

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-42.001 Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species".

(1) No change.

(2) The following fish species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

(a) through (aa) No change.

(bb) Filefish/triggerfish - Any species of the Family Balistidae ~~Balistes~~, except gray triggerfish, Balistes ~~Balistidae~~ capricus and ocean triggerfish, Canthidermis sufflamen.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History-New 1-1-91, Amended 7-1-92, 1-1-95, 6-1-99, Formerly 46-42.001, Amended _____.

Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: Procedure for Licensing Transferred Cemeteries

RULE NO.: 3F-5.006

PURPOSE AND EFFECT: This rule is being amended to incorporate by reference an updated version of Form DBF-F-35, Application for Authority to Acquire Control of an Existing Cemetery Company.

SUMMARY: This rule sets out the procedures for a person, group of persons, or corporation to acquire control of an existing cemetery company and states the fee requirements for same.

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

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

SPECIFIC AUTHORITY: 497.103 FS.

LAW IMPLEMENTED: 497.201(1), 497.209 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

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

THE FULL TEXT OF THE PROPOSED RULE IS:

3F-5.006 Procedure for Licensing Transferred Cemeteries.

(1) Application. When a person, a group of persons or a corporation proposes to purchase or acquire control of an existing cemetery company either by purchasing the outstanding capital stock of any cemetery company, or the interest of the owner or owners, and thereby to change the control of said cemetery company, such person shall file an Application For Authority To Acquire Control Of An Existing Cemetery Company, Form DBF-F-35, effective _____, and ~~October 23, 1991, which is~~ hereby incorporated by reference. This application shall be accompanied by a non-refundable application fee of \$5,000.

(2) through (7) No change.

Specific Authority 497.103 FS. Law Implemented 497.201(1), 497.209 FS. History-New 9-29-75, Amended 11-2-78, 1-27-81, Formerly 3D-30.17, Amended 10-23-91, Formerly 3D-30.017, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Board of Funeral and Cemetery Services

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: February 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: June 8, 2001

DEPARTMENT OF INSURANCE

RULE TITLES: RULE NOS.:

Purpose and Scope 4-128.001

Definitions 4-128.002

Initial Privacy Notice to Consumers Required 4-128.005

Annual Privacy Notice to Customers Required 4-128.006

Information to be Included in Privacy Notices 4-128.007

Form of Opt Out Notice to Consumers and

Opt Out Methods 4-128.008

Revised Privacy Notices 4-128.009

Delivery 4-128.010

Limits on Disclosure of Nonpublic Personal

Financial Information to Nonaffiliated

Third Parties 4-128.011

Limits on Redisclosure and Reuse of Nonpublic

Personal Financial Information 4-128.012

Limits on Sharing Account Number Information

for Marketing Purposes 4-128.013

Exception to Opt Out Requirements for Disclosure

of Nonpublic Personal Financial Information

for Service Providers and Joint Marketing 4-128.014

Exceptions to Notice and Opt Out Requirements

for Disclosure of Nonpublic Personal Financial

Information for Processing and Servicing

Transactions 4-128.015

Other Exceptions to Notice and Opt Out
 Requirements for Disclosure of Nonpublic
 Personal Financial Information 4-128.016
 When Authorization Required for Disclosure
 of Nonpublic Personal Health Information 4-128.017
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 Authorization Request Delivery 4-128.019
 Relationship to Federal Rules 4-128.020
 Relationship to State Laws 4-128.021
 Protection of Fair Credit Reporting Act 4-128.022
 Nondiscrimination 4-128.023
 Effective Date 4-128.024

PURPOSE AND EFFECT: The purpose of the proposed action is to adopt rules to protect the privacy of consumer financial and health information maintained by insurers, agents, and licensees as provided in CS/SB 2174.

SUMMARY: The proposed rules are based on the NAIC Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000. The rules are also consistent with Title V of the Gramm-Leach-Bliley Act of 1999 and address compliance with consumer protection rules adopted by the U.S. Department of Health and Human Services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A SERC has been prepared, and generally estimates that compliance costs will involve costs of preparing notices, developing lawful privacy policies, and implementation of safeguards and controls to protect the privacy of customer and consumer financial and health information.

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

SPECIFIC AUTHORITY: 624.308, 626.9651 FS.

LAW IMPLEMENTED: 624.307(1), 626.9651 FS.

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

TIME AND DATE: 1:00 p.m., August 21, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Roddenberry, Deputy Director, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0300, phone (850)413-5104

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

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I. GENERAL PROVISIONS

4-128.001 Purpose and Scope.

(1) Purpose. This rule governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees regulated pursuant to the Florida Insurance Code. These rules:

(a) Require a licensee to provide notice to individuals about its privacy policies and practices;

(b) Describe the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and

(c) Provide methods for individuals to prevent a licensee from disclosing that information.

(2) Scope. These rules apply to:

(a) Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. These rules do not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

(b) All nonpublic personal health information.

(3) Rule of Construction. The examples in these rules and the sample clauses in Appendix A, incorporated by reference in Rule 4-128.007, F.A.C., are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with this rule.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.002 Definitions.

As used in these rules, unless the context requires otherwise:

(1) “Affiliate” means a company that controls, is controlled by or is under common control with another company.

(2)(a) “Clear and conspicuous” means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

(b) Examples.

1. Reasonably understandable. A licensee makes its notice reasonably understandable if it:

a. Presents the information in the notice in clear, concise sentences, paragraphs and sections;

b. Uses short explanatory sentences or bullet lists whenever possible;

c. Uses definite, concrete, everyday words and active voice whenever possible;

d. Avoids multiple negatives;

e. Avoids legal and highly technical business terminology whenever possible; and

f. Avoids explanations that are imprecise and readily subject to different interpretations.

2. Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

a. Uses a plain-language heading to call attention to the notice;

b. Uses a typeface and type size that are easy to read;

c. Provides wide margins and ample line spacing;

d. Uses boldface or italics for key words; and

e. In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

3. Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site, such as text, graphics, hyperlinks or sound, do not distract attention from the notice, and the licensee either:

a. Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

b. Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

(3) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(4) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

(5)(a) "Consumer" means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative.

(b) Examples.

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

2. An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

3. An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

4. An individual is a licensee's consumer if the individual is:

a.(I) A beneficiary of a life insurance policy underwritten by the licensee;

(II) A claimant under an insurance policy issued by the licensee;

(III) An insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(IV) A mortgagor of a mortgage covered under a mortgage insurance policy; and

b. The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Rules 4-128.014, .015, and .016, F.A.C.

5. Provided that the licensee provides the initial, annual and revised notices under Rules 4-128.005, .006, and .009, F.A.C., to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder or workers' compensation plan participant, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Rules 4-128.014, .015, and .016, F.A.C., an individual is not the consumer of the licensee solely because he or she is:

a. A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

b. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

c. A beneficiary in a workers' compensation plan.

6.a. The individuals described in sub-subparagraphs 5.a. through c. of this paragraph are consumers of a licensee if the licensee does not meet all the conditions of subparagraph 5.

b. In no event shall the individuals, solely by virtue of the status described in sub-subparagraphs 5.a. through c. above, be deemed to be customers for purposes of this rule.

7. An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

8. An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

(6) "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(7) "Control" means:

(a) Ownership, control or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(b) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the Department determines.

(8) "Customer" means a consumer who has a customer relationship with a licensee.

(9)(a) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

(b) Examples.

1. A consumer has a continuing relationship with a licensee if:

a. The consumer is a current policyholder of an insurance product issued by or through the licensee; or

b. The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

2. A consumer does not have a continuing relationship with a licensee if:

a. The consumer applies for insurance but does not purchase the insurance;

b. The licensee sells the consumer airline travel insurance in an isolated transaction;

c. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

d. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

e. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

f. The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or rule, communication at the direction of a state or federal authority, or promotional materials;

g. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

h. For the purposes of this rule, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(10)(a) "Financial institution" means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(b) Financial institution does not include:

1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

2. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(11)(a) "Financial product or service" means a product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(b) Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(12) "Health care" means:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

1. Relates to the physical, mental or behavioral condition of an individual; or

2. Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

(b) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

(13) "Health care provider" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with state law, or a health care facility.

(14) "Health information" means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual.

(15)(a) "Insurance product or service" means any product or service that is offered by a licensee pursuant to the insurance laws of this state.

(b) Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for a insurance product or service.

(16)(a) "Licensee" means all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the Florida Insurance Code.

(b) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in these rules if the licensee is an employee, agent or other representative of another licensee ("the principal") and:

1. The principal otherwise complies with, and provides the notices required by, the provisions of these rules; and

2. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule.

(c)1. Subject to (b)2. above, "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines agent in this state, but only in regard to the surplus lines placements placed pursuant to section 626.916, Florida Statutes.

2. A surplus lines agent, producing agent, or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in these rules provided:

a. The surplus lines agent, producing agent, or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Rule 4-128.014, F.A.C., except as permitted by Rules 4-128.015 or .016, F.A.C.; and

b. The surplus lines agent, producing agent or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE

"Neither the U.S. brokers that handled this insurance nor the insurers that have underwritten this insurance will disclose nonpublic personal information concerning the buyer to nonaffiliates of the brokers or insurers except as permitted by law."

(17)(a) "Nonaffiliated third party" means any person except:

1. A licensee's affiliate; or

2. A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(b) Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

(18) "Nonpublic personal information" means nonpublic personal financial information and nonpublic personal health information.

(19)(a) "Nonpublic personal financial information" means:

1. Personally identifiable financial information; and

2. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(b) Nonpublic personal financial information does not include:

1. Health information;

2. Publicly available information, except as included on a list described in subparagraph (19)(a)2. of this rule; or

3. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

(c) Examples of lists.

1. Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

2. Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial

information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(20) "Nonpublic personal health information" means health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(21)(a) "Personally identifiable financial information" means any information:

1. A consumer provides to a licensee to obtain an insurance product or service from the licensee;

2. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

3. The licensee otherwise obtains about a consumer.

(b) The following are examples of personally identifiable financial information:

1. Information a consumer provides to a licensee on an application to obtain an insurance product or service;

2. Account balance information and payment history;

3. The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

4. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

5. Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

6. Any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and

7. Information from a consumer report.

(c) Personally identifiable financial information does not include:

1. Health information;

2. A list of names and addresses of customers of an entity that is not a financial institution; and

3. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(22)(a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

1. Federal, state or local government records;

2. Widely distributed media; or

3. Disclosures to the general public that are required to be made by federal, state or local law.

(b) Reasonable basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

1. That the information is of the type that is available to the general public; and

2. Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(c) Examples.

1. Government records. Publicly available information in government records includes information in government real estate records and security interest filings.

2. Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

3. Reasonable basis.

a. A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

b. A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

PART II. PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION

4-128.005 Initial Privacy Notice to Consumers Required.

(1) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(a) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (5) this rule; and

(b) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Rules 4-128.015 and .016, F.A.C.

(2) When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under paragraph (1)(b) of this rule if:

(a) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Rules 4-128.015 and .016, F.A.C., and the licensee does not have a customer relationship with the consumer; or

(b) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

(3) When the licensee establishes a customer relationship.

(a) General rule. A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

(b) Examples of establishing customer relationship. A licensee establishes a customer relationship when the consumer:

1. Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

2. Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

(4) Existing customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subsection (1) of this rule as follows:

(a) The licensee may provide a revised policy notice, under Rule 4-128.009, F.A.C., that covers the customer's new insurance product or service; or

(b) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subsection (1) of this rule.

(5) Exceptions to allow subsequent delivery of notice.

(a) A licensee may provide the initial notice required by paragraph (1)(a) of this rule within a reasonable time after the licensee establishes a customer relationship if:

1. Establishing the customer relationship is not at the customer's election; or

2. Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(b) Examples of exceptions.

1. Not at customer's election. Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another

financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

2. Substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

3. No substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a web site.

(6) Delivery. When a licensee is required to deliver an initial privacy notice by this rule, the licensee shall deliver it according to Rule 4-128.010, F.A.C. If the licensee uses a short-form initial notice for non-customers according to subsection 4-128.007(4), F.A.C., the licensee may deliver its privacy notice according to paragraph 4-128.007(4)(c), F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.006 Annual Privacy Notice to Customers Required.

(1)(a) General rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the twelve consecutive month period, but the licensee shall apply it to the customer on a consistent basis.

(b) Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

(2)(a) Termination of customer relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

(b) Examples.

1. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

2. A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business

practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual privacy notices, material required by law or rule, or promotional materials.

3. For the purposes of this rule, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

4. A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(3) Delivery. When a licensee is required by this rule to deliver an annual privacy notice, the licensee shall deliver it according to Rule 4-128.010, F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

4-128.007 Information to be Included in Privacy Notices.

(1) General rule. The initial, annual and revised privacy notices that a licensee provides under Rules 4-128.005, .006, and .009, F.A.C., shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(a) The categories of nonpublic personal financial information that the licensee collects;

(b) The categories of nonpublic personal financial information that the licensee discloses;

(c) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Rules 4-128.015 and .016, F.A.C.;

(d) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Rules 4-128.015 and .016, F.A.C.;

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Rule 4-128.014, F.A.C. (and no other exception in Rules 4-128.015 and .016, F.A.C. applies to that disclosure), a separate

description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(f) An explanation of the consumer's right under subsection 4-128.011(1), F.A.C., to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(g) Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(h) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(i) Any disclosure that the licensee makes under subsection (2) of this rule.

(2) Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Rules 4-128.015 and .016, F.A.C., the licensee is not required to list those exceptions in the initial or annual privacy notices required by Rules 4-128.005 and .006, F.A.C. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(3) Examples.

(a) Categories of nonpublic personal financial information that the licensee collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

1. Information from the consumer;

2. Information about the consumer's transactions with the licensee or its affiliates;

3. Information about the consumer's transactions with nonaffiliated third parties; and

4. Information from a consumer reporting agency.

(b) Categories of nonpublic personal financial information a licensee discloses.

1. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in paragraph (a) above, as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

a. Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number;

b. Transaction information, such as information about balances, payment history and parties to the transaction; and

c. Information from consumer reports, such as a consumer's creditworthiness and credit history.

2. A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

3. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(c) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

1. A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

2. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

3. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

(d) Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Rule 4-128.014, F.A.C. to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of paragraph (1)(e) of this rule if it:

1. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of paragraph (1)(b) of this rule, as applicable; and

2. States whether the third party is:

a. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

b. A financial institution with whom the licensee has a joint marketing agreement.

(e) Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Rules 4-128.015 and .016, F.A.C., the licensee may simply state that fact, in addition to the information it shall provide under paragraphs (1)(a), (h), and (i), and subsection (2) of this rule.

(f) Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

1. Describes in general terms who is authorized to have access to the information; and

2. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

(4) Short-form initial notice with opt out notice for non-customers.

(a) A licensee may satisfy the initial notice requirements in paragraph 4-128.005(1)(b) and subsection 4-128.008(3), F.A.C., for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in Rule 4-128.008, F.A.C.

(b) A short-form initial notice shall:

1. Be clear and conspicuous;

2. State that the licensee's privacy notice is available upon request; and

3. Explain a reasonable means by which the consumer may obtain that notice.

(c) The licensee shall deliver its short-form initial notice according to Rule 4-128.010, F.A.C. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to Rule 4-128.010, F.A.C.

(d) Examples of obtaining privacy notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

1. Provides a toll-free telephone number that the consumer may call to request the notice; or

2. For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(5) Future disclosures. The licensee's notice may include:

(a) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(b) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(6) Sample clauses. Sample clauses illustrating some of the notice content required by this rule are included in Appendix A of this rule, which is incorporated herein by reference.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.008 Form of Opt Out Notice to Consumers and Opt Out Methods.

(1)(a) Form of opt out notice. If a licensee is required to provide an opt out notice under subsection 4-128.011(1), F.A.C., it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that rule. The notice shall state:

1. That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

2. That the consumer has the right to opt out of that disclosure; and

3. A reasonable means by which the consumer may exercise the opt out right.

(b) Examples.

1. Adequate opt out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in paragraphs 4-128.007(1)(a) and (b), F.A.C., and states that the consumer can opt out of the disclosure of that information; and

b. Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

2. Reasonable opt out means. A licensee provides a reasonable means to exercise an opt out right if it:

a. Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

b. Includes a reply form together with the opt out notice;

c. Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or

d. Provides a toll-free telephone number that consumers may call to opt out.

3. Unreasonable opt out means. A licensee does not provide a reasonable means of opting out if:

a. The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

b. The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

4. Specific opt out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(2) Same form as initial notice permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Rule 4-128.005, F.A.C.

(3) Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with Rule 4-128.005, F.A.C., the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(4) Joint relationships.

(a) If 2 or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer as explained in paragraph (e) of this subsection.

(b) Any of the joint consumers may exercise the right to opt out. The licensee may either:

1. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

2. Permit each joint consumer to opt out separately.

(c) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(d) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(e) Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

1. Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.

2. Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction.

3. Permit John and Mary to make different opt out directions. If the licensee does so:

a. It shall permit John and Mary to opt out for each other;

b. If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

c. If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

(5) Time to comply with opt out. As to opt outs received from consumer later than 30 days after the opt out notification is delivered by the licensee, a licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

(6) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

(7) Duration of consumer's opt out direction.

(a) A consumer's direction to opt out under this rule is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(b) When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

(8) Delivery. When a licensee is required to deliver an opt out notice by this rule, the licensee shall deliver it according to Rule 4-128.010, F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.009 Revised Privacy Notices.

(1) General rule. Except as otherwise authorized in these rules, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Rule 4-128.005, F.A.C., unless:

(a) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(b) The licensee has provided to the consumer a new opt out notice;

(c) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(d) The consumer does not opt out.

(2) Examples.

(a) Except as otherwise permitted by Rules 4-128.014, .015, and .016, F.A.C., a licensee shall provide a revised notice before it:

1. Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

2. Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

3. Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(b) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

(3) Delivery. When a licensee is required to deliver a revised privacy notice by this rule, the licensee shall deliver it according to Rule 4-128.010, F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.010 Delivery.

(1) How to provide notices. A licensee shall provide any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(2)(a) Examples of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

1. Hand-delivers a printed copy of the notice to the consumer;

2. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

3. For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service; or

4. For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(b) Examples of unreasonable expectation of actual notice. A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

1. Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

2. Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(3) Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(a) The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or

(b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(4) Oral description of notice insufficient. A licensee may not provide any notice required by this rule solely by orally explaining the notice, either in person or over the telephone.

(5) Retention or accessibility of notices for customers.

(a) For customers only, a licensee shall provide the initial notice required by subsection 4-128.005(1)(a), F.A.C., the annual notice required by subsection 4-128.006(1), F.A.C., and the revised notice required by Rule 4-128.009, F.A.C., so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(b) Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

1. Hand-delivers a printed copy of the notice to the customer;

2. Mails a printed copy of the notice to the last known address of the customer; or

3. Makes its current privacy notice available on a web site, or a link to another web site, for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

(6) Joint notice with other financial institutions. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(7) Joint relationships. If 2 or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of subsections 4-128.005(1), .006(1), and .009(1), F.A.C., respectively, by providing one notice to those consumers jointly.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

PART III. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

4-128.011 Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties.

(1)(a) Conditions for disclosure. Except as otherwise authorized in these rules, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

1. The licensee has provided to the consumer an initial notice as required under Rule 4-128.005, F.A.C.;

2. The licensee has provided to the consumer an opt out notice as required in Rule 4-128.008, F.A.C.;

3. The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

4. The consumer does not opt out.

(b) Opt out definition. Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Rules 4-128.014, .015, and .016, F.A.C.

(c) Examples of reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if:

1. By mail. The licensee mails the notices required in paragraph (a) of this subsection to the consumer at the consumer's most current address and allows the consumer a time period of at least 30 days from the date the licensee mailed the notices to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means.

2. By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in paragraph (a) of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

3. Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in paragraph (a) of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(2) Application of opt out to all consumers and all nonpublic personal financial information.

(a) A licensee shall comply with this rule, regardless of whether the licensee and the consumer have established a customer relationship.

(b) Unless a licensee complies with this rule, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(3) Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.012 Limits on Redisclosure and Reuse of Nonpublic Personal Financial Information.

(1)(a) Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Rules 4-128.015, or .016, F.A.C., the licensee's disclosure and use of that information is limited as follows:

1. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

2. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

3. The licensee may disclose and use the information pursuant to an exception in Rules 4-128.015, or .016, F.A.C., in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(2)(a) Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in Rules 4-128.015, or .016, F.A.C., the licensee may disclose the information only:

1. To the affiliates of the financial institution from which the licensee received the information;

2. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

3. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(b) Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Rules 4-128.015, or .016, F.A.C.:

1. The licensee may use that list for its own purposes; and

2. The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Rules 4-128.015, or .016, F.A.C., such as to the licensee's attorneys or accountants.

(3) Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Rules 4-128.015, or .016, F.A.C., the third party may disclose and use that information only as follows:

(a) The third party may disclose the information to the licensee's affiliates;

(b) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(c) The third party may disclose and use the information pursuant to an exception in Rules 4-128.015, or .016, F.A.C., in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(4) Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Rules 4-128.015, or .016, F.A.C., the third party may disclose the information only:

(a) To the licensee's affiliates;

(b) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(c) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.013 Limits on Sharing Account Number Information for Marketing Purposes.

(1) General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(2) Exceptions. Subsection (1) of this rule does not apply if a licensee discloses a policy number or similar form of access number or access code:

(a) To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(b) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or

(c) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(3) Examples.

(a) Policy number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(b) Policy or transaction account. For the purposes of this rule, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

PART IV. EXCEPTIONS TO LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION4-128.014 Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing.(1) General rule.

(a) The opt out requirements in Rules 4-128.008 and .011, F.A.C., do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

1. Provides the initial notice in accordance with Rule 4-128.005, F.A.C.; and

2. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the

licensee disclosed the information, including use under an exception in Rules 4-128.015, or .016, F.A.C., in the ordinary course of business to carry out those purposes.

(b) Example. If a licensee discloses nonpublic personal financial information under this rule to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of subparagraph (a)2. of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Rules 4-128.015, or .016, F.A.C., in the ordinary course of business to carry out that joint marketing.

(2) Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under subsection A of this rule may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

(3) Definition of "joint agreement." For purposes of this rule, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

4-128.015 Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions.

(1) Exceptions for processing transactions at consumer's request. The requirements for initial notice in paragraph 4-128.005(1)(b), F.A.C., the opt out in Rules 4-128.008 and .011, F.A.C., and service providers and joint marketing in Rule 4-128.014, F.A.C., do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(a) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(b) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(c) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

(d) Reinsurance or stop loss or excess loss insurance.

(2) "Necessary to effect, administer or enforce a transaction" means that the disclosure is:

(a) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(b) Required, or is a usual, appropriate or acceptable method:

1. To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;

2. To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

3. To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

4. To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

5. To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or

6. In connection with:

a. The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

b. The transfer of receivables, accounts or interests therein; or

c. The audit of debit, credit or other payment information.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History--New

4-128.016 Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information.

(1) Exceptions to opt out requirements. The requirements for initial notice to consumers in paragraph 4-128.005(1)(b), F.A.C., the opt out in Rules 4-128.008 and .011, F.A.C., and service providers and joint marketing in Rule 4-128.014, F.A.C., do not apply when a licensee discloses nonpublic personal financial information:

(a) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(b)1. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;

2. To protect against or prevent actual or potential fraud or unauthorized transactions;

3. For required institutional risk control or for resolving consumer disputes or inquiries;

4. To persons holding a legal or beneficial interest relating to the consumer; or

5. To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(c) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;

(d) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Record keeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;

(e)1. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

2. From a consumer report reported by a consumer reporting agency;

(f) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

(g)1. To comply with federal, state or local laws, rules and other applicable legal requirements;

2. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities; or

3. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law;

(h) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan; or

(i) Pursuant to the provisions of Chapter 631, Florida Statutes, the Department is required to collect on reinsurance policies, pay claims, transfer policies to other insurers, and engage in similar activities with respect to insurers which are in receivership. In connection with the performance of its statutory obligations, the Department often must disclose insureds' non-public personal information to third parties. The disclosure of such information by the Department is considered

to be required by law, and Department is therefore not subject to the requirements of this rule in connection with the disclosure of personal financial information incident to the performance of activities under Chapter 631, Florida Statutes.

(2) Example of revocation of consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under subsection 4-128.008(6), F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

PART V. RULES FOR HEALTH INFORMATION

4-128.017 When Authorization Required for Disclosure of Nonpublic Personal Health Information.

(1) A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed. However, non-public health information may be disclosed for scientific, medical, or public policy research in accordance with federal law.

(2) Nothing in this rule shall prohibit, restrict, or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee:

- (a) Claims administration;
- (b) Claims adjustment and management;
- (c) Detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity;
- (d) Underwriting;
- (e) Policy placement or issuance;
- (f) Loss control;
- (g) Ratemaking and guaranty fund functions;
- (h) Reinsurance and excess loss insurance;
- (i) Risk management;
- (j) Case management;
- (k) Disease management;
- (l) Quality assurance;
- (m) Quality improvement;
- (n) Performance evaluation;
- (o) Provider credentialing verification;
- (p) Utilization review;
- (q) Peer review activities;
- (r) Actuarial, scientific, medical or public policy research;
- (s) Grievance procedures;
- (t) Internal administration of compliance, managerial, and information systems;
- (u) Policyholder service functions;
- (v) Auditing;

(w) Reporting;

(x) Database security;

(y) Administration of consumer disputes and inquiries;

(z) External accreditation standards;

(aa) The replacement of a group benefit plan or workers compensation policy or program;

(bb) Activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit;

(cc) Any activity that permits disclosure without authorization pursuant to the Federal Health Insurance Portability And Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services;

(dd) Disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and

(ee) Any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process.

(ff) Additional insurance functions that the Department determines to be necessary for appropriate performance of insurance functions and that are fair and reasonable to the interest of consumers.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New _____.

4-128.018 Authorizations.

(1) A valid authorization to disclose nonpublic personal health information pursuant to this Part shall be in written or electronic form and shall contain all of the following:

(a) The identity of the consumer or customer who is the subject of the nonpublic personal health information;

(b) A general description of the types of nonpublic personal health information to be disclosed;

(c) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used;

(d) The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed; and

(e) Notice of the length of time for which the authorization is valid and that the consumer or customer may revoke the authorization at any time and the procedure for making a revocation.

(2) An authorization for the purposes of this Part shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than 24 months.

(3) A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this Part at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

(4) A licensee shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.019 Authorization Request Delivery.

A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to Rule 4-128.010, F.A.C., provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to subsection 4-128.017(1), F.A.C.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.020 Relationship to Federal Rules.

(1) If the Department determines that a health insurer or health maintenance organization licensed by the Department is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services in conformance with the Health Insurance Portability and Affordability Act, (except for its effective date provision) the licensee shall be considered to be in compliance with this Part.

(2) Effective April 14, 2003, a licensee must be in actual compliance with the Health and Human Services rules in order to be considered in compliance with this Part.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.021 Relationship to State Laws.

Nothing in this Part shall preempt or supercede existing state law related to medical records, health or insurance information privacy.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

PART VI. ADDITIONAL PROVISIONS

4-128.022 Protection of Fair Credit Reporting Act.

Nothing in these rules shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of these rules regarding whether information is transaction or experience information under Section 603 of that Act.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.023 Nondiscrimination.

(1) A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of these rules.

(2) A licensee shall not unfairly discriminate against a consumer or customer because that consumer or customer has not granted authorization for the disclosure of his or her nonpublic personal health information pursuant to the provisions of these rules.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

4-128.024 Effective Date.

(1)(a) Not later than 30 days following the effective date of this rule, each licensee shall provide an initial notice, as required by Rule 4-128.005, F.A.C., to consumers who are the licensee's customers on July 1, 2001.

(b) Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

(2) Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of subparagraph 4-128.014(1)(a)2., F.A.C., of this rule, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.

Specific Authority 624.308, 626.9651 FS. Law Implemented 624.307(1), 626.9651 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Steve Roddenberry, Deputy Director, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin McCarty, Deputy Insurance Commissioner, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

DEPARTMENT OF INSURANCE

RULE TITLE: Guaranteed Availability of Individual Health Insurance Coverage Guaranteed to Eligible Individuals
RULE NO.: 4-154.112

PURPOSE AND EFFECT: The proposed amendment arose from a rule challenge. Paragraph 4-154.112(1)(b) was challenged on the grounds that the rule language conflicted with paragraph 627.6487(4)(a), F.S.

SUMMARY: The conflicting language is being deleted.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 627.6487(4)(b) FS.

LAW IMPLEMENTED: 624.307(1), 627.6487 FS.

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

TIME AND DATE: 2:00 p.m., August 24, 2001

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

4-154.112 Guaranteed Availability of Individual Health Coverage to Eligible Individuals.

(1)(a) Each health insurance issuer that offers individual health insurance coverage shall make available to eligible individuals the two policy forms with the largest and the next to largest premium volume of all such policy forms offered by the issuer in the state or a particular marketing or service area in the individual market.

~~(b) Where the policy form provides multiple benefit structures, such as indemnity and PPO in one form, the aggregate of all options shall be used in making this determination.~~

~~(c)(e)~~ First year premium volume shall be calculated by using first year premium for the calendar year. In compiling the earned first year premium for the year, the company shall include earned premium for individuals renewing into a replacement form where a previously approved form has been discontinued.

~~(c)(d)~~ An insurer offering coverage in the individual market is not prohibited from establishing premium discounts.

(2) through (8) No change.

Specific Authority 624.308, 627.6487(4)(b) FS. Law Implemented 624.307(1), 627.6487 FS. History—New 9-19-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Robleto, Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Office of Inspector General	11N-1
RULE TITLES:	RULE NOS.:
Purpose	11N-1.001
Criteria	11N-1.002
Violent Crime Investigative Reimbursement and Emergency Funding	11N-1.0021
Matching Drug Control Investigative Funding	11N-1.0022
Limitations on Violent Crime Investigative Reimbursement Funding	11N-1.003
Limitations on Matching Drug Control Investigative Funding	11N-1.0031
Procedures for Emergency Violent Crime Investigative Funding	11N-1.004
Procedures for Formal Funding Requests for Violent Crime Investigative Reimbursement Funding	11N-1.005
Procedures for Formal Funding Requests for Matching Drug Control Investigative Funding	11N-1.0051
Contributions	11N-1.006
Annual Audit	11N-1.007
Active Criminal Investigative and Active Criminal Intelligence	11N-1.008

PURPOSE AND EFFECT: To review and update Chapter 11N-1 pursuant to legislative amendments to s. 943.031 and 943.042, F.S.; FDLE and the Violent Crime Council are to develop criteria and procedures for matching funding of statewide or multi-jurisdictional drug control and illicit money laundering investigative or task force efforts.

SUMMARY: Rule 11N-1.001 is repealed. Rule 11B-1.002 is amended to incorporate the new statutory provisions to provide criteria for funding multi-agency or statewide drug control or illicit money laundering investigative or task force efforts. New Rule 11N-1.0021 establishes criteria that the Violent Crime Council (VCC) considers in evaluating proposals for violent crime reimbursement funding. New Rule 11N-1.0022 establishes the criteria that the VCC considers in evaluating requests for matching drug control and illicit money laundering

funding. Rule 11N-1.003 revises and updates the limits to be placed on funding for violent crime investigative reimbursement funding requests. New Rule 11N-1.0031 provides for limitations to be placed on funding for matching drug control and illicit money laundering investigative or task force efforts. Rule 11N-1.004 revises and updates procedures used by agencies requesting emergency funding for investigations of violent crimes. Rule 11N-1.005 clarifies and updates the process which agencies complete when requesting violent crime investigative reimbursement funds. New Rule 11N-1.0051 establishes procedures for funding requests for multi-agency or statewide task force drug control and illicit money laundering efforts. Rule 11N-1.006 adds a new provision that allows agencies who obtain forfeiture proceeds to contribute a portion of the forfeiture proceeds to FDLE for use by the VCC in further matching funding efforts. Rule 11N-1.007 updates and revises procedures for an annual independent audit of the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. New Rule 11N-1.008 provides for a public records exemption for certain portions of Council meetings pertaining to active criminal investigative or intelligence information.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.042 FS.

LAW IMPLEMENTED: 943.031, 943.042 FS.

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

TIME AND DATE: 1:00 p.m., August 21, 2001

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD) at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11N-1.001 Purpose.

~~The purpose of the Violent Crime Emergency Account within the Department of Law Enforcement Operating Trust Fund is to provide emergency supplemental funds to state and local law enforcement agencies which are involved in complex and lengthy violent crime investigations or violent crime investigations which constitute a significant emergency within the state; and to counties which demonstrate a significant hardship or an inability to cover extraordinary expenses associated with violent crime trials. These rules set out criteria, limitations, and procedures for operation of the Account.~~

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, Repealed.

11N-1.002 Criteria.

The Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be used as appropriated by the Legislature:

(1) To provide emergency supplemental funds to:

(a) State and local law enforcement agencies which are involved in complex and lengthy violent crime investigations;

(b) State and local law enforcement agencies which are involved in violent crime investigations which constitute a significant emergency within the state; ~~or~~

(c) Counties which demonstrate a significant hardship or an inability to cover extraordinary expenses associated with a violent crime trial; or

(2) To provide matching funding to multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that: ~~In determining whether requests from state and local law enforcement agencies relate to involvement in a complex and lengthy violent crime investigation, the Council shall consider whether:~~

(a) Significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control; ~~The crime under investigation involves multiple victims;~~

(b) That represent a significant illicit money laundering investigative effort; ~~or The crime resulted in the death or serious bodily injury to one or more victims;~~

(c) That otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333, F.S. ~~The crime appears to be part of a pattern of serial or interrelated criminal events;~~ ~~or~~

~~(d) The crime evidences a heinous, wicked, or grossly disturbing method of commission; and shall consider the nature and extent of complexity and length of the investigative~~

efforts and whether the expenses claimed are beyond the resources of the investigative agency or agencies making the request for funding.

(3) In determining whether requests from state and local law enforcement agencies relate to a violent crime investigation which constitutes a significant emergency within the state, the Council shall consider whether:

(a) The nature and extent of the crime produces a heightened concern within the state for the safety and well-being of Florida's citizens and visitors;

(b) The crime committed is thought to involve one or more perpetrators who have traveled from one state or local jurisdiction to another committing similar or "pattern" crimes;

(c) The crime is such that absent successful apprehension and prosecution of the perpetrator, Florida's reputation for being a safe recreational, occupational, and residential location is being jeopardized or is suffering significant deterioration; and shall consider whether the expenses claimed are beyond the resources of the investigative agency or agencies making the request for funding.

(4) In determining whether a county has demonstrated a significant hardship or inability to cover extraordinary expenses associated with a violent crime trial, the Council shall consider whether:

(a) The expenses claimed as extraordinary expenses associated with a violent crime trial are such as to have been reasonably unpredictable as expenses to be incurred by the county in meeting its general obligations to the criminal justice system;

(b) Reasonable witness related expenses associated with a violent crime trial (such as travel and lodging expenses) have exceeded or are anticipated to exceed those incurred for similar trials in the trial's geographic location;

(c) Special security needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not normally incurred in providing security for similar trials in the geographic location;

(d) A change of venue or jury selection or sequestration needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not normally incurred for similar trials in the geographic location; and shall consider whether the extraordinary expenses claimed are beyond the resources of the county making the request for funding.

(5) As used herein, "beyond the resources" means that the expenses claimed by the requester are so extraordinary that they currently and significantly limit the requester's ability to provide the services or duties required by law, and that the requester has demonstrated to the Council that all reasonable alternatives for funding the claimed expenses have been exhausted.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95,_____.

11N-1.0021 Violent Crime Investigative Reimbursement and Emergency Funding.

(1) In determining whether requests from state and local law enforcement agencies relate to involvement in a complex and lengthy violent crime investigation, the Council shall consider whether:

(a) The crime under investigation involves multiple victims;

(b) The crime resulted in the death or serious bodily injury to one or more victims;

(c) The crime appears to be part of a pattern of serial or interrelated criminal events; or

(d) The crime evidences a heinous, wicked, or grossly disturbing method of commission; and shall consider the nature and extent of complexity and length of the investigative efforts and whether the expenses claimed are beyond the resources of the investigative agency or agencies making the request for funding.

(2) In determining whether requests from state and local law enforcement agencies relate to a violent crime investigation which constitutes a significant emergency within the state, the Council shall consider whether:

(a) The nature and extent of the crime produces a heightened concern within the state for the safety and well-being of Florida's citizens and visitors;

(b) The crime is thought to involve one or more perpetrators who have traveled from one state or local jurisdiction to another committing similar or pattern crimes;

(c) The crime is such that absent successful apprehension and prosecution of the perpetrator, Florida's reputation for being a safe recreational, occupational, and residential location is being jeopardized or is suffering significant deterioration; and the expenses claimed are beyond the resources of the investigative agency or agencies making the request for funding.

(3) In determining whether a county has demonstrated a significant hardship or inability to cover extraordinary expenses associated with a violent crime trial, the Council shall consider whether:

(a) The expenses claimed as extraordinary expenses associated with a violent crime trial are such as to have been reasonably unpredictable as expenses to be incurred by the county in meeting its general obligations to the criminal justice system;

(b) Reasonable witness related expenses associated with a violent crime trial (such as travel and lodging expenses) have exceeded or are anticipated to exceed those incurred for similar trials in the trial's geographic location;

(c) Special security needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not normally incurred in providing security for similar trials in the geographic location;

(d) A change of venue or jury selection or sequestration needs associated with a violent crime trial have generated expenses or are anticipated to generate expenses not normally incurred for similar trials in the geographic location; and the extraordinary expenses claimed are beyond the resources of the county making the request for funding.

(4) As used herein, beyond the resources means that the expenses claimed by the agency seeking emergency supplemental funding under this section are so extraordinary that they currently and significantly limit the requester's ability to provide the services or duties required by law, and that the requester has demonstrated to the Council that all reasonable alternatives for funding the claimed expenses within the requesting agency's current fiscal year have been exhausted.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New _____.

11N-1.0022 Matching Drug Control Investigative Funding.

(1) In determining whether requests for matching funding:

(a) Relate to multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control;

(b) Represent a significant illicit money laundering investigative effort; or

(c) Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Council, the following criteria shall be considered:

I. Mandatory Factors:

a. The investigative effort focuses on a drug trafficking operation shown to have, or reasonably suspected of having, activities such that involvement of multiple investigative agencies is necessary; and

(I) At least two agencies of the State of Florida, counties, cities, or combination thereof within the State of Florida are involved; and

(II) The investigative effort demonstrates a commitment of participating agencies to cooperate with one another in a collaborative investigative effort:

b. The operation to be investigated has, or is reasonably believed to have, a structure that directs, finances, and engages in illegal drug trafficking and related crimes (such as money-laundering, tax violations, corruption of public officials and employees, illegal immigration, weapons violations, and crimes of violence) that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents; and

c. The proposed investigative effort demonstrates a specific strategy:

(I) To achieve successful prosecutions of those within the organization who hold a position of organizer, supervisor, or any other position of management or who obtains substantial assets or resources from the illegal acts of the operation being investigated as they may become identified; and

(II) To utilize a multi-agency and cross-discipline approach to disrupt and dismantle the criminal operation, such as licensure action, charter revocation, regulatory sanctions and tax assessments.

d. The proposed investigative plan demonstrates a level of participating agency resource commitment that suggests a substantial likelihood of investigative and prosecution success; and

e. The proposed effort includes a commitment from one or more State Attorneys in Florida, U.S. Attorneys in Florida, or Florida's Statewide Prosecutor having jurisdiction over the activities of the organization under investigation to assist and support the investigation, through efforts such as issuance of subpoenas, use of grand juries, obtaining search warrants, securing court orders regarding the interception of communications, coordinating multiple prosecutions, assisting in securing plea agreements with those in the organization in return for cooperation and testimony, and certifying witnesses for witness protection under applicable law and a commitment to cooperate with other prosecuting entities having jurisdiction over activities of the organization to maximize the success of the investigative effort.

2. Non-Mandatory Factors Enhancing The Significance of the Proposed Effort:

a. The activities of the operation under investigation are responsible for known specified significant criminal activity in multiple regions of the State;

b. The activities of the operation are primarily associated with, and the investigative plan focuses upon, the illicit trafficking of cocaine, heroin, or other controlled substances of current major state concern, including substances commonly referred to as "rave drugs" or "designer drugs" such as "Ecstasy" (3-4 methylenedioxymethamphetamine "MDMA"), gamma hydroxy butyrate ("GHB"), methamphetamine ("Meth"), lysergic acid diethylamide ("LSD"); and other substances;

c. The proposed investigative plan has identified the types and methods of money laundering violations under state or federal law actually, or suspected to be, occurring, and articulates a dedicated strategy to identify, trace, and address persons, institutions or other entities that are likely involved;

d. The operation under investigation is known to have and identifies, or is reasonably believed to have, assets and property that constitute contraband under Florida or other law that may be seized and forfeited and the investigative plan contains a strategy to identify such assets and property and to use forfeiture options to disrupt the underlying organization;

e. Persons in the operation under investigation are, upon successful prosecution, likely to receive sentences involving substantial terms of incarceration in state or federal prisons, paying a substantial fine, or both;

f. The proposed investigative effort appears to be likely to be lengthy and complex, and will likely require sophisticated electronic, undercover or other investigative techniques;

g. The operation under investigation is such that if investigation and prosecutions are successful it is likely that substantial reductions in the availability of illegal controlled substances within the State of Florida will result; or

h. The proposal presents a significant innovative plan with a substantial likelihood of success for addressing a significant drug trafficking organization.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New _____.

11N-1.003 Limitations on Violent Crime Investigative Reimbursement Funding.

(1) Requests for Violent Crime Investigative Reimbursement Funding.

(a) Requests for violent crime investigative reimbursement funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be limited to case-related investigative expenses and salary overtime payments. This excludes the purchase of equipment or payment of salaries for permanent employees; however, salary payments may be made to temporary employees under contractual agreements.

(b) Because an investigation may involve multiple law enforcement agencies, funds awarded to the requesting agency may be used for expenses incurred by assisting agencies.

(c) Funding provided under this section from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available to Florida law enforcement agencies for violent crime investigative purposes. Law enforcement agencies include police departments, sheriffs' offices, and state law enforcement agencies; however, for the purposes of this rule, the term excludes state prosecutors' offices except for criminal investigations.

(d) In order to provide for a rapid investigative response to violent crime incidents, law enforcement agencies may under this section apply for emergency violent crime investigative funding up to a maximum of \$25,000.

(e) In addition to or instead of emergency violent crime investigative funding, law enforcement agencies may make a formal request under this section for violent crime investigative funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. Additional requests may be submitted on a single case if the investigation must be extended.

(f) Funding provided under this section from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available only for investigations of violent crime incidents which occurred on or after July 1, 1993. Such funding shall not be used to supplant, take the place of, or substitute for existing appropriations of state and local law enforcement agencies and counties.

(2) Requests for Violent Crime Trial Funding.

(a) Requests under this section for funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be limited to extraordinary violent crime trial-related expenses and salary overtime payments. Such funding shall not include the payment of salaries for permanent employees, or the purchase of furnishings and equipment. Examples of extraordinary trial-related expenses include expert witness fees, travel expenses of witnesses, extraordinary security measures, and salary payments to temporary security personnel under contractual agreements.

(b) Violent crime trial Trial funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available only for expenses incurred on or after July 1, 1994. Such funding shall not be used to supplant, take the place of, or substitute for existing appropriations of state and local law enforcement agencies and counties.

(3) Overall Limits to Violent Crime Funding.

(a) The maximum funding limit on the amount that may be disbursed on a single violent crime's investigation for all investigative efforts shall be \$100,000, for each criminal event.

(b) A single agency may receive no more than \$200,000 Violent Crime Investigative Reimbursement funds during an agency's fiscal year.

(c) No reimbursement funding for expenses incurred in an agency's previous fiscal year shall be provided.

(d)(b) The maximum funding available to each county for all trials for which that county is financially responsible of all defendants derived from a criminal event shall be \$100,000. As used herein "a criminal event" means a violent crime or series of violent crimes interrelated to one another in such a way that the crime constitutes a single criminal transaction or related transactional series of crimes, regardless of the number of criminal acts that may have been committed during the event or the number of perpetrators involved in the event. No reimbursement request for trial expenses incurred in a county's previous fiscal year shall be funded.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95, _____.

11N-1.0031 Limitations on Matching Drug Control Investigative Funding.

(1) Requests for matching funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be limited to case-related investigative expenses, salary and overtime for the efforts of officers and employees directly linked to a funded investigation and other expenses related to investigations approved for funding by the Council.

(2) Each matching funding request shall designate a lead investigative agency that will serve as the liaison between the Council and the participating agencies for the purposes of coordinating the collection of information and in disbursing funds approved by the Council. Each participating agency shall agree to promptly provide requested information to the Council, to provide regular performance reports and information related to funded investigations as required by the Council, retain documentation and proof of expenditures or personnel efforts as may be required by the Council, and submit to any audit or review of the use of received funds as may be required by the Council.

(3) Matching funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available only to a Florida state or local law enforcement agency, and such funding shall be used for investigative purposes directly linked to the investigative effort approved for funding by the Council. As used herein, "law enforcement agency" includes a Florida police department, a Florida sheriff's office, a regional office of the Florida Department of Law Enforcement or other Florida state law enforcement agency, the Florida Comptroller's Office of Financial Investigations, or a troop of the Florida Highway Patrol. However, the term excludes state attorneys' offices and the Office of Statewide Prosecution except for resources provided by such offices exclusively dedicated to investigative efforts approved for funding by the Council.

(4) Limits Upon Matching Funding.

(a) The maximum matching funding provided by the Council on a single investigation shall be \$100,000. However, an approved investigative effort may consist of multiple investigations, each of which may receive matching funding up to \$100,000.

(b) No law enforcement agency as defined herein may receive more than \$200,000 in Council matching funds during the agency's fiscal year.

(c) In each agency fiscal year, payment of overtime with matching funds shall not exceed \$10,000 per officer or employee dedicated to the funded investigative effort.

(d) The Council may fund all, a portion, or none of a proposed investigative effort seeking matching funding.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New

11N-1.004 Procedures for Emergency Violent Crime Investigative Funding.

(1) Requests for violent crime investigation emergency funding up to the maximum of \$25,000 shall be made by a detailed written request demonstrating how emergency funding criteria established in this rule are satisfied and certifying that the requesting agency cannot initiate or continue the investigation without immediate supplemental funding. The request shall be accompanied by Form FDLE 20-003, Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account Application Cover Sheet, revised _____ 4/99, hereby incorporated by reference, and shall be mailed to the chairperson of the Florida Violent Crime and Drug Control Council, c/o Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida 32302. This form can be obtained by written request to the above address.

(2) The chairperson of the Florida Violent Crime and Drug Control Council, as authorized by the Council, shall review all requests for emergency funding, and approve or disapprove each request based upon the criteria specified in this rule chapter, the needs outlined by the requesting agency, and funds available in the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. In the event the chairperson determines a conflict of interest or becomes unavailable, the vice chairperson shall make the decision.

(3) Agencies receiving emergency violent crime investigative funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall provide a written quarterly report to the chairperson of the Florida Violent Crime and Drug Control Council of all expenditures from the Account funds. The report shall be accompanied by Form FDLE 20-004, Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account Quarterly Report, revised ~~effective October 1995~~, hereby incorporated by reference, and shall be mailed to the chairperson of the Florida Violent Crime and Drug Control Council, c/o Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida 32302. This form can be obtained by written request to the above address. Requesting agencies shall retain documentation supporting expenditures from the Account and make these available during the annual evaluation and audit of the trust fund.

(4) Within 60 days of the conclusion of the violent crime investigation or 180 days after disbursement of the emergency funding, whichever is sooner, the receiving agency shall return any unexpended funds to the Department of Law Enforcement for deposit back into for re-deposit in the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account, unless the Florida Violent Crime and Drug Control Council authorizes an extension of the funding based upon a determination that the receiving agency is

continuing in good faith to utilize such funds or upon a request of the receiving agency that additional time is needed to prepare and submit a final reconciliation and report to the Council.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95, 8-22-00,_____.

11N-1.005 Procedures for Formal Funding Requests for Violent Crime Investigative Reimbursement Funding.

(1) The Department of Law Enforcement has established in each area of the state served by a Department regional office a Regional Violent Crime Investigative Coordinating Team (Team). All formal funding requests for violent crime investigation or violent crime trial expense reimbursement funding must be submitted to the Team in the region from which the request is made. Upon receipt, the Team shall review the request to determine whether it appears to conform with the requirements of rule and statute. If the request is determined to not conform with such requirements, it shall be returned to the submitting agency, with the deficiencies specifically noted along with suggestions on how the request may be revised to bring it into conformance with requirements. If the request is determined to conform with such requirements, the head of the Regional Violent Crime Investigative Coordinating Team shall signify in writing the Team's review and endorsement for Council consideration, and forward the request to the Council as noted below.

(2) In order to assure careful consideration of requests before presentation to the Council, written requests for funding shall be submitted by the head of the Regional Violent Crime Investigative Coordinating Team so that they are received at least fifteen days prior to the next scheduled Violent Crime and Drug Control Council meeting. Requests shall be mailed to: Florida Violent Crime and Drug Control Council, c/o Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302, and shall indicate who will be making the presentation to the Council.

(3)(4) Agencies making formal funding requests under this section, shall submit to the Council via the Regional Violent Crime Investigative Coordinating Team a detailed and itemized written request to the Florida Violent Crime Council and the head of the requesting agency shall certify in writing that the request complies with the requirements established by this rule for funding. The request shall be accompanied by Form FDLE 20-003, as incorporated by reference in rule 11N-1.004(1). The request shall describe the violent crime case in relation to the criteria established in this rule chapter and shall state details and specifics demonstrating that the resources of each requesting agency are insufficient to meet the investigative or trial expenses in the agency's current fiscal year.

~~(2) The formal funding request shall include a written endorsement from the Regional Violent Crime investigation coordinating team in its service area of the need to obtain funding from the Violent Crime Emergency Account.~~

(4)(3) The Florida Violent Crime and Drug Control Council shall review all formal funding requests and approve or disapprove all or part of each request based upon the criteria specified in this rule chapter, the needs outlined by the requesting agency, and funds available in the Violent Crime Emergency Account.

(5)(4) Moneys provided in response to a formal funding request for a violent crime investigation or trial shall be available on a reimbursement basis with written documentation of expenses from cases approved by the Council. When advance funding is necessary in order to continue an investigation or prepare for a trial, moneys provided in response to an approved formal funding request shall be available in advance with documentation of critical need for advance funding.

(6)(5) Agencies receiving advance funding under this section from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall provide a written quarterly report to the chairperson of the Florida Violent Crime and Drug Control Council of all expenditures from the Account funds. The report for such advance funding shall be accompanied by Form FDLE 20-004, incorporated by reference in Rule 11N-1.004(3). Requesting agencies shall retain documentation supporting expenditures from the Account and make these available during the annual evaluation and audit of the trust fund.

(7)(6) Within 60 days of the conclusion of the violent crime investigation or trial, or 180 days after disbursement of the advance funding, whichever is sooner, the receiving agency shall return any unexpended funds to the Department of Law Enforcement for re-deposit in the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account, unless the Florida Violent Crime and Drug Control Council authorizes an extension of the funding based upon a determination that the receiving agency is continuing in good faith to utilize such funds or upon a request of the receiving agency that additional time is needed to prepare and submit a final reconciliation and report to the Council.

(8)(7) If a receiving agency subsequently is reimbursed from another source of funding for the expenditures funded by the Council, the receiving agency shall repay the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account an amount that is the lesser of the subsequent reimbursement or the advance funding.

~~(8) Written requests for funding shall be submitted at least fifteen days prior to the next scheduled Violent Crime Council meeting. Requests shall be mailed to: Florida Violent Crime~~

Council, c/o Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302, and shall indicate who will be making the presentation to the Council.

(9) Requests for emergency supplemental funds for extraordinary expenses associated with a violent crime trial shall be accompanied by written documentation from the county's chief financial officer demonstrating the significant hardship or inability to cover extraordinary trial expenses in the county's current fiscal year. Such documentation shall also bear the signature of the head of each agency seeking funds.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95,_____.

11N-1.0051 Procedures for Funding Requests for Matching Drug Control Investigative Funding.

(1) The Department of Law Enforcement has established in each area of the state served by a Department regional office a Regional Drug Enforcement Coordinating Team (Team) to coordinate the identification and development of multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333, F.S. Each Team will be under the direction of the Florida Department of Law Enforcement Regional Director for the area of the state in which the Team operates. The Team should be made up of representatives of state, local, and federal law enforcement and prosecuting entities working within the area.

(2) All requests for matching drug investigative effort funds from the Violent Crime and Drug Control Council must be developed in conjunction with, and approved by, the Team in the region from in which the lead requesting agency is located. No request submitted without the endorsement of the Team will be considered by the Council.

(3) Prior to submitting a request for matching funds to the Department of Law Enforcement for review and consideration for Council funding, the Team shall assure that the various requirements of this rule have been satisfied. The Team shall discuss each mandatory criteria element stated in this rule, explaining in detail how the criteria is met. In addition, the Team shall identify and discuss each non-mandatory criteria identified in this rule reasonably applicable to the request. The Team shall assure that the funding proposal has been explained in sufficient detail to promote a fair review and evaluation of the request by the Department and the Council.

(4) All submissions to the Department from a Regional Drug Enforcement Coordinating Team must be approved by the Team and deemed complete, as indicated by the written certification of the head of the Team.

(5) Submissions from a Regional Drug Enforcement Coordinating Team shall be made to the Department of Law Enforcement's Office of Statewide Intelligence. Materials being submitted shall be secured and transmitted in a manner to assure that the criminal investigative and criminal intelligence information contained is not compromised.

(6) The Office of Statewide Intelligence will receive and review all submissions from the various Regional Drug Enforcement Coordinating Teams utilizing the criteria of this rule, and shall prioritize from the pending submissions those proposals that best meet the criteria of this rule and are determined to be multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that are most likely to significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent the most significant of proposed illicit money laundering investigative efforts, or are cases that are best believed to otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333, F.S.

(7) The Office of Statewide Intelligence (OSI) shall present to the Council all cases forwarded to it by the regional Teams, indicating its prioritization determinations at a meeting of the Council. The presentation must include a recommendation of which cases OSI believes should receive funding priority and the amount of matching funding recommended and may identify the relative strengths and weaknesses of the cases under consideration in meeting the underlying goals of Council matching funding.

(8) The Council will make its matching funding decisions based upon the information presented to it by OSI, or otherwise made available at a Council meeting, and the availability of funds for use by the Council. The Council may direct that approved funding shall be paid in a lump sum or in installments. The Council may fund all, a portion, or none of a request presented to it.

(9) Denial of all or a part of a request shall not disqualify the request from future consideration by the Council. However, any such request will be considered a new funding request and must be evaluated and approved through the process set forth in this Rule, beginning with consideration and approval by the Regional Drug Enforcement Coordinating Team.

(10) Council-provided matching funds shall be expended in a manner consistent with the investigative purposes approved by Council, and may not be utilized to pay any part of the commitment made by the recipient agencies in determining the amount of funds to be matched by the Council-provided funds.

(11) If after receipt of funds, it appears that a funded investigative effort will substantially depart from the focus and effort originally approved by the Council, the agencies

receiving Council funds shall suspend use of such funds and shall contact the Regional Drug Enforcement Coordinating Team leader and describe the change of focus and effort.

(a) If the new focus and effort is of a type that could be considered for Council funding, the Team and the participating agencies shall secure Council approval for the continued use of Council funds by the funded agencies. Any such request shall be evaluated and approved through the process set forth in this Rule, beginning with consideration and approval by the Regional Drug Enforcement Coordinating Team, but shall be expedited to minimize any negative effect the suspension of spending of Council funds may have on the ongoing investigation.

(b) If authorization for continued use of Council funds must be considered prior to the next regular meeting of the Council, the Council may consider such requests at a special meeting by phone or videoconference.

(c) The Council may endorse changes of focus or efforts and authorize the continued use of Council funds when receiving progress reports during regularly scheduled meetings provided that the Team and the Office of Statewide Intelligence endorse the new focus or efforts for such continued funding.

(12) In order to assure careful consideration of original requests for matching funding and resubmitted requests for funding that have been previously denied, the written requests and approvals shall be submitted by the head of the Team to the Office of Statewide Intelligence no later than 30 days prior to the meeting of the Council in which the request for matching funding might be considered.

(13) Agencies seeking matching funding under this section shall cooperate with the Team in the agencies' area, and provide all information as requested by the Team to assist in the preparation of a funding request, including information to identify the amounts of funds being committed by each participating agency to be matched by Council matching funds. The head of each requesting agency that seeks to receive Council matching funds shall include in the submission to the Team a certification in writing that to the agency head's best knowledge and belief, the request complies with the requirements established by law and this rule for funding. The agency head shall also agree to provide requested information to the Council to assist the Council in its performance-monitoring obligations and shall agree to retain proof and documentation as may be required by the Council and to submit to any audits or reviews of agency utilization of Council funds or funds derived from any Council-funded investigative effort as may be performed. The request shall be accompanied by Form FDLE 20-003.

(14) Funding Calculations.

(a) In calculating the amount being provided by a requesting agency for which matching Council funds may be provided, the Council shall consider:

1. The base salary (excluding benefits and taxes) and overtime compensation pledged (excluding benefits and taxes) of agency employees for that portion of the employees' efforts dedicated exclusively to the proposed investigative effort, and

2. Normal operating costs directly attributable to the proposed investigative effort as specifically identified by the requesting agency, subject to the exclusions listed below.

(b) In calculating the amount being provided by a requesting agency for which matching Council funds may be provided, the Council shall not consider:

1. Funding received by the agencies from federal sources;
or

2. Funding utilized for:

a. Purchases of equipment that will be retained in a participating agency's inventory;

b. The cost of purchased vehicles, vessels, aircrafts, or conveyances;

c. Any expense or purchase that appears to be incidental to, or otherwise failing to be shown to substantially support, the proposed investigative effort;

d. Seminar and training expenses for employees or officers assigned to the proposed effort; and

e. Rental or purchases of buildings and costs associated with the use or operation of such buildings, such as utilities and maintenance.

(15) Council-provided funds shall not be used for any purposes used by the requesting agency in calculating its contribution to be matched by Council Funds. Where an employee's overtime has been pledged by an agency as a contribution to be matched by Council funds, no Council-provided funds may be used for the employee's overtime until such time as the agency's pledged overtime funding has been completely expended. Matching funds shall not be used to purchase or lease vehicles, vessels, aircrafts or conveyances, computer equipment, or buildings or the maintenance or repair of any such property or equipment. Matching funds shall not be used to pay employee base salaries. In each agency's fiscal year, up to \$10,000 in matching funds may be applied to an employee's overtime (excluding benefits and taxes) for efforts dedicated exclusively to the funded investigative effort. Matching Council funds may be used for the temporary rental of property or equipment for an undercover operation in support of the investigative effort, or for use in surveillance activities tied to the investigative effort. Matching Council funds may be utilized to pay overtime of agency employees' efforts directly in support of the funded investigative effort, limited to \$10,000 per employee in the employee's agency's fiscal year.

(16) Matching Funding Documentation.

(a) Agencies receiving matching funding under this section shall provide a written quarterly report of expenditures of Council funds and of the progress of the investigative effort. The report shall be prepared in consultation with the Regional

Drug Enforcement Coordinating Team and submitted by that Team through the Office of Statewide Drug Intelligence for compilation and presentation to the Council at a quarterly meeting. Form FDLE 20-004 shall be utilized to make the report. In addition, the Council may require oral progress reports to be made at Council meetings by a representative of the Regional Drug Enforcement Coordinating Team or a designee of the lead investigative agency in a funded investigative effort.

(b) Agencies receiving matching Council funding shall retain documentation supporting the amounts and purposes of expenditures made from matching Council funds, the amounts and purposes of expenditure of funds pledged as the basis for the amount of funds to be matched by the Council, the performance and accomplishments of the investigative efforts, and shall make these available to the Council upon request. With regard to agency personnel assigned to investigative efforts receiving Council funds, each agency shall retain, and make available to the Council as requested, each employee's official time and leave records and such other documentation demonstrating the time devoted by the employee to the funded investigative effort.

(c) Agencies receiving matching Council funding shall provide such other information as may be required by the Council to assist the Council in preparing its annual report to the Legislature, to assist audits of Council activities, or to assist the Council in fulfilling its role to monitor the performance of funded investigations.

(17) If funds provided by the Council remain unexpended upon the conclusion of any investigative effort, the participating agencies shall return unexpended Council funds to the Council within 90 days of the conclusion of the investigative effort.

(18) If an agency receiving Council matching funds is subsequently reimbursed or funded from another source of funding for the expenditures funded by the Council, the receiving agency shall return to the Council an amount that is the lesser of the subsequent reimbursement or the matching funding received from the Council.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New _____.

11N-1.006 Contributions.

Local law enforcement agencies may contribute to the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account by submitting funds to the executive director of the Department of Law Enforcement. Contributions should be accompanied by a written statement designating the funds to the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. Agencies receiving forfeiture proceeds by reason of an investigative effort receiving matching Council funds may contribute a portion of those proceeds to the Department of Law Enforcement for use by the Council in further matching funding efforts.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95,_____.

11N-1.007 Annual Audit.

The Department of Law Enforcement will annually arrange for an independent evaluation of the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account to ensure expenditures are consistent with provisions of this rule chapter, and annually arrange for an independent audit of the financial statement.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 3-10-94, Amended 10-10-95,_____.

11N-1.008 Active Criminal Investigative and Active Criminal Intelligence.

All sessions of meetings of the Council in which active criminal investigative or active criminal intelligence information is discussed shall be closed to the public as authorized at s. 943.031(7), F.S. All documents and information in the custody of the Council revealing active criminal intelligence or active criminal investigative information are exempt from public disclosure as provided by law. Only members of the Council or members of the Department of Law Enforcement assisting the Council, and persons whose presence has been specifically authorized by the Council shall be allowed to attend sessions of the Council's meetings otherwise closed to the public.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael R. Ramage, General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael R. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2001

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

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water

RULE TITLE: Personnel Rule Manual Incorporated

RULE NO.:

by Reference 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.

SUMMARY: This rule amendment incorporates by reference the most recent Personnel Rule Manual concerning the various activities of personnel and employees of Tampa Bay Water.

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

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

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

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

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

TIME AND DATE: 9:00 a.m., August 20, 2001

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

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

THE FULL TEXT OF THE PROPOSED RULE 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)(h) FS. Law Implemented 120.54(1)(i), 163.01, 373.1962, 373.1963 FS. History--New 7-29-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Holly Wells, Human Resources Manager

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry L. Maxwell, General Manager

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Certification for Multiple Inspection Classes RULE NO.: 61G19-6.002

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

SUMMARY: The purpose of the rule amendments is to update the rule text with regard to Certification for Multiple Inspection Classes.

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

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

SPECIFIC AUTHORITY: 468.606 FS.

LAW IMPLEMENTED: 468.607, 468.609 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-6.002 Certification for Multiple Inspection Classes.

The Board shall issue a single certificate valid for multiple inspection classes to:

(1) Persons holding multiple certificates under one of the ~~five~~ voluntary certification programs defined in Section 61G19-6.016 ~~61G19-1.008~~, Florida Administrative Code;

(2) Persons holding multiple certificates under a voluntary certification program not defined in Section 61G19-6.016 ~~61G19-1.008~~, Florida Administrative Code, which has been accepted for endorsement by the Board; and

(3) Persons qualifying by examination for multiple inspection classes under the provisions of this part.

Specific Authority 468.606 FS. Law Implemented 468.607, 468.609 FS. History--New 5-23-94, Amended 11-28-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Secretary

DOCKET NO.: 01-09R

RULE CHAPTER TITLE: Marjorie Harris Carr Cross Florida
Greenway State Recreation and
Conservation Area

RULE CHAPTER NO.: 62S-3

RULE TITLES: Definitions

RULE NOS.: 62S-3.001

Operations, Activities and Recreation on the
Marjorie Harris Carr Cross Florida Greenway
Determinations and Applicability of Fines

62S-3.002

62S-3.003

PURPOSE AND EFFECT: This new rule establishes definitions; operations, activities and recreation that is allowed, prohibited or restricted on the Marjorie Harris Carr Cross Florida Greenway; and fine ranges for violations of the rules. The purpose of the rule is to assist the Office of Greenways and Trails in management of visitors to and resources of the Greenway. The rule will have the effect of advising the public what they can and cannot do on the Greenway and how and when they could be fined for violations of the rule.

SUMMARY: The first section of the rule establishes definitions of terms used in the second section of the rule. The second section of the rule provides for allowed, prohibited, or restricted operations, activities and recreation on the Greenway. It establishes rules for treating plants and animals on the Greenway; camping, swimming, boating, hunting and fishing within the Greenway; conducting special events or other activities needing authorization from the Office of Greenways and Trails; human activities on the Greenway; pets within the Greenway; and other uses of Greenways lands, such as for utility easements. The third section of the rule provides fine ranges of \$1 to \$500 for violations of the second section, and payment of such fines.

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

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

SPECIFIC AUTHORITY: 260.016 FS.

LAW IMPLEMENTED: 253.7821, 260.016, 260.017 FS.

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

TIME AND DATE: 10:00 a.m., August 21, 2001

PLACE: 3900 Commonwealth Boulevard, Conference Room A, Tallahassee, FL

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel, (850)488-2996 or 1(800)955-8771 (TDD), at least seven days before the hearing.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Samantha Browne, MS 795, Office of Greenways and Trails, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)488-3701

THE FULL TEXT OF THE PROPOSED RULES IS:

62S-3.001 Definitions.

The terms used in this chapter are defined as follows:

(1) “DEPARTMENT” means the Department of Environmental Protection.

(2) “Facility” means Greenway property consisting of one or more of the following: a building, a structure, trails, pavement, or other similar improvements.

(3) “FFWCC” means Florida Fish and Wildlife Conservation Commission.

(4) “Greenway management practices” means specific practices as outlined in the Management Plan.

(5) “Greenway waters” means any sovereign submerged land or water on state-owned land within the Marjorie Harris Carr Cross Florida Greenway boundary.

(6) “Holiday” means:
New Year’s Day.

Birthday of Martin Luther King, Jr., the third Monday in January.

Memorial Day.

Independence Day, the Fourth of July.

Labor Day.

Columbus Day.

Veterans’ Day.

Thanksgiving Day.

Friday after Thanksgiving.

Christmas Day.

If any of these above-referenced holidays falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

(7) “Management Plan” means the Greenway Management Plan prepared by the University Planning Team of the University of Florida and approved by the Governor and Cabinet on December 15, 1992.

(8) “Managing entity” means the agency, governmental entity, corporation, organization or other authority that has undertaken and is responsible for the day-to-day operation, protection, maintenance and stewardship of a specified greenway or trail, or network of greenways or trails, or facility, under a management plan or written agreement with owner of the property.

(9) “Marjorie Harris Carr Cross Florida Greenway State Recreation and Conservation Area” or “Greenway” means the network of greenways and trails created by Section 253.781, Florida Statutes, including those portions of the Ocklawaha

River Valley and other lands and interests previously acquired by the state or federal government for construction and operation of the Cross Florida Barge Canal, the original corridor of which is specified in the Greenway Management Plan (plan) prepared by the University Planning Team of the University of Florida and approved by the Governor and Cabinet in December, 1992. A copy of this plan is located at the Office of Greenways and Trails, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399.

(10) “Natural area” means an area of land or water that either retains or has re-established the characteristics of native communities and provides environmental, scientific, recreational or aesthetic benefits.

(11) “Natural community” means a distinct and recurring assemblage of populations of plants, animals, fungi and microorganisms naturally occurring with each other and their physical environment.

(12) “Office” means the Office of Greenways and Trails of the Department.

(13) “Person” means any individual, corporation, partnership, firm, association, joint venture, estate, trust, business trust, syndicate, fiduciary, commission, county, municipality or political subdivision of a state, any interstate body, the federal government or any subdivision thereof and all other groups or combinations, whether public or private.

(14) “Reasonable notice” means any of the following: newspaper advertisements, radio advertisements, written or oral notice, posters or postings in public areas in the immediate vicinity, or any other means which are reasonable under the circumstances.

(15) “Special Event” means an occurrence which does not recur, or only recurs at long intervals, such as every year; which does not last longer than 30 days; which may involve the installation and use of temporary structures, such as tents, vendor booths, movie sets, corrals and other such items, on the Greenway; and which is of such a magnitude that extra management measures are required for such things as crowd control or law enforcement.

(16) “USFWS” means the United States Fish and Wildlife Service.

(17) “Vehicle” means every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks or vessels.

(18) “Vessel” means any type of boat or floating craft regardless of means of propulsion.

Specific Authority 260.016 FS. Law Implemented 253.7821, 260.016, 260.017 FS. History—New

62S-3.002 Operations, Activities and Recreation on the Marjorie Harris Carr Cross Florida Greenway.

The provision of this rule may be enforced by any local, state or federal law enforcement officer acting within their jurisdiction. Fines will be imposed under Section 62S-3.003, F.A.C., on persons who fail to comply with these rules. The following shall govern operations, activities and such recreation on the Greenway.

(1) Removal or Destruction of Greenway Property and Resources. Except as authorized by the Office for the purposes of establishment and maintenance of trails, no person shall destroy, injure, deface, mar, move, dig, harmfully disturb or remove from the Greenway, Greenway waters, or facilities any archaeological or historical resources, equipment, soil, sand, gravel, rocks, stones, minerals, plants or animals, or other materials. No person shall cut, carve, injure, mutilate, move, displace, or break off any water bottom formation or growth. Nor shall any person possess, break off, or in any way damage any stalactites, stalagmites or other cave formations. No rope, wire, or other contrivance whether permanent or temporary, shall be attached to any natural feature or property within the Greenway boundary.

(2) Fires. No person shall ignite or attempt to ignite any fire against or on any vegetation or facility, except in designated fireplaces or grills. No person shall dispose of burning matches, smoking materials or other flammable items except in designated receptacles. The Office shall conduct prescription burning for the restoration, maintenance and preservation of certain plant and animal communities in accordance with the management plan.

(3) Plant Life. The following shall apply to all plant life within the Greenway.

(a) All plant life, terrestrial, aquatic, and aerial, is the property of the State of Florida or other owner of land located within the greenway by agreement. No person, except as authorized by the Office for the purposes of establishment and maintenance of trails, shall cut, carve, or damage the bark, or break off limbs or branches or mutilate in any way, or pick the flowers or seeds of any plant or tree; nor shall any person dig in or otherwise disturb grass areas or in any other way impair the natural condition of any area; nor shall any person place debris or materials of any kind on or about any tree or plant.

(b) No person shall transplant or remove any plant life, except as provided herein. The Office shall control invasive exotic plants for the restoration, maintenance, and preservation of native plant communities.

(4) Animal Life. The following shall apply to all animal life within the Greenway.

(a) No person shall take, possess, molest, harm, frighten, kill, trap, hunt, chase, capture, shoot or throw any object at any mammal, bird, reptile, or amphibian, or any other animal except as provided for in subsection (7) below; nor shall any person remove the eggs, nest or young of any such animal; nor shall any person collect, remove, possess, give away, sell or offer to sell, buy or offer to buy, or accept as gift, any specimen, alive or dead, of the groups of tree snails. The public is prohibited from killing, capturing, or molesting venomous snakes. The Office shall remove venomous snakes from public areas.

(b) No person shall feed or attempt to feed or pet or attempt to pet any wild animal.

(c) No person shall capture, collect, or in any way harm any animal life, except fish commonly referred to as edible or game species or as otherwise provided herein.

(5) Hunting, Firearms and Fishing. The following shall apply to hunting, firearms and fishing with the Greenway boundary. Any person who is present in an area that has been established under Chapter 68A, F.A.C., is subject to all rules established by the FFWCC in addition to the rules established under Chapter 62S-3, F.A.C.

(a) Hunting, trapping, taking or the pursuit of wildlife is prohibited except as authorized by the FFWCC under Chapter 68A, F.A.C.

(b) Hunting on the Greenway is allowed only in areas designated by the FFWCC as hunting areas established under Chapter 68A, F.A.C. All persons who are present in established hunting areas are subject to all rules established by the FFWCC in addition to the rules established under Chapter 62S-3, F.A.C.

(c) Unless in, or enroute to an area designated or established as a hunting area under Chapter 68A, F.A.C., no person shall use, carry, or possess in any Greenway, weapons such as firearms of any type, air rifles, spring guns, bows and arrows (except in areas where bows may be legally used for freshwater and saltwater fishing), gigs (except in areas where gigs may be legally used for freshwater and saltwater fishing), sling shots, or any other forms of weapons or trapping devices potentially dangerous to wildlife or human safety except when such weapons or traps are used for resource management purposes as authorized in this paragraph. Shooting into or across the Greenway from beyond Greenway boundaries is prohibited. Any device that is employed to kill, immobilize, or capture any wildlife or any device otherwise used in violation of this chapter shall be seized by law enforcement officers. The Office shall authorize the control of nuisance animals and removal of exotic animals from the Greenway by trapping and other necessary means if required for Greenway resource management purposes or health or human safety.

(d) Migratory waterfowl hunting is allowed within the Greenway on all sovereign submerged lands, Rodman Reservoir and Lake Rousseau. All waterfowl hunting is subject to all laws of the USFWS and the FFWCC.

(e) Fishing is allowed in the Greenway waters unless otherwise posted as "No Fishing", in accordance with all federal and state laws. Any device which is employed to remove, capture, or attempt to remove or capture fish in any waters closed to fishing or any device otherwise used in violation of this rule shall be seized by law enforcement officers.

(f) Commercial fishing for food and baitfish is allowed in any Greenway waters. All persons participating in this activity shall be subject to all federal and state fishing laws.

(6) Introduction of Species. No person shall introduce into any part of the Greenway any plant or animal species by willful abandonment, negligence or for any other reason without authorization of the Office. Authorization shall be granted when the Office determines that the activity is consistent with Greenway management practices, and in keeping with protection, restoration, and maintenance of natural resources. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(7) Collection of Specimens. Authorization must be obtained for the collection of natural objects, including plant and animal life and minerals. Authorization may be granted if such collection is for scientific or educational purposes, and the Office determines that it provides some benefit to the Office for management purposes (such as provision of a copy of the scientific report generated to the Office); that it is not harmful to Greenway resources; and that it is consistent with Greenway management practices. Collection shall be conducted in compliance with the written authorization. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(8) Construction Activity. No person shall commence or conduct any construction activities upon any land or water areas within the Greenway, without first obtaining authorization from the Office. Authorization shall be granted only in cases where the construction activity is consistent with Greenway management practices, and in keeping with protection, restoration, and maintenance of natural resources. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(9) Public Utilities. Public utilities serving Greenway property or traversing the Greenway shall be designed, constructed and maintained as follows:

(a) Rights-of-way shall be as narrow as utility regulations permit, and shall be kept free of invasive non-native plant species;

(b) Maintenance (trimming or removal) of vegetation shall occur no more often than minimally required for safe utilities transmission;

(c) Small trees, shrubs and other vegetation shall be left undisturbed except that a minimal service road may be mowed, within the right-of-way;

(d) Trees that will interfere with power lines shall be cut or trimmed only as authorized by the Greenway manager;

(e) Large volunteer trees that are threatening buried gas lines shall be cut only as authorized by the Greenway manager;

(f) Easements crossing fire adapted plant communities shall be burned the same as the adjacent community;

(g) The utility company maintenance foreman shall consult with the Greenway manager prior to undertaking routine maintenance to insure that only minimum trimming is accomplished; and

(h) Only herbicides approved by the Office shall be used. The application of herbicides shall be confined to the utility easement and shall not adversely affect adjacent Greenway resources. Approved herbicides shall be listed and the list may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(10) Designated Public Areas. The Office, in accordance with Chapters 253 and 260, F.S., may prohibit or regulate any activity that lessens the health, safety, or recreational experience of the visiting public, lessens the natural or cultural value of the Greenway or damages the Greenway or any facility thereof. Except as provided herein, all recreational activities will occur at locations designated for such activities by the Office. When utilizing recreational trails, users shall stay on the trails designated for that purpose.

(11) Designated Access Points. If an access point has been established for a facility on the Greenway, entering or leaving the Greenway property except through the designated access points (except in emergency cases) is prohibited. No person can enter the Greenway property for the purpose of using the facilities therein without paying the appropriate fee, if any is in effect at the time.

(12) User Fees. User fees shall be established as follows.

(a) User fees for campground facilities shall be \$10 per night. A 50% discount will be allowed for Florida senior citizens and Florida citizens with proof of 100% disability.

(b) The Office shall establish standard user fees for boat ramp facilities, after consideration of user demand, cost of managing and operating the facility, type of facilities available, and season. User fees for boat ramp facilities shall be established for and posted at each site.

(c) User fees shall be waived by the Office or the Greenway manager or designee as follows.

1. Representatives of any government agency or other individuals who are conducting official business on the Greenway and who present proper identification.

2. Children under six years of age.

3. Patients of Florida State Mental Institutions and clients of the Department of Juvenile Justice and the Department of Children and Families, and other similar institutions. Such patients or clients shall be part of an organized group or program sponsored and under the immediate supervision of their respective institutions or parent agencies at all times while on the Greenway.

4. Florida school groups, including vocational schools, colleges and universities, accompanied by one or more teachers or chaperones at all times while on the Greenway, and bearing a letter from the school principal, professor or other appropriate official, certifying that the visit is related to a specific school curriculum and is for educational purposes rather than a purely recreational outing.

5. Organized volunteer groups who will provide a benefit to the Greenway, such as litter collection, tree planting, trail blazing, and trail maintenance. All volunteer activities shall be pre-arranged and authorized by the Office, Greenway manager or designee. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(13) Traffic Control and Parking. Traffic and parking on the Greenway shall be controlled as follows.

(a) Authorized law enforcement officers and Greenway staff shall direct traffic on the Greenway and at entrances thereto as conditions warrant. All persons shall comply with lawful orders, signals, and direction of such officers and staff. All persons shall observe and comply with posted traffic control devices and signs.

(b) No person shall drive a vehicle or travel by other means, such as bicycle, skateboard, electric-bike, in-line skates, roller skates or scooters at a speed greater than is reasonable or prudent, having due regard for weather conditions, the surface, width and condition of paving and the traffic thereon, particularly when near children or recreational users. Vehicles shall not exceed 25 miles per hour, except as otherwise posted. At the more congested centers and near facilities, vehicles shall not exceed 15 miles per hour or as otherwise posted.

(c) No person shall drive any vehicle in any area except designated roads, and parking areas. In the event motorized trails or motorized use areas are established, vehicles must stay on trails or in designated areas. Exceptions will be made for those persons who are physically impaired and have the proper permits.

(d) All vehicles shall be parked only in established parking areas or in such other areas and at such times as the Office may designate by signs, maps or other reasonable notice.

(14) Swimming and Bathing. No person shall swim, bathe, wade or dive in any waters at such places designated as prohibited for such activity by the Office by signs, maps or other reasonable notice.

(15) Proper Attire. No person shall expose the genitals, pubic area, the buttocks cleavage, or female breasts below the top of the nipple, with less than a fully opaque covering.

(16) Camping. Camping is prohibited on the Greenway except in designated camping areas and sites authorized by the Office and shown by Greenway signs, maps or other reasonable notice.

(17) Boating and Vessels. Boating and operation of vessels in the Greenway shall be conducted as follows.

(a) No person shall operate vessels upon any Greenway waters in places designated by the Office as closed for such purposes by signs, maps, or other reasonable notice.

(b) No person shall launch or remove any vessel by trailer, in any Greenway waters, except at places designated for such purpose by the Office by signs, maps or other reasonable notice.

(c) No person operating passenger vessels or excursion boats from outside the Greenway that are for rent or hire or carrying passengers for money shall land or anchor or tie up at any Greenway facility without first having applied for and received authorization from the Office. Authorization shall be issued when it is determined by the Office that the request to provide this service would not adversely affect Greenway resources, would be consistent with Greenway management practices and would provide a needed visitor service. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. All persons operating such vessels shall be subject to all federal and state boating rules and regulations.

(18) Alcoholic Beverages. Possession of alcoholic beverages within the Greenway or on any Greenway facility is prohibited except by authorization. Authorization shall be issued only when special events occur and the licensed concessionaire makes reasonable provisions to ensure that minors are not served and are not able to acquire alcohol, such as an over-21 area with no liquor to be taken outside such areas. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Authorization under this rule is not necessary for riparian upland owners on Lake Rousseau and their invitees when they are performing or engaging in normal riparian rights activities, such as fishing, swimming or boating, or when they are engaged in navigation, including anchoring or trolling. However, when such riparian upland owners or invitees are landing at a public boat ramp or other public area within the Greenway, other than in an emergency, possession of alcoholic beverages shall be prohibited.

(19) Domestic Animals. Domestic animals shall be controlled as follows.

(a) Domestic animals shall be regulated on the Greenway at any time as required for public safety, to enhance the recreational experience of other visitors, or to protect the Greenway resources.

(b) Domestic breeds of dogs, cats and horses, except for those that are trained and registered for assisting the physically challenged, shall be excluded from the following areas: food-service and preparation areas, bathing and swimming areas including land and water portions, buildings, playgrounds, and other areas designated by the Office on maps, signs or by other reasonable notice. Dogs, cats and horses are permitted in all other areas subject to the following restrictions.

1. All dogs, cats and horses must be confined, leashed, tied, or otherwise under the physical control of a person at all times. Leashes for dogs may not exceed six feet in length. Hunting dogs being used for hunting within designated hunting areas as established and allowed by the FFWCC under Chapter 68A, F.A.C. are not required to be leashed after their release to begin hunting. However, hunting dogs being transported or not actively hunting must be confined, leashed, tied, or otherwise under the physical control of a person at all times, as stated above.

2. Dogs, cats and horses must be well behaved at all times. Dogs and cats must be confined in the owner's camping unit and be quiet during quiet hours designated by the Office on maps, signs or by other reasonable notice. During non-quiet hours, designated by the Office on maps, signs or by other reasonable notice, unconfined dogs and cats may not be left unattended for more than 30 minutes and must be tied securely or on a leash not exceeding six feet in length.

3. Within campgrounds or on public roads or trails, owners of dogs and cats shall pick up after their animals and properly dispose of all droppings in trash receptacles. Failure to do so shall result in the owner's expulsion from the campgrounds, public roads or trails and revocation of all further privileges.

4. Owners shall be responsible for mucking out the stalls when horses are kept in horse stalls or corrals on the Greenway.

5. Dogs, cats and horses that are noisy, vicious, dangerous, disturbing, or act in a threatening manner to other persons or animals, or that damage Greenway resources are considered to be nuisances and will not be permitted to remain on the Greenway.

6. Dogs and cats are required by Florida law to be vaccinated against rabies every year. Owners must provide proof of current rabies vaccination when registering to camp or entering the Greenway.

7. Horses are required by Florida law to have proof of negative Coggins test every year. Owners of horses utilizing facilities on the Greenway must provide proof of current negative Coggins test.

8. Camping areas and other Greenway areas will be evaluated, as to the suitability of pets, on a periodic basis as part of the unit management planning process. Areas of the Greenway designated as prohibited for pets shall be determined based on the natural and cultural resources, primary recreational activities, camper and pet health and safety, geographical location and layout of camping areas, and the ability to provide a quality recreational experience for all visitors. Prohibited areas will be shown on signs, maps or by other reasonable notice.

(20) Merchandising and Food. No person shall offer for sale any article, food or material, nor place any stand, cart, or vehicle for the transportation, sale or display of any article, food or material for sale within the Greenway unless authorized by the Office. Authorization shall be issued when Greenway resources are not adversely affected, existing contractual relationships are not impaired, a needed visitor service is provided, and the activity would be consistent with Greenway management practices. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. All such vendors must have all current licenses required by the state and local governments.

(21) Hours. Hours for the Greenway shall be as follows.

(a) The opening and closing hours for each Greenway facility shall be posted. Greenway facilities may be closed on Holidays listed in subsection 62S-3.001(6), F.A.C., of this rule. No person shall remain at any Greenway facility after closing unless properly registered as an overnight visitor or in possession of valid authorization from the Office. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(b) The Department may close any Greenway facility or portion of the Greenway to the public at any time and for any interval of time, either temporarily or at regular stated intervals, and either entirely or only for certain uses. Closed areas will be posted by the Office on maps, signs, or by other reasonable notice. Greenway closures will be used to assure visitor and employee safety, resource protection, operational efficiency, and facility maintenance. No person shall remain in any closed area unless authorized by the Office. Authorization may be granted by the Office, when it is necessary for safety, protection, construction, or restoration purposes. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.

(22) Commercial Photography. All commercial photography, motion pictures, and other media production activities are prohibited without authorization from the Office. All private photography involving special settings or structures (such as construction of sets or use of exotic animals), which

could adversely impact Greenway resources or public recreational activities, is prohibited without authorization by the Office. Authorization for these activities may be issued if the activity is consistent with this rule and the activity would not disrupt normal Greenway operations, adversely impact Greenway resources, or disrupt the public's normal enjoyment of the Greenway. Authorization may be obtained by submitting a written request to the Office of Greenways and Trails, MS 795, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. All other private photography is encouraged so long as it is consistent with this rule.

(23) Free Speech Activities. Free speech activities are allowed and encouraged on the Greenway. Such activities include public speaking, performances, distribution of printed material, protests, marches, displays, and signs. Such activities do not include obscene or commercial materials or activities. Any person planning a free speech activity, which meets the definition of "special event" under Rule 62S-3.001, F.A.C., is encouraged to contact the Greenway manager or designee to discuss plans for such an event. There is no requirement for a permit. Restrictions shall only be placed on free speech activities if the Greenway manager or designee determines that any of the following exists: staff, including law enforcement, is not immediately available to protect public safety during the planned event, and such staff or law enforcement are required for public safety given the size or manner of the event; the activity planned would cause significant or unreasonable damage to the resource; the activity would unreasonably interfere with the normal use or flow of the Greenway; free speech participants or other Greenway users would likely be injured or endangered by the planned event; or another group activity has already been approved for the area and the time of the planned free speech activity. Free speech activities shall only be performed in accordance with all other rules of this chapter.

Specific Authority 253.016 FS. Law Implemented 253.7821, 260.016, 260.017 FS. History—New _____.

62S-3.003 Determination and Applicability of Fines.

The following shall govern how fines are determined and applied on the Greenway when persons violate any of the rules in this chapter.

(1) Violations. It shall be a violation of this rule for any person or the agent of any person to refuse to comply with any provisions of Rule 62S-3.002, F.A.C., violate any provision of said rule, or damage any Greenway land, facilities or resources. Fines shall be imposed for such violations.

(2) Determination of fines. A person or agent of a person who damages Greenway land, facilities, or resources in violation of state law or this chapter, or refuses to comply with or violates the provisions of this chapter shall incur a civil fine of up to \$500 per offense. When determining the amount of the fine to be imposed, the Office shall consider the following:

(a) The value of the resources removed from the Greenway;

(b) The diminished value of the land or facility on the Greenway;

(c) The cost of restoring the affected Greenway land or facilities;

(d) Lost revenue from impaired use of the affected land or facilities on the Greenway;

(e) The need to deter future violations by removing any economic benefits to the violator from failure to comply with this rule;

(f) Aggravating or mitigating circumstances specific to the violation, including things such as the nature and extent of the violation, the violator's degree of cooperation in correcting the violation, and the violator's good faith efforts to resolve the violation before formal legal proceedings begin; and

(g) Lost or impaired opportunities for public use of the affected land or facilities on the Greenway.

(3) Waiver of fines. Payment of all or part of a fine may be waived when purposes of this rule are not frustrated; when no economic or resource loss has occurred; when it would not deter future violations; when the violator has already corrected the violation; and when fairness would result.

(4) Fines. Fines imposed pursuant to this rule shall be determined by the Office after consideration of all the facts and the factors listed in subsection (2) of this section. Fine ranges shall be \$1-\$500.

(5) Applicability of fines on the Greenway. For purposes of imposing a fine pursuant to this rule chapter, an activity conducted on the Greenway shall not be considered a violation of Chapters 253, 260, F.S., or this rule chapter, when the activity is authorized by and conducted according to a management plan, easement, consent of use, lease or other authorization approved by the Office or by an authorized agent of the Office who has been expressly delegated the authority to approve such management plan, easement, consent of use, lease or other authorization.

(6) Payment of Fines. Fines shall be paid within 30 days after formal, written notice of such fine is received by the alleged violator. If the violator does not request a hearing pursuant to s. 120.569, Florida Statutes, within 21 days of the date the alleged violator has received the Office's written notice of the fine, the violator shall be considered to have waived all rights to a Chapter 120, F.S., proceeding thereon, and the fine shall be due and payable by the end of the 30-day period described above. Petitions for hearing shall be filed with the Agency Clerk, Department of Environmental Protection, MS 35, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)488-9314. Petitions must be complete and in the form prescribed by Rule 28-101.006, F.A.C., of the Uniform Rules. Unpaid fines shall result in further enforcement action in accordance with s. 260.017, Florida

Statutes, and unless the violator has petitioned for hearing, the violator shall not be allowed to use the Greenway until all fines are paid.

Specific Authority 260.016 FS. Law Implemented 253.7821, 260.016, 260.017 FS. History—New _____

NAME OF PERSON ORIGINATING PROPOSED RULE:
Samantha Browne, address above

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jena Brooks, Director, Office of Greenways and Trails, MS 795, 3900 Commonwealth Blvd., Tallahassee FL 32399-3000, (850)488-3701

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2001

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

RULE TITLE: Continuing Education During Initial Licensure Period

RULE NO.: 64B2-13.007

PURPOSE AND EFFECT: The Board proposes to reduce the continuing education required of practitioners during their first biennium of licensure.

SUMMARY: The Board proposes to eliminate continuing education within the biennium of the initial licensure.

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

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

SPECIFIC AUTHORITY: 460.405 FS.

LAW IMPLEMENTED: 456.013(6) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Board Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-13.007 Continuing Education During Initial Licensure Period.

Licensed practitioners shall not be required to complete the continuing education requirements during the biennium in which they receive initial licensure.

~~(1) Any person who is initially licensed in the first 12 months of the biennium shall be required to demonstrate, for the first renewal of licensure, completion of at least forty (40) hours of continuing education, five (5) of which shall concern risk management, during the biennium in which licensure was obtained.~~

~~(2) Any person who is initially licensed in the second 12 months of the biennium shall be required to demonstrate, for the first renewal of licensure, completion of at least twenty (20) hours of continuing education, three (3) of which shall concern risk management, during the biennium in which licensure was obtained.~~

Specific Authority 460.405, 460.408, 456.013(6) FS. Law Implemented 456.013(6) FS. History—New 1-25-88, Formerly 21D-13.007, 61F2-13.007, 59N-13.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Courses Required for Initial Licensure, Renewal, or Reactivation

RULE NO.: 64B5-12.019

PURPOSE AND EFFECT: The Board proposes to amend this rule to allow licensees to take an alternative course rather than the standard Board approved HIV/AIDS in order to satisfy course requirements.

SUMMARY: The Board is amending this rule to add new rule text which will allow licensees to take an end-of-life palliative health care course rather than HIV/AIDS or domestic violence in order to meet the course requirements.

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

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

SPECIFIC AUTHORITY: 456.031, 456.033 FS.

LAW IMPLEMENTED: 456.031, 456.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation.

(1) through (8) No change.

(9) In lieu of completing a Board approved HIV/AIDS or domestic violence course, a licensee who has completed either such approved course in the immediately preceding biennium may complete a course in end-of-life care and palliative health care, or any other course approved under the provisions of this rule chapter, as substitute for the course so completed in the immediately preceding biennium.

Specific Authority 456.033 FS. Law Implemented 456.031, 456.033 FS. History—New 1-18-89, Amended 10-28-91, 2-1-93, Formerly 21G-12.019, Amended 6-14-94, Formerly 61F5-12.019, Amended 11-15-95, 2-10-97, Formerly 59Q-12.019, Amended 10-29-00, 8-2-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 5, 2001

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Courses Required of Licensees for Renewal and Reactivation

RULE NO.: 64B5-12.020

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to the requirements for continuing education.

SUMMARY: The Board proposes to amend the rule text by further clarifying the continuing education requirements required for licensed dentists and dental hygienists during each license renewal biennium.

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

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

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 456.013(6),(8), 466.0135, 466.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.020 Courses Required of Licensees for Renewal and Reactivation.

Licensed dentists and dental hygienists are required to complete the following continuing education during each license renewal biennium.

(1) No change.

(2) Instruction in laws, rules and ethics and rules governing the practice of dentistry and dental hygiene consisting of at least 2 hours of instruction in relevant topics including: Chapter 456 and 466, Florida Statutes, Rule Chapter 64B5, Florida Administrative Code, professional responsibility and competence; legal standards, confidentiality; professional relationships; recordkeeping; common malpractice complaints; commonly reported violations reported to the Department; and relevant case studies. The requirements of this paragraph may be met by completion of a correspondence course.

Specific Authority 466.004 FS. Law Implemented 456.013(6), (8), 466.0135, 466.014 FS. History—New 4-11-94, Amended 7-18-94, Formerly 61F5-12.020, 59Q-12.020, Amended 1-23-01, 6-7-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2001

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Determination of Probable Cause

RULE NO.: 64B5-13.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to add new rule text with regard to the probable cause panel.

SUMMARY: The Board is amending this rule by updating the rule text in Subsection (2) which will set forth the requirements required in order to constitute a quorum.

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

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

SPECIFIC AUTHORITY: 456.073(4), 466.004(4) FS.

LAW IMPLEMENTED: 456.073(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-13.001 Determination of Probable Cause.

(1) No change.

(2) The probable cause panel shall be appointed by the Chairman and shall be composed of three members, two of which must be dentists who hold valid and active dental licenses in this State. At least two members of the probable cause panel must be present to constitute a quorum. If only two members are present, the determination of probable cause shall require the affirmative vote of both members present.

(a) through (e) No change.

(3) No change.

Specific Authority 456.073(4), 466.004(4) FS. Law Implemented 456.073(4) FS. History—New 11-11-79, Amended 12-7-81, 7-13-82, Formerly 21G-13.01, Amended 1-18-89, Formerly 21G-13.001, Amended 11-22-93, Formerly 61F5-13.001, 59Q-13.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLES: Fee for Renewal of Inactive License

RULE NOS.: 64B5-15.008

Fee for Reactivation of Inactive License

64B5-15.009

Fee for Inactive Status

64B5-15.010

Delinquency Fee

64B5-15.011

Change of Status Processing Fee

64B5-15.012

PURPOSE AND EFFECT: The purpose of the rule amendments is to increase the fees listed in each of the rules listed above.

SUMMARY: The Board is amending Rule 64B5-15.008 to increase the fee for renewal of an inactive dental license to \$300, and increase the fee to \$130 for an inactive dental hygiene license. The Board proposes to amend Rule 64B5-15.009 to increase the fees for reactivation of a dental license to \$300 and the fee for reactivation of an inactive dental hygiene license to \$135. The Board proposes to amend Rule 64B5-15.010 to increase the fees for dental to \$300 and dental hygiene to \$135 for inactive status. The Board proposes to amend Rule 64B5-15.011 to increase the delinquency fees for dentists and dental hygienists. The Board proposes to amend Rule 64B5-15.012 to increase the change of status processing fee for a dental license and a dental hygiene license.

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

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

SPECIFIC AUTHORITY: 456.036, 466.004, 466.015 FS.

LAW IMPLEMENTED: 466.015, 456.036, 456.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULES IS:

64B5-15.008 Fee for Renewal of Inactive License.

The fee for renewal of an inactive dental license shall be \$300 ~~\$200~~. The fee for renewal of an inactive dental hygiene license shall be \$135 ~~\$90~~.

Specific Authority 466.004, 466.015 FS. Law Implemented 466.015 FS. History—New 4-2-84, Formerly 21G-15.08, Amended 1-18-87, 11-16-89, 8-13-92, Formerly 21G-15.008, 61F5-15.008, Amended 5-6-96, Formerly 59Q-15.008, Amended.

64B5-15.009 Fee for Reactivation of Inactive License.

The fee for reactivation of an inactive dental license shall be \$300 ~~\$200~~. The fee for reactivation of an inactive dental hygiene license shall be \$135 ~~\$90~~.

Specific Authority 466.004, 466.015 FS. Law Implemented 466.015 FS. History—New 4-2-84, Formerly 21G-15.09, Amended 1-18-87, 11-16-89, 8-13-92, Formerly 21G-15.009, 61F5-15.009, Amended 5-6-96, Formerly 59Q-15.009, Amended.

64B5-15.010 Fee for Inactive Status.

The fee to place a dental license on inactive status shall be \$300 ~~\$200~~. The fee to place a dental hygiene license on inactive status shall be \$135 ~~\$90~~.

Specific Authority 466.004, 466.015 FS. Law Implemented 456.036, 466.015 FS. History—New 1-18-87, Amended 11-16-89, 8-13-92, Formerly 21G-15.010, 61F5-15.010, Amended 7-12-95, 5-6-96, Formerly 59Q-15.010, Amended.

64B5-15.011 Delinquency Fee.

The fee for delinquent status of a dental license shall be \$300 ~~\$200~~. The fee for delinquent status of a dental hygiene license shall be \$135 ~~\$90~~.

Specific Authority 456.036, 466.004(4) FS. Law Implemented 456.036 FS. History—New 7-12-95, Amended 5-6-96, Formerly 59Q-15.011, Amended.

64B5-15.012 Change of Status Processing Fee.

The fee for processing a licensee’s request to change status at any time other than at the beginning of a licensure cycle shall be \$300 ~~\$200~~ for a dental license and \$135 ~~\$90~~ for a dental hygiene license.

Specific Authority 456.036, 466.004(4) FS. Law Implemented 456.036 FS. History—New 7-12-95, Amended 5-6-96, Formerly 59Q-15.012, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

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

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

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Remediable Tasks Delegable to a Dental Hygienist

RULE NO.: 64B5-16.006

PURPOSE AND EFFECT: The Board proposes to amend this rule to further clarify the remediable tasks delegable to a dental hygienist.

SUMMARY: The Board is amending this rule to expand the remediable tasks delegable to a dental hygienist under direct supervision.

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

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

SPECIFIC AUTHORITY: 466.004, 466.023, 466.024 FS.

LAW IMPLEMENTED: 466.023, 466.024 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist.

(1) The following remediable tasks may be performed by a dental hygienist who has received formal training and who performs the tasks under direct supervision:

- (a) through (n) No change.
- (o) Placing subgingival resorbable chlorhexidine, doxycycline hyclate, or minocycline hydrochloride.
- (2) through (5) No change.

Specific Authority 466.004, 466.023, 466.024 FS. Law Implemented 466.023, 466.024 FS. History--New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Requirement for Physician Office Registration; Inspection or Accreditation
 RULE NO.: 64B8-9.0091
 PURPOSE AND EFFECT: The proposed rule amendment is intended to reference the Department's rule with regard to the fee for office surgery inspections.
 SUMMARY: The proposed rule amendment references the Department's office surgery inspection fee.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.
 Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
 SPECIFIC AUTHORITY: 458.309(1),(3) FS.
 LAW IMPLEMENTED: 458.309(3), 456.069 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., August 22, 2001
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0091 Requirement for Physician Office Registration; Inspection or Accreditation.

- (1) No change.
- (2) Inspection.

(a) Unless the physician has previously provided written notification of current accreditation by a nationally recognized accrediting agency or an accrediting organization approved by the Board the physician shall submit to an annual inspection by the Department. Nationally recognized accrediting agencies are the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF), Accreditation Association for Ambulatory Health Care (AAAHC) and Joint Commission on Accreditation of for Ambulatory Healthcare Organizations (JCAHO). All nationally recognized and Board-approved accrediting organizations shall be held to the same Board-determined surgery and anesthesia standards for accrediting Florida office surgery sites.

(b) The office surgery inspection fee set forth in the Department's Rule 64B-4.002, F.A.C., shall be remitted for each practice location.

- (b) through (f) renumbered (c) through (g) No change.
- (3) No change.

Specific Authority 458.309(1),(3) FS. Law Implemented 458.309(3), 456.069 FS. History--New 5-15-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Fluoride Containing Products
 RULE NO.: 64B8-36.004
 PURPOSE AND EFFECT: The proposed rule amendment is designed to make the rule consistent with the Board of Pharmacy's rule on the same subject.

SUMMARY: The proposed rule amendment clarifies the oral medicinal drug products containing fluoride which may be ordered by pharmacists for their patients who do not have fluoride supplement in their drinking water.

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

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

SPECIFIC AUTHORITY: 465.186(2) FS.

LAW IMPLEMENTED: 465.186 FS.

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

TIME AND DATE: 10:00 a.m., August 22, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B8-36.004 follows. See Florida Administrative Code for present text.)

64B8-36.004 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) The fluoride content of drinking water does not exceed 0.5 ppm.

(2) Once a fluoride treatment has been initiated with one specific fluoride medicinal drug product it should not be interchanged with a product of a different manufacturer for the course of the treatment.

(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

(b) No more than 264 mg. of sodium fluoride may be dispensed at any one time to a patient.

(c) Notwithstanding the provisions of Section 64B8-36.002(3), F.A.C., a pharmacist may continue a course of therapy with fluoride products until appropriate referral to another health care practitioner is indicated or in no event shall the course of therapy be more than one (1) year.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Formerly 21M-39.004, 61F6-39.004, 59R-36.004, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Fees
RULE NO.: 64B8-41.001

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

SUMMARY: These amendments serve to address fees and establish procedures.

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

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

SPECIFIC AUTHORITY: 456.036, 468.507, 468.508 FS.

LAW IMPLEMENTED: 456.036, 456.065, 468.508 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-41.001 Fees.

(1) The application fee for licensure shall be \$100.00 ~~\$75.00~~.

(2) The endorsement fee for an applicant seeking licensure by endorsement shall be \$75.00 ~~\$25.00~~.

(3) No change.

(4) The fee for initial licensure shall be \$175.00 ~~\$150.00~~ of which ~~\$5.00~~ is specifically earmarked for the fund to combat unlicensed activity pursuant to Section ~~455.641~~, Florida Statutes.

(5) No change.

(6) The biennial renewal fee shall be \$100.00 ~~\$50.00~~ of which ~~\$5.00~~ is specifically earmarked for the fund to combat unlicensed activity pursuant to Section ~~456.065~~, Florida Statutes.

(7) No change.

(8) A delinquent status licensee shall pay a delinquency fee of \$100.00 ~~fifty dollars (\$50.00)~~ when the licensee applies for inactive status or for reactivation.

(9) No change.

(10) The fee for renewal of inactive status shall be \$95.00 ~~\$25.00~~, ~~\$5.00~~ of which shall be earmarked for the fund to combat unlicensed activity pursuant to Section ~~456.065~~, Florida Statutes.

(11) The change of status processing fee shall be \$50.00 ~~\$25.00~~.

Specific Authority 456.036, 468.507, 468.508 FS. Law Implemented 456.036, 456.065, 468.508 FS. History—New 4-9-89, Amended 8-28-90, 11-9-92, Formerly 21M-47.001, Amended 9-21-93, 11-4-93, 1-3-94, Formerly 61F6-47.001, Amended 12-28-94, 5-2-95, Formerly 59R-41.001, Amended 11-24-97, 6-22-99, 8-19-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:
Disciplinary Guidelines
Citations

RULE NOS.:
64B8-44.003
64B8-44.005

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

SUMMARY: These amendments serves to address disciplinary guidelines; citations and establishes procedures.

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

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

SPECIFIC AUTHORITY: 456.079, 458.309, 468.507, 456.077 FS.

LAW IMPLEMENTED: 456.079, 468.517, 468.518(2), 456.077, 468.518 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-44.003 Disciplinary Guidelines.

(1) No change.

(2) Among the range of disciplinary actions in increasing severity are:

(a) Reprimand and a minimum administrative fine of \$100.

(b) Probation with conditions to include limitations on the type of practice or practice setting, requirement of supervision by a licensee of the Council as approved by the Board, employer and self reports, periodic appearances before the Board, counseling or participation in the Physician's Recovery Network, payment of administrative fines, and such conditions to assure protection of the public.

(c) Restriction of practice.

(d)(e) Suspension for a minimum of ninety days and thereafter until the licensee appears before the Board to demonstrate current competency and ability to practice safely in compliance with any previous Board orders.

(e)(d) Denial of licensure with conditions to be met prior to any reapplication.

(f)(e) Permanent Revocation.

(3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the

violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION RECOMMENDED RANGE OF PENALTY

(a) through (n) No change.

(o) Sexual misconduct in the practice of the profession (456.063, 456.072(1)(u) 455.567)

(o)1. From one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$500.00 \$400.00 to \$1,00.00. Evaluations shall be required to determine the need for referral to PRN.

(o)2. For a second offense, from one year suspension followed by a minimum of one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$800.00 to \$1,000.00. Evaluations shall be required to determine the need for referral to PRN.

(o)3. After the second offense, revocation of license and a fine of \$1,000.00.

(p) No change.

(q) Testing positive for drugs on employment drug screening (456.072(1)(z))

(q) From submission to a mental or physical examination directed towards the problem and one year probation with conditions, to revocation or denial, and administrative fine from \$100.00 to \$1,000.00

Specific Authority 456.079, 458.309, 468.507 FS. Law Implemented 456.079, 468.517, 468.518(2) FS. History--New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99, 9-28-00, _____.

64B8-44.005 Citations.

(1) through (3) No change

(4) The Board designates the following as citation violations, which shall result in a penalty of \$100:

(a) through (c) No change.

(d) Falsely certifying timely completion of required continuing education courses for renewal or initial licensure, if completed by the time the citation is to be issued; penalty of \$100 per contact hour wrongfully claimed.

(e) Failure to respond to a continuing education audit within thirty days.

(5) through (6) No change.

Specific Authority 468.507, 456.077 FS. Law Implemented 456.077, 468.517, 468.518 FS. History--New 1-1-92, Formerly 21M-50.005, 61F6-50.005, 59R-44.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Organization 64B8-50.002

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

SUMMARY: The proposed rule deletes the mailing address and telephone number of the Electrolysis Council.

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

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

SPECIFIC AUTHORITY: 456.011, 478.43(1) FS.

LAW IMPLEMENTED: 456.011 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-50.002 Organization.

(1) No change.

(2) Principal office, mailing address, telephone number, normal hours, service of process.

(a) The principal office of the Council is in Tallahassee.

(b) The mailing address and telephone number for the Council is as follows: Electrolysis Council, 1940 North Monroe Street, Tallahassee, Florida 32399-2203; (850)487-3372.

(b)(e) The office is open from 8:00 a.m. to 5:00 p.m. on weekdays, excluding holidays.

(c)(d) The Executive Director of the Council, at the Council's address, is the Council's agent for service of process for all matters relating to the Council.

Specific Authority 456.011(3), 478.43(1) FS. Law Implemented 456.011(3) FS. History--New 5-31-93, Formerly 21M-75.002, Amended 11-16-93, Formerly 61F6-75.002, 59R-50.002, Amended 5-18-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Inactive Licensure Status; Reactivation of Licensure, Delinquent Renewal

RULE NO.: 64B8-54.002

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

SUMMARY: This amendment serves to address specific requirements for Inactive licensure Status; Reactivation of Licensure and Delinquent Renewal.

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

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

SPECIFIC AUTHORITY: 456.036, 478.43(1),(4), 478.50 FS. LAW IMPLEMENTED: 456.036, 478.50 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-54.002 Inactive Licensure Status; Reactivating of Licensure, Delinquent Renewal.

(1) No change.

(2) Any person holding an inactive license eligible for reactivation may return his license to active status upon submission of a complete application as set out below in subsection (3) to the Department, payment of the fees indicated in Section 456.036, Florida Statutes, in the amounts indicated in Rule 64B8-54.004, F.A.C., reactivation fee, payment of the

~~biennial renewal fee, payment of the change of status fee if reactivated at any time outside of the renewal period and compliance with the following:~~

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

~~(3) Any person holding an active license may change the license to inactive status upon submission of a letter to the Electrolysis Council, stating the licensee's intention to change the license to inactive status. If the change is made at the time of license renewal, the licensee must pay the inactive status renewal fee, the delinquency fee if applicable, and the fee to change licensure status, in the amounts indicated in Rule 64B8-54.004, F.A.C. Active status licensees choosing inactive status at any other time than at the time of license renewal must pay the fee to change licensure status. Failure to renew the license by the expiration date will result in the license becoming delinquent. In order to renew the delinquent inactive license, the licensee must submit a complete inactive renewal form, which is defined to include the licensee's name, current mailing address, other licenses held pursuant to Sections 456.001(4) and 456.001(5), Florida Statutes, the required renewal fee and the delinquency fee; or reactivate the license to active status as outlined above with the additional payment of the delinquency fee and submission of proof of completion of continuing education requirements as set out above in Subsection (2)(a),(b).~~

~~(4) No change.~~

Specific Authority 456.036, 478.43(1),(4), 478.50 FS. Law Implemented 456.036, 478.50 FS. History--New 9-29-93, Formerly 61F6-79.002, 59R-54.002, Amended 4-2-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Negative Drug Formulary

RULE NO.: 64B16-27.500

PURPOSE AND EFFECT: The purpose of the amendments is to remove certain drugs from the negative drug formulary.

SUMMARY: The Board has determined that the removal of Digoxin, Warfarin, Quinidine Gluconate, and Phenytoin should be removed from the rule text as required by Ch. 2001-146, Laws of Florida.

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

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

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

LAW IMPLEMENTED: 456.036, 456.064, 465.008 FS., Ch. 2001-46, Laws of Florida.

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

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

THE FULL TEXT OF THE PROPOSED RULE 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 465.005, 465.025(6) FS., Ch. 2001-146, Laws of Florida. Law Implemented 465.025(6) FS., Ch. 2001-146, Laws of Florida. 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 _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

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.

SUMMARY: The Board is changing the title from "Application Guidelines" to "Denial of Licensure".

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

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

SPECIFIC AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.009, 490.0111 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howertron, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.009 Denial of Licensure Application Guidelines.

(1) through (4) No change.

Specific Authority 490.004(4) FS. Law Implemented 490.009, 490.0111 FS. History--New 4-26-93, Formerly 21U-11.011, Amended 6-14-94, Formerly 61F13-11.011, 59AA-11.009, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Psychology
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 1, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 29, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Fee for Provisional Licensure
PURPOSE AND EFFECT: The Board proposes to update the above rule.

RULE NO.: 64B19-12.012

SUMMARY: The rule amendment is for the purpose of updating the Fee for Provisional Licensure.

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

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

SPECIFIC AUTHORITY: 453.013, 490.003(6), 490.004(4), 490.0051 FS.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.012 Fee for Provisional Licensure.

The non-refundable application fee for a provisional license shall be two hundred fifty dollars (\$250.00). The initial licensure fee for a provisional license shall be five hundred dollars (\$500.00).

Specific Authority 456.013, 490.003(6), 490.004(4), 490.0051 FS. Law Implemented 490.013, 490.003(6), 490.004(4), 490.0051 FS. History—New 4-26-93, Formerly 21U-11.011, Amended 6-14-94, Formerly 61F13-11.011, 59AA-11.009, Amended.

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

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 1, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 29, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Disciplinary Guidelines
PURPOSE AND EFFECT: The Board proposes to update the above rule.

RULE NO.: 64B19-17.002

SUMMARY: The Board is rewording this rule to update the Disciplinary Guidelines.

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

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

SPECIFIC AUTHORITY: 456.079, 490.004(4) FS.

LAW IMPLEMENTED: 456.079, 456.072, 490.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-17.002 Disciplinary Guidelines.

(1) When the Board finds that an applicant or a licensee has committed any of the acts set forth in Section 490.009(2) or 456.072, F.S., it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.

(a) Attempting to obtain, obtaining, or renewing a license under Chapter 490, Florida Statutes, by bribery or fraudulent misrepresentation or through an error of the Board or the Department. The ~~usual recommended~~ penalty shall be revocation or permanent denial of license, and an administrative fine not to exceed \$10,000.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country. The ~~usual recommended~~ penalty against a licensee shall be a penalty generally concurrent with that of the other jurisdiction with the addition of appropriate safeguards as determined by the Board, and an administrative fine not to exceed \$10,000. In the case of an applicant, the penalty shall

range from probation to permanent denial of license, and an administrative fine not to exceed \$10,000. If the violation included sexual misconduct, the penalty shall be permanent denial of license.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, ~~of~~ a crime in any jurisdiction which directly relates to the practice of the licensee's profession or the licensee's ability to practice that profession. ~~The Generally the usual recommended~~ penalty shall be suspension of license until such time as the licensee can, to the Board's satisfaction, demonstrate rehabilitation, and an administrative fine not to exceed \$10,000. In the case of an applicant, the penalty shall be from probation to permanent denial of license, and an administrative fine not to exceed \$10,000.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value upon the licensee's representation that beneficial results from any treatment will be guaranteed. ~~The usual recommended~~ penalty shall be a public reprimand, an administrative fine of from \$1,000 to \$10,000, and probation with ~~such~~ terms and conditions ~~as~~ set by the Board.

(e) Advertising, practicing, or attempting to practice under a name other than one's own. ~~The usual recommended~~ penalty shall be a public reprimand, an administrative fine of from \$1,000 to \$10,000, and probation with ~~such~~ terms and conditions ~~as~~ set by the Board.

(f) Maintaining a professional association with any person ~~who whom~~ the licensee knows, or has reason to believe, is in violation of Chapter 490, F.S., or of a rule of the Department or the Board. ~~The usual recommended~~ penalty shall be a public reprimand, an administrative fine of from \$1,000 to \$10,000, and probation with ~~such~~ terms and conditions ~~as~~ set by the Board.

(g) Knowingly aiding, assisting, procuring, or advising a non-licensed person to practice psychology or hold himself or herself out as a psychologist. ~~The usual recommended~~ penalty shall be an administrative fine of from a \$1,000 to \$10,000 fine and ~~six months~~ suspension followed by probation with ~~such~~ terms and conditions ~~as~~ set by the Board.

(h) Failing to perform any statutory or legal obligation placed upon the licensee under Chapter 490, F.S., Chapter 456, F.S., or any rules promulgated pursuant to those chapters. ~~The usual recommended~~ penalty shall be a public reprimand, an administrative fine of from \$1,000 to \$10,000, and probation with ~~such~~ terms and conditions ~~as~~ set by the Board.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or

record. ~~The usual recommended~~ penalty shall be a public reprimand, six months suspension, and an administrative fine of from \$1,000 to \$10,000.

(j) Paying or receiving a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement. ~~The usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in Section 490.0111, F.S. ~~The usual recommended~~ penalty shall be an administrative fine of from \$1,000 to \$10,000 and revocation.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of psychology. ~~The usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or any form of overreaching or vexatious conduct. ~~The usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(n) Failing to make available a report of examination or treatment upon written request from the service user and upon the service user's payment of the costs set out in Chapter 64B19-19, F.A.C. ~~The usual recommended~~ penalty shall be an administrative fine of from \$1,000 to \$10,000.

(o) Failing to respond within 30 days to a written communication from the Department concerning any investigation by the Department or to make available any relevant records with respect to the investigation about the licensee's conduct or background. ~~The usual recommended~~ penalty shall be an administrative fine of from \$1,000 to \$10,000 and a suspension until such time as the licensee demonstrates, to the Board's satisfaction, that an appropriate response has been made by the licensee.

(p) Being unable to practice psychology or school psychology with reasonable skill or competence as a result of any physical or mental condition, including sexual misconduct, or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. ~~The usual recommended~~ penalty shall be suspension until such time as the licensee demonstrates rehabilitation that is satisfactory to the Board, then ~~a one-year~~ probation with ~~such~~ terms and conditions ~~as~~ set by the Board, ~~monitoring by another licensee approved by the Board with quarterly reports to the Board, and~~

appropriate mental or physical evaluations by Board approved professionals, ~~and an administrative fine not to exceed \$10,000.~~

(q) Violating provisions of Chapter 490, F.S., or of Chapter 456, F.S., or any rule adopted pursuant thereto. The ~~usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(r) Performing any treatment or prescribing any therapy which, by prevailing standards of the profession of psychology, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent. The ~~usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(s) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in the profession of psychology, including the undertaking of activities for which the licensee is not qualified by training or experience. The ~~usual recommended~~ penalty shall be an administrative fine of from \$1,000 to \$10,000 and suspension until such time as licensee demonstrates to the Board's satisfaction competence in the performance of the licensee's profession, then a probation from one to four years with ~~such~~ terms and conditions ~~as~~ set by the Board.

(t) Delegating professional responsibilities to a person ~~or persons~~ whom the licensee knows or has reason to know ~~is are~~ not qualified by training or experience to perform such responsibilities. The ~~usual recommended~~ penalty shall be a six month suspension immediately followed by a six month probation with ~~such~~ terms and conditions as set by the Board, and an administrative fine of from \$1000-00 to \$10,000.

(u) Violating any provision of Chapter 456 or 490, F.S., a rule relating to the regulation of the profession or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department. The ~~usual recommended~~ penalty shall be an administrative fine of from \$1,000 to \$10,000 and revocation.

(v) Failing to maintain in confidence any communication made by a patient or client in the context of services, except as provided by Section 490.0147, F.S. by written permission or in the face of clear and immediate probability of bodily harm to the patient or client or to others. ~~Generally, the~~ The ~~recommended~~ penalty shall be:

1. First offense – public reprimand and an administrative fine of from \$1000 to \$5,000.
2. Second offense – public reprimand and an administrative fine of from \$2500 to \$10,000.
3. Third offense – revocation.

(w) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients. The ~~usual recommended~~ penalty shall be a public reprimand and an administrative fine of from \$1,000 to \$10,000.

(x) Failing to comply with the continuing psychological education requirement for domestic violence. The ~~usual recommended~~ penalty shall be \$250, and suspension until compliance.

(y) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party. The ~~usual recommended~~ penalty shall be suspension or revocation and a fine of from \$5,000 to \$10,000.

(z) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. The ~~usual recommended~~ penalty shall be a reprimand and a fine of from \$2,500 to \$10,000.

(2) through (3) No change.

Specific Authority 456.079, 490.004(4) FS. Law Implemented 456.079, ~~456.072,~~ 490.009 FS. History—New 11-24-86, Amended 7-18-88, 4-26-93, Formerly 21U-18.003, Amended 6-14-94, Formerly 61F13-18.003, Amended 1-9-96, Formerly 59AA-17.002, Amended 9-18-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Psychology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 1, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

**DEPARTMENT OF HEALTH
Division of Environmental Health and Statewide Programs**

RULE TITLES:	RULE NOS.:
Definitions	64E-5.101
Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas	64E-5.214
Radiological Criteria for License Termination	64E-5.221
Radiological Criteria for Unrestricted Use	64E-5.222
Criteria for License Termination Under Restricted Conditions	64E-5.223
Alternate Criteria for License Termination	64E-5.224
Public Notification and Public Participation	64E-5.225
Minimizing Contamination	64E-5.226
Posting of Notices to Workers	64E-5.901

PURPOSE AND EFFECT: The purpose of the proposed rules is to establish safety measures to terminate a radioactive materials license. The effect of the proposed rules is protection of the public from unnecessary radiation exposure from radioactive materials in facilities of former radioactive materials licensees.

SUMMARY: The proposed rule amends the requirements to terminate a license to use radioactive materials to assure that the public and workers are protected from unnecessary exposure. It establishes dose limits for the release of facilities and specifies requirements for public notice.

SPECIFIC AUTHORITY: 404.042, 404.051, 404.061, 404.081 FS.

LAW IMPLEMENTED: 404.051, 404.061, 404.081 FS.

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

TIME AND DATE: 9:00 a.m., August 21, 2001

PLACE: Room 210J, 4042 Bald Cypress Way, Tallahassee, FL 32311

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: William A. Passetti, Chief, Bureau of Radiation Control, (850)245-4266

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-5.101 Definitions.

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain part are defined in that respective part.

(1) through (16) No change.

(17) “Background radiation” means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation. Background radiation does not include sources of radiation from radioactive materials regulated by the department.

(18) through (34) No change.

(35) “Decommission” means to remove a facility safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of license or release of the property under restricted conditions and the termination of the license.

(36) through (177) No change.

(178) “Critical Group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(179) “Distinguishable from background” means that the detectable concentration of a radionuclide is statistically different from the background concentrations of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(180) “Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee but excludes background radiation. It also includes radioactive material as a result of routine or accidental releases of radioactive material at the site and previous burials at the site even if those burial sites were made as specified in Part III of this Chapter.

Specific Authority 404.042, 404.051, 404.061 FS. Law Implemented 404.051 FS. History—New 7-17-85, Amended 4-4-89, 5-12-93, 1-1-94, 5-15-96, Formerly 10D-91.102, Amended 5-18-98, 10-8-00, _____.

64E-5.214 Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas.

(1) through (3) No change.

(4)(a) If a licensee does not submit an application for license renewal under Part II, the licensee shall, on or before the expiration date specified in the license:

1. Terminate the use of radioactive material;
2. Remove radioactive contamination to the extent acceptable to the Department;
3. Properly dispose of the radioactive material;
4. Submit a properly completed DH Form 1059, which is herein incorporated by reference effective 7-17-85; and
5. Submit a radiation survey report to confirm the absence of radioactive materials or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual contamination in some other manner. The licensee shall, as appropriate:

a. For gamma radiation, report levels of radiation in units of microrentgens per hour at 10 centimeters and at 1 meter from surfaces.

b. For alpha and beta radiation, report levels of radioactivity in units of transformations per minute or microcuries per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

c. Specify the instruments used and certify that each instrument is properly calibrated or tested.

(b)1. If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found.

2. Specific licenses including expired licenses will be terminated by written notice to the licensee when the department determines that:

- a. Radioactive material has been properly disposed; and
- b. A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use or satisfies the requirements specified in Rules 64E-5.221, 64E-5.222, 64E-5.223, or 64E-5.224, F.A.C.; or

c. Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use or satisfies the requirements specified in Rules 64E-5.221, 64E-5.222, 64E-5.223, or 64E-5.224, F.A.C.

d. Department has received the following records, if requested:

(I) Disposal records specified in Rule 64E-5.330, 64E-5.331(1)(a), (c), (2), (3), or 64E-5.336(2)(d), F.A.C.; and

(II) Records specified in Rule 64E-5.214(6), F.A.C.

(c)1. If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found or licensee possesses other radioactive materials, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination or possession of radioactive material, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of (5), below.

2. In addition to the information submitted under (4)(a)4. and 5., above, the licensee shall submit a plan for decommissioning if decommissioning procedures have not been approved previously by the department and could impact the health and safety of workers or the public as follows:

a. More than routine cleanup and maintenance is required;

b. Workers will be in areas with significantly increased surface contamination or radiation levels;

c. Procedures will result in significantly greater airborne concentrations of radioactive materials; or

d. Procedures will result in significantly greater releases of radioactive material to the environment.

3. Procedures which could potentially impact health, safety and the environment may not be performed until the decommissioning plan has been approved.

4. The proposed decommissioning plan must include:

a. A description of the planned decommissioning activities;

b. A description of the methods used to assure protection of workers and the environment against radiation hazards during decommissioning;

c. The time required to complete the decommissioning plan; and

d. A description of the planned final radiation survey.

5. The proposed decommissioning plan will be reviewed by the department and approved or additional information will be requested within 60 days.

6. Upon approval of the decommissioning plan by the department, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in (4)(a)5., above, of this section and shall certify the disposition of accumulated wastes from decommissioning.

7. If the information submitted as specified in (4)(a)5. or (4)(c)6. of this section does not adequately demonstrate that the premises are suitable for release for unrestricted use, the department will inform the licensee of the appropriate further actions required for termination of the license.

(5) No change.

(6) Each licensee shall keep records of the decommissioning of the facility in an identified location until the license is terminated by the department. If records of relevant information are kept for other purposes, reference to these records and their location can be used. Records which must be kept include:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records can be limited to instances when contamination remains after cleanup procedures or when contaminants have spread to inaccessible areas such as possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

(b) Drawings of structures as originally built, of modifications, and of equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which can be subject to contamination. Drawings and their location can be referenced if not on site. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) Except for areas containing only radioactive materials having half-lives of less than 65 days or sealed sources that either have not leaked or no contamination remains after any leak, a list contained in a single document and updated every 2 years, of the following:

1. All areas designated and formerly designated restricted areas as defined in Rule 64E-5.101, F.A.C.;

2. All areas outside of restricted areas that require documentation under Rule 64E-5.214(6)(a), F.A.C.;

3. All areas outside of restricted areas where current and previous wastes have been buried as documented under Rule 64E-5.340, F.A.C.; and

4. All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or satisfy the requirements specified in Rules 64E-5.221, 64E-5.222, 64E-5.223, or 64E-5.224, F.A.C. apply for approval for disposal under Rule 64E-5.329, F.A.C.; and

(d) Records of the cost estimate performed for the performance bond required in Rule 64E-5.217, F.A.C., and records of the funding method used.

(7) No change.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New 7-17-85, Amended 5-12-93, 8-14-96, Formerly 10D-91.315, Amended 5-18-98, 10-8-00, _____.

**SUBPART G
RADIOLOGICAL CRITERIA FOR LICENSE
TERMINATION**

64E-5.221 Radiological Criteria for License Termination.

The criteria in this subpart apply to the decommissioning of facilities licensed under this chapter but do not apply to uranium and thorium recovery facilities as specified in Rule 64E-5.211, F.A.C., or to sites which previously have submitted and received department approval of a license termination plan or decommissioning plan as specified in Rule 64E-5.214(2), F.A.C.

(1) After a site has been decommissioned and the license terminated in accordance with the criteria in this subpart, the department will require additional cleanup only if based on new information or if it determines that the criteria of this subpart were not met and residual activity remaining at the site could result in significant threat to public health and safety.

(2) When calculating total effective dose equivalent to the average member of the critical group, the licensee shall determine the peak annual total effective dose equivalent expected within the first 1,000 years after decommissioning.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.222 Radiological Criteria for Unrestricted Use.

A site is acceptable for unrestricted use if the total effective dose equivalent to an average member of the critical group from the residual radioactivity that is distinguishable from background radiation does not exceed 25 millirem (0.25 mSv) per year including radioactivity from groundwater sources of drinking water and the residual radioactivity levels are as low as reasonably achievable. Determination of the ALARA levels must take into account any detriments such as deaths from transportation accidents potentially expected to result from decontamination and waste disposal.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.223 Criteria for License Termination Under Restricted Conditions.

A site is acceptable for license termination under restricted conditions if it meets the criteria below.

(1) The residual levels associated with restricted conditions are ALARA or the licensee can demonstrate that further reductions in residual radioactivity to comply with the provisions of Rule 64E-5.222, F.A.C., would result in an increase in public or environmental harm. Determination of the

ALARA levels must take into account any detriments such as traffic accidents potentially expected to result from decontamination and waste disposal.

(2) The licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the total effective dose equivalent from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 millirem (0.25 mSv) per year.

(3) The licensee has provided sufficient financial assurance to enable an independent third party including a governmental custodian of a site to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:

(a) Funds sufficient to pay decommissioning costs placed into an account segregated from the licensee's assets and outside the licensee's administrative control before the start of decommissioning operations; or

(b) A bond as specified in Rule 64E-5.217, F.A.C., or

(c) An arrangement deemed acceptable by the governmental entity that is assuming custody and ownership of a site.

(4) The licensee has submitted a decommissioning or license termination plan as specified in Rule 64E-5.214(2), F.A.C., to the department indicating the licensee's intent to decommission in accordance with this part and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the license termination or decommissioning plan how the advice of individuals and institutions in the community who could be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice.

(a) Licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters:

1. Whether provisions for institutional controls proposed by the licensee:

(I) Will provide reasonable assurance that the total effective dose equivalent from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 millirem (0.25 mSv) per year;

(II) Will be enforceable; and

(III) Will not impose undue burdens on the local community or other affected parties.

2. Whether the licensee has provided sufficient financial assurance to enable an independent third party including a governmental custodian of a site to assume and carry out responsibilities for any necessary control and maintenance of the site.

(b) In seeking advice on the issues identified in (a), above, the licensee shall provide for:

1. Participation by representatives of a broad cross section of community interests who could be affected by the decommissioning;

2. An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

3. A publicly available summary of the results of all such discussions including a description of the individual viewpoints of the participants on the issues and the extent of agreement or disagreement among the participants on the issues.

(5) Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect there is reasonable assurance that the total effective dose equivalent from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed 100 millirem (1 mSv) per year.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(2),(3),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.224 Alternate Criteria for License Termination.

The department will terminate a license using alternate criteria greater than the dose criterion of Rules 64E-5.222, 64E-5.223(2), and 64E-5.223(4)(a)1.,(I), F.A.C., if the licensee:

(1) Provides assurance that public health and safety would continue to be protected and that it is unlikely that the total effective dose equivalent from all combined man-made sources other than medical sources would be more than 100 millirem per year (1 millisievert per year) by submitting an analysis of possible sources of exposure;

(2) Has employed restrictions to the extent practical on site use according to the provisions of Rule 64E-5.223, F.A.C., in minimizing exposures at the site;

(3) Reduces doses to ALARA levels considering any detriments such as traffic accidents potentially expected to result from decontamination and waste disposal; and

(4) Has submitted a decommissioning or license termination plan to the department indicating the licensee's intent to decommission as specified in subsection 64E-5.214(2), F.A.C., and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the license termination or decommissioning plan how the advice of individuals and institutions in the community who could be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

(a) Participation by representatives of a broad cross section of community interests who could be affected by the decommissioning;

(b) An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

(c) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement on the issues.

(5) The use of alternate criteria to terminate a license requires the approval of the department after consideration of any comments provided by the U. S. Environmental Protection Agency and any public comments submitted as specified in Rule 64E-5.225, F.A.C.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(2),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.225 Public Notification and Public Participation.

Upon the receipt of a license termination or decommissioning plan or a proposal for release of a site as specified in Rules 64E-5.223 or 64E-5.224, F.A.C., and the total effective dose equivalent will exceed 50 millirem (0.5 mSv), the department shall:

(1) Notify and solicit comments from:

(a) Local governments in the vicinity of the site that could be affected by the decommissioning; and

(b) The U. S. Environmental Protection Agency if the licensee proposes to release a site as specified in Rule 64E-5.224, F.A.C.

(2) Publish a notice in the Florida Administrative Weekly to solicit comments from affected parties.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(2),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.226 Minimizing Contamination.

After the effective date of this rule, applicants for licenses other than renewals shall describe in the application how facility design and procedures for operation will minimize contamination of the facility and the environment to the extent practical, facilitate eventual decommissioning, and minimize the generation of radioactive waste to the extent practical.

Specific Authority 404.051(4),(6),(9), 404.061(2), 404.081 FS. Law Implemented 404.051(1),(4),(6),(9), 404.061(2), 404.081(1) FS. History—New _____.

64E-5.901 Posting of Notices to Workers.

(1) No change.

(2) If posting of a document specified in paragraphs (a), (b), and (c), ~~and (d)~~ above is not physically practical, the licensee or registrant may post a notice which describes the document and states where it may be examined. The documents specified in paragraphs (d), (e), and (f) above must be posted in their entirety.

(3) "Notice to Employees 3/01" ~~DOH Form 1081 Sep 92 "Notice to Employees"~~, which is herein incorporated by reference and which is available from the department, shall be posted by each licensee or registrant as required by these regulations.

(4) through (5) No change.

Specific Authority 404.051, 404.061, 404.081 FS. Law Implemented 404.022, 404.051(1),(4), 404.061(2), 404.081(1),(2) FS. History—New 7-17-85, Amended 4-4-89, 5-12-93, 5-15-96, Formerly 10D-91.1002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
William A. Passetti
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sharon Heber, Dr., P.H.
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 16, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE TITLES: RULE NOS.:
Definitions 65C-27.001
Timeframes 65C-27.002

PURPOSE AND EFFECT: These rules are to clarify timeframes in subsection 39.407(5), F.S. The timeframes apply to all qualified evaluators that provide initial suitability assessments for children that are referred for residential treatment placement. They also apply to the 3-month independent reviews for children in residential treatment.

SUMMARY: Subsection 39.407(5), F.S., requires that if the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment that the child must receive an examination and suitability assessment by a qualified evaluator appointed by the Agency for Health Care Administration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 39.407(5)(i) FS.

LAW IMPLEMENTED: 39.407(5)(i) FS.

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

TIME AND DATE: 9:00 a.m., August 17, 2001

PLACE: 1317 Winewood Blvd., Building 8, Conference Room, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Darcy Abbott, Specialist, 1317 Winewood Blvd., Building 8, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-27.001 Definitions.

(1) “Qualified Evaluator” means a psychiatrist or psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(2) “Suitability Assessment” means assessment by a qualified evaluator that includes a personal examination and assessment of the child that includes written findings.

(3) “Independent Review” means assessment by a qualified evaluator that includes a personal examination and assessment of the child in residential treatment. The assessment includes evaluation of the child's progress toward achieving the goals and objectives of the treatment plan, which must be submitted to the court.

(4) “Residential Treatment” as defined in s. 39.407(5)(a)1., F.S.

Specific Authority 39.407(5)(i) FS. Law Implemented 39.407(5) FS. History—New _____.

65C-27.002 Timeframes.

(1) When the department believes that a child is in need of an initial suitability assessment for residential treatment, a representative of the department must make a request to the Agency for Health Care Administration that coordinates the qualified evaluator registry.

(2) The Agency for Health Care Administration shall refer the initial suitability assessment request to a registered qualified evaluator and notify the department's representative who made the referral of the time and place for the evaluation. It is the responsibility for the department to transport the child and required clinical records to the appointment with the appointed qualified evaluator.

(3) The suitability assessment must be scheduled to occur within 5 working days of the referral. Following the assessment of the child, the qualified evaluator will submit written findings to the Agency for Health Care Administration. The Agency for Health Care Administration will review the findings and submit copies of the findings to the agency and the department. The Agency for Health Care Administration shall submit findings to the department within 14 working days from the date of referral.

(4) For all children in the custody of the department that are placed in residential treatment, an independent review must be conducted at least every 90 days after the child's initial placement so long as the child remains placed in a residential treatment center. It is the department's responsibility to notify the Agency for Health Care Administration no later than 60 days from the child's initial placement in residential treatment and every 90 days thereafter so long as the child remains placed in a residential treatment center to request an

independent review. The Agency for Health Care Administration must contact a qualified evaluator to perform the independent review. The Agency for Health Care Administration must submit the completed independent review to the Department of Children and Family Services at least 10 days prior to the 90th day in residential treatment and every 90 days thereafter as long as the child remains in a residential treatment center.

Specific Authority 39.407(5)(i) FS. Law Implemented 39.407(5) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Darcy Abbott, Specialist, 1317 Winewood Blvd., Building 8, Tallahassee, FL 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralph Harmsen, 1317 Winewood Blvd., Building 7, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2001

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

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-29.002
Notice of Fund Availability	67-29.003
General Program Restrictions	67-29.004
Application Procedures for Downpayment Assistance or Permanent Loans	67-29.005
Terms and Conditions of Downpayment Assistance Loans	67-29.006
Terms and Conditions of Permanent Loans	67-29.0065
Loan Processing for Downpayment Assistance or Permanent Loans	67-29.007
Application Procedures for Construction Loans	67-29.0071
Selection Criteria, Rejection Criteria and Scoring and Ranking Guidelines For Construction Loans	67-29.0072
Credit Underwriting Procedures and Loan Origination for Construction Loans	67-29.0073
Construction Disbursements and Loan Servicing	67-29.0074
Terms and Conditions of Construction Loans	67-29.0075
Construction Loan Compliance and Monitoring Provisions	67-29.0076
Fees	67-29.008

PURPOSE AND EFFECT: Florida Housing Finance Corporation is repealing this Rule Chapter due to the implementation of Rule Chapters 67-45 and 67-46, Florida Administrative Code which addresses the Home Ownership Assistance Programs for Down Payment Assistance and Permanent Loans. Repeal of Rules 67-29.002, 67-29.003, 67-29.004, 67-19.005, 67-29.006, 67-29.007, 67-29.0071, 67-29.0072, 67-29.0073, 67-29.0074, 67-29.0075, 67-29.0076,

and 67-29.008, Florida Administrative Code, is proposed to eliminate the obsolete and unnecessary rules and should cause no adverse affect.

SUMMARY: The proposed rule would repeal Rules 67-29.002, 67-29.003, 67-29.004, 67-19.005, 67-29.006, 67-29.007, 67-29.0071, 67-29.0072, 67-29.0073, 67-29.0074, 67-29.0075, 67-29.0076, and 67-29.008, Florida Administrative Code which are unnecessary and obsolete.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507(12) FS.

LAW IMPLEMENTED: 420.5088 FS.

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

TIME AND DATE: 3:00 p.m., September 17, 2001

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND ECONOMIC STATEMENT IS: Andrew T. Price, Esq., Senior Attorney, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329, phone (850)488-4197

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Corporation at least 5 calendar days before the program by contacting Andrew Price at the above address.

THE FULL TEXT OF THE PROPOSED RULES IS:

67-29.002 Definitions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History–New 2-1-89, Amended 1-2-90, 2-24-93, 8-4-93, Formerly 9I-29.002, Repealed.

67-29.003 Notice of Fund Availability.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 2-1-89, Amended 1-2-90, 2-24-93, Formerly 9I-29.003, Repealed.

67-29.004 General Program Restrictions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 2-1-89, Amended 1-2-90, 2-24-93, Formerly 9I-29.004, Repealed.

67-29.005 Application Procedures for Downpayment Assistance or Permanent Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 2-1-89, Amended 1-2-90, 2-24-93, Formerly 9I-29.005, Repealed.

67-29.006 Terms and Conditions of Downpayment Assistance Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New 2-1-89, Amended 1-2-90, 2-24-93, Formerly 91-29.006, Repealed.

67-29.0065 Terms and Conditions of Permanent Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New 1-2-90, Amended 2-24-93, Formerly 91-29.0065, Repealed.

67-29.007 Loan Processing for Downpayment Assistance or Permanent Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History--New 2-1-89, Amended 1-2-90, 2-24-93, Formerly 91-29.007, Repealed.

67-29.0071 Application Procedures for Construction Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History--New 2-24-93, Amended 8-4-93, Formerly 91-29.0071, Repealed.

67-29.0072 Selection Criteria, Rejection Criteria and Scoring and Ranking Guidelines for Construction Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History--New 2-24-93, Amended 8-4-93, Formerly 91-29.0072, Repealed.

67-29.0073 Credit Underwriting Procedures and Loan Origination for Construction Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(1),(2) FS. History--New 2-24-93, Formerly 91-29.0073, Repealed.

67-29.0074 Construction Disbursements and Loan Servicing.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(18), 420.5088 FS. History--New 2-24-93, Formerly 91-29.0074, Repealed.

67-29.0075 Terms and Conditions of Construction Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History--New 2-24-93, Amended 8-4-93, Formerly 91-29.0075, Repealed.

67-29.0076 Construction Loan Compliance and Monitoring Provisions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History--New 2-24-93, Amended 8-4-93, Formerly 91-29.0076, Repealed.

67-29.008 Fees.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19) FS. History--New 2-1-89, Amended 1-2-90, 2-24-93, 8-4-93, Formerly 91-29.008, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Andrew T. Price, Esq.
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Kaplan

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 15, 2001

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of Treasury

RULE NOS.:

4C-4.002
4C-4.0035

RULE TITLES:

Purpose
Procedures for Requesting
Approval to Accept Credit
Cards, Charge Cards, and Debit
Cards
Standard Contracts with Credit
Card Service Providers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 15, April 13, 2001, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

Subsection (3) of Rule 4C-4.002, F.A.C., is changed to read:

(3) Utilizing a standardized contract between the financial institution or other appropriate intermediaries ~~service provider~~ and the state agency and judicial branch. The standard contract will be adopted by the Treasurer. ~~The Treasurer may also approve a substitute agreement developed by an agency if the terms of the substitute agreement are acceptable.~~ The standard contract will be available for use by units of local governments;

Subsection (4) of Rule 4C-4.0035, F.A.C., is changed to read:

~~(4)(5) The An application package, Form DI4-1475, Request for Approval to Accept Credit Cards, Charge Cards, and Debit Cards, to request approval to accept credit cards, charge cards, and debit cards which is hereby incorporated by reference, may be obtained by contacting the Bureau of Banking, Division of Treasury Governor's Office of Planning and Budgeting, The Capitol, Tallahassee, Florida. Requests may be made by electronic mail.~~

Rule 4C-4.004, F.A.C., is changed to read:

4C-4.004 Standard Contracts with Credit Card Service Providers.

(1) Contractual arrangements in any form between a state agency or the judicial branch and a financial institution or other appropriate intermediaries to process credit, charge, or debit card payments require the approval of the State Treasurer.