

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF LEGAL AFFAIRS

RULE TITLE: Attorney Services
RULE NO.: 2-37.010

PURPOSE AND EFFECT: The Department intends to incorporate revised forms entitled "Request for Attorney General Approval of Private Attorney Services" and "Office of the Attorney General Attachment A for Private Attorney Services" into the rule.

SUBJECT AREA TO BE ADDRESSED: The current forms entitled "Request for Attorney General Approval of Private Attorney Services" and "Office of the Attorney General Attachment A for Private Attorney Services" have been revised and the revised forms are being incorporated by reference into the rule.

SPECIFIC AUTHORITY: 287.059 FS.

LAW IMPLEMENTED: 287.059, 16.015 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry Daugherty, Senior Management Analyst II, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

2-37.010 Attorney Services.

(1) The Department of Legal Affairs adopts a form to be filled out by agencies who wish to request representation by private attorneys. Form OAG-001 (rev. 9/2001), entitled "Request for Attorney General Approval of Private Attorney Services," effective 5-18-00, is hereby incorporated by reference.

(2) All contracts for private attorney services shall contain an addendum entitled "Office of the Attorney General Attachment A for Private Attorney Services," Form OAG-002, (rev. 9/2001), effective (rev. 2/2001), which is hereby incorporated by reference.

(3) Copies of the forms may be obtained from the General Legal Division, Office of the Attorney General, The Capitol PL-01, Tallahassee, Florida 32399-1050.

Specific Authority 287.059 FS. Law Implemented 16.015, 287.059 FS. History--New 10-7-90, Formerly 2-1.013, Amended 7-12-93, 10-29-97, 5-18-00, 6-5-01, \_\_\_\_\_.

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Pupil Attendance Records
RULE NO.: 6A-1.044

PURPOSE AND EFFECT: The purpose of this rule development is to revise existing requirements of the statewide attendance recordkeeping system to establish standards for electronic attendance recordkeeping systems so that individual school districts will no longer be required to obtain prior approval for alternate systems on a case by case basis. The effect is to maintain standards for auditable attendance records while allowing for advances in technology where appropriate and without placing undue burden on school districts.

SUBJECT AREA TO BE ADDRESSED: Pupil Attendance Records; Handbook for DOE Automated Student Recordkeeping System.

SPECIFIC AUTHORITY: 120.53(1)(b), 229.053(1), 229.555(3) FS.

LAW IMPLEMENTED: 232.021, 232.022, 232.023 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT A TIME, DATE AND PLACE TO BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, Room 1214, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lavan Dukes, Education Information and Accountability Services, Department of Education, Room 814, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)487-2280

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-1.044 Pupil Attendance Records.

(1) Pupil attendance records shall be maintained for any student enrolled in public schools who is earning high school credit as provided in Section 232.2462, Florida Statutes, who is funded as provided in Chapter 236, Florida Statutes, and the Appropriations Act, or who is required to be in attendance by the compulsory attendance requirements as provided in Chapter 232, Florida Statutes.

(2) Beginning in the fiscal year 1988-89, the automated student attendance recordkeeping system as provided for in Rule 6A-1.0014, FAC., shall be the attendance system as used in this rule.

(3) The presence, absence, or tardiness of each student shall be checked once each day at a time or times prescribed by the school board and all absent and tardy pupils shall be recorded daily in the Automated Student Attendance

Recordkeeping System as described in the Department of Education Comprehensive Management Information System Attendance Recordkeeping Handbook or daily by such alternate system of recording attendance as has been specifically approved by the Deputy Commissioner for Administration and Technology. In approving alternate systems, the Deputy Commissioner for Administration and Technology shall use the following criteria: The attendance recordkeeping system shall provide complete and accurate attendance data and shall make provision for maintaining auditable records for three (3) years or until applicable audits are completed. ~~Any alternate system shall be approved prior to implementation only upon specific application from the district.~~ The attendance records shall also show the dates of a student's enrollment, withdrawal or re-entry in the school for the applicable year. Data shall not be recorded in temporary records, and then transferred at a later date to attendance records, except for the first ten (10) days of each school year.

(4) Attendance of all pupils must be maintained during the one hundred eighty (180) day school year or the equivalent and summer school when applicable as provided by law and rules of the State Board shall be required, except for absence due to illness, or as otherwise provided by law.

(5) For the purpose of compliance with this rule, a pupil shall be deemed to be in attendance if actually present at school, or away from school on a school day and engaged in an educational activity which constitutes a part of the school-approved instructional program for that pupil. Any such attendance must be in accordance with the minimum time requirements specified by Section 228.041(13), Florida Statutes.

(6) For the purpose of recording attendance, attendance of pupils shall be reported as follows:

(a) Each pupil who is scheduled at a school center for the minimum required school day, and who is recorded as being present or tardy, shall be reported as present one (1) day.

(b) Each pupil who is scheduled at a school center for instructional purposes for a partial day, and at an area vocational-technical center, a vocational school, a community college, a university, or another school center for a partial day shall be reported as present or absent for the appropriate portion of the day at each center.

(c) The attendance of a pupil who is assigned to an on-the-job instructional program which does not require his or her presence at a school center for on-the-job instructional purposes shall be reported as being in attendance when documented through the use of a time card to report actual days in attendance and a time card or work schedule to report instructional or work hours. Both the time card and schedule should be signed by the employer or instructional supervisor.

(d) The attendance of a pupil who is assigned to an instructional program which does not require his or her regular presence at a school center for instructional purposes shall be reported as present or absent at an assigned school center.

(7) The Automated Student Attendance Recordkeeping System, ~~or the approved alternate record,~~ shall be retained at the school or district level as directed by the superintendent of schools.

(8) The district school board is authorized to destroy the records contained in or produced from the Automated Student Attendance Recordkeeping System after three (3) years or the completion of an audit by the state audit agency, whichever period is longer, provided that the district shall comply with the legislative intent of Chapter 257, Florida Statutes, as expressed in Section 257.37, Florida Statutes, and shall permanently preserve attendance information for each pupil as required by Rule 6A-1.0955, FAC. Attendance information must be permanently preserved for pupils not covered by Rule 6A-1.0955, FAC.

(9) The principal shall be responsible for the administration of attendance policies and procedures and for the accurate reporting of attendance in the school under his or her direction. The principal shall assure that all teachers and clerks are instructed in the proper recording of attendance, and it shall be his or her duty to see that such instructions are followed. The principal or designee shall inspect and determine the completeness and accuracy of the records contained in the Automated Student Attendance Recordkeeping System for each of the required full-time equivalent student membership periods. ~~If an approved alternate system is used, the principal or designee shall inspect for completeness and accuracy the automated record which replaces the Automated Student Attendance Recordkeeping System and therefore is the record of attendance.~~ At the end of each school year the principal or designee shall certify the completeness and accuracy of the automated attendance records indicating that all attendance records have been kept as prescribed by law and rules of the State Board. The method used to certify the records is based on internal district procedures. The automated student attendance records shall be readily accessible in a form prescribed in Subsection (12) of this rule for state auditing and monitoring purposes. An attendance record containing any material inaccuracies, resulting from willful or intentional falsification of data by or for the principal, shall be considered a false report for which the principal shall be subject to penalties as provided by law.

(10) For FTE auditing purposes, ~~beginning with the 1983-84 fiscal year,~~ if the principal or designee failed to sign an attendance record or report, a signed and dated certified statement from the principal or designee identifying that the record was the record used to report attendance for a particular school year, that the record has not been changed since that time, and that attendance was reported as prescribed by law

and rules of the State Board may be substituted for the lack of an original signature. If neither the principal nor designee is an employee of the school district when the absence of a signature on an attendance record is discovered, the superintendent or designee may sign the certified statement. If attendance records are incomplete as to verification of full-time equivalent student membership for funding purposes prior to July 1, 2001 ~~1988~~, other records maintained by the school district may be used to verify membership provided a signed and dated certified statement is appropriately attached as provided in this subsection.

(11) The Automated Student Attendance Recordkeeping System ~~or other approved alternate system~~ shall be prima facie evidence of the facts which it is required to show.

(12) Forms ESE 950 Automated Individual Student Attendance Record, Grades PK-12; ~~ESE 951 Automated 20 Day Adult Student Attendance Register; ESE 952 Automated 20 Day Student Attendance Register, Grades PK-12; ESE 953 Automated Individual Student Attendance By Period Record, Grades 9-12; and ESE 954 Automated Individual Student Attendance by Period Summary, Grades 9-12 and ESE 981 Automated Student Attendance by Period Summary, Grades 9-12; are hereby incorporated by reference and made a part of this rule to become effective for the fiscal year 1987-88. Forms ESE 955, Automated Multi-Day Student Attendance Register, Grades PK-12; ESE 956, Automated Multi-Day Student Attendance by Period, Grades 9-12; and ESE 957, Automated Multi-Day Adult Student Attendance Register; are hereby incorporated by reference and made a part of this rule to become effective July, 1989. Forms ESE 981 Automated Student Attendance by Period Summary, Grades 9-12; ESE 958 Adult Student Attendance Register; and ESE 982 Adult Student Attendance Roster are hereby incorporated by reference and made a part of this rule to become effective November 2001 ~~October, 1991~~. These forms may be obtained from Education Information and Accountability Services, Division of Administration and Technology, Department of Education, 325 West Gaines Street The Florida Education Center, Tallahassee, Florida 32399-0400.~~

Specific Authority 229.053(1), 232.02, 232.021, 232.022 FS. Law Implemented 232.021, 232.022, 232.023 FS. History—New 2-20-71, Amended 9-17-71, 10-18-71, Revised 8-19-72, Amended 11-18-72, Repromulgated 12-5-74, Formerly 6A-1.44, Amended 9-16-87, 1-11-88, 7-5-89, 10-3-91,

**DEPARTMENT OF CORRECTIONS**

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

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

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

SUBJECT AREA TO BE ADDRESSED: Basic Training Program for Youthful Offenders.

SPECIFIC AUTHORITY: 20.315, 944.09, 958.04, 958.045 FS.

LAW IMPLEMENTED: 20.315, 944.09, 946.40, 958.04, 958.045 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.233 Basic Training Program – Definitions.

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

(2) No change.

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

(3) through (9) renumbered (4) through (10) No change.

~~(11)(10) Shock Incarceration – a training technique employed in the basic training program which utilizes intense physical training, military drill, verbally aggressive confrontation, and the immediate application of minor discipline. The intent of shock incarceration is to modify the behavior of youthful offenders and to avert long-term incarceration. The basic training program will be inclusive of the phases listed below:~~

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

~~(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training~~

Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.

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

~~(12)(11)~~ No change.

~~(13)(12) Youthful Offender - refers to any person sentenced by the court or classified by the department, for purposes of being considered for basic training program participation pursuant to this rule, is defined as an inmate who was sentenced in accordance with s. 958.04, F.S., or who is designated a youthful offender by the department pursuant to subsection 33-601.221(2), F.A.C., meeting criteria established in s. 958.045(8)(b), F.S., and whose crime was committed before the inmate's 21st birthday.~~

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

33-601.234 Basic Training Program Selection Process.

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

(a) No change.

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

(c) through (g) No change.

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

(i) No change.

(2) ~~After an inmate has met the above criteria, the classification officer at the time of reception will screen the youthful offender during the reception process to determine if he or she meets the program eligibility criteria. If the inmate meets the criteria, the classification officer will notify advise the inmate and explain the requirements and benefits of successful participation and completion of the program. If the inmate does not meet the criteria, the inmate will be notified and the results will be recorded on the admission summary. and The Bureau of Classification and Central Records, Reception Services section will be notified of any inmate who meets the criteria and is amenable to the program. The sentencing court shall be notified in writing by the Bureau of Classification and Central Records, Reception Services section of the Department of Corrections, requesting approval for the inmate to participate in the program. If the inmate is classified by the department as a youthful offender, the prosecuting state attorney shall, at the same time, be notified that the inmate is being considered for placement in the basic training program.~~

If the sentencing court disapproves the department's recommendation for the offender's placement in the basic training program, the offender shall be so notified and shall complete incarceration pursuant to the terms of the commitment order. If the sentencing court approves the department's recommendation for the offender's placement in the basic training program, the offender shall be notified of assignment to the basic training program. The department shall contact the sentencing Failure of the court to notify the department of approval for placement in the program within 21 days after receipt of the department's request to determine the status of the request for shall be considered an approval to participate by the court for placing the inmate in the basic training program. The inmate will be placed in the program after the sentencing court approves his or her placement for participation.

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

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

33-601.236 Basic Training Program Operation.

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

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

(b) Phase II - will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training

Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days.

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

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

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

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

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

(5) Request for Sentence Modification.

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

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

(c) The SCO shall either approve the ICT's recommendation, disapprove the recommendation, or refer the matter back to the ICT for additional information.

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

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

(3) through (4) renumbered (6) through (7) No change.

Specific Authority 20.315, 944.09, 958.045 FS. Law Implemented 20.315, 944.09, 958.045 FS. History--New 2-26-89, Amended 1-25-96, Formerly 33-27.006, Amended 3-13-01, Formerly 33-506.206, Amended \_\_\_\_\_.

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

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

(1) through (2) No change.

(3) Visiting.

(a) No change.

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

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

(4) through (5) No change.

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

33-601.238 Basic Training Program – Appearance and Hygiene.

(1) Hair.

(a) No change.

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

(2) through (4) No change.

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

33-601.239 Basic Training Program – Dormitory Regulations.

(1) through (8) No change.

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

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

33-601.241 Basic Training Program – Discipline.

(1) Alternative Training.

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

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

(b) The staff member implementing the alternative training measure shall document such action on Form DC5-603, Alternative Training. Form DC5-603 is hereby incorporated by reference. Copies of this form are available

from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

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

(a) through (c) No change.

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

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

33-601.242 Removal from Basic Training Program.

(1) No change.

(2) ~~The classification officer shall recommend r~~Removal by docketing the inmate’s case for review ~~shall be recommended by the ICT by using Form DC6-120, Inmate Classification Team Docket. Form DC6-120 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_ who shall forward a teletype to the SCO. The inmate will not be removed from the basic training program until the SCO has approved the inmate’s removal and transfer from the program.~~

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

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

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

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

(1) through (5) No change.

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

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

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Close Management  
 RULE NO.: 33-601.800

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise the conditions of confinement and the privileges provided to close management inmates.

SUBJECT AREA TO BE ADDRESSED: Close management.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.800 Close Management.

(1) Definitions.

(a) No change.

(b) Medical Staff Clinical health care personnel – a health care professional whose primary responsibility is the provision of physical health care to inmates physician, clinical associate, nurse, Correctional Medical Technician Certified (CMTC), psychologist, psychology intern, psychology resident or psychological specialist.

(c) Mental Health Staff – a health care professional whose primary responsibility is the provision of mental health care to inmates.

(d)(e) Close Management (CM) – the confinement of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, where the inmate, through his or her own behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others.

(e)(f) No change.

(f)(e) Individualized Service Close Management Plan (ISP) – a dynamic, written description of problems, goals, and services which is developed and implemented by the multi-disciplinary services team (MDST) and the inmate. An ISP shall be developed and implemented for each CM inmate who suffers from mental impairment or is at significant risk for developing such impairment, as determined by mental health staff program plan developed for individual inmates determined to be at risk for deterioration of mental health

functioning as a result of prolonged confinement. The plan utilizes a variety of therapeutic activities, prevention, and intervention components from available mental health and program resources to prevent potential deterioration of mental health and adaptive functioning.

~~(g)(f) Multi-disciplinary Services Close Management Program Team – a team of an interdisciplinary team of representatives from mental health, programs, classification, and security staff which assesses behavioral risk for each CM inmate and develops and implements an individualized service plan for each CM inmate who suffers from mental impairment or is at significant risk for developing such impairment. as This team develops and monitors close management plans for individual inmates in close management determined by mental health staff to be at risk for potential deterioration of mental health or adaptive functioning as a result of prolonged confinement.~~

(h) Critical Event – inmate involvement, after CM placement, in one or more of the following behaviors: suicide attempt or other action that could have caused serious bodily harm; homicide; attempted homicide; escape; attempted escape; physical assault; attempted physical assault.

(g) through (n) renumbered (i) through (p) No change.

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

~~(j)(h) Visit – where used herein, refers to the official tour and inspection of a close management unit by a staff member.~~

~~(k)(i) Institutional Classification Team (ICT) – the team consisting of the warden or assistant warden, classification supervisor, and chief of security, that is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).~~

~~(l)(j) Institutional Classification Team Docket – the official record of an ICT hearing.~~

~~(m)(k) Major Rule Violation – any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.~~

~~(n)(l) Offender Based Information System (OBIS) – the department's computer offender database system which is utilized to organize and store security, classification, program and other offender information.~~

~~(o)(m) Restricted Labor Squad – an armed supervision work squad consisting of individually shackled close management II or III inmates who work outside the secure perimeter on institution grounds.~~

~~(p)(n) Senior Correctional Officer – a correctional officer lieutenant or above.~~

~~(o) Special risk inmate – any inmate who has demonstrated behavior that is harmful to himself or herself.~~

~~(q)(p) No change.~~

(2) No change.

(3) Procedures for Placement in Close Management.

(a) Close management is the confinement of an inmate apart from the general population, for reasons of security, or the order and effective management of the institution, where the inmate, through his or her own behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others. The secretary shall designate which institutions are authorized to house close management inmates, based on the needs of the department.

(b) No change.

(c) Prior to docketing an inmate's case for close management, the classification supervisor will submit a referral to the senior psychologist for evaluation of the inmate utilizing the Close Management Referral Assessment, DC6-128. Form DC6-128 is incorporated by reference in subsection (19) paragraph (18) of this rule.

~~(d) Mental health staff will complete the close management referral assessment mental health record review within five two working days of receipt and return it to of Form DC6-128 from the classification supervisor. If the senior psychologist determines that no further evaluation is needed, he or she will forward Form DC6-128 to the classification supervisor with relevant recommendations. If the senior psychologist determines that further evaluation is needed, either the senior psychologist or psychiatrist will conduct an interview and evaluation with the inmate to determine the treatment needs of the inmate. The senior psychologist or psychiatrist will forward Form DC6-128, Close Management Referral Assessment, to the classification supervisor with the recommendation for the inmate. The recommendation will include the following placement options: unrestricted placement, placement in a close management facility in which there is a provision for out patient mental health services, placement in a close management facility where intensive mental health services are available, or close management not recommended because of the inmate's current mental health condition. A summary of the clinical findings upon which the recommendation is based shall be provided to the classification supervisor.~~

(e) Upon receiving the completed close management referral mental health assessment, the classification supervisor will submit the case for ICT Docket. The ICT will evaluate the recommendations for close management placement and the mental health assessment, interview the inmate, and document its findings and recommendations on the Report of Close Management, Form DC6-233C. Form DC6-233C is incorporated by reference in subsection (19) paragraph (18) of this rule. The inmate will be given a minimum of forty-eight hours to prepare for the review unless waived by completing a

Close Management Wavier, Form DC6-265. Form DC6-265 is incorporated by reference in subsection (19) paragraph (18) of this rule. The inmate may present information verbally or in writing for consideration by the ICT. The team will document on Form DC6-233C that the inmate was informed of his or her allotted time to prepare for the review. The ICT is authorized to postpone the case review to allow an inmate additional time to prepare. If an extension of time is given, the team will document such postponement on form DC6-233C.

(f) through (5) No change.

(6) Close Management Facilities.

(a) No change.

(b) The only exception to paragraph Section (6)(a) is during an emergency situation as declared by the warden or duty warden. The emergency will be made known to the regional director and to the emergency action center in the central office. If the exception exists in excess of 24 hours, the warden or duty warden must get specific authorization from the regional director to continue to house inmates beyond the 24 hour period in such conditions.

(c) through (d) No change.

(e) Water Supply to CM Units. All close management cells will be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off when necessary due to misbehavior. Misbehavior is defined as any activity exhibited by an inmate which causes an interruption in the water system and its proper function, such as intentionally clogging a toilet bowl or sink with paper in order to then flood the housing area. It also includes the intentional misuse of the water for such purposes as throwing it on staff or other inmates, or mixing it with another substance for an unauthorized purpose (inmate mixes water with soap or shampoo and apply to the floor or himself or herself to hinder cell extraction). In such event, the inmate will be furnished with an adequate supply of drinking water by other means to prevent dehydration. This action can be taken in addition to formal disciplinary action being taken against the inmate pursuant to established procedures regarding disciplinary action. Any misbehavior from an inmate and subsequent action by security staff will be documented on the Daily Record of Segregation, Form DC6-229. Form DC6-229 is incorporated by reference in subsection (19) paragraph (18) of this rule.

(f) Prior to placement of an inmate in a close management cell, the cell will be thoroughly inspected by the housing officer to ensure that it is in proper order. The housing officer shall document the cell's condition on Form DC6-221, Cell Inspection. After such time, the inmate housed in that cell will be responsible for the condition of the cell. Form DC6-221 is incorporated by reference in subsection (19) paragraph (18) of this rule.

(g) No change.

(h) Inmates shall be weighed upon entering close management, at least once a week while in close management, and upon leaving close management. The weight of the inmate shall be documented on Form DC6-229, Daily Record of Segregation.

(7) Individualized Service Close Management Plan (ISP) (CMP).

(a) The multi-disciplinary services close management program team consisting of representatives from mental health, programs, classification, and security will develop an ISP. Form DC4-643A, complete a CMP when deemed necessary by mental health clinical staff. Form DC4-643A is incorporated by reference in subsection (19) of this rule.

(b) The ISP CMP will be developed based on the inmate's needs assessment and will take into consideration the inmate's behavioral risk, as determined by the MDST in accordance with subsection (8) of this rule CM level.

(c) The ISP CMP will incorporate mental health, programs, and other services required to address identified problems and to prevent the development or exacerbation of mental and other adjustment problems therapeutic activities and may include prevention and intervention components. The purpose of the plan will be to increase sensory stimulation using a variety of activities from available mental health and program resources.

(d) An ISP shall be established within 14 days of CM placement of each inmate who suffers from mental impairment, or who is at significant risk for developing such impairment, as determined by mental health staff.

(e) If an ISP exists at the time of CM placement, it shall be updated within 14 days of CM placement to reflect current problems, goals, services, and providers. The ISP shall also be updated within 14 days of an inmate's transfer between CM institutions.

(f) The MDST shall review, and if indicated, revise the ISP as needed, but not less frequently than the following:

1. Within three working days of the inmate's involvement in a critical event.

2. Within 30 days of establishing or updating an ISP.

3. 120 days after the initial (30 day) review.

4. Every 180 days after the 120 day review, until mental health staff determines that ongoing mental health care is no longer necessary, at which time the ISP will be closed.

(g) The ISP shall be signed by each member of the MDST.

(8) Behavioral Risk Assessment.

(a) The MDST shall determine behavioral risk of each CM inmate by completing the Behavioral Risk Assessment, Form DC4-729. Form DC4-729 is incorporated by reference in subsection (19) of this rule.

(b) Behavioral risk shall be determined as follows:

1. Within three working days of the inmate's involvement in a critical event.



2. Within 14 days of CM placement.

3. Each time that the MDST reviews the ISP.

(c) Security shall consider results from the behavioral risk assessment and other information relevant to staff and inmate safety and institutional security in determining the level of restraints required during out-of-cell activities such as individual or group counseling.

(d) The ICT shall consider results from the behavioral risk assessment and other information relevant to institutional adjustment, staff and inmate safety, and institutional security when making recommendations for modification of the inmate's CM status.

(e) The SCO shall consider results from the behavioral risk assessment, results from mental health evaluations that have been completed, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security in its review of ICT recommendations made after CM placement.

(9) Mental Health Services.

(a) Chapter 33-404, F.A.C., Mental Health Services, shall apply to CM inmates except where otherwise specified herein.

(b) CM inmates shall be allowed out of their cells to receive mental health services as specified in an ISP unless, within the past 48 hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others. Security staff shall determine the level of restraint required while CM inmates access services outside their cells.

(10)(8) Conditions and Privileges.

(a) through (b) No change.

(c) Personal Property – Inmates shall be allowed to retain personal property including stamps, watches, rings, writing paper, envelopes and health and comfort items unless there is a indication of a security problem. Close management inmates at all levels shall be allowed to possess a “walkman” type radio with approved headphones as is allowed for general population inmates. Exceptions or removal of any item will be documented on the DC6-229. An Inmate Impounded Personal Property List, Form DC6-220, will be completed by security staff and signed by the inmate designating what personal items were removed. The original will then be placed in the inmate's property file and a copy of the form will be given to the inmate for his or her records. If items of clothing, bedding or personal property are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. Radios are not authorized for an inmate in close management. Form DC6-220 is incorporated by reference in Rule 33-602.220, F.A.C.

(d) No change.

(e) Personal Hygiene – Inmates in close management shall meet the same standards in regard to personal hygiene as required of the general inmate population.

1. No change.

2. Male inmates shall be required to shave at least three times per week. The possession and use of shaving powder in close management is prohibited. An inmate housed in close management who is medically exempt from using shaving razors will be clipper-shaved at least three times per week.

3. Hair care shall be the same as that provided to and required of the general population inmates.

(f) Diet and Meals – All inmates in close management shall receive normal institutional meals as are available to the general inmate population except that if any item on the regular menu might create a security problem in the confinement area, then another item of comparable quality shall be substituted. An alternative meal (special management meal) may be provided for any inmate in close management who uses food or food service equipment in a manner that is hazardous to himself or herself, staff, or other inmates. The issuance of a special management meal will be in strict accordance with Rule 33-602.223, F.A.C. Any deviation from established meal service is to be documented by security staff on the Daily Record of Segregation, Form DC6-229.

(g) Canteen Items.

1. Inmates in CMI and II, following 30 days satisfactory adjustment, will be allowed to make canteen purchases once per week month unless restricted by disciplinary action. Canteen purchases are subject to the following limitations, unless modified by the ICT:

4. Inmates in CMI and II will be allowed to purchase up restricted to a limit of five non-food items and five food items. In making this determination, with the exception of stamps and notebook paper, it is the number of non-food items that is counted not the type of item. For example, three security pens counts as three items, not one item. Twenty-five stamps or fewer will count as one item and two packages or less of notebook paper will count as one item.

2. Inmates in CMIII, following 30 days satisfactory adjustment, will be allowed to make canteen purchases once each every two weeks unless restricted by disciplinary action. Canteen purchases are subject to the following limitations, unless modified by the ICT: Inmates in CMIII will be allowed to purchase up restricted to five non-food items and ten four food items. In making the determination, with the exception of stamps and notebook paper for food, it is the number of food items that is counted not the type of item. For example, three packages of cookies count as three items, not one item.

3. Any disciplinary reports received by an inmate in which there is a guilty finding and placement in disciplinary confinement or suspension of canteen privileges between the time that he or she requests canteen food items and the delivery of those items will result in disapproval of the requested items.

~~4. The ICT has the authority to suspend privileges for canteen purchases when the inmate fails to comply with the rules and procedures established for close management. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, DC6-229.~~

(h) No change.

~~(i) Counseling Interviews — Counseling shall be provided to close management inmates in cell or out of cell when deemed necessary by mental health staff. The ICT will determine whether an inmate in close management may be removed from his or her cell to attend any counseling session when they determine that it is safe to do so, or whether counseling must take place in cell.~~

~~(i)(j) Legal Access — An inmate in close management will have access to his or her personal legal papers and law books and have correspondence access with the law library. Access to the law library will be obtained through delivery of research materials to an inmate's cell, and access to visits with research aides certified inmate law clerks. Although the inmate may not be represented by an attorney at any administrative hearing under this rule, access to an attorney or aide to that attorney will be granted for legal visits at any reasonable time during normal business hours. Indigent inmates will be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent will be allowed to purchase paper and envelopes for this purpose by completing Form DC6-251, CMI and II Canteen Order, or Form DC6-252, CMIII Canteen Order, within the stated time frames. Forms DC6-251 and DC6-252 are incorporated by reference in subsection (19) paragraph (18) of this rule. Typewriters or typing services are not considered required items and will not be permitted in confinement cells. Inmates with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a research aide certified law clerk for the purpose of preparing legal documents, legal mail, and filing grievances.~~

(k) through (l) renumbered (j) through (k) No change.

~~(l)(m) Reading materials — Reading materials, including scriptural or devotional materials and books that are in compliance with admissibility requirements, are allowed in close management units unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-229, Daily Record of Segregation. If items are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the~~

items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. An inmate who receives services from the Bureau of Braille and Talking Book library will be allowed to have his tape player, devotional or scriptural material tapes, and other books on tape which are in compliance with Rule 33-501.401, F.A.C.

~~(m)(n) Exercise — Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. The assignment and participation of an inmate on the restricted labor squad or other outside work squad required to work outside at least one day per week will satisfy the minimum exercise requirements for the week. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. Medical restrictions determined by health services staff can also place limitations on the amount and type of exercise permitted. Such restrictions of exercise periods will be documented on the Daily Record of Segregation, Form DC6-229. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the particular inmate's limitations. Close management inmates shall be allowed equal access to outdoor exercise areas with exercise stations.~~

~~(n) At a minimum, wellness services for close management inmates at all levels shall be provided through cell-front tutoring, wellness puzzles, and the wellness education course.~~

~~(11)(9) Programs and Privileges in Close Management Units.~~

~~(a) While in a close management unit, an inmate's movement within the institution and contacts with other individuals will be restricted. Privileges will also be limited depending on the specific close management level. If an~~

inmate transfers to a less restrictive level due to satisfactory adjustment, the adjustment period required for any privilege shall be waived.

(b) CMI. Privileges for an inmate assigned to CMI who maintains a satisfactory adjustment are as follows:

1. Participation in available approved programs, including in-cell educational opportunities, that the inmate can perform within the cell unless precluded by safety or security concerns after a minimum period of at least 60 days with a clear disciplinary record since assignment to close management;

2. Check out three ~~one~~ soft-back book from the library at least once per week and possess no more than three ~~one~~ soft back books at any given time. An inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to check out three ~~one~~ books on tape per week and possess no more than three books ~~one~~ at any given time, even though the actual number of tapes may be more than three ~~one~~ per book;

3. Conduct routine inmate bank transactions ~~once per month~~;

4. Subscribe to one magazine and newspaper as provided for in Rule 33-210.101, F.A.C., and possess no more than four issues of each at any given time; an inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to receive up to four issues of a magazine;

5. Make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 30 days following 30 days of satisfactory adjustment as well as emergency telephone calls and telephone calls to an attorney as explained in Rule 33-602.205;

6. Receive one two-hour non-contact ~~a~~ personal visit by appointment after completing 30 ~~60~~ days of satisfactory adjustment in close management status and having no major rule violations ~~maintained a clear disciplinary record during this period since assignment to close management~~. If found guilty of any major rule violations ~~disciplinary infractions~~ while assigned to CMI, the inmate is eligible to be considered for visits 30 ~~60~~ days following release from disciplinary confinement or the disciplinary hearing, if a penalty other than disciplinary confinement was imposed;

7. The inmate is eligible to receive one two-hour non-contact personal visits by appointment after each subsequent 30 ~~60~~ day period with no major rule violations ~~a continued clear disciplinary record and satisfactory adjustment~~ while in the status unless security or safety concerns would preclude a visit. All visits for CMI inmates ~~in CMI~~ will be non-contact visits.

(c) CMII. In addition to the programs provided for CMI inmates and those privileges outlined in (11)(9)(b)1.-4.5. of this rule, the following privileges are authorized: cell front or out of cell counseling and program offerings shall be made available to inmates who desire to participate.

1. CMII inmates will be eligible to receive one two-hour non-contact personal visits by appointment:

a.1. After completing 30 days of satisfactory adjustment in close management status and having no major rule violations ~~maintained a clear disciplinary record~~ since being assigned to close management.

b.2. If found guilty of any major rule violations ~~disciplinary infraction~~ while assigned to CMII, the inmate is eligible to be considered for a visits 30 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, with no major rule violations ~~a continued clear disciplinary record~~.

c.3. The inmate is eligible to receive personal visits by appointment after each subsequent 14 ~~30~~ day period with no major rule violations ~~a continued clear disciplinary record and satisfactory adjustment~~ while in the status unless security and safety concerns would preclude a visit. All visits for inmates in CMII will be non-contact visits.

2. CMII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 14 days after 30 days of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

3. CMII inmates, following 30 days satisfactory adjustment, shall be allowed access to the day room area for social purposes to include watching television programs for up to two days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 PM. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the shift supervisor in consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop. CMII inmates will be restrained during the above-described dayroom access unless determined by the chief of security that the inmate can safely participate without restraints.

(d) CMIII. In addition to the programs ~~privileges~~ provided above for CMI inmates, and those privileges outlined in (11)(9)(b)1.-4.5. of this rule, the following privileges are authorized: cell front or out of cell counseling and program offerings shall be made available to inmates who desire to participate.

1. CMIII inmates will be entitled to the following:

a.1. One two-hour contact ~~A~~ personal visit by appointment after completing 30 days of satisfactory adjustment in close management status and having no major rule violations ~~maintained a clear disciplinary record~~ since being assigned to close management. CMIII inmates shall be subject to placement on non-contact status as outlined in Rule 33-601.709, F.A.C.

~~b.2.~~ If found guilty of a disciplinary infraction while assigned to CMIII, the inmate is eligible to be considered for visits 14 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, and the inmate has no major rule violations ~~a continued clear disciplinary record~~.

~~c.3.~~ The inmate is eligible to receive one two-hour contact personal visits by appointment after each subsequent 14 day period with no major rule violations ~~a continued clear disciplinary record and satisfactory adjustment~~ while in the status unless security or safety concern would preclude a visit. The warden will determine ~~the conditions of the visit, whether the visit is to be contact or non-contact,~~ and the level of supervision and restraint required.

~~2.4.~~ Day room privileges after 30 days six continuous months with a clear disciplinary record and above satisfactory adjustment shall be allowed access to the day room area for social purposes to include watching television programs for up to five days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 PM. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the shift supervisor in consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop within the close management unit unless security and safety concerns would preclude day room activities. This privilege will be limited to once per week for up to two hours in duration. CMIII inmates shall not be restrained for dayroom activities unless security or safety concerns require otherwise.

3. CMIII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every seven days after 30 days of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

~~(12)(10)~~ Suspension of Privileges.

~~(a) In addition to the suspension of privileges through disciplinary action, the ICT has the authority to suspend privileges for inmates in close management status who fail to comply with the rules and procedures established for close management.~~

~~(b)~~ The ICT shall suspend an inmate's privileges if security and safety concerns would preclude an inmate from receiving certain privileges. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Daily Record of Segregation, Form DC6-229. Privileges suspended by the ICT in excess of 30 ~~90~~ days will require the review and approval of the SCO.

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

~~(14)(12)~~ Restraint and Escort Requirements.

(a) CMI.

1. Prior to opening a cell for any purpose, including exercise, health care ~~medical~~ or disciplinary call-outs, telephone calls, recreation, and visiting, the all inmates in the cell shall be handcuffed behind his or her ~~their~~ backs. If documented medical conditions require that the inmates be handcuffed in front, waist chains will be used in addition to the handcuffs and the escort officers shall be particularly vigilant.

~~2.(b)~~ No change.

~~3.(e)~~ Prior to escorting an inmate from a cell the inmate shall be thoroughly searched. If the inmate is being taken outside the immediate housing unit or designated adjacent exercise area, leg irons and other restraint devices shall be applied.

(b) CMII. The same restraints and escort requirements as provided for CMI inmates above apply to CMII inmates with the exception that the senior correctional officer shall be authorized to approve unrestrained participation in group and individual counseling, dayroom access, and inside work assignments.

(c) CMIII. Unless precluded by specific safety and security concerns, CMIII inmates shall be escorted within the unit and to exercise areas attached to the unit as well as to all program and privilege activity participation without restraints. The warden shall base any determination to require restraints on the security and safety needs of his or her individual institution and CM unit.

(d) Due to the unique mission of close management units, it is understood that more than one inmate may be out of his or her cell within the unit at any one time. However, whenever inmates are being escorted in restraints, there shall be one officer with each inmate and the inmates shall be kept at a distance from each other which would preclude any unauthorized physical contact. Extreme care shall be exercised when escorting restrained inmates in areas where unrestrained inmates are present. When possible, unrestrained inmates will be returned to their cells, removed from the wing or, at a minimum, closely supervised by additional staff until the escort of restrained inmates is completed.

~~(15)(13)~~ Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the close management unit. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by reference in subsection (19) paragraph (18) of this rule. The staff member shall also document his or her visit on the Daily Record of Segregation, Form DC6-229, if there is any discussion of significance, action or behavior of the inmate, or any other important evidential information which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

1. through 3. No change.

4. Daily by medical staff ~~a clinical health care person~~.

5. through 6. No change.

7. Weekly by a psychologist or his or her mental health staff designee.

8. through 9. No change.

10. At least once a month by a member of the ICT to ensure that the inmate's welfare is properly provided for, and to determine the time and method of release or any program changes:

(14) Special Risk Inmates:

(a) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self destructive behavior, the health services department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated.

(b) Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist/Restraint Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC4-650 is incorporated by reference in paragraph (18) of this rule. Form DC6-210 is incorporated by reference in Rule 33-602.210.

(16)(15) Review of Close Management.

(a) An ICT member shall review inmates in close management at least once every week for the first 60 days and once every 30 days thereafter. The purpose shall be toward reducing the inmate's status to the lowest management level or returning the inmate to general population as soon as the facts of the case indicate that this can be done safely. During the review, the ICT shall consider the results of the behavioral risk assessments and mental health evaluations that have been completed prior to the review, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security.

(b) Any inmate assigned to close management for more than 30 days shall be given a psychological screening assessment by mental health professional staff to determine the inmate's mental condition. The assessment shall include a personal interview if deemed necessary by mental health staff. All such assessments shall be documented in the mental health record. The psychologist or psychological specialist shall prepare a report to the ICT with the facts of the case. The ICT shall then make a decision regarding continuation of confinement. Any recommendations by the psychologist or psychologist specialist that the inmate be released from close management shall be forwarded by the ICT to the SCO. If the

decision is to continue confinement, a new psychological screening assessment shall be completed at least every 90 day period.

(c) The close management program team (CMPT) will review each CMP at least 30 days after the implementation of the plan and at least every 60 days thereafter. However, the CMPT shall meet within 7 days if mental health staff determine that more immediate attention is required. All changes and or modifications will be documented on the inmate's CMP. The CMPT's review (and interview, if necessary) will include the following:

1. A status assessment of the inmate's participation;
2. A status evaluation of the close management plan's objectives and goals, and the ability to meet the inmate's needs;
3. A determination if changes or modifications to the current plan are needed.
4. The CMP will be available in the CM unit. The original will be placed in the mental health record. All changes to the plan will be attached to the original mental health record and the copy maintained in the CM unit.

(b)5. All services provided by any mental health or program staff member shall be recorded on the Daily Record of Segregation, Form DC6-229 Close Management Activity Participation Log, Form DC6-129, which shall be kept in the officers' station of the CM unit. When the form has been completely filled-out or the inmate has been released from the CM unit, a copy shall be placed in the inmate file and the original shall be filed in the mental health record. ~~Form DC6-129 is incorporated by reference in (18) of this rule.~~

(c)(d) No change.

(d)(e) The ICT shall review the report of close management prepared by the classification officer, consider the results of behavioral risk assessments and mental health evaluations and other information relevant to institutional adjustment, staff and inmate safety, and institutional security, and insert any other information regarding the inmate's status and interview the inmate. The ICT's recommendation shall be documented in OBIS and the Report of Close Management, Form DC6-233C. If it is determined that no justifiable safety and security issues exists for the inmate to remain in close management the ICT shall forward their recommendation for release to the SCO for review. For an inmate to remain in close management the ICT shall justify the safety and security issues or circumstances that can only be met by maintaining the inmate at the current level or a lower level of management.

(e)(f) The SCO shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from close management status is appropriate. The SCO shall review all reports prepared by the ICT concerning an inmate's close management status, consider the results of behavioral risk assessments and mental health evaluations and other

information relevant to institutional adjustment, staff and inmate safety, and institutional security and may interview the inmate before determining the final disposition of the inmate's close management status. If it is determined that no justifiable safety and security issues exist for the inmate to remain in close management the SCO shall cause the inmate to be immediately released. For an inmate to remain in close management, the SCO shall determine based on the reports and documentation that there are safety and security issues or circumstances for maintaining the inmate at the current level or at a lower level of management. The SCO's decision shall be documented in OBIS and the Report of Close Management, Form DC6-233C. The ICT shall advise the inmate of the SCO's decision.

~~(17)(46)~~ Close Management Records.

(a) No change.

(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as he is in close management. Form DC6-229 shall be utilized to document any activities, including cell searches, items removed, showers, recreation, haircuts and shaves. If items that inmates in close management are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the senior correctional officer must approve the action initially. The Central Office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the chief of security shall make the final decision in regard to the action no later than the next working day following the action. Staff shall re-assess the need for continued restriction every 72 hours thereafter as outlined in subsection (10) of this rule. The confinement housing officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229 shall be maintained in the housing area for 30 days. After each 30 day review of the inmate, Form DC6-229 shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each close management area. Each staff person shall sign the record when entering and leaving the confinement area. Prior to leaving the confinement area, each staff member shall indicate any specific problems; ~~including any inmate who requires special attention.~~ Upon completion, Form DC6-228 shall be maintained in the housing area and forwarded to the chief of security on a daily weekly basis where it shall be maintained on file pursuant to the current retention schedule.

~~(18)(47)~~ Staffing Issues.

(a) Officers assigned to a confinement unit shall be ~~reviewed~~ rotated to another assignment every 18 months ~~for a period of at least one year by the chief of security to determine whether a rotation is necessary.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, uses of force, and any other documentation relevant to the officer's assignment and job performance; interview the officer and the officer's supervisors for the period of review; and shall make a recommendation to the warden as to the necessity of a rotation. The warden shall review the recommendation, request additional information, if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

~~(19)(48)~~ Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

~~(a) Form DC4-650, Observation Checklist/Restraint Observation Checklist, effective date 2-12-01.~~

~~(a)(b) Form DC6-128, Close Management Referral Assessment, effective date \_\_\_\_\_ 2-1-01.~~

~~(e) Form DC6-129, Close Management Activity Participation Log, effective date 2-1-01.~~

(b) Form DC4-643A, Individualized Service Plan, effective date \_\_\_\_\_.

~~(c)(d) Form DC6-221, Cell Inspection, effective date \_\_\_\_\_ 2-12-01.~~

~~(d)(e)~~ No change.

~~(e)(f) Form DC6-229, Daily Record of Segregation, effective date \_\_\_\_\_ 2-12-01.~~

~~(f)(g) Form DC6-233C, Report of Close Management, effective date \_\_\_\_\_ 2-1-01.~~

~~(g)(h) Form DC6-251, CMI and II Canteen Order, effective date \_\_\_\_\_ 2-1-01.~~

~~(h)(i) Form DC6-252, CMIII Canteen Order, effective date \_\_\_\_\_ 2-1-01.~~

~~(i)(j)~~ No change.

(j) Form DC4-729, Behavioral Risk Assessment, effective date \_\_\_\_\_.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 2-1-01, Amended \_\_\_\_\_.

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE CHAPTER TITLE: Hospic  
RULE CHAPTER NO.: 58A-2

RULE TITLE: Administration of the Hospice  
RULE NO.: 58A-2.005

PURPOSE AND EFFECT: The rule amendment to 58A-2.005 will provide emergency management plans and physical plant standards for hospices as specified in paragraphs (i) and (j) of Section 400.605, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Emergency Management Plan and Physical Plant Standards.

SPECIFIC AUTHORITY: 400.605 FS.

LAW IMPLEMENTED: 400.605 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., Monday, October 22, 2001

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT ARE: Linda Macdonald, Assisted Living Program, Division of Community Based Services, or Pat Dunn, Office of General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2113

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

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

PURPOSE AND EFFECT: The agency is revising the batching cycles established in Section 59C-1.008(1)(g), F.A.C., as a result of the moratorium created by section 52 of Chapter 2001-45, Laws of Florida. That legislation established a moratorium until July 2006 for certificate of need (CON) approval of any additional community nursing home beds that would be licensed under Chapter 400, F.S. Addition of sheltered nursing home beds and beds in hospital-based skilled nursing units (SNUs) remains subject to CON approval.

As a consequence of the moratorium, the agency has stopped accepting letters of intent and applications for Chapter 400 community nursing home beds, and no fixed need pool (FNP) for such beds will be published October 12, 2001 or thereafter. Review cycles for SNUs will continue according to the cycles currently established for nursing facilities.

Effective beginning in 2002, to establish a more evenly distributed workload for agency review staff, several types of projects currently reviewed according to the batching cycles for "hospitals and other projects" will be moved to the batching cycles currently established for "nursing facilities." For these projects, the batching cycles currently scheduled to begin with publication of FNPs on January 25, 2002 will instead begin with FNPs published on April 12, 2002, and the dates in the current calendar established for nursing facilities will be used thereafter. The proposals affected by this change are: open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation, hospice programs, hospice inpatient beds, and intermediate care facilities for the developmentally disabled. Batching cycles for all other projects subject to comparative review remain unchanged: the first cycle in 2002 will begin with publication of FNPs on January 25, 2002, as currently established, with no proposed changes in subsequent deadlines.

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

SUBJECT AREA TO BE ADDRESSED: Modification of the batching cycle calendar in response to the moratorium on approval of additional Chapter 400 community nursing home beds.

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

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

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

TIME AND DATE: 2:00 p.m., October 16, 2001

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.008 Certificate of Need Application Procedures.

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

~~distinct-part skilled nursing unit (SNU) beds, hospice programs, hospice inpatient beds, and intermediate care facilities for the developmentally disabled. All other projects subject to comparative review shall be reviewed in the hospital batching cycle. "All other projects" include projects by or for hospices and intermediate care facilities for the developmentally disabled.~~

(a) through (f) No change.

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

<del>Hospitals and Other Projects</del>	
<del>1st Batching Cycle—2000</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>1-28-00</del>
<del>Letter of Intent Deadline</del>	<del>2-14-00</del>
<del>Application Deadline</del>	<del>3-15-00</del>
<del>Completeness Review Deadline</del>	<del>3-22-00</del>
<del>Application Omissions Deadline</del>	<del>4-19-00</del>
<del>Agency Initial Decision Deadline</del>	<del>6-16-00</del>
<del>Hospitals and Other Projects</del>	
<del>2nd Batching Cycle—2000</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>7-28-00</del>
<del>Letter of Intent Deadline</del>	<del>8-14-00</del>
<del>Application Deadline</del>	<del>9-13-00</del>
<del>Completeness Review Deadline</del>	<del>9-20-00</del>
<del>Application Omissions Deadline</del>	<del>10-18-00</del>
<del>Agency Initial Decision Deadline</del>	<del>12-15-00</del>
<del>Hospitals and Other Projects</del>	
<del>1st Batching Cycle—2001</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>1-26-01</del>
<del>Letter of Intent Deadline</del>	<del>2-12-01</del>
<del>Application Deadline</del>	<del>3-14-01</del>
<del>Completeness Review Deadline</del>	<del>3-21-01</del>
<del>Application Omissions Deadline</del>	<del>4-18-01</del>
<del>Agency Initial Decision Deadline</del>	<del>6-15-01</del>
<del>Hospitals and Other Projects</del>	
<del>2nd Batching Cycle—2001</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>7-27-01</del>
<del>Letter of Intent Deadline</del>	<del>8-13-01</del>
<del>Application Deadline</del>	<del>9-12-01</del>
<del>Completeness Review Deadline</del>	<del>9-19-01</del>
<del>Application Omissions Deadline</del>	<del>10-17-01</del>
<del>Agency Initial Decision Deadline</del>	<del>12-14-01</del>
<del>Hospital Beds and Facilities Hospitals and Other Projects</del>	
<del>1st Batching Cycle—2002</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>1-25-02</del>
<del>Letter of Intent Deadline</del>	<del>2-11-02</del>

Application Deadline	3-13-02
Completeness Review Deadline	3-20-02
Application Omissions Deadline	4-17-02
Agency Initial Decision Deadline	6-14-02
<del>Hospital Beds and Facilities Hospitals and Other Projects</del>	
<del>2nd Batching Cycle—2002</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>7-26-02</del>
<del>Letter of Intent Deadline</del>	<del>8-12-02</del>
<del>Application Deadline</del>	<del>9-11-02</del>
<del>Completeness Review Deadline</del>	<del>9-18-02</del>
<del>Application Omissions Deadline</del>	<del>10-16-02</del>
<del>Agency Initial Decision Deadline</del>	<del>12-13-02</del>
<del>Hospital Beds and Facilities</del>	
<del>1st Batching Cycle—2003</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>1-24-03</del>
<del>Letter of Intent Deadline</del>	<del>2-10-03</del>
<del>Application Deadline</del>	<del>3-12-03</del>
<del>Completeness Review Deadline</del>	<del>3-19-03</del>
<del>Application Omissions Deadline</del>	<del>4-16-03</del>
<del>Agency Initial Decision Deadline</del>	<del>6-13-03</del>
<del>Hospital Beds and Facilities</del>	
<del>2nd Batching Cycle—2003</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>7-25-03</del>
<del>Letter of Intent Deadline</del>	<del>8-11-03</del>
<del>Application Deadline</del>	<del>9-10-03</del>
<del>Completeness Review Deadline</del>	<del>9-17-03</del>
<del>Application Omissions Deadline</del>	<del>10-15-03</del>
<del>Agency Initial Decision Deadline</del>	<del>12-12-03</del>
<del>Nursing Facilities</del>	
<del>1st Batching Cycle—2000</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>4-14-00</del>
<del>Letter of Intent Deadline</del>	<del>5-01-00</del>
<del>Application Deadline</del>	<del>5-31-00</del>
<del>Completeness Review Deadline</del>	<del>6-07-00</del>
<del>Applicant Omissions Deadline</del>	<del>7-05-00</del>
<del>Agency Initial Decision Deadline</del>	<del>9-01-00</del>
<del>Nursing Facilities</del>	
<del>2nd Batching Cycle—2000</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>10-13-00</del>
<del>Letter of Intent Deadline</del>	<del>10-30-00</del>
<del>Application Deadline</del>	<del>11-29-00</del>
<del>Completeness Review Deadline</del>	<del>12-06-00</del>
<del>Applicant Omissions Deadline</del>	<del>1-03-01</del>
<del>Agency Initial Decision Deadline</del>	<del>3-02-01</del>
<del>Nursing Facilities</del>	
<del>1st Batching Cycle—2001</del>	
<del>Summary Need Projections Published in F.A.W.</del>	<del>4-13-01</del>
<del>Letter of Intent Deadline</del>	<del>4-30-01</del>
<del>Application Deadline</del>	<del>5-30-01</del>
<del>Completeness Review Deadline</del>	<del>6-06-01</del>



<del>Applicant Omissions Deadline</del>	7-05-01
<del>Agency Initial Decision Deadline</del>	8-31-01
<u>Nursing Facilities – Chapter 395 Only</u>	
2nd Batching Cycle – 2001	
Summary Need Projections Published in F.A.W.	10-12-01
Letter of Intent Deadline	10-29-01
Application Deadline	11-28-01
Completeness Review Deadline	12-05-01
Applicant Omissions Deadline	1-02-02
Agency Initial Decision Deadline	3-01-02
<u>Other Beds and Programs Nursing Facilities</u>	
1st Batching Cycle – 2002	
Summary Need Projections Published in F.A.W.	4-12-02
Letter of Intent Deadline	4-29-02
Application Deadline	5-29-02
Completeness Review Deadline	6-05-02
Applicant Omissions Deadline	7-03-02
Agency Initial Decision Deadline	8-30-02
<u>Other Beds and Programs Nursing Facilities</u>	
2nd Batching Cycle – 2002	
Summary Need Projections Published in F.A.W.	10-11-02
Letter of Intent Deadline	10-28-02
Application Deadline	11-27-02
Completeness Review Deadline	12-04-02
Applicant Omissions Deadline	1-02-03
Agency Initial Decision Deadline	2-28-03
<u>Other Beds and Programs</u>	
<u>1st Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>4-11-03</u>
<u>Letter of Intent Deadline</u>	<u>4-28-03</u>
<u>Application Deadline</u>	<u>5-28-03</u>
<u>Completeness Review Deadline</u>	<u>6-04-03</u>
<u>Applicant Omissions Deadline</u>	<u>7-02-03</u>
<u>Agency Initial Decision Deadline</u>	<u>8-29-03</u>
<u>Other Beds and Programs</u>	
<u>2nd Batching Cycle – 2003</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>10-10-03</u>
<u>Letter of Intent Deadline</u>	<u>10-27-03</u>
<u>Application Deadline</u>	<u>11-26-03</u>
<u>Completeness Review Deadline</u>	<u>12-03-03</u>
<u>Applicant Omissions Deadline</u>	<u>1-01-04</u>
<u>Agency Initial Decision Deadline</u>	<u>2-27-04</u>

(h) through (6) No change.

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Licensure Examinations  
 RULE NO.: 64B3-7.001  
 PURPOSE AND EFFECT: The Board proposes to add another exam provider for licensure as a technologist and another exam for technicians.  
 SUBJECT AREA TO BE ADDRESSED: Licensure Examinations.  
 SPECIFIC AUTHORITY: 456.017, 483.809(2) FS.  
 LAW IMPLEMENTED: 456.017, 483.809(2) FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE ANNOUNCED.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B3-7.001 Licensure Examinations.
- (1) through (5) No change.
- (6) For licensure as a technologist:
  - (a) A state examination in one or more of the following specialties: microbiology, serology/immunology, clinical chemistry, hematology, immunochemistry, blood banking/immunohematology, histology, or examinations prepared by the American Society of Clinical Pathologists, the American Medical Technologists (AMT), or the National Certification Agency for Clinical Laboratory Personnel (NCA), or the American Association of Bioanalysts (AAB); or
  - (b) In the specialty of cytology, the Cytotechnologist Examination prepared by the Board of Registry of the American Society of Clinical Pathologists; or
  - (c) In the specialty of cytogenetics, the Clinical Laboratory Specialist in Cytogenetics Examination prepared by the National Certification Agency for Medical Laboratory Personnel; or
  - (d) In the specialty of histocompatibility, the Certification Examination for Histocompatibility Technologists, prepared by the American Board of Histocompatibility and Immunogenetics; or
  - (e) In the specialty of radioassay, the Certification Examination in Radioassay, prepared by the Clinical Ligand Assay Society Certification Board; or

(f) In the specialty of blood gas analysis, either the Cardiovascular Science Examination, prepared by Cardiovascular Credentialing International, or the Advanced Pulmonary Function Technologist Examination, prepared by the National Board of Respiratory Care.

(g) In the specialty of blood banking/immunohematology, the Technologist Certification Examination in Blood Banking, or the Specialist in Blood Banking Certification Examination, prepared by the Board of Registry of the American Society of Clinical Pathologists are also acceptable in addition to the options stated in (6)(a) above.

(7) No change.

(8) For licensure as a Technician:

(a) There shall be two types of examinations. A candidate may choose either a generalist examination covering microbiology, serology/immunology, clinical chemistry, hematology and immunohematology or an examination in histology. A candidate may alternately choose to take either one of the generalist medical laboratory technician or medical technologist examinations administered by the American Society of Clinical Pathologists (ASCP), the National Certification Agency for Medical Laboratory Personnel (NCA), or American Medical Technologists (AMT) or the technician histology or technologist histology examination administered by the American Society of Clinical Pathologists (ASCP).

(b) The applicant shall be licensed as a generalist technician in the specialties of microbiology, serology/immunology, clinical chemistry, hematology, and immunohematology upon passage of the state generalist examination ~~of~~ of the American Society of Clinical Pathologists (ASCP), the National Certification Agency for Medical Laboratory Personnel (NCA), or the American Association of Bioanalysts (AAB) medical laboratory technician or medical technologist generalist examination; or

(c) The applicant shall be licensed as a technician in the specialty of histology upon passage of the state histotechnician examination or the histotechnician or histotechnologist examination administered by the American Society of Clinical Pathologists (ASCP).

(d) There is no technician level radioassay, blood banking, blood gas analysis, cytology, histocompatibility or cytogenetics examination.

Specific Authority 456.017, 483.809(2) FS. Law Implemented 456.017, 483.809(2) FS. History—New 5-12-93, Formerly 21KK-7.001, 61F3-7.001, Amended 12-5-95, Formerly 59O-7.001, Amended 3-19-98, 6-23-98, 7-1-99, 4-10-01,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLES: RULE NOS.:

Application Fees 64B3-9.001

Initial Licensure Fees 64B3-9.002

PURPOSE AND EFFECT: The Board has determined that it is necessary to raise the trainee application fee to cover the cost of processing the application; and proposes to add an initial licensure fee.

SUBJECT AREA TO BE ADDRESSED: Application Fees; Initial Licensure Fees.

SPECIFIC AUTHORITY: 456.025, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 456.025, 483.807, 483.815 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-9.001 Application Fees.

(1) through (5) No change.

(6) Trainee – \$20 ~~\$15~~

(7) through (11) No change.

Specific Authority 456.025, 483.807(1) FS. Law Implemented 456.025, 483.807, 483.815 FS. History—New 12-7-93, Formerly 61F3-9.001, 59O-9.001, Amended 5-26-98, 5-13-99, 6-10-99, 3-9-00,\_\_\_\_\_.

64B3-9.002 Initial Licensure Fees.

(1) through (3) No change.

(4) For clinical laboratory personnel trainees – \$20.

Specific Authority 456.025, 483.805(4), 483.807(1) FS. Law Implemented 456.025, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.002, 59O-9.002, Amended 6-10-99,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: RULE NO.:

Scope of Practice Relative to Specialty 64B3-10.005  
of Licensure

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

SUBJECT AREA TO BE ADDRESSED: Scope of Practice Relative to Specialty of Licensure.

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

(1) through (6) No change.

(7) The purpose of the specialty of clinical chemistry is to perform qualitative and quantitative analyses on body fluids such as blood, urine, spinal fluid, feces, tissue, calculi and other materials to measure the chemical constituents including but not limited to carbohydrates, proteins, lipids, enzymes, non-protein nitrogenous substances, electrolytes, blood gases, trace elements, inorganic compounds, therapeutic and drugs of abuse, hormones, vitamins, tumor markers, other automated immunoassays and other analyses. The specialty also encompasses urine microscopics and the chemical evaluation of liver, renal, lung, cardiac, neuromuscular, reproductive, bone, endocrine and other organ function and pathology and all testing included in the specialties of radioassay as defined in subsection (9) and blood gas analysis as defined in Subsection (10). Individuals employed in plasmapheresis centers who perform only total protein by refractometer are not required to hold a license in clinical chemistry if they meet the requirements of 42 CFR 493.1423, and can document appropriate training.

(8) through (18) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History--New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 590-10.005, Amended 3-19-99.

**DEPARTMENT OF HEALTH  
Board of Hearing Aid Specialist**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	64B6-2.002
Licensure by Examination	64B6-2.003
Reexamination	64B6-2.005

**PURPOSE AND EFFECT:** Due to monetary constraints, changing technology, and a change in the law effective July 1, 2001, the Department's examination services has determined that parts of these rules are out-of-date and need to be updated or repealed.

**SUBJECT AREA TO BE ADDRESSED:** Definitions; Licensure by Examination; Reexamination.

**SPECIFIC AUTHORITY:** 456.017(1)(b), 456.017(2), 484.044, 484.0445(1), 484.0445, 484.045 FS.

**LAW IMPLEMENTED:** 456.017(1)(b), 484.0445, 484.0445(1), 484.045 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH  
Board of Hearing Aid Specialist**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Continuing Education Programs	64B6-5.002
Reporting Continuing Education Attendance	64B6-5.003

**PURPOSE AND EFFECT:** The Board proposes to update the existing rules.

**SUBJECT AREA TO BE ADDRESSED:** Continuing Education Programs; Reporting Continuing Education Attendance.

**SPECIFIC AUTHORITY:** 456.013(6),(8), 484.044, 484.047(4), 484.0501(7) FS.

**LAW IMPLEMENTED:** 484.047(4), 484.050(7) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B6-5.002 Continuing Education Programs.

(1) through (6) No change.

(7) Effective for the biennium beginning in 2001, each Hearing Aid Specialist shall attend and certify attending two hours and may take up to four (4) hours per biennium of continuing education which includes the topics of Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome, and other communicable illness to protect both the recipient and dispenser; modes of transmission, infection control procedures, clinical management, and prevention of

any communicable illness. Such continuing education shall be accepted by the Board toward the continuing education requirement prescribed in Rule 64B6-5.001, F.A.C. Up to four hours of continuing education relating to these topics shall be accepted for the 1999-2001 biennium. Each Hearing Aid Specialist shall attend and certify attending a Board approved two hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for license renewal.

Specific Authority 456.013(6),(8), 484.044, 484.047(4) FS. Law Implemented 484.047(4) FS. History--New 4-1-85, Formerly 21JJ-15.002, Amended 8-5-87, 2-16-89, 6-21-89, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.006, Amended 11-20-95, Formerly 61G9-5.006, Amended 9-23-99, 11-9-00,\_\_\_\_\_.

64B6-5.003 Reporting Continuing Education Attendance.

(1) The licensee shall submit a statement on a form, provided by the Department, in which the licensee affirms that he has completed the continuing education required for license renewal. Failure to submit the completed form by February 28 January 31, of every odd biennial renewal year shall be grounds for denying license renewal. The licensee shall retain for 4 years such receipts or certificates which establish completion of required continuing education during each biennium. The Department shall randomly audit a sufficient number of licensees' continuing education records to assure compliance with continuing education requirements.

(2) No change.

Specific Authority 484.044, 484.047(4), 484.0501(7) FS. Law Implemented 484.050(7) FS. History--New 4-1-85, Formerly 21JJ-15.003, Amended 8-5-87, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.007, 61G9-5.007, Amended\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Continuing Education Credits RULE NO.: 64B16-26.103

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text with regard to continuing education. SUBJECT AREA TO BE ADDRESSED: Continuing education credits.

SPECIFIC AUTHORITY: 456.033, 465.009 FS.

LAW IMPLEMENTED: 456.033, 465.009 FS.

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

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

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

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Manner of Application RULE NO.: 64B16-26.203

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the requirements for applicants applying for licensure by examination.

SUBJECT AREA TO BE ADDRESSED: Manner of Application – Examination.

SPECIFIC AUTHORITY: 456.033, 465.005 FS.

LAW IMPLEMENTED: 456.013(1), 456.033, 465.007, 465.022 FS.

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

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

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

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES: Change of Ownership RULE NOS.: 64B16-28.1135

Institutional Permit – Consultant Pharmacist of Record 64B16-28.501

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B15-28.1135, F.A.C., to update the rule text with regard to change of ownership. The Board proposes to amend rule 64B16-28.501, F.A.C., to update the rule text with regard to the different classes a facility may hold.

SUBJECT AREA TO BE ADDRESSED: Change of ownership, Class I institutional permit – consultant pharmacist of record.

SPECIFIC AUTHORITY: 465.005, 465.0125, 465.022 FS.

LAW IMPLEMENTED: 465.003(11)(a), 465.0125, 465.018, 465.019, 465.0193, 465.0196, 465.022 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-28.1135 Change of Ownership.

(1) A pharmacy permit is not transferable. Upon the sale of an existing pharmacy, a new application must be filed. In those cases where the permit is held by a corporation, the transfer of all the stock of said corporation to another person or entity does not constitute a change of ownership, provided that the initial corporation holding the permit continues to exist.

(2) A change in ownership (and issuance of a new permit number) requires that new records be started and old records closed. The process for closing a pharmacy, including the transfer of prescription files and medicinal drugs, as outlined in Rules 64B16-28.201; 64B16-28.202; and 64B16-28.203 must be followed for the old permit. If the old permit has controlled substances, the new permit must record an "opening inventory" for DEA purposes. Both the new permit and the old permit must keep appropriate records for two (2) years for the transfer of legend drugs and controlled substances.

(3) A change in the company or person who leases the building where the permit is housed does not constitute a change in ownership. A change in the management company which contracts with the owner of the permit for the operation of the permit does not constitute a change in ownership.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196, 465.022(7) FS. History—New 4-19-00, Amended \_\_\_\_\_.

64B16-28.501 ~~Class I~~ Institutional Permit – Consultant Pharmacist of Record.

Each facility holding a Class I, a Class II, or a Modified Class II Institutional permit shall designate a consultant pharmacist of record to ensure compliance with the laws and rules governing the permit. The Board office shall be notified in writing within 10 days of any change in the consultant pharmacist of record. The consultant pharmacist of record for a Class I or a Modified Class II permit shall inspect the facility and prepare a written report to be filed at the permitted facility at least monthly.

Specific Authority 465.005, 465.0125, 465.022 FS. Law Implemented 465.0125, 465.019, 465.022 FS. History—New 7-18-94, Formerly 61F10-28.501, 59X-28.501, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

RULE NO.: 64B16-30.001

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

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines; range of penalties, aggravating and mitigating circumstances.

SPECIFIC AUTHORITY: 456.072, 456.079, 465.005 FS.

LAW IMPLEMENTED: 456.072, 456.079 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465. The minimum penalty range is based upon a first time single count violation of each provision listed. The maximum penalty range is based upon repeated violations of the same provision of Chapter 465 or the rules promulgated thereto. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) through (n) No change.		
(o) Violating 456.072, F.S.		
1. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.	\$2,500 fine and one (1) year probation	\$5,000 fine and suspension
2. No change.		
3. Being convicted or found guilty of, or entering a plea of <u>guilty or nolo contendere</u> to, regardless of adjudication a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.	Misdemeanor: \$1,000 fine Felony: \$3,000 fine and one (1) year probation	\$5,000 fine and one (1) year suspension Revocation
4. through 11. No change.		
12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.	<del>\$10,000</del> <del>\$3,000</del> fine and two (2) years probation	<del>\$10,000</del> <del>\$5,000</del> fine and one (1) year suspension
13. through 17. No change.		
18. <u>Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.</u>	<u>\$1,000 fine</u>	<u>\$2,500 fine and one (1) year probation</u>
19. <u>Testing positive for any drug, as defined in s. 112.0455 on any confirmed preemployment or employer ordered drug screening when the</u>	<u>\$2,500 fine and two (2) year probation</u>	<u>\$5,000 fine and one (1) year suspension</u>

practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

(3) through (4) No change.

Specific Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History--New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Records to be Maintained by Deferred Presentment Providers	3C-560.707
Verification Fee	3C-560.801
Minimum Disclosure	3C-560.802
Payment Method	3C-560.804
Scope	3C-560.901
Definitions	3C-560.902
Deferred Presentment Transactions	3C-560.903
Transaction Agreement Disclosures and Requirements	3C-560.904
Transaction Fees	3C-560.905
Consumer Credit Counseling Services	3C-560.906

**PURPOSE AND EFFECT:** The purpose of the proposed amendments and new rules is to implement the provisions of Chapter 2001-119, Laws of Florida, regarding the deferred presentment industry, which takes effect on October 1, 2001.

**SUMMARY:** Rule 3C-560.707, F.A.C., sets forth the records to be kept by a deferred presentment provider. Rules 3C-560.801, .802, and .804, F.A.C., are amended to include deferred presentment providers. Rule 3C-560.901, F.A.C., sets forth the scope of Part IX of Chapter 3C-560, F.A.C. Rule 3C-560.902, F.A.C., sets forth definitions. Rule 3C-560.903, F.A.C., defines when a transaction is considered to be terminated and states when the twenty-four (24) hour waiting period begins. Rule 3C-560.904, F.A.C., identifies the provisions that shall be included in a deferred presentment transaction agreement as well as those provisions that are prohibited. Rule 3C-560.905, F.A.C., sets forth the fees that are allowed by Part IV of Chapter 560, F.S. Rule 3C-560.906, F.A.C., sets forth the requirements for consumer credit counseling services and the criteria for inclusion on the Department's list of approved consumer credit counseling agencies.

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