

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-2.004	Levy of Tax – Annual and Nonrecurring
12C-2.0115	Public Use Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amendments to Rules 12C-2.004 and 12C-2.0115, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., as originally published in the Florida Administrative Weekly (Vol. 27, No. 17, pp. 2137-2143), and as subsequently revised pursuant to a Notice of Change published in the Florida Administrative Weekly on July 20, 2001 (Vol. 27, No. 29, p. 3340). These changes are in response to additional written comments received from the Joint Administrative Procedures Committee.

A) In response to the comments received by the Department regarding the proposed amendments to Rule 12C-2.004, F.A.C., subsection (1) and the Law Implemented statement have been changed, so that, when adopted, these rule provisions will read as follows:

12C-2.004 Levy of Tax – Annual and Nonrecurring.

(1) Annual Tax – An annual tax on the just value of intangible property having a taxable situs in Florida is levied as follows:

(a)1. All firms, partnerships, joint ventures, associations, corporations, estates, trusts, trustees, personal representatives, receivers, guardians, custodians and other fiduciaries are subject to the full tax rate of \$1.00 ~~2.00~~ per thousand dollars (1 mill ~~2 mills~~) of just value of intangible property having a taxable situs in Florida.

2. Example: Artificial entities and fiduciaries.

Accounts Receivable	\$75,000.00	
Stocks	<u>150,000.00</u>	50,000.00
Bonds	<u>125,000.00</u>	25,000.00
Loans to Stockholders (outstanding balances)	50,000.00	
Taxable Assets Total	<u>\$325,000.00</u>	200,000.00
Exemption	<u>250,000.00</u>	
Net Taxable Assets	\$75,000.00	
Tax Rate	x <u>.001</u> .002	
Tax Due	<u>\$ 75.00</u> 400.00	

~~(b) Charitable trusts are those trusts paying 95 percent of their income to organizations exempt from federal income tax under s. 501(c)(3), IRC, and are subject to a tax rate of \$1.00 per thousand dollars (1 mill) of just value of intangible personal property.~~

~~Example: Charitable trusts:~~

Stocks	\$100,000.00
Mutual Funds	150,000.00
Futures Contracts	75,000.00
Bonds	125,000.00
Total	\$450,000.00
Tax Rate	x .001
Tax Due	\$ 450.00

~~(b)(e) Natural persons filing an individual or joint return are subject to the tax rate of \$1.00 ~~2.00~~ per thousand dollars (1 mill) of just value of intangible property ~~in the following manner: The first \$1.00 (1 mill) of tax per thousand dollars of the just value of intangible personal property applies to the property value of individuals in excess of \$250,000.00~~ ~~20,000~~ (\$~~500.00.00~~ ~~40,000~~ for a married couple filing a joint return). ~~The additional \$1.00 (1 mill) of tax per thousand dollars of the just value of intangible personal property applies to the property value of individuals in excess of \$100,000 (\$200,000 for a married couple filing a joint return).~~~~

Examples:

1. Individual having taxable assets valued at \$300,000.00 ~~100,000 or less.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$300,000.00 50,000.00	\$50,000.00
Exemption	<u>250,000.00</u> 20,000.00	-
		100,000.00
Net Taxable Assets	<u>\$50,000.00</u> 30,000.00	0
Tax Rate	x <u>.001</u> 2.001	
Tax Due	<u>\$50.00</u> 30.00	No tax is due
Total Tax Due	<u>\$0</u> 30.00 (tax due is less than \$60.00)	

2. Individual having taxable assets valued at \$430,000 ~~100,000.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$430,000.00 200,000.00	\$200,000.00
Exemption	<u>250,000.00</u> 20,000.00	100,000.00
Net Taxable Assets	\$180,000.00	\$100,000.00
Tax Rate	x <u>.001</u> 2.001	
Tax Due	\$180.00	\$100.00
Total Tax Due	\$180.00 + \$100.00 = \$280.00	

3. Married couple filing jointly having taxable assets valued at ~~\$555,000~~ 200,000 or less.

	(first mill tax)	(second mill tax)
Taxable Assets	\$555,000.00 <u>50,000.00</u>	\$50,000.00
Exemption	500,000.00 <u>40,000.00</u>	-
		200,000.00
Net Taxable Assets	\$55,000.00 <u>10,000.00</u>	\$0
Tax Rate	x .001	001
Tax Due	\$55.00 <u>10.00</u>	No tax is due
Total Tax Due	\$0 <u>10.00</u> (tax due is less than \$60.00)	

4. Married couple filing jointly having taxable assets valued at ~~\$760,000.00~~ greater than \$200,000.00.

	(first mill tax)	(second mill tax)
Taxable Assets	\$760,000.00 <u>300,000.00</u>	\$300,000.00
Exemption	500,000.00 <u>40,000.00</u>	-
	<u>200,000.00</u>	
Net Taxable Assets	\$260,000.00	\$100,000.00
Tax Rate	x .001	x .001
Tax Due	\$ 260.00	\$ 100.00
Total Tax Due	\$260.00 <u>+\$100.00 = \$360.00</u>	

Law Implemented 199.032, 199.133, 199.143, 199.185 FS., s. 1, Ch. 2001-225, L.O.F.

B) In response to the comments received by the Department regarding the proposed amendments to Rule 12C-2.0115, F.A.C., renumbered subsections (2) through (8) and the Law Implemented statement have been changed, so that, when adopted, these rule provisions will read as follows:

12C-2.0115 Public Use Forms.

- (2)(4) DR-601-C Intangible Personal Property Tax Return (Corporation and Partnership) (r. ~~01/02~~ 12/92) _____ 1/94
- (3) DR-601CN Instructions for Filing Form DR 601C (r.01/02) _____
- (4) DR-601CS Accompanying Schedules for Form DR 601C (r. 01/02) _____
- (5) DR-601-G Government Leasehold Intangible Tax Return (r. ~~01/01~~ 01/93) _____ 1/94
- (6) DR-601-I Intangible Personal Property Tax Return (Individual and Fiduciary) (r. ~~01/02~~ 12/92) _____ 1/94
- (7) DR 601IN Instructions for Filing Form DR 601I (r.01/02) _____
- (8) DR 601IS Accompanying Schedules for Form DR 601I (r. 01/02) _____

Law Implemented 199.023, 199.032, 199.042, 199.052, 199.062, 199.103, 199.1055, 199.135, 199.232, 199.292, 213.053 FS., s. 1, Ch. 2001-225, L.O.F.

DEPARTMENT OF CITRUS

RULE CHAPTER NO.: 20-40
 RULE CHAPTER TITLE: Loading Manifest to be Furnished to the Inspector – Fresh Citrus Fruit

RULE NO.: 20-40.005
 RULE TITLE: Mandatory Automated Reporting NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d), F.S., published in Vol. 27, No. 24, June 15, 2001, issue of the Florida Administrative Weekly:

As of August 1, 2001, and thereafter, each shipper shall provide to the Department of Agriculture and Consumer Services, Division of Fruit and Vegetables an automated loading manifest containing all of the information required by this chapter in a form and manner prescribed by the Division. Shippers that shipped less than 15,000 4/5 bushel ~~10,000~~ cartons the previous shipping season are not required to provide information via the automated loading manifest for the current shipping season, but shall provide said information in a written form and manner prescribed by the Division. The Division shall then input and update the manifests from the smaller shippers into the database.

Specific Authority 601.10(1),(8), 601.15(1), (2),(4),(10), 601.155(7), 601.28(4), 601.69, 601.701 FS. Law Implemented 601.10(8), 601.15(1), 601.155(7), 601.69 FS. History–New _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.101
 RULE TITLE: Academic Education Program Services

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. 26, June 29, 2001, issue of the Florida Administrative Weekly:

33-501.101 Academic Education Program Services.

- (1) No change.
- (2) Criteria for mandated academic education program services shall be based upon:
 - (a) Lack of a verified high school diploma; or G.E.D. ~~or college degree;~~
 - (b) through (9) No change.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.: 40E-2.041
 RULE TITLE: Permits Required

NOTICE OF CORRECTION

The South Florida Water Management District announces a correction to the Notice of Proposed Rulemaking regarding Rule 40E-2.041, F.A.C., which appeared in the June 29, 2001, issue of the Florida Administrative Weekly, Vol. 27, No. 26, page 3011. Specifically, the notice published in the June 29, 2001, issue of the Florida Administrative Weekly, indicated that the proposed rule amendments would be presented to the Governing Board during the public hearing portion of the

August 9, 2001 board meeting. The correct date and time will be September 13, 2001 at 8:30 a.m., or as soon thereafter as the item can be heard.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Barbers'

RULE NO.: RULE TITLE:
61G3-20.022 Special Assessment Fee

NOTICE OF CHANGE

The Board of Barbers' gives Notice of Change to the above-referenced rule based upon comments expressed by the staff attorney for the Joint Administrative Procedures Committee. The rule was originally published in Vol. 27, No. 21, May 25, 2001, issue of the Florida Administrative Weekly. Corrected, text shall read as follows:

61G3-20.022 Special Assessment Fee.

(1) In order to eliminate the current cash deficit in the operating funds of the Board and to maintain the Board's financial integrity, each active and voluntary inactive licensee, including all licensed barbers, restricted barbers, barbers assistants, and barbershop license holders, who received their initial license prior to the effective date of this rule shall pay a one-time special assessment fee of one hundred dollars (\$100.00) as follows:

(a) All licensed barbers, restricted barbers, and barbers assistants who are scheduled to renew their license during 2002 shall pay the special assessment fee of one hundred dollars (\$100.00) no later than 5:00 p.m. on July 31, 2002.

(b) All barbershop license holders who are scheduled to renew their license during 2002 shall pay the special assessment fee of one hundred (\$100.00) no later than 5:00 p.m. on November 30, 2002.

(2) Failure to comply with this rule and pay the required fee shall constitute grounds for disciplinary action pursuant of Section 476.204(i), and 455.227(1)(b) and (q) F.S.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Baker, Executive Director, Barbers' Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:
61G5-30.001 Disciplinary Guidelines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule amendment, published in the Florida Administrative Weekly, Vol. 27, No. 11, March 16, 2001, has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NOS.: RULE TITLES:
61G10-13.005 Obtaining Inactive Status
61G10-13.008 Delinquent License Status

NOTICE OF CHANGE

The Board of Landscape Architecture gives Notice of Change to the above-referenced rules based upon comments expressed by the staff attorney for the Joint Administrative Procedures Committee. The rules were originally published in Vol. 27, No. 23, June 8, 2001, issue of the Florida Administrative Weekly. When changed, Rules 61G10-13.005 and 61G10-13.008 shall read as follows:

61G10-13.005 Obtaining Inactive Status.

(2) At time of licensure renewal, a registered landscape architect may apply to the Department to place his license on inactive status. Inactive status will be considered by the Department only during the biennium license renewal period.

61G10-13.008 Delinquent License Status.

(2) The delinquent status licensee must apply for active or inactive status during the biennium in which the license becomes delinquent. Failure to notify the Department in regards to active or inactive status before the expiration of that biennium shall render the license null and void without further action by the Board or the Department.

(3) The delinquent status licensee who applies for active or inactive status shall:

(a) Pay the active status fee prescribed by Rule 61G10-12.002(1), F.A.C., or the inactive status fee prescribed by Rule 61G10-12.002(7), F.A.C., the delinquent status fee prescribed by Rule 61G10-12.002(10), F.A.C., and if applicable, the processing fee prescribed by Rule 61G10-12.002(11), F.A.C.; and

(b) Demonstrate compliance with the continuing education requirements prescribed by Rule 61G10-13.003, F.A.C., and Section 455.2177, F.S., and the rules promulgated thereunder.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Landscape Architecture, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NOS.: RULE TITLES:
61G10-18.001 Continuing Education Credit for Biennial Renewal
61G10-18.002 Board Approval of Continuing Education Providers
61G10-18.003 Obligation of Continuing Education Providers

61G10-18.004	Evaluations of Providers
61G10-18.005	Duration of Provider Status
61G10-18.006	Approval of Continuing Education Courses
61G10-18.007	Revocation of Provider Approval

NOTICE OF CHANGE

The Board of Landscape Architecture gives Notice of Change to the above-referenced rules based upon comments expressed by the staff attorney for the Joint Administrative Procedures Committee. The rules were originally published in Vol. 27, No. 23, June 8, 2001, issue of the Florida Administrative Weekly. In Rule 61G10-18.002, subsection (2), add the phrase "Provider Approval Application" between the words "on" and "form". Remove subsection (2)(h). In Rule 61G10-18.004, remove subsection (2). In Rule 61G10-18.005, subsection (2), remove the phrase "or the renewal of any provider". In Rule 61G10-18.006, numbers 1.,2.,3.,4.,5.,6.,7.,8., and 9. shall read as follows, (1),(2),(3),(4),(5),(6),(7),(8),(9).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Landscape Architecture, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NOS.:	RULE TITLES:
61G15-22.002	Definitions
61G15-22.004	Conversion of Education Units to PDH
61G15-22.005	Non-Qualifying Activities
61G15-22.007	Noncompliance
61G15-22.009	Exemptions
61G15-22.010	Continuing Education Courses in Laws and Rules
61G15-22.011	Board Approval of Continuing Education Providers
61G15-22.012	Obligations of Continuing Education Providers

NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 27, No. 20, May 18, 2001, issue of the Florida Administrative Weekly. These changes are being made in response to comments from the Joint Administrative Procedures Committee.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Florida Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

1. Rule 61G15-22.002 subsection (2) shall now read as follows:

(2) Professional Development Hour (PDH): A time measurement requiring a minimum of 50 minutes instruction or presentation per hour. The PDH is the common denominator for other units of credit.

2. Rule 61G15-22.004 subsection (8) shall now read as follows:

(8) Active participation in professional and technical societies as described in Rule 61G15-22.003(6). Each hour of participation is equal to 1 PDH, with a maximum credit of 2 PDH for each organization.

3. Rule 61G15-22.005 subsection (1) shall now read as follows:

(1) Self-generated courses, that being courses generated and presented by the licensee to himself or herself for continuing education credit.

4. 61G15-22.007 shall now read as follows:

In accordance with Section 471.017, Florida Statutes, completion of the required professional development hours is a condition of licensure renewal. No license will be renewed until the requirement is satisfied. If, after renewal, it is found that the licensee did not comply with these requirements, disciplinary proceedings will be initiated.

5. Rule 61G15-22.009 subsection (1) shall now read as follows:

(1) New licensees who have achieved licensure by examination, pursuant to 471.013, F.S., shall be exempt for their first renewal period.

6. Rule 61G15-22.011 subsection (3)(i) shall read as follows and subsection (3)(j) has been deleted. Subsections (5) and (7) now read as follows:

(i) A fee of \$250.

(5) Should the Board determine that the provider has failed to provide appropriate continuing education services, it shall request that the Department of Business and Professional Regulation issue an order requiring the provider cease and desist from offering any continuing education courses and shall request that the Department revoke any approval of the provider granted by the Board.

(7) The Board retains the right and authority to audit and/or monitor programs and review records and course materials given by any provider approved pursuant to this rule. The Board shall request that the Department of Business and Professional Regulation revoke the approved status of the provider or reject individual programs given by a provider if the provider disseminated any false or misleading information in connection with the continuing education programs, or if the provider fails to conform to and abide by the rules of the Board. Licensees will not lose credit for attending courses offered by approved providers that are later rejected or stopped by the Board.

7. Rule 61G15-22.012 subsection (10) and (11) have been deleted.

DEPARTMENT OF HEALTH

School Psychology

<p>RULE NOS.:</p> <p>64B21-502.001</p> <p>64B21-502.004</p> <p>64B21-502.005</p>	<p>RULE TITLES:</p> <p>Continuing Education</p> <p>Continuing Education Credit Guidelines</p> <p>Initial Licensure Period</p>
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NOTICE OF CHANGE

The Department of Health, Division of Medical Quality Assurance, in accordance with subparagraph 120.54(3)(d)1., F.S., announces changes to rule amendments proposed to Rule Chapter 64B21-502, F.A.C., originally noticed in the May 25, 2001, issue of the Florida Administrative Weekly, Vol. 27, No. 21. The changes are in response to comments provided by the Joint Administrative Procedures Committee. The changed rules will read as follows:

64B21-502.001 Continuing Education.

(1) Every applicant for renewal of licensure shall demonstrate evidence of having obtained thirty (30) contact hours of continuing education credit earned during each biennial renewal period. One (1) of the thirty (30) hours must be on domestic violence consistent with Section 456.031, F.S. The licensee shall retain for four (4) years certificates of attendance or other records to document the completion of the continuing education requirement. The Department will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met.

(2) The Department may grant provider approval for programs relating to the profession for which license renewal is sought.

Specific Authority 490.007(2), 490.0085, 420.53(4), 490.015 FS. Law Implemented 490.007(2), 490.0085, 456.031 FS. History—New 4-13-82, Amended 11-27-83, 2-21-85, Formerly 21U-502.01, Amended 12-26-91, 6-24-92, Formerly 21U-502.001, 61E9-502.001, Amended _____.

64B21-502.004 Continuing Education Credit Guidelines.

(1) Licensees who obtain initial licensure in the first year of a biennium will be required to demonstrate fifteen (15) hours of continuing education during the biennium in which licensure was obtained for the first renewal of their license. Persons certified for licensure in the second half of a biennium are exempt from the continuing education requirements for that biennium. Continuing education requirements must be met for each biennium thereafter.

~~(2)(4)~~ For the purpose of renewing or reactivating a school psychologist license, only those continuing education hours approved by the Department of Health will be acceptable for credit. Credit will be approved for programs ~~approved pursuant to Section (3) or~~ offered by a continuing education provider ~~Provider~~ approved pursuant to the requirements of this rule ~~Section (8).~~

~~(3)(2)~~ One (1) hour of continuing education credit is defined as no less than fifty (50) minutes of uninterrupted learning in one (1) hour.

~~(4)(3)~~ Programs approved for continuing education credits will contain the following characteristics:

(a) Continuing education speakers must:

1. Be faculty, post-graduate faculty or former faculty of a university or college accredited by an accrediting agency approved by the United States Department of Education, or

2. Have been awarded a doctorate which is psychological in nature from a college or university which is accredited by an accrediting agency approved by the United States Department of Education, or

3. Are licensed as medical doctors in the state of their residence and can document completion of a residency in psychiatry which was approved by the American Medical Association, or

4. Be able to present two (2) signed affidavits from persons licensed under Chapter 490, Florida Statutes, which can verify that the presenter has extensive experience, to include not less than two (2) years of practical application or research, involving the subject area being taught in the program.

(b) The content of all continuing education programs must be psychological in nature and provide information concerning human behavior and/or methods of providing psychological services. Continuing education credit will be granted only for those courses designed to improve the counseling skills of the licensee.

(c) Programs accepted for continuing education credit shall fall into one of the following categories.

1. Post-graduate courses, and seminars related to school psychology and approved courses given by universities accredited by an accrediting agency approved by the United States Department of Education, or recognized hospitals and training institutes.

2. Continuing education programs presented at international, national, regional and state school psychology and psychology association conferences meetings.

~~3. Workshops and institutes, which include approved workshops at conventions.~~

4. Post masters graduate level courses completed at an accredited college or university.

~~(5)(4)~~ Continuing education credit received during conventions or conferences must be verified by the provider of the continuing education credit. Continuing education credit will be awarded for preparing to teach a continuing education program.

~~(6)(5)~~ Presenters/Moderators of programs designed for continuing education may receive credit on a one (1) time basis for programs where they are actually in attendance for the complete program. A maximum of ten (10) hours of credit per biennium may be received for presenting/moderating a program.

~~(7)(6)~~ A licensee attending a continuing education program must have that attendance verified in writing by the program's registrar or sponsor. Such verification will only be submitted to the Department if the licensee's file is audited.

~~(7) In order to receive approval for a continuing education program from the Department of Health, one must provide the following information:~~

~~(a) A completed form provided by the Department titled "Request for Approval of Continuing Education Program";~~

~~(b) A vita of all speakers, moderators and/or leaders of the activity which includes names, titles, degrees awarded, and any faculty status ever held at an accredited university or college; and~~

~~(c) An outline of the program which details the method of learning, the content, and the specific time scheduled for each speaker and topic.~~

(8) Continuing education providers will be approved for one (1) biennial renewal cycle who meet to the Department's satisfaction the following criteria:

(a) Provide to the Department:

1. A proposed program which meets the criteria of subsection (3);

2. A signed and completed Application for Continuing Education Provider Status for School Psychologists Provider Application form, DH-MQA 1049. Form DH-MQA 1049, effective 8/01, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Office of School Psychology, at: 4052 Bald Cypress Way, Bin CO5, Tallahassee, Florida 32399-3255.

(b) Sign and abide by a written agreement to:

1. Provide an identifiable person to act as the Continuing Education Director and be responsible for each presentation of the continuing education programs;

2. Retain a list of attendees for at least three (3) years;

3. Provide all programs for continuing education credit in accordance with subsection (3);

4. Assign an identifiable person to be present at each continuing education activity whose responsibilities will include recording of attendance and monitoring of attendance to assure that credit is awarded only for those hours actually attended;

5. Provide the participants with the Department approved certificate of attendance containing the provider's name and number, title of the program, instructor, date of the program, location, number of hours of continuing education credit and the participant's license number(s);

6. Notify the Department of any significant changes relative to the maintenance of standards as set forth in these rules;

7. The Department retains the right and authority to audit and/or monitor programs given by the provider. The Department may rescind provider status or reject individual

programs given by the provider if the provider has disseminated any false or misleading information in connection with the continuing education program; or if the provider has failed to conform to and abide by the written agreement and rules of the Department.

Specific Authority 490.015 FS. Law Implemented 490.0085(4),(2) FS., ~~Chapter 84-168, Laws of Florida.~~ History—New 7-3-83, Amended 11-27-83, 2-21-85, Formerly 21U-502.04, Amended 12-26-91, 6-24-92, Formerly 21U-502.004, 61E9-502.004, Amended.

64B21-502.005 Initial Licensure Period.

No change.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
65E-25	Sexually Violent Predator Program
RULE NOS.:	RULE TITLES:
65E-25.001	Assessment and Evaluation Procedures
65E-25.002	Education and Training Requirements for Multidisciplinary Team Members
65E-25.003	Criteria for Recommendation that Involuntary Civil Commitment Petition be Filed
65E-25.004	Designation of Secure Facilities
65E-25.005	Basic Treatment Plan Components
65E-25.006	Notification of Examination

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with section 120.54(3)(d)1., Florida Statutes, published in Vol. 27, No. 18, May 4, 2001, of the Florida Administrative Weekly will be changed as to read as follows:

65E-25.001 Assessment and Evaluation Procedures.

(1) There shall be an initial assessment of every individual referred to the Sexually Violent Predator Program (SVPP). The initial assessment shall consist of a record review by no fewer than two licensed psychologists or psychiatrists. Records reviewed shall, at a minimum, consist of a referred individual's criminal and institutional background and treatment history, if any, provided with the referral by the Department of Corrections, Department of Juvenile Justice, or the Department of Children and Families under Section 394.913(2), Florida Statutes with the referral.

(2)(a) A clinical evaluation shall be conducted on referred individuals who may meet the statutory criteria for commitment as sexually violent predators as determined by the initial assessment. At least one licensed psychologist or psychiatrist shall perform a clinical evaluation, which shall include, at a minimum, a review of all records considered

during the initial assessment, and a personal interview of the referred individual if the referred individual consents to the interview.

(b) The evaluator's clinical opinion shall be the product of clinical judgment guided by the application of assessment instruments generally accepted by licensed professionals in the field of the assessment and evaluation of sexual offenders as helpful in the prediction of sexual offender recidivism. Each clinical evaluation shall include the Static 99, if sufficient information is available to score that instrument. Evaluators may, in addition to the Static 99, use other assessment instruments as appropriate. The clinical evaluation shall result in a written report that addresses, at a minimum, whether the evaluated individual suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment. "Likely to engage in acts of sexual violence" shall mean that the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(3) ~~The licensed psychologist(s) or psychiatrist(s) who conduct the initial assessment or who review the complete assessment and evaluation file, and, if a clinical evaluation is conducted, the licensed psychologist(s) or psychiatrist(s) who perform the clinical evaluation, and the licensed psychologist or psychiatrist who signs the department's recommendation to the appropriate state attorney's office shall constitute the multidisciplinary team. The multidisciplinary team does not have to be unanimous in its determination that an individual meets criteria for involuntary civil commitment as a sexually violent predator in order for the Department to recommend to a state attorney that a commitment petition be filed. A majority of the members of the multidisciplinary team must support the conclusion reported by the team. At least one member of the multidisciplinary team who performed a clinical evaluation must conclude that the individual meets commitment criteria in order to support a multidisciplinary team conclusion that an individual meets the criteria for commitment. In the event the multidisciplinary team has reached a decision as to whether a referred individual meets commitment criteria, but no licensed member of the multidisciplinary team is available to sign the recommendation to the state attorney, a Department employee other than a licensed psychologist or psychiatrist may sign the Department's recommendation. However, in the event that the Department recommends that the state attorney file a petition seeking an individual's involuntary commitment, a statement signed by a licensed psychologist or psychiatrist affirming the recommendation must be sent to the state attorney as soon as is practicable. The Department employee other than a licensed psychologist or psychiatrist who signs a department recommendation in place of a licensed psychologist or psychiatrist is not a member of the multidisciplinary team.~~

(4) The Department's recommendation to the state attorney of whether or not to file a petition shall be based upon the multidisciplinary team report. In the event the Department, or a member of the multidisciplinary team, receives additional information concerning a referred individual after the recommendation is provided to the state attorney, the Department must provide the additional information to all the members of the multidisciplinary team who participated in the assessment and evaluation of that individual. Each member of the team must review the information and indicate whether the additional information alters his or her conclusion as to whether or not the referred individual meets commitment criteria. If the conclusion of the multidisciplinary team is revised as a result of the additional information, the Department will submit a revised recommendation to the state attorney. The multidisciplinary team does not have to be unanimous in its determination that an individual meets criteria for involuntary civil commitment as a sexually violent predator in order for the Department to recommend to a state attorney that a commitment petition be filed. In the event that the members of the multidisciplinary team are not unanimous in their opinions as to whether an individual meets commitment criteria, the clinical director of the sexually violent predator program, or his or her designee, shall determine whether or not the Department will recommend that a commitment petition be filed. At least one member of the multidisciplinary team who performed a clinical evaluation must conclude that the individual meets commitment criteria in order to support a Department recommendation that a petition be filed.

65E-25.002 Education and Training Requirements for Multidisciplinary Team Members.

Multidisciplinary team members must be licensed psychologists or psychiatrists with a minimum of one year of experience in the assessment and/or treatment of sex offenders. The Department may accept other relevant experience in lieu of the one year of sex offender assessment and/or treatment experience. Prior to participating in risk assessments as a member of the multidisciplinary team, the licensed psychologist or psychiatrist must have attended training in the use and scoring of the Static 99 at least one of the risk assessment instruments approved by the Department for multidisciplinary team use. Multidisciplinary team members must earn a minimum of 24 hours of continuing education credit biannually in the assessment and/or treatment of sex offenders.

65E-25.003 Criteria for Recommendation that Involuntary Civil Commitment Petition be Filed.

(1) The multidisciplinary team may not determine that an individual meets criteria for involuntary civil commitment as a sexually violent predator unless the team concludes that the individual satisfies the provisions of Section 394.912(10), Florida Statutes (2000).

(2) The multidisciplinary team may not determine that an individual meets criteria if the individual has never been charged with a sexually violent offense involving physical contact with a victim unless:

(a) The record reflects a non-contact sexually motivated offense that is of a predatory nature, ~~such as false imprisonment, kidnapping, or stalking,~~ or

(b) The record reflects at least two charges of non-contact offenses involving sexual acts in the presence of a child, and the record evidences an escalation in severity of offenses such that the multidisciplinary team concludes that there is a reasonable probability that future sexual offenses will involve physical contact with the victim.

The presence of either factor listed in (a) or (b) of this subsection above does not mandate a conclusion that the referred individual meets statutory criteria as a sexually violent predator.

(3) An individual cannot be considered to meet the criteria for involuntary civil commitment as a sexually violent predator if the individual's propensity to commit sexually violent offenses is wholly attributable to a "mental illness" as defined in Section 394.455, Florida Statutes (2000).

(4) An individual cannot be considered to meet the criteria for involuntary civil commitment as a sexually violent predator if the individual's propensity to commit sexually violent offenses is wholly attributable to "retardation" or "autism" as defined in Section 393.063, Florida Statutes.

65E-25.004 Designation of Secure Facilities.

(1) The secure facilities to be utilized by the department for the control, care and treatment of persons detained and/or committed under Sections 394.910-.931, Florida Statutes, are the Florida Civil Commitment Center at 1361~~37~~ S.E. Hwy. 70, Arcadia, FL 34266, and the South Bay Sexually Violent Predator Detainee Unit at 600 U.S. Highway 27 South, South Bay, FL 33493.

65E-25.005 Basic Treatment Plan Components.

(1) The treatment program for individuals involuntarily committed to the Department shall be a cognitive-behavioral therapy and relapse prevention program tailored to meet the needs of each committed individual. All committed individuals must receive a comprehensive assessment that will permit the development of an individualized treatment plan.

(2) The treatment program shall consist of a series of hierarchically advancing stages of treatment and rehabilitation. The program must afford group and, where indicated, individual counseling directed toward sex offender-specific as well as substance abuse and general psychosocial issues. In addition to structured counseling activities, the program must offer vocational therapy and therapeutic recreational activities.

(3) The treatment program may utilize phallometric and polygraphic assessment to assist in measuring treatment progress.

(4) Where medically and therapeutically appropriate, the treatment program may offer, on a voluntary basis, pharmacological treatment designed to reduce deviant sexual impulses.

~~(5)(4)~~ At least annually, each committed individual shall have his treatment plan and progress reviewed by the primary treating clinician and the clinical director or his or her licensed psychologist/psychiatrist designee. A status report shall be prepared and included in the clinical file, with notation of any adjustments made in the individual's treatment plan as a result of the review.

65E-25.006 Notification of Examination.

Prior to conducting a personal interview of a potential sexually violent predator, the individual to be interviewed must be informed that he or she is the subject of a clinical evaluation which, together with review of pertinent records, will enable the State to formulate an opinion as to whether the individual meets statutory criteria as a sexually violent predator. The individual must be informed that he may decline to be interviewed, and that if he does, the clinical evaluation will consist of a record review only. The individual must be informed that the evaluation will result in a written report that will be considered by the State in reaching its determination as to whether to recommend to the state attorney that an involuntary commitment petition be filed. This information must be orally explained to the individual and should, if practicable, be provided to the individual in a written statement that the individual may sign indicating his or her understanding of the notification. If the individual refuses to sign the written statement, the evaluator should so indicate on the written statement and sign and date it. In the event that it is not practicable to provide the individual a written statement and obtain a signature, the evaluator should so indicate on the written statement with a brief explanation of why the written statement could not be provided, ~~to the individual~~ and sign and date it.

**Section IV
Emergency Rules**

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Scope of Rules	12ER01-9
Definitions	12ER01-10
General Requirements	12ER01-11
Payor Information	12ER01-12
Methods of Electronic Fund Transfer	12ER01-13
Means of Communication to Report Payment Information	12ER01-14
Payment Transmission Errors	12ER01-15
Procedures for Payment	12ER01-16
Due Date; General Provisions	12ER01-17