

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:

Voting System Equipment Regulations 1S-5.001

PURPOSE AND EFFECT: To establish standards for voting systems certification, in compliance with the requirements of section 6, of Chapter 2001-40, Laws of Florida, the "Florida Election Reform Act of 2001."

SUBJECT AREA TO BE ADDRESSED: Procedures and standards for implementation of the provisions of section 6, of Chapter 2001-40, Laws of Florida, to include: procedural changes to allow new technologies to be examined in a timely manner; requirements for disclosure of file and interface specifications for system components; "User Standards" for the user interfaces of systems including minimum standards for accessibility by disabled voters; file specifications for electronic transfer of results on election night; procedures for determining the will of the public with respect to voting systems; and procedures for continuing review and revision of the Florida Voting Systems Standards.

SPECIFIC AUTHORITY: Section 101.015, as amended by section 6 of Chapter 2001-40, Laws of Florida.

LAW IMPLEMENTED: Section 101.015, as amended by section 6 of Chapter 2001-40, Laws of Florida.

IF REQUESTED IN WRITING 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: 1:00 p.m. - 3:00 p.m., July 24, 2001

PLACE: Room 116, Knott Building, 415 West St. Augustine Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Craft, Division of Elections, (850)921-4110

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

RULE TITLES: RULE NOS.:

Purpose and Scope 4-211.029

Definitions 4-211.030

Effect of Law Enforcement Records on Applications for Licensure 4-211.031

Purpose and Scope 4-211.040

Definitions 4-211.041

Effect of Law Enforcement Records on Applications for Licensure 4-211.042

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to implement the Department's duty under Section 624.307(1), Florida Statutes, to enforce sections 626.611(7) and (14), and 626.621(8) and (11), Florida Statutes, by establishing standards for granting licensure applications described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon applicants.

SUBJECT AREA TO BE ADDRESSED: Standards for granting insurance agent licensure applications.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 112.011, 624.307 (1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641, 626.681, 626.691, 648.34, 648.37 FS.

IF REQUESTED IN WRITING 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: 9:30 a.m., July 20, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Audrey Huggins, Bureau Chief, Bureau of Licensing, Division of Agent and Agency Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5405

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-211.029 Purpose and Scope.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641, 648.34, 648.37 FS. History-New 2-2-95, Amended 8-15-00, Repealed.

4-211.030 Definitions.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History-New 2-2-95, Repealed.

4-211.031 Effect of Law Enforcement Records on Applications for Licensure.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History-New 5-2-93, Amended 2-2-95, Repealed.

4-211.040 Purpose and Scope.

(1) The purpose of this rule part is to implement the Department's duty under Section 624.307(1), Florida Statutes, to enforce Sections 626.611(7) and (14), and 626.621(8) and (11), Florida Statutes, by establishing standards for granting licensure applications described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon applicants specified in subsection (2) below.

(2) This rule part applies to applications for licensure as an agent, adjuster, sales representative, or other licensure as an individual under the Florida Insurance Code. This rule part does not apply to the licensure of bail bondsmen, runners, or limited surety agents under Chapter 648, Florida Statutes.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641, 626.681, 626.691, 648.34, 648.37 FS. History—New _____.

4-211.041 Definitions.

For purposes of this rule part, the following definitions shall apply.

(1) "Application" refers to an application for licensure procedurally processed under Chapter 626, Florida Statutes.

(2) "Charge" or "charges" refer to the official document in any criminal proceeding, whether styled an "Information," "Indictment," or otherwise, which document specifies the charges against the defendant, and which document is filed in any court of Florida, another state or country, or the U.S. government.

(3) "Crime of Moral Turpitude" refers to each crime identified in subsection 4-211.042(23), F.A.C.

(4) "Criminal record," for purposes of this rule part, includes any felony charge filed against the applicant in the courts of any state or federal district or territory, or other country, on any subject matter whether related to insurance or not, concerning which charge the applicant was found guilty, or pled guilty, or pled no contest, regardless of whether or not there was an adjudication by the court, and regardless of whether the matter is under appeal by the applicant. The phrase includes such charges even where the crime was subsequently pardoned or civil rights have been restored. The phrase does not include criminal convictions which were finally reversed or vacated on appeal; nor does it include charges of which the applicant was found not guilty, or which were finally dismissed; nor does it include matters as to which at time of application an order of sealing or expungement has been issued by a court of competent jurisdiction.

(5) "Felony" means and includes any crime of any type, whether or not related to insurance, which crime is designated as a "felony" by statute in the state of prosecution, or designated as a "felony" in the charges, or which crime is punishable under the law of the prosecuting jurisdiction by imprisonment of more than one year regardless of how

classified in the charges or statutes. If a crime is a felony in the state of prosecution, it shall be treated as a felony under this rule part notwithstanding that it is not a felony in Florida. The term "felony" includes felonies of all degrees.

(6) "Insurance related misdemeanor" means and includes any misdemeanor charges which allege violation of any part of the insurance regulatory laws of Florida or any other state or the federal government; or which allege any criminal conduct involving any aspect of insurance, such as crimes in the nature of misapplication or theft of premium money or claims payment money, or dishonesty in any aspect of insurance claims practice.

(7) "Law enforcement record," for purposes of this rule part, includes:

(a) The applicant's criminal record as defined in this rule part;

(b) Any pre-trial intervention program the applicant is participating in at the time of application, or was participating in at any time in the 12 months next preceding the time of application; and

(c) All pending criminal charges against the applicant as of the time of application. The phrase "pending criminal charges" includes all criminal charges against the applicant, whether by information or other charging document filed in court, or by indictment, under the jurisdiction of any state or the federal government or any other country, concerning which charges there has at the time of application been no finding of guilty or not guilty, nor dismissal of charges, nor formal statement of nolle prosequere by the prosecuting authority; and

(d) All arrests on any misdemeanor or felony charge of any type whether or not related to insurance, which arrests were made by law enforcement authorities in any state or by federal authorities, or by law enforcement authorities in another country, and which arrest occurred within the 12 months next preceding the time of application, and regardless of whether there have been or will be any subsequent criminal proceedings connected therewith.

(8) "Misdemeanor" means and includes any crime of any type, whether or not related to insurance, which crime is designated as a "misdemeanor" by statute in the state of prosecution, or is so designated in the charges, or is punishable under the law of the prosecuting jurisdiction by imprisonment of one year or less. The term includes misdemeanors of all degrees.

(9) "Pre-trial Intervention" refers to a program operated under Section 948.08, Florida Statutes.

(10) "Time of application" is the date an application is deposited in the mail or otherwise actually and permanently leaves the applicant's control for forwarding to the Department.

(11) "Trigger Date" is the date on which an applicant was found guilty, or pled guilty, or pled no contest to a crime; or, where that date is not ascertainable, the date of the charges or indictment.

(12) "True Copy" or "Certified true copy" means a copy of a court or government agency paper which bears an original certification of the clerk or other official of the court or agency to the effect that the paper(s) are accurate copies of records of the court or agency.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History—New

4-211.042 Effect of Law Enforcement Records on Applications for Licensure.

(1) General Policy Regarding Conduct Prior to Licensure. The Department is concerned with the law enforcement record of applicants only for the purpose of ascertaining from those records whether the person would represent a significant threat to the public welfare if licensed under Chapter 626, Florida Statutes. It is no part of the Department's responsibilities, and the Department does not attempt, to "penalize", "discipline", or "punish" any person concerning any conduct prior to licensure.

(2) Duty to Disclose Law Enforcement Record. Every applicant shall disclose in writing to the Department the applicant's entire law enforcement record on every application for licensure, as required therein, whether for initial, additional, or reinstatement of licensure. This duty shall apply even though the material was disclosed to the Department on a previous application submitted by the applicant.

(3) Policy Specifically Concerning Effect of Criminal Records.

(a) The Department interprets Sections 626.611(14) and 626.621(8), Florida Statutes, which subsections relate to criminal records, as applying to license application proceedings. The Department interprets those statutes as not limiting consideration of criminal records to those crimes of a business-related nature or committed in a business context. More specifically, it is the Department's interpretation that these statutes include crimes committed in a non-business setting, and that such crimes are not necessarily regarded as less serious in the license application context than are crimes related to business or committed in a business context.

(b) Fingerprint delays. The Department shall not delay licensure due to processing of fingerprint cards; provided, however, that the Department interprets Section 626.211(1), Florida Statutes, to mean that Department delays based on the applicant's failure to supply the Department with a properly executed and readable fingerprint card are not delays such as are prohibited by that statute. The Department shall not process an application for which fingerprints are required, except upon receipt of a readable and properly executed fingerprint card.

(c) General Procedure. The applicant shall supply the Department with required documentation, as specified in this rule, as to all matters appearing on the law enforcement record. The application shall be addressed as set forth in Rule 4-211.0035, F.A.C. All documentation shall be completely legible. Required documentation includes:

1. For arrests, the police arrest affidavit or arrest report or similar document (need not be certified true copy).

2. The charges (certified true copy).

3. Plea, judgment, and sentence (certified true copy).

4. Order of entry into pre-trial intervention, and where applicable the order of termination of pre-trial intervention showing dismissal of charges (all certified true copies).

(4) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The Department finds that all matters that are part of an applicant's law enforcement record are material elements of the application, and finds that the omission of any part of the law enforcement record required to be disclosed on the application is a material misrepresentation or material misstatement in and of itself. The applicant shall have violated Section 626.611(2) or 626.621(1), Florida Statutes, if the applicant fails to provide the Department with the documentation required by this rule.

(b) The Department finds failure to fully reveal the entire law enforcement record as called for by the application to reflect adversely on the character, fitness, or trustworthiness of the applicant, and the more recent the omitted element was, the more adversely it reflects on the applicant. Therefore, in instances where the applicant failed to fully and properly disclose the law enforcement record on the application, the Department finds it generally necessary to impose a waiting period, or to extend a waiting period otherwise specified in this rule, during which period licensure shall be denied, to provide some assurance that the applicant has overcome any weakness or tendency that led to the criminal conduct or that caused the omission. The waiting period specified herein runs from the later of time of application, or the end of any waiting period otherwise specified in this rule. The waiting period attributable to omissions is as set out below.

1. Class A or B crime omitted, where the trigger date was more than 10 years before time of application, add 1 year. If the trigger date was 10 years prior, or less than 10 years prior, to the time of application, add 2 years.

2. Class C crime omitted, where the trigger date was more than 5 years before time of application, add 6 months. If the trigger date was 5 years prior, or less than 5 years prior, to the time of application, add 1 year.

3. Omission of any arrest, pending criminal charges, pre-trial intervention, or other part of the law enforcement record required to be disclosed on the application, add or impose a six month waiting period.

(c) An applicant whose application is denied under this subsection shall resubmit another application and applicable fee as set forth in Section 624.501, Florida Statutes, on the application form respective to the type and class of license sought.

(d) After the waiting period has elapsed, the Department shall consider the application if it is resubmitted in good form with applicable fees, and licensure shall be granted if the licensee then meets all the requirements and criteria as set out in this rule and other applicable rules and statutes.

(e) Formal Record to Be Made. The Department finds that submission of an application that is inaccurate as to law enforcement history is a matter of such weight that a formal record of the application shall be made and preserved by Department order for reference and consideration should the applicant subsequently become licensed and violate any portion of the insurance code. To this end, applicants are required to execute a settlement acknowledging the inaccuracy as a prerequisite to becoming licensed after all waiting periods have elapsed and the applicant is otherwise eligible for licensure.

(5) Misdemeanor Crimes.

(a) Application for licensure shall not be denied or delayed based solely on the fact that an applicant was found guilty of, or pled guilty or no contest to, a misdemeanor, unless the misdemeanor is an insurance-related misdemeanor or a misdemeanor involving breach of trust or dishonesty; provided further, that repeated misdemeanors, or a misdemeanor in combination with other conduct shall merit denial of licensure if they reflect on an applicant's character, fitness, or trustworthiness to engage in the business of insurance.

(b) The Department finds that an insurance-related misdemeanor or a misdemeanor involving breach of trust or dishonesty demonstrates a lack of fitness or trustworthiness to be licensed to engage in the business of insurance and constitutes grounds for denial of licensure, pursuant to Section 626.611(7), Florida Statutes. The Department finds that the waiting period necessary to overcome the demonstrated lack of fitness and trustworthiness is equivalent to the waiting period imposed for a class "A" felony, and therefore, an applicant whose law enforcement record includes such a misdemeanor is subject to the same waiting period as a class "A" crime.

(c) The Department shall not impose any waiting period pursuant to this rule where the only crime in an applicant's law enforcement record is a single misdemeanor crime that results from the applicant's passing of a worthless check, or obtaining property in return for a worthless check, and the amount of the check or checks involved in the single misdemeanor crime is \$500 or less. However, this subparagraph shall not apply where a misdemeanor crime resulting from the applicant's passing of a worthless check, or obtaining property in return for a worthless check is not the only crime in an applicant's law enforcement record.

(6) Probation. The Department shall not grant licensure to any person who at the time of application or at any time during the pendency of the application is serving a probationary term on any felony crime, or any misdemeanor crime, except for those crimes specified in Chapter 316, Florida Statutes, which are not punishable by imprisonment. The Department shall not substantively consider an application for purposes of this subsection until the applicant has successfully completed his or her probationary term.

(7) Classification of Felony Crimes.

(a) The Department makes a general classification of felony crimes into three-classes: A, B, and C, as listed in subsections (23), (24), and (25) of this rule. The lists refer only to such crimes when they are felonies, since certain of the crimes could be misdemeanors in some jurisdictions and felonies in other jurisdictions.

(b) These classifications reflect the Department's evaluation of various crimes in terms of moral turpitude, and of the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by someone who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) The lists are not all-inclusive. Where a particular crime involved in an application is not listed in this rule, the Department has the authority to analogize the crime to the most similar crime that is listed. No inference is to be drawn from the absence of any crime from this list, to the effect that said crime is not grounds for adverse action under this rule.

(e) In evaluating law enforcement records, the Department shall use the highest classification into which the crime fits, where "A" is the highest classification.

(f) A charge in the nature of attempt to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(8) Required Waiting Periods For A Single Felony Crime. The Department construes Sections 626.611 and 626.621, Florida Statutes, to require that an applicant whose law enforcement record includes a single felony wait for a period of time before becoming eligible for licensure in order to assure that the criminal tendency or weakness has been overcome. The Department finds it necessary for an applicant whose law enforcement record includes a single felony crime to wait the time period specified below (subject to the mitigating factors set forth elsewhere in this rule) before licensure, so that licensure is granted without undue risk to the public good. All waiting periods run from the trigger date.

(a) Class A Crime. The applicant will not be granted licensure until 15 years have passed since the trigger date.

(b) Class B Crime. The applicant will not be granted licensure until 7 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted licensure until 5 years have passed since the trigger date.

(d) The Department shall not impose any waiting period pursuant to this rule where the only crime in an applicant's law enforcement record is a single felony crime that results from the applicant's passing of a worthless check, or obtaining property in return for a worthless check, and the amount of the check or checks involved in the single felony crime is \$500 or less. However, this subparagraph shall not apply where a felony crime resulting from the applicant's passing of a worthless check, or obtaining property in return for a worthless check is not the only crime in an applicant's law enforcement record.

(9) Applicants With Multiple Crimes.

(a) The Department construes Sections 626.611 and 626.621, Florida Statutes, to require that an applicant whose law enforcement record includes multiple felony crimes wait longer than those whose law enforcement record includes only a single felony crime before becoming eligible for licensure in order to assure that such applicant's greater inability or unwillingness to abide by the law has been overcome. Therefore, the Department finds it necessary that a longer waiting period be utilized in such instances, before licensure can safely be granted. Accordingly, where the applicant has been found guilty or pled guilty or pled no contest to more than one felony or to a felony and one or more misdemeanors, or to a combination of misdemeanors and felonies, the Department shall add 5 years to the waiting period for each additional felony or insurance-related misdemeanor, or misdemeanor involving a breach of trust or dishonesty, and one year each for all other misdemeanors.

(b)1. The additional periods are added to the basic waiting period for the one most serious crime, and the combined total waiting period then runs from the trigger date of the most recent crime.

2. Example: In June 1953, the applicant was convicted of assault with a deadly weapon; and in 1985, of simple battery. The more serious crime is the assault, which is a class "A" crime, for which the waiting period is 15 years. Since there is one additional felony, an additional 5 years of waiting period is required. The combined 20 year waiting period runs from the most recent 1985 crime trigger date. The extended waiting period is subject to being shortened pursuant to the usual mitigating factor procedures set forth in this rule.

(d) Classification as "Single Crime" versus "Multiple Crimes." Multiple criminal charges arising out of the same act, or related acts performed over a relatively short period of time and in a concerted course of conduct, are treated by the Department as one crime for application of this rule. The Department will generally process the one most serious of the

charges as if it were the only crime. However, charges describing separate but similar acts are treated as multiple crimes.

1. Example 1: Applicant gets drunk in public (public drunkenness), and while drunk starts a fight (assault), breaks some private property (criminal mischief), and resists the arresting officer. This would be treated as one crime.

2. Example 2: Applicant assaults a civil rights demonstrator, and is prosecuted by state officials for assault, and by federal officials for deprivation of civil rights. This would be treated as one crime.

3. Example 3: Applicant has a history of getting drunk and starting fights, and has done this on 3 separate occasions, resulting in 3 separate criminal proceedings and convictions over the last 10 years. These would be treated as three separate crimes.

4. Example 4: In one criminal court proceeding applicant is charged and convicted of 6 separate counts of mail fraud. The applicant ran mail-order advertisements offering for sale goods that did not exist, and on 6 occasions upon receipt of orders with payment, the applicant kept the money and made no attempt to fill the order. These 6 orders were placed at various times over a 24-month period. These would be treated as multiple crimes.

5. Example 5: Over the course of several days, the applicant stole a credit card; the applicant altered a driver's license to assist in using the credit card; and the applicant used the credit card to obtain goods fraudulently. These are all prosecuted in a single proceeding alleging 3 counts of criminal conduct. The Department would treat these as one crime.

(10) Mitigating Factors.

(a) The usual waiting period specified above shall be shortened upon proof of one or more of the following as are pertinent. Where more than one factor is present the applicant is entitled to add together all the applicable amounts and deduct that total from the usual waiting period; provided that an applicant shall not be permitted an aggregate mitigation of more than 3 years for the following factors.

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the prosecuting attorney believes the applicant would pose no significant threat to public welfare if licensed as an agent or other insurance representative.

2. One year is deducted if restitution or settlement has been made for all crimes wherein restitution or settlement was ordered by the court as shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year is deducted if the applicant was under age 21 when the crime was committed, if there is only one crime on the applicant's law enforcement record, and if that single crime is not insurance-related and does not involve moral turpitude or a breach of trust or dishonesty.

4. One year is deducted if the applicant furnishes proof that the applicant was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

(b) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(11) Circumstances Not Constituting Mitigation.

(a) The Department finds that no mitigating weight exists in the provisions of Sections 626.611 and 626.621, Florida Statutes, and none will be given, for the following factors:

1. Type of Plea. The Department draws no distinction among types of pleas; i.e., found guilty; pled guilty; pled nolo contendere.

2. Collateral Attack on Criminal Proceedings. The Department will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results wherein the applicant was found guilty or pled guilty or no contest. Thus the Department will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

3. The Department finds that subjective factors involving state of mind, generally have no mitigating weight. Examples include such assertions that the crime was the result of the emotional stress of a divorce proceeding, or the financial stress of a failing business.

(12) Other Mitigating Factors. An applicant is permitted to submit any other factor which the applicant believes should decrease the waiting period before licensure is allowed. The Department will shorten the usual waiting period based on the other factors if those other factors evidence a significant diminution in the applicant's propensity to violate the law. The amount by which the usual waiting period will be reduced will be commensurate with the degree to which the factor or factors evidence the diminution in the applicant's propensity to violate the law. However, the Department finds, based on Department experience, that the mitigating factors specified and given weight in this rule are generally the only factors sufficiently verifiable, objective, and meaningful, as to merit a shortening of the usual waiting period.

(13) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Department interprets the statutory grounds for denial of licensure as arising immediately upon a finding of guilt, or a plea of guilty or no contest, regardless of whether an appeal is or is allowed to be taken. The Department will not wait for the outcome of an appeal to deny licensure, unless a Florida court specifically stays the Department's adverse action.

(b) If on appeal the conviction is reversed, the Department shall immediately drop the said crime as grounds for denial of license, but shall, if supported by clear and convincing evidence, notwithstanding the reversal, consider the acts alleged in the criminal proceeding as reflecting on an applicant's character, trustworthiness, and fitness for licensure. If the conviction is later reinstated, the Department shall again count the "crime" itself as grounds for denial of licensure.

(14) General Policy Regarding Law Enforcement Matters Not Resulting in a Finding or Plea of Guilt or No Contest.

(a) Fitness and Trustworthiness. The Department interprets Section 626.611(7), Florida Statutes, relating to demonstrated lack of fitness or trustworthiness, as being applicable to license application proceedings. Furthermore, the Department interprets said section as not limiting the evidence demonstrating the unfitness or untrustworthiness to evidence arising in an insurance context. For example, if an applicant is shown to have seriously abused the trust of customers in a former role as a securities broker, this evidence, if clear and convincing, might merit denial of an insurance agent license application.

(b) Character. The Department interprets Section 626.171(2)(f), Florida Statutes, as imposing upon the Department a duty to evaluate the "character" of an applicant, and to deny licensure to an applicant who has serious flaws as to such character. The Department interprets "character" to mean the applicant's demonstrated adherence to commonly accepted norms and standards of conduct in society.

(c) Charges Acquitted, Dismissed: General Policy. The Department finds that it is authorized by Section 626.611(7), Florida Statutes, to inquire into the facts underlying any criminal charge of which the applicant was acquitted or which was dismissed in appropriate cases, to deny licensure where such facts in context show a lack of fitness, trustworthiness, or character. A dismissal or acquittal might reflect true innocence, procedural problems peculiar to the criminal justice system, or the extremely high standard of proof in criminal proceedings. Evidence insufficient to support a finding of criminal guilt might be sufficient to support administrative action because of the differing burdens of proof and evidentiary and procedural rules for administrative proceedings versus criminal proceedings.

(d) Arrests, Pending Charges, and Pre-trial Interventions: General Policy.

1. The Department finds that information as to arrests and pre-trial interventions occurring within 12 months of time of application and all pending criminal charges as of time of application to be necessary and pertinent disclosures on the application, pursuant to Section 626.171(2)(f), Florida Statutes. The Department finds that such matters often supply particularly timely evidence of an applicant's current character, fitness, and trustworthiness, and in some instances reveal criminal court proceedings underway which have not yet reached final disposition in the criminal justice system.

2. The Department shall generally not draw any adverse inference against the applicant solely on the basis that the applicant was arrested, or is the subject of pending criminal charges. However, the Department is authorized to inquire into the facts underlying the arrest or pending criminal charges, and where there is clear and convincing evidence that a serious impropriety was committed by the applicant, the Department shall in appropriate cases deny licensure where such facts in context show a substantial lack of fitness, trustworthiness, or character.

(15) Pre-Trial Intervention: Specific Policy.

(a) It is the Department's interpretation of section 948.08, Florida Statutes, relating to Pre-trial Intervention, that same is a matter of legislative grace to save persons who are guilty of a non-violent, first-time felony from incurring a criminal record; and that entry into Pre-trial Intervention is conclusive evidence that the criminal charges involved were meritorious, even though ultimately dismissed after the successful conclusion of the pre-trial intervention.

(b) The Department will not grant licensure to any person who at time of application is participating in a pre-trial intervention program. The Department finds it necessary in the public interest to wait until the pre-trial intervention is successfully completed, before licensure will be considered.

(c) The Department shall generally not deny licensure to an applicant where the only law enforcement record consists of a successfully completed pre-trial intervention. However, where the law enforcement record includes matters in addition to the pre-trial intervention, whether previous or subsequent, the Department will consider adverse to the applicant the matters involved in the pre-trial intervention, because those matters reflect on the applicant's character, fitness, or trustworthiness.

(16) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge and is permitted in fact to affirmatively deny, any arrest or criminal proceeding, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction, and such denial or failure to disclose is not grounds for adverse action by the Department.

(b)1. The Department interprets the legislative intent in allowing a matter to be sealed or expunged to be that the matter thus sealed or expunged not be permitted to be held against the

subject as a "crime" per se, and that the matter not be permitted to be proved against the subject by reference to the court's findings or verdict.

2. However, the Department shall consider the facts underlying a sealed or expunged criminal record against the applicant as they reflect on fitness, character, or trustworthiness, if the facts are provable by the Department independent of use of the court record. The Department is permitted to use the same or different evidence as was used in the court proceeding. As a practical matter, due to Department resource limitations and the difficulty of establishing such matters independent of the court record, the Department does not generally attempt to pursue or follow-up on matters that are part of a sealed or expunged court record, except in unusual circumstances, which include:

a. There appears to be more than one sealed or expunged case involving the applicant.

b. The order of sealing or expungement appears to the Department to have been obtained by misleading the court.

c. The crime was particularly pertinent to the practice of insurance.

d. Any member of the public, including the victim of the crime, upon learning of the application for license, asks that the Department further consider the matter.

e. The applicant failed to reveal the matter in his or her application and the matter was not then sealed or expunged, having been sealed or expunged subsequent to the application's being submitted.

(c) Matters Sealed or Expunged Subsequent to Application. Occasionally an applicant will have a matter sealed or expunged after submitting his or her application. In such situations the Department policy is as follows:

1. If the applicant properly revealed the matter on the application, and thereafter has the record sealed or expunged, the Department will cease to consider the matter as a "crime" per se, and will further pursue the matter only under the unusual conditions described above.

2. If the applicant did not reveal the matter on the application, the Department will, if the Department finds that the applicant would pose an undue threat to the public welfare if licensed, take one of the following courses of action, depending on department resources available: petitioning the court to re-open the record in view of the false application; or denying the application or seeking revocation on the ground that the failure to reveal the matter shows deceit and reflects adversely on the character, fitness, or trustworthiness of the applicant.

(d) Sealing or Expunging Department Records.

1. It is the Department's interpretation of Florida statutes regarding sealing or expunging records that the Department is only required to expunge its records of references to the subject criminal proceedings upon receipt of a copy of the Court's Order of Sealing or Expunction of such records.

2. The Department generally interprets a Court's Order of Sealing or Expunction only to apply to references to the court proceedings and copies of court records relating to those proceedings in the Department's possession, and not to apply to references in the Department's records to the underlying matter where those references appear in the Department's records via evidence other than the court proceedings or record.

3. When required to seal or expunge its records, the Department interprets the law to allow the Department to require payment of a reasonable fee by the applicant or licensee to cover the estimated actual cost to the Department, to include staff time, supplies, and other necessary activities. Failure to pay the fee will be considered a disciplinary violation or cause to deny licensure.

4. Where the Department seals or expunges its records, the following procedures are used by the Department as to microfilm records. It is Department policy not to physically delete or mask documents from microfilm records. Instead, the Department deletes reference to the documents from the microfilm index, thus effectively eliminating the records. It is Department policy that this satisfies a sealing or expungement order unless otherwise expressly directed by a court. The Department's licensure records generally exist only on hundreds of rolls of microfilm, with thousands of documents covering thousands of licensees, per microfilm roll. The Department does not have the equipment to edit and splice the microfilm, and in any event splicing the film would shorten the life and dependability of the film, endangering the only records relating to thousands of licensees. It is not feasible to expunge certain documents on a roll, by printing all the documents on the roll, then deleting those to be expunged, and then re-microfilming the remainder; same is not feasible both because the quality of the re-microfilmed material would be so poor as to render much of it unreadable when subsequently printed out, and the Department does not have the resources to perform this task.

(17) Effect of a Pardon.

(a) Pardoned crimes must be reported on the application as part of the law enforcement record. However, the applicant shall clearly indicate that a pardon has been granted for the crime, and attach supporting paperwork. The burden of proof shall be on the applicant to prove the pardon by certified true copy of the pardon and related documents.

(b) A pardoned crime generally will not be considered against the applicant by the Department.

(c) However, this general policy is subject to the following exceptions, in which case the pardoned crime will not be ignored by the Department:

1. The applicant has subsequently been found guilty, or pled guilty or no contest, to any felony or misdemeanor; or

2. The pardoned crime directly involved the business of insurance.

(d) When any crime falls within either of these two exceptions, the Department shall apply the usual waiting periods and mitigating factors set out in this rule unless the Department finds that due to extraordinary reasons the applicant would still pose an undue threat to the public welfare if licensed.

(e) The Department will not withhold or stay denial of a license application pending action on requests for pardon.

(18) Effect of Restoration of Civil Rights.

(a) This subsection relates to restoration of civil rights under Section 112.011, Florida Statutes.

(b) A crime as to which civil rights have been restored remains part of the law enforcement record and must be revealed on the application.

(c) With regard to a crimes in an applicant's law enforcement record as to which civil rights have been restored, the Department finds that apart from their criminal nature, the acts underlying such crimes demonstrate a lack of fitness, or trustworthiness of an applicant to be licensed to engage in the business of insurance. The Department finds that the waiting period necessary to overcome the demonstrated lack of fitness or trustworthiness is equivalent to the waiting period imposed for the corresponding felony class. For example, a robbery as to which civil rights have been restored would require a 15 year waiting period which is equivalent to waiting period for the corresponding class A felony; i.e., robbery at paragraph (23)(ii) below. In such instances the Department does not deny licensure because of the crime, but because of the nature of the underlying acts.

(e) The Department will recognize restoration of civil rights by other states or the federal government when evidenced by a certified true copy of the court or administrative order restoring the rights.

(f) The burden is upon the applicant to prove restoration of civil rights by certified true copy of government or court records reflecting said action.

(19) Effect of Varying Terminology.

(a) The Department treats the phrases in each of the following subparagraphs as having the same effect:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; Adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

6. Nolle prosequi; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Department will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(20) Application of 2-Year Re-Application Period; Moral Turpitude.

(a) The Department interprets Section 626.641, Florida Statutes, as setting a 2-year time period in which the Department is not required to consider or process an application for re-licensure after revocation. However, after the 2 years have elapsed, although the Department cannot refuse to process and in good faith consider an application, Section 626.641, Florida Statutes, does not establish any right to licensure or re-licensure after the expiration of 2 years, but rather ensures only the good-faith consideration of an application for licensure.

(b) Section 626.641, Florida Statutes, on its face applies only to revocations and suspensions. However, to the extent the section is by inference applicable to denial of applications, the Department interprets it as follows. The Department shall deny an application for licensure if the applicant's law enforcement record includes a crime of moral turpitude with a trigger date less than 2 years prior to the date of application, which is mandatory grounds for denial or revocation of license. After the passage of 2 years, such an applicant has a right to have the application received and considered in good faith by the Department. Any person whose crime was not one of moral turpitude has a right to apply for licensure and have the application considered in good faith even immediately following the crime.

(c) It is the Department's policy that this rule complies with and implements the intent of Section 626.641, Florida Statutes, in that there are listed and made available in this rule sufficient meaningful mitigating factors, such that any single crime, notwithstanding the "waiting periods" specified herein, can be overcome as a bar to licensure within a reasonable period of time after commission of the crime.

(d) The Department interprets Section 626.611(14), Florida Statutes, as literally requiring compulsory denial of an application for licensure of any applicant whose law enforcement record includes a crime of moral turpitude. However, the Department's interpretation of said subsection is that, notwithstanding its literal wording, it is not intended to be a permanent ban of licensure concerning such persons. The Department interprets said subsection to require denial until it is very clear that the person would no longer pose a threat to the public welfare if licensed. This rule, and the waiting periods and mitigating factors set out herein, comprise the Department's finding as to how long such a period should be.

(21) Imprisoned Persons. Notwithstanding any provision to the contrary in this rule, the Department shall not license any applicant under Chapter 626, Florida Statutes, while the applicant is imprisoned, under arrest, or serving a sentence for

any crime. Further, the Department shall not license any applicant who has been released from imprisonment until the later of the period otherwise set out in these rules or 1 year from release. The Department finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least one year on good behavior, before licensure can safely be granted without undue risk to the public welfare.

(22) Effect of Waiting Periods. The waiting periods established in this rule do not give a licensee a right to licensure after any set period of time if the Department finds additional evidence that the applicant still possesses a criminal propensity which poses an undue threat to the public welfare.

(23) Class "A" Crimes include all those listed in this subsection, and all are of equal weight notwithstanding from which subparagraph they are drawn. The Department finds that each crime listed in this subsection is a crime moral turpitude.

- (a) Submitting false insurance claims or applications.
- (b) Crimes relating to workers' compensation insurance;
- (c) Theft or other dishonest dealings with premiums or claims money;
- (d) Making false reports to insurance regulatory officials;
- (e) Theft or embezzlement from an insurance company or agency;
- (f) Armed Robbery (face-to-face theft by threat of force or force).
- (g) Extortion.
- (h) Bribery.
- (i) Misuse of public office.
- (j) Obstructing justice.
- (k) Treason.
- (l) Abuse of elderly or disabled persons.
- (m) Altering public documents.
- (n) Forgery.
- (o) Perjury.
- (p) Racketeering.
- (q) Witness tampering.
- (r) Child abuse.
- (s) Theft
- (t) Larceny.
- (u) Burglary.
- (v) Breaking and entering.
- (w) Fraud.
- (x) Embezzlement.
- (y) Tax evasion.
- (z) Defrauding an innkeeper.
- (aa) Passing worthless check(s).
- (bb) Failure to pay tax.
- (cc) Buying, receiving, concealing, or possessing stolen property.

(dd) Fraudulent obtaining of food stamps or other welfare fraud.

(ee) Shoplifting.

(ff) Adulteration or poisoning of drugs or food.

(gg) Illegal possession of a firearm.

(hh) Impersonating or attempting to impersonate a law enforcement officer.

(ii) Robbery

(jj) Unlawful possession of a postal key

(kk) Securities fraud

(ll) Sale of unregistered securities

(mm) Sale of securities by an unregistered dealer

(nn) Postal fraud

(oo) Obtaining controlled substance by fraud

(pp) Not paying required tax as a transferee of a controlled substance

(qq) Uttering a forged check

(rr) Forgery of a deed

(ss) Defrauding the government

(tt) Criminal possession of a forged instrument

(uu) Credit card fraud

(vv) Conspiracy

(ww) Carrying a concealed weapon /firearm

(xx) Murder in all degrees.

(yy) Aggravated Assault (e.g., as with a deadly weapon).

(zz) Aggravated Battery (e.g., as with a deadly weapon).

(aaa) Rape.

(bbb) Sexually molesting any minor.

(ccc) Sexual battery.

(ddd) Arson.

(eee) Aircraft piracy/hijacking.

(fff) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(ggg) Deriving income from another person's prostitution activities.

(hhh) Running a gambling establishment.

(iii) Unlawful placing, throwing, or discharging a bomb.

(jjj) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(kkk) Kidnapping.

(24) Class "B" Crimes include:

(a) Manslaughter.

(b) Simple Assault.

(c) Simple Battery.

(d) Gambling.

(e) Possession of burglary tools.

(f) Resisting arrest with violence.

(g) Damage to Property.

(h) Criminal mischief.

(25) Class "C" Crimes include the following:

(a) Public drunkenness.

(b) Driving while intoxicated.

(c) Trespassing.

(d) Resisting arrest without force.

(e) Disorderly conduct.

(f) Solicitation of prostitution.

(g) Prostitution.

(h) Obscenity.

(i) Bigamy.

(j) Sale of fireworks.

(k) Incest.

(l) Cruelty to animals.

(m) Personal use of controlled substances (illegal drugs).

(n) Possession of controlled substances (illegal drugs) for personal use.

(o) Possession of drug paraphernalia for personal use.

(p) Domestic disturbance not involving violence.

(q) Violation of fish and game laws.

(r) Crimes of civil disobedience relating to matters of conscience (e.g., burning of draft cards; nonviolent resisting of arrest at protests).

(s) Illegal possession of weapon.

(t) Fleeing arrest or fleeing a law enforcement officer.

(u) Escape.

(v) Criminal trespass.

(26) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce, eliminate, or apply a waiting period:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History–New _____.

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Purpose	4-231.010
Scope	4-231.020
Definitions	4-231.030
Penalties for Violation of Section 626.611	4-231.080
Criminal Proceedings	4-231.150

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to implement the Department's duty under Section 624.307(1), Florida Statutes, to enforce Sections 626.611, 626.621, 626.631, 626.641, 626.681, and 626.691, Florida Statutes, by establishing standards for penalties described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees.

SUBJECT AREA TO BE ADDRESSED: Insurance agent penalty standards.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 626.601, 626.611, 626.621, 626.631, 626.641, 626.681, 626.691 FS.

IF REQUESTED IN WRITING 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: 9:30 a.m., July 20, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Phil Fountain, Bureau Chief, Bureau of Agent and Agency Investigations, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399, (850)413-5600

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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-231.010 Purpose.

The purpose of this rule chapter is to implement the Department's duty under Section 624.307(1), Florida Statutes, to enforce Sections 626.611, 626.621, 626.631, 626.641, 626.681, and 626.691, Florida Statutes, by establishing standards for penalties described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees specified in Rule 4-231.020, F.A.C. give notice of the penalties which will normally be imposed against specified licensees for violation of particular provisions of the Insurance Code, and rules and orders of the Department.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.631, 626.641, 626.681, 626.691 FS. History--New 7-13-93, Amended _____.

4-231.020 Scope.

(1) through (2) No change.

~~(3) This rule chapter does not apply to crimes described in section 18 U.S.C. 1033.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.681, 626.691 FS. History--New 7-13-93, Amended 8-15-00, _____.

4-231.030 Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) through (3) No change.

(4) "Crimes involving moral turpitude" means each crime identified in subsection 4-211.042(23), F.A.C.

(4) through (8) renumbered (5) through (9) No change.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.681, 626.691 FS. History--New 7-13-93, Amended _____.

4-231.080 Penalties for Violation of Section 626.611.

If it is found that the licensee has violated any of the following subsections of Section 626.611, Florida Statutes, for which compulsory suspension or revocation is required, the following stated penalty shall apply:

(1) No change.

(2) s. 626.611(2), Florida Statutes.

(a) Suspension ~~12~~ 3 months if, had the application been accurate, the license application would have been granted, based on the Department licensing rule applicable to such application at the time the Department issued the license, and the documentation in the applicant's file at the time the Department issued the license.

(b) Revocation if, had the application been accurate, the license application would have been denied, based on the Department licensing rule applicable to such application at the time the Department issued the license.

(3) through (15) No change.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.681, 626.691 FS. History--New 7-13-93, Amended _____.

4-231.150 Criminal Proceedings.

(1) If it is found that a licensee has violated either Section 626.611(14) or 626.621(8), Florida Statutes, the following stated penalty shall apply:

~~(a)(4)~~ No change.

~~(b)(2)~~ If the licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of more than one (1) year or more under the law of the United States of America or of any state thereof or under the law of any other country, which involves moral turpitude or is a crime involving breach of trust or dishonesty, the penalty shall be revocation. penalties are as follows:

~~(a) If the conduct directly relates to activities involving an insurance license, the penalty shall be a twenty four (24) month suspension.~~

~~(b) If the conduct indirectly involves insurance or has a bearing on an agent's fitness or trustworthiness to hold an insurance license, the penalty shall be a twelve (12) month suspension.~~

~~(c) If the conduct is not related to insurance license, the penalty shall be a six (6) month suspension.~~

~~(c)(3) If the licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of more than one (1) year or more under the laws of the United States of America or of any state thereof or under the law of any other country, which does not involve moral turpitude and is not a crime involving breach of trust or dishonesty, the penalties are as follows:~~

~~(a) through (c) renumbered 1. through 3. No change.~~

~~(2) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce, eliminate, or apply a waiting period:~~

~~(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;~~

~~(b) The degree of penalty associated with the same or similar crimes in the United States; and~~

~~(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.601, 626.611, 626.621, 626.631, 626.631(1), 626.681, 626.691 FS. History—New 7-13-93, Amended _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Offender Travel

RULE NO.: 33-302.106

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify procedures relating to offender travel. The effect is to add relevant forms, correct titles, update relevant forms, and to clarify procedures relating to recreational travel, inter-county travel, and transfer of supervision.

SUBJECT AREA TO BE ADDRESSED: Offender travel.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Giselle Lysten Rivera, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.106 Offender Travel.

(1) Officers are required to instruct each offender under the officer's supervision not to change his or her residence, or leave the county of residence, without first procuring the consent of the officer. In order for an offender to obtain permission to travel, the following conditions must exist:

(a) through (e) No change.

~~(f) Monetary obligations are current when the travel requested is purely recreational in nature. However, T~~travel shall be denied for purely recreational purposes if the offender is not current with the court ordered or releasing authority imposed payment schedule or offender financial obligation agreement when there is any outstanding, court ordered victim restitution and the offender will expend monies in the course of travel.

(g) No change.

(2) An officer shall discuss transfer the supervision of an offender's routine travel needs during the initial interview to determine whether the offender must travel daily, weekly, or monthly between counties due to the location of her or his residence and her or his employment site, school, medical needs, program, or other approved need who is travelling to a single judicial circuit in the state of Florida for more than 30 consecutive days. If the offender must travel across county lines to get to her or his employment site, school, program, doctor, or routine shopping, the officer will document this specific information in the electronic case notes and give the offender a blanket approval for this travel, provided the travel is verified and is not prohibited by the supervision orders. If the offender's residence or purpose of travel out of county changes, the blanket approval will be suspended until the offender's travel needs are revisited, reviewed, and approved. Any other travel out of county must be approved in advance.

(3) Inter-county travel in Florida approved for a visit of thirty days or less does not require a "Travel Permit." DC3-220, unless the offender is a sex offender or requires specific or additional instructions that must be written on a travel permit. Sex offenders require a travel permit for all out of county travel. If the offender is granted permission to travel and visit another county and subsequently requests an extension of the visit out of county, which will exceed thirty days, the officer will transfer the offender's supervision to the other county. Form DC3-220, Travel Permit, is hereby incorporated by reference. Copies of this form may be obtained 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 _____.

(4) An officer shall transfer the supervision of an offender who is granted permission to travel and remain in another county outside of her or his county of residence in the State of Florida for more than thirty consecutive days.

~~(5)(3)~~ An officer shall transfer the supervision of an offender who is travelling to a single other state, the District of Columbia, the Commonwealth of Puerto Rico or the Virgin Islands of the United States, for more than ~~thirty~~ 30 consecutive days. The transfer of supervision involves the forwarding of all pertinent supervision documents via the Bureau of Interstate Compact to the receiving location and the formal assumption of supervision of the offender by a probation or / parole officer in the receiving location. The officer shall forward the following supervision documents, in triplicate, to the Bureau of Interstate Compact:

(a) Out of State Investigation Request, Form DC3-110;

(b) Application for Compact Services and Agreement to Return, Form DC3-122;

(c) Supervision orders; and

(d) Pre-sentence or Post-sentence investigation, or offense report and arrest history.

(e) Form DC3-110, Out of State Investigation Request and Form DC3-122, Application for Compact Services and Agreement to Return, are hereby incorporated by reference. Copies of these forms can be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of these forms is _____.

~~(6)(a)~~ When interstate travel is for the sole purpose of transfer to another state, the District of Columbia, the Commonwealth of Puerto Rico or the Virgin Islands of the United States, the offender must meet the other state's requirements and receive consent to travel from the Bureau of Interstate Compact Office before proceeding to that state.

~~(7)(b)~~ In compact cases that meet emergency criteria, the officer must submit an Electronic Request for Emergency Reporting Instructions and Travel Permit, Form EF3-005 EF4-007, to the Bureau of Interstate Compact Office two days before the requested date of travel. This time frame does not apply to offenders who already reside in the receiving state and who must return immediately after sentencing. Form EF3-005 EF4-007 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. Requests for copies to be mailed must be accompanied by a self-addressed envelope. The effective date of this form is _____ ~~3-22-00~~.

~~(8)(4)~~ In high profile and sex offender cases, the officer must review the Interstate Compact File Cabinet computer database or seek guidance from the Bureau of Interstate Compact Office to ensure that the offender meets and follows travel requirements for the state of destination before granting travel permission. Once the officer has verified and instructed the offender as to the requirements of the state of destination, a copy of the travel permit providing the offender's itinerary must be transmitted to the Bureau of Interstate Compact Office.

(9) The officer will obtain permission from the sentencing or releasing authority prior to granting permission to the community control offender for the right to travel out of state. A DC3-220 will be approved with a copy forwarded to the Bureau of Interstate Compact.

~~(10)(5)~~ No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 3-21-00, Amended _____.

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Workers' Compensation

RULE TITLE: RULE NO.:

Florida Workers' Compensation Health

Care Provider Fee for Service

Reimbursement Manual 38F-7.020

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt by reference the Florida Workers' Compensation Health Care Provider Fee for Service Reimbursement Manual, 2001 Edition, which contains reimbursement policies and maximum reimbursement allowances for physician services, non-physician services, pharmaceutical and medical supplies, as determined by the Three-Member Panel on November 29, 2000. The manual also provides basic instructions and information for providers and carriers in the preparation and reimbursement of bills for medical services. The Physician's Current Procedural Terminology (CPTTM), 4th Edition, copyright 1999, American Medical Association; the Current Dental Terminology (CDT-3), 3rd Edition, copyright 1999, American Dental Association; and the 2000 HCPCS (HCPCS), 11th Edition, copyright 1999, Ingenix are adopted as part of this rule.

SUBJECT AREA TO BE ADDRESSED: The Florida Workers' Compensation Health Care Provider Fee for Service Reimbursement Manual.

SPECIFIC AUTHORITY: 440.13(8), (11)-(14), 440.591 FS.

LAW IMPLEMENTED: 440.13(6)-(8), (11)-(14) FS.

A RULE DEVELOPMENT WORKSHOP IS DEEMED NOT TO BE NECESSARY BY THE AGENCY HEAD.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Nancy M. Rice, Registered Nurse Consultant, Suite 101, Forrest Building, 2728 Centerview Drive, Tallahassee, Florida 32399-0664, (850)410-1093

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: RULE NO.:

Agreements

40C-3.035

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to incorporate by reference changes to the District's water well permitting delegation agreements with the Florida Department of Health for Clay, Flagler, Nassau, and St. Johns Counties.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the permitting of the construction of water wells less than six inches in diameter by the Florida Department of Health for Clay, Flagler, Nassau, and St. Johns Counties.

SPECIFIC AUTHORITY: 344.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.309 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW: No rule development workshop has been scheduled at this time.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4450 or Suncom 860-4459

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (4) No change.

(4) An agreement between Indian River County Health Department and St. Johns River Water Management District regarding water well permitting, dated November 8, 1995.

(5) An agreement between the Florida Department of Health, Clay County Health Department and the St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement regarding water well permitting dated November 8, 1995, amended December 22, 1996 (effective date) 2001.

(6) No change.

(7) An agreement between the Florida Department of Health, St. Johns County Health Department Unit and the St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement regarding water well permitting dated July 21, 1996 (effective date) 2001.

(8) An agreement between the Florida Department of Health, Nassau County Public Health Department Unit and the St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement regarding water well permitting dated July 21, 1996 (effective date) 2001.

(9) An agreement between the Florida Department of Health, Flagler County Public Health Department Unit and the St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement regarding water well permitting dated January 8, 1997 (effective date) 2001.

(10) through (11) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.309 FS. History--New 10-14-84, Amended 12- 5-85, Formerly 40C-3.035, 40C-3.0035, Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-2-00, _____.

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water

RULE TITLE: Personnel Rule Manual Incorporated
by Reference

RULE NO.: 49B-2.038

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to incorporate by reference Tampa Bay Water's revised Personnel Rule Manual dated July 15, 2001. The revised Manual contains the rules and regulations concerning the activities of personnel of Tampa Bay Water.

SUBJECT MATTER TO BE ADDRESSED: The rules and regulations concerning various activities of personnel and employees of Tampa Bay Water.

SPECIFIC AUTHORITY: 163.01(5)(g) FS.

LAW IMPLEMENTED: 120.54(1)(i), 163.01, 373.1962, 373.1963 FS.

IF REQUESTED IN WRITING 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., July 13, 2001

PLACE: Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, Florida 33761-3930

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Donald C. Conn, General Counsel, Tampa Bay Water, 2535 Landmark Drive, Suite 211, Clearwater, Florida 33761-3930

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

49B-2.038 Personnel Rule Manual Incorporated by Reference.

The "Tampa Bay Water "Personnel Rule Manual," dated July 15, 2001 1997, is hereby incorporated by reference into this Chapter and is available from Tampa Bay Water upon request.

Specific Authority 163.01(5)(g)(4) FS. Law Implemented 120.54(1)(i), 163.01, 373.1962, 373.1963 FS. History--New 7-29-97, Amended _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Visual Services
RULE NO.: 59G-4.340

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Visual Limitations Handbook, May 2001. The effect will be to incorporate by reference in the rule Services Coverage and the current Florida Medicaid Visual Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Visual Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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., July 17, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Mailstop #20, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Debra Marshall, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7354

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.340 Visual Services.

(1) No change.

(2) All visual services practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Visual Services Coverage and Limitations Handbook, ~~May 2001~~ ~~January 2000~~, which is 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 409.906, 409.908 FS. History—New 7-30-80, Formerly 10C-7.521, Amended 4-20-93, 8-25-93, Formerly 10C-7.0521, Amended 12-21-97, 10-13-98, 6-10-99, 4-23-00, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Requirement for Instruction on Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome and Communicable Diseases
RULE NO.: 61G8-32.007

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirement for Instruction on Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome and Communicable Diseases.

SPECIFIC AUTHORITY: 470.005, 455.2226(7), 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS.

LAW IMPLEMENTED: 455.2226, 455.219(2), 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry Landrum, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Provisional Certificates
RULE NO.: 61G19-6.012

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Provisional Certificates.

SPECIFIC AUTHORITY: 468.606, 468.609(7) FS.

LAW IMPLEMENTED: 468.609(7) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G19-6.012 Provisional Certificates.

(1) through (3) No change.

(4) Provisional certification as a building code administrator is available only to a person ~~certificates shall only be issued to persons~~ employed by an agency of government.

(5) through (6) No change.

Specific Authority 468.606, 468.609(7) FS. Law Implemented 468.609(7) FS. History—New 5-23-94, Amended 5-21-95, 8-28-95, 12-6-95, 1-3-96, 2-23-99, 4-30-01.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Notice Requirements RULE NO.: 61J2-10.032

PURPOSE AND EFFECT: The purpose of the proposed rule development is to amend provisions 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 to provide better clarity and to better implement the related statute.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development 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.

SPECIFIC AUTHORITY: 475.05, 475.25 FS.

LAW IMPLEMENTED: 475.25, 83.49(3)(d) FS.

IF REQUESTED IN WRITING 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. or as soon thereafter as possible, July 18, 2001

PLACE: Division of Real Estate, Hurston Building, Commission Meeting Room (Room 301 – North Tower), 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Florida Real Estate Commission, Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Disciplinary Guidelines RULE NO.: 61J2-24.001

PURPOSE AND EFFECT: The Commission is considering amending the above referenced rule containing disciplinary guidelines for violations of provisions relating to the regulation

of real estate brokers and salespersons. The purpose is to revise guidelines for obtaining a license by fraud, misrepresentation, or concealment.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will affect disciplinary guidelines for violations of provisions relating obtaining a license by fraud, misrepresentation, or concealment.

SPECIFIC AUTHORITY: 455.2273, 475.05 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.421, 475.422, 475.452, 475.453, 475.455, 475.482 FS.

IF REQUESTED IN WRITING 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. or as soon thereafter as possible, July 18, 2001

PLACE: Division of Real Estate, Hurston Building, Commission Meeting Room (Room 301 – North Tower), 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, FL 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Fluoride Containing Products RULE NO.: 64B15-18.004

PURPOSE AND EFFECT: The Board proposes to update the rule text with regard to the dosage schedule for oral usage of fluoride.

SUBJECT AREA TO BE ADDRESSED: Fluoride dosage schedule.

SPECIFIC AUTHORITY: 465.186(2) FS.

LAW IMPLEMENTED: 465.186 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Taylor, Executive Director, Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-18.004 Fluoride Containing Products.

Oral medicinal drug products containing fluoride may be ordered by pharmacists for their patients who do not have fluoride supplement in their drinking water, pursuant to the following limitations:

(1) through (2) No change.

(3) If the fluoride content is less than 0.5 ppm then the following dosage schedule for oral usage shall be followed:-

(a)1. For ages 0 – 6 months

a. less than 0.3 ppm in water – no supplementation

b. 0.3 – 0.6 ppm in water – no supplementation

c. 0.6 ppm in water – no supplementation

2. For ages 6 months – 3 years

a. less than 0.3 ppm in water – supplement with 0.25 mg.

F/day

b. 0.3 – 0.6 ppm in water – no supplementation

c. 0.6 ppm in water – no supplementation

3. For ages 3-6 years

a. less than 0.3 ppm in water – supplement with 0.5 mg.

F/day

b. 0.3 – 0.6 ppm in water – supplement with 0.25 mg.

F/day

c. 0.6 ppm in water – no supplementation

4. For ages 6-16 years

a. less than 0.3 ppm in water – supplement with 1.00 mg.

F/day

b. 0.3 – 0.6 ppm in water – supplement with 0.5 mg. F/day

c. 0.6 ppm in water – no supplementation

less than 0.2

ppm-in	0.2-0.5 ppm-in	0.5 ppm-in	
Age in years	water	water	water
0-2	0.25 mg F/day	0	No supplementation
2-3	0.5 mg F/day	0.25 mg F/day	No supplementation
3-13	1.00 mg F/day	0.5 mg F/day	No supplementation

(b) through (c) No change.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History– New 5-1-86, Formerly 21R-18.004, 61F9-18.004, 59W-18.004, Amended _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE:

Negative Drug Formulary

RULE NO.:

64B16-27.500

PURPOSE AND EFFECT: The purpose of the rule amendments is to effectuate the removal of Digoxin, Warfarin, Quinidine Gluconate, and Phenytoin from the negative drug formulary, as required by Ch. 2001-146, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Negative Drug Formulary.

SPECIFIC AUTHORITY: Ch. 2001-146, Laws of Florida, 465.005 FS.

LAW IMPLEMENTED: Ch. 2001-146, Laws of Florida, 456.036, 456.064, 465.008 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS :

64B16-27.500 Negative Drug Formulary.

The negative drug formulary is composed of medicinal drugs which have been specifically determined by the Board of Pharmacy and the Board of Medicine to demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted, could produce adverse clinical effects, or could otherwise pose a threat to the health and safety of patients receiving such prescription medications. Except where certain dosage forms are included on the negative drug formulary as a class, all medicinal drugs are listed by their official United States Pharmacopoeia Non-Proprietary (generic) name. The generic name of a drug shall be applicable to and include all brand-name equivalents of such drug for which a prescriber may write a prescription. Substitution by a dispensing pharmacist on a prescription written for any brand name equivalent of a generic named drug product listed on the negative formulary or for a drug within the class of certain dosage forms as listed, is strictly prohibited. In cases where the prescription is written for a drug listed on the negative drug formulary but a brand name equivalent is not specified by the prescriber, the drug dispensed must be one obtained from a manufacturer or distributor holding an approved new drug application or abbreviated new drug application issued by the Food and Drug Administration, United States Department of Health and Welfare permitting that manufacturer or distributor to market those medicinal drugs or when the former is non-applicable, those manufacturers or distributors supplying such medicinal drugs must show compliance with other applicable Federal Food and Drug Administration marketing requirements. The following are included on the negative drug formulary:

- (1) Digoxin
- (1)(2) Digitoxin
- (3) Warfarin

- (2)(4) Conjugated Estrogen
- (5) ~~Quinidine Gluconate~~
- (3)(6) Dicumarol
- (7) ~~Phenytoin~~
- (8) through (11) renumbered (4) through (7) No change.

Specific Authority Ch. 2001-146, Laws of Florida, 465.005, 465.025(6) FS. Law Implemented Ch. 2001-146, Laws of Florida, 465.025(6) FS. History—New 12-14-76, Amended 3-17-77, 7-2-79, 4-9-81, 9-14-82, 9-26-84, Formerly 21S-5.01, Amended 3-30-89, 7-1-90, Formerly 21S-5.001, Amended 12-25-90, 10-1-92, Formerly 21S-27.500, Amended 2-21-94, Formerly 61F10-27.500, 59X-27.500, Amended.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Denial of Licensure
 RULE NO.: 64B19-11.009
 PURPOSE AND EFFECT: The Board proposes to update the above rule.

SUBJECT AREA TO BE ADDRESSED: Denial of Licensure.
 SPECIFIC AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.009, 490.0111 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Fee for Provisional Licensure
 RULE NO.: 64B19-12.012
 PURPOSE AND EFFECT: The Board proposes to update the above rule.

SUBJECT AREA TO BE ADDRESSED: Fee for Provisional Licensure.

SPECIFIC AUTHORITY: 456.013, 490.003(6), 490.004(4), 490.0051 FS.

LAW IMPLEMENTED: 456.013, 490.003(6), 490.004(4), 490.0051 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Disciplinary Guidelines
 RULE NO.: 64B19-17.002
 PURPOSE AND EFFECT: The Board proposes to update the above rule.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Guidelines.

SPECIFIC AUTHORITY: 456.079, 490.004(4) FS.
 LAW IMPLEMENTED: 456.079, 456.072, 490.009 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-44.001
Notice of Funds Availability (“NOFA”)	67-44.002
General Program Restrictions	67-44.003
Application Procedures	67-44.004
Application and Selection Procedures	67-44.005
Administrative Appeal Procedures	67-44.006
Credit Underwriting Procedures and Loan Origination	67-44.007
Construction Disbursements and Loan Servicing	67-44.008
Terms and Conditions of Loans	67-44.009
Compliance and Monitoring Provisions	67-44.010
Fees	67-44.011

PURPOSE AND EFFECT: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the HAP Construction Loan Program, which provides below market interest rate construction loans to eligible nonprofit developers and sponsors for the construction or substantial rehabilitation of very low- and low-income home ownership housing. Revisions to the Rule are required to

implement technical and clarifying changes. The adoption of these revisions 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 67-44, Florida Administrative Code.

SPECIFIC AUTHORITY: 420.507(12),(23) FS.

LAW IMPLEMENTED: 420.5088 FS.

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

TIME AND DATE: 11:00 a.m., Tuesday, July 17, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Bridget E. Warring, HAP Construction Loan Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Linda Hawthorne 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).

Out of State Training – Certificate of Compliance; Special Certificate of Compliance	4A-37.054
Minimum Curriculum Requirements for Training Firefighter Recruits or Firefighters	4A-37.055
Specifications for Certifiable Training	4A-37.056
Verification of Prescribed Training Hours	4A-37.058
Types of Instructor Certificates Issued	4A-37.059
Certification as an Approved Firefighter	
Recruit Training Facility	4A-37.060
Prescribed Forms for Training and Certification	4A-37.061
Procedures for State Firefighter	
Certification Examination Day	4A-37.062
Cheating	4A-37.063
Florida State Fire College	4A-37.064
Programs of Study and Vocational Course	4A-37.065

PURPOSE AND EFFECT: The changes have the following purposes and effects:

1. Update, adopt, and repeal forms;
2. Update, adopt, and repeal NFPA and other standards;
3. Streamline and update requirements for taking courses and examinations in conjunction with the Florida State Fire College to make them more easily accessible by the public;
4. Make technical changes updating outdated words and phrases;
5. Repeal unnecessary and/or outdated rule sections, subsections, and paragraphs;
6. Update Florida State Fire College Curricula, courses, courses of study, and programs of study;
7. Change “Minimum Standards Course” to “Firefighter I and Firefighter II courses”;
8. Update Instructor requirements and eligibility, and provide for use of field experts;
9. Update facility requirements for certified training centers to allow modern construction techniques and materials;
10. Provide specificity for certificates of competencies in several areas.

SUMMARY: These rules update the Florida State Fire College forms, adopt NFPA and other Standards, update Florida State Fire College courses and examinations, repeal outdated rules and standards, update Florida State Fire college curricula, courses of study and programs of study, provide for the creation of the Firefighter I and Firefighter II courses which is an upgrade from the former Minimum Standards Course, update Florida State Fire College instructor requirements and eligibility, provide for use of field experts at the Florida State Fire College, update facility requirements for certified training centers to allow modern construction techniques and materials, update Florida State Fire College specificity for certificates of competence.

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

Section II Proposed Rules

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Firefighter Standards and Trainin	4A-37
RULE TITLES:	RULE NOS.:
Qualification of New Employee	4A-37.0335
Determination of Moral Character	4A-37.036
Firefighter Training Course	
Medical Examination	4A-37.037
Non-Use of Tobacco	4A-37.0371
Termination of Employee	4A-37.0385
Prescribed Forms for Training and Certification	4A-37.039
Types of Training Certificates Issued	4A-37.050
Upgrading Certificates or Letters of Completion	4A-37.0515
Retention of Certification	4A-37.0527