order of business at any regular or special meeting of the Board shall be:

- (a) Call to order
- (b) Roll call
- (c) Consideration of minutes
- (d) Reports by committees
- (e) Report by President
- (f) Report by department heads
- (g) Unfinished business
- (h) New business

- (i) Individual or group hearings
- (j) Election of officers when necessary
- (k) Adjournment

(5) Agenda and notice of meetings, workshops, electronic communication media meetings and emergency meetings. Agenda and notice requirements for meetings, workshops, electronic communications media meetings and emergency meetings shall be prescribed in the Rules of the Administration Commission Model Rules of Procedure, Chapter ~~28-102~~ ~~28-2~~ entitled Agenda and Scheduling of Meetings and Workshops and Chapter ~~28-109~~ ~~28-8~~ entitled Conducting Proceedings Meetings and Workshops by Communications Media Technology.

Specific Authority 242.331(3) FS. Law Implemented ~~420.53(4)(a)~~, 242.331(4) FS. History--New 12-19-74, Amended 9-8-85, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Officers RULE NO.: 6D-1.004

PURPOSE AND EFFECT: The purpose of this Rule is to establish the officers, of the Board of Trustees of the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the Board of Trustees of the Florida School for the Deaf and the Blind shall have officers and describes their duties and responsibilities.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(2) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.004 Officers.

(1) The officers of the Board of Trustees shall be a ~~chairman~~ and a vice ~~chairman~~, each of whom shall be elected from among the members of the Board of Trustees for a term of one (1) year, unless sooner removed by the Board of Trustees or the Governor, and each of whom shall hold office until his/her successor shall be elected and qualified. Said officers shall be elected by the Board of Trustees at its first regular meeting after June 30 of each year. If any office becomes vacant during the year, the Board of Trustees shall fill the same for the unexpired term.

(2) The ~~Chairman~~ shall preside at all meetings of the Board of Trustees. He/she shall execute all contracts as required on authority of and in the name of the Board of Trustees. He/she shall transmit the annual report of the President to the Governor and shall have such other duties and powers as directed by the Board of Trustees. He/she shall appoint the members of and serve as ex-officio voting member of all committees of the Board of Trustees.

(3) The Vice-~~Chairman~~ shall, in the absence, disqualification or disability of the ~~Chairman~~, or at his/her direction, exercise all the functions of the ~~Chairman~~ and shall have such other duties as the ~~Chairman~~ of the Board of Trustees shall assign to him/her.

(4) The President of the Florida School for the Deaf and the Blind shall serve as ~~Executive~~ Secretary to the Board of Trustees and Chief Executive Officer of the Florida School for the Deaf and the Blind. He/she shall have custody of, and maintain, all of the corporate records and corporate seal, shall record the minutes of all meetings of the Board of Trustees and shall send notices of all meetings to the members of the Board and the State Board of Education. He/she shall perform such other duties as may be prescribed by the ~~Chairman of the~~ Board of Trustees.

(5) Any of said officers may be removed from office for malfeasance in office or conduct prejudicial to the School's interest by a vote of not less than two-thirds of the whole membership of the Board of Trustees at any regular or special meeting of the Board; provided, however, that any officer so sought to be removed shall be given not less than ten days' notice in writing of the charges to be proffered ~~preferred~~ against him/her, and shall be given an opportunity to refute the same before the Board.

Specific Authority 242.331(3) FS. Law Implemented 242.331(2)(~~+~~), 120.53(1)(a) FS. History--New 12-19-74, Amended 10-12-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Committees RULE NO.: 6D-1.008

PURPOSE AND EFFECT: The purpose of this Rule is to establish the committees of the Board of Trustees of the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the Board of Trustees of the Florida School for the Deaf and the Blind shall establish committees as necessary to carry out their duties and responsibilities.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.008 Committees.

At the discretion of the Board of Trustees, the Chair may establish committees, as deemed necessary to assist in the operation of the Florida School for the Deaf and the Blind. The Endowment Investment Committee shall be a standing committee whose membership shall be reviewed by the Chair on annual basis and appointments made as necessary. No committee, or individual, may act on behalf of the board, unless expressly authorized by the board.

~~(1) Executive Committee~~

~~(a) Shall act for the Board of Trustees on all matters delegated to it by the Board.~~

~~(b) Shall review and be familiar with all policies of the Board and react to all matters relating to policy which require action by the Board.~~

~~(c) Advise and counsel with the President.~~

~~(d) Shall be advised of and familiar with all matters of major business pending before the Board and shall participate in interim conferences and other activities deemed necessary for conducting the business of the Board.~~

~~(e) Shall participate in interim conferences and other activities deemed necessary for conducting the business of the Board.~~

~~(f) Shall study and periodically review relations with the Board of Education and other state agencies.~~

~~(g) Shall review and be fully apprised of proposed legislation, directly or indirectly affecting the School.~~

~~(h) Shall be fully informed concerning matters of legal action in which the Board of Trustees of the Florida School for the Deaf and the Blind may be involved.~~

~~(i) Shall develop and take appropriate steps whereby the Board of Trustees may select a new president when vacancy occurs.~~

~~(j) Shall review and be aware of procedures followed for selecting key personnel in the School.~~

~~(2) Budget and Finance Committee.~~

~~(a) Shall review and become fully familiar with all proposed legislative and operating budgets under the supervision of the Board of Trustees.~~

~~(b) Review all justifications presented for proposed budget expansions.~~

~~(c) Shall study and be familiar with audits of the Florida School for the Deaf and the Blind by the State Auditor and follow corrective measures taken to improve fiscal practices and procedures in the Florida School for the Deaf and the Blind.~~

~~(d) Review periodically scholarships and out-of-state aids.~~

~~(e) Shall be fully informed concerning support services as to services rendered, financial position, and need for in the Florida School for the Deaf and the Blind, and review proposals for more effective operations of these support activities.~~

~~(f) Shall be fully informed regarding all trust funds, grants, gifts and financial benefits accruing to the Board of Trustees and the School and study possible ways for improving investments of funds.~~

~~(g) Shall review and be fully familiar with all requests for purchase of operating capital outlay items deemed essential for the efficient operation of the instructional and other programs in the School.~~

~~(h) Shall be kept abreast of budgetary changes and approaches recommended by the administration.~~

~~(3) Buildings, Grounds, and Capital Outlay Committee.~~

~~(a) Shall review and become fully familiar with all major plans, for construction at the Florida School for the Deaf and the Blind under the Board of Trustees.~~

~~(b) Shall review and become familiar with all proposals for land purchases by the Board of Trustees.~~

~~(c) Shall be kept abreast of advance campus planning and the need for capital outlay projections.~~

~~(d) Shall review and become familiar with enrollment trends and other studies having an impact upon decisions concerning capital outlay needs of the Florida School for the Deaf and the Blind.~~

~~(e) Shall review and recommend priorities of capital outlay projects.~~

~~(f) Shall review and recommend requests made of the Legislature.~~

~~(g) Shall be kept abreast of the use and function of each building at the Florida School for the Deaf and the Blind.~~

~~(4) Program and Curriculum Committee.~~

~~(a) Shall be fully informed regarding the objectives of the School and shall recommend any changes which might be necessary or desirable.~~

~~(b) Shall review and be familiar with the role and function of each department of the School and recommend any changes which might be necessary or desirable.~~

~~(c) Shall consider and make recommendations concerning proposals for new programs at the School.~~

~~(d) Shall prevent unnecessary duplication of programs.~~

~~(e) Shall review admission policies and recommend proposed changes in admission requirements.~~

~~(f) Shall be advised concerning research activities and the relation of research to instruction in the School.~~

Specific Authority 242.331(3) FS. Law Implemented 242.331(4), 120.53(1)(a), 235.002 FS. History--New 12-19-74, Amended 8-26-86, 7-26-90, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

**DEPARTMENT OF EDUCATION
Florida School for the Deaf and the Blind**

RULE TITLE: Forms and Standard Instructions
RULE NO.: 6D-1.012

PURPOSE AND EFFECT: The purpose of this Rule is to establish that the Florida School for the Deaf and the Blind uses forms and standard instructions as required by state and federal mandates.

SUMMARY: This rule indicates that the Florida School for the Deaf and the Blind shall utilize forms and standard instructions as mandated by state and federal 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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.012 Forms and Standard Instructions.

The Florida School for the Deaf and the Blind utilizes ~~the following~~ forms and standard instructions, as required by state and/or federal mandates, in the operation of the School. Copies of the forms and instructions may be obtained by request of the President at the School's ~~principal~~ office in St. Augustine.

~~(1) Residency information defining Florida and non-Florida residency, identifying parent or guardian as such and requesting proof of financial responsibility or legal guardianship.~~

~~(2) Residency affidavit.~~

~~(3) Medical information form.~~

~~(4) Medical history form.~~

~~(5) Permission lists for leaving campus.~~

~~(6) Consent for placement.~~

~~(7) Registration information check form.~~

~~(8) Religious information form.~~

~~(9) Field trip consent form.~~

~~(10) Parental consent for athletic participation form.~~

~~(11) Letter regarding incidental deposit fund.~~

~~(12) Orientation and mobility consent form. (Blind students only).~~

~~(13) Letter to parents regarding registration.~~

~~(14) New student registration information form.~~

~~(15) Basic clothing needs list.~~

~~(16) Infirmary post card report to parents or guardian.~~

~~(17) Permission to administer anesthetics and perform operations form.~~

~~(18) Infirmary letter report to parents.~~

~~(19) Letter to parents or guardian recommending eye examination.~~

~~(20) Letter to parents or guardian requesting eye record and information.~~

~~(21) Permission for release of information.~~

~~(22) Letter to parent or guardian requesting payment for special expenses.~~

~~(23) Price list for sale of goods and services to officers and employees.~~

~~(24) Application for evaluation.~~

~~(25) Informed consent for evaluation.~~

~~(26) Triennial evaluation.~~

~~(27) Individual education program.~~

~~(28) Informed parental procedural safeguards.~~

~~(29) Staffing form.~~

~~(30) Interdisciplinary team report.~~

~~(31) Social history.~~

~~(32) Assessment identification placement summary.~~

Specific Authority 242.331(3) FS. Law Implemented 242.331(4); ~~120.53(1)(b), 120.55(1)(a)~~ FS. History--New 9-8-85, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE:

RULE NO.:

Naming Facilities

6D-1.013

PURPOSE AND EFFECT: The purpose of this Rule is to establish criteria to be followed by the Board of Trustees of the Florida School for the Deaf and the Blind in establishing names for facilities at the Florida School for the Deaf and the Blind.

SUMMARY: This rule indicates that the Board of Trustees of the Florida School for the Deaf and the Blind shall follow guidelines set by state statute in establishing names for facilities at the Florida School for the Deaf and the Blind.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 15, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-1.013 Naming Facilities.

The following criteria shall be utilized by the Florida School for the Deaf and the Blind Board of Trustees in establishing names for FSDB facilities.

(1) Each facility to be named will be given special and individual consideration.

(2) Students, staff, and parent and alumni organizations will be contacted regarding their preferences when considering naming an FSDB facility.

(3) Facilities can be named in honor of individuals; however, these individuals must be recognized as outstanding contributors to the School.

(4) The Florida School for the Deaf and the Blind Board of Trustees will evaluate and make the final decision regarding the selection of a name for all FSDB facilities, in accordance with state statutes.

Specific Authority 242.331(3) FS. Law Implemented 242.331(4); ~~120.53(1)(a); 235.002~~ FS. History--New 7-26-90, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Emergency Management

RULE CHAPTER TITLE: Hazard Mitigation Grant Program RULE CHAPTER NO.: 9G-22

RULE TITLES: Purpose, Definitions, Eligibility, LMS Working Groups, Local Mitigation Strategy, County Allocations and Project Funding Application. RULE NOS.: 9G-22.001, 9G-22.002, 9G-22.003, 9G-22.004, 9G-22.005, 9G-22.006, 9G-22.007

PURPOSE AND EFFECT: The purpose of this rule is to allow the State of Florida to implement the Hazard Mitigation Grant Program as a managing state under a Memorandum of Understanding with the Federal Emergency Management Agency (FEMA). Under this agreement, the State will review project applications for eligibility and FEMA will review project summaries for compliance with program requirements and conclude environmental reviews.

SUMMARY: This chapter describes the processes for application, project selection and distribution of funds under the Hazard Mitigation Grant Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SERC has been prepared.

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

SPECIFIC AUTHORITY: 252.46 FS.

LAW IMPLEMENTED: 252.311, 252.32, 252.35 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE F.A.W.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Daniel T. Crabb, Planner IV, Bureau of Recovery and Mitigation, Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, telephone (850)413-9818, Fax (850)922-0325, E-mail: daniel.crabb@dca.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

9G-22.001 Purpose.

This chapter describes the processes for application, project selection and distribution of funds under the Hazard Mitigation Grant Program.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History--New _____.

9G-22.002 Definitions.

(1) “Adoption” means a resolution, ordinance or other formal action taken by the governing body of a county or municipality indicating agreement with and acceptance of the relevant Local Mitigation Strategy.

(2) “Application” means the request for hazard mitigation funding as submitted to the Division by an Applicant.

(3) “Applicant” means a state agency, local government, Native American tribe or authorized tribal organization or eligible private non-profit organization, as defined in 44 C.F.R., §206.221(e), requesting hazard mitigation funding.

(4) “Disaster” means any emergency or major disaster as defined in 44 C.F.R., Part 206, Subpart A.

(5) “Division” means the Division of Emergency Management within the Department of Community Affairs.

(6) “FEMA” means the Federal Emergency Management Agency.

(7) “Florida Hazard Mitigation Strategy” means Florida’s version of the Hazard Mitigation Plan referred to in 44 C.F.R., Part 206, Subpart M. The Florida Hazard Mitigation Strategy (Rev. September 11, 1997) is hereby incorporated into this rule by reference.

(8) “Hazard” means a condition that exposes human life or property to harm from a man-made or natural disaster.

(9) “Hazard Mitigation” means any action taken to reduce or eliminate the exposure of human life or property to harm from a man-made or natural disaster.

(10) “Hazard Mitigation Grant Program”, herein referred to as HMGP, means the program authorized under Section 404 of the Stafford Act and implemented by 44 C.F.R., Part 206, Subpart N, which provides funding for mitigation projects as identified in the State Hazard Mitigation Strategy.

(11) “Local Mitigation Strategy” or “LMS” means a plan to reduce the identified hazards within a county.

(12) “Project” means a hazard mitigation measure as identified in an LMS.

(13) “Repetitive loss structures” means structures that have suffered two or more occurrences of damage due to flooding and which have received payouts from the National Flood Insurance Program as a result of those occurrences.

(14) “Working Group” is the group responsible for the development and implementation of the Local Mitigation Strategy.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History—New

9G-22.003 Eligibility.

(1) Eligible types of projects shall include, but not be limited to, the following:

(a) New construction activities that will result in protection from hazards;

(b) Retrofitting of existing facilities that will result in increased protection from hazards;

(c) Elevation of floodprone structures;

(d) Vegetative management/soil stabilization;

(e) Infrastructure protection measures;

(f) Stormwater management/flood control projects;

(g) Property acquisition or relocation; and

(h) Plans that identify and analyze mitigation problems and include funded, scheduled programs for implementing solutions.

(2) In order to be eligible for funding, projects shall meet the following requirements:

(a) Conform to the Florida Hazard Mitigation Strategy;

(b) Conform to the funding priorities for the disaster as established in the LMS governing the project;

(c) Conform to 44 C.F.R., Part 9, Floodplain Management and Protection of Wetlands, and 44 C.F.R., Part 10, Environmental Considerations;

(d) Eliminate a hazard independently or substantially contribute the elimination of a hazard where there is reasonable assurance that the project as a whole will be completed; and

(e) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a disaster.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History—New

9G-22.004 LMS Working Groups.

Each county electing to participate in the HMGP must have a formal LMS Working Group and a current LMS.

(1) Not later than the last working weekday of January of each year the Chairperson of the Board of County Commissioners shall submit to the Division a list of the members of the Working Group and its designated chairperson and Vice-Chairperson.

(2) The Working Group shall include, at a minimum:

(a) Representation from various agencies of county government which may include, but not be limited to, planning and zoning, roads, public works and emergency management;

(b) Representation from all interested municipalities within the county; and

(c) Representation from interested private organizations, civic organizations, trade and commercial support groups, property owners associations, Native American Tribes or authorized tribal organizations, water management districts, regional planning councils, independent special districts and non-profit organizations.

(3) The county shall submit documentation to show that within the preceding year it has issued a written invitation to each municipality, private organization, civic organization, Native American Tribe or authorized tribal organization, water management district, independent special district and non-profit organization, as applicable, to participate in the LMS working group. This documentation shall accompany the membership list submitted to the Division.

(4) The Working Group shall have the following responsibilities:

- (a) To designate a Chairperson and Vice-Chairperson;
- (b) To develop and revise an LMS as necessary;
- (c) To coordinate all mitigation activities within the County;
- (d) To set an order of priority for local mitigation projects; and
- (e) To submit annual LMS updates to the Division by the last working weekday of each January. Updates shall address, at a minimum:

- 1. Changes to the hazard assessment;
- 2. Changes to the project priority list;
- 3. Changes to the critical facilities list;
- 4. Changes to the repetitive loss list; and
- 5. Revisions to any maps.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History--New

9G-22.005 Local Mitigation Strategy.

Each LMS shall have the following components:

- (1) A description of the activities of local government and private organizations that promote hazard mitigation; a description of the policies, ordinances or programs that guide those activities; and any deficiencies in the policies, ordinances, and programs with recommendations to correct those deficiencies;
- (2) A description of the methods used to engage private sector participation;
- (3) A statement of general mitigation goals, with Working Group recommendations for implementing these goals, and estimated dates for implementation;
- (4) A description of the procedures used by the Working Group to review the LMS at regular intervals to ensure that it reflects current conditions within the County;
- (5) A hazard assessment to include, at the minimum, an evaluation of the vulnerability of structures, infrastructure, special risk populations, environmental resources and the economy to storm surge, high winds, flooding, wildfires and any other hazard to which the community is susceptible;
- (6) A statement of procedures used to set the order of priority for projects based on project variables which shall include technical and financial feasibility;
- (7) A list of approved projects in order of priority with estimated costs and associated funding sources;
- (8) A list of critical facilities that must remain operational during and after a disaster;
- (9) A list repetitive loss structures; and
- (10) Maps, in Geographical Information System (GIS) format, depicting hazard areas, project locations, critical facilities and repetitive loss structures.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History--New

9G-22.006 County Allocations and Project Funding.

(1) The available HMGP funds shall be allocated to the counties included in the relevant disaster declaration in proportion to each county's share of the federal disaster funding from the Public Assistance, Individual Assistance and Small Business Administration programs as of 90 days after the disaster declaration as reported by FEMA.

(a) Eligible and submitted projects for each county included in the relevant disaster declaration will be funded in order of priority as outlined in the LMS until the allocated funds are exhausted, or all eligible projects are funded, whichever occurs first.

(b) Any allocation remaining after all eligible projects in any declared county are funded shall be re-allocated to those counties included in the relevant disaster declaration whose allocation was not sufficient to fund all submitted eligible projects in proportion to each county's share of unfunded projects.

(2) If funds remain after all eligible projects under paragraph (1) above have been funded, then they shall be applied to fund eligible projects submitted from counties not included in the relevant disaster declaration on a first-come-first-served basis until all available funds are obligated.

(3) Once a project has been selected for funding, the agreement between the applicant and the Division regarding the terms and conditions of the grant shall be formalized by contract.

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History--New

9G-22.007 Application.

(1) The following entities may apply for funding under the program:

- (a) State agencies and local governments;
- (b) Private non-profit organizations or institutions that own or operate a private non-profit facility as defined in 44 C.F.R., §206.221(e); and
- (c) Indian tribes or authorized tribal organizations.

(2) The Division shall notify potential applicants of the availability of HMGP funds by publishing a Notice of Funding Availability in the Florida Administrative Weekly.

(3) Applicants will have not less than ninety (90) days from the date of notification to submit project applications. The opening and closing dates will be specified in the Notice of Funding Availability, and applications must be postmarked or stamped in at the Division no later than 5:00 PM on the final due date.

(4) A letter shall accompany each application from the Chairperson or Vice-Chairperson of the LMS Working Group endorsing the project. The endorsement shall verify that the

proposed project does appear in the current LMS and state its priority in relation to other submitted projects. Applications without this letter of endorsement will not be considered.

(5) Applications must be submitted using Form No. HMGP/FMA-001, State of Florida Joint Hazard Mitigation Grant Program & Flood Mitigation Assistance Application (Effective Date September 30, 2001), which is incorporated into this rule by reference.

(6) If the Division receives an incomplete application, the applicant will be notified in writing of the deficiencies. The applicant will have thirty (30) calendar days from the date of the letter to resolve the deficiencies. If the deficiencies are not corrected by the deadline the application will not be considered for funding.

(7) Applications are to be delivered or sent to:
Florida Department of Community Affairs
Division of Emergency Management
Bureau of Mitigation
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399
ATTENTION: Hazard Mitigation Grant Program

Specific Authority 252.46 FS. Law Implemented 252.311, 252.32, 252.35 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Daniel T. Crabb, Planner IV, Bureau of Recovery and Mitigation, Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, Telephone: (850)413-9818, Fax: (850)922-0325, E-mail: daniel.crabb@dca.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Leroy Thompson, Community Program Administrator

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLE: Use of Inmates in Public Works
RULE NO.: 33-601.202

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to restrict use of inmate labor in public works to those classified as minimum or community custody.

SUMMARY: The proposed rule restricts use of inmate labor in public works to those classified as minimum or community custody.

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: 944.09, 946.40(1) FS.
LAW IMPLEMENTED: 944.09, 944.10(7), 946.002, 946.40(1) 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.202 Use of Inmates in Public Works.

(1) through (6) No change.

(7) Persons other than Department of Corrections employees may supervise minimum and community medium custody inmates under this rule only upon the approval of the warden or his designee.

(8) No change.

(9) The Department of Corrections is authorized to enter into agreements with any political subdivision to utilize medium and close custody inmates:

(a) When there are unmet labor needs existing for political subdivisions and the institution is not able to provide minimum or community medium custody inmates and the type of work and work location is conducive to armed supervision of inmates;

(b) When there exists an emergency which requires more inmates than available from the minimum or community medium custody inmate institutional complement.

Specific Authority 944.09, 946.40(1) FS. Law Implemented 944.09, 944.10(7), 946.002, 946.40(1) FS. History--New 6-20-84, Formerly 33-3.17, Amended 2-27-86, 10-31-86, 1-28-98, 8-13-98, Formerly 33-3.017, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Basic Training Program – Definitions	33-601.233
Basic Training Program Selection Process	33-601.234
Basic Training Program Operation	33-601.236
Basic Training Program – Inmate Privileges and Restrictions	33-601.237
Basic Training Program – Appearance and Hygiene	33-601.238
Basic Training Program – Dormitory Regulations	33-601.239

Basic Training Program – Discipline 33-601.241
 Removal from Basic Training Program 33-601.242
 Basic Training Program – Employee Standards
 of Appearance, Conduct and Fitness 33-601.243

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify procedures related to operation of the basic training program for youthful offenders.

SUMMARY: The proposed rules provide definitions for terms used in the basic training program, clarify criteria and procedures for program selection, provide for the continual assessment of the inmate’s progress in the program so that appropriate assignments can be made, provide procedures for recommendation of modification of sentence, clarify grooming requirements for female basic training program inmates, and deletes unnecessary language from the rules.

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, 958.04, 958.045 FS.

LAW IMPLEMENTED: 20.315, 944.09, 946.40, 958.04, 958.045 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.233 Basic Training Program – Definitions.

(1) Alternative Training – authorized physical activities which are imposed by basic training program staff following an inmate’s misconduct. Alternative training is intended to correct inmate behavior by imposing minor sanctions as set forth in subsection 33-601.241(4), F.A.C.

(2) Basic Training Program Classification Officer – a classification officer or senior classification officer assigned to a basic training program caseload.

(3) Community Residential Facility – a work release center or a community-based residential substance abuse program.

(2) through (9) renumbered (4) through (11) No change.

~~(12)(10)~~ Shock Incarceration – a training technique employed in the basic training program which utilizes intense physical training, military drill, verbally aggressive confrontation, and the immediate application of minor discipline. The intent of shock incarceration is to modify the

behavior of youthful offenders and to avert long-term incarceration. ~~The basic training program will be inclusive of the phases listed below:~~

~~(a) Phase I – will consist of an intensified military regimen not to exceed 60 days of active participation.~~

~~(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.~~

~~(c) Phase III – will consist of the offender’s placement within a community residential facility to engage in gainful employment, pay restitution, participate in substance abuse programs, enroll in general education development or adult basic education classes as provided for in s. 958.045(6) and (8), F.S.~~

~~(13)(11)~~ No change.

~~(14)(12) Youthful Offender – refers to any person sentenced by the court or classified by the department, for purposes of being considered for basic training program participation pursuant to this rule, is defined as an inmate who was sentenced in accordance with s. 958.04, F.S., or who is designated a youthful offender by the department pursuant to subsection 33-601.221(2), F.A.C., meeting criteria established in s. 958.045(8)(b), F.S., and whose crime was committed before the inmate’s 21st birthday.~~

Specific Authority 958.04(4)(b), 958.045(4)(b) FS. Law Implemented 958.04, 958.045 FS. History–New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.003, Amended 3-13-01, Formerly 33-506.203, Amended.

33-601.234 Basic Training Program Selection Process.

(1) In order to participate in the program, a youthful offender as defined by chapter 958, F.S. shall meet the following criteria:

(a) No change.

(b) Meets All department designated youthful offenders must be control release criteria identified in s. 947.146(3), F.S. eligible;

(c) through (g) No change.

(h) Is classified as ~~medium~~ or minimum or community custody; and

(i) No change.

(2) ~~After an inmate has met the above criteria, T~~he classification officer ~~at the time of reception~~ will screen the youthful offender during the reception process to determine if he or she meets the program eligibility criteria. If the inmate meets the criteria, the classification officer will notify advise the inmate and explain the requirements and benefits of successful participation and completion of the program. If the inmate does not meet the criteria, the inmate will be notified

and the results will be recorded on the admission summary. ~~and The Bureau of Classification and Central Records, Reception Services section will be notified of any inmate who meets the criteria and is amenable to the program.~~ The sentencing court shall be notified in writing by the Bureau of Classification and Central Records, ~~Reception Services section of the Department of Corrections,~~ requesting approval for the inmate to participate in the program. If the inmate is classified by the department as a youthful offender, the prosecuting state attorney shall, at the same time, be notified that the inmate is being considered for placement in the basic training program. If the sentencing court disapproves the department's recommendation for the offender's placement in the basic training program, the offender shall be so notified and shall complete incarceration pursuant to the terms of the commitment order. If the sentencing court approves the department's recommendation for the offender's placement in the basic training program, the offender shall be notified of assignment to the basic training program. The department shall contact the sentencing court to notify the department of approval for placement in the program within 21 days after receipt of the department's request to determine the status of the request for shall be considered an approval to participate by the court for placing the inmate in the basic training program. The inmate will be placed in the program after the sentencing court approves his or her placement for participation.

(3) Program Assessment. Each inmate shall be required to participate in a satisfactory manner for a minimum of 120 days in order to successfully complete the program. The IMPT shall continually assess the inmate's participation in the program and recommend that the inmate continue in the program for a specific number of days in order to repeat those days for which an overall unsatisfactory report was received. Failure to receive a satisfactory evaluation during the extended period will result in the removal of the inmate from the program pursuant to Rule 33-601.242, F.A.C. In such cases, the inmate shall be assigned to an appropriate facility to serve the duration of his or her sentence. Inmates who have successfully participated for the required time period, but who are awaiting release by the sentencing court or other releasing authority shall remain subject to the rules of the department and the basic training program. Failure to adhere to these rules may be grounds for removal from the program pursuant to Rule 33-601.242, F.A.C. Documentation of successful program completion, recommendations for extension, or removal from the program shall be completed by the IMPT and provided to the program director.

Specific Authority 958.04(4)(b), 958.045(4)(b) FS. Law Implemented 946.40, 958.04, 958.045 FS. History—New 2-26-89, Amended 11-2-90, 1-25-96, 10-23-97, Formerly 33-27.004, Amended 3-13-01, Formerly 33-506.204, Amended _____.

33-601.236 Basic Training Program Operation.

(1) The basic training program will be inclusive of the phases listed below:

(a) Phase I – will consist of an intensified military regimen for a minimum of 60 days of active participation.

(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.

(c) At the conclusion of Phase II, the offender shall be placed in a community residential facility or released to an alternative post-release program or plan in accordance with s. 958.045(6)(a) and (b), F.S.

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

(4) The IMPT shall continually assess the inmate's participation in the program and recommend that the inmate continue in the program for a specific number of days in order to repeat the days for which an overall unsatisfactory report was received.

1. Failure to receive a satisfactory evaluation during the extended period will result in the removal of the inmate from the program.

2. In such cases, the inmate will be assigned to an appropriate facility to serve the duration of his or her sentence upon recommendation of the ICT and approval of the SCO.

(5) Request for Sentence Modification.

(a) Inmates who have satisfactorily completed 60 days of the basic training program will be reviewed for consideration for request of sentence modification.

(b) The basic training program classification officer will recommend a modification of sentence to the court that will include release to community supervision or placement in a community residential facility as a condition of community supervision. The basic training program classification officer shall determine which inmates are suitable for community release based upon the inmate's employment, residence, family circumstances, and probation or post-release supervision obligations while under community supervision.

(c) The Bureau of Classification and Central Records Reception and Youthful Offender Services Office shall either approve the basic training program classification officer's recommendation, disapprove the recommendation, or refer the matter back to the basic training program classification officer for additional information.

(d) If approved, the sentence modification package will be presented to the court for approval or disapproval.

(e) Upon receipt of the court's written action, The Bureau of Classification and Central Records shall review the sentence modification order and clear the inmate for release to community supervision.

(3) through (4) renumbered (6) through (7) 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 3-13-01, Formerly 33-506.206, Amended.

33-601.237 Basic Training Program – Inmate Privileges and Restrictions.

Inmates in the basic training program shall have privileges normally afforded the general inmate population modified as set forth below:

(1) through (2) No change.

(3) Visiting.

(a) No change.

(b) Phase II – Inmates will be permitted one three-hour visit weekly.

(c) Inmates will be escorted to the visiting park, strip searched, and allowed to visit in a specified visiting area. Basic training program staff will supervise basic training program inmates in the visiting area. At the conclusion of the visiting period the inmate will again be strip searched and escorted back to their housing units.

(4) through (5) No change.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.007, Amended 3-13-01, Formerly 33-506.207, Amended.

33-601.238 Basic Training Program – Appearance and Hygiene.

(1) Hair.

(a) No change.

(b) Female basic training program inmates will be provided hair bands or hair clips to secure hair longer than collar length. Unsecured hair must be above collar length. Hair must be away from the face and off the collar.

(2) through (4) No change.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.008, Amended 3-13-01, Formerly 33-506.208, Amended.

33-601.239 Basic Training Program – Dormitory Regulations.

(1) through (8) No change.

(9) Inmates shall contact the dormitory officer or supervisor about any personal problems which might arise. If the problem cannot be resolved at this level, the inmate may submit his concerns in writing on Form DC6-236, Inmate Request, to the shift supervisor officer in charge or program director, or continue with the official grievance process in accordance with Chapter 33-103, F.A.C. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.009, Formerly 33-506.209, Amended.

33-601.241 Basic Training Program – Discipline.

(1) Alternative Training.

(a) Any staff member of the basic training program, with the approval of the supervisor, has the authority to implement any of the following alternative training measures to individual inmates or groups of inmates assigned to the basic training program:

(a) through (e) renumbered 1. through 5. No change.

(b) The staff member implementing the alternative training measure shall document such action on Form DC5-603, Alternative Training. Form DC5-603 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

(2) Review Team. ~~In addition to the responsibilities specified in Rules 33-601.301-601.314, F.A.C.,~~ The review team is authorized to impose any alternative training procedures as well as any of the following disciplinary measures:

(a) through (c) No change.

(3) Disciplinary Team. The disciplinary team is authorized to impose any discipline, including alternative training, which does not exceed 30 days disciplinary confinement and loss of gain time as specified in Rules 33-601.301-601.314, F.A.C. Upon completion of the disciplinary confinement period, inmates shall be returned to Phase I of the basic training program for completion ~~or. Inmates who have committed or threatened to commit violent acts shall be terminated from the program and returned to general population in order to complete the remainder of their sentences.~~

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.012, Amended 3-13-01, Formerly 33-506.211, Amended.

33-601.242 Removal from Basic Training Program.

(1) An inmate can be removed from the basic training program for health reasons, classification reassignment in accordance with Chapter 33-601, F.A.C., modification or expiration of sentence or when such removal is in the best interest of the inmate or the security of the institution.

(2) The classification officer shall recommend r~~Removal by docketing the inmate's case for review shall be recommended~~ by the ICT by using Form DC6-120, Inmate Classification Team Docket. Form DC6-120 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 ~~who shall forward a teletype to the SCO.~~ The inmate will not be removed from the basic training program until the SCO has approved the inmate's removal and transfer from the program.

(3) An inmate who has committed or threatened to commit violent acts will be terminated from the program and returned to an appropriate facility ~~general population~~ in order to complete the remainder of his or her sentence.

(4) In all cases, the sentencing court or other releasing authority shall be immediately notified of the inmate's removal from the program by the ICT.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 944.09, 958.04, 958.045 FS. History--New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.013, Amended 3-13-01, Formerly 33-506.212, Amended

33-601.243 Basic Training Program – Employee Standards of Appearance, Conduct and Fitness.

(1) through (5) No change.

~~(6) Employees assigned to the basic training program shall use tobacco products only in areas which are specifically approved pursuant to the department's smoking policy as set forth in Rule 33-401.401, F.A.C.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.014, Formerly 33-506.213, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2001

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Certificate of Need Application Procedures
RULE NO.: 59C-1.008

PURPOSE AND EFFECT: The agency is revising the batching cycles for comparative reviews established in s. 59C-1.008(1)(g), F.A.C., as a result of the moratorium created by Section 52 of Chapter 2001-45, Laws of Florida. That legislation established a moratorium until July 2006 for certificate of need (CON) approval of any additional community nursing home beds that would be licensed under Chapter 400, F.S. As a consequence, the agency is no longer projecting future need for additional Chapter 400 community nursing home beds, and no fixed need pools (FNPs) will be published.

Effective beginning in 2002, to establish a more evenly distributed workload for agency review staff, several types of projects currently reviewed according to the batching cycles for "hospitals and other projects" will be moved to the batching cycles currently established for "nursing facilities." For these projects, the batching cycles currently scheduled to begin on January 25, 2002 will instead begin on April 12, 2002, and the dates in the current calendar established for nursing facilities

will be used thereafter. The proposals affected by this change are: open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation, hospice programs, hospice inpatient beds, and intermediate care facilities for the developmentally disabled. Batching cycles for all other projects currently included in "hospitals and other projects" remain unchanged. Review of projects for hospital-based skilled nursing units (SNUs) and projects for Chapter 400, F.S., community nursing homes will continue according to the cycles currently established for nursing facilities.

The proposed amendments also add a batching cycle calendar for 2003, consistent with the proposed changes.

SUMMARY: Modification of the batching cycle calendar in response to the moratorium on approval of additional Chapter 400, F.S., community nursing home beds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.039(1) FS., s. 52, Ch. 2001-45, Laws of Florida.

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: 2:00 p.m., December 4, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Davis, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.008 Certificate of Need Application Procedures.

(1) Letters of Intent and applications subject to comparative review shall be accepted in two batching cycles annually each for hospital beds and facilities ~~hospital projects~~, and for other beds and programs ~~nursing facility projects~~, as specified in paragraph (g) of this subsection. The category "hospital beds and facilities" includes proposals for new hospital facilities, replacement hospital facilities, acute care beds, neonatal level II and level III beds, hospital inpatient psychiatric beds, hospital inpatient substance abuse beds, comprehensive medical rehabilitation beds, and beds for long term care hospitals. The category "other beds and programs" includes proposals for open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation, distinct-part skilled nursing unit (SNU) beds, community nursing home projects, hospice programs, hospice inpatient

~~beds, and intermediate care facilities for the developmentally disabled. All other projects subject to comparative review shall be reviewed in the hospital batching cycle. "All other projects" include projects by or for hospices and intermediate care facilities for the developmentally disabled.~~

(a) through (f) No change.

(g) Applications Subject to Comparative Review-Batching Cycles. In order that applications pertaining to similar types of services or facilities affecting the same service district or subdistrict may be considered in relation to each other for purposes of comparative review, letters of intent and applications shall be received by the agency no later than dates prescribed in the following schedule:

Hospitals and Other Projects	
1st Batching Cycle—2000	
Summary Need Projections Published in F.A.W.	4-28-00
Letter of Intent Deadline	2-14-00
Application Deadline	3-15-00
Completeness Review Deadline	3-22-00
Application Omissions Deadline	4-19-00
Agency Initial Decision Deadline	6-16-00
Hospitals and Other Projects	
2nd Batching Cycle—2000	
Summary Need Projections Published in F.A.W.	7-28-00
Letter of Intent Deadline	8-14-00
Application Deadline	9-13-00
Completeness Review Deadline	9-20-00
Application Omissions Deadline	10-18-00
Agency Initial Decision Deadline	12-15-00
Hospitals and Other Projects	
1st Batching Cycle—2001	
Summary Need Projections Published in F.A.W.	1-26-01
Letter of Intent Deadline	2-12-01
Application Deadline	3-14-01
Completeness Review Deadline	3-21-01
Application Omissions Deadline	4-18-01
Agency Initial Decision Deadline	6-15-01
Hospitals and Other Projects	
2nd Batching Cycle – 2001	
Summary Need Projections Published in F.A.W.	7-27-01
Letter of Intent Deadline	8-13-01
Application Deadline	9-12-01
Completeness Review Deadline	9-19-01
Application Omissions Deadline	10-17-01
Agency Initial Decision Deadline	12-14-01

<u>Hospital Beds and Facilities Hospitals and Other Projects</u>	
<u>1st Batching Cycle – 2002</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>1-25-02</u>
<u>Letter of Intent Deadline</u>	<u>2-11-02</u>
<u>Application Deadline</u>	<u>3-13-02</u>
<u>Completeness Review Deadline</u>	<u>3-20-02</u>
<u>Application Omissions Deadline</u>	<u>4-17-02</u>
<u>Agency Initial Decision Deadline</u>	<u>6-14-02</u>
<u>Hospital Beds and Facilities Hospitals and Other Projects</u>	
<u>2nd Batching Cycle – 2002</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>7-26-02</u>
<u>Letter of Intent Deadline</u>	<u>8-12-02</u>
<u>Application Deadline</u>	<u>9-11-02</u>
<u>Completeness Review Deadline</u>	<u>9-18-02</u>
<u>Application Omissions Deadline</u>	<u>10-16-02</u>
<u>Agency Initial Decision Deadline</u>	<u>12-13-02</u>
<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>1-24-03</u>
<u>Letter of Intent Deadline</u>	<u>2-10-03</u>
<u>Application Deadline</u>	<u>3-12-03</u>
<u>Completeness Review Deadline</u>	<u>3-19-03</u>
<u>Application Omissions Deadline</u>	<u>4-16-03</u>
<u>Agency Initial Decision Deadline</u>	<u>6-13-03</u>
<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>7-25-03</u>
<u>Letter of Intent Deadline</u>	<u>8-11-03</u>
<u>Application Deadline</u>	<u>9-10-03</u>
<u>Completeness Review Deadline</u>	<u>9-17-03</u>
<u>Application Omissions Deadline</u>	<u>10-15-03</u>
<u>Agency Initial Decision Deadline</u>	<u>12-12-03</u>
<u>Nursing Facilities</u>	
<u>1st Batching Cycle—2000</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>4-14-00</u>
<u>Letter of Intent Deadline</u>	<u>5-01-00</u>
<u>Application Deadline</u>	<u>5-31-00</u>
<u>Completeness Review Deadline</u>	<u>6-07-00</u>
<u>Applicant Omissions Deadline</u>	<u>7-05-00</u>
<u>Agency Initial Decision Deadline</u>	<u>9-01-00</u>
<u>Nursing Facilities</u>	
<u>2nd Batching Cycle—2000</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>10-13-00</u>
<u>Letter of Intent Deadline</u>	<u>10-30-00</u>
<u>Application Deadline</u>	<u>11-29-00</u>
<u>Completeness Review Deadline</u>	<u>12-06-00</u>
<u>Applicant Omissions Deadline</u>	<u>1-03-01</u>
<u>Agency Initial Decision Deadline</u>	<u>3-02-01</u>

Nursing Facilities

1st Batching Cycle – 2001

Summary Need Projections Published in F.A.W.	4-13-01
Letter of Intent Deadline	4-30-01
Application Deadline	5-30-01
Completeness Review Deadline	6-06-01
Applicant Omissions Deadline	7-05-01
Agency Initial Decision Deadline	8-31-01

Nursing Facilities

2nd Batching Cycle – 2001

Summary Need Projections Published in F.A.W.	10-12-01
Letter of Intent Deadline	10-29-01
Application Deadline	11-28-01
Completeness Review Deadline	12-05-01
Applicant Omissions Deadline	1-02-02
Agency Initial Decision Deadline	3-01-02

Other Beds and Programs Nursing Facilities

1st Batching Cycle – 2002

Summary Need Projections Published in F.A.W.	4-12-02
Letter of Intent Deadline	4-29-02
Application Deadline	5-29-02
Completeness Review Deadline	6-05-02
Applicant Omissions Deadline	7-03-02
Agency Initial Decision Deadline	8-30-02

Other Beds and Programs Nursing Facilities

2nd Batching Cycle – 2002

Summary Need Projections Published in F.A.W.	10-11-02
Letter of Intent Deadline	10-28-02
Application Deadline	11-27-02
Completeness Review Deadline	12-04-02
Applicant Omissions Deadline	1-02-03
Agency Initial Decision Deadline	2-28-03

Other Beds and Programs

1st Batching Cycle – 2003

Summary Need Projections Published in F.A.W.	4-11-03
Letter of Intent Deadline	4-28-03
Application Deadline	5-28-03
Completeness Review Deadline	6-04-03
Applicant Omissions Deadline	7-02-03
Agency Initial Decision Deadline	8-29-03

Other Beds and Programs

2nd Batching Cycle – 2003

Summary Need Projections Published in F.A.W.	10-10-03
Letter of Intent Deadline	10-27-03
Application Deadline	11-26-03
Completeness Review Deadline	12-03-03
Applicant Omissions Deadline	1-02-04
Agency Initial Decision Deadline	2-27-04

(h) through (6) No change.

Specific Authority 408.034(5), 408.15(8) FS. Law Implemented 408.033, 408.037, 408.038, 408.039 FS. History–New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 4-1-82, 7-29-82, 9-6-84, Formerly 10-5.08, Amended 11-24-86, 3-2-87, 6-11-87, 11-17-87, 3-23-88, 5-30-90, 12-20-90, 1-31-91, 9-9-91, 5-12-92, 7-1-92, 8-10-92, Formerly 10-5.008, Amended 4-19-93, 6-23-94, 10-12-94, 10-18-95, 2-12-96, 7-18-96, 9-16-96, 11-4-97, 7-21-98, 12-12-00, 4-2-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jeff Gregg, Chief, Health Facilities Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, Secretary, Agency for Health Care Administration

DATA PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2001

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Independent Laboratory Services
RULE NO.: 59G-4.190

PURPOSE, EFFECT AND SUMMARY: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Independent Laboratory Services Coverage and Limitations Handbook, April 2001. The handbook changes include the January 2001 Independent Laboratory Services Fee Schedule, and a revision of the technical and professional components of laboratory services. The effect will be to incorporate by reference in the rule the current Florida Medicaid Independent Laboratory Services Coverage and Limitations Handbook.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost 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: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., December 3, 2001

PLACE: Agency for Health Care Administration, 2728 Ft. Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.190 Independent Laboratory Services.

(1) This rule applies to all freestanding clinical laboratories enrolled in the Medicaid program under Section 409.905(7), F.S.

(2) All independent laboratory providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Independent Laboratory Coverage and Limitations Handbook, April 2001 April 2000, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in Chapter 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905(7), 409.908, 409.9081, 409.913 FS. History—New 1-1-77, Amended 10-11-81, Formerly 10C-7.41, Amended 6-30-92, Formerly 10C-7.041, Amended 9-28-94, 1-9-96, 10-20-96, 9-14-97, 3-22-00, 5-16-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Rinaldi

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, AHCA Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 6, 2001

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Portable X-ray Services RULE NO.: 59G-4.240

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook, April 2001. The handbook changes include the January 2001 Portable X-ray Services Fee Schedule, clarification of the professional and technical components of portable x-ray services and a revision of the components of a request for portable x-ray services. The effect will be to incorporate by reference in the rule the current Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook.

SUMMARY: Portable X-ray Services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

Any person who wishes to provide informaiton 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: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., December 3, 2001

PLACE: Agency for Health Care Administration, 2728 Ft. Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.240, Portable X-ray Services.

(1) No change.

(2) All portable x-ray providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Portable X-ray Services Coverage and Limitations Handbook, April 2001 April 1999, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up, which is incorporated by reference in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905(40), 409.908, 409.9081, 409.913 FS. History—New 10-11-81, Formerly 10C-7.411, Amended 7-1-92, Formerly 10C-7.0411, Amended 5-16-94, 1-9-96, 10-20-96, 8-27-97, 3-22-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Rinaldi

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, AHCA Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 6, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: Definitions RULE CHAPTER NO.: 60L-29

RULE TITLES: Scope and Purpose RULE NOS.: 60L-29.001

Definitions 60L-29.002

PURPOSE AND EFFECT: To adopt definitions of words and phrases are used in ten other chapters of new personnel rules that the Department proposes to adopt simultaneously with this chapter.

SUMMARY: Definitions of words and phrases used in rules governing the Department’s Personnel Management System.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.201(1), 110.403(1), 110.605(1) FS.

LAW IMPLEMENTED: 110.1055, 110.201, 110.403, 110.605 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida, 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-29.001 Scope and Purpose.

This chapter defines terms and phrases used throughout the chapters in the 60L series, F.A.C. In this series, terms and phrases shall have the meanings defined in Chapter 110, Florida Statutes, or in this chapter. Terms and phrases not defined by statute or rule shall be construed according to the technical meaning recognized by human resources professionals or, absent a technical meaning, their plain meaning, and in all cases with the objective of advancing the purpose of the rule in which they appear.

Specific Authority 110.1055 FS. Law Implemented 110.1055 FS. History—New

60L-29.002 Definitions.

(1) “Department” means the Department of Management Services.

(2) “DROP” means the Deferred Retirement Option Plan created by section 121.091(13), Florida Statutes.

(3) “FLSA” means the federal Fair Labor Standards Act of 1938, as amended, codified at 29 U.S.C. §§ 201-219.

(4) “FMLA” means the Family and Medical Leave Act of 1993, as amended, codified at 5 U.S.C. §§ 6381-6387 and 29 U.S.C. §§ 2601-2654.

(5) “State Personnel System” means the employment system comprised of positions within the career service, selected exempt service, or senior management service, and within all agencies except those in the State University System, the Florida Lottery, the Legislature, the Justice Administrative Commission, or the State Courts System.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.201, 110.403, 110.605 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: Personnel Programs and Records **RULE CHAPTER NO.:** 60L-30

RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-30.001
General Responsibilities	60L-30.002
Employee Records	60L-30.003
Attendance and Leave Records	60L-30.004
Position Classification Records	60L-30.005
Personnel Reports	60L-30.006
Technical Assistance; Oversight	60L-30.007

PURPOSE AND EFFECT: To adopt rules governing administration of the State Personnel System applicable to officers and employees of the Executive Branch except the State University System and the Department of the Lottery.

SUMMARY: Delegation of authority to the agencies to administer the personnel programs required by statutes and rules, and rules on the other subjects indicated by the individual rule titles listed above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.201(1), 110.403(1), 110.605(1) FS.

LAW IMPLEMENTED: 110.105, 110.201, 110.403, 110.605, FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-30.001 Scope and Purpose.

This chapter sets forth the rules governing administration of the personnel program, including personnel records and reports, relating to the State Personnel System.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.002 General Responsibilities.

(1) Each agency is responsible for the proper administration of the personnel rules within the agency.

(2) Each agency shall designate employees or entities authorized to administer the personnel programs required by Chapter 110, Florida Statutes, and associated Department rules.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.003 Employee Records.

(1) The records that are to be made a part of the employee's individual personnel file shall be reviewed and approved by the agency personnel officer or representative for entry into the personnel file.

(2) An individual personnel file shall be maintained for each employee. The file shall include, but not be limited to, the following:

- (a) A record of the employment application.
- (b) A record of all disciplinary actions.
- (c) A record reflecting each change in pay, appointment, or status, and any other personnel transactions pertinent to the employee's employment.
- (d) A record of any official correspondence directly related to the employee's record, excluding subjective comments from an anonymous source.

(e) A record of the executed Oath of Loyalty required by section 876.05, Florida Statutes.

(f) A record of the employee's performance reviews and related documents.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.004 Attendance and Leave Records.

Attendance and leave records shall be established and maintained for all employees and shall include, but not be limited to, annual leave earned, used, and accrued; sick leave earned, used, and accrued; compensatory leave credits used

and accrued; any leave of absence with or without pay; overtime worked; any cash payments for overtime; and such other records as prescribed by the Department or as required under the FLSA.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.005 Position Classification Records.

(1) A record of each position description prepared in accordance with Rule 60L-31.004 shall be maintained on a current basis for each established position.

(2) Summary and detailed organization charts shall be maintained by each agency. When changes in the classification of any position or in the structure of the organization occur, such changes shall be reflected on the organization chart.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.006 Personnel Reports.

In addition to specific personnel reports that are required by other provisions of this chapter, the Department may require the submission of any other reports deemed necessary.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

60L-30.007 Technical Assistance; Oversight.

(1) The Department shall provide, or arrange for an outside vendor to provide, technical assistance to the employing agencies in carrying out the requirements of these rules.

(2) The Department shall provide oversight of the employing agencies' actions in carrying out the rules of the State Personnel System.

(a) Reports of the Department's review shall be designed to assist the employing agencies to improve their operating procedures and to comply with the requirements of these rules.

(b) A Department representative shall discuss each report with the official whose office was reviewed, and shall submit to that official a list of findings.

(c) Within thirty days after the receipt of the report and list of findings, the official whose office was reviewed shall submit to the Department a written explanation or rebuttal concerning all adverse findings, including corrective action to be taken.

Specific Authority 110.1055, 110.201(1), 110.403(1), 110.605(1) FS. Law Implemented 110.105, 110.201, 110.403, 110.605 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: Classification Plan
RULE CHAPTER NO.: 60L-31
RULE TITLES: Scope and Purpose, General Responsibilities, Class Specifications, Position Descriptions, Exercise of Classification Authority
RULE NOS.: 60L-31.001, 60L-31.002, 60L-31.003, 60L-31.004, 60L-31.005

PURPOSE AND EFFECT: To establish a uniform classification plan for the employees of state agencies in the Executive Branch except the State University System and the Department of the Lottery.

SUMMARY: Policies and procedures for class titles and codes; requirement of a position numbering system and position designations; requirements for class specifications including minimum qualifications for each class; requirements for position descriptions; and delegation of authority to the agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS.

LAW IMPLEMENTED: 110.131, 110.201, 110.207, 110.403, 110.605 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001
PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-31.001 Scope and Purpose.

This chapter sets forth the rules for the establishment, maintenance, and administration of the uniform classification plan applicable to all positions in the State Personnel System.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History-New

60L-31.002 General Responsibilities.

(1) Official class titles and class codes shall be used on all personnel and payroll records and in the preparation of legislative and operating budgets.

(2) Positions shall not be allocated to a class that has not been approved as part of the classification plan.

(3) The Department shall prescribe, and each employing agency shall maintain, a position numbering system that identifies each individual position.

(4) The Department shall designate all classes as excluded or included (in FLSA terms, exempt or non-exempt). If any agency finds that a position allocated to a class designated as excluded does not meet the FLSA requirements for exemption, the agency shall:

(a) If the position is in the selected exempt service or senior management service, notify the Department in writing and await advice on what action is necessary to comply with the FLSA; or

(b) In all other instances, either remove the duties that prevent the position from being deemed to fall within a class designated as excluded, or reallocate the position to a class designated as included.

(5) The Department shall be responsible for the following.

(a) The overall coordination, review, and maintenance of the classification plan.

(b) The establishment of new classes and the revision or abolishment of existing classes.

(c) The determination of all designations for the classes in the classification plan.

(d) The conducting of periodic studies and surveys to assure that the classification plan is maintained on a current basis.

(e) The post audit of the action taken by an employing agency in classifying or reclassifying positions.

(f) The development of model forms to be used by all agencies in describing essential functions of the position, assigned duties, supervisory relationships, special skills required, and other information necessary to determine the proper classification of each position. When deemed necessary for the maintenance of the classification plan, the Department may require submission of forms or any other related information.

(6) The Department shall assign positions to the selected exempt service and senior management service in accordance with the specific designations under Section 110.205, Florida Statutes, and the organization structures determined in accordance with Chapters 20 and 216, Florida Statutes, or other applicable law. The Department may assign positions that are not so designated by taking into account as a minimum:

(a) The authority of the position to make final policy decisions, the nature of such decisions, and the effect of such policy decisions on the agency's operation and effectiveness;

(b) The effect of independently made policy decisions on the public or other agencies;

(c) The size and nature of the total budget, including the administrative operating budget, for which the position has final responsibility;

(d) The total number of professional, supervisory, and managerial employees, including salaried, contract, consultant, volunteer, and OPS, for which the position has managerial responsibility;

(e) The organization level of the position in the agency; and

(f) The limit of positions to be included as specified in Section 110.403(1)(a), Florida Statutes, is not exceeded.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History—New

60L-31.003 Class Specifications.

(1) Each class specification shall contain the allocation factors and class concept for positions that will be allocated to the class. While the exact duties and responsibilities of positions in a class may differ, all positions allocated to a class shall be sufficiently similar as to kind of work, level of difficulty or responsibility, and qualification requirements to warrant like treatment.

(2) The Department shall determine the following for each class of positions.

(a) The established date.

(b) The effective date.

(c) The assigned pay grade.

(d) The retirement category.

(e) The designation for determining how overtime is administered.

(f) The Equal Employment Opportunity category.

(g) The proposed collective bargaining unit designation.

(h) The probationary period (if necessary).

(i) Minimum qualifications (if necessary).

(3) Some class specifications may include minimum qualifications. When establishing minimum qualifications for class specifications, the Department shall apply the following factors.

(a) Minimum qualifications shall not be recommended or determined by the level of pay that is desired for the class.

(b) Minimum qualifications shall be structured, where possible, to facilitate the progression of employees from lower to higher or lateral levels of work without artificial barriers.

(c) Minimum qualifications shall be the lowest qualification needed for eligibility for the class and may include a test as a part of the minimum qualifications. Formal education with no substitution of experience shall not be required unless it can be clearly demonstrated that such education is the only means of obtaining the knowledge, skills, and abilities necessary to perform the work of the class. Likewise, formal education will be allowed to substitute for experience unless experience is the only means of obtaining the knowledge, skills, and abilities necessary to perform the work of the class. Any qualifications required by law will be noted under the special note section in the class specification. Additionally, the agency may require any special license or credential deemed necessary for an individual position.

(d) Minimum qualifications shall not include age, sex, or physical requirements except when they are justifiable occupational qualifications essential for the work to be performed.

(e) Minimum qualifications shall not include statements related to conduct or reputation of applicants except as required by law.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History—New

60L-31.004 Position Descriptions.

(1) The employing agency shall maintain a current position description for each established position authorized for the agency, prepared in accordance with this rule. The position description shall include an accurate description of the duties and responsibilities normally assigned the position, and the job related knowledge, skills, and abilities required for the position. The current position description shall serve as the official record of the duties and responsibilities assigned the position and shall be used to officially classify the position.

(2) When a position description is prepared, it shall be completed and signed by the appropriate authority as determined by the agency to certify that the duties described are accurate and reflect the responsibilities officially assigned the position. The agency shall make the current approved position description available to the incumbent of the position.

(3) Each position description and any attached information shall be maintained by the employing agency and a copy shall be furnished each incumbent of the position.

(4) The agency shall furnish to the Department a copy of each position description for selected exempt service and senior management service positions.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History—New

60L-31.005 Exercise of Classification Authority.

(1) Each employing agency shall have the authority and responsibility to classify positions authorized by the Legislature or authorized pursuant to Chapter 216, Florida Statutes, to classify positions that are added in lieu of positions deleted pursuant to Chapter 216, Florida Statutes, to reclassify established positions, and to correct errors in classification; provided, that absent an express written delegation of authority by the Department, agencies shall not have authority to (a) classify positions within the selected exempt service or senior management service or (b) reclassify positions from selected exempt service or senior management service to career service.

(2) Classification actions taken by an employing agency shall be within classes of positions established by the Department, shall be in accordance with the concepts and allocation factors for the classes established by the Department, and shall be in accordance with these rules.

(3) Any classification action to be taken by an employing agency shall be initiated by preparation of a current position description.

(a) If Office of Policy and Budget approval is required to effect a classification action, the employing agency shall not effect the classification action until the required approval has been obtained.

(b) An agency requesting a new class or class revision shall furnish to the Department position descriptions, a proposed class specification, and any other material the agency believes justifies the request.

(4) Classification actions of the employing agency shall be subject to post audit review by the Department. If the Department determines that the duties and responsibilities officially assigned the position are not in accordance with the allocation factors contained in the Department's class specification, the action may be changed as provided in Chapter 110, Florida Statutes.

(5) When a position is affected by a classification action, the pay for the employee filling that position shall be determined in accordance with the provisions of Chapter 60L-32, F.A.C.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Compensation and Benefits	60L-32
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-32.001
General Responsibilities	60L-32.002
Determining Salary upon Appointment	60L-32.003
Increases to Base Rate of Pay	60L-32.0031
Salary Additives	60L-32.0032
Reduction in Pay	60L-32.0033
Downward Salary Range Adjustments	60L-32.0034
Effective Date of Changes to Base Rate of Pay	60L-32.0035
Computation of Hourly Rate	60L-32.004
Dual Employment and Compensation	60L-32.005
Perquisites	60L-32.006
Benefits	60L-32.007
Other Personal Services	60L-32.008

PURPOSE AND EFFECT: To establish a uniform plan for compensation and benefits available to employees of state agencies in the Executive Branch except the State University System and the Department of the Lottery; to establish policies and procedures for employees paid from other personal services (OPS) appropriations; and to provide policies and procedures applicable to employees of all branches of state government for implementation of the program of monetary benefits for employees who adopt certain children pursuant to Section 110.152, Florida Statutes.

SUMMARY: Department and agency responsibilities regarding compensation and benefits available to employees of the State Personnel System, including rules governing the following: salary upon appointment and later adjustments; dual employment; and perquisites. Monetary benefits for adopting children. Compensation of OPS employees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.15201, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1), 216.262(1)(f), (g) FS.

LAW IMPLEMENTED: 110.131, 110.152, 110.201, 110.209, 110.403, 110.603, 216.262 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001
PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-32.001 Scope and Purpose.

This chapter sets forth the rules and policies governing compensation and benefits available to all classes of positions in the State Personnel System. The rule governing prerequisites applies to employees of the executive branch. The rule governing adoption benefits applies to all employees of the state. The rule governing Other Personal Services applies to all agencies as defined by section 110.131(1)(a), Florida Statutes.

Specific Authority 110.1055, 110.131(3), 110.15201, 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1), 216.262(1)(f), 216.262(1)(g) FS. Law Implemented 110.131, 110.152, 110.201, 110.209, 110.403, 110.603, 216.262(1)(f), 216.262(1)(g) FS. History-New

60L-32.002 General Responsibilities.

The Department shall develop and maintain a pay plan and a schedule of salary ranges. Agencies shall compensate employees within the appropriate ranges, subject to increases to the base rate of pay, salary additives, and lump-sum bonus payments. Without prior Department approval, agencies shall not deviate from paying employees in accordance with these rules because of budgetary limitations or any other reason. Payment of salaries is, however, contingent upon funds being available in the agencies' approved budgets and in compliance with applicable law.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History-New

60L-32.003 Determining Salary upon Appointment.

(1) Upon appointment, an agency shall set an employee's base rate of pay within the salary range for the class to which appointed; provided, that an employee given trainee status shall be paid during the training period in accordance with the individual training scheduled, subject to FLSA requirements.

(2) A reinstated employee shall be treated, for the purposes of pay and benefits, as if the employee had been continuously employed.

(3) Leave of Absence Without Pay – An employee returning from an authorized leave of absence without pay shall be paid at the same base rate of pay being paid at the time leave was granted; provided, that upon return the employee shall receive any adjustments made in the salary range for the class to which the employee is assigned and any mandatory salary adjustments or increases granted during such absences.

In determining the amount of adjustment, the implementation instructions applied to all employees in that class shall be followed.

(4) An agency shall notify an employee of any changes made to the employee's pay.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History-New

60L-32.0031 Increases to Base Rates of Pay.

(1) An agency may increase an employee's base rate of pay within the established pay range at any time, based upon documented justification, provided funds are available for the increase, and the increase is not specifically prohibited by law.

(2) When the Department has reassigned a class within the career service to a pay grade having a higher minimum salary, each agency shall adjust the base rate of pay of each employee in the class. The adjustment shall be in an amount equal to the amount by which the minimum salary for the class is adjusted, provided the pay adjustment does not place the employee's base rate of pay above the new maximum of the pay grade for the class. In such cases the employee's base rate of pay shall be adjusted to the new maximum of the pay grade.

(3) The Department may adjust any or all salary ranges in the selected exempt service or senior management service classification and pay plans at any time the Department deems appropriate. When the Department makes such adjustments, it shall instruct how employees' salaries are affected.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History-New

60L-32.0032 Salary Additives.

(1) Salary additives are temporary increases to the base rate of pay. The Department shall approve salary additives for specific classes within the career service. Employees filling positions for which a salary additive has been approved shall receive the salary additive. A salary additive shall be removed or adjusted upon a change in the conditions upon which it was granted.

(2) For career service employees, salary additives include the following:

(a) Shift Differential Additive – An additive for a class when justified by competitive labor practices in accordance with Department guidelines.

(b) On-Call Additive – Agencies may approve positions to be placed on-call. Employees placed on-call shall be compensated in accordance with the collective bargaining unit agreement to which they are assigned. If not covered by a collective bargaining agreement, the employee shall be compensated as determined by the agency. Agencies may assign individual positions this additive when all of the following conditions are satisfied.

1. The employee has been instructed by the appropriate management to remain available to work during an off duty period.

2. The employee must leave word where the employee may be reached by phone or electronic signaling device.

3. The employee is available to return to the work location on short notice to perform assigned duties.

(c) Hazardous Duty Additive – An agency may approve this additive for specific positions within a class when it can be demonstrated that such positions are required to perform duties and responsibilities that are exceptionally hazardous or dangerous. Such duties and responsibilities shall not be customarily associated with all positions in the class.

(d) Leadworker Additive – An agency may approve this additive for individuals with sufficient knowledge and experience to lead others within the same class. The leadership does not include evaluating other’s performance or administering disciplinary actions, and it does not justify reclassification. Duties must be reflected on the position description and in accordance with Chapter 60L-31.

(e) Temporary Special Duty Additive – An agency may approve this additive, for a period of ninety days, when a position has been assigned temporary duties and responsibilities not customarily assigned to the position. An agency may request Office of Policy and Budget approval to extend the period.

(f) Trainer Additive – An agency may approve this additive when an employee is assigned the responsibility to provide on-the-job training to other employees as part of an agency-approved formalized training program; provided, that such training is not part of the customarily assigned duties of the class.

(g) Competitive Area Differential Additive – An additive for a class based on geographical, localized recruitment, turnover, or competitive pay problems. This additive shall apply to all positions in the approved class within the geographical area for which the Department approves the additive.

(h) Coordinator Additive – An agency may approve this additive for individuals with sufficient knowledge and experience to coordinate others across classes. The coordination does not justify reclassification. Duties must be reflected on the position description and in accordance with Chapter 60L-31.

(i) Critical Market Pay Additive – An agency shall not grant this additive without Department approval. In considering requests for this additive, the Department shall conduct all relevant analyses to determine the need for pay adjustments for particular classes. An agency requesting this additive shall assist the Department in any analyses the Department requests.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History–New

60L-32.0033 Reduction in Pay.

An agency may reduce an employee’s base rate of pay even if reduction is not required by this chapter. The following actions shall not constitute a reduction in pay: removal of salary additives, or actions to correct overpayments resulting from erroneous application of the Florida Statutes, legislative appropriation, Department rules, or agency pay procedures.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History–New

60L-32.0034 Downward Salary Range Adjustments.

The Department may reassign a class to a lower salary range, or decrease the minimum or maximum of a salary range for a class, in which cases the Department shall instruct agencies how to implement the changes.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History–New

60L-32.0035 Effective Date of Changes to Base Rate of Pay.

The effective date of changes to the base rate of pay provided for in this chapter shall be:

- (1) the effective date specified by legislative action; or
- (2) if no effective date is specified by legislative action, the effective date specified by the Department; or
- (3) if no effective date is specified by the Department or legislative action, the date the action is taken by the agency. An agency shall not establish a retroactive effective date for any change to a base rate of pay, unless it relates to an employee in the senior management service, in which case the change may be retroactive.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603, 215.425 FS. History–New

60L-32.004 Computation of Hourly Rate.

(1) All pay is computed on the basis of 2080 work hours annually, regardless of whether an employee is paid biweekly or monthly.

(2) Calculate hourly base rate of pay as follows:

$$\text{Biweekly Base Rate of Pay} \times 26 = \text{Hourly Base Rate of Pay} \times 2080 \text{ hours}$$

$$\text{Monthly Base Rate of Pay} \times 12 = \text{Hourly Base Rate of Pay} \times 2080 \text{ hours}$$

In processing pay changes, all salary additives shall be removed prior to calculating any changes to an employee’s base rate of pay.

(3) Calculate hourly regular rate of pay as follows:

Biweekly Regular Rate of Pay x 26 = Hourly Regular Rate of Pay
2080 hours

Monthly Regular Rate of Pay x 12 = Hourly Regular Rate of Pay
2080 hours

(4) If an employee is paid at different rates of pay during a pay period, the employee's hourly pay at each rate shall first be determined as demonstrated above. Next, the number of hours worked at each hourly rate shall be multiplied by that hourly rate and the two amounts shall be added to obtain the total amount to be paid during that pay period. To determine the weighted average hourly rate of pay for the pay period, the total pay for that pay period is divided by the total hours worked during the pay period.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History--New

60L-32.005 Dual Employment and Compensation.

(1) Agency approval is required for all requests for dual employment and compensation, including, but not limited to:

(a) Employment in excess of one full-time equivalent established position;

(b) Compensation of an employee simultaneously from any appropriation other than salaries; and

(c) Compensation of an employee simultaneously by more than one agency.

(2) In considering requests for dual employment and compensation, agencies shall apply the following criteria.

(a) Compensation must be commensurate with assigned duties.

(b) There must be a demonstrated need for the proposed action.

(c) The services must not violate legislative intent.

(3) The employee seeking dual employment and compensation shall initiate a Dual Employment and Compensation Request (Form DMS/HRM/DUAL eff. 1/1/02) in accordance with the instructions on the form.

(4) An employee of an agency who renders services to another agency shall not be paid an honorarium for such services, except when required by law to be paid an honorarium. In such cases, the employee's salary shall be reduced by an amount equal to the honorarium received, unless the agency approves payment of both salary and honorarium in accordance with this rule.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.209(1)(c), 110.209(3), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.209, 110.403, 110.603 FS. History--New

60L-32.006 Perquisites.

(1) Without prior Department approval, or a delegation of authority to approve, agencies shall not furnish perquisites or sell goods or services to state employees. The Department's

primary criteria for approval are the ultimate benefit to the state and the exceptional or unique requirements of the position.

(2) Goods and services furnished or sold under this rule shall be considered as part of the employee's total compensation; therefore, the kind and value of goods and services shall be as uniform as practicable in similar situations. The value of goods and services shall not be used to compute the employee's base rate of pay or regular rate of pay unless specifically required by the Department to meet FLSA requirements.

(3) The following policies apply solely to sales of goods and services to state employees.

(a) The provisions of the law apply where items generally sold to the public are offered to state employees at a lower rate.

(b) Sale of goods and services to patients, inmates, or other persons who are not employees of the state shall not require approval under this rule.

(c) This rule does not govern the sale of state surplus property.

(d) In requesting approval of the sale of any goods or services, the agency head shall determine, as nearly as possible, the fair market value of the goods or services to be sold. The Department shall make the final decision as to the cost of the goods or services, but in no case shall a cost be established which is below the cost to the state for providing the goods or services.

(e) The selling price may be deducted from any amounts due by the state to any person receiving such goods and services. Receipts from such deductions, or other methods of payments, shall be accounted for by the employing agency.

(4) Agencies shall report to the Department, on a fiscal year basis the perquisites they have approved under their delegated authority.

Specific Authority 110.1055, 110.201(1)(a), 110.605(1) FS. Law Implemented 216.262(1)(f), 216.262(1)(g) FS. History--New

60L-32.007 Benefits.

(1) The rules in the 60P series of chapters govern the insurance benefits available to employees in the State Personnel System.

(2) The rules in the 60S series of chapters govern the retirement benefits available to employees in the State Personnel System.

(3) Adoption benefits are available to employees of the state as outlined below:

(a) Payment of benefits is contingent on funding.

(b) Benefits are available only for adoptions that become final after September 30, 2000.

(c) Benefits are available only for a child who is under the age of eighteen upon final order of adoption, unless the child is a special needs child as defined in section 110.152(b) of the Florida Statutes.

(d) An employee who adopts more than one child is eligible for benefits for each child.

(e) Payment of monthly installments shall begin in the calendar month immediately after the calendar month the lump sum payment is made.

(f) The benefit is a non-qualified plan under Section 125 of the Internal Revenue Code, subject to withholding taxes.

(g) If employment terminates, the monthly installments shall continue for the remainder of the benefits.

(h) The Department shall administer the funds appropriated for this benefit. The Department shall hold an annual open enrollment period for submission of applications between the first business day of April and the last business day of May. To apply for this benefit, the applicant shall fully complete and submit the Department's Application for Adoption Benefits Form (Form DMS/HRM/ADOPT, eff. 1/1/02), which is hereby incorporated by reference.

1. To complete Part II of the application, the applicant shall apply to his or her agency head, who, upon completion, shall return the original application to the applicant. The applicant is responsible for obtaining all certifications and supporting documentation necessary to complete the application. The applicant shall submit the original application and required documentation to the Department before the close of the annual open enrollment period. The Department shall return any application received outside the open enrollment period.

2. For multiple adoptions, the applicant shall submit a separate application for each child. If the final order of adoption lists all children, the applicant may submit one certified copy of the final order.

(i) The Department shall review all timely applications and determine who is eligible to receive the benefit. If funding is insufficient to pay the benefit to all eligible applicants, those with earlier final orders of adoption shall have priority. If final orders of adoption bear the same date, earlier received applications shall have priority. Eligible applicants who do not receive a benefit due to lack of funds shall submit a new application during the next annual open enrollment period, if they desire consideration for payment of the benefit from later appropriations.

Specific Authority 110.1055, 110.15201, 110.201(1), 110.2035(1), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.152, 110.201, 110.209, 110.403, 110.603 FS. History-New

60L-32.008 Other Personal Services.

(1) Notwithstanding anything in this Chapter 60L-32 to the contrary, employees paid from appropriations for other personal services are entitled only to the compensation expressly designated as available to them.

(2) The employing agency will determine the appropriate rate of pay; however, such payments shall be in compliance with the FLSA. Upon request, the Department shall help agencies determine how the FLSA applies to individual other personal services payments.

(3) Each agency shall maintain accurate records of all individuals paid from other personal services appropriations.

Specific Authority 110.1055, 110.131(3), 110.201(1) FS. Law Implemented 110.131, 110.201 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Appointments and Status	60L-33
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-33.001
General Principles	60L-33.002
Original Appointments	60L-33.003
Reinstatement	60L-33.0031
Shared Employment	60L-33.0032
Appointment of Veterans	60L-33.0033
Criteria for Executive Search Firms	60L-33.0034
Permanent Status	60L-33.004
Workforce Reduction and Employee Transition	60L-33.005
Other Personal Services Employment	60L-33.006
Volunteers	60L-33.007
Equal Employment Opportunity and Affirmative Action	60L-33.008

PURPOSE AND EFFECT: To adopt personnel rules providing policies and procedures on appointments of persons to positions and their status, to be applicable to state agencies and their employees in the Executive Branch except the State University System and the Florida Lottery.

SUMMARY: Types of status available upon hiring; minimum qualifications; military leave; training; return to work program; reinstatement; shared employment; veterans; criteria for executive search firms; workforce reduction and employee transition; other personal services (OPS); volunteers; equal employment opportunity; and affirmative action.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.131(3), 110.201(1), 110.21(2), 110.217(1)(a), 110.217(5), 110.403(1), 110.503(2), 110.605(1) FS.

LAW IMPLEMENTED: 110.131, 110.201, 110.21, 110.213, 110.2135, 110.217, 110.227, 110.403, 110.503, 110.605 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-33.001 Scope and Purpose.

This chapter sets forth rules governing:

- (1) Appointments to and status within the State Personnel System.
- (2) Other Personal Services employment.
- (3) Use of volunteers, and
- (4) Use of executive search firms.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.21(2), 110.217(1)(a), 110.217(5), 110.403(1), 110.503(2), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.21, 110.213, 110.2135, 110.217, 110.227, 110.403, 110.503, 110.605 FS. History—New

60L-33.002 General Principles.

- (1) Agencies shall appoint personnel only to established positions.
- (2) Agencies shall fill established positions with one of the following types of appointments: original, promotion, demotion, or reassignment. All non-career service appointments shall be original appointments.
- (3) Any person appointed to a position must meet any minimum qualifications established for the class and any required entry-level knowledge, skills, and abilities for the position, unless the appointment is with trainee or temporary status in accordance with Rule 60L-33.003(2)(d) or (e).
- (4) Employees on military leave shall be treated as if they had been continuously employed for purposes of seniority, status, pay, and other benefits.
- (5) An agency may make an acting appointment of a current state employee to fill a vacancy within the senior management service or the selected exempt service. The

employee shall continue to earn leave and receive benefits of the employee's permanent position. The agency may grant the employee a temporary salary increase during the acting appointment.

(6) Every employee not permanent in the career service shall serve at the pleasure of the agency and shall be subject to any personnel action, including but not limited to suspension, dismissal, reduction in pay, demotion, or reassignment, at the discretion of the agency. Except when taken with respect to a permanent career service employee, such personnel actions are exempt from the provisions of Section 110.227 and Chapter 120 of the Florida Statutes.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.217(1)(a), 110.217(5), 110.227(2), 110.403(1), 110.503(2), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.217, 110.227, 110.403, 110.503, 110.605 FS. History—New

60L-33.003 Original Appointments.

(1) All appointments to established positions shall be considered original appointments, except for the following within the career service: a promotion, demotion, or reassignment appointment within both (a) the same agency and (b) the same occupational group, as that term is used following approval and implementation of the classification and compensation program required by section 110.2035, Florida Statutes.

(2) Upon original appointment, an employee shall be given status in accordance with the following:

(a) Probationary Status – An employee appointed to fill a career service position shall be given probationary status, unless: the employee is moving from one career service position to another; the employee has permanent status before the move; and the move results from an event wholly beyond the employee's control, for example, where the Legislature reorganizes agencies without intending to affect employees' status. Rule 60L-33.004 governs changes from probationary status to permanent status.

(b) Exempt Status – An employee appointed to fill a position not in the career service shall be given exempt status.

(c) Overlap Status – An employee shall be given overlap status when appointed to perform the duties of another employee in a filled position.

(d) Temporary Status – An employee shall be given temporary status when temporarily appointed to fill a vacant position. The appointment shall be for no more than 1040 hours during any twelve-month period, absent the Department's approval of a written request for extension.

(e) Trainee Status – An employee appointed to a position as a trainee shall be given trainee status in accordance with the trainee program developed by the agency. Upon successful completion of the trainee program, the employee may be appointed to a position in the same class requiring the same entry-level knowledge, skills, and abilities. An agency may approve appointments with trainee status in the following

programs, provided the listed criteria are satisfied and further provided that the agency maintains an outline of the proposed pay schedule for the training period, including justification for the proposed schedule.

1. Recruitment trainee.

a. The appointee has some of the education and experience required but does not possess all the required entry-level knowledge, skills, and abilities established for the position.

b. There are fewer than three available applicants who meet the minimum qualifications of the class and possess the required entry-level knowledge, skills, and abilities established for the position, or the candidate pool does not enable the agency to fulfill its affirmative action plan.

c. The agency can document the action taken to recruit qualified applicants.

d. The agency maintains an outline of the proposed training program, which shall normally be limited to a period not to exceed twelve months.

2. Cooperative Education Program.

a. The agency has on file a cooperative education agreement with the educational institution.

b. The student is enrolled in the cooperative education program of an eligible post-secondary educational institution, as listed in the Accredited Institutions of Post-Secondary Education publication.

c. The student's major coursework is related to the duties and responsibilities of the position to which appointed.

3. Vocational Rehabilitation or Blind Services Program.

a. The employee has been referred to the employing agency by the department and division responsible for vocational rehabilitation or the blind services program.

b. The agency maintains the agreement between itself and either the department and division responsible for vocational rehabilitation or the blind services program.

4. Agency Trainee Program.

a. The employee meets some, but not all, of the minimum qualifications and required entry-level knowledge, skills, and abilities.

b. The agency maintains an outline of the proposed training program.

5. Return-to-Work Program.

a. The employee is participating in the return-to-work program due to an inability to perform a previous position resulting from an injury covered by workers' compensation.

b. The employee has been referred by the department and division responsible for the return-to-work program.

c. The agency maintains the agreement between itself and the department and division responsible for the return-to-work program.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.217(1)(a), 110.217(5), 110.403(1), 110.503(2), 110.605(1) FS, Law Implemented 110.131, 110.201, 110.213, 110.2135, 110.217, 110.403, 110.503, 110.605 FS, History-New

60L-33.0031 Reinstatement.

(1) An employee may be reinstated when the employee returns to the same position and class within the same agency within thirty-one calendar days from the effective date of the resignation from employment in a career service position.

(2) A reinstated employee shall be treated, for the purpose of status, as if the employee had been continuously employed.

Specific Authority 110.1055, 110.201(1), 110.217(1), 110.217(5) FS, Law Implemented 110.201, 110.217 FS, History-New

60L-33.0032 Shared Employment.

(1) Agencies shall identify a shared employment position as a single position, which will retain its unity for purposes of classification, assignment to a pay grade, and other personnel transactions that apply to the position.

(2) An agency may designate a position for shared employment under the following circumstances.

(a) When a new position is established or an existing position becomes vacant, the agency shall review the position to determine whether two or more employees could perform the responsibilities of the position as adequately, or more adequately, than a single employee.

(b) Upon the written request or consent of an incumbent, the agency shall evaluate the incumbent's position for suitability for shared employment and, upon a favorable evaluation, the agency may appoint the incumbent to the shared employment position with the same status as was held in the full-time position.

(3) Once a position is designated as a shared position, the agency shall not designate it as full-time unless it becomes vacant, the incumbent(s) is given a minimum of ninety calendar days notice, or the incumbent(s) agrees to the action in writing.

(4) Employees filling shared employment positions are subject to the provisions of the personnel rules governing part-time employees.

Specific Authority 110.1055, 110.201(1), 110.21 FS, Law Implemented 110.201, 110.21 FS, History-New

60L-33.0033 Appointment of Veterans.

An honorably discharged veteran seeking preference under Sections 295.08 or 295.085, Florida Statutes, must furnish documentation of the following.

(1) Military status, dates of service, and discharge type, i.e., the Department of Defense Form DD-214 or equivalent certification from the U.S. Department of Veterans' Affairs;

(2) If claiming disability, certification from the U.S. Department of Veterans' Affairs or Armed Services that the applicant has a service-connected disability of thirty percent or more.

(3) Proof of Florida residence.

(4) Possession of the minimum qualifications and any required entry-level knowledge, skills, and abilities established for the position, as indicated on the position description.

Specific Authority 110.1055, 110.201(1), 110.217(1), 110.217(5) FS. Law Implemented 110.2135, 295.08, 295.085 FS. History—New

60L-33.0034 Criteria for Executive Search Firms.

If an agency has not succeeded with an in-house search for a person to appoint to a senior management service position, the agency may contract with a person or firm to conduct a multistate executive search, provided the person or firm satisfies the following criteria:

(1) Willingness to accept contingency contracts with fees not to exceed thirty percent of the annual salary of the applicant, to be paid upon employment of an applicant produced by the search.

(2) Demonstrated capacity to perform effectively at competitive industry prices.

(3) Evidence of successful placements in the public sector for the preceding three years by level and type of placement.

(4) Agreement for the delivery of services within ninety calendar days from the date of the requested search by the employing agency, unless an extension is granted by the agency.

(5) Evidence of ability to attract minorities and women into applicant pools generated for previous clients.

Specific Authority 110.1055, 110.403(3)(c) FS. Law Implemented 110.105(1), 110.403 FS. History—New

60L-33.004 Permanent Status.

(1) An employee appointed on probationary status shall attain permanent status in the career service upon successful completion of the designated probationary period. If the employee later is appointed to a new agency or occupational group, the employee shall complete a new probationary period, subject to Rule 33.003(2)(a), before attaining permanent status.

(2) Time spent on temporary or trainee status shall not count toward completion of a probationary period. Time spent on overlap status shall count toward completion of a probationary period if, while on overlap status, the employee performed all of the duties of the position.

(3) Time spent on military leave shall count toward completion of the employee’s probationary period, and an employee on military leave can attain permanent status while on such leave.

(4) Part-time employees and employees filling shared employment positions shall attain permanent status in the same manner as full-time employees.

Specific Authority 110.1055, 110.201(1), 110.217(1) 110.217(5) FS. Law Implemented 110.201, 110.213(1), 110.217 FS. History—New

60L-33.005 Workforce Reduction and Employee Transition.

(1) A workforce reduction is the deletion of positions. Agencies may delete both vacant and filled positions. Agencies may delete positions for a variety of reasons, including budget cuts, program reductions resulting from outsourcing or privatization efforts, or program phase-outs. Agencies shall accomplish workforce reductions in an orderly, systematic, and uniform manner in accordance with this rule.

(2) Each agency shall have a Department-approved workforce transition plan. The goal of the plan is to ensure that the agency makes reasonable efforts to provide a smooth transition for the career service employees adversely affected by the workforce reduction. The plan shall identify the steps the agency will take during the workforce reduction to advance this goal. The following steps are reasonable and shall be included in any plan, unless the plan justifies in writing why they are not included:

(a) Appoint a workforce transition team, which is responsible for overseeing and administering the workforce reduction.

(b) Develop a communications plan, designed to ensure open, honest, and frequent communication regarding staffing changes. Provide clear avenues for employees to seek and obtain information and assistance. Address necessary communications with the Department, the Agency for Workforce Innovation, and unions.

(c) Assess the positions to be deleted and the mission and goals of the residual program (that is, the program area that will remain after the deletion of functions and positions). Identify the employees and programs or services that will be affected by the workforce reduction. Identify the knowledge, skills, and abilities that employees will need to carry out the residual program.

(d) Assess employees.

1. If the workforce reduction affects law enforcement or correctional officers, firefighters, or professional health care providers, develop procedures to establish the relative merit and fitness of these employees. Include a formula for uniform application within a competitive area, taking into consideration the type of appointment, the length of service, and the evaluation of the employee’s performance within the last five years of employment. The Department may authorize selective competition within the competitive area, based upon specific qualifications deemed necessary for a position, if the duties and responsibilities requiring such qualifications are clearly reflected in the official position description on file with the agency.

2. If the workforce reduction affects any other career service employee, consider the comparative merit, demonstrated skills, and experience of each employee. In determining which employees to retain, consider which employees will best enable the agency to advance its mission;

in this context, consider how each employee fares with respect to the following factors: commitment, cooperation, excellence, fairness, honesty/integrity, initiative, respect, and teamwork.

(3) A permanent career service employee facing layoff as a result of a work force reduction shall have an opportunity for first interview within any agency for a vacancy for which the employee is qualified and has applied.

(4) Before laying off a permanent career service employee as part of a work force reduction, an agency shall provide the employee reasonable notice of the intended action. Where possible, the agency shall provide at least thirty days notice, and in all cases the agency shall provide at least ten days notice or, in lieu thereof, pay or a combination of notice and pay.

(5) The Agency for Workforce Innovation through its existing programs shall make available placement assistance to affected agencies and employees.

(6) Upon request, agencies shall provide to the Department all information necessary to update and maintain the workforce transition database.

(7) Consequences of a workforce reduction, including a layoff, are not disciplinary actions.

Specific Authority 110.1055, 110.201(1), 110.227(2) FS. Law Implemented 110.201, 110.227. FS. History–New _____.

60L-33.006 Other Personal Services Employment.

(1) Other personal services (“OPS”) employment is a temporary employer/employee relationship used solely for the completion of short term or intermittent tasks. OPS employees do not fill established positions. OPS employees shall not be assigned the duties of any vacant authorized position.

(2) The following criteria shall form the basis of an agency’s request to the Office of Policy and Budget for approval to retain an OPS employee beyond 1,040 hours:

(a) The agency has requested a full-time equivalent position in its agency legislative budget request to fulfill the duties of the OPS position on a permanent basis, and the Legislature has not previously rejected such a request.

(b) The employee is currently working on a special project originally scheduled for completion within the 1,040 hours but, due to unforeseen circumstances documented by the agency, the project requires more time, and it would be further delayed by hiring and training a new OPS employee.

(c) The employee possesses specific knowledge or skills in a mission critical area of expertise for which there is an immediate but not permanent need, and training a new employee is not cost-justified.

(d) The agency hired the employee to perform the duties of a permanent employee on extended leave, and the services are still needed.

(3) The Office of Policy and Budget shall approve extensions beyond 1,040 hours on a fiscal year basis.

(4) Office of Policy and Budget approval of an extension beyond 1,040 hours shall not guarantee approval of later requests for extension for the same employee.

Specific Authority 110.1055, 110.131(3), 110.201(1) FS. Law Implemented 110.131 FS. History–New _____.

60L-33.007 Volunteers.

(1) Agencies shall determine appropriate duties, if any, for volunteers. Agencies may conduct programs to increase agency and public awareness regarding the importance of volunteers to the goals and operation of the agency. Such programs may include awards and other forms of recognition to demonstrate appreciation for volunteer service.

(2) A state employee whose primary employment consists of duties and responsibilities similar to those associated with the volunteer activities may not be considered for volunteer work if such work would require payment for overtime in accordance with the FLSA.

(3) Agencies may conduct recruitment campaigns to attract suitable volunteers to meet agency needs. Agencies shall conduct screening appropriate to the needs of the volunteer position.

(4) Agencies shall make available to volunteers information regarding the duties and responsibilities of the volunteer position. Agencies shall supervise volunteers toward accomplishing the needs of the unit to which they are assigned.

Specific Authority 110.1055, 110.201(1), 110.503(2) FS. Law Implemented 110.503 FS. History–New _____.

60L-33.008 Equal Employment Opportunity and Affirmative Action.

(1) The Department shall assist agencies in ensuring equal employment opportunity. Toward this end, the Department shall:

(a) Provide technical assistance and training in agencies’ development and implementation of the affirmative action plan required by Rule 60L-33.008(4).

(b) Provide technical assistance and training in equal employment opportunity and affirmative action principles for agency supervisory employees. The Department may provide these services directly or contract for them, with each participating agency reimbursing the Department for costs incurred through such contract. Once the Department approves the content of any training program, the Department may delegate the training to the agency.

(c) Report to the Governor each year on the implementation, continuance, revision, and results of each agency’s affirmative action plan for the previous year. At the Department’s request, agencies shall provide information necessary for this report.

(2) Agencies shall not discriminate or take retaliatory action against an individual because that individual has opposed an unlawful employment practice or has made a

charge, testified, or participated in any manner in an investigation, proceeding, or hearing relating to equal employment opportunity or affirmative action.

(3) Each agency shall conduct an analysis of its work force to determine whether underrepresentation exists, that is, whether the percentage of an EEO group within a class of positions or an EEO job category is lower than the corresponding percentage in the available labor market. If underrepresentation exists, the agency shall establish annual affirmative action goals in an effort to achieve full utilization of EEO groups underrepresented in its work force.

(4) Each agency shall develop and implement a written plan to promote equal employment opportunity and to meet the agency's established affirmative action goals. The plan shall include the following elements:

(a) Effective date of the plan and the time period that it covers.

(b) Signature of agency head and EEO/AA officer.

(c) EEO/AA officer information.

(d) Policy statement concerning an internal agency complaint procedure, which procedure shall include provisions to advise employees of the procedure and to prohibit retaliation for employing the procedures.

(e) Description of agency organization.

(f) A list of the supervisory personnel to receive training and a schedule for such training.

(g) Work force analysis, which shall include:

1. Statistical comparison of current work force with available labor market in the relevant geographic recruitment area.

2. Previous year's goals and a statement as to whether these goals were met.

3. Measurable goals for the applicable time period for all job categories with underrepresentation. Measurable goals may also be established in job classes with underrepresentation.

4. Recommendations for corrective action, where necessary.

Specific Authority 110.1055, 110.112(2)(a), 110.201(1)(a), 110.112(2), 110.1221 FS. Law Implemented 110.105(2), 110.112(1), 110.1221, 110.233(1), 110.403(1)(h), 110.605(1)(d) FS. History--New .

NAME OF PERSON ORIGINATING PROPOSED RULE:
Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Attendance and Leave	60L-34
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-34.001
General Agency Responsibilities	60L-34.002
Work Schedules	60L-34.003
Regular Time and Overtime	60L-34.0031
Holidays	60L-34.0032
General Requirements for Leave Earning, Approval, and Use	60L-34.004
Annual Leave	60L-34.0041
Sick Leave	60L-34.0042
Regular Compensatory Leave	60L-34.0043
Special Compensatory Leave	60L-34.0044
Family Supportive Work Program	60L-34.0051
Leaves of Absence Without Pay	60L-34.0052
Disability Leave	60L-34.0061
Military Leave	60L-34.0062
Administrative Leave	60L-34.0071
Educational Leave With Pay	60L-34.0072

PURPOSE AND EFFECT: To adopt personnel rules on attendance and leave to be applicable to state agencies and their employees in the Executive Branch except the State University System and the Department of the Lottery, excluding volunteers and other-personal-services (OPS) employees. A rule on the family supportive work program applies also to the Department of the Lottery.

SUMMARY: Policies and procedures for work schedules, regular time and overtime, holidays, various types of leave, and agencies' responsibilities in implementing the policies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.201, 110.219(5) FS.
LAW IMPLEMENTED: 110.122, 110.1522, 110.219, 216.251 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001
PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-34.001 Scope and Purpose.

This chapter sets forth the rules governing attendance and leave policies that apply to employees in the State Personnel System, excluding volunteers and Other Personal Services employees. Rule 60L-34.0051 also applies to Florida Lottery employees.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.1522, 110.219, 216.251 FS. History—New _____.

60L-34.002 General Agency Responsibilities.

Each agency shall ensure compliance with Section 110.219 of the Florida Statutes and this chapter as follows.

(1) Monitor hours worked by employees to ensure proper compensation.

(2) Monitor overtime to ensure compliance with the FLSA.

(3) Maintain accurate records of attendance, leave, and overtime worked and compensated.

(4) Train managers and supervisors in the administration of this chapter, with particular attention to the provisions of the FLSA as applicable to public employees.

(5) Report immediately to the Department any charge by an employee(s), or the U.S. Department of Labor, that the agency is or may be in violation of the FLSA or this chapter regarding overtime.

(6) Instruct employees in the proper scheduling, use, and recording of leave and attendance, and the proper earning and recording of hours worked including overtime.

(7) Monitor the actual duties performed by included and excluded employees to ensure continued accuracy of overtime designations. Notify the Department immediately of any change in duties that might affect the designation.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New _____.

60L-34.003 Work Schedules.

(1) An agency may place an employee on a permanent regular schedule of more or less than an eight-hour workday. Before implementing changes to the regular work schedule, agencies shall give written notice to all affected employees, with attention given to requirements of collective bargaining agreements.

(2) The Department may approve an extended work period under the FLSA.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New _____.

60L-34.0031 Regular Time and Overtime.

(1) Agencies shall pay the following at the employee's current straight time hourly regular rate of pay: the first 40 hours of work; hours in an approved extended work period; and hours in the regular work period for excluded employees,

including holidays, leave with pay, and any other non-work time for which the employee is paid during these designated periods.

(2) Agencies shall refer to the FLSA regarding what constitutes compensable hours of work.

(3) Excluded positions in the selected exempt service and the senior management service are performance-based. Employees filling these positions are expected to work the necessary hours required, and shall not be paid overtime unless required by law or otherwise approved by the Department.

(4) In lieu of overtime payment, an employee in an included position who is eligible for overtime, may, if mutually agreed by the employee and the agency, waive cash payment for overtime, and the agency shall process the FLSA special compensatory leave as follows:

(a) At the end of the workweek or extended period, credit all overtime hours as FLSA special compensatory leave credits at the rate of one and one-half hours credit for each hour of overtime worked.

(b) Allow the employee to accumulate up to a maximum of 80 hours of credits.

(c) Allow the employee to use the credits in any increments mutually agreed by the employee and the supervisor. Absent mutual agreement, the supervisor may, with a minimum of five workdays notice, require the employee to use the credits at any time in increments of full workdays.

(d) At the close of business on December 31 and June 30 of each year, or other dates approved by the Department, pay the employee for all unused credits at the employee's straight time regular hourly rate of pay.

(e) If the employee separates from the agency or moves to an excluded position with accumulated credits, pay the employee for all unused credits at the employee's straight time regular hourly rate of pay.

(f) When an employee is called back to work beyond the employee's scheduled hours of work for that day, the employee shall be credited with actual time worked or a minimum of two hours of work, whichever is greater. Time not worked of the minimum of two hours is not counted as hours worked for the purposes of computing overtime compensation.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.219 FS. History—New _____.

60L-34.0032 Holidays.

(1) All employees are entitled to observe the holidays identified in Section 110.117 of the Florida Statutes; provided, that to be eligible for holiday pay, an employee must be in pay status (actual work or paid leave) for at least a portion of the workday before the holiday. If an employee in a senior management service position or a selected exempt service position is unable to observe a holiday, the employee may take

an alternate day off during the work period; provided, that if the employee is unable to observe the holiday, the employee is not eligible for special compensatory leave as described below.

(2) For part-time employees, agencies shall credit a prorated number of holiday hours, based on the number of hours regularly worked during the workweek, using the following formula:

$$\frac{8 \text{ Hours} \times \text{Number of Hours Worked Per Week}}{40 \text{ Hours}} = \frac{\text{Hours of Credit}}{\text{for the Holiday}}$$

(3) For full-time employees, agencies shall credit holidays as follows.

(a) If the holiday is observed on the employee's established workday and the employee is not required to work, credit the employee with a holiday equal to the hours in the employee's established workday. However, if the holiday falls on an established workday of less than eight hours, credit the employee with an eight-hour holiday.

(b) If the holiday is observed on the employee's established day off, credit the employee with an eight-hour holiday.

(c) For career service employees, if the holiday is observed on the employee's established workday and the employee is required to work, credit the employee with special compensatory leave equal to the time worked on the holiday, not to exceed the number of hours in the employee's established workday. However, if the holiday falls on an established workday of less than eight hours, credit the employee with an eight-hour holiday.

(4) For career service employees, for any holiday (excluding the personal holiday) observed during the workweek, approved extended work period, or regular work period for excluded employees, agencies shall credit the holiday by granting special compensatory leave credits on an hour-for-hour basis for those hours that are not necessary to bring the employee's rate of pay up to the normal rate of pay for the workweek, approved extended work period, or regular work period for excluded employees.

Specific Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 110.117 FS. History—New _____.

60L-34.004 General Requirements for Leave Earning, Approval, and Use.

(1) Leaves of absence with or without pay shall be in writing and approved before leave is taken. If an emergency prevents prior approval, the employee shall request such approval, with appropriate justification, as soon as reasonably possible.

(2) An employee granted a leave of absence, with or without pay, shall be an employee of the state while on leave. Upon termination of the approved leave of absence, the employee shall be returned to the same position or a different

position in the same class and same work location, unless the agency and the employee agree in writing to other terms and conditions governing the grant of leave.

(3) Regardless of the amount of leave originally approved, including administrative leave, the employee will only be charged with or granted the amount of leave necessary to bring the employee to a forty-hour workweek, the regular hours for an approved extended work period, or regular work period for excluded employees.

(4) Approved leave may be taken only in increments of fifteen minutes or more, rounded to the nearest quarter hour.

(5) The use of paid leave shall not be authorized and taken before the time it is earned.

(6) For career service employees, leave shall be credited to the employee at the close of business on the last day of the pay period, or, in the case of separation, on the last day the employee is on the payroll. For senior management service and selected exempt service employees, leave shall be credited upon the first appointment to either of the pay plans and upon the annual anniversary date of that first appointment.

(7) If an employee moves from one agency to another within thirty-one days, the receiving agency shall pay the number of hours worked plus any approved leave with pay and any holiday falling after the employee's last day with the exiting agency.

(8) Extra hours may be offset to avoid overtime at the end of the workweek, approved extended work period, or regular work period for excluded employees; provided, the offset shall be made within these designated work periods.

(9) Each agency shall keep an accurate record of all hours of work performed by each (a) included employee and (b) excluded career service employee. Agencies may keep records of work performed by other employees for business reasons, e.g., federal funding, cost accounting, etc. All hours worked must be totaled at the end of the workday and the total shall be rounded to the nearest quarter of an hour.

(10) Each agency shall keep an accurate record of all authorized leaves of absence.

(11) DROP participants shall accrue leave in the same manner and at the same rate as prior to entering the DROP.

(12) An employee approved to be paid from more than one career service position in two or more agencies shall be considered to have a separate employment for each position filled. A separate leave accrual, earning, and use account shall be established for each separate employment.

(13) Within the first thirty-one calendar days of the commencement of each term of office, an elected officer or any full-time board or commission member who has a salary fixed by the Legislature shall have the option to receive credit for annual and sick leave in accordance with this rule; provided, if the person opts to receive leave credits, the person shall be subject to the provisions of this Chapter 60L-34 that apply to members of the senior management service.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History--New

60L-34.0041 Annual Leave.

(1) Employees in senior management service and selected exempt service positions shall be credited with 176 hours of annual leave.

(2)(a) Full-time employees in career service positions shall earn annual leave as follows. Employees shall be entitled to use all previous state government creditable service immediately upon reemployment for determining eligibility for higher annual leave credits.

<u>Length of Service</u>	<u>Hours of Leave Earned During Pay Period</u>
--------------------------	--

	<u>Monthly</u>	<u>Biweekly</u>
<u>Through 60 months</u>	<u>8.667 hours</u>	<u>4 hours</u>
<u>61 through 120 months</u>	<u>10.833 hours</u>	<u>5 hours</u>
<u>Over 120 months</u>	<u>13 hours</u>	<u>6 hours</u>

(b) Career service employees who work less than a full pay period due to initial employment or separation during a pay period, part-time work, transfer between agencies, or leave of absence without pay, shall earn annual leave credits for the hours worked during that pay period as follows.

Biweekly Pay Period

<u>Number of Hours Actually Worked</u>	<u>0 to 5 Years</u>	<u>5 to 10 Years</u>	<u>Over 10 Years</u>
<u>Less than 17</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>17 through 32.99</u>	<u>1</u>	<u>1.25</u>	<u>1.5</u>
<u>33 through 47.99</u>	<u>2</u>	<u>2.5</u>	<u>3</u>
<u>48 through 63.99</u>	<u>3</u>	<u>3.75</u>	<u>4.5</u>
<u>64 or more</u>	<u>4</u>	<u>5</u>	<u>6</u>

Monthly Pay Period

<u>Number of Hours Actually Worked</u>	<u>0 to 5 Years</u>	<u>5 to 10 Years</u>	<u>Over 10 Years</u>
<u>Less than 36</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>36 through 70.99</u>	<u>2.167</u>	<u>2.708</u>	<u>3.25</u>
<u>71 through 103.99</u>	<u>4.333</u>	<u>5.417</u>	<u>6.5</u>
<u>104 through 138.99</u>	<u>6.5</u>	<u>8.125</u>	<u>9.75</u>
<u>139 or more</u>	<u>8.667</u>	<u>10.833</u>	<u>13</u>

(3) Upon reasonable notice, an agency may require an employee to use accrued annual leave.

(4)(a) At the close of business on December 31 of each calendar year, a career service employee's annual leave balance in excess of 240 hours shall be transferred to sick leave on an hour-for-hour basis. In accordance with an agency-wide plan, the employee may carry-over up to 360 hours of annual leave credits past December 31. For senior management service and selected exempt service employees, at the close of business on the day before the member's anniversary date, all annual leave credits in excess of 480 hours shall be converted to sick leave on an hour-for-hour basis.

(b) Each December, a permanent career service employee shall be entitled, subject to the available funds, to a payout of up to twenty-four hours of unused annual leave provided:

1. After the payout, the employee's annual leave balance is at least twenty-four hours.

2. The cumulative payout shall not exceed the lifetime maximum described in Rule 60L-34.0041(6)(a).

(5)(a) If an employee moves into the State Personnel System from another state government employer, the receiving agency shall credit all annual leave not paid for at the time of the transfer.

(b) If an employee moves from one position in the State Personnel System to another position in the State Personnel System in a different agency within thirty-one days, the receiving agency shall credit the employee's unused annual leave.

(c) If an employee moves from a position in the State Personnel System to a position outside the State Personnel System, the agency shall either transfer unused annual leave credits to the system into which the employee is transferring, or, if the new system will not accept the credits, pay for the credits subject to Rule 60L-34.0041(6).

(6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. In calculating the lifetime maximum, agencies shall include only payments after May 13, 2001. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(b) A senior management service or selected exempt service employee who separates from state government shall be paid for unused annual leave up to a maximum of 480 hours, with the current year's accrual prorated. In case of death of an employee, the 480-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee's beneficiary, estate, or as provided by law.

(c) An employee with twelve months of service, who is being laid off, shall be paid for all unused annual leave in accordance with this section, unless the employee requests in writing that the annual leave be retained up to a maximum of one year, pending reemployment.

1. If the employee is not reemployed within one year, unused annual leave held in abeyance shall be paid for in accordance with this section.

2. If the employee is reemployed within one year, annual leave credits shall be restored if the employee so requests in writing and repays the full amount of any lump-sum payment received for accumulated annual leave credits.

(d) An employee electing to participate in DROP may request payment for accrued annual leave at the time of entry into DROP; alternatively, the employee may elect to defer payment until separation from service. If an employee elects immediate payment, then upon separation from service the employee shall be eligible for accrued annual leave payment only to the extent the employee has earned additional annual leave, which combined with the original payment does not exceed the applicable maximum amount specified in paragraphs (a) or (b) of this Rule 60L-34.0041(6).

Specific Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 121.091(13) FS. History—New _____.

60L-34.0042 Sick Leave.

(1) Employees in senior management service and selected exempt service positions shall be credited with 104 hours of sick leave.

(2)(a) Full-time career service employees paid on a monthly basis shall earn eight hours and forty minutes of sick leave for each full calendar month of employment. Full-time career service employees paid on a biweekly basis shall earn four hours of sick leave for each full biweekly period worked.

(b) Part-time career service employees and career service employees who work less than a full pay period due to initial employment or separation during a pay period, transfer between agencies, or leave of absence without pay, shall earn sick leave credits for the hours worked during that pay period as follows.

Biweekly Pay Period

<u>Number of Hours Actually Worked</u>	<u>Hours of Sick Leave Credit</u>
<u>Less than 17</u>	<u>0</u>
<u>17 through 32.99</u>	<u>1</u>
<u>33 through 47.99</u>	<u>2</u>
<u>48 through 63.99</u>	<u>3</u>
<u>64 or more</u>	<u>4</u>

Monthly Pay Period

<u>Number of Hours Actually Worked</u>	<u>Hours of Sick Leave Credit</u>
<u>Less than 36</u>	<u>0</u>
<u>36 through 70.99</u>	<u>2.167</u>
<u>71 through 103.99</u>	<u>4.333</u>
<u>104 through 138.99</u>	<u>6.500</u>
<u>139 or more</u>	<u>8.667</u>

(c) There shall be no limit on the number of hours of unused sick leave an employee may accrue.

(3) Sick leave shall be authorized for the following purposes:

(a) The employee’s personal illness, injury, or exposure to a contagious disease that would endanger others. Personal illness shall include disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom.

(b) The employee’s personal appointments with a doctor, dentist, or other recognized practitioner.

(c) Illness, injury, or well-care check-ups of the employee’s spouse, the children or parents of the employee or the spouse, or a person for whom the employee or the spouse has a caretaker responsibility, when the employee’s presence is necessary. Each agency shall establish an agency-wide definition of “caretaker.”

(4) Upon request, an employee may use accrued sick leave credits subject to the following.

(a) An employee may use sick leave only for authorized purposes. Unauthorized use may be revealed by a pattern of absence by an employee, for example, consistent absence on the day before or after the employee’s regular days off, or absence on the same day of each week or each month.

(b) After three workdays or partial workdays of absence in any thirty-day period, the agency may require medical verification of any further absence(s) due to illness or injury.

(c) After ten consecutive days of absence, the agency shall require the employee to submit medical verification from the attending physician before authorizing additional use of sick leave credits or leave without pay. If absence continues, the agency shall require, as appropriate, further medical verification for each thirty consecutive days of absence. To justify further sick leave, the medical verification must indicate that the employee is unable to perform regularly assigned duties.

(d) If an employee's medical verification is not acceptable, the agency may require the employee to submit to a medical examination, at the agency's expense, before approving further use of sick leave.

(e) An employee who refuses to comply with these rules shall not be eligible to use accrued sick leave credits, and the agency shall take the appropriate action regarding continued employment, based on the available information.

(5) An agency may establish a formal sick leave transfer plan, which allows an employee to donate personal sick leave credits to another employee.

(a) The plan may limit the transfer of sick leave credits within the agency only, or allow for inter-agency transfers; provided that inter-agency transfers shall allow for both the receipt of and donation of sick leave credits. The same plan provisions and restrictions shall apply to transfers within the agency and inter-agency transfers.

(b) A plan that allows inter-agency transfers shall ensure that all requests to donate from within the agency are identified and processed before donations from other agencies are considered, except for transfer by the receiving employee's spouse and the parents, grandparents, brothers, sisters, children, and grandchildren of both the employee and the spouse.

(c) Participation in the plan shall at all times be voluntary on the part of the donating employee and the receiving employee.

(d) An employee may participate in the plan by voluntarily transferring sick leave credits, provided that a minimum of eighty hours of sick leave credits remain in the employee's account following execution of the sick leave credit transfer. The minimum transfer amount for each transaction shall be eight hours. The employee cannot cancel the donation once the agency completes the transfer.

(e) To be eligible to receive sick leave credits under the plan, an employee must meet the following conditions.

1. The employee has used all accrued sick and annual leave and all types of earned compensatory leave.

2. The employee has suffered a documented illness, accident or injury, and requires, as certified by the treating physician, absence from the workplace for a minimum of five consecutive workdays. Unless waived by the employing agency, transferred sick leave credits shall be used for absences associated with such documented conditions beginning with the sixth missed workday or partial workday or on the first day the employee has exhausted all leave credits, whichever is later. Donated leave may be used consecutively, intermittently or in increments of a quarter hour, as needed.

3. The employee is not eligible for disability leave.

4. The employee has not used more than 1040 hours of transferred sick leave credits in the preceding twelve-month period.

(e) When transferring sick leave credits, the agency shall credit the employee with only the amount of sick leave needed to bring the employee's total number of compensable hours up to the minimum number of hours for the pay period.

(f) All credits donated under the plan shall be credited to the receiving employee on a first-in, first-out basis. Upon documented cessation of the qualifying illness, accident or injury, any unused transferred sick leave credits shall be returned to those employees whose donated sick leave credits have not yet been drawn upon under the first-in, first-out method.

(g) Transferred sick leave credits shall have no terminal value.

(6) An agency may establish sick leave pools, subject to the following.

(a) The agency shall determine the number of pools to establish, if any, and the employees who will be eligible to participate in each pool. The agency shall designate an administrator responsible for administering each pool, and shall appoint at least three employees participating in the pool to serve as a committee. The administrator shall meet with the committee and act as liaison with the appropriate agency personnel office to review a participating employee's individual sick leave account. Each committee shall establish internal procedures that shall include, but not be limited to, the following:

1. The enrollment of participating employees in the sick leave pool.

2. Application for use of sick leave credits from the pool.

3. Initial and subsequent deductions from participating employee's sick leave accounts.

(b) Participation in a pool shall at all times be voluntary. An employee may participate in a pool after completing one year of employment with the state, provided that the employee has accumulated at least sixty-four hours of sick leave. Each full-time participating employee shall contribute eight hours of sick leave in the first month of eligibility, and thereafter, each full-time participant shall contribute eight hours each time the pool is depleted. A part-time employee shall contribute sick leave on a pro-rata basis in the first month of eligibility and each time the pool is depleted.

(c) The agency shall determine, or may delegate to the committee to determine, the following:

1. The number of hours to be deposited in the pool to activate the pool for use by eligible employees.

2. The maximum number of hours in the pool that any one employee may use.

3. The number of hours that will constitute depletion of the pool and require further contribution by participating employees.

a. At the time the pool is depleted, if a participating full-time employee's individual sick leave balance is less than eight hours, or a part-time participant's balance is less than the

pro-rated amount, the employee shall contribute all hours accumulated, and shall contribute the remainder as soon as additional sick leave credits have been accrued. The employee shall not use sick leave credits until the amount owed to the pool has been contributed.

b. When a participating employee repeatedly fails to have a sufficient balance of individual sick leave credits to contribute to the pool, the administrator shall investigate the reasons and the committee, by majority vote, shall determine whether to cancel the employee's membership in the pool.

(d) At the time of retirement or separation from the State Personnel System, a participating employee may "donate" to a pool up to sixteen hours of unused or unpaid sick leave from the employee's individual sick leave balance.

(7) The following provisions govern the retention and transfer of sick leave credits.

(a) Credits shall be transferred within the State Personnel System, and may be transferred to another state government employer, depending upon whether the receiving plan accepts the employee's leave credits. If the receiving employer does not accept the credits, the employee shall be paid for the credits if eligible under Section 110.122(1), Florida Statutes; otherwise, the credits shall expire.

(b) If an employee is laid off, the following provisions govern accrued sick leave credits.

1. If the employee has ten years or more of creditable state service and is otherwise eligible for receipt of sick leave payment pursuant to this rule, the agency shall pay for the credits at the time of layoff, unless the employee requests in writing that the agency hold the credits in abeyance pending reemployment within one year.

2. If the employee is reemployed within one year following layoff, an agency shall restore the credits to the employee, provided the employee requests restoration in writing and returns the full amount of any payment received at time of layoff for the credits.

3. If the employee is not eligible for receipt of sick leave payment at the time of layoff, the agency shall hold the credits in abeyance and, if the employee is reemployed within one year following layoff, shall credit them to the employee upon reemployment.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.219 FS. History-New

60L-34.0043 Regular Compensatory Leave.

(1) If an agency requires an excluded career service employee to work hours in excess of the regular work period or an approved extended work period, the employee shall, with agency approval, earn regular compensatory leave credits on an hour-for-hour basis; provided, no employee may accrue more than 240 hours.

(2) Agencies shall make reasonable efforts to allow employees to use regular compensatory leave credits. An agency may require an employee to use the credits.

(3) Leave credits shall not be transferred from the agency where the credits were earned to another agency or pay plan, unless the employee is moving from a career service position to a selected exempt service position.

(4) If an employee is laid off, the agency shall hold the credits in abeyance and, if the employee is reemployed within one year following layoff, shall credit them to the employee upon reemployment.

(5) An agency may propose for Department approval a fiscally sound agency-wide plan for the payment on an hour-for-hour basis of unused regular compensatory leave credits, subject to the following.

(a) No cash payments shall be made for any regular compensatory leave credits earned prior to the effective date of the plan.

(b) Payment shall be made at the employee's straight time regular hourly rate of pay.

(c) Payment shall be made in a lump sum, and may be made annually or at more frequent intervals as determined by the agency.

(d) An employee who becomes ineligible, or is otherwise not covered by the agency's plan, shall at that time be paid for the appropriate balance.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.219 FS. History-New

60L-34.0044 Special Compensatory Leave.

(1) When an employee separates from an agency, the agency shall pay the employee for all unused special compensatory leave credits at the employee's current regular hourly rate of pay.

(2) Leave credits shall not be transferred from the agency where the credits were earned to another agency or pay plan, unless the employee is moving from a career service position to a selected exempt service position.

(3) Upon prior notice, an agency may compel the use of all or part of an employee's accumulated holiday special compensatory leave credits or special compensatory leave credits, or both, based on agency needs, provided such usage requirement is in accordance with any collective bargaining agreement provisions. An agency may also require an employee to use accumulated special compensatory leave credits prior to approving an employee's request to use other types of approved leave, with the exception of sick leave.

(4) All unused special compensatory leave credits for an employee who is laid off shall be paid for in lump-sum, based on the employee's current regular hourly rate of pay, at the time of layoff.

(5) At the time of entry into the DROP, an employee electing to participate in the program may request payment of any unused special compensatory leave that was earned within eleven months before entry into the DROP.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.122, 110.219 FS. History–New

60L-34.0051 Family Supportive Work Program.

(1) Agencies are encouraged to exercise their authority under the Family Support Personnel Policies Act to balance employees' abilities to work and to devote care and attention to their families.

(2) Agencies may approve flexible work schedules to assist employees in meeting family needs, provided that work can be accomplished in an effective and efficient manner.

(3) Agencies may approve job sharing to assist employees in meeting family needs, subject to Rule 60L-33.0032.

(4) Agencies shall approve parental or family medical leave to assist employees in meeting family needs, subject to the following.

(a) Within one year following birth or adoption of a child, leave shall be granted for up to six months for the parent.

(b) Leave shall be granted for up to six months for a family member's serious health condition, as defined in the FMLA and implementing regulations.

(c) The agency shall acknowledge to the employee in writing the period of leave to be granted and the date the employee will return to duty.

(5) Agencies shall approve up to thirty days family leave for non-medical family responsibilities, provided that the leave has minimal impact on the employee's work unit. Family responsibilities in this area may include, but are not limited to, the following:

(a) Caring for aging parents.

(b) Involvement in settling parents' estate upon their death.

(c) Relocating dependent children into schools.

(d) Visiting family members in places that require extensive travel time.

(6) An employee granted leave under paragraphs (4) or (5) may request to use accrued leave credits. If the employee does not so request, the agency shall place the employee on leave without pay.

(7) Agencies may approve up to one hour of administrative leave per month for employees to participate in their child's activities at local schools and child care centers.

Specific Authority 110.1055, 110.120(1), 110.1522 FS. Law Implemented 110.121, 110.1522, 110.221 FS. History–New

60L-34.0052 Leaves of Absence Without Pay.

(1) An employee may, upon request, be granted leave without pay to cover any absence from work, for a period not to exceed twelve months, provided the agency deems such

leave to be justified and not detrimental to the operations of the agency. An agency may approve the use of intermittent leave credits to maintain state benefits.

(2) In exceptional cases, leave without pay may be extended if approved by the Department.

(3) In determining excessive absenteeism, an agency may consider leave without pay when taken due to the exhaustion of other types of paid leave or when unscheduled.

(4) An employee on leave without pay shall not earn leave credits, unless authorized by law.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History–New

60L-34.0061 Disability Leave.

(1) The following provisions govern job-connected disability leave with pay.

(a) An employee who sustains a job-connected disability that is compensable under Chapter 440, Florida Statutes, shall be carried in full-pay status for up to forty work hours without being required to use accrued leave, beginning immediately following the onset of the injury. This leave may be used intermittently to cover appointments to health care providers, physical therapy, and similar activities provided that these activities are directly related to the employee's Workers' Compensation injury. An employee who returns to work and has exhausted the forty hours of disability leave will, upon presentation of written confirmation from the authorized physician, be granted additional disability leave not to exceed forty-eight hours for follow-up examinations or treatment required by the authorized treating physician for a particular injury.

(b) If, as a result of the job-connected injury, the employee is unable to resume work at the end of the forty-hour period provided in paragraph (a), the employee may continue on full-pay status while covered by Workers' Compensation as follows. Continuing on full-pay status means receiving the salary being received before the disability. In no case shall the employee's salary and Workers' Compensation benefits exceed the amount of the employee's regular salary payments.

1. The employee may elect to use accrued sick, compensatory, or annual leave in an amount necessary to achieve full-pay status. The employee's annual hourly rate (annual salary/2080) shall be used to determine the number of leave hours needed to supplement the Workers' Compensation payments.

2. If the employee elects not to use accrued leave, or after the employee has exhausted all earned leave in accordance with paragraph 1. above, the employee shall be placed on leave without pay and shall revert to normal Workers' Compensation benefits; provided, however, that the agency may petition the Department to continue the employee on full-pay status as follows.

a. The petition shall include a medical report that gives a current diagnosis of the employee's physical condition and a prognosis regarding recovery and ability to return to work.

b. The petition shall describe (i) the type and extent of the injury, (ii) the circumstances of the injury, and (iii) the nature of the employee's duties. The petition shall explain why, in light of the foregoing, it is in the best interest of the state to continue the employee at full-pay status.

(c) An employee covered by Workers' Compensation shall continue to earn and accrue full leave credits.

(d) The following provisions apply when an employee on disability leave returns to alternate duty.

1. When the Division of Risk Management of the Department of Insurance has determined that an employee is entitled to receive a temporary partial disability benefit pursuant to Section 440.15, Florida Statutes, and there is medical certification that the employee cannot perform the duties of the employee's regular position, but the employee can perform some type of work beneficial to the agency, the agency, if appropriate, will return the employee to the payroll at regular rate of pay to perform such duties as the employee is capable of performing even if there is not an established position in which the employee can be placed.

2. If an agency returns an employee to alternate duty, the agency shall advise the employee in writing of the alternate duties to be performed, hours of work, and the expected length of time of the alternate assignment. The agency shall review the employee's performance at least quarterly. The agency shall maintain appropriate records of affected employees.

3. When the employee becomes able to perform regular position duties, the agency shall reassign the duties accordingly and return the employee to regular position. In no event shall the employee be allowed to continue performing the alternate duties once maximum medical improvement has been determined by the Division of Risk Management unless appointed to the position as provided in Chapter 60L-33. The agency shall maintain appropriate records of employees removed from alternate duty.

(2) The following provisions govern compulsory disability leave.

(a) An agency with reason to believe that an employee is unable to perform essential functions of assigned duties, or is otherwise interfering with the operations of the work unit, due to physical or mental illness or injury, shall request a report from the employee's doctor concerning the employee's abilities or require the employee to submit to a medical examination by a physician selected and paid for by the agency. The agency may place the employee on compulsory disability leave pending the physician's report. If the medical examination confirms that the employee is unable, even after reasonable accommodations that do not impose an undue hardship on the agency, to perform essential functions of assigned duties, the agency shall continue or place the

employee on compulsory disability leave or take action to remove the employee from the position, including dismissal. The employee shall be notified in writing of the duration of the disability leave and the conditions under which the employee will be allowed to return to employment.

(b) The employee may elect to use earned leave to cover the period of disability. If the employee does not have sufficient leave credits to cover the disability leave, or elects not to use leave credits, the leave shall be without pay.

(c) If the employee remains unable to perform essential job functions at the end of an approved leave, even after reasonable accommodations that do not impose an undue hardship on the agency, the agency, based on a current medical certification, shall either request the employee's resignation for reasons of inability to perform assigned duties, or dismiss the employee for cause based on inability to perform assigned duties.

(d) If the employee refuses to submit to the medical examination, the agency shall decide based on the available information whether to request the employee's resignation for reasons of inability to perform assigned duties, or dismiss the employee for cause based on inability to perform assigned duties.

(e) In taking action with respect to compulsory disability, an agency shall ensure that it complies with the requirements of applicable federal and state laws.

Specific Authority 110.1055, 110.201, 110.219(5) FS. Law Implemented 110.219, 216.251 FS. History—New

60L-34.0062 Military Leave.

(1) An employee, except an employee who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard, or who is employed in a temporary position or employed on a temporary basis, who is drafted or who volunteers for active military service shall be granted leave beginning with the date of induction and ending up to one year after the date of separation from the military service or from hospitalization continuing after discharge. Active military service includes active duty with any branch of the United States Army, Navy, Air Force, Marines, or Coast Guard, of the National Guard of the State, or of any other service as provided in sections 115.08 and 115.09 of the Florida Statutes. The leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's personnel file.

(2) An employee, who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or a member of the National Guard, shall be granted leave in accordance with Section 115.07, F.S.

(3) An employee, who is a member of the Florida National Guard, shall be granted leave in accordance with Section 250.48, F.S.

(4) An employee, except an employee employed in a temporary position or employed on a temporary basis, who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard, who is ordered to active military duty under Title 10 of the United States Code, Section 673b, shall be granted leave beginning with the day ordered to duty and ending up to thirty-one days after the date of release from the military service or from hospitalization continuing after discharge. Active military service includes active duty with any branch of the United States Army, Navy, Air Force, Marines, or Coast Guard, of the National Guard of the State, or of any other service as provided in Sections 115.08 and 115.09 of the Florida Statutes. The leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's personnel file.

Specific Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 115.07, 115.14, 250.48, 295.09 FS. History—New

60L-34.0071 Administrative Leave.

(1) Administrative leave counts as hours of pay, but does not count as hours of work for overtime purposes.

(2) Approval of administrative leave, under paragraph (3) of this rule or otherwise, is limited to an amount necessary to bring the employee to full pay for forty hours of work in the workweek, the number of approved hours in the extended work period, or the number of hours in the work period. In no case shall the approval of administrative leave cause the employee to exceed forty hours during the workweek, hours in an approved extended work period, or hours in the regular work period for excluded employees.

(3) An agency shall comply with the following provisions when granting administrative leave for the reasons described.

(a) Jury Duty: An employee who is summoned as a member of a jury panel shall be granted administrative leave with pay for hours required for such duty not to exceed the number of hours in the employee's normal workday; however, if the jury duty does not require absence for the entire workday the employee shall return to duty immediately upon release by the court. If the employee's court attendance does not coincide with the employee's regular work schedule, the employee shall be granted administrative leave based on the total hours served on jury duty, not to exceed the number of hours in the employee's regular workday. Such leave shall be granted on the next scheduled work shift following each day the employee is in court. Jury fees shall be retained by the employee.

(b) Witness:

1. An employee subpoenaed as a witness, or to give a deposition, in a court or an administrative hearing, not involving personal litigation or service as a paid expert witness shall be granted administrative leave with pay, and witness fees shall be retained by the employee.

2. An employee subpoenaed in line of duty to represent a state agency as a witness or defendant shall not be granted administrative leave, and appearance in such cases shall be considered a part of the employee's job assignment. The employee shall be paid per diem and travel expenses and shall be required to turn over to the agency any fees received from the court.

3. In no case shall administrative leave with pay be granted for court attendance when an employee is engaged in personal litigation or service as a paid expert witness.

(c) Examination for military service:

An employee who is ordered to appear for an examination for entrance into the military service shall be granted leave with pay for this purpose on the day of the examination.

(d) Death in family:

1. An employee, upon request, shall be granted two days of administrative leave with pay on the death of the employee's spouse and on the death of the parents, grandparents, brothers, sisters, children, and grandchildren of either the employee or the spouse.

2. Each employee requesting administrative leave due to death in the family shall submit a statement to the appropriate authority stating the name of, and relationship to, the deceased.

(e) Closing facilities under emergency conditions:

1. By Executive Order:

a. When the Governor, by Executive Order, declares an emergency, the agency shall determine which affected facilities or portions thereof are located in the area covered by the Executive Order.

b. Except for those employees the agency determines are necessary for providing essential services, employees assigned to the facilities the agency has closed shall be released from duty and granted administrative leave for the period the facility is closed. Employees whom the agency requires to remain on duty to provide essential services shall be granted special compensatory leave credits for the hours worked during the period the facility is closed, and the other employees will be granted administrative leave.

c. An employee who is on a prior approved leave of absence or scheduled holiday during an emergency shall not have the leave of absence changed to administrative leave.

d. If the Executive Order issued by the Governor does not specify an ending time and date, the agency's authority under this subsection shall be limited to two consecutive calendar days. Any action beyond two days shall require approval by the Department.

2. Other:

In any other disaster or emergency condition that may necessitate the closing of facilities in an area, the agency shall have the authority and responsibility to determine whether agency offices or facilities, or any portion thereof, are affected by the emergency and are to be closed. The Department must approve the closing of any agency facility or portion thereof

for more than two consecutive work days. The Department must approve the closing of any Department-operated state facility. In such cases, employees' attendance and leave shall be handled as prescribed in paragraph (e)1. above.

(f) Formal investigation:

An employee under formal investigation by an agency for violation of a rule or statute for which dismissal is a penalty, shall temporarily be assigned other duties if deemed advisable by the agency, or placed on administrative leave if the employee's absence from the work location is essential to the investigation. The agency shall report in writing to the Department whenever it grants such leave.

(g) Elections: Any employee may be granted up to one hour of leave with pay for the purpose of voting during normal working hours. An employee shall not be granted administrative leave to work at the polls during elections.

(h) Examinations and interviews: An employee may be granted up to two hours of leave with pay for the purpose of taking examinations before a state agency, provided such examinations are pertinent to state employment or for the purpose of having interviews for positions within the State Personnel System.

(i) Mentoring:

1. Each employee may be granted up to one hour of administrative leave per week, not to exceed five hours per calendar month, to participate in the Governor's Mentoring Initiative, including the following school or community voluntary activities:

a. Mentoring, tutoring, guest speaking and, when participating in an established mentoring program serving a school district, providing any related services at the direction of the program or volunteer coordinator.

b. Participating in community service programs that meet child, elder, or human needs, including Guardian Ad Litem, Big-Brother/Big-Sister, Senior Corps, and Adult Literacy.

2. The supervisor may approve the aggregated use of up to four hours in any calendar month, provided the agency deems such usage appropriate for the delivery of services under sub-subparagraph a. and b. In such cases no further administrative leave shall be granted pursuant to sub-subparagraphs a. or b. until one week has elapsed for every additional hour taken in the aggregate.

3. In granting administrative leave for any purpose under this section, the supervisor shall take into consideration the impact of such leave on the employees' work unit.

4. If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such leave.

Specific Authority 110.201, 110.219(5) FS. Law Implemented 110.219 FS. History—New

60L-34.0072 Educational Leave With Pay.

(1) Agencies shall submit to the Department any program for employees to take educational leave with pay.

(2) Each agency's educational leave with pay program shall have the following as its objectives:

(a) To develop participating employees' knowledge, skills, and ability to meet known agency needs.

(b) To improve the performance level of participating employees.

(c) To provide to career State employees training that is of clearly foreseeable benefit to the agency.

(d) To enable the agency to provide improved service to the public.

(3) Each agency's program shall include provisions that educational leave with pay may be granted any employee to attend a college, university, or training academy for one or more full academic periods, if the following criteria are met:

(a) The plan objectives will be met by allowing the employee to receive the training;

(b) The employee is able to meet the entrance requirements for a planned academic program related to the needs of the agency;

(c) The employee has been employed in the State Personnel System for at least one continuous year.

(4) Each agency's program shall include a provision for the objective selection of employees to be granted educational leave with pay, the method by which they are to be selected, and assurance that selection will not be based on the age, race, sex, religion, national origin, handicap or political affiliation of the employee.

(5) The maximum number of employees granted educational leave with pay at one time shall not exceed two percent of the agency's authorized positions during any fiscal year, unless a greater number is requested by the agency and approved by the Department.

(6) The agency's expenditures for a participating employee's salary and benefits during any academic period shall not exceed the amount that would have been expended by the state for the employee's salary and benefits if the employee had remained on the job.

(7) Expenditure of funds for educational leave with pay shall be in accordance with the agency's approved budget.

(8) Each employee who is to be granted educational leave with pay must, prior to the final approval of such leave, and as a condition of receiving such leave, enter into a written agreement with the agency providing, at a minimum:

(a) That the granting of educational leave with pay is terminable by the agency prior to the end of the approved period of leave if the employee fails to make satisfactory progress in the educational program for which the leave is granted. Satisfactory progress means that the employee is achieving a passing academic grade in each course offering

that is part of educational program. Satisfactory progress shall be determined conclusively between the agency and the employee by the final grade received in each course in which academic performance is assigned a grade or by certification from the instructor in each course in which academic performance is not assigned a grade that the employee has satisfactorily completed the course; provided that, in the case where a course is of such length that a final grade or determination of satisfactory completion cannot be made within six months after beginning the course, the instructor shall certify at the end of the first six months whether the employee is then performing at least at the minimum level required to satisfactorily complete the course according to the academic measures of the institution, and such certification shall be binding between the agency and the employee for purposes of termination of the leave.

(b) That, in consideration of the granting of educational leave with pay, the employee agrees to continue employment with the agency after completion of the training for a period of time equal to the length of leave taken, and that the employee's voluntary termination of employment prior to the expiration of said period shall constitute a material breach of contract, entitling the State to liquidated damages in an amount equal to that sum which is the product of multiplying the total of all salary and benefit expenditures for the employee during the period of education leave taken by a fraction, the numerator of which is the number of days remaining to be worked at termination to complete the period of employment equal to the period of educational leave with pay, and the denominator of which is the number of days of educational leave with pay taken.

(9) An employee who is granted educational leave with pay shall be returned to the same position unless the written agreement between the agency and the employee specifically includes a provision that the employee may be returned to a different position.

(10) Employees granted educational leave with pay are still employees of the agency and the State and, as such, retain all benefits, rights, and responsibilities of an employee while on such leave; provided, however, that time spent on educational leave with pay shall not be counted toward completion of the probationary period if the employee is on probationary status when such leave is approved. Employees on approved educational leave with pay shall be granted pay adjustments in the same amount and at the time as are granted all other employees in the same class. If a competitive area differential is approved for a class, an employee on educational leave with pay shall be granted a pay adjustment only if the competitive area differential applies to the position that the employee was filling when placed on educational leave with pay.

(11) The responsibility and accountability for performance and conduct are the same for employees on educational leave with pay as for other employees. Therefore, such employees are subject to the standards of conduct and the disciplinary procedures of the State Personnel System during the period of educational leave with pay.

Specific Authority 110.1055, 110.201(1), 110.219(5) FS. Law Implemented 110.219(5)(m) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: Career Pathing
RULE CHAPTER NO.: 60L-35

RULE TITLES: Scope and Purpose
RULE NOS.: 60L-35.001

Elements of Career Pathing System
60L-35.002

PURPOSE AND EFFECT: To establish an employee performance evaluation system, known as career pathing, to be used by agencies in the Executive Branch except the State University System and the Department of the Lottery.

SUMMARY: Frequency of evaluations; requirement of a formal performance plan to be provided by agencies to each employee; requirement that each agency submit a description of its system for approval; and the rating scale.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.201, 110.224(3), 110.403(1), 110.605(1) FS.

LAW IMPLEMENTED: 110.1245(2), 110.224, 110.403(1)(b), 110.605(1)(b) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-35.001 Scope and Purpose.

This chapter sets forth the rules governing the public employee performance evaluation system, which shall be known as Career Pathing.

Specific Authority 110.1055, 110.201, 110.224(3), 110.403(1), 110.605(1) FS. Law Implemented 110.1245(2), 110.224, 110.403(1)(b), 110.605(1)(b) FS. History—New

60L-35.002 Elements of Career Pathing System.

(1) The Career Pathing system is hereby established.

(2) An agency’s Career Pathing system shall provide for evaluation of all employees within the agency except volunteers and Other Personal Services employees. Agencies shall evaluate performance at least semi-annually.

(3) An agency’s Career Pathing system shall provide employees with a formal performance plan anchored to the core missions of the work unit and agency. The plan shall contain specific performance expectations and standards based on the duties of the position. Performance plans shall not account for all assignments and work expectations, but only those identified as critical or of high priority. Every employee is expected to demonstrate agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork. Agencies shall include this expectation in each formal performance plan, and agencies shall evaluate each employee’s performance against this expectation, along with others the agency deems appropriate.

(4) Agencies shall submit detailed descriptions of their Career Pathing systems for approval by the Office of Policy and Budget, which will monitor design and implementation of the overall system.

(5) An agency’s Career Pathing system shall provide for a rating scale consisting of the following elements.

5 – Outstanding. Performance significantly exceeds all expectations on a regular basis and is not generally equaled by others in the same position. Performance at this level is recognized by peers, immediate supervisors, and others in the agency/department. Actively initiates improvements and fosters teamwork. Extremely capable in adjusting priorities to current needs. Effective communicator. Works well independently for the good of the agency.

4 – Exceeds Expectations. Performance consistently meets and often exceeds expectations. Performance is characterized by initiative and superior job knowledge. Actively contributes to the achievement of overall goals. Performance is recognized by peers.

3 – Commendable. Performance consistently meets and occasionally exceeds expectations. Produces the type of quality work expected from a qualified person. Performance at times may be higher or lower but average to the competent level.

2 – Adequate or Needs Improvement. Performance marginally meets requirements at expected level. Improvement is needed and expected. Compared to others with similar responsibilities, the employee requires more frequent supervisory direction to accomplish assigned tasks. Performance at this level is “just getting by.”

1 – Below Expectations. Performance is inadequate, below minimum acceptable standards, expectations, and objectives. Performance is causing problems, inconvenience, or hardships for co-workers or the department and is having a negative impact on productivity or service. Performance should not be continued at this level. Additional training or behavioral adjustments required.

N – No longer applicable or unable to determine.

Specific Authority 110.1055, 110.201, 110.224(3), 110.403(1), 110.605(1) FS. Law Implemented 110.1245(2), 110.224, 110.403(1)(b), 110.605(1)(b) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Conduct of Employees	60L-36
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-36.001
Political Activities	60L-36.002
Relationships with Regulated Entities	60L-36.003
Sexual Harassment	60L-36.004
Disciplinary Standards	60L-36.005

PURPOSE AND EFFECT: To establish standards of conduct for employees of state agencies in the Executive Branch except the State University System and the Department of the Lottery. SUMMARY: Authorized and prohibited political activities; conflicts of interest in relationships with certain entities regarding employment, contracts, gifts and financial interests, and a reporting requirement; policy and procedure concerning sexual harassment, and agency responsibility; disciplinary standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1055, 110.1221, 110.201(1), 110.227(2), 110.233, 110.403(1), 110.403(5), 110.605(1), 110.605(4) FS.

LAW IMPLEMENTED: 110.1221, 110.201, 110.227, 110.403, 110.605 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-36.001 Scope and Purpose.

This chapter sets forth the rules governing the conduct of employees in the State Personnel System.

Specific Authority 110.1055, 110.1221, 110.201(1), 110.227(2), 110.233, 110.403(1), 110.403(5), 110.605(1), 110.605(4) FS. Law Implemented 110.1221, 110.201, 110.227, 110.403, 110.605 FS. History—New

60L-36.002 Political Activities.

(1) Section 110.233(4)(a) of the Florida Statutes limits a career service employee's political ability to engage in certain political activities without authorization by the employee's agency head and the Department. The following procedures shall apply to requests for that authorization.

(a) An employee seeking authorization shall submit to the employing agency head a written request at least forty-five days before the deadline for qualifying for the office. The request shall identify the public office sought and summarize the duties, the hours of work involved in holding the office, what effects, if any, office or campaign duties will have on the employee's regular duties with the State, and the amount of remuneration, if any, which the employee would receive if elected.

(b) Within ten days after receiving the request, the agency head shall decide in writing whether the request is authorized. The decision shall specify reasons and shall include a determination whether the candidacy or duties of the local public office involve an interest that conflicts or an activity that

interferes with the employee's state employment. If the agency head approves the request, the agency shall forward copies of the request and the decision to the Department.

(c) Within ten days after receiving the request and agency decision, the Department shall decide in writing whether the request is approved, and so advise the agency and the employee.

(d) Copies of the employee's request, the agency head's decision, and the Department's decision shall be retained in the employee's personnel file.

(2) Candidacy for or holding a local public office shall be presumed to involve an interest that conflicts with an employee's state employment when the campaign or the office, if elected, is likely to give rise to a situation in which regard for a private or local interest tends to lead to a disregard of the employee's duty as a state employee.

(3) Candidacy for or holding local public office shall be presumed to involve activities that interfere with an employee's state employment in the following instances:

(a) Campaign or, if elected, office activities are performed during the employee's assigned working hours with the state.

(b) Campaign or, if elected, office activities will involve the use of state space, personnel, time, equipment, or supplies.

(c) The employee solicits or accepts campaign contributions for persons or entities that are regulated by, or otherwise do business with, the employee's department or agency.

(4) Employees whose positions are subject to the Federal Hatch Act may not become candidates in any partisan election. Each agency head shall determine which of that agency's employees are subject to the Hatch Act.

(5) An employee who has been granted approval to become a candidate for local public office pursuant to this Rule 60L-36.002 may, at the discretion of the employee's agency head in accordance with Chapter 60L-34, F.A.C., Attendance and Leave, be granted a leave of absence without pay to campaign for the office, or may be allowed to use accrued annual or compensatory leave credits.

(6) This Rule 60L-36.002 shall apply when an employee already holds a local public office at the time of employment in the career service, or when the employee seeks re-election to the same office while an employee in the career service. This Rule 60L-36.002 applies to appointments as well as elections.

Specific Authority 110.1055, 110.201(1), 110.233(4)(a) FS. Law Implemented 110.233(4)(a) FS. History—New

60L-36.003 Relationships with Regulated Entities.

(1) Relationships between employees and regulated entities give rise to the potential for conflicts of interest. To ensure that agencies can monitor such relationships and avoid such conflicts, all employees exercising regulatory

responsibility shall comply with this Rule 60L-36.003. An employee exercises regulatory responsibility if the employee has direct responsibility for any of the following.

(a) Determining an entity's compliance with federal, state, or local statutes or regulations.

(b) Determining or recommending whether the agency should issue, revoke, cancel or suspend an entity's license or other certificate of authority.

(c) Approving transactions between the agency and an entity.

(d) Custody, supervision, care, or treatment of prisoners, inmates, patients, clients, or other persons committed to a state institution.

(2) If an employee holds himself or herself out, verbally or in writing, as available for employment by, or for a contractual relationship with, a regulated entity, or if the employee receives, verbally or in writing, an offer from a regulated entity for employment or for a contractual relationship, the employee shall notify the agency in writing within five days.

(3) If an employee receives from a regulated entity, on his or her own behalf or on behalf of another, a gift the value of which is \$25 or more, the employee shall notify the agency in writing within five days. No employee shall accept any gift based upon an understanding that the official acts or judgment of the employee will be influenced thereby.

(4) If an employee obtains a financial interest in a regulated entity, the employee shall notify the agency in writing within five days.

Specific Authority 110.1055, 110.201(1), 110.233(6), 110.403(5), 110.605(4) FS, Law Implemented 110.233(6), 110.403(5), 110.605(4) FS, History—New

60L-36.004 Sexual Harassment.

(1) Agencies shall not tolerate sexual harassment within the work force. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:

(a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) Agencies shall make known to their employees that sexual harassment will not be tolerated. Each employee shall acknowledge understanding and acceptance of this prohibition, and written evidence of the acknowledgement shall be retained in the employee's personnel file.

(3) Agencies shall develop and implement procedures to investigate and resolve complaints of sexual harassment. Agencies shall designate a person or persons to receive complaints of sexual harassment. Complaints shall be in writing, be signed by the complainant, and contain at least the following information:

(a) The name, business address, and telephone number of the person filing the complaint;

(b) The name of the person who allegedly committed the act of sexual harassment and the alleged victim; and

(c) A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the complaint.

If the complaint does not contain all of this information, the agency shall, in writing, request the complainant to furnish it.

(4) Agencies shall initiate prompt review of all complaints. Agencies shall take steps to protect the privacy of those involved during the review and any related investigation.

(5) During an investigation of sexual harassment, agencies shall fully comply with investigatory procedures and rights contained in collective bargaining agreements between the State and the certified bargaining representatives for State employees. If the standard agency procedure conflicts with the collective bargaining agreement, the latter shall prevail.

(6) The filing of a complaint pursuant to agency procedure, regardless of disposition, shall not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations (FCHR) or the Federal Equal Employment Opportunity Commission (EEOC). If the complainant files a complaint with either the FCHR or the EEOC, and the agency undertakes an investigation to provide information to those entities, the agency need not also conduct the investigation otherwise required by its own procedures; however, an employee who has committed sexual harassment shall be disciplined regardless of the type of investigation.

(7) Agencies shall discipline any employee who engages in sexual harassment, according to the agency's policy.

(8) Any supervisory or managerial employee who has knowledge of sexual harassment shall immediately report the matter directly to the person the agency has designated to receive complaints of sexual harassment. Failure to do so shall subject the employee to disciplinary action.

(9) Any employee who knowingly files a false complaint of sexual harassment against another employee shall be subject to disciplinary action according to agency disciplinary policy.

(10) Agencies shall not tolerate retaliation against any person who has in good faith filed a complaint, opposed a complaint, or participated in any manner in an investigation or proceeding, involving allegations of sexual harassment.

Specific Authority 110.1055, 110.1221, 110.201(1) FS, Law Implemented 110.1221 FS, History—New

60L-36.005 Disciplinary Standards.

(1) This rule sets forth the minimal standards of conduct that apply to all employees in the State Personnel System, violation of which may result in dismissal.

(2) Agencies within the State Personnel System perform a vast array of functions and deliver a wide variety of services. Some employees perform routine tasks in a safe office environment, while others engage in unpredictable life-threatening situations under the most demanding circumstances. Breach of a particular standard in one context might be less serious, while in another it might result in the loss of life or property. Accordingly, each agency shall have primary authority and responsibility for managing the conduct of its employees. If an agency deems it necessary to discipline an employee for violation of this rule, the agency may impose any discipline up to and including dismissal, taking into account the agency's unique mission and the individual facts and circumstances.

(3) Employees outside the permanent career service may be dismissed at will. Permanent career service employees may be suspended or dismissed only for cause, which shall include, but not be limited to, the following. Examples under the categories listed below are not exhaustive.

(a) Poor performance. Employees shall do more than "just get by." An employee may meet established minimum standards in the performance of job duties, but still be subject to discipline for poor performance. Employees are expected to be reliable and dependable, for example: to show up for work, ready to work, on a reliable basis; to observe established work hours and scheduled appointments; to complete work on time; and to obtain permission before being off work and to schedule leave in a manner that minimizes work disruption. Employees are expected to be effective, for example: to organize their work; to stay focused on job related activities during work hours; to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations; to accept responsibility for their actions and decisions; to adapt to changes in work assignments, procedures, and technology; and to be committed to improving individual performance.

(b) Negligence. Employees shall exercise due care and reasonable diligence in the performance of job duties.

(c) Inefficiency or inability to perform assigned duties. Employees shall, at a minimum, be able to perform duties in a competent and adequate manner.

(d) Insubordination. Employees shall follow lawful orders and carry out the directives of persons with duly delegated authority. Employees shall resolve any differences with management in a constructive manner. Employees shall remain cooperative and helpful to others.

(e) Violation of law or agency rules. Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System. All employees are subject to Part III of Chapter 112, Florida Statutes, governing standards of conduct, which agencies shall make available to employees. An agency may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction. Employees shall abide by both the criminal law, for example, drug laws, and the civil law, for example, laws prohibiting sexual harassment and employment discrimination.

(f) Conduct unbecoming a public employee. Employees shall conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state. Employees shall be courteous, considerate, respectful, and prompt in dealing with and serving the public. Employees shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism. Employees shall place the interests of the public ahead of selfish personal interests. Employees shall not use, or attempt to use, their official position for personal gain or confidential information for personal advantage. Employees shall protect state property from loss or abuse, and they shall use state property, equipment and personnel only in a manner beneficial to the agency.

(g) Misconduct. Employees shall refrain from conduct which, though not illegal or inappropriate for a state employee generally, is inappropriate for a person in the employee's particular position. For example, cowardice may be dishonorable in people generally, but it may be entirely unacceptable in law enforcement officers. By way of further example, people are generally free to relate with others, but it may be entirely unacceptable for certain employees to enter into certain relations with others, such as correctional officers with inmates.

(h) Habitual drug use. Agencies shall not tolerate misuse of mood- or mind-altering substances, including alcohol and prescription medications.

(i) Conviction of any crime.

(4) Supervisors are responsible for identifying instances of unacceptable behavior and for taking appropriate action. Before taking corrective action, an agency shall have evidence that the employee failed to comply with a standard or expectation.

(5) Agencies shall make known to permanent career service employees the procedures specified in Section 110.227, Florida Statutes. Section 110.227(5)(a) establishes procedures for suspension, reduction in pay, demotion, or dismissal of permanent career service employees. An agency taking such action shall, in addition to furnishing notice of intent to take such action, furnish the employee with written notice of final action. The written notice of final action shall advise the employee of appeal rights under Section 110.227(5)(a), under any applicable collective bargaining agreements, and under

any other applicable statutory provisions, such as Parts VI or VIII of Chapter 112, Florida Statutes. The fourteen-day deadline for appeal established in Section 110.227(5)(a) shall be measured from the date the employee receives the written notice of final action.

(6) Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the terms of the agreement.

Specific Authority 110.1055, 110.1221, 110.201(1), 110.227(2), 110.233, 110.403(1), 110.403(5), 110.605(1), 110.605(4) FS. Law Implemented 110.1221, 110.201, 110.227, 110.403, 110.605 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Savings Sharing Program	60L-37
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-37.001
Responsibilities	60L-37.002
Reporting Procedure	60L-37.003

PURPOSE AND EFFECT: To set policy and procedure for implementation of the savings sharing program for state employees who propose procedures or ideas that result in eliminating or reducing state expenditures.

SUMMARY: Duty of each agency to submit written recommendations for awards; criteria for recommendations; duty of each agency to develop a marketing strategy; authority to adopt and implement a proposal; and a reporting requirement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.1245(1) FS.

LAW IMPLEMENTED: 110.1245 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-37.001 Scope and Purpose.

This chapter sets forth the rules governing the Savings Sharing Program, which recognizes and rewards employees for proposing ideas that result in reducing State expenditures.

Specific Authority 110.1245(1) FS. Law Implemented 110.1245 FS. History--New

60L-37.002 Responsibilities.

(1) Each participating agency shall submit written recommendations for award to the Legislative Budget Commission for evaluation. Each recommendation shall do the following.

(a) Verify employee eligibility for participation.

(b) Verify eligibility of a proposal. To be eligible for award, a proposal shall do one of the following.

1. Identify existing programs and activities conducive to outsourcing or privatization.

2. Propose solutions that result in measurable benefits from improved productivity or outputs.

3. Propose procedures that will result in improved quality of product or service and reduce the burden on those served.

4. Propose innovative or new processes, applications, designs, equipment, tools, strategies, safety practices, etc.

(c) Track and document the savings realized or additional revenue generated by the proposal, if implemented.

(2) Each participating agency should develop a marketing strategy that encourages employee participation; promotes and actively publicizes the Program; and encourages supervisors and managers to support and promote the Program.

(3) The agency head shall make the final decision on whether or not to adopt and implement a cost-savings proposal.

Specific Authority 110.1245(1) FS. Law Implemented 110.1245 FS. History--New

60L-37.003 Reporting Procedure.

By September 1st of each year, each participating agency shall provide to the Department the previous fiscal year's information required by subsection 110.1245(1)(d), Florida Statutes.

Specific Authority 110.1245(1) FS. Law Implemented 110.1245 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: State Child Care Program RULE CHAPTER NO.: 60L-38

RULE TITLES: Scope and Purpose RULE NOS.: 60L-38.001

General Responsibilities 60L-38.002

Procedures for Coordination of Child Care Services Requests 60L-38.003

Criteria for Establishment of Child Care Centers 60L-38.004

Responsibilities of Service Providers 60L-38.005

PURPOSE AND EFFECT: To prescribe policy and procedures for establishing and maintaining child care services for state officers' and employees' children and dependents. SUMMARY: Approval of agencies' plans by the Department of Management Services; criteria for approval; agencies' authority and responsibility; procurement of contracted service providers; criteria for an approvable child care center; and responsibilities of service providers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 110.151(8) FS.

LAW IMPLEMENTED: 110.151 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-38.001 Scope and Purpose.

This chapter sets forth the procedures to be followed for establishing and maintaining work-site child care services for state officers and employees.

Specific Authority 110.151(8) FS. Law Implemented 110.151 FS. History--New

60L-38.002 General Responsibilities.

(1) The sponsoring state agency may provide for the space, maintenance, utilities and other operating costs associated with the center.

(2) The contracted service provider shall have primary responsibility for the day-to-day operation of the center.

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

(4) The Department shall approve the sponsoring agency's written plan for direct operation, provided the plan outlines the continuing efforts by the agency to secure a qualified provider, including the following:

(a) Steps to be taken to make improvements to the physical facility if such improvements are necessary to attract a quality provider.

(b) Steps to increase center enrollment.

(c) Steps to broaden the eligible employee population that supports the center, for example entering into consortium arrangements with other public sector employers in close proximity to the center.

(5) State employees who terminate employment with state government shall be afforded a 45-day grace period for securing other child care services.

Specific Authority 110.151(8) FS. Law Implemented 110.151 FS. History--New

60L-38.003 Procedures for Coordination of Child Care Services Requests.

(1) Agencies requesting the establishment of work-site centers shall submit a written plan to the Department for approval. This plan shall contain the results of a feasibility study showing the following:

(a) Number and ages of preschool children identified in target area.

(b) Number of employees indicating utilization of proposed center.

(c) Description of proposed child care space as to location, square footage, and suitability to purpose.

(d) Number of existing preschool centers in the target area with their licensed capacity and enrollment.

(e) Estimated start-up and operational costs of proposed center.

(2) The Department shall respond to each agency's request by outlining its findings based on established criteria and, if the plan is approved, in accordance with Section 60L-38.004 of this chapter, recommend a step-by-step procedure for establishing a child care center.

Specific Authority 110.151(8) FS. Law Implemented 110.151 FS. History-New _____.

60L-38.004 Criteria for Establishment of Child Care Centers.

The following criteria shall be used in reviewing agency requests for the establishment of state-sponsored child care centers:

(1) Concentration of state employees in the area equal to a population density of at least 4 employees with preschool children for each projected child care slot.

(2) Number of employees indicating at least a 25% utilization of the center by the preschool children in the target area.

(3) Adequate and appropriate space for child care purposes which conforms to state physical facility standards described in Chapter 65C-22, F.A.C.

(4) Nonavailability or inadequacy of community-provided services in the area.

Specific Authority 110.151(8) FS. Law Implemented 110.151 FS. History-New _____.

60L-38.005 Responsibilities of Service Providers.

(1) The service provider shall be responsible for providing quality physical care and developmental activities appropriate to the ages of the children enrolled in the center; selecting and managing staff assigned to the center; and managing the budget and daily operations of the center.

(2) The service provider shall be responsible for enrolling children of state employees in accordance with the enrollment policy of the sponsoring agency, pertaining to eligibility and procedures.

(3) Upon enrollment, the service provider shall furnish state employees with forms for payroll deduction. Payroll deduction shall be made in such a manner that a full month's payment is deducted for employees paid monthly or 26 payments are deducted for employees paid bi-weekly.

(4) The service provider shall ensure that parents, the public, and representatives of the using agencies have reasonable access to the center for purposes of visitation and observation.

(5) The service provider shall be responsible for requirements set forth in the request for proposal for the operation of the center.

Specific Authority 110.151(8) FS. Law Implemented 110.151 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Human Resources Management

RULE CHAPTER TITLE: Florida State Employees' Charitable Campaign

RULE CHAPTER NO.: 60L-39

RULE TITLES: Scope and Purpose

RULE NOS.: 60L-39.001

General Requirements

60L-39.002

Statewide Steering Committee

60L-39.003

Eligibility Criteria for Participation by Charitable Organizations

60L-39.004

Application Procedures

60L-39.005

Duties and Responsibilities of the Fiscal Agent

60L-39.006

Appeals

60L-39.007

PURPOSE AND EFFECT: To set policies and procedures for operation of the annual state employees' charitable campaign. SUMMARY: Voluntary and exclusive nature of campaign; application procedure and eligibility of organizations for receipt of funds; permitted and prohibited activities; duties of steering committee; duties of fiscal agent; and appeals by rejected applicants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

Any person who wishes to provide information regarding 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: 110.181(3) FS.

LAW IMPLEMENTED: 110.181 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A RULE 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., November 26, 2001

PLACE: Room 301, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fred Springer, Office of the General Counsel, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-39.001 Scope and Purpose.

This chapter sets forth the rules governing the Florida State Employees' Charitable Campaign (FSECC).

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New _____.

60L-39.002 General Requirements.

(1) The State of Florida has an interest in establishing a single state employee charitable campaign that (a) minimizes workplace disruption and administrative costs and (b) ensures the voluntary nature of employee participation.

(2) The State of Florida has an obligation to ensure that organizations participating in the FSECC meet the eligibility criteria outlined in Rule 60L-39.004.

(3) Truly voluntary giving is fundamental to FSECC fundraising activities. Actions that do not allow free choices, or that even create the appearance that employees are not free to choose whether to give, are contrary to FSECC fundraising policy.

(4) The FSECC shall be the only workplace charitable fundraising program in state government that receives official state coordination and support.

(5) Charitable organizations and federations shall not permit, plan, or conduct distribution of any materials or services within State facilities as part of the campaign, except for the campaign materials approved by the Steering Committee. Organizations and federations are encouraged, however, to publicize their activities and solicit employee participation in the FSECC through the news media or other private outlets outside State facilities.

(6) Charitable organizations shall not list in the same geographical area campaign brochure both the state or national charitable organization and its local affiliate or other subunit. Similarly-named organizations shall not be listed, unless the Steering Committee determines they do not deliver services to overlapping or identical geographical areas. In cases where dual listings occur, and the organizations cannot resolve the issue themselves, the Steering Committee shall grant preference for listing in the following order: (a) local, (b) state, and then (c) national.

(7) For purposes of determining eligibility to participate in the FSECC, the Department shall not deem lobbying legislative bodies as a political activity.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New _____.

60L-39.003 Statewide Steering Committee.

The FSECC Steering Committee shall:

(1) Establish the policies and guidelines of the campaign, which shall include the following.

(a) Arrange publication of information about the application process -- including deadlines, address for obtaining materials, and criteria for eligibility -- in sufficient time to prepare applications and supporting documentation.

(b) Review all new and renewing applications before June 1 on the basis of their compliance with the established criteria and their timely submission.

(c) Review the required documentation submitted by federations for each of their member organizations that participated in the prior year's campaign.

(d) Each year the committee will review the renewal applications and documentation for each independent or unaffiliated agency, whether new or renewing.

(2) Decide all applications by a simple majority vote of those members attending, so long as a quorum of the membership is present.

(3) Review and approve the campaign brochures.

(4) Notify applicants of decisions on applications within a period that allows time for an appeal in accordance with Rule 60L-39.007.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New _____.

60L-39.004 Eligibility Criteria for Participation by Charitable Organizations.

(1) To be eligible to participate in the FSECC, an organization must satisfy the following conditions.

(a) The organization must provide programs or services that are not the result of another mission or part of any program operated by the government or any educational institution.

(b) The organization must be audited annually by an independent public accountant whose examination conforms to generally accepted accounting principles. Upon request of the Steering Committee, disclose all information dealing with fundraising activities, finances, and voting trustees, as well as any financial interest the directors, their families, or their staff might have in the organization. In addition, the organization must disclose information about professional solicitors and copies of contracts or agreements concerning fundraising activities.

(c) The organization must have an active Board of Directors that conducts regular meetings and effectively manages the affairs, funds, and property of the organization and whose members serve without compensation.

(d) The organization must have reasonable expenses for fundraising. The Steering Committee reserves the right to access organization fundraising and administrative cost report records from the Florida Division of Consumer Services. Where administrative and fundraising expenses exceed 25%, the organization must demonstrate extraordinary circumstances that justify the expense ratio. If the ratio is over 50%, or if it exceeds 25% for two consecutive years, the organization is not eligible to participate in the FSECC.

(e) The organization must receive a substantial portion of its financial support from voluntary contributions.

(2) To be admitted as a federation, the organization must demonstrate a two-year history of providing charitable fundraising, administrative, and management services to at least ten constituent member organizations that provide human, health, welfare or environmental services.

(3) Once approved for participation, any organization or federation may be disqualified by majority vote of the Steering Committee for:

(a) failing to comply with the procedures contained in this chapter; or

(b) filing an application to participate in the FSECC that contains false or intentionally misleading information.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History–New _____.

60L-39.005 Application Procedures.

(1) Annual applications for participation in the FSECC shall be submitted to the Steering Committee Chair. Applications must be postmarked by April 1 of each year for a charitable organization to be considered eligible for that year’s Campaign.

(2) Any organizations that did not participate in the FSECC during the previous year and all independent/unaffiliated organizations shall submit a complete application with documentation verifying compliance with eligibility outlined in section 110.181(1) of the Florida Statutes and Rule 60L-39.004.

(3) A federation may submit renewing applications on behalf of its member organizations. However, the application shall include the following for each renewing member organization:

(a) The percent of the total administrative cost and fundraising expenses for the previous year.

(b) Proof of proper registration with the Florida Department of Agriculture’s Division of Consumer Services under the Solicitation of Contributions Act, sections 496.401 to 496.424 of the Florida Statutes.

(c) A statement certifying that the organization complies with the criteria for eligibility outlined in section 110.181(1)(c) of the Florida Statutes and Rule 60L-43.004.

(4) If any member is new to the federation, or did not participate in the FSECC during the previous year, the federation shall provide a complete application and sufficient documentation to verify that the member is in compliance with all relevant criteria.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History–New _____.

60L-39.006 Duties and Responsibilities of the Fiscal Agent.

(1) The state fiscal agent coordinator shall ensure that campaign brochures and materials treat all participating organizations and federations equally and fairly. Campaign brochures shall provide fair listing order and the same type, size, and color print for all participating organizations and for all federations.

(2) The duties and responsibilities of the area fiscal agent shall include, but are not limited to:

(a) Selecting, training and managing a local steering committee composed of state employees in the fiscal agent area to assist in conducting the campaign and to direct the distribution of undesignated funds.

(b) Training employee keyworkers and volunteers in the methods of non-coercive solicitation.

(c) Honoring employee designations.

(d) Helping to ensure that no employee is coerced or questioned as to the employee’s designation or its amount, other than for arithmetical inconsistencies.

(e) Responding in a timely and appropriate manner to inquiries from employees, participating organizations, federations and/or the Steering Committee.

(f) Notifying participating organizations and federations of the name and address of the local steering committee chairperson and ensuring them access to the steering committee meetings. For meetings during which undesignated funds will be discussed, a two-week notice to participating organizations and federations is required.

(g) Ensuring that distribution of undesignated funds is limited to participating organizations and federations in the FSECC.

(h) Ensuring the timely distribution of campaign funds to participating organizations and federations.

(i) Withholding the reasonable costs for conducting the campaign and for accounting and distribution to the participating organizations and federations. These costs shall be shared proportionately by the participating federations and independent/unaffiliated organizations based on their percentage share of the gross campaign.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History–New _____.

60L-39.007 Appeals.

(1) A disappointed applicant may:

(a) Submit additional information to the Steering Committee within five working days after receipt of notice of ineligibility, or

(b) Appeal within seven working days of notice. An applicant declared ineligible after submitting additional information may appeal within seven working days after the receipt of the new notice.

(2) All appeals shall be concluded by July 15 to allow timely publication of authorized participating organizations in the FSECC brochures.

Specific Authority 110.181(3) FS. Law Implemented 110.181 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Garrett R. Blanton, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Applications by Individuals

RULE NO.: 61J1-3.001

PURPOSE AND EFFECT: The Board is proposing to amend the above referenced rule provision relating to applications. The purpose is to amend this rule provision by deleting language relating to disclosure of information relating to mental competency. Rule 61J1-3.001(6)(c) requires the applicant to disclose information on mental competency and is included on the current application. Since the Board does not have authority to capture that information, the rule must be amended.

SUMMARY: The proposed rule amendment affects the rule provision relating to the request for information regarding mental competency of real estate appraiser applicants by deleting language relating to disclosure of information relating to mental competency.

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: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617, 475.624 FS.

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:

TIME AND DATE: 9:00 a.m., December 4, 2001

PLACE: Office of Florida Real Estate Appraisal Board, Suite N-301, 400 West Robinson Street, North Tower, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charlotte Hattaway, Regulatory Program Administrator, Division of Real Estate, Office of the Florida Real Estate Appraisal Board, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-3.001 Application by Individuals.

(1) through (5) No change.

(6) The applicant must make it possible for the board to begin the inquiry as to whether the applicant is competent and qualified to make real estate appraisals with safety to those with whom the applicant may undertake a relationship of trust and confidence and the general public:

(a) through (b) No change.

~~(c) by disclosing if the applicant is now a patient of a mental health facility or similar institution for the treatment of mental disabilities; and~~

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

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617, 475.624 FS. History--New 10-15-91, Formerly 21VV-3.001, Amended 10-29-98, 1-7-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Correspondence Courses for Hardship Cases

RULE NO.: 61J1-4.006

PURPOSE AND EFFECT: The purpose of this proposed rulemaking is to repeal the above referenced rule because it is no longer necessary and possibly lacks statutory authority.

SUMMARY: Repeals rule relating to distance education and correspondence courses for hardship cases real estate appraisers.

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

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.611(1)(l), 475.613(2), 475.624 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: 9:00 a.m. or as soon thereafter as possible, December 4, 2001

PLACE: Office of the Florida Real Estate Appraisal Board, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charlotte Hattaway, Regulatory Program Administrator, Division of Real Estate, Office of the Florida Real Estate Appraisal Board, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.006 Correspondence Courses for Hardship Cases.

Specific Authority 475.614 FS. Law Implemented 475.615(2) FS. History--New 10-15-91, Formerly 21VV-4.006, Amended 4-14-98, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Citation Authority RULE NO.: 61J2-24.002

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend provisions relating to the disciplinary citation penalties. The Commission intends to substitute the current "7-hour" escrow course penalty language with "4-hour" escrow course penalty language.

SUMMARY: The proposed rule change affects rules regarding the notice requirements placed on a real estate broker upon receiving conflicting demands for any trust funds being maintained in the broker's escrow account. The Commission intends to substitute the current "7-hour" escrow course penalty language with "4-hour" escrow course penalty language.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 455.224 FS.

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, December 19, 2001

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida, 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-24.002 Citation Authority.

(1) No change.

(2) The following violations with accompanying fine or other conditions may be disposed of by citation:

(a) through (gg) No change.

(hh) 61J2-14.012(2) – failed to properly reconcile an escrow account when the account balances

\$100.00 and the 4 7 hour Instructional Program for Broker Management of Escrow Accounts to be completed within 6 months of the citation becoming a final order

(ii) 61J2-14.012 – failed to properly reconcile an escrow account when the account is no more than +\$200 out of balance

Instructional Program for Broker Management of Escrow Accounts to be completed within 6 months of the citation becoming a final order

(jj) 61J2-14.012(2) – failed to properly reconcile an escrow account when the account is out of balance by more than +\$200 but no more than and the 7 +\$500

\$500.00 and the 4 7 hour Instructional Program for Broker Management of Escrow Accounts to be completed within 6 months of the citation becoming a final order

(kk) through (pp) No change.

(qq) 61J2-24.002(3)(y) – failed to complete the 4 7 hour Instructional Program for Broker Management of Escrow Accounts within six (6) months from the date the citation becomes a final order but the course is completed no later than twelve (12) months from the date the citation becomes a final order

\$200.00 in addition to penalty in original citation

(3) through (5) No change.

Specific Authority 475.05 FS. Law Implemented 455.224 FS. History—New 12-29-91, Amended 4-16-92, 1-20-93, 6-28-93, Formerly 21V-24.002, Amended 8-23-93, 4-7-94, 4-12-95, 7-5-95, 2-13-96, 6-5-96, 7-23-96, 1-22-97, 3-30-97, 11-10-97, 3-24-98, 7-1-98, 10-25-98, 1-19-99, 1-18-00, 10-15-00,

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Commission
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Florida Real Estate Commission
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: July 18, 2001
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-53R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Drinking Water and Domestic 62-602
 Wastewater Treatment Plant
 Operators

RULE TITLES: RULE NOS.:

Definitions 62-602.200

Approval of Residence or Correspondence

 Courses 62-602.230

Criteria for Determining Eligible Experience 62-602.250

Eligibility for Operator Examinations 62-602.270

Qualifications for Operator License 62-602.300

Licensing Requirements for Non-Florida

 Operators 62-602.360

Applications for License 62-602.400

Applications for Examination 62-602.410

Applications for License 62-602.420

Application Processing for Examinations and

 License 62-602.430

Notification to Applicants for Examinations 62-602.450

Conduct at Test Site and During Reviews 62-602.530

Grading of Examinations and Grade Notification 62-602.550

Candidates' Post Exam Review 62-602.560

Fees for Operator Examinations and Licensure 62-602.600

Duties of Operators 62-602.650

Operator Licensing 62-602.700

Renewal of Operator Licenses 62-602.710

Denial of Application or Renewal of Licenses 62-602.750

Grounds for Disciplinary Proceedings 62-602.800

Disciplinary Guidelines 62-602.850

Consecutive Public Water System Operator

 Licenses 62-602.880

Forms for the Operator Certification Program 62-602.900

PURPOSE AND EFFECT: The proposed rule revisions would accomplish several objectives. The procedures for obtaining water and wastewater treatment plant licenses would be modified to allow qualified applicants to take licensing examinations prior to having the experience required to obtain a license at the examination level. The applicant would then be

able to apply for licensure at the time the necessary experience has been obtained. This would allow applicants to become licensed more quickly while maintaining all the current licensing requirements. The fee schedule for examinations and licensing would be modified to reflect the changes in the licensing process. The experience requirements for out of state operators to obtain Florida licensure would be more specifically defined to assure that they will be licensed at the proper level. Examination reviews would be subject to the same security and potential for disciplinary actions for security violations as the actual examinations. A new license classification would be created for consecutive water system operators. This license would be applicable only for operators of drinking water systems that purchase water from a single public drinking water system and provide this water to consumers with no further treatment.

SUMMARY: More specific operational experience requirements for operator licensure were established. The operator examination was made a separate component of the licensing process allowing licensing examinations to be taken prior to the license application. This differs from the current process that requires applicants to meet all other licensing criteria before the examination can be taken. Applicants for licensure will be able to make application at the time all the licensing criteria have been met. A passing grade on the licensing examination will be valid for four years. Procedures for processing applications for examinations and licenses have been separated. Total fees required for examination and licensure for Classes A, B, and C licenses will remain the same. The total fees for obtaining a Class D license will increase by \$25. Specific experience criteria for licensure of out of state operators will be established. Examination reviews will be subject to the same security standards as examinations. Examination reviews will only be allowed if requested within 21 days after notification of examination results. The fee for hand scoring an examination will be reduced from \$25 to \$10. Licenses will be required to be renewed by April 30 of odd numbered years except for the initial license issued by the Department if that license would expire less than 12 month after issuance. These licenses will expire April 30 of the of the next two year renewal cycle. Successful completion of the approved training course for the next higher level of license will satisfy the continuing education requirement for that renewal cycle. Applications for examinations will be subject to denial for specified reasons. Licenses may be suspended for checks with insufficient funds used as the fee for an examination review. A new license classification would be created for consecutive water system operators. Some wording changes will be made to clarify the intent of the rule. Rule sections also will be reorganized to reflect the proposed rule changes. Separate application forms for examinations, license, and consecutive system operators will be established.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 403.869, 403.872 FS.

LAW IMPLEMENTED: 403.865, 403.866, 403.867, 403.869, 403.871, 403.872, 403.873, 403.874, 403.875, 403.876 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., December 5, 2001

PLACE: Department of Environmental Protection, Room 611, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

Pursuant to the provisions of the Americans with Disabilities Act, any persons requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours the hearing by contacting the Bureau of Personnel Services, (850)488-2996. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Craig Diltz, Bureau of Water Facilities Funding, Mail Station 3506, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)487-2077

THE FULL TEXT OF THE PROPOSED RULES IS:

62-602.200 Definitions.

For the purposes of this chapter, the terms shall be defined as follows.

(1) "Approved training course" means a course that has received written approval from the Department for the training of water or wastewater operators as described in Rule 62-602.230. The Department shall approve operator training courses whose course content and curriculum meet established Florida Department of Education (DOE) standards. A list of approved courses and performance standards can be found in DOE documents number 0175.050603, "Water Treatment Technologies," and 0715.050604, "Wastewater Treatment Technologies," July 1999, incorporated herein by reference. Copies of this document may be obtained from the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(2) "Continuing Education Unit" means 10 classroom hours of approved instruction. It may be abbreviated to "CEU" in these rules.

(3) No change.

(4) "Domestic wastewater treatment plant" means any plant or other works used for the purpose of treating, stabilizing, or holding domestic waste ~~permitted by the~~

~~Department or approved local program. Such plants are classified by size and type of treatment under Chapters 62-699 and 62-600.~~

(5) "Experience" either means employment as an employee or volunteer in a public drinking water or domestic wastewater treatment plant performing the duties described in Rule 62-602.250(1). Employment at an industrial wastewater plant using similar water or wastewater treatment processes will qualify as experience if the criteria in Rule 62-600.250(4) or (5), are met and upon approval by the Department.

(6) "License" means a document issued by the Department granting the holder the authority to perform the duties of an operator. The license limits this authority to specific type(s) and classification(s) of water or wastewater plants or water distribution systems based on the training and experience of the licensee, indicating that the operator has satisfactorily met all requirements for licensure at the type and level applied for.

(7) through (8) No change.

(10) "Probation letter" means a letter reprimanding the operator for failure to comply with ~~any of~~ the provisions of Rule 62-602.650. This letter shall initiate up to a two year probation wherein the operator must complete one additional CEU. An additional violation of a similar nature or failure to complete the additional CEU shall result in the suspension of the license for two years.

(11) "Standard operating practice" means effective and competent treatment plant operation which is consistent with the existing plant design and operations manual, manufacturer's equipment specifications, professionally accepted treatment plant operation procedures as contained in the manuals listed in Rule 62-602.660, and other applicable Department rules. This definition applies to functions which directly affect plant operations and which can be reasonably controlled by the operator.

Specific Authority 403.869 FS. Law Implemented 403.865, 403.867, 403.869 FS. History--New 12-30-99, Amended _____.

62-602.230 Approval of Residence or Correspondence Courses.

Educational courses for training of water and wastewater operators shall be approved by type and level of training provided. The Department shall approve operator training courses whose course content and curriculum meet established Florida Department of Education (DOE) standards. A list of approved courses and performance standards can be found in DOE documents number 0175.050603, "Water Treatment Technologies," and 0715.050604, "Wastewater Treatment Technologies," July 1999, incorporated herein by reference. Copies of these documents may be obtained from the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Residence courses shall only be approved if affiliated with an academic institution of the Florida Department of Education, shall be granted for two years, and can be re-approved upon request. Residence courses shall not be approved for less than the recommended classroom hours shown in the standard curriculum outlines. The course shall implement the Department of Education curriculum frameworks and student performance standards for training of drinking water or domestic wastewater operators. The application by the academic institution for approval of a residence course shall contain the following:

(a) Title of the course, the level of the material, and the total classroom hours;

(b) A statement that the state-approved curriculum materials will be used;

(c) A statement setting forth the obligations and responsibilities of the instructor and the institution offering the course;

(d) A statement that the course will meet the Department of Education approved training objectives for the type and level of the course offered; and

(e) Qualifications of the instructor, who shall be a certified operator at a level higher than the level of the proposed course, or be a certified operator who has been certified at the same level as the proposed course for a minimum of two years.

(2) Residence courses shall not be approved unless an application as described in (1) above is submitted more than 60 days before the first day of class. Residence courses shall use the standard curriculum outlines. Copies of the standard curriculum outlines are available from the Department of Environmental Protection at the Operator Certification Program Office, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(3) Approval for a correspondence course shall be for as long as the materials are current and applicable to the training needed by Florida operators. The Department shall review the materials every two years to determine if the course is current. Approval of correspondence courses shall only be granted by the Department for courses that meet the curriculum frameworks of the Florida Department of Education. The publisher or provider of a correspondence course shall submit copies of the text and materials, including tests, to the Department for approval. The application shall outline how the provider will interact with the student, how many lessons will be contained in the course, how much time the student is expected to spend on the course, how successful completion of the course will be indicated, and how frequently the course will be revised to reflect changing technology or new techniques of treatment. The provider of the course shall notify the Department when revisions are made, and shall provide the Department with a copy of the revised materials.

(4) The Department shall periodically publish a list of the approved courses. The list shall be available upon request to the Operator Certification Office, Department of Environmental Protection, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.872 FS. History—New

62-602.250 Criteria Requirements for Determining Eligible Experience.

(1) Experience necessary to meet the requirements of Rule 62-602.300 shall include performance of on-site process control and trouble shooting action with the treatment process as listed in (a) below. Experience listed in (b) below can also be included for part of the documented experience if the experience listed in (a) predominates ~~is met~~.

(2) through (3) No change.

(4) Persons employed in the daily on-site operational control of an industrial production process water treatment plant can use this experience to meet the experience requirements of the Class A, B, or C drinking water operator license. Industrial production process water treatment plant means the structures, equipment, and processes required to treat water in a plant using a physical-chemical treatment process similar to drinking water treatment processes; ~~and must include disinfection~~. A diagram and detailed process description must be submitted for the Department to determine if the experience is commensurate to the level applied for.

(5) through (6) No change.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.865, 403.866, 403.867, 403.872 FS. History—New 12-30-99, Amended

62-602.270 Eligibility for Operator Examinations.

(1) To be eligible for operator licensing examinations the applicant must meet the following criteria:

(a) Have a high school diploma or its equivalent.

(b) Have successfully completed a required training course for the classification and level of the examination to be taken no more than 5 years before the examination.

(c) Be currently licensed as follows:

1. Licensed at the B level to take the A level examination.

2. Licensed at the C level to take the B level examination.

(2) Operators from other states must meet the requirements of Rule 62-602.360(1)(a)-(d).

Note: To be eligible for licensure, all of the applicable requirements of Rule 62-602.300 must be met.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New

62-602.300 Qualifications for Operator Licensure.

To be eligible for licensure by the Department, the applicant shall:

(1) For licensure as a Class D operator:

(a) Have a high school diploma or its equivalent;

(b) Be the owner or owner's manager or agent or trainee engaged in the operation and maintenance of a public drinking water or domestic wastewater treatment plant for at least 3 months; or document successful completion of the appropriate training course no more than five years before the application ~~submittal~~ deadline and have at least one hour of experience under a certified operator; and

(c) Obtain a passing score on the Class D examination as provided for in Rule 62-602.550(1)(a).

(2) For licensure as a Class C operator:

(a) Have a high school diploma or its equivalent;

(b) Document at least 1 year (2,080 hours) of experience as defined in Rule 62-602.250(1)-(6), completed before ~~the exam~~ application submittal deadline;

~~(e) Document successful completion of an approved training course no more than five years before application the exam application deadline; and~~

~~(c)(d)~~ Obtain a passing score on the Class C examination as provided for in Rule 62-602.550(1)(a) within the time frames specified in (d) below.

(d) For the purposes of obtaining a license, the examination specified in (c) above will satisfy the examination criterion for licensing for a period of four years from the date a passing score is obtained.

(3) For licensure as a Class B operator the applicant shall:

(a) Have an active Class C license of the same type;

~~(b) Document successful completion of an approved training course no more than five years before the exam application deadline; and~~

~~(b)(e)~~ Document at least 3 years (6,240 hours) of experience as defined in Rule 62-602.250(1)-(6), completed before ~~the exam~~ application submittal deadline; and

~~(c)(d)~~ Obtain a passing score on the Class B examination as provided for in Rule 62-602.550(1)(a) within the time frames specified in (d) below.

(d) For the purposes of obtaining a license, the examination specified in (c) above will satisfy the examination criterion for licensing for a period of four years from the date a passing score is obtained.

(4) For licensure as a Class A operator the applicant shall:

(a) Have an active Class B license of the same type;

~~(b) Document successful completion of an approved training course no more than five years before the exam application deadline;~~

~~(b)(e)~~ Document at least 5 years (10,400 hours) of experience as defined in Rule 62-602.250(1)-(6), completed before ~~the exam~~ application submittal deadline; and

~~(c)(d)~~ Obtain a passing score on the Class A examination as provided for in Rule 62-602.550(1)(a) within the time frames specified in (d) below.

(d) For the purposes of obtaining a license, the examination specified in (c) above will satisfy the examination criterion for licensing for a period of four years from the date a passing score is obtained.

~~(5) A licensee must possess an active Class C license as a prerequisite to taking the Class B level examination, and possess an active Class B license as a prerequisite to taking the Class A examination.~~

~~(6) For purposes of this rule, an application is complete when all items on the application form have been fully answered, the applicant has paid all fees specified in Rule 62-602.600 and all checks submitted have been honored, and all attendant documentation has been submitted including required licensure and other items specified in form 62-602.900(1) or (2), as applicable, and its instructions. These forms are incorporated by reference in Rule 62-602.400(4). The applicant shall be required to submit to the Department in writing any changes in the information contained in the original application within 30 days after the date of such change.~~

~~(7) Requirements for Operators from Other States:~~

~~(a) The Department shall approve out of state training that meets the curriculum standards for drinking water and domestic wastewater treatment plant operators established by the Florida Department of Education for Florida approved courses. The applicant must submit a detailed description of the out of state training to confirm that the training meets Florida standards.~~

~~(b) If the applicant meets the qualifications outlined in Rule 62-602.300 for the Class A or B examination, the applicant will be allowed to take that examination two times. If the applicant fails that examination two times, the applicant is eligible to take the Class C examination upon satisfying the requirements established in Rule 62-602.300 for the Class C examination.~~

Specific Authority 403.869, 403.872 FS. Law Implemented 403.872 FS. History--New 12-30-99, Amended _____.

62-602.360 Licensing Requirements for Non-Florida Operators.

Operators licensed in other states must meet the following requirements to obtain a Florida license:

(1) Have a high school diploma or its equivalent;

(2) Have successfully completed a required training course for the classification and level of the license being requested no more than 5 years before the application;

(3) Have the required experience specified in Rule 62-602.300 for the level of license being requested. Additionally, this experience must include at least two years at a plant using a treatment process that, if in Florida, would require an operator licensed at the level being requested according to the criteria established in Rule 62-699.310;

(4) Possess an active license equivalent to the level of license being requested;

(5) Obtain a passing score on the licensing examination, as provided for in Rule 62-602.550(1)(a), for the level of license being requested;

Specific Authority 403.869 FS, Law Implemented 403.872 FS, History–New _____.

62-602.400 Applications for License.

Specific Authority 403.869 FS, Law Implemented 403.872 FS, History–New 12-30-99, Repealed _____.

62-602.410 Applications for Examination.

(1) Applications for operator examinations shall be made on the “Application for Water or Wastewater Treatment Plant Operator Examination,” form 62-602.900(2), and shall include all fees and documentation required by these rules.

(a) Documentation of course completion shall include the name and type of training institution, the number of classroom hours in the approved course, the date of course completion, the type and level of training approved (drinking water or domestic wastewater treatment D, C, B, or A), and the signature of the instructor who determined that the applicant has successfully completed the course.

(b) In addition to the completed application form, fees, and all supporting documentation, two photographs of the applicant’s face and head, size 2 inches by 2 inches, not more than 6 months old, must be included. Any photograph that is not identifiable will be returned to the applicant and will delay the processing of the application.

(2) Applicants requesting to take the operator examination and apply for license at the same time must submit both forms 62-602.900(1) and 62-602.900(2) with associated fees and documentation.

Specific Authority 403.869, 403.872 FS, Law Implemented 403.872 FS, History–New _____.

62-602.420 Applications for License.

(1) Applications for the license shall be made on the “Application for Water or Wastewater Treatment Plant Operator Certification,” form 62-602.900(1), and shall include all fees and documentation required by these rules.

(2) Verification of employment experience as defined in Rules 62-602.200(5) and 62-602.250 shall be provided by the applicant to confirm the hours required in Rule 62-602.300. These hours shall be verified by one of, or a combination of, (a) and (b) below.

(a) The lead operator of the plant or system, the operator’s supervisor, or for contract operators, the contract manager for the plant or system.

(b) For applicants working as a contractor for multiple plants and who cannot meet the requirements of (a) above, the applicant shall submit with the application a copy of the contract for the operation of each plant, or an affidavit from the owner verifying time at the plant.

(c) For the purposes of crediting experience, applicants with experience from a treatment plant not permitted by the Department must provide a complete flow diagram and detailed description indicating all plant treatment processes and operations and plant flow rate. The diagram must be attached to the employment verification. This information will be used to determine experience eligibility under the classification of plants established by the Department in chapter 62-699.

(d) If the employment experience is not verified by a licensed operator, the applicant must also provide a reference from a peer who is a licensed operator of the same type (drinking water or wastewater) to verify the type of experience of the applicant.

(e) To be determined complete, the application must include all fees, signatures and affidavits, and document all experience.

Specific Authority 403.869, 403.872 FS, Law Implemented 403.872 FS, History–New _____.

62-602.430 Application Processing for Examinations and License.

(1) Applications for operator examinations shall be processed as described. Complete applications for examinations shall be submitted to the Department or its designee no later than 90 days before the date of the requested examination. For purposes of this rule, an application is complete when all items on the application form have been fully answered with all attendant documentation provided, the applicant has paid all fees specified in Rule 62-602.600 and all checks submitted have been honored. Applications postmarked less than 90 days before the date of examination shall be processed for the next examination.

(a) Within 30 days after receipt of an incomplete application, the Department shall send notification to an applicant of an incomplete application. The applicant must make such application complete no later than two weeks after notice of incompleteness is sent, or by the application deadline, whichever is later, to be considered eligible for the next examination. If the application is not made complete by this time, the applicant will be considered ineligible and the refundable fees will be returned. The applicant must submit a new application with the required fees to be considered for a later examination. After an application is determined to be complete, an eligibility review shall be conducted by the Department.

(b) The applicant shall be notified of the eligibility status at least 30 days before the examination date, or no more than 90 days after the receipt of a complete application, whichever comes first.

(c) If the Department determines that the applicant is not qualified to take the examination, notice of such determination with administrative hearing rights shall be mailed to the applicant. The applicant may petition for an administrative hearing under sections 120.569 and 120.57 of the Florida Statutes.

(2) Applications for operator licenses shall be processed as follows:

(a) Applications for operator license may be submitted to the Department or its designee at any time after the requirements of Rule 62-602.300 have been met. For purposes of this rule, an application is complete when all items on the application form have been fully answered with all attendant documentation and the applicant has paid all fees specified in Rule 62-602.600 with all checks honored.

(b) Within 30 days after receipt of an application, the Department shall send notification to an applicant of an incomplete application.

(c) The Department shall notify the applicant of the determination of license eligibility within 90 days after receipt of a complete application.

(d) If the Department determines that the applicant is not qualified for licensure, notice of such determination with administrative hearing rights shall be mailed to the applicant. The applicant may petition for an administrative hearing under sections 120.569 and 120.57 of the Florida Statutes.

(3) Applications for examination and licensure may be submitted together if the applicant has met all the requirements of Rule 62-602.300, except for achieving a passing score on the required examination for the license being requested. The examination portion of the application will be processed as specified in item (1) above. The application for license will be deemed incomplete until the examination results are available at which time it will be processed as specified in item (2) above.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New

62-602.450 Notification to Applicants for Examinations.

(1) through (3) No change.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New 12-30-99.

62-602.530 Conduct at Test Site and During Reviews.

(1) Any individual found by the Department to have engaged in conduct which subverts or attempts to subvert the examination or review process will have his or her scores on the examination withheld and declared invalid.

(a) through (2) No change.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New 12-30-99. Amended

62-602.550 Grading of Examinations and Grade Notification.

(1) Grading of all examinations shall be as follows:

(a) Examinations shall be graded by the Department or its designee. Examination answer sheets shall be electronically scored. Effective July 1, 2000, the minimum passing score on the examination is 70%. ~~For examinations taken before July 1, 2000, the minimum passing score is 65%.~~ In rounding percentages, any percentage that is 0.5 or above shall be rounded up to the next higher whole number. Percentages less than 0.5 shall be rounded down to the next lower whole number.

(b) After an examination has been graded, the Department shall reject any questions that do not reliably measure the general areas of competency. The Department shall review the item analysis and any statistically questionable items after the examination has been administered. Based upon this review, the Department shall adjust the scoring key by eliminating ~~totally disregarding~~ the questionable items for grading purposes. All questions that do not adequately and reliably measure an ~~the~~ applicant's ability to practice the profession shall be rejected. The Department shall calculate each candidate's grade using the scoring key or adjusted scoring key.

(2) through (4) No change.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New 12-30-99. Amended

62-602.560 Candidates' Post Exam Review.

~~(4)~~ A candidate who has taken and failed an examination shall have the right only to review the examination questions; and correct answers, ~~papers, grades, and grade keys~~ for the questions the candidate answered incorrectly under the following conditions:-

(1) Requests for examination review shall be submitted no later than 21 days after the date of the notice of examination failure issued by the Department.

(2) Examination reviews shall be conducted in the presence of a representative of the Department at its Tallahassee headquarters during regular working hours, which are defined as 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding official state holidays.

(a) All security procedures defined in the "Operator Certification Program Security Procedures Manual" shall apply to all review sessions. Any candidate violating said procedures shall be dismissed from the review session, and is subject to other sanctions under Department statutes or rules.

(b) Upon payment of fees required in Rule 62-602.600 ~~(7)(5)~~, examination reviews by candidates shall be scheduled. These reviews shall be completed no later than 60 days after

the date on the grade notification. Reviews shall not be conducted during the 30-day period immediately before the next examination.

(c) A representative from the Department shall remain with all candidates throughout all examination reviews. The representative shall inform candidates that the representative cannot defend the examination or attempt to answer any examination questions during the review. All comments regarding an exam question shall be submitted in writing to the exam review coordinator. Candidates shall be provided with written instructions before the review. All candidates must acknowledge receipt of these instructions, and agree in writing to abide by them.

(d) Upon completion of all reviews, all candidates shall acknowledge in writing the start time of the review, the end time of the review, all materials reviewed, and other relevant review information.

(3) No change.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New 12-30-99, Amended _____.

62-602.600 Fees for Operator Examinations and Licensure.

The following fees are required for the activities associated with operator examination and licensing:

(1) Applicants for operator examinations shall submit the following fees with the application. All application fees are non-refundable.

<u>Examination Level</u>	<u>Application Fee</u>	<u>Examination Fee</u>
<u>Class A</u>	<u>\$25</u>	<u>\$75</u>
<u>Class B</u>	<u>\$25</u>	<u>\$75</u>
<u>Class C</u>	<u>\$25</u>	<u>\$75</u>
<u>Class D</u>	<u>\$25</u>	<u>\$50</u>

~~Each applicant for an A, B, or C level license shall pay a non-refundable \$75 application fee and a \$125 examination fee. Applicants for D level licenses shall pay a non-refundable \$50 application fee and a \$50 examination fee. If an applicant is determined by the Department to be ineligible for examination, a refund for the examination fee may be requested. The request for refund must be received in writing within six months after the Department's receipt of fees. Applicants who are determined by the Department to be ineligible to take the examination and who wish to take a future examination must submit another completed application, form 62-602.900(1), referenced in Rule 62-602.400(4), with the required application and examination fee. Those applicants who do not pass the examination and wish to be re-examined at the same level and class shall submit a "Re-exam Application for Water and Wastewater Treatment Plant Operator Certification," form 62-602.900(2), referenced in Rule 62-602.400(4), and a \$100 re-examination fee for A, B, and C level, or a \$50.00 re-examination fee for the D level.~~

(2) Applicants for operator licenses shall submit the following fees with the application. All application fees are non-refundable.

<u>License Level</u>	<u>Application Fee</u>	<u>License Fee</u>
<u>Class A</u>	<u>\$50</u>	<u>\$50</u>
<u>Class B</u>	<u>\$50</u>	<u>\$50</u>
<u>Class C</u>	<u>\$50</u>	<u>\$50</u>
<u>Class D</u>	<u>\$25</u>	<u>\$25</u>

(3) Applicants may apply for both the examination and license at the same time as specified in Rule 62-602.420(3). Fees required for these applications are the total of the fees from (1) and (2) above for the level requested. Application fees are non-refundable.

(2) through (4) renumbered (4) through (6) No change.

~~(7)(5) A fee of \$75 will be required for examination reviews conducted in accordance with Rule 62-620.560. Any applicant who takes an examination may, upon payment of \$75 to the Department, examine his or her questions answered incorrectly, upon the conditions set forth by the Department in Rule 62-602.560.~~

~~(8)(6) Candidates requesting a hand-score of the examination shall be charged a \$10 \$25 fee for the service.~~

~~(9)(7) The fees stated in (1) and (2) above shall be \$10 for an application, \$10 for the examination, and \$10 for licenses and renewals for wards of the state upon submission of written evidence, with the examination application or renewal notice, to the Department that said individual is a ward of the state.~~

Specific Authority 403.869 FS. Law Implemented 403.871, 403.872, 403.874 FS. History—New 12-30-99, Amended _____.

62-602.650 Duties of Operators.

An operator is responsible for performing treatment plant operation and maintenance duties in a responsible and professional manner consistent with standard operating practices. The duties shall be the following:

(1) through (2) No change.

(3) Report to the permittee or supplier of water and the Department and, if applicable, the local regulatory agency, as soon as possible, but within 24 hours following the discovery of any serious plant breakdown or condition causing or likely to cause:

- (a) Unsafe treatment plant operation, or
- (b) Any discharge of water or wastewater not in accordance with Chapters 62-550, 62-555, 62-302, or the facility's permit, or
- (c) Any major interruption in service.

(4) Maintain operation and maintenance logs for each plant, on site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed. The logs shall be maintained in hard bound books with consecutive page numbering, and shall contain a minimum of the previous three months of data at all times. Alternative logs or partial

electronic logging are acceptable if approved by the appropriate Department district office or the local regulatory agency. The logs shall contain:

- (a) through (c) No change.
- (d) Specific operation and maintenance activities and any repairs made;
- (e) Results of tests performed and samples taken, unless documented on a laboratory sheet, and any repairs made.

Specific Authority 403.869 FS. Law Implemented 403.865, 403.875(1)(a) FS. History--New 12-30-99, Amended.

62-602.700 Operator Licensing.

(1) The Department shall issue an appropriate license to each applicant who has met all the license requirements for a specific class.

(a) The effective date of the license shall be the date the applicant is notified by the Department of the examination grade notification letter and the license shall expire at the end of the current biennium except for instances where the initial operator license became effective within 12 months before the current biennium. These licenses will remain effective until the end of the following biennial period.

- b. through 3. No change.

Specific Authority 403.869 FS. Law Implemented 403.867 FS. History--New 12-30-99, Amended.

62-602.710 Renewal of Operator Licenses.

(1) All active licenses remain active until the end of the current biennium as indicated on the license, except as specified in Rules 62-602.700(1)(a) and 62-602.870. The effective date of an active license shall be the first day of the current biennium or the date the required renewal fees are received, whichever is later. Each biennium extends through the 30th of April of odd numbered years.

- (2) through (3) No change.

(4) CEUs shall be required for renewal of operator licenses beginning after the renewal cycle ending April 30, 2001. CEUs must be approved by the Department for credit to be given, and the required number of units shall be earned in the two years directly preceding the request for license renewal. As follows: Completing an approved training course for the next higher level of license during a renewal cycle will satisfy the CEU requirement for that cycle. CEU requirements are as follows:

- (a) through (g) No change.
- (h) Approval of CEU courses shall be accomplished in accordance with the Department's "Manual for Approving Continuing Education Courses for Operator Licensing," ~~1999~~ that may be obtained by writing to Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(i) Topics for continuing education include operation and control of a treatment plant, troubleshooting treatment processes, health and safety, employee employment and

community right-to-know notification procedures, toxic and hazardous materials handling procedures, solids and residuals

control prevention, supervision and management, basic chemistry and biology, mathematics of the treatment process, laboratory sampling procedures, equipment maintenance and repair, computer applications for water or wastewater treatment, blue print reading, government rules and procedures.

Specific Authority 403.869 FS. Law Implemented 403.873 FS. History--New 12-30-99, Amended.

62-602.750 Denial of Application or Renewal of Licenses.

(1) The Department shall deny an application for license examination, license issuance, or renewal of a license for any of the following reasons:

- (a) through (g) No change.
- (2) No change.

Specific Authority 403.869 FS. Law Implemented 403.873 FS. History--New 12-30-99, Amended.

62-602.800 Grounds for Disciplinary Proceedings.

The following acts or omissions are grounds for disciplinary actions.

- (1) No change.
- (2) Any operator of a facility, licensed operator, supplier of water, or permittee of a domestic wastewater treatment plant who employs any person to perform the duties of an operator, as identified in Rule 62-602.650, who is not licensed.
- (3) through (7) No change.
- (8) Failure to comply with an order of the Department previously entered in a disciplinary action hearing.

Specific Authority 403.869 FS. Law Implemented 403.875, 403.876 FS. History--New 12-30-99, Amended.

62-602.850 Disciplinary Guidelines.

(1) When the Department finds that a person, ~~whom~~ is subject to regulation under sections 403.865 through 403.876, F.S., has violated any of the provisions set forth in Rule 62-602.800 or 62-602.870, or sections 403.865 through 403.876, F.S., it shall issue an administrative order imposing appropriate penalties for each count within the ranges recommended in the following disciplinary guidelines:

- (a) through (h) No change.
- (i) Checks for license renewal or examination review returned for insufficient funds. The recommended penalty is suspension of license until the full fees are received, including the charge for insufficient funds.
- (2) No change.

Specific Authority 403.869 FS. Law Implemented 403.875, 403.876 FS. History--New 12-30-99, Amended.

62-602.880 Consecutive Public Water System Operator Licenses.

When proper application is made and the qualifications listed below are met, the Department shall issue a Consecutive Public Water System Operator License authorizing the licensee to operate and maintain regulated public water systems that purchase all of their water from one separate public water system and that provides no additional treatment. This license cannot be used to fulfill staffing requirements at any treatment plant.

(1) Qualifications for Consecutive Public Water System Operator Licensure. To be eligible for licensure a candidate must have a high school diploma or its equivalent and either:

(a) Successfully complete a Department-approved residence consecutive system training course that includes both classroom and in-field training with a written final examination, or;

(b) Successfully complete a Department-approved consecutive system correspondence training course, and

1. Document at least 3 months experience in the operation and maintenance of a consecutive water system, and

2. Obtain a passing score on a Department-approved consecutive system operator examination.

(2) Licensing and renewals under this rule section will be in accordance with Rules 62-602.410 through 62-602.600 and 62-602.700 through 62-602.750, with the following exceptions:

(a) Fees for examination, licensing, and license renewals shall be \$10.00, and

(b) One-half CEU will be required for license renewals.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.872 FS. History—New

62-602.900 Forms for the Operator Certification Program. Each form is listed below by the form number, title, and effective date. Copies of the following forms may be obtained by writing to the Operator Certification Program.

(1) Form 62-602.900(1), Application for Water or Wastewater Treatment Plant Operator Certification, effective date 12-30-96.

(2) Form 62-602.900(2), ~~Re-Exam~~ Application for Water or Wastewater Treatment Plant Operator Examination ~~Certification~~, effective date 12-30-99.

(3) Form 62-602.900(3), Application for Consecutive Public Water System Operator Certification, effective date _____.

Specific Authority 403.869 FS. Law Implemented 403.872, 403.876 FS. History—New 12-30-99, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan Bedwell, Deputy Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 3, 2000

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLES:	RULE NOS.:
Definitions	64B6-2.002
Licensure by Examination	64B6-2.003
Reexamination	64B6-2.005

PURPOSE AND EFFECT: Due to monetary constraints, changing technology, and a change in the law effective July 1, 2001, the Department's examination services has determined that parts of these rules are out-of-date and need to be updated or repealed.

SUMMARY: The Board is updating the examination rules to reflect the abandonment of a state examination for a national examination, to clarify that persons who fail the exam may not continue to practice, and to correct clerical errors.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.017(1)(b),(6), 456.017(2), 484.044, 484.0445, 484.0445(1) FS.

LAW IMPLEMENTED: 456.017(1)(b), 484.0445, 484.0445(1), 484.045 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B6-2.002 Definitions.

For the purpose of this chapter the following definitions apply:

(1) No change.

(2) "At least twelve (12) months of full-time experience as a legally practicing hearing aid specialist in another state" means presenting to the Board:

(a) The law or rule, if any, of the other state under which the applicant was permitted to practice without a license, along with whatever documentation is necessary to show that the law or rule was complied with, and

(b) At least two sales receipts per month for twelve (12) of the eighteen (18) months immediately preceding the application, each receipt bearing the applicant's signature and address of place(s) of business, or

(c) A ~~notarized~~ notarized statement from the applicant's previous employer(s) that the applicant was employed for twelve (12) of the eighteen (18) months immediately preceding the application and had an average of two (2) sales per month for twelve (12) of the eighteen (18) months immediately preceding the application, as evidenced by receipts.

(3) "Next available examination" means the first licensure examination administered by the Department, or its designee, after a trainee "repeats" a training program for the purpose of retaking the ~~failed written and/or practical~~ examination.

(4) "First available examination" means the first ~~written and practical~~ licensure examinations administered by the Department, or its designee, after completion of the training program referred to in Section 484.0445, Florida Statutes. ~~However, if the training requirement was satisfied by complying with Section 484.045(1)(e)2. or 3., then "first available examination" means~~ or the first written and practical licensure examinations administered by the Department, or its designee, after the applicant has been certified for examination by the Board.

Specific Authority 484.044, 484.0445, 484.045 FS. Law Implemented 484.0445, 484.045 FS. History—New 12-21-86, Amended 5-22-90, Formerly 21JJ-2.002, 61G9-2.002, Amended.

64B6-2.003 Licensure by Examination.

Any person desiring to be licensed as a hearing aid specialist shall apply to the Department at least ninety (90) days prior to the date the examination is to be administered. ~~The examination shall include written and practical sections.~~

(1) ~~The Department shall examine, by written and practical examinations,~~ Board, or its designee, shall certify for examination each applicant whom ~~the board certifies:~~

(a) Has completed the application form and remitted the applicable fee to the board, and has paid the examination fees;

(b) Is of good moral character;

(c) Is 18 years of age or older;

(d) Is a graduate of an accredited high school or at least its equivalent; has taken all courses required for licensure pursuant to Chapter 456, F.S.; and

(e)1. Has met the requirements of the training program set forth in s. 484.0445; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b.3. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months; and Has documented at least 12 months of full time experience as a legally practicing hearing aid specialist in another state.

(f) Has certified knowledge of state laws and rules relating to the fitting and dispensing of hearing aids by signing an affidavit attesting to this knowledge.

(2) The licensure examination designated by the Board shall be the International Licensing Examination for the Hearing Instrument Dispenser (ILE-HID) developed for the International Institute for Hearing Instrument Studies (IIHIS). written examination shall be administered by the Department of Health and shall consist of the following subject areas:

(a) Basic physics of sound;

(b) Structure and function of the hearing mechanism, including the causes and rehabilitation of hearing disorders;

(c) Structure and function of hearing aids;

(d) The theory of pure tone audiometry, air and bone conduction, and masking, when indicated;

(e) Voice and recorded speech audiometry;

(f) Interpretation of audiograms;

(g) Selection and adaptation of a hearing aid;

(h) Counseling of the hard-of-hearing;

(i) Hearing aid laws and rules.

(3) A passing score on the licensure examination shall be the passing score approved by the International Institute for Hearing Instrument Studies (IIHIS), using a generally accepted standard setting methodology. A passing score on the written examination shall be 75% or better. In rounding percentages a percentage which is point five (.5) or above shall be rounded up to the next whole number. Percentages less than point five (.5) shall be rounded down to the next whole number.

(4) The practical examination shall be administered by the Department of Health and shall consist of the following areas:

(a) Pure tone audiometry, including air conduction testing and bone conduction testing;

(b) Live voice and recorded speech audiometry, including speech reception threshold testing and speech discrimination testing;

(c) Masking when indicated;

(d) Recording and evaluation of audiograms and speech audiometry to determine proper selection of a hearing aid and to determine the appropriateness of medical referral;

(e) Earmold Impressions:

1. Practical demonstration;

2. Kinds, their usage, and application of mold fittings;

(f) Basic structure and function of hearing aids.

~~(5) A passing score on the practical examination shall be 75% or better. In rounding percentages, a percentage which is point five (.5) or above shall be rounded up to the next whole number. Percentages less than point five (.5) shall be rounded down to the next whole number.~~

~~(6) The Department of Health shall administer the written and practical examinations at least once every eight months.~~

~~(7) The Department of Health shall administer an examination which measures an applicant's knowledge of Chapter 484, Florida Statutes, and the rules promulgated thereunder for those applicants who, upon application, are certified by the National Board of Certification in Hearing Instrument Sciences and have actively practiced for at least twelve (12) months. A score of 75% or better shall be necessary to achieve a passing score on this examination. In rounding percentages a percentage which is point five (.5) or above shall be rounded up to the next whole number. Percentages less than point five (.5) shall be rounded down to the next whole number.~~

Specific Authority 456.017(1)(b), (6), 484.044, 484.0445(1) FS. Law Implemented 456.017(1)(b), 484.045, 484.0445(1) FS. History-New 8-9-84, Amended 1-20-85, Formerly 21JJ-4.01, 21JJ-4.001, Amended 12-21-86, 5-22-90, 3-5-91, Formerly 21JJ-2.003, Amended 8-18-93, 6-28-95, Formerly 61G9-2.003, Amended.

64B6-2.005 Reexamination.

~~(1) An applicant trainee who fails the licensure written and/or practical examination may repeat the training program one (1) time and retake the failed examination by submitting to the board office a completed application form, application fee and examination fee, provided the trainee takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee after failing an examination twice.~~

~~(2) An applicant trainee who fails to take the first available licensure written and/or practical examination shall be deemed to have failed said examination. The trainee may repeat the training program one (1) time and take the failed examination, provided the trainee takes the next available examination. Any failure to take the next examination shall be deemed to be a failure of said examination for the purposes of Section 484.0445, F.S.~~

~~(3) No person may further perform any hearing aid dispensing services if she or he fails the licensure examination.~~

Specific Authority 456.017(2), 484.0445, 484.044, 484.0445 FS. Law Implemented 484.045, 484.0445 FS. History-New 12-21-86, Amended 2-16-89, 5-22-90, Formerly 21JJ-2.006, 61G9-2.006, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialist

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2001

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLE: Examiners for Practical Examination

RULE NO.: 64B6-2.006

PURPOSE AND EFFECT: The Board proposes to repeal the existing rule text.

SUMMARY: The rule is being repealed because there will no longer be astate practical examination or a need for examiners.

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: 456.017(1)(b) FS.

LAW IMPLEMENTED: 456.017(1)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-2.006 Examiners for Practical Examination.

Specific Authority 456.017(1)(b) FS. Law Implemented 456.017(1)(b) FS. History-New 4-29-85, Formerly 21M-33.05, 21M-33.005, 61F6-33.005, 59R-70.005, 64B-70.005, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 2, 2001

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES: Definitions

RULE NOS.: 64B9-2.001

Approval of Nursing Education Programs 64B9-2.011

Full Approval Maintenance 64B9-2.012

Program Changes Requiring Board Approval 64B9-2.013

Closure of Nursing Education Programs and Storage of Records 64B9-2.014

Standards of Nursing Education 64B9-2.015

PURPOSE AND EFFECT: The Board proposes to amend the definitions, and promulgate new rules regarding the requirements for nursing education programs.

SUMMARY: Rule 64B9-2.001 is being amended to update the definitions for this chapter. The remainder of the rules are intended to set forth the requirements for the approval of nursing education programs and their standards of operation.

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: 464.006, 464.019(2) FS.

LAW IMPLEMENTED: 464.019 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 64B9-2.001 follows. See Florida Administrative Code for present text.)

64B9-2.001 Definitions.

(1) Approved nursing education program: a nursing education program leading to initial licensure which has been approved by the Board after having met the standards of nursing education.

(2) Board: the Florida Board of Nursing.

(3) Clinical experience: direct nursing care experiences with patients or clients which offer the student the opportunity to integrate, apply, and refine specific skills and abilities which are based on theoretical concepts and scientific principles.

(4) Clinical Preceptor: A licensed nurse practicing in a clinical setting who serves as a role model and clinical resource person for a specified period of time to an individual enrolled in an approved nursing education program.

(5) Community-based learning experiences: a clinical experience as part of the curriculum which involves the community as a whole, exclusive of facilities where the student provides nursing care to individuals, families, and groups with the intent to promote wellness, maintain health, and prevent illness. There are no structured nursing services available at these sites.

(6) Probationary status: a status indicating a nursing education program has not met the standards established by the Board.

(7) Curriculum: a planned sequence of course offerings and learning experiences which comprise the nursing education program.

(8) Faculty: full time or part time teaching personnel, including skills laboratory instructors, in a nursing education program who meet the requirements set forth in this chapter.

(9) Full approval: a status indicating the nursing education program has met the standards established by the Board.

(10) Healthcare agency: a community establishment or institution that provides healthcare to patients/clients and has structured nursing services.

(11) Healthcare facility: an establishment or institution that provides acute care, subacute care, long term or rehabilitative care to patients/clients and has structured nursing services.

(12) Nursing Specialties:

(a) Community/Public Health Nursing: the study of nursing for individuals, families, and groups in the promotion and maintenance of health, and prevention of disease.

(b) Geriatric nursing: the study of nursing for older adults and their families with biopsychosocial and disease processes associated with aging.

(c) Medical nursing: the study of nursing for adult patients and their families with an emphasis on the acute and chronic phases of medical illnesses.

(d) Obstetric/Maternal-Child nursing: the study of nursing for women of childbearing age and their families through all stages of pregnancy and childbirth as well as care of the newborn. Gynecological nursing alone does not fulfill the obstetrical nursing requirement.

(e) Pediatric nursing: the study of nursing for children from infancy through adolescence and their families to promote growth and development and reduce disease and disability in medical and surgical conditions. Newborn nursing care alone does not fulfill the Pediatric nursing requirement.

(f) Psychiatric/Mental Health nursing: the study of nursing for patients and their families with mental health concerns and acute and chronic psychiatric disorders. Education that covers only areas of mental retardation, organic brain syndromes, or neurological diseases does not fulfill the requirement.

(g) Surgical nursing: the study of nursing for adult patients and their families during perioperative experiences.

(13) Objectives/outcomes: the cognitive, psychomotor, and affective knowledge and skills to be learned by the nursing student upon completion of a course.

(14) Observational Experience: a planned learning situation in which the primary focus is nonparticipatory by the student. The experience shall meet preplanned objectives and provide for faculty and student evaluation.

(15) Parent Institution: the organization or agency responsible for the administration and operation of the nursing program.

(16) Preceptorship Experience: an individualized teaching-learning strategy in which a nursing student participates in clinical nursing practice while assigned to a preceptor.

(17) Provisional approval: a status indicating a nursing education program has met the standards established by the Board for a Statement of Intent and Provisional requirements.

(18) Simulated clinical experience: nursing care experience with the Human Patient simulator © or its substantial equivalent which offers the student the opportunity to integrate, apply, and refine specific skills and abilities which are based on theoretical concepts and scientific experiences.

(19) Skill laboratory hours: those hours of the curriculum, which are assigned to supervised laboratory skill development and laboratory practice, which offer the student the opportunity to meet educational objectives. They do not count as clinical experience hours.

(20) Standards of Nursing Education: those standards outlined in Rule 64B9-2.015, Florida Administrative Code, required for nursing education programs.

(21) Statement of Intent: a formal statement with supporting documentation provided by the parent institution indicating their intent to initiate a nursing education program.

(22) Supervision: the physical presence within the patient care unit of a healthcare facility or physical presence within a healthcare agency of a registered nurse faculty who assumes responsibility for the nursing practice of nursing students.

(23) Unit: an identifiable section within a healthcare facility, which has a prescribed organization and definitive boundaries.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History—New 7-18-80, Amended 11-22-84, Formerly 210-7.20, Amended 2-5-87, 6-8-88, Formerly 210-7.020, Amended 9-7-93, Formerly 61F7-2.001, 59S-2.001, Amended 12-11-97.

64B9-2.011 Approval of Nursing Education Programs.

(1) Statement of Intent for Approval: Before a nursing education program is permitted to admit students, the program shall submit evidence of the ability to meet the standards for nursing education.

(a) A parent institution desiring to imitate a nursing education program shall, at least one year in advance of the expected opening date, submit to the Board:

1. A Statement of Intent to establish a nursing education program accompanied by a nonrefundable program review fee of \$1,000.00;

2. A proposal that includes the following information:

a. Needs assessment and feasibility study for intended location of the program;

b. Rationale for the establishment of the program;

c. Potential effects on other nursing programs;

d. Organizational structure of the parent institution documenting the relationship of the nursing education program within the institution and defining the lines of authority;

e. Accreditation status of the parent institution;

f. Purpose, mission of sponsoring institution and level of the program;

g. A qualified administrator and nursing program developer. This individual can be the identified qualified nursing education director and/or a qualified nursing education consultant;

h. Source and description of adequate clinical resources for the level of the program;

i. Documentation of adequate academic facilities and staff to support the program;

j. Evidence of financial resources adequate for the planning, implementation, and continuation of the program with a budget projection for 3-5 years;

k. Evidence of concurrent approval from the Department of Education;

l. An advisory committee whose membership shall include consumers and representatives from the local healthcare industry.

3. The Statement of Intent will be approved by the Board when all requirements have been met.

(2) Provisional Approval: Once the Statement of Intent has been approved, an application for Provisional approval shall be made. The first class of nursing students may not be admitted until provisional approval has been granted.

(a) The Board will grant provisional approval when the following conditions have been met and submitted to the Board for approval:

1. A qualified nursing education director/administrator has been appointed and there is sufficient qualified faculty to conduct the first level nursing courses.

2. A written total proposed program plan, developed and sequenced, in accordance with the standards of nursing education.

3. Complete course outlines with course and clinical objectives/outcomes for the first level nursing courses. For nursing education programs that are one calendar year or less in length, all course material must be submitted at the Provisional approval stage.

4. Contractual agreements with facilities and agencies to be used for the first level nursing courses.

5. Evidence of compliance with the Standards of Nursing Education except Rule 64B9-2.015(12)(a), F.A.C.

6. If the parent institution is not accredited by a body recognized by the U.S. Department of Education, a site visit has been conducted.

(b) Under Provisional Approval and prior to the admission of succeeding classes:

1. Sufficient qualified Faculty shall be employed and in residence to implement the total nursing program.

2. Detailed course outlines with objectives/outcomes for the total curriculum will be completed.

3. Contractual agreements with facilities and agencies to be used for clinical experiences in the total program shall be in force.

4. Evidence of compliance with all rules in this chapter shall be demonstrated.

(c) During provisional approval, annual survey visits will be conducted.

(3) Probationary Status: If a program which has received provisional or full approval fails to maintain compliance with the standards of nursing education, the program will be permitted to continue operations only under conditions set by the Board.

(4) Full Approval: Upon graduation of the first nursing class, full approval will be granted. Full approval will only be granted if the program has demonstrated compliance with all standards of nursing education and with Rule 64B9-2.015(12)(a), F.A.C.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New

64B9-2.012 Full Approval Maintenance.

(1) All nursing education programs with full approval shall be reevaluated every 5 years to ensure continuing compliance with the standards for nursing education.

(a) Evaluation of continuing compliance with the standards for nursing education requires the submission of a self-study report by the nursing education program and a site visit by a Board representative.

1. 30 days prior to a site visit, a program shall submit a self-evaluation report on Board approved forms that provides evidence of compliance with the standards for nursing education. If a self-study for national academic accreditation has been completed within the previous 12 months, that self-study may be submitted with references that identify the location of Board requirements.

2. The site visit shall be made by a Board representative(s) on a date mutually acceptable to the Board and the program.

3. A draft of the site visit report shall be made available electronically to the school for review and corrections.

(b) Following the Board's review and decision, written notification regarding approval of the program and, if necessary, the Board's recommendation shall be sent to the nursing program director/administrator.

(2) Site visits will be conducted when the Board receives evidence which indicates that the program is not in compliance with the standards for nursing education as follows:

(a) The minimum acceptable pass rate for graduates has not been met (A nursing education program may submit documentation of graduate performance for Board consideration in the event published results are contested.);

(b) Requirements for approval are changed or added;

(c) The Board has reasonable cause to believe there is a lack of compliance with the rules;

(d) The Board has reasonable cause to suspect program personnel of submitting false or misleading information or engaging in fraudulent practices to obtain or maintain approval.

(3) Upon determination that a nursing program is not in compliance with the standards for nursing education programs, the program shall be placed on probationary status and the Board shall provide to the nursing education program director/administrator written notice of deficiencies which establishes a reasonable period of time, based on the number and severity of deficiencies, to correct the deficiencies, and a schedule for periodic progress reports. No period for correction shall exceed 18 months.

(a) The nursing program director/administrator shall, within 30 days from the date of receipt of the notice of deficiencies, file a plan of correction with the Board office.

(b) Progress reports regarding progress in meeting the identified deficiencies shall be submitted to the Board office at the specified intervals.

(c) The program can request restoration to full approval when it demonstrates correction of the deficiencies.

(4) The nursing education program shall submit an annual report on Board approved forms providing documentation of continued compliance with the standards for nursing education, faculty data forms, and current school bulletin and/or program catalogue no later than July 31st each year.

(5) It is the responsibility of the nursing program to provide the Board with current information upon request.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New

64B9-2.013 Program Changes Requiring Board Approval.

(1) A written request with rationale for permission of the Board must be obtained before implementation of any of these changes:

(a) A significant change in the number of students per class, number of classes, or starting date of classes and requires demonstration by the nursing education program that the change does not adversely affect the clinical facilities/agencies/sites, the faculty, or other nursing education programs in the same region.

(b) Number of credits or clock hours of theoretical or clinical instruction in each course.

(c) Sequence of courses or content alteration between courses that affect Rules 64B9-2.106(6) and 2.016(7), Florida Administrative Code.

(d) A change in clinical ratio requires formal documentation from the nursing education program and the healthcare facility/agency/site to include the affected clinical site, level of students, type of clinical experience, the facility/agency/site's contractual experience, staffing ratios, patient/client population, program and curricular

objectives/outcomes, and the faculty's teaching experience, and provide the assurance that the safety of patients, nursing faculty, and students can be assured.

(2) When there is any change in information provided to meet standards of nursing education, written notification must be provided to the Board.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New _____.

64B9-2.014 Closure of Nursing Education Programs and Storage of Records.

(1) Voluntary Closure.

(a) When the parent institution decides to close a nursing education program, it shall notify the Board in writing, stating the reason for closure, the plan for discontinuation and the intended date of closing.

(b) The parent institution may choose one of the following closing procedures:

1. Continue the program until the last class enrolled is graduated;

2. Assist in the transfer of students to other approved programs.

(c) The nursing education program shall continue to meet the Standards for Nursing Education until all of the enrolled students are graduated or until the last student is transferred.

(d) The date of closure is the date on the degree, diploma, or certificate of the last graduate or the date on which the last student was transferred.

(2) Closing as a result of withdrawal of approval.

(a) When the Board withdraws approval of a nursing education program, the parent institution shall comply with the following procedures:

1. The parent institution shall prepare a written plan for termination of the program and shall submit the plan to the Board within 60 days of receipt of the notice of withdrawal of approval.

2. The parent institution shall present a plan for the transfer of students to other approved programs within a timeframe established by the Board.

(b) The date on which the last student was transferred will be the date of closure.

(3) Storage of Records. The Board shall be advised for the arrangements for storage of permanent records.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New _____.

64B9-2.015 Standards of Nursing Education.

(1) Nursing Education programs shall have consistent organization and administrative procedures as follows:

(a) The parent institution shall be approved by the appropriate accrediting agency.

(b) There shall be an organizational chart for the nursing education program, which clearly delineates the lines of authority, responsibility and channels of communication.

(c) There shall be statements of purpose, philosophy and objectives/outcomes, which are consistent with those of the parent institution and Standards of Nursing Education.

(d) There shall be written policies on admission, transfer, readmission, promotion, and retention, congruent with the parent institution which are periodically reviewed and available upon request.

(e) There shall be evidence of financial support and resources to meet the goals of the nursing education program. Financial resources include adequate educational facilities, equipment and qualified administrative, instructional and support personnel.

(f) There shall be a system of records within the parent institution for the maintenance and issuance of student transcripts and final records.

(2) Resources. The parent institution shall provide financial and administrative support and resources to the nursing program that includes:

(a) Classroom space, laboratories, and office space for the nursing program.

(b) Nursing resource library holdings to include textbooks, journals and instructional media that are pertinent, recent, and have appropriate content and reading level.

1. A regular schedule for evaluation and deletion of outdated books and instructional media.

2. Teaching materials to include a variety of current technological aids for both group and self-instruction.

(c) Secretarial, clerical, and other support personnel services.

(d) Counseling services and remedial assistance for students.

(3) Nursing Program Director Qualifications.

(a) The director of any nursing program shall be a currently licensed registered nurse in Florida (which may include practice under the terms of Rule 64B9-3.009, F.A.C.). Notification of the appointment must be submitted to the Board.

(b) The director of a professional nursing program shall have a bachelor's degree in nursing plus a masters or doctoral degree in nursing; and preparation in education and administration, 5 years of experience in academic, clinical, or administrative nursing, or any combination thereof. Past August 2006, incumbent directors will be exempted from meeting this standard.

(c) The director of a practical nursing program shall have a minimum of a Bachelor's degree in nursing; and preparation in education and administration, 3 years of experience in

academic, clinical, or administrative nursing, or any combination thereof. Past August 2006, incumbent directors will be exempted from meeting this standard.

(d) The director of the nursing program shall not be assigned curriculum instructional duties that would impair program administration.

(e) The director of the nursing program shall have authority to administer the program in accordance with the policies of the parent institution and in relation to:

1. Development and maintenance of an environment conducive to the teaching/learning process;

2. Leadership within the faculty for the development and implementation of the curriculum;

3. Faculty recruitment, development, and evaluation;

4. Liaison with the Board;

5. Establishment of clinical sites.

(4) Faculty.

(a) There shall be sufficient faculty with educational preparation and nursing expertise to meet the objectives and purposes of the nursing education program.

(b) Nursing faculty shall have the following qualifications:

1. Each nurse faculty member shall be currently licensed to practice professional nursing in Florida (which shall include practice under the terms of Rule 64B9-3.009, F.A.C.).

2. By August 2009, sixty percent (60%) or more of the nursing faculty in a professional nursing program shall hold a bachelor's degree in nursing plus a masters or doctoral degree in nursing. Each nursing faculty member who does not meet this requirement shall have a bachelor's degree in nursing and meet one of the following requirements:

a. Have the equivalent of at least three years of full time experience in clinical practice as a registered nurse.

b. Be actively engaged in studies leading to the next highest degree for which eligible. The degree must be in nursing or a related field.

c. Have current certification as an A.R.N.P. in Florida.

d. Have at least two years of full time experience as a nurse educator.

3. Fifty percent (50%) or more of the nursing faculty in a practical nursing program shall hold a bachelor's degree in nursing. Each faculty member who does not meet this requirement shall meet two of the following requirements:

a. Have the equivalent of at least two years of full-time experience in clinical practice as a registered nurse;

b. Be actively engaged in studies leading to the next highest degree for which eligible. This degree must be in nursing or a related field;

c. Have the equivalent of at least two full-time years of experience as a nurse educator;

d. Have current certification as an A.R.N.P. in Florida.

4. Faculty shall demonstrate theoretical and clinical competence for each assigned area of instruction.

5. Variances or waivers to the academic qualifications for nursing faculty shall be justified and must be approved by the Board in accordance with Section 120.452, F.S.

a. For practical nursing program faculty, an individual who is a RN but is not enrolled in a bachelors or higher degree in nursing program is limited to a maximum of three calendar years.

b. For professional nursing program faculty, a BSN prepared individual who is not enrolled in a masters or higher degree in nursing or related field program is limited to a maximum of three calendar years.

c. For professional nursing faculty, a BSN prepared individual who is enrolled in a masters in nursing or related field program shall be approved annually on an individual basis and is limited to maximum of five calendar years.

d. The number of faculty variances shall not exceed 20 percent of the number of full time nurse faculty employed (not FTE) by the program.

(c) Nursing Faculty Responsibilities:

1. Developing, implementing, evaluating, and updating the purpose, philosophy, objectives/outcomes, and organizational framework of the nursing program.

2. Developing, implementing and evaluating the curriculum.

3. Developing, evaluating, and revising student admission, progression, retention, and graduation policies within the policies of the institution.

4. Participating in academic advising and guidance of students.

5. Providing theoretical instruction and clinical or practicum experiences.

6. Monitoring instruction provided by preceptors.

7. Evaluating student achievement of curricular objectives/outcomes related to nursing knowledge and practice.

8. Providing for evaluation of teaching effectiveness in accordance with parent institution policy.

9. Participating in activities which facilitate maintaining the faculty member's own nursing competence and professional expertise in the area of teaching responsibility and maintaining clinical competence through clinical experience, workshops, and/or continuing education.

10. Participating in a faculty organization, which meets regularly at scheduled and recorded meetings, and provides for faculty involvement in the operation of the program.

(d) Faculty policies and procedures shall be available in writing and shall include qualifications, rights, and responsibilities of faculty members, the criteria for evaluation of performance, and promotion and retention policies.

(e) Clinical preceptors may be used to enhance clinical learning experiences.

1. Clinical preceptors shall be Florida licensed nurses (which may include practice under the terms of Rule 64B9-3.009, F.A.C.).

2. There shall be written guidelines for the use of clinical preceptors that include the following:

a. Criteria for selecting preceptors.

b. The functions and responsibilities of the clinical preceptor shall be clearly delineated in a written agreement between the clinical agency, the preceptor and the nursing education program.

c. The preceptor shall have clinical expertise and competence in the area where serving as a preceptor.

d. The preceptor is approved by the program faculty and the facility/agency.

e. The preceptor shall be physically present and available to the student at all times while the student is performing in a nursing capacity with patients or clients.

f. The faculty member shall retain responsibility for the student's learning experiences and meet periodically with the clinical preceptor and student for the purposes of monitoring and evaluating learning experiences.

g. Written clinical objectives are specified and given to the preceptor prior to the preceptorship experience.

(5) Students.

(a) A nursing student shall practice nursing as a student within the meaning of Chapter 464, F.S. only within the courses of an approved program in which the student is enrolled and under the supervision of program faculty.

(b) The nursing program shall admit students to the program based upon the number of faculty, available educational facilities and resources, and the availability of clinical learning experiences for the student.

(c) The program shall provide written policies for admission, readmission, transfer, advanced placement, promotion, graduation, withdrawal, or dismissal to the student shall be consistent with those for students in the parent institution and acceptable educational standards.

(d) The program or parent institution shall provide accurate records of scholastic achievement to each student.

(6) Curriculum for a Professional Nursing Education Program: To ensure the preparation of nurses capable of competent practice, the curriculum for a professional nursing education program shall be implemented by the program director and faculty as written and shall include at least the following:

(a) A philosophy or list of assumptions, organizing frame-work, program objectives/outcomes, course objectives/outcomes, teaching strategies, and evaluation methods which are:

1. Developed and written by the faculty;

2. Consistent with the law regulating the practice of nursing as a registered nurse;

3. Internally consistent;

4. Implemented as written; and

5. Distributed to each nursing student.

(b) A curriculum plan showing the sequence of courses, skills lab, and clinical experiences, and the units of credit or number of clock hours allotted to theory, skills laboratory, and clinical experiences to ensure sufficient preparation for the safe and effective practice of nursing as a registered nurse.

(c) A curriculum content that:

1. Includes courses or content in three major areas:

a. Physical, biological, technological sciences, and mathematics.

b. Social and behavioral sciences, which shall include concepts that assist a student in the development of a foundation for:

(i) Understanding and communicating with individuals or groups across the life span, and their interactions in society;

(ii) Understanding the effect of economic, political, religious, cultural, and growth and developmental experiences upon human behavior;

(iii) Understanding of mandatory instruction on domestic violence and human immunodeficiency virus/acquired immune deficiency syndrome under Sections 456.031 and 456.033, F.S.

c. Nursing science related to nursing practice in a variety of settings where health care can occur and which shall include the following content:

(i) The nursing process, critical thinking, problem solving, and decision-making related to meeting the nursing care needs of individuals or groups across the life span;

(ii) Physiological and psychosocial nursing needs of individuals or groups across the life span with commonly occurring acute and chronic physical and mental health problems, illnesses, and adaptations;

(iii) Promotion, maintenance, and restoration of health across the life span including methods of dealing with end of life issues;

(iv) Theoretical and clinical instruction must clearly reflect content in medical surgical, obstetric/maternal-child, pediatric, geriatric, and psychiatric/mental health nursing;

(v) Management, delegation, coordination, and evaluation of safe, effective nursing care;

(vi) The role of the registered nurse in the health care system, including health teaching and counseling, legal aspects, and ethics;

(vii) Nursing history and nursing trends;

(viii) The law regulating the practice of nursing as set forth in Florida Statutes Chapters 456 and 464, and Florida Administrative Code Chapter 64B9.

(d) Curriculum specific to Baccalaureate degree nursing programs shall additionally include:

1. Preparation as change agent;

2. Research and statistical methods;

3. Theoretical and clinical instruction in community/public health nursing.

(e) Program shall provide information for credits and hours of instruction such that:

1. The ratio of credit hours to clock hours of theory, skills laboratory and clinical experience shall be specified for each nursing course. These ratios shall be consistent for all nursing courses and conform to parent institutional requirements.

2. The total hours for graduation from the nursing program shall be at least consistent with those required for graduation from other programs of the parent institution.

(7) Curriculum for a Practical Nursing Education Program: To ensure the preparation of nurses capable of competent practice the curriculum for a practical nursing education program shall be implemented by the program director and faculty as written and shall include the following:

(a) A philosophy or list of assumptions, organizing framework or theme, program objectives/outcomes, course objectives/outcomes, teaching strategies, and evaluation methods which are:

1. Developed and written by the faculty;

2. Consistent with the law regulating the practice of nursing, as a licensed practical nurse;

3. Internally consistent;

4. Implemented as written; and

5. Distributed to nursing students.

(b) A curriculum plan showing the sequence of courses, skills lab, and clinical experiences and the units of credit or number of clock hours allotted to theory, skills laboratory, and clinical experiences to ensure sufficient preparation for the safe and effective practice of nursing as a licensed practical nurse.

(c) A curriculum content that:

1. Spans a minimum length of one academic or calendar year of full-time study. If the program is offered as part of a high school curriculum, the program shall be implemented no earlier than the beginning of the student's junior year.

2. Includes courses or content in three major areas, which may be integrated, combined, or presented as separate courses and shall include:

a. Basic biological, physical, technological sciences and mathematics which shall include an understanding and application of wellness and disease concepts, safety and security procedures, emergency response, infection control, computer skills medical terminology, blood borne diseases including mandatory instruction on HIV/AIDS under Section 456.033, F.S., mandatory instruction on domestic violence under Section 456.031, F.S., nutrition, and body structure and function.

b. Basic social and behavioral sciences that shall include concepts that assist a student in the development of a foundation for:

(i) Understanding and communicating with individuals or groups across the life span.

(ii) Understanding the effect of economic, political, religious, cultural, and growth and developmental experiences upon human behavior.

(iii) Understanding legal and ethical responsibilities in the role of the licensed practical nurse.

c. Basic nursing science related to nursing practice in a variety of structured settings where health care can occur and which shall include the following content:

(i) The nursing process as appropriate to the role of the practical nurse in meeting the basic nursing care needs of individuals or groups across the life span in the promotion of health.

(ii) Basic physiological and psychosocial nursing needs of individuals with commonly occurring acute and chronic physical and mental health problems, illnesses, and adaptations with predictable outcomes.

(iii) Promotion, maintenance, and restoration of health across the life span including methods of dealing with end of life issues.

(iv) Theoretical and clinical instruction must clearly reflect content in medical, surgical, obstetric/maternal-child, pediatric and geriatric nursing.

(v) Provision of safe, effective nursing care.

(vi) Pharmacology and medication administration to include calculation of medication dosages.

(vii) Nursing history and nursing trends.

(viii) The law regulating the practice of nursing as set forth in Chapter 455 and 464, Florida Statutes, and Chapter 64B9, Florida Administrative Code.

(d) Program shall provide information for credits and hours of instruction.

1. The ratio of credit hours to clock hours of theory, skills laboratory and clinical experience shall be specified for each nursing course. These ratios shall be consistent for all nursing courses and conform to institutional requirements.

2. Clinical experiences shall make up at least 50% of the total program.

(8) Clinical Experiences. All clinical experiences shall:

(a) Be an integral part of the total curriculum plan and show a relationship to concurrently taught theory.

(b) Require that faculty plan for the student's learning experiences in cooperation with agency personnel.

(c) Have Board approval secured prior to the time a facility/agency or community-based site is utilized for student clinical experience by submitting a request on Board approved forms.

(d) Have contractual agreements between the program and the facility/agency or community-based site in writing, state rights and responsibilities of each party, include a termination clause and be reviewed annually.

(e) Provide written notification to the Board by the program director when a clinical facility/agency being used for students' clinical practice loses accreditation or approval status.

(f) Meet established course objectives/outcomes.

(g) Provide the student with the opportunity to practice cognitive, psychomotor and affective skills in the performance of a variety of nursing functions with individuals or groups across the life span.

(h) Occur appropriately in a variety of settings to include healthcare facilities/agencies and community-based sites.

(i) Simulated clinical experiences using the Human Patient simulator © or its substantial equivalent may be substituted for no more than 10% of direct care experiences provided that:

1. Specific clinical objective-based scenarios are presented, providing the student with appropriate cognitive, affective, and psychomotor development.

2. Faculty is physically present to guide the simulation experience.

3. Permission is requested and received from the Board to substitute simulated clinical experiences for direct care experiences.

(9) Healthcare Facility/Agency Experiences:

(a) Healthcare facilities and agencies used for clinical experiences shall be currently licensed/certified by the State of Florida.

(b) All healthcare facilities and agencies shall provide proof of accreditation or approval by a recognized accrediting or approving agency.

(c) Facilities/Agencies shall have:

1. A registered nurse licensed under Chapter 464, Florida Statutes, who is administratively responsible for nursing services.

2. A sufficient number of patients/clients to provide learning experiences to meet the objectives of the course.

3. An environment in which the student is recognized as a learner.

4. A sufficient number of nursing personnel, currently licensed under Chapter 464, F.S., and appropriately qualified, to ensure that patients receive safe, effective care at all times, and to serve as role models.

5. Established standards for nursing care congruent with the Board's legal standards for nursing care.

6. Written job competencies for all categories of nursing personnel and criteria for making patient assignments.

7. Appropriate references and current practice/procedure manuals available to students.

8. A means of communication between faculty and facility/agency administrative personnel and between faculties of all nursing education programs that use the agency.

9. Evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified.

10. Designated conference areas on, or in close proximity to clinical learning sites.

(d) Clinical experiences based on program objectives shall be planned so that the student is able to gain clinical experience within the operational hours of the healthcare facility/agency or community based site.

(e) When clinical experiences are supplemented by observational experiences, those hours of observational experience shall constitute 20% or less of total clinical hours for that specific clinical course into which the observational experience has been incorporated.

(f) Faculty shall be responsible for supervising students on no more than two units of a healthcare facility during one clinical instruction period.

(g) Faculty-student ratio shall be at a maximum ratio of 1:12 in healthcare facilities/agencies.

(h) Faculty shall be physically present within the healthcare facility/agency while students are providing direct care to patients/clients.

(10) Community-Based Learning Experiences.

(a) The community-based learning experience shall be developed with clearly defined outcomes specific to concurrently taught theory.

(b) Community-based learning experiences may not comprise the majority of clinical experience hours of the total curriculum.

(c) Faculty-student ratio shall be at a maximum ratio of 1:12 in community-based learning experience setting.

(d) Faculty shall be accessible by two-way communication, able to respond to an inquiry when made, and readily available for consultation to students in a community-based setting.

(e) Faculty will retain the responsibility for the selection and guidance of the student community-based learning experiences and for the evaluation of the student performance.

(f) The community-based learning experience is only appropriate for the Professional nursing program preceptorships.

(11) Preceptorship Experiences.

(a) The student shall be enrolled in the course of the program in which the preceptor experience is a part and shall not be reimbursed for nursing services from the agency in which the experience occurs.

(b) Each designated preceptor may have one alternate preceptor who meets the requirements of Rule 64B9-2.015(4)(e), F.A.C. When the designated preceptor is unable to supervise the student due to unforeseen circumstances, this alternate preceptor will supervise the student.

1. Practical Nursing Preceptorships.

a. A Practical Nursing preceptorship can occur in any course of the nursing curriculum, which includes concurrent theory.

b. Faculty shall supervise up to twelve students in any one facility and be readily available on site during the student preceptorship.

c. The preceptor shall be assigned no more than two (2) students for any preceptor experience.

2. Professional Nursing Preceptorships.

a. The supervising faculty member must be available to the student and the preceptor by telephone or beeper.

b. With faculty approval, the preceptor or the designed alternate may have students accompany them to multiple practice sites for student clinical experience.

c. The preceptor may have a maximum of two (2) students assigned for preceptorship.

d. The Professional Nursing preceptorship can occur in any course of the nursing curriculum, which includes concurrent theory, and is beyond the fundamental, introductory nursing clinical course and has a maximum ratio of instructor to students of 1:12.

e. The Professional Nursing preceptorship may also occur as a culminating experience at the end of the program when the student has completed all nursing theory and clinical experiences in the program and has a maximum ratio of instructor to students of 1:18.

(12) Program Evaluation.

(a) The minimal acceptable level of performance as required by the Board on the National Council of State Boards of Nursing licensing examination for graduates of a nursing education program during the fiscal year of the Department shall be 10% below the national or state average, which ever is lowest, as published by the contract testing service of the National Council of State Boards of Nursing.

(b) The nursing program shall have a written plan for the systematic evaluation of the total program and its outcomes for the purpose of determining competency, adequacy and effectiveness. The plan shall include the methodology, frequency of evaluation, assignment of responsibility, and evaluative criteria. The following areas shall be evaluated:

- 1. Organization and administration of the program;
- 2. Philosophy, conceptual framework, and objectives/outcomes;
- 3 Curriculum;
- 4. Educational facilities, resources, and services;
- 5. Clinical resources;
- 6. Students theoretical and clinical performance;

7. Graduates' performance on the licensing examination;

8. Graduates' nursing competence;

9. Performance of the faculty;

10. Protection of patient safety;

11. The methods and instruments used for evaluation purposes.

(c) There shall be evidence that the evaluation plan is being implemented and that faculty review evaluative data and take corrective action as needed.

Specific Authority 464.006, 464.019(2) FS. Law Implemented 464.019 FS. History--New

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: October 10, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 15, 2000

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES:	RULE NOS.:
Continuing Education on Prevention of Medical Errors	64B9-5.011
Continuing Education on End of Life	64B9-5.012

PURPOSE AND EFFECT: The Board proposes to promulgate new rules in regards to continuing education on the prevention of medical errors and end of life care.

SUMMARY: Pursuant to Sections 456.013 and 456.031, F.S., these rules set forth the education course requirements licensees must complete on prevention of medical errors and end of life or palliative health care.

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: 456.031(1)(c),(7), 456.033(3) FS.

LAW IMPLEMENTED: 456.031(1)(c),(7), 456.033(3) 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: Dr. Ruth Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULES IS:

64B9-5.011 Continuing Education on Prevention of Medical Errors.

(1) All licensees must complete a two hour course on prevention of medical errors, which meets the criteria of s. 456.013, F.S., as part of the total hours of continuing education required for initial licensure and biennial renewal. Applicants for initial licensure, upon showing of good cause by affidavit, shall be given six months from the date of licensure to complete the prevention of medical errors course. Good cause includes applicants for endorsement or examination who have been residing outside of Florida or have been on active military service.

(2) To receive Board approval, each course on prevention of medical errors shall consist of a minimum of at least two (2) hours of classroom or an equivalent home study program and shall include at a minimum the following subject areas:

- (a) Factors that impact the occurrence of medical errors.
- (b) Recognizing error-prone situations.
- (c) Processes to improve patient outcomes.
- (d) Responsibilities for reporting.
- (e) Safety needs of special populations.
- (f) Public education.

Specific Authority 456.013(7) FS. Law Implemented 456.013(7) FS. History—New

64B9-5.012 Continuing Education on End of Life.

(1) In lieu of completing a course in HIV/AIDS education as required in s. 456.033, F.S., or Domestic Violence as required in s. 456.031, F.S., a licensee may complete a course in end-of-life care or palliative health care.

(2) To receive Board approval, each course on end of life or palliative care shall consist of at least one hour of classroom instruction or an equivalent home study program and shall include, at a minimum, any of the following subject areas:

- (a) Palliative care vs. curative.
- (b) Rights of patients to self determination/decision making.
- (c) Emotional, psycho/social, spiritual, and family issues.
- (d) Pain management/comfort.
- (e) Legal/ethical issues.
- (f) Advanced Directives.
- (g) Available choices/options for care.
- (h) Applicable Florida laws.

Specific Authority 456.031(1)(c), 456.033(3) FS. Law Implemented 456.031(1)(c), 456.033(3) FS. History—New

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: October 10 and 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Renewal Fee	64B10-12.005
Initial Licensure Fee	64B10-12.009
Inactive Status	64B10-12.010
Delinquency Fee	64B10-12.016

PURPOSE AND EFFECT: The purpose and effect of the above rule amendments is to raise the fees in the amounts specified in the rule text. The Board finds it necessary to raise the fees in order to protect the health, safety and welfare of the public by generating additional revenue for the Board, thereby assuring that the highest quality standards may be maintained for the regulation of the profession.

SUMMARY: The change to rule 64B10-12.005 raise the renewal fee by \$25, to \$255. The change to rule 64B10-12.009 raises the initial licensure fee by \$20, to \$200. The change to Rule 64B10-12.010 raises the fees for application of inactive status, renewal of inactive status and reactivation of inactive status by \$25, to \$255. The Change to Rule 64B10-12.016 raises the delinquency fee by \$25, to \$255.

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: 456.025, 4546.036, 468.1685(1), 468.1725(2) FS.

LAW IMPLEMENTED: 456.025, 456.036, 468.1715, 468.1725 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: 10:30 a.m., Wednesday, December 10, 2001

PLACE: General Counsel’s Conference Room, Room 110, Prather Building, 2585 Merchant’s Row Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Taylor, Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3256

THE FULL TEXT OF THE PROPOSED RULES IS:

64B10-12.005 Renewal Fee.

The fee for biennial renewal of a nursing home administrator's license shall be two hundred ~~fifty-five thirty~~ dollars (~~\$255.00 230.00~~).

Specific Authority 468.1685(1) FS. Law Implemented 468.1715 FS. History--New 12-26-79, Amended 7-3-84, Formerly 21Z-12.05, Amended 1-22-90, Formerly 21Z-12.005, 61G12-12.005, 59T-12.005, Amended.

64B10-12.009 Initial Licensure Fee.

The initial licensure fee for a nursing home administrator's license shall be ~~two one~~ hundred ~~eighty~~ dollars (~~\$200.00 180.00~~). The license shall be valid until the end of the current biennium, except that an initial license issued during the renewal period shall be valid for the next biennium. The initial licensure fee shall be submitted with application fee and unlicensed fee upon application for licensure. An applicant not eligible for licensure may receive a refund of the initial licensure fee.

Specific Authority 456.025, 468.1685(1) FS. Law Implemented 456.025 FS. History--New 6-14-82, Formerly 21Z-12.09, 21Z-12.009, 61G12-12.009, Amended 2-13-95, Formerly 59T-12.009, Amended.

64B10-12.010 Inactive Status.

(1) The application fee for inactive status shall be two hundred ~~fifty-five thirty~~ dollars (~~\$255.00 230.00~~).

(2) The fee for renewal of an inactive license shall be two hundred ~~fifty-five thirty~~ dollars (~~\$255.00 230.00~~).

(3) The fee for reactivation of an inactive license shall be two hundred ~~fifty-five thirty~~ dollars (~~\$255.00 230.00~~).

Specific Authority 468.1685(1), 468.1725(2) FS. Law Implemented 468.1725 FS. History--New 2-24-87, Amended 4-8-90, Formerly 21Z-12.010, 61G12-12.010, 59T-12.010, Amended.

64B10-12.016 Delinquency Fee.

A licensee who is delinquent shall pay a delinquency fee of two hundred ~~fifty-five thirty~~ dollars (~~\$255.00 235.00~~) for reinstatement of the delinquent license.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History--New 2-22-96, Formerly 59T-12.016, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators
NAME OF SUPERVISOR OR PERSON APPROVING PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 9, 2001

DEPARTMENT OF HEALTH

Board of Occupational Therapy Practice

RULE TITLE: Standards of Practice; Discipline

RULE NO.: 64B11-4.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text regarding violations and penalties as authorized by Chapter 456, Florida Statutes.

SUMMARY: Changes in the law governing all professions and in the Board's practice act make it necessary for revise the disciplinary guideline and to adjust penalties imposed.

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

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

SPECIFIC AUTHORITY: 456.079, 468.204 FS.

LAW IMPLEMENTED: 456.072, 456.079 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-4.003 Standards of Practice; Discipline.

(1) No change.

(2) Among the range of punishments including any and all in Section 456.072(2), F.S., in increasing severity are:

(a) Letter of concern Reprimand and a minimum administrative fine of \$100, remedial education, and/or refund of fees billed.

(b) through (d) No change.

(e) Permanent Revocation, with limited ability to reapply.

(3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range of corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure.

In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refund of fees billed and collected from the patient or a third party on behalf of the patient.

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board. (468.217(1)(a), 456.072(1)(h), F.S.) First Offense	Denial/revocation <u>Revocation</u> with ability to reapply and \$1000 fine	Denial/revocation <u>Revocation</u> with ability to reapply and \$3000 fine.
Second Offense	Revocation with ability to reapply and \$3000 fine	Revocation with ability to reapply and \$6000 fine
Third Offense	Revocation with ability to reapply and \$6000 fine	Revocation with no ability to reapply and \$10,000 fine
<u>However, if the violation is not through an error but is for making a false or fraudulent representation, the fine is increased to \$10,000 per count or offense.</u>		
(b) Action taken against license by another jurisdiction. (468.217(1)(b), 456.072(1)(f) F.S.) First Offense	Imposition of discipline which would have been if the substantive violation occurred in Florida and \$100 fine	Suspension/denial until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and \$1000 fine. Impaired practitioners working in Florida may be ordered into the PRN
Second Offense	Imposition of discipline which would have been if the substantive violation occurred in Florida and a \$1000 fine	Revocation until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and \$2000 fine. Impaired practitioners working in Florida may be ordered into the PRN.
<u>Third Offense</u>	<u>Revocation and \$10,000 fine</u>	
(c) Guilt of a crime directly relating to practice or ability to practice. (468.217(1)(c), F.S.) First Offense	6 months probation with conditions and \$1000 fine	Denial/revocation <u>Revocation</u> and \$5000 fine
Second Offense	1 year suspension and \$5000 fine	Revocation and \$10,000 fine
(d) False, deceptive, or misleading advertising. (468.217(1)(d), F.S.) First Offense	Reprimand	6 months suspension

		and \$250 fine
Second Offense	6 months suspension and \$250 fine	9 months suspension and \$500 fine
Third Offense	9 months suspension and \$500 fine	1 year suspension and <u>\$5,000</u> \$1000 fine
(e) Advertising, practicing under a name other than one's own name. (468.217(1)(c), F.S.)		
First Offense	Reprimand	6 months suspension and \$100 fine
Second Offense	6 months suspension and \$100 fine	9 months suspension and \$500 fine
Third Offense	9 months suspension and \$500 fine	1 year suspension and <u>\$5,000</u> \$1000 fine
(f) Failure to report another licensee in violation. (468.217(1)(f), 456.072(1)(i), F.S.)		
First Offense	Reprimand and \$100 fine	Reprimand and \$500 fine
Second Offense	Reprimand and \$500 fine	6 months probation with conditions and <u>\$1000</u> \$500 fine
Third Offense	6 months probation with conditions and <u>\$1000</u> \$500 fine	6 months probation with conditions and <u>\$5,000</u> \$1000 fine
(g) Aiding unlicensed practice. (468.217(1)(g), 456.072(1)(j), F.S.)		
First Offense	1 year probation with conditions and \$1000 fine	6 months suspension, 1 year probation with conditions and \$3000 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$3000 fine	1 year suspension, 2 years probation with conditions and \$6000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$6000 fine	Revocation and \$10,000 fine
(h) Failure to perform legal obligation. (468.217(1)(h), 456.072(1)(k), F.S.)		
First Offense	<u>Letter of concern</u> Reprimand and \$100 fine	6 months probation with conditions and \$100 fine

Second Offense	6 months probation with conditions and \$100 fine	6 months suspension, 1 year probation with conditions and \$1000 \$500 fine
Third Offense	6 months suspension, 1 year probation with conditions and \$500 fine	Revocation and \$1000 \$5000 fine
(i) Failing Filing a false report or failing to file a report as required. (468.217(1)(i), 456.072(1)(l), F.S.)		
First Offense	1 year probation with conditions and \$100 fine	6 months suspension, 1 year probation with conditions and \$250 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$250 fine	Revocation and \$1000 \$500 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$1000 \$500 fine	Revocation and \$1000 \$10,000 fine
<u>However, if the violation is for making a false or fraudulent representation, a fine of \$10,000 per count or offense.</u>		
(j) Kickbacks or split fee arrangements. (468.217(1)(j) F.S.)		
First Offense	6 months suspension, 1 year probation with conditions and \$500 fine	Denial/revocation <u>Revocation</u>
Second Offense	1 year suspension, 2 years probation with conditions and \$1000 fine	Revocation and \$8000 \$2500 fine
Third Offense	2 years suspension, 3 years probation with conditions and \$2500 fine	Revocation and \$5000 \$10,000 fine
(k) Exercising influence to engage patient in sex. (468.217(1)(k), F.S.)		
First Offense	1 year suspension, 4 years probation with conditions referral to PRN and \$5000 fine	Denial/revocation <u>Revocation</u> and \$7500 fine
Second Offense	Revocation and \$7500 fine	Revocation and \$10,000 fine
(l) Deceptive, untrue, or fraudulent representations in the practice of occupational therapy . (468.217(1)(l), 456.072(1)(a), F.S.)		
First Offense	1 year probation with conditions and \$500 \$10,000 fine	1 year suspension, 1 year probation with conditions and \$1500 \$10,000 fine

Second Offense	1 year suspension, 1 year probation with conditions and \$10,000 <u>\$1500</u> fine	Revocation and \$10,000 <u>\$3000</u> fine
Third Offense	2 years suspension, 2 years probation with conditions and \$10,000 <u>\$3000</u> fine	Revocation and \$10,000 <u>\$5000</u> fine
(m) Improper solicitation of patients. (468.217(1)(m), F.S.)		
First Offense	1 year probation with conditions and \$500 fine	6 months suspension, 1 year probation with conditions and \$2000 <u>\$1000</u> fine
Second Offense	6 months suspension, 1 year probation with conditions and \$1500 fine	1 year suspension 2 years probation with conditions and \$5000 <u>\$3000</u> fine
Third Offense	1 year suspension, 2 years probation with conditions and \$3000 fine	Revocation and \$10,000 <u>\$5000</u> fine
(n) Failure to keep written medical records, justifying the course of treatment of the patient, including but not limited to patient history, examination results and test results. (468.217(1)(n), F.S.)		
First Offense	Reprimand and \$100 <u>\$300</u> fine	Reprimand or denial and \$1000 fine
Second Offense	Reprimand and \$1000 fine	6 months suspension, 1 year probation with conditions and \$5000 <u>\$3000</u> fine
Third Offense	6 months suspension, 1 year probation with conditions and \$3000 fine	1 year suspension, 2 years probation with conditions and \$10,000 <u>\$5000</u> fine
(o) Exercising influence on patient for financial gain. (468.217(1)(o), 456.072(1)(n), F.S.)		
First Offense	1 year probation with conditions and \$1000 fine	1 year suspension, 2 years probation with conditions or denial and \$7500 <u>\$5000</u> fine
Second Offense	Revocation and \$5000 fine	Revocation and \$10,000 fine

<p>(p) Performing professional services not authorized by patient. (468.217(1)(q), F.S.)</p>		
First Offense	Reprimand and <u>\$500</u> \$100 fine	Reprimand and \$1000 fine
Second Offense	Reprimand and \$1000 fine	6 months probation with conditions and <u>\$5000</u> \$3000 fine
Third Offense	6 months probation with conditions and \$3000 fine	Revocation and <u>\$10,000</u> \$5000 fine
<p>(q) Malpractice. (468.217(1)(q), F.S.)</p>		
First Offense	1 year probation with conditions and \$1000 fine	1 year suspension, 2 years probation with conditions or denial and \$5000 fine
Second Offense	1 year suspension, 2 years probation with conditions and \$5000 fine	Revocation and \$10,000 fine
<p>(r) Performing of experimental treatment without informed consent. (468.217(1)(r), F.S.)</p>		
First Offense	1 year suspension, 1 year probation with conditions and \$1000 fine	2 years suspension, 2 years probation with conditions or denial and \$5000 fine
Second Offense	Revocation and \$5000 fine	Revocation and \$10,000 fine
<p>(s) Practicing beyond scope permitted. (468.217(1)(s), 456.072(1)(o), F.S.)</p>		
First Offense	Reprimand and \$100 fine	6 months suspension, 6 months probation with conditions or denial and \$1500 fine
Second Offense	6 months suspension, 6 months probation with conditions and \$1500 fine	1 year suspension, 1 year probation with conditions and <u>\$7500</u> \$3000 fine
Third Offense	1 year suspension, 1 year probation with conditions and \$3000 fine	Revocation and <u>\$10,000</u> \$5000 fine
<p>(t) Inability to practice occupational therapy with skill and safety. (468.217(1)(t), F.S.)</p>		
First Offense	Submit to mental/physical examination and impose conditions on practice	Submit to mental/physical examination and suspension until able to demonstrate ability to practice with

		reasonable skill and safety
Second Offense	Submit to mental/physical examination and suspension until able to demonstrate ability to practice with reasonable skill and safety	Submit to mental/physical examination and suspension until able to demonstrate ability to practice with reasonable skill and safety and \$3000 fine
Third Offense	Submit to mental/physical examination, suspension until able to demonstrate ability to practice with reasonable skill and safety and \$3000 fine	Revocation and \$5000 fine
(u) Delegation of professional responsibilities to unqualified person. (468.217(1)(u), 456.072(1)(p), F.S.)		
First Offense	1 year probation with conditions and \$1000 fine	6 months suspension, 1 year probation with conditions and \$3000 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$3000 fine	1 year suspension, 2 years probation with conditions and \$6000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$6000 fine	Revocation and \$10,000 fine
(v) Violation of law, rule, order, or failure to comply with subpoena. (468.217(1)(v), 456.072(1)(q), F.S.)		
First Offense	Suspension until law, rule, order, or subpoena complied with and \$500 fine	Revocation and \$1500 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$1500 fine	Revocation and \$5000 fine
(w) Conspiring to restrict another from lawfully advertising services. (468.217(1)(w), F.S.)		
First Offense	Reprimand	Reprimand and \$100 fine
Second Offense	Reprimand and \$100 fine	Reprimand and \$500 fine
Third Offense	Reprimand and \$500 fine	Reprimand and \$1000 fine

[Unlicensed practice not a matter of discipline by this Board]

(x) False representation of registration.

(468.223(1), F.S.)

First Offense

Reprimand and \$100 fine with conditions or denial and \$500 fine

1 year probation

Second Offense

1 year probation with conditions and \$500 fine conditions and \$750 fine

6 months suspension
1 year probation with

Third Offense

6 months suspension, 1 year probation with conditions and \$750 fine

Revocation and \$1000 fine

(y) Unlicensed practice.

(468.207, F.S.)

First Offense

6 months probation with conditions and \$1000 fine

Denial/revocation \$1000 fine plus \$50 per day for over 10 worked up to \$5000

Second Offense

Revocation and \$1000 fine plus \$50 per day for over 10 worked up to \$5000

Revocation and \$1000 fine plus \$50 per day for over 10 worked up to \$10,000

(x) Violating chapter 468, chapter 456, F.S., or any rules adopted pursuant thereto.

(468.217(1)(x), 456.072(1)(cc), F.S.)

First Offense

Suspension until law or rule complied with and \$500 fine

Revocation and \$1500 fine

Second Offense

6 months suspension, 1 year probation with conditions and \$1500 fine

Revocation and \$5000 fine

(y) Performing or attempting health care services on the wrong patient, wrong site wrong procedure, or unauthorized or medically unnecessary procedure including preparation of the patient.

(456.072(1)(aa), F.S.)

First Offense

1 year probation with conditions and \$1000 fine

1 year suspension, 2 years probation with conditions and \$5000 fine

Second Offense

1 year suspension, 2 years probation with conditions and \$5000 fine

Revocation and \$10,000 fine

<p>(z) Intentionally violating any rule adopted by the Board or the Department as appropriate. (456.072(1)(b), F.S.)</p>	<p>6 months suspension, 1 year probation with conditions and \$1000 fine</p>	<p>1 year suspension, 2 years probation with conditions and <u>\$3000</u> \$2000 fine</p>
<p>Second Offense</p>	<p>1 year suspension, 2 years probation with conditions and \$2000 fine</p>	<p>2 years suspension 4 years probation with conditions and <u>\$6000</u> \$4000 fine</p>
<p>Third Offense</p>	<p>2 years suspension, 4 years probation with conditions and \$4000 fine</p>	<p>Revocation and \$10,000 fine</p>
<p>(aa) Being convicted or found guilty of, or entering a plea of <u>guilty or</u> nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice a licensee's profession. (456.072(1)(c), F.S.)</p>	<p>6 months probation with conditions and \$1000 fine</p>	<p>Denial/revocation <u>Revocation</u> and \$5000 fine</p>
<p>Second Offense</p>	<p>1 year suspension and \$5000 fine</p>	<p>Revocation and \$10,000 fine</p>
<p>(bb) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome. (456.072(1)(e), F.S.)</p>	<p><u>Letter of Concern</u> Reprimand</p>	<p>6 months probation with conditions and <u>\$500</u> \$100 fine</p>
<p>Second Offense</p>	<p>6 months probation with conditions and \$100 fine</p>	<p>1 year probation with conditions and <u>\$2000</u> \$500 fine</p>
<p>Third Offense</p>	<p>1 year probation with conditions and \$500 fine</p>	<p>2 years probation with conditions and <u>\$10,000</u> \$1000 fine</p>
<p>(cc) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (456.072(1)(g), F.S.)</p>	<p>1 year probation with conditions and \$1000 fine</p>	<p>6 months suspension 1 year probation with conditions and <u>\$5000</u> \$2000 fine</p>

Second Offense	6 months suspension, 1 year probation with conditions and \$2000 fine	1 year suspension, 2 years probation with conditions and <u>\$10,000</u> \$4000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$4000 fine	Revocation and \$10,000 fine
(dd) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. (456.072(1)(a) and (m), F.S.)		
First Offense	1 year probation with conditions and <u>\$10,000</u> \$500 fine	1 year suspension, 1 year probation with conditions and <u>\$10,000</u> \$1500 fine
Second Offense	1 year suspension, 1 year probation with conditions and <u>\$10,000</u> \$1500 fine	Revocation and <u>\$10,000</u> \$3000 fine
Third Offense	2 years suspension, 2 years probation with conditions and <u>\$10,000</u> \$3000 fine	Revocation and <u>\$10,000</u> \$5000 fine
(ee) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. (456.072(1)(r), F.S.)		
First Offense	6 months probation with conditions and \$1000 fine	6 months suspension, 1 year probation with conditions and \$2000 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$2000 fine	1 year suspension, 2 years probation with conditions and <u>\$5000</u> \$4000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$4000 fine	Revocation and \$10,000 fine
(ff) Engaging or attempting to engage a patient in verbal or physical sexual activity. (456.072(1)(u), F.S.)		
First Offense	1 year suspension, 4 years probation with conditions referral to PRN and \$5000 fine	Denial/revocation <u>Revocation</u> and \$7500 fine
Second Offense	Revocation and \$7500 fine	Revocation and \$10,000 fine

(gg) Failing to report to the board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of no contendere to, regardless of adjudication, a crime in any jurisdiction. (456.072(1)(w), F.S.)

First Offense	Reprimand	6 months suspension, 1 year probation with conditions and \$500 fine
Second Offense	6 months suspension, 1 year probation with conditions and \$500 fine	1 year suspension, 2 years probation with conditions and \$1000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$1000 fine	Revocation and \$5000 \$2000 fine

(hh) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers for the solicitation of the people involved in the accidents. (456.072(1)(x), F.S.)

First Offense	1 year probation with conditions and \$1000 fine	6 months suspension 1 year probation with conditions and \$4000 \$2000 fine
Second Offense	6 months suspension, 2 year probation with conditions and \$2000 fine	1 year suspension, 2 years probation with conditions and \$7500 \$4000 fine
Third Offense	1 year suspension, 2 years probation with conditions and \$4000 fine	Revocation and \$10,000 fine

(5) through (7) No change.

Specific Authority 456.079, 468.204 FS. Law Implemented 456.072, 456.079, 468.217 FS. History--New 9-12-88, Amended 11-9-92, Formerly 21M-15.002, 61F6-15.002, 59R-63.002, Amended 1-27-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLES:	RULE NOS.:
Patient Records; Transfer or Death of Licensed Practitioner	64B13-3.003
Entrance Sign	64B13-3.005
False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure	64B13-3.009
Prescriptions	64B13-3.012

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify requirements for signing patient records; to specify requirements for entrance signs; to clarify requirements for proper advertisements, and to specify the applicability of prescription requirements with regard to contact lenses.

SUMMARY: The proposed amendment to Rule 64B13-3.003 requires the practitioner to sign the entry in the medical record for each patient encounter. The amendment to Rule 64B13-3.005 makes clear that entrance signs must list each practitioner practicing at that location. The proposed amendments to Rule 64B13-3.009 require that advertisements specify that the practitioner is engaged in the practice of optometry. The amendment to Rule 64B13-3.012 clarifies that the prescription requirements for soft contact lenses applies to contact lenses determined by the FDA to be daily wear lenses.

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: 456.058, 463.005 FS.
LAW IMPLEMENTED: 456.057, 456.058, 456.072(1)(a),(m), 463.005, 463.012, 463.0135, 463.014, 463.016(1)(f),(g),(k) 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., December 5, 2001
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B13-3.003 Patient Records; Transfer or Death of Licensed Practitioner.

(1) A licensed practitioner shall maintain full and independent responsibility and control over all records relating to his or her patients and his or her optometric practice. The licensed practitioner must sign the entry for each patient encounter. All such records shall remain confidential except as otherwise provided by law and shall be maintained by the licensed practitioner in compliance with Rule 64B13-3.001. For the purposes of this rule, "maintain full and independent responsibility and control" means that the records shall be maintained in the licensed practitioner's office or solely in the possession of the licensed practitioner, and that the licensed practitioner shall not share, delegate, or relinquish either possession of the records or his or her responsibility or control over those records with or to any entity which is not itself a licensed practitioner.

(2) through (7) No change.

Specific Authority 456.058, 463.005(1)(a), (d) FS. Law Implemented 456.057, 456.058, 463.005(1)(a), (d) FS. History--New 11-13-79, Amended 12-19-84, 4-8-85, Formerly 21Q-3.03, Amended 12-16-86, 7-11-88, Formerly 21Q-3.003, 61F8-3.003, Amended 2-14-96, Formerly 59V-3.003, Amended 3-29-98, 4-3-00,_____.

64B13-3.005 Entrance Sign.

Whenever a licensed practitioner is actively engaged in the practice of optometry, or actively holding himself or herself out as a practitioner, he or she shall cause to be placed or kept in a conspicuous place at each entrance to each his office a sign which lists each licensed practitioner's name and words of proper abbreviation or intelligible lettering clearly denoting that the practitioner ~~he~~ is engaged in the practice of optometry.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.014(1)(a) FS. History--New 11-13-79, Formerly 21Q-3.05, Amended 12-16-86, Formerly 21Q-3.005, 61F8-3.005, 59V-3.005, Amended_____.

64B13-3.009 False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure.

(1) through (4) No change.

(5) A licensed practitioner may practice under practice identification names, trade names, or service names, so long as any dissemination of information, including signs, by the practitioner, to consumers contains the name under which the practitioner is licensed or that of the professional association in which the practitioner practices and so long as the information

identifies the practitioner of the professional association as being engaged in the practice of optometry participates. However, a licensed practitioner may not adopt and publish or cause to be published any practice identification name, trade name, or service name which is, contains, or is intended to serve as an affirmation of the quality or competitive value of the optometric services provided at the identified practice. Any licensed practitioner who is practicing or intends to practice under a practice identification name, trade name or service name must register with the Board of Optometry identifying the specific name as registered under applicable Florida law.

(6) No change.

(7) All advertisements must clearly denote with words or proper abbreviation that the practitioner is engaged in the practice of optometry.

Specific Authority 463.005 FS. Law Implemented 456.072(1)(a), (m), 463.016(1)(f), (g), 463.014 FS. History—New 11-13-79, Amended 4-17-80, 8-20-81, Formerly 21Q-3.09, Amended 1-8-86, 12-16-86, Formerly 21Q-3.009, 61F8-3.009, 59V-3.009, Amended.

64B13-3.012 Prescriptions.

(1) through (2) No change.

(3) A prescription for daily wear soft contact lens shall be considered valid for a period of two (2) years and a licensed practitioner shall make available to the patient or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. This subsection applies only to contact lenses determined by the Federal Drug Administration to be daily wear lenses.

(4) No change.

(5) Except as provided in Section 463.012, Florida Statutes, and Subsection (3) of this rule, the ~~The~~ extent of a contact lens prescription and when a contact lens prescription can safely and accurately be written shall be left to the professional judgment of the licensed practitioner.

Specific Authority 463.005 FS. Law Implemented 463.005, 463.012, 463.0135, 463.016(1)(k) FS. History—New 4-10-84, Formerly 21Q-3.12, Amended 3-4-86, 8-30-87, Formerly 21Q-3.012, 61F8-3.012, Amended 2-5-96, Formerly 59V-3.012, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE:

Hours Requirement

RULE NO.:

64B13-5.001

PURPOSE AND EFFECT: The proposed rule amendment is intended to address continuing education hours for the biennium ending in February, 2003.

SUMMARY: The proposed rule amendment permits practitioners to count hours of continuing education obtained between January of 2001 and the end of February 2001, for the biennium ending at the end of February 2003 so long as the licensed practitioner did not count those hours for the March 1, 1999 – February 28, 2001, biennium.

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: 463.005(1), 463.007(3), (4) FS.

LAW IMPLEMENTED: 463.007 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., December 5, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-5.001 Hours Requirement.

(1) As a condition to the renewal of a biennial license, each licensed practitioner shall be required to maintain professional competency by completing 30 clock hours of continuing education in subjects relating to optometry that have been approved by the Board. Licensed practitioners shall not be required to complete the continuing education requirements during the biennium in which they receive initial licensure. Credit will be allowed on the basis of an hour for hour. To receive one hour credit, a licensed practitioner must attend not less than 50 minutes. There will be no fractional hour credits. For certified optometrists, at least 6 of those 30 hours must be of "transcript quality". For purpose of this rule, the phrase "transcript quality" refers to coursework in ocular and systemic pharmacology and the diagnosis, treatment and management of ocular and systemic conditions and diseases. Transcript quality CE must be sponsored by a school or college of optometry or equivalent educational entity as approved by the Board and which requires a test and passing grade. Attendance at a continuing education program must be certified by the lecturer or someone in charge of the program.

An instructor of a course may credit the hours taught towards completion of the required continuing education; provided, however, that an instructor may only credit a course once, regardless of the number of times the course is taught. In addition, the instructor of a course may not credit the hours taught towards completion of the "ranscript quality" portion of the continuing education requirement. For the biennium ending at the end of February 2003, each licensed practitioner may count hours of continuing education obtained between January of 2001 and the end of February 2001, so long as the licensed practitioner did not count those hours for the March 1, 1999 – February 28, 2001, biennium. However, effective March 1, 2003, continuing education hours must be obtained during the biennium preceding licensure.

(2) through (7) No change.

Specific Authority 463.005(1), 463.007(3), (4) FS. Law Implemented 463.007 FS. History–New 11-13-79, Amended 5-28-80, 9-16-80, 1-13-81, 2-14-82, Formerly 21Q-5.01, Amended 12-16-86, 12-11-88, 4-19-89, 12-20-89, 9-22-92, 10-28-92, Formerly 21Q-5.001, Amended 8-31-93, Formerly 61F8-5.001, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.001, Amended 3-21-00, 10-2-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE TITLE: Application Fees for Initial Licensure and Providership of Continuing Education
RULE NO.: 64B18-12.0011
PURPOSE AND EFFECT: The purpose of the rule amendment is to add a fee for the examination.
SUMMARY: The Board proposes to amend this rule by including language which will set forth the amount of \$200 for the cost of the examination and processing.
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: 456.025, 456.025(3), 461.005, 461.006(1) FS.
LAW IMPLEMENTED: 456.025, 456.025(3), 461.006(1)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-12.0011 Application Fees for Initial Licensure and Providership of Continuing Education.

Each applicant for initial licensure by examination or reexamination shall remit a \$100.00 nonrefundable application fee and \$200 examination fee. Each provider of continuing education credits shall remit an application fee of \$250 for initial providership, and \$250 per biennium for renewal for providership of such credits.

Specific Authority 461.005, 456.025, 461.006(1) FS. Law Implemented 461.006(1)(a), 456.025 FS. History–New 2-27-94, Formerly 61F12-12.0011, Amended 4-5-95, 1-1-96, 6-17-97, Formerly 59Z-12.0011, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2000
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE TITLES: Penalties Citations
RULE NOS.: 64B18-14.002 64B18-14.010
PURPOSE AND EFFECT: The purpose of the rule amendments to Rule 64B18-14.002 is increase the penalty amounts imposed for certain offenses and new violations are being added. Because the Board is in a deficit, the Department of Health requested fines be increased since the Legislature has twice raised fine caps since the Board has addressed its fine amount. The purpose of the amendments to Rule 64B18-14.010 is to update the list of violations and the penalty amount to be imposed by the Board based upon new legislative changes to Chapter 456.
SUMMARY: The Board has determined that additional violations along with the proper reference should be added to Rule 64B18-14.002 and the penalty amounts to be imposed by Board are also being increased for which an applicant or licensee will be responsible for if said sections have been

violated. The Board is amending Rule 64B18-14.010 to update the sections for certain violations, update the penalty amounts, and to add new violations which may be imposed by the Board. 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: 456.072, 456.073(3), 456.077, 456.079, 461.005, 461.013 FS.

LAW IMPLEMENTED: 456.057, 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 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: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B18-14.002 Penalties.

(1) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under chapter 461, Florida Statutes, has committed any of the acts set forth in either section 461.012 or 456.072, Florida Statutes, it shall issue a final order imposing appropriate penalties, plus costs based upon the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:

(a) Practicing or attempting to practice podiatric medicine or advertising podiatric services in this State without an active license to practice podiatric medicine pursuant to Chapter 461, Florida Statutes, or with a license fraudulently obtained. In the case of an applicant, the Board shall deny the application. In the case of a licensee who has obtained or attempted to obtain a license by fraud, the Board shall impose a reprimand to revocation and a fine of \$1000 to \$5000 ~~\$250 to \$1000~~, depending on the severity of the fraud. In the case of a licensee who has practiced, attempted to practice, or advertised while holding an inactive license, the Board shall impose a reprimand with or without a period of suspension and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~.

(b) No change.

(c) Selling or fraudulently obtaining or furnishing any podiatry diploma, license, or record of registration or aiding or abetting in the same. The Board in the case of a licensee shall

impose a penalty ranging from suspension to revocation and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~. In the case of an applicant, the Board shall deny the application.

(d) Making any willfully false oath or affirmation whenever an oath or affirmation is required by Chapter 461, Florida Statutes. The Board in the case of licensee shall impose a penalty ranging from ~~probation to~~ suspension to revocation and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~. In the case of an applicant, the Board shall deny the application.

(e) Using the name or title "Podiatrist," "Doctor of Podiatry," "Doctor of Podiatric Medicine," or using the phrase "foot clinic," "foot doctor," "Podiatric Technician," or any other name, title, or phrase which would lead the public to believe that such person is engaging in the practice of podiatric medicine, unless such person is licensed as a podiatrist in this State. The Board in the case of a licensee shall impose a penalty ranging from a reprimand to suspension, probation, and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~. In the case of an applicant, the Board shall deny the application.

(f) No change.

(2) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under Chapter 461, Florida Statutes, has committed any of the acts set forth in either Section 461.013(1), 456.013(7), 456.033, 456.053, 456.062, 456.067 or 456.072, Florida Statutes, it shall issue a final order imposing appropriate penalties based on the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:

(a) Attempting to obtain, obtaining or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board. In the case of an applicant, the Board shall deny the application. In the case of a licensee, the Board shall impose a penalty of a reprimand to revocation and a fine of \$500 to \$5000, ~~\$1000~~, based on the severity of the offense.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. In the case of a licensee, the Board shall impose a penalty ranging from reprimand to revocation and a fine from \$250 to \$10,000, ~~\$1000~~, depending upon the nature of the offense and the substantiating evidence. In the case of an applicant, the Board shall deny the application.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly related to the practice of podiatric medicine or the ability to practice podiatric medicine. In the case of a licensee, the Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000 ~~\$500 to \$1000~~, depending upon the nature of the offense and the substantiating evidence. In the case of an applicant, the Board shall deny the application.

(d) Advertising in a manner which is false, deceptive or misleading. The Board shall impose a penalty ranging from reprimand to probation and a fine from \$500 to \$1500 ~~\$250 to \$1000~~.

(e) Advertising, practicing or attempting to practice under a name other than one's own. The Board shall impose a penalty ranging from reprimand to suspension ~~probation~~ and a fine from \$500 to \$2000 ~~\$250 to \$1000~~.

(f) Failing to report to the Department any person the licensee knows to be in violation of Chapter 461, Florida Statutes, or the rules of the Board or Department. The Board shall impose a penalty of a reprimand and a fine of \$250 to \$1000.

(g) Aiding, assisting, procuring, permitting or advising any unlicensed person to practice podiatric medicine contrary to Chapter 461, Florida Statutes, or the rules of the Board or Department. The Board shall impose a penalty of probation to suspension and a fine from \$1000 to \$5000 ~~\$500 to \$1000~~. In the case of an applicant, the Board shall deny the application.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatrist. The Board shall impose a penalty ranging from reprimand to suspension ~~probation~~ and a fine of \$250 to \$10,000 ~~\$1000~~.

(i) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed podiatrist. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$250 to \$1000. If negligent, the Board shall impose a penalty ranging from reprimand to probation and a fine of \$250 to \$1000. If fraud, the Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$5000.

(j) Paying or receiving any commission, bonus, kickback, rebate or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The Board shall impose a penalty ranging from reprimand to suspension ~~probation~~ and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~.

(k) Making misleading, deceptive, untrue or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community. The Board shall impose a penalty ranging from probation to suspension and a fine of \$500 to \$5000 ~~\$1000~~.

(l) Soliciting patients either personally or through an agent. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$500 to \$2000.

(m) No change.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~.

(o) Performing professional services which have not been duly authorized by the patient or client or his legal representative. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$1000 to \$10,000 ~~\$250 to \$500~~.

(p) Prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatrist's professional practice. The Board shall impose a penalty ranging from probation to revocation ~~suspension~~ and a fine of \$1000 to \$10,000 ~~\$500 to \$1000~~.

(q) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in Chapter 893 by the podiatrist to himself except those prescribed, dispensed or administered to the podiatrist by another practitioner authorized to prescribe, dispense or administer them. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$5000 ~~\$500~~.

(r) Prescribing, ordering, dispensing, administering, supplying, selling or giving amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to Chapter 893. The Board shall impose a penalty ranging from suspension to revocation and a fine of \$1000 to \$10,000.

(s) No change.

(t) Gross or repeated malpractice or the failure to practice podiatric medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatrist as being acceptable under similar conditions and circumstances. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000 ~~\$250 to \$1000~~, depending on the severity of the offense.

(u) Performing any procedure or prescribing any therapy which, by prevailing standards of podiatric practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent. The Board shall impose a penalty ranging from probation to revocation ~~suspension~~ and a fine of \$1000 to \$10,000 ~~\$500 to \$1000~~.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform. The Board shall

impose a penalty ranging from reprimand to revocation and a fine of \$1000 to \$5000 ~~\$250 to \$1000~~, depending on the severity of the offense.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience or licensure to perform them. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$500 to \$2000 ~~\$250 to \$1000~~.

(x) Violating any provision of chapters 461 or 456, Florida Statutes, or any rule of the Board or Department. The Board shall impose a penalty ranging from reprimand to revocation and a fine of \$250 to \$5000 ~~\$1000~~, depending on the severity of the offense.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate or preclude another licensee from lawfully advertising his services. The Board shall impose a penalty of reprimand to probation and a fine of \$500 to \$1500 ~~\$250 to \$500~~.

(z) Prescribing, ordering, dispensing, administering, supplying, selling or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (CG), or other hormones for the purpose of muscle building or to enhance athletic performance. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$5000 ~~\$500 to \$1000~~.

(aa) Fraud, deceit, or misconduct in the practice of podiatric medicine. The Board shall impose a penalty ranging from probation reprimand to revocation and a fine of \$5000 to \$10,000 ~~\$250 to \$1000~~, depending on the severity of the offense.

(bb) Failure to report to the Department any licensee under Chapter 458 or 459, F.S., for violations of disciplinary provisions of their laws and rules. In the case of a licensee, the Board shall impose a penalty of a reprimand and an administrative fine of \$250 to \$1000.

(cc) through (ii) No change.

(jj) Using information about people involved in motor vehicle accidents which has been derived from accident reports. The Board shall impose a penalty ranging from reprimand to probation and an administrative fine of \$1000 to \$5000 ~~\$500~~.

(kk) No change.

(ll) Testing positive on a preemployment drug screen. The Board shall impose a \$500 fine and refer the licensee to PRN for screening and possible treatment if medically necessary.

(mm) Performing health care services on the wrong patient, wrong-site, wrong or unauthorized procedure. The Board shall impose a penalty ranging from probation to suspension, require continuing medical education, and impose a fine of \$1000 to \$5000.

(nn) Leaving a foreign object in patient. The Board shall impose a fine of \$1000 to \$5000.

(oo) Failure to complete the two hour course on medical errors. The Board shall impose a fine of \$500 to \$1000.

~~(3) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under chapter 461, Florida Statutes, has committed any of the acts set forth in section 456.072(1); Florida Statutes, it shall issue a final order imposing appropriate penalties based on the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:~~

~~(pp)(a) No change.~~

~~(qq)(b) No change.~~

(rr) Failure to report sexual misconduct. The Board shall impose a fine of \$1000 to \$5000.

Specific Authority ~~456.072, 456.073(3), 456.079, 461.005, 461.013 FS. Law Implemented 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS. History—New 11-21-79, Amended 8-31-81, Formerly 21T-14.02, Amended 10-14-86, 12-8-88, 1-19-92, 4-26-93, Formerly 21T-14.002, 61F12-14.002, Amended 2-25-96, 5-29-97, Formerly 59Z-14.002, Amended 11-17-97, 8-24-00, _____.~~

64B18-14.010 Citations.

(1) through (2) No change.

(3) The following violations may be disposed of by the Department by citation with the specified penalty:

VIOLATIONS	PENALTY
(a) CME violations (Section <u>456.077(2), and 461.013(1)(w)), F.S.</u>	Within six months of the date the citation is issued, Respondent must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND
1. through 4. No change.	
<u>5. Failure to complete 2 hour course on medical errors.</u>	<u>\$300 fine</u>
(b) Practice on an inactive status license for a period of up to three months. (Sections 461.012(1)(a), 461.013(1)(w)), F.S.)	\$500 fine

- (c) Failure to notify Department of change of current mailing address and place of practice, Section 461.013(1)(h), and Section 456.035(1), F.S. address ~~(Section 461.013(1)(h))~~. \$200 fine
- (d) Failure to provide medical record of one patient in a timely manner (Section 456.057), F.S. \$500 fine and proof records were provided
- (e) Failure to provide the disclaimer required for free or discounted services (Sections 456.062, 456.077(2), and 461.013(1)(w), F.S.) \$500 fine
- (f) Soliciting patients (Sections 456.072(1)(x), 456.077(2), 461.013(1)(k), and 461.013(1)(w), F.S.) \$300 fine
- (g) Failure to comply with the requirements of profiling or credentialing (Section 456.072(1)(v) and 456.077(2)). ~~\$1000~~ \$300 fine
- (h) Failure to pay required fees and fines Section 456.077(2), F.S. \$2500 fine
- (i) Failure to comply with sections 381.026 and 381.0261 referencing patients bill of rights (Section 456.077(2), F.S.) \$250 fine

~~(4) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Department of Health, Division of Regulation. Such review may be by telephone, in writing, or by facsimile machine.~~

- ~~(4)~~(5) No change.
- ~~(5)~~(6) No change.

Specific Authority 456.077, 461.005 FS. Law Implemented ~~456.057, 456.062, 456.072, 456.077, 461.012, 461.013(7)~~ FS. History—New 1-19-92, Formerly 21T-14.010, 61F12-14.010, Amended 3-26-95, 2-25-96, 6-17-97, Formerly 59Z-14.010, Amended 11-23-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-39.002
Guarantee Program	67-39.0025
Feasibility Studies	67-39.003
Eligibility Criteria for Qualified Obligations	67-39.004
Required Submissions for Qualified Lending Institutions	67-39.0045
Fees and Rates	67-39.005
Contractual Provisions of Qualified Obligation Documents	67-39.006
Reimbursable Costs	67-39.008
Program Documents	67-39.010
Guarantee Program	67-39.011
Guarantee Coverage	67-39.012
Guarantee Program Payments	67-39.014
Audit Requirement	67-39.015

PURPOSE AND EFFECT: The purpose of this Rule is to implement the provisions of Section 420.5092, Florida Statutes, establishing the Florida Affordable Housing Guarantee Program.

SUMMARY: The rules provided for the implementation of the Florida Housing Finance Corporation's affordable housing guarantee program, including the establishment of eligibility requirements for the guarantee of qualified obligations, required contractual provisions, fees and rates, program documents and guarantee program payments.

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: 420.507(25), 420.5092(4) FS.

LAW IMPLEMENTED: 420.5092 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., December 3, 2001

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Junious Brown, Guarantee Program Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

Any person requiring special accommodations at this workshop because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system, which can be reached at 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

67-39.002 Definitions.

In addition to those terms defined below, capitalized terms shall have the meaning set forth in the Act.

(1) “Act” means Section 420.5092 (Florida Affordable Housing Guarantee Program), Florida Statutes.

(2) “Board” shall mean the Board of Directors of the Corporation. “Affordable housing guarantee” means an obligation of the Guarantee Program to guarantee the payment of an obligation made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

(3) “Credit Underwriter” means the independent third-party entity retained by the Qualified Lending Institution, subject to the prior approval of the Guarantor, to provide a recommendation regarding the credit-worthiness of a proposed financing of Eligible Housing and the Eligible Housing’s ability to achieve satisfactory projected cash flows. Such services should include a comprehensive analysis of the financial condition of the Obligor, the real estate, the economics of the financing, the ability of the Obligor and the development team to proceed and complete the proposed project and the evidence of need for affordable housing. The Credit Underwriter should determine a recommended amount of the obligation. “Corporation” means the Florida Housing Finance “Corporation”.

(4) “Eligible Persons persons” means for those projects not subject to any other restriction applicable to other Corporation financed programs, one or more persons or a family, whose total annual adjusted household income is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the applicable metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. “Eligible housing” means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for persons meeting the eligibility criteria as provided in this rule.

(5)(6) “Feasibility Study study” means a study conducted by an independent third party selected by the Corporation to determine a range of appropriate levels of fees and charges for Guarantees in relation to different degrees of risk, as contemplated by the Act those studies performed pursuant to this rule.

(6) “Financial Advisor” shall mean the person or entity retained by the Corporation to render financial advice with respect to the Guarantee Program.

(7) “Guarantee” means an Affordable Housing Guarantee, within the meaning of the Act.

(8)(7) “Guarantee Program” means the Affordable Housing Guarantee Program created pursuant to the Act and established with proceeds of revenue bonds issued by the Corporation to implement the Florida Affordable Housing Guarantee Program.

(8) “Guarantee Program reserve requirement” means the amount of assets, or their equivalent, of the Guarantee Program determined by the Corporation as necessary to maintain the claims paying ability of the Guarantee Program. For these purposes, an asset equivalent shall be a letter of credit, insurance policy, reinsurance treaty or policy, surety or guarantee which does not adversely affect the claims-paying rating of the Guarantee Program.

(9) “Guarantor” means the Corporation, acting in its capacity as guarantor under the Guarantee Program. “Obligee” means a qualified lending institution under a qualified obligation, and its successors and assigns approved by the Corporation.

(10) “Obligor/Principals” means the entity that is the original borrower under a Qualified Obligation qualified obligation, and any its successors and assigns that are approved by the Guarantor Corporation.

(11) “Principal” means any individual acting in their individual capacity or acting as president, vice president, treasurer, secretary, member of the board of directors or the legal or beneficial owner of 10% or more of any class of stock of a corporation which is a general partner of a limited partnership Obligor; or the individual or entity that is a general partner of a limited partnership that is the general partner of a limited partnership Obligor, or is a partner in a general partnership or joint venture acting alone or as a part of another entity that is an Obligor. With respect to a limited liability company either acting alone or as a part of another entity that is an Obligor, each manager and each member is a Principal. With respect to a registered limited liability partnership either acting alone or as a member of another entity that is an Obligor, each partner is a Principal. With respect to a trust either acting alone or as a part of another entity that is an Obligor, any individual or entity owning 10% or more of the beneficial interest in the trust is a Principal. A general contractor, management agent, architect/engineer, attorney that is not in any way related to or under common ownership with the Obligor or any Principal thereof are not considered Principals of the Obligor entity.

(12) “Program Documents” means those documents establishing the Guarantee and evidencing the security supporting the Guarantee, as set forth in Section 67-39.010, F.A.C.

(13)(11) “Qualified Lending Institution” “Qualified lending institution” means any bank, trust company, national bank, savings bank, state or federal savings and loan association, state or federal credit union, insurance company, private or public pension fund, philanthropic institution,

~~Florida local housing finance authority Local Housing Finance Authorities, the Florida Housing Finance Corporation, in its capacity as a lender, or any other entity approved by the Corporation. The term "qualified lending institution" shall also include the Florida Housing Finance Corporation. All qualified lending institutions must submit information, sufficient in detail to demonstrate the capacity to perform the functions and services necessary to adequately comply with the requirements contained in the guarantee documents. Information to be submitted must include a current acceptable financial statement; description detailing the institution's experience in originating and servicing affordable housing loans; and listing and qualifications of key personnel within the institution's affordable housing operation.~~

~~(14)(42) "Qualified Obligation" means a contractual an obligation which is made or purchased by a Qualified Lending Institution qualified lending institution, and secured by one or more of the following: (i) Residential Property a residential property which will provide Eligible Housing, affordable housing (ii) a residential property whose mortgage financing is to be provided by an entity created by local, state or federal legislation, or otherwise qualified lending institution or (ii)(iii) such other collateral as recommended by the Credit Underwriter or Financial Advisor as necessary to secure such obligation meets the requirements of the feasibility study.~~

~~(15)(43) "Residential Property property" means any existing building, structure, unit thereof or unimproved real property, which is used or occupied, or is intended to be used or occupied, wholly or partly, as the home or residence of one or more Eligible Persons, including use or intended use for assisted living, emergency, transitional or shelter housing for the homeless and housing for persons with special needs. For the purposes of this part, Residential Property shall exclude property used or intended to be used as an assisted living facility, as defined in Section 400.402(6), Florida Statutes, and property located in non-contiguous sites.~~

~~(16) "Servicer" means the entity, selected by the Qualified Lending Institution and approved by the Guarantor, to service the Qualified Obligation.~~

~~(17) "Trustee" means the entity acting as trustee for the holders of bonds secured by a pledge of rights under a Qualified Obligation.~~

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 2-6-97, Formerly 91-39.002, Amended 10-21-99,_____.

67-39.0025 Guarantee Program.

Action by the Board, acting in its capacity as executive body of the Guarantor, shall be necessary for the Guarantee Program to implement any of the following:

(1) Approve Qualified Lending Institutions;

(2) Authorize the execution of a Guarantee or Guarantees on terms which minimize the financial risk to the Guarantee Program while assuring that the project is financially feasible;

(3) Approve the issuance of commitments to guarantee any Qualified Obligation or aggregate of Qualified Obligations;

(4) Authorize entering into contracts, agreements or treaties of insurance regarding Qualified Obligations or aggregate of Qualified Obligations;

(5) Allocate funds to satisfy the Guarantor's contractual obligations pursuant to the Program Documents under any Guarantee;

(6) Establish time limits in which a Qualified Obligation must be made or purchased in order to be eligible for a Guarantee;

(7) Establish the premium charges for its Guarantees in amounts determined to be no less than that suggested by the applicable Feasibility Study;

(8) Establish and levy such other charges and fees, including, fees for extension of time in which to close a Qualified Obligation unless the Board determines otherwise in writing in connection with applications for guarantee, guarantee commitments, contracts of guarantee and as are necessary to recover authorized reimbursable expenses under the Act;

(9) Modify, with respect to:

(a) Rate of interest associated with any Qualified Obligation for which a Guarantee has been issued,

(b) Time of payment of any installment of principal or interest, security or any other term, of any Qualified Obligation for which a Guarantee has been issued,

(c) The security for any Qualified Obligation, contract or agreement of any kind for which the Guarantee Program has issued a Guarantee or to which the Guarantee Program is party;

(d) Time limits established pursuant to Section 67-39.025(6), F.A.C.; or

(e) Other modifications requested or approved by the Obligor or Qualified Lending Institution or other party to the transaction;

(10) Foreclose on any Qualified Obligation in financial or technical default or commence any action to protect or enforce any rights conferred upon the Corporation and the Guarantee Program pursuant to any Guarantee of such Qualified Obligation or authorized by any documents provided as collateral for any Guarantee, or otherwise to acquire or take possession of any property pledged as collateral for any Qualified Obligation;

(11) Hold, manage, administer, lease, or sell any property conveyed to or acquired by the Guarantor;

(12) Authorize the payment, pursuit to final collection, compromise, settlement, collection, waiver or release any right, title, claim, lien or demand, however acquired, including any equity or right of redemption;

(13) Authorize the sale, at public or private sale, any mortgage, mortgage participation or other obligation held by the Guarantor or the Guarantee Program;

(14) Authorize the procurement of insurance against any loss in connection with property pledged as collateral for any Guarantee or property of the Guarantor and held for the benefit of the Guarantee Program;

(15) Enter into contracts related to the management of Guarantee Program resources, including any risk-sharing arrangements;

(16) Authorize staff to (a) set the date and conditions on which offering materials to be utilized by a Qualified Lending Institution that reference the Guarantee Program and the proposed Guarantee may be released, and (b) prohibit distribution of any offering materials in connection with a HUD risk-sharing transaction until the Guarantor has received the HUD firm approval letter, unless otherwise approved by the Board in writing; and

(17) Authorize the establishment of such other contractual provisions as are necessary or incidental to the foregoing.

(18) Authorize the prioritization of issuance of Guarantees with respect to Qualified Obligations issued under the HUD Risk-Sharing Program over other Guarantees.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New

67-39.003 Feasibility Studies.

The Corporation shall retain an independent third party to perform a Feasibility Study. Such Feasibility Study must contemplate the specific project type proposed to be guaranteed before any Guarantee of a Qualified Obligation of such project type shall be issued. cause to be performed an affordable housing guarantee feasibility study prior to the issuance of any guarantee not contemplated by, or incorporated within, a previous feasibility study. Each such feasibility study shall be accepted by the governing board of the Corporation. The Board must accept the Feasibility Study prior to the issuance of any Guarantee the guarantee pursuant thereto. Such study shall determine the type of eligible housing for which a guarantee is required for the investment of private capital, the anticipated risk of default for the classification of housing, and the level of fees, charges, premiums and reimbursement conditions necessary to establish a financially sound affordable housing guarantee program that exposes the funds deposited into the Guarantee Program to a reasonable or acceptable level of risk.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 4-5-93, Amended 2-16-94, 12-26-95, 2-6-97, Formerly 91-39.003, Amended 10-21-99.

67-39.004 Eligibility Criteria for Qualified Obligations.

To be eligible for a Guarantee, each Qualified Obligation must evidence, unless otherwise approved by the Board: In order to be eligible for an affordable housing guarantee issued by the

Corporation, the eligible housing must be a multi family (5 or more dwelling units) housing development or single family, owner-occupied housing which meets the eligibility criteria provided in the applicable feasibility study. In order for an obligation to be eligible for guarantee the Corporation must first find that

(1) Security for the proposed Qualified Obligation, including a mortgage on the real property, guarantees required from Principals or other parties, and a level of contributed equity, satisfying The property which is the security for such mortgage meets, the requirements recommended by the Credit Underwriter or Financial Advisor or otherwise acceptable to the Board of the definition of a qualified obligation;

(2) That the Obligor and the Principals thereof The obligor/principals are

(a) Are credit-worthy,

(b) Are not currently in financial arrears or default to the Corporation or the Corporation's servicer under any program or otherwise in noncompliance beyond any cure period contained under existing documents relating to any Corporation program, and

(c) With respect to closings of Qualified Obligations that occur in 2002 or after, have not within the past five years been in financial arrears or default to any Qualified Lending Institution or its Servicer, or otherwise in noncompliance beyond any cure period contained in any loan documents related to any Qualified Obligation for which a Guarantee has been issued. Notwithstanding the above, if in the case of (b) or (c) the Board determines that any financial arrearage or default does not materially adversely affect the ability of the Obligor and the Principals thereof to perform their obligations with respect to the proposed Qualified Obligation or the likelihood of their performing such obligations, then the Qualified Obligation will remain eligible for a Guarantee. With respect to (b) or (c) above, noncompliance shall prohibit the issuance of a Guarantee only to the extent that the Board determines that such noncompliance substantially increases the likelihood of the Obligor and the Principals thereof not performing their obligations with respect to the proposed Qualified Obligation;

(3) Terms The obligation is in such amount, and form, and contains such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes, reserves and assessments, delinquency charges, default remedies, and additional security as are consistent with other similar Qualified Obligations for which a Guarantee has been issued or are deemed necessary by the Guarantor to address new problems or market situations and which are satisfactory to the Guarantor considered customary in the industry;

(4) Furtherance of the purposes of the Act and the Guarantee Program; The requirements of the Act are adequately met by the terms of the mortgage guarantee contract or other agreements;

(5) That in the case of multifamily Residential Property, such Qualified Obligation is not a refinancing of existing permanent financing, except:

(a) Existing permanent financing for which a Guarantee has already been issued, or

(b) Refinancings associated with rehabilitation of the existing property in which.

(i) Rehabilitation expenditures in connection with such acquisition equal at least 25% of the cost of acquiring such Residential Property.

(ii) A physical needs study conducted by an independent third party shows an expected useful life after rehabilitation in excess of the proposed term of the Qualified Obligation.

(iii) An unconditional performance and payment bond meeting the requirements of Rule 67-39.006(3), F.A.C., is obtained to support the rehabilitation, and

(iv) An appraisal based on a market value approach showing a loan-to-value ratio with respect to the Qualified Obligation not in excess of 90% supports the credit underwriting report; The obligation is made for a property that the qualified lending institution's funding is equal to or less than \$65,000 per unit; and

(6) That the proposed Eligible Housing will not.

(a) Be marketed to, attract and thereby materially displace residents from other affordable housing developments financed by the Corporation or guaranteed by the Guarantor located in the same submarket, provided that for such purposes the provision of only 4% low income housing tax credits by the Corporation shall not be deemed financing by the Corporation.

(b) Result in such concentration of affordable housing developments financed by the Corporation or by local housing finance authorities or guaranteed by the Guarantor in the given geographic area that either the ability to repay the Qualified Obligation is compromised or the purposes of the Act in providing Guarantees on a state-wide basis is not satisfied, or

(c) Result in such concentration of pre-lease-up Guarantee risk to a single Obligor or Principal that the likelihood of default on guaranteed Qualified Obligations is increased; Previous qualified obligations issued for the obligor/principals are being paid in a satisfactory manner as to terms, premium and fee payments and that all requirements of those obligations are being met by the obligor/principals.

(7) That in the case of multifamily Residential Property for Qualified Obligations that close in 2002, other than Qualified Obligations consisting of a loan of tax-exempt bond proceeds from the Corporation designated in 2001 by the Corporation for funding or a Qualified Obligation consisting of a loan of bond proceeds from a Qualified Lending Institution which has submitted a completed and executed pre-application to the Guarantor with respect to the proposed Qualified Obligation prior to September 30, 2001, a favorable Credit Underwriter report indicating a minimum of 1.15x debt service coverage of the Qualified Obligation subject to the Guarantee.

Notwithstanding the above, the existence of a favorable report of the Credit Underwriter does not obligate the Guarantor to issue a Guarantee:

(8) That no deed restrictions are imposed upon multifamily Residential Property pledged as security for any Qualified Obligation which restrict the marketability of the property in the event of foreclosure, unless otherwise approved by the Board in writing;

(9) Income limitations that are not in excess of the limitations set forth in the definition of "Eligible Persons" and that no additional rental limitations are imposed by the Qualified Lending Institution which would adversely affect the ability to repay the Qualified Obligation;

(10) That a final maturity of the Qualified Obligation not in excess of forty-two years from the date of closing, unless further limited by HUD regulations in connection with a HUD risk-sharing transaction, or, in the case of a rehabilitation financing, a final maturity equal to the lesser of forty-two years from the date of closing or 75% of the remaining useful life of the property as evidenced by a physical needs study prepared by an independent third party;

(11) That with respect to any Qualified Obligation of an Obligor which is a non-profit corporation or a limited liability company owned or controlled by a non-profit corporation (a) such entity must provide at closing equity from low income housing tax credits or its own resources equal to at least 15% of total development cost, with no more than one-half of such equity comprised of subordinate loans or grants; and (b) the proposed Qualified Obligation will be credit underwritten and evaluated as being exempt from ad valorem taxation only to the extent the Obligor has provided an agreement evidencing such from the local property appraiser, in form and substance satisfactory to the credit underwriter and the Guarantor; and

(12) That the Residential Property shall contain a maximum of 400 residential units. Any two-bedroom units shall be required to also have two full bathrooms.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 12-26-95, 2-6-97, Formerly 91-39.004, Amended 10-21-99.

67-39.0045 Required Submissions for Qualified Lending Institutions.

Prospective Qualified Lending Institutions must submit information, sufficient in detail to demonstrate the capacity to perform the functions and services necessary to adequately comply with the requirements contained in that entity's Lender documents and the standard Guarantor documents. Information to be submitted must include a current audited financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles, description detailing the institution's experience in originating and servicing affordable housing loans, and listing and qualifications of key personnel within the institution's affordable housing operation.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History—New _____.

67-39.005 Fees and Rates.

~~(1) The Guarantor For the issuance of an affordable housing guarantee, the Corporation shall charge fees, premiums and rates for the issuance of a Guarantee in amounts not less than that as established in the applicable Feasibility Study to all applicants for a financially sound Affordable Housing Guarantee Program.~~

~~(2) An application A fee of not less than .1 percent (.0010) of the total proposed qualified mortgage amount shall be paid by or on behalf of the Qualified Lending Institution ~~qualified lending institution~~ at the time a ~~multifamily loan or~~ proposed loan is submitted to the ~~Guarantor Corporation~~ for consideration ~~for a Guarantee of an affordable housing guarantee.~~~~

~~(3) A good faith deposit in the amount of \$15,000 shall be required to be paid by the Obligor to the Guarantor prior to the earlier to occur of the distribution by counsel to the Guarantor of Guarantee documents or the approval of a proposed Guarantee by the Corporation’s Board of Directors. Such good faith deposit shall be applied at closing to pay a portion of the fees due counsel to the Guarantor and the initial Guarantee fee. In the event the proposed financing does not close, such deposit shall be applied toward the amount of the accrued but unpaid fee of Guarantor’s counsel and any other unpaid expenses of the Guarantee Program associated with such proposed Guarantee, and the remainder shall be returned to the applicant.~~

~~(4) A commitment fee of not less than .2 percent (.0020) of the stated principal amount of the Qualified Obligation ~~total qualified multi-family mortgage amount~~ shall be paid by or on behalf of the Qualified Lending Institution ~~when qualified lending institution~~ at the time a ~~commitment~~ ~~Commitment~~ to guarantee ~~Guarantee~~ is issued by the ~~Guarantor Corporation~~.~~

~~(5) The Qualified Lending Institution or the Obligor or Principals shall pay all expenses incurred in the course of processing a request for a Guarantee, regardless of whether a Guarantee is ever issued.~~

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 12-26-95, 2-6-97, Formerly 91-39.005, Amended 10-21-99, _____.

67-39.006 Contractual Provisions of Qualified Obligation Documents.

The Corporation shall require that supporting documents for each Qualified Obligation contain establish contractual provisions including, a right of foreclosure, to ensure payment of the Qualified Obligation. Such provisions shall include, unless otherwise approved by the Board, foster reimbursement of moneys paid pursuant to an affordable housing guarantee in the event of a covered default for which the qualified lending

~~institution submits a claim for loss as defined in the guarantee program documents. A copy of the guarantee program documents is available from the Corporation upon request.~~

~~(1) Rights of foreclosure or other means of obtaining the collateral;~~

~~(2) In the case of multifamily Residential Property, guarantees of completion, operating deficits and an environmental indemnity, effective as of the date of closing, and, if deemed necessary by the Credit Underwriter, the Financial Advisor or the Guarantor, a liquidity maintenance agreement. In the event an Obligor or Principal elects to satisfy such guarantees by means of an irrevocable letter of credit from a banking institution, separate letters of credit for each guarantee running co-terminously shall be required;~~

~~(3) In the case of multifamily Residential Property, an unconditional 100% performance and payment bond by a provider rated at least “A-” by A.M. Best & Co, with a financial size category of at least FSC VI;~~

~~(4) In the case of multifamily Residential Property financed through the issuance of tax-exempt bonds, 50% of the tax credit equity necessary for completion of construction being deposited prior to closing with the Qualified Lending Institution or Trustee, and all remaining tax credit equity necessary for completion of construction being paid in through the Trustee or Qualified Lending Institution. All equity required to complete construction must be under the control of the tax credit provider or syndicator as of the date of closing;~~

~~(5) In the case of multifamily Residential Property, any single change order in excess of \$25,000 and all change orders that in the aggregate are in excess of \$50,000 shall be subject to the Servicer’s and Corporation’s approval;~~

~~(6) In the case of multifamily Residential Property, a schedule of monthly payments of principal and interest due under the promissory note and a Guarantee premium schedule;~~

~~(7) In the case of multifamily Residential Property with respect to Qualified Obligations for which a Guarantee is issued beginning in 2002, other than the Qualified Obligations consisting of a loan of tax-exempt bond proceeds from the Corporation designated in 2001 by the Corporation for funding, a requirement that the amount established as a replacement reserve be automatically increased annually beginning in the seventh year after closing based on changes in the consumer price index, such increase to be subject to waiver or reduction in the event the Obligor provides a physical needs study prepared by an independent third party acceptable to the Guarantor evidencing such increase as excessive or unnecessary.~~

~~(8) The right to name and appoint a receiver for the property.~~

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 2-6-97, Formerly 91-39.006, Amended 10-21-99, _____.

67-39.008 Reimbursable Costs.

~~The qualified lending institution or the obligor/principals shall pay all expenses incurred in the course of processing a request for an obligation, whether an obligation is ever issued.~~

~~Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Formerly 91-39.008, Amended 10-21-99, Repealed _____.~~

67-39.010 Program Documents.

~~The issuance of an affordable housing guarantee requires the generation of certain program documents consisting of the following in connection with Qualified Obligations consisting of multifamily bond issues:~~

~~(1) Master Guarantee Agreement with Qualified Lending Institution;~~

~~(2) Commitment and Certificate of Guarantee; and~~

~~(3) Additional Conditions to Commitment and Certificate of Guarantee and such other documents in connection with other Qualified Obligations as shall be necessary to complete the transaction.~~

~~(1) All Program Documents shall be binding on all parties and shall fully describe the responsibilities of and remedies available to the signing parties. The guarantee policy contract or other agreement issued by the Guarantee Program shall establish the procedures to be followed by an obligee or other beneficiary of the Guarantee guarantee in the event of a default under the terms of any Qualified Obligation guaranteed obligation with respect to which a Guarantee has been issued. Prior to submitting a claim for payment, the obligee shall pursue such actions with respect to the pledged collateral as may be directed by the Corporation from among the following: (i) becoming lawfully the obligee in possession thereof; (ii) causing a receiver to be appointed of such property; (iii) obtaining voluntary conveyance of the obligor's/principal's right and title to such property; or (iv) obtaining by foreclosure clear and unencumbered title to such property. Such remedy shall be pursued in accordance with the directions provided by the Corporation on the advice of counsel.~~

~~(2) Separate Program Documents reflecting the terms of each Guarantee shall be prepared by the Guarantor.~~

~~Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 2-6-97, Formerly 91-39.010, Amended 10-21-99, _____.~~

67-39.011 Guarantee Program.

~~In order to implement the Guarantee Program the Corporation shall have the following powers:~~

~~(1) Upon Corporation board approval, issue a commitment to guarantee any qualified obligations(s) or aggregate of qualified obligations, guarantee any qualified obligations or aggregate of qualified mortgage loans, enter into contracts, agreements or treaties of insurance regarding any qualified obligations or aggregate of qualified obligations, and provide~~

~~the guarantee on terms that minimize the financial risk to the Guarantee Program while making the project financially feasible;~~

~~(2) Guarantee and issue commitments to guarantee any part of the payments required on qualified obligations upon such terms and conditions as contained in the program documents required under Rule 67-39.010;~~

~~(3) Enter into commitments to guarantee, contracts to guarantee and reinsurance contracts regarding qualified obligations, and to fulfill its obligations and enforce its rights under any guarantee so furnished;~~

~~(4) Fix a premium charge for its guarantee of obligations in an amount to be determined in accordance with the applicable feasibility study, and establish and levy such other charges and fees in connection with applications for guarantee, guarantee commitments, contracts of guarantee and as are necessary to recover authorized reimbursable expenses under the Act or feasibility study; such premium charges, other charges and fees shall be payable as incurred;~~

~~(5) Consent to the modification, with respect to~~

~~(a) rate of interest,~~

~~(b) time of payment of any installment of principal or interest, security or any other term, of any obligation;~~

~~(c) the security for any obligation, contract or agreement of any kind which the Guarantee Program has guaranteed or to which the Guarantee Program is party;~~

~~(6) Foreclose any obligation in default or commence any action to protect or enforce any rights conferred upon the Corporation and the Guarantee Program, and to bid for and purchase such property at any foreclosure or at any other sale, or otherwise to acquire or take possession of any such property;~~

~~(7) Hold, manage, administer, lease or sell any property conveyed to or acquired by the Corporation or the Guarantee Program;~~

~~(8) Pay, pursue to final collection, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or right of redemption;~~

~~(9) Sell, at public or private sale, any mortgage, mortgage participation or other obligation held by the Corporation or the Guarantee Program;~~

~~(10) Procure insurance against any loss in connection with its property and other assets; and~~

~~(11) Establish such other contractual provisions as are necessary or incidental to the foregoing.~~

~~Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 12-26-95, 2-6-97, Formerly 91-39.011, Amended 10-21-99, Repealed _____.~~

67-39.012 Guarantee Coverage.

~~(1) The guaranteed percentage of the outstanding principal indebtedness of an obligation or any aggregate of obligations authorized to be guaranteed under the Act may be only for such~~

percentage that minimizes the financial risk to the Guarantee Program while making the project financially feasible and to qualify for financing.

(2) An obligor/principals shall be, or by reason of an obligation guaranteed by the Guarantee Program shall become, the owner or lessee of the property which secures the qualified obligation, and shall be able to bear the usual expenses of maintaining such structure and repay the obligation.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 2-6-97, Formerly 9I-39.012, Amended 10-21-99, Repealed _____.

67-39.014 Guarantee Program Payments.

(1) The Guarantee Program shall be maintained for the benefit of the qualified lending institutions whose qualified obligations are guaranteed under the Act. Amounts in the Guarantee Program shall be used in accordance with the Act to satisfy any valid claim payable therefrom.

(2) Payments pursuant to or in connection with any Guarantee contracts of guarantee and reinsurance may be made in a lump sum, or in partial payments made within such period of time as may be agreed to by the Guarantor Corporation. Such payments by the Corporation shall be payable solely and only from amounts held specifically for the benefit of the Guarantee Program. The Corporation shall not guarantee or issue a commitment to guarantee a Qualified Obligation qualified obligation if the balance of amounts held for the benefit of the Guarantee Program is less than the Guarantee Program reserve requirement.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 2-6-97, Formerly 9I-39.014, Amended 10-21-99, _____.

67-39.015 Audit Requirement.

At least once in each fiscal year the Corporation, including the Guarantee Program, shall be examined by an independent certified public accountant for the purposes of auditing its the Guarantee Program's financial condition and determining the soundness of its management and operating policies. The Guarantee Program shall pay the cost of each such examination. Copies of each report, including the findings, conclusions and recommendations, shall be furnished to the Corporation.

Specific Authority 420.507(25), 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Formerly 9I-39.015, Amended 10-21-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Junious D. Brown, III
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Barbara Goltz
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Division of Ad Valorem

RULE NO.: 12D-13.028
RULE TITLE: Homestead Tax

Deferral-Definitions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to this proposed rule, as published in Vol. 27, No. 37 September 14, 2001, issue of the Florida Administrative Weekly. These changes are in accordance with s. 120.54(3)(d)1., F.S.

Subsection (2) of Rule 12D-13.028, F.A.C., has been changed so that, when adopted, this subsection will read:

(2) "Income" means the "adjusted gross income," as provided under s. 197.243(2), F.S., of all members of a household.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.223
RULE TITLE: Special Management Meal

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. 27, No. 40, October 5, 2001, issue of the Florida Administrative Weekly:

33-602.223 Special Management Meal.

(1) through (2)(e) No change.

(f) The special management meal shall be utilized only at all those institutions with the exception of those designated for youthful offenders by the Secretary. The request for approval for an institution to utilize this meal shall be submitted to the Assistant Secretary for Security and Institutional Management. The Bureau of Food Services shall provide orientation in the Upon determination that use of the special management meal would fit the institution profile, training for preparation and service use of the special management meal will be scheduled. The bureau of Food Services shall certify to the Director of Institutions the Upon certification of successful completion of that training, Certification is required before the institution is authorized to utilize the special management meal. The special management meal will then be is authorized for use on a case-by-case basis at those that institutions as provided in this rule.

(3) through (8) No change.