

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Voting System Equipment Regulations
 RULE NO.: 1S-5.001

PURPOSE AND EFFECT: To adopt a new version of the Florida Voting Systems Standards (Form DS-DE-101) which will establish standards for voting systems certification, in compliance with the requirements of section 6, of Chapter 2001-40, Laws of Florida, the “Florida Election Reform Act of 2001.”

SUBJECT AREA TO BE ADDRESSED: Procedures and standards for implementation of the provisions of section 6, of Chapter 2001-40, Laws of Florida, to include: effective date and applicability of the new form; contact information for the Bureau of Election Systems and the Independent Test Authorities; removal of standards for punch card systems; procedural changes to allow new technologies to be examined in a timely manner including changes to the application process, testing process, and test results reporting process; requirements for disclosure of file and interface specifications for system components; “User Standards” for the user interfaces of systems including minimum standards for accessibility by disabled voters, prevention of overvotes and undervotes, multi-lingual capability, and standards for meeting ballot design requirements; requirements and file specifications for electronic transfer of results on election night; procedures for determining the will of the public with respect to voting systems; and procedures for continuing review and revision of the Florida Voting Systems Standards.

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

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

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, November 16, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Craft, Division of Elections, (850)921-4110 or (850)245-6220

Pursuant to Chapter 286.26, Florida Statutes, any person requiring special accommodations to participate in this meeting is asked to advise the agency as soon as possible and

at least 48 hours before the meeting by contacting Paul Craft, Division of Elections, Room 1801, The Capitol, Tallahassee, FL 32399-0250, pcraft@mail.dos.state.fl.us, (850)921-4110.

THE PRELIMINARY TEXT OF THE PROPOSED RULE AND THE REVISION TO THE FLORIDA VOTING SYSTEMS STANDARDS, (FORM Form DS-DE-101) IS AVAILABLE ON THE DEPARTMENT’S WEB SITE AT: <http://election.dos.state.fl.us/laws/ProposedRules/index.shtml>.

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Small Group Health Rating Requirements Purpose	4-149.009 4-149.030
Applicability and Scope; Penalties	4-149.031
Requirement to Insure Entire Groups	4-149.032
Qualifying Previous and Qualifying Existing Coverages	4-149.034
Calculation of Premium Rates	4-149-037
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement	4-149.038
Designation of Election to Become a Risk-Assuming or Reinsuring Carrier Under Section 627.6699, Florida Statutes, the Employee Health Care Access Act	149.039
Change of Status of Small Employer Carrier’s Election to Become Risk-Assuming Carrier or Reinsuring Carrier	4-149.040
Marketing Communication Material and Marketing Guidelines	4-149.041
Small Employer Health Reinsurance Program	4-149.043

PURPOSE, EFFECT AND SUBJECT AREA TO BE DISCUSSED: Changes are being made to address the following:

- Implementation of provisions recognizing alliances.
- Implementation of underwriting provisions in small group.
- Implementation of expanded family categories.
- Implementation of composite rating restriction and required tabular rating for groups less than 10.
- Implementation of semi-annual reporting requirement for underwriting considerations.
- Elimination of date specific provisions which have been in place since initial implementation of the rules in 1993 that provided certain phase-in provisions.
- Requirement that disclosure regarding quoting rates which have been adjusted due to underwriting.
- Prohibition of specific deceptive practices related to the quoting of health insurance rates.
- Interpretation of §627.6699(5)(a) to prohibit refusal to insure because of an employer’s unwillingness to provide information not necessary to establish eligibility pursuant to § 627.6699(3)(v).

- Deletion of provisions which have been identified that simply restate the statute with no additional clarification.
- Clarification of group eligibility standards.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, 626.9641, 627.4106(3), (5), (8), 627.6699(5)(i)3.a., 4.a., 627.6699(9)(b), (11)(b)3.a., (13)(i), (15) FS.

LAW IMPLEMENTED: 624.418, 624.4211, 624.424(6), 626.9541, 626.9541(1)(b), (g)2., (x)3., 627.401, 627.410, 627.410(7), 627.4106, 627.4106(3), (4), (7), (8), 627.411, 627.6699(3)(g), (v), (4)(a), (5)(a), (g)1., (i)3.a., 4.a., (6), (7), (10), (11), (12), (12)(c), (e), (13), (13)(b), (i) FS.

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

TIME AND DATE: 2:00 p.m., November 29, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-149.009 Small Group Health Rating Requirements.

Specific Authority 624.308(1), 627.4106(3),(5),(8), as amended in Section 118, Chapter 92-33, Laws of Florida. Law Implemented 627.410(7), 627.4106, 627.4106(3),(4),(7),(8) FS. History--New 6-10-92, Amended 3-1-93, Repealed

PART III SMALL EMPLOYER HEALTH CARE ACCESS

4-149.030 Purpose.

The purpose of these rules is to implement Section 627.6699, Florida Statutes ~~Section 65 of Chapter 93-129, Laws of Florida~~, pertaining to requirements of small employer group insurance, to promote the public interest, to promote the availability of small employer group insurance policies, to protect applicants for small employer group insurance from unfair or deceptive sales or enrollment practices, to establish standards for small employer group insurance, to facilitate public understanding and comparison of small employer group insurance policies.

Specific Authority 624.308(1), 626.9641, 627.6699(15) FS. Law Implemented 626.9541, 627.401, 627.410, 627.411, 627.6699 FS. History--New 3-1-93, Amended 11-7-93, _____.

4-149.031 Applicability and Scope; Penalties.

(1) No change.

(2) The rules in this part shall apply to any health benefit plan, whether provided on a group or individual basis, which:

(a) Satisfies Section 627.6699(4)(a), Florida Statutes; ~~and~~

(b) Provides coverage to one or more employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state; ~~and~~

~~(c) Is in effect on or after the effective date of Section 627.6699, Florida Statutes.~~

~~(3) A carrier which offers individual health insurance policies to one or more of the employees of a small employer shall be considered a small employer carrier and shall be subject to the provisions of Section 627.6699, Florida Statutes, and these rules with respect to that policy unless the policy is marketed directly to the individual employee, and the employer does not participate in the payment, collection, or distribution of premiums or facilitate the administration of the policy in any manner. The provisions of subsections (5) and (7) of Section 627.6699 (relating to guaranteed issue of coverage) shall apply with respect to the small employer if:~~

~~(a) The small employer has at least three eligible employees, and not more than 50 on or after January 1, 1994; and~~

~~(b) The small employer has at least one or two eligible employees and not more than 50, as of April 15, 1994.~~

~~(c) The small employer contributes directly or indirectly to payment or collection of premiums charged by the carrier or administration of the policy in any manner.~~

~~(4) Effective 1/1/94, Section 627.6699, Florida Statutes, includes groups of 26-50 employees in the definition of a small group. Carriers writing groups of this size but not fewer than 26 eligible employees which desire to continue marketing in this redefined small group area must apply for either risk assuming or reinsuring company status. Once authorized to sell to small groups, the carrier must make all applicable plans of insurance available to any small employer. Effective 1/1/94, a small employer is defined as a group of 1-50 eligible employees. The guaranteed issue requirement is effective for groups of 3-50 on 1/1/94. The guaranteed issue requirement is effective for groups of 1-2 on 4/15/94.~~

~~(3)(5) The Department shall impose penalties for non-compliance with the act or for abusive market conduct practices in accordance with Rule 4-142.011, F.A.C., upon its becoming effective. Such non-compliance or abusive market conduct practices are divided into three levels based on severity and intent.~~

(a) through (c) No change.

Specific Authority 624.308(1), 627.6699(15) FS. Law Implemented 624.418, 624.4211, 627.6699(4)(a),(5),(5)(g)1.,(7) FS. History--New 3-1-93, Amended 11-7-93, 4-23-95, _____.

4-149.032 Requirement to Insure Entire Groups.

(1) A small employer carrier which offers coverage to a small employer shall offer coverage to each eligible employee and to each of the dependents of the employees who elect coverage. The small employer carrier shall offer the same health benefit plans to each employee and dependent. ~~No dependent of an employee shall be covered unless the employee is also covered. If dependents are covered, the employee and the covered dependents shall be insured under the same health benefit plan.~~

(2) through (3) No change.

~~(4) Within 60 days following 1/1/94, each small employer carrier shall grant a 90-day open enrollment period to allow each employee or dependent whose coverage was refused or restricted for health reasons prior to 1/1/93 to come into his employer's program without restriction. The employee must have been employed on 12/31/92 and continuously employed through 4/1/93. The small employer carrier must notify each employer group subject to this open enrollment opportunity. There shall be no restrictions for pre-existing conditions for employees or dependents meeting the conditions in this subsection. An eligible employee who passes up this opportunity and subsequently wants to enroll will be considered a late enrollee.~~

~~(5) An annual open enrollment period must be offered to each small employer's employees and dependents on each anniversary of the employer's program. The enrollment period is for 30 days before the anniversary. Late enrollees shall not be excluded from these open enrollment periods. Late enrollees can be excluded from coverage for the period of time from the date of application until the first open enrollment date following the date of application. Any pre-existing condition period will date from the effective date of the coverage.~~

~~(6) New entrants to a group shall be accepted for coverage during their initial eligibility period by the small employer carrier without any restrictions or limitations on coverage related to the health status or claims experience of those employees or their dependents, except as permitted in section 627.6699(5)(h)2.~~

Specific Authority 624.308(1), 627.6699(15) FS. Law Implemented 627.6699(5),(12) FS. History—New 3-1-93, Amended 11-7-93, 4-23-95, _____.

4-149.034 Qualifying Previous and Qualifying Existing Coverages.

Specific Authority 624.308(1), 627.6699(15) FS. Law Implemented 627.6699(3),(3)(i),(5),(5)(g)1.,(h),(13)(b) FS. History—New 3-1-93, Amended 11-7-93, 4-23-95, Repealed.

4-149.037 Calculation of Premium Rates.

(1) This rule is applicable for all health benefit plans subject to Section 627.6699, Florida Statutes, and is in addition to Parts I and II, New Issues.

~~(a) Other than the exception noted in (b), below, all small employer health plans shall be issued on a guaranteed issue basis. Riders may be added to the Standard Plan on an underwritten basis. However, all employees shall have the additional benefits and once the program is in place, new enrollees shall be added without evidence of insurability for the full benefit package of the program.~~

~~(b) The small employer carrier shall offer the standard and basic benefit plan in every sales situation. Carriers may also offer other health benefit plans to the small employer. All health benefit plans shall be offered and issued on a guaranteed-issue basis except the benefits purchased through riders to the standard benefits plan, referenced in (1)(a), above.~~

~~(c) Effective January 1, 1994, premiums shall be calculated using modified community rating. Under this method, premiums can recognize only attained age, gender, family composition, geographical area, and tobacco usage. Geographical area must be recognized by county, not zip code.~~

~~(d) Premiums for plans in a given pool of insurance must recognize benefit, deductible, and copy differentials. As an example, if the Standard Plan is enriched by the addition of riders for a particular employer by 20%, then the premium shall be 20% higher than a Standard Plan issued to the same employer.~~

~~(e)1. Each small employer carrier may have one or more of the following pools:~~

- ~~a. Directly written indemnity business;~~
- ~~b. Indemnity business written through CHPA's;~~
- ~~c. Directly written HMO business;~~
- ~~d. HMO business written through CHPA's;~~
- ~~e. Directly written managed care business; and~~
- ~~f. Managed care business written through CHPA's.~~

~~2. For purposes of the rules in this part, indemnity business includes pure fee-for-service plans.~~

~~3. For purposes of this part, managed care business includes:~~

- ~~a. Preferred provider networks;~~
- ~~b. Exclusive provider networks; and~~
- ~~c. Other managed care arrangements which are not organized under chapter 641, Florida Statutes.~~

~~4. For rating purposes under the rules in this part, the experience for each benefit plan must be assigned to the appropriate one of the six pools in 1. above.~~

~~(f) Premiums for a particular employer shall be guaranteed for a year upon issue or renewal. Interim changes in rates can be made for changes in composition or benefits. Age changes between renewals are not considered to be changes in composition. Rate changes for new or terminating enrollees shall be made at the rates in effect at the beginning of the rating period. Benefit changes requested by an employer can be made at anytime, at the option of the small employer carrier, at the rates then in effect or at the rates in effect at the beginning of~~

the rating period. If current rates are used, the new premium shall be guaranteed for one year from the date of change in benefits. Benefit plans offered by a carrier on a guarantee issue basis are required to be made available to the employer on request at the annual renewal date. Such benefit plans must be made available without evidence of insurability and without any impact on pre-existing condition provisions:

(g) ~~Affiliated Companies are treated as separate companies unless small group insurance business has been transferred between or among companies since January 1, 1992.~~

~~(2) Existing or Renewal Business:~~

~~(a) Business in force on December 31, 1993, shall be community rated upon its first renewal date in 1995. Such business for companies not issuing new business in 1994 shall be rated as described above for new issues, commencing in 1995. For companies issuing new business in 1994, business in force on December 31, 1993, and still in force on December 31, 1994, shall be included in the appropriate pool established for new issues in 1994 and rated at renewal in 1995 at the same rate as if it were new business and the renewal date were the issue date.~~

~~(b) Any business in force on December 31, 1993, which is renewed in 1995 shall be renewable from that point forward at the option of the employer.~~

~~(c) New employees added to existing groups in 1994 and thereafter shall be added on a guaranteed issue basis for the benefits program in force.~~

(2)(3)(a) A premium schedule for a particular employer shall be guaranteed for one year on the employer's policy/certificate anniversary, except for a policy issued to an Alliance, as defined in Section 627.654, Florida Statutes, in which case the first year an employer obtains coverage, the employer may receive an increase on the policy anniversary which may be less than one year pursuant to Section 627.6699(6)(b)3, Florida Statutes. For 1994, business in force as of December 31, 1993, shall be rated as described in Rule 4-149.009, including the definition of Affiliated Companies. However, Affiliated Company business need not be treated as the business of a single company in 1995 if intercompany business transfers have not occurred since January 1, 1992.

(b) A group's rate shall not be changed due to employee age changes which occur during the policy period.

(c) The rate applicable to new or terminating enrollees shall be made at the premium schedule in effect at the beginning of the rating period.

(3)(a) All contract forms issued pursuant to Section 627.6699, Florida Statutes, are subject to modified community rating and must be pooled together for all rating purposes.

(b) All rating factors permitted by Section 627.6699(6), Florida Statutes, must be determined from credible data and actuarially justified.

(4) Rate filing requirements – Modified Community Rating. Premium schedules for benefit plans offered to small employer groups shall be based solely on the following categories and factors of the employee, without regard to the nature of the employer group. Employee age shall be determined as of the date of issue and each subsequent renewal date thereafter as defined in the policy and certificate. If not explicitly defined in the contract, age shall be the attained age as of the date of issue or renewal of the certificate.

~~(a) Within each of the pools stated in (1)(c)1., only benefit differences can be used in determining modified community rates:~~

~~(b) In CHPA (community health purchasing alliance) versus out-of-CHPA differences must be justified. Expense differentials must be justified, and, if less, the differential must be reflected in higher loss ratios:~~

~~(c) When rates are initially changed or revised a complete actuarial memorandum must be included with the revised rates.~~

~~(d) Special programs such as Chamber of Commerce plans shall be allowed under the following criteria:~~

~~1. The Basic and Standard plans must be available and offered to all employers:~~

~~2. Lower rates are due to expense savings not special morbidity assumptions:~~

~~3. Expense savings are to be passed on to employers in the form of higher loss ratios:~~

~~4. The specific benefit plan under the special program must be made available to all employers not involved with the special program, but at a rate not including the expense savings of the special program:~~

~~(e) The Department will allow a substantiated monthly trend factor during 1994 for new business. Trend factors must be filed for approval each year in accordance with the requirements of Rule 4-149.003. Trend factors can be changed more frequently upon approval of a filing. Rate tables must be filed for approval, in accordance with the provisions of Rule 4-149.003, if increases greater than trend are needed. If additional increases are not needed, then the entire table of rates shall be refiled at the end of each year along with the trend factors for the next year and pool experience for the previous year.~~

~~(f) A special filing will be needed at the end of 1994, following a similar methodology to that used and approved initially, to establish new modified community rates for 1994, recognizing the inclusion in 1995 of the business in force on December 31, 1993, which is still in force at the end of 1994.~~

~~(g) Companies with in force business as of December 31, 1993, that are not going to issue new business in 1994, do not have to file modified community rates for use in 1994. Such companies must so inform the Department in writing. These companies will be required to file modified community rates for 1995, however.~~

~~(a)(h)~~ Rates are to be calculated and presented using the following rating categories for all benefit plans offered. 1. Age Categories.

~~1.a.~~ <30

~~2.b.~~ 30 – 39

~~3.c.~~ 40 – 49

~~4.d.~~ 50 – 54

~~5.e.~~ 55 – 59

~~6.f.~~ 60 – 64

~~7.g.~~ 65 & above – Medicare is Primary

~~8.h.~~ 65 & above – Health Plan is Primary

~~(b)1,2.~~ Rating Categories

a. Employee – Male

b. Employee – Female

c. Employee – Male – Dependent Children

d. Employee – Female – Dependent Children

e. Employee – Spouse

f. Employee – Spouse – Dependent Children

2. Up to 3 optional dependent children categories are permitted: 1., 2., and 3. or more dependent children for companies for both the employee with family and the employee with dependent children categories.

~~(c)3.~~ Area Factors by County

~~(d)4.~~ Tobacco Usage Factor (>1, base rates are for non-tobacco user)

~~(e)~~ Effective date.

~~(5)~~ Composite rating is permissible. However, the composite rate must be determined on a case-by-case basis in such a manner that its application to the insured group will reproduce the case rate calculated using the rates in the required format. The composite rate is to be calculated at issue or at renewal only, and it is to be used throughout the following plan year for additions to and terminations from the group. Composite rating is allowed to accommodate past billing practices between a carrier and its employer groups. It is not an exception to ~~(4)(e)~~.

~~(5)(6)~~ The minimum loss ratio is 65 percent.

~~(6)(7)(a)1.~~ A small employer carrier may make up to a 15 per cent adjustment in rates, subject to a 10 per cent annual limitation applicable to a small employer's renewal premium, for claims experience, health status, or duration of coverage for a particular employer group from that otherwise determined from the tabular rate schedule determined above pursuant to Section 627.6699(6)(b)5., Florida Statutes.

2. The objective criteria and standards for application of this rate adjustment shall be applicable to and used for all small employer groups on a non-discriminatory basis.

3. Such criteria and standards shall be filed and approved.

4. A small employer carrier shall not require claims experience of a new group as a condition of providing coverage.

(b) A small employer carrier may file rating factors to provide a credit to the approved tabular community rate schedule to reflect efficiencies in administrative and acquisition expenses based on the size of the small employer. Such factors shall be filed and approved and shall be used for all small employer groups on a non-discriminatory basis.

(c) If a small employer carrier makes adjustments to individual employer group rates based on the above provisions, the carrier shall provide experience in all rate filings including both the actual premiums charged and the premium which would have resulted had no adjustments been made and the tabular community rate schedule was used. Rate analysis and rate adjustments shall be based on the restated premium as though the tabular community rate schedule were used without adjustment.

(d) All carriers shall disclose to a group when credits or surcharges have been applied to the community rate in determining the rate for the group.

(e) Coverage available to an Alliance is subject to the provisions of Section 627.6699, Florida Statutes, and shall be available to the Alliance on a guaranteed issue basis. Any rate adjustments made pursuant to (b) above shall be applied uniformly to all members of the Alliance and not on an individual employer basis. Rate adjustments pursuant to (a) above shall be determined and applied on an individual employer group basis. Riders on Standard Plans:

~~(a)~~ Additional benefit riders may be medically underwritten and offered upon approval by the Department pursuant to section 627.410, Florida Statutes.

~~(b)~~ Riders may only be used to increase the benefits of the standard plan. The riders must provide benefits or services not offered by the standard plan. The additional premium for the rider must use the rating methodology of this rule and be actuarially equivalent to the additional covered service.

(7) Composite rating is permissible for groups of 10 or more employees and only when it will reproduce the group premium determined as the sum of the individual tabular rate for each employee calculated at the time of any rate quote using the premium schedule approved by the Department in the required format in (4) above.

Specific Authority 624.308(1), 627.6699(15) FS. Law Implemented 627.410, 627.6699(6),(12)(e),(13),(13)(i) FS. History—New 3-1-93, Amended 11-7-93, 5-11-94, 4-23-95, _____.

4-149.038 Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement.

(1) Pursuant to Section 627.6699, Florida Statutes, each carrier that provides health benefit plans in this state shall file with its 1992 annual statement and each year thereafter, on or before March 1 for the preceding year ending December 31, Form DI4-1094, rev. 9/01 "Report of Gross Annual Premiums for Health Benefit Plans Issued in Florida" (40/92), which is hereby adopted and incorporated by reference, providing information on health benefit plans written in this state.

Effective for filing with the carrier's 1994 annual statement and each year thereafter, due on or before March 1 of each year, carriers shall use Form ~~DI4-1094~~, "Report of Gross Annual Premiums and Plan Policy Exhibits for Health Benefit Plans Issued in Florida," rev. 7/93, which is hereby adopted and incorporated by reference. Copies of ~~this~~ these forms may be obtained from and shall be submitted to: Bureau of Life and Health ~~Forms and Rates Insurer Solvency and Market Conduct~~, Division of Insurer Services, Department of Insurance, ~~Larson Building~~, Tallahassee, FL 32399-03287 or submitted electronically. Forms are also available and may be printed from the Department's website: www.doi.state.fl.us.

(2) Annual Reports: The following reports shall be filed no later than March 15 of each year, and shall include experience for the previous calendar year:

(a) Business in force 12/31/93: The report for this block of business for 1994 and 1995 shall comply with Rule 4-149.009 and two additional items, below, shall be included. In total for all classes of business subject to the 20% test:

1. Average Premium per certificate
2. Average Number of certificates per group

(b) Business written in 1994:

1. No report required March 15, 1994.
2. The following information is to be submitted for each

Modified Community Rating Pool:

- a. Earned Premium
- b. Paid Claims
- e. Change in Claims Reserves
- d. Incurred Claims
- e. Loss Ratio
- f. Number of Groups
- g. Number of Certificates
- h. Average Premium per Certificate
- i. Average Number of Certificates per Group

3. The actuarial certification shall make specific reference to the Community Rating Pools.

(e) In 1996, all business issued and in force on 12/31/93 and still in force 12/31/94 shall be in one of the pools. The report shall follow the requirements established above for business written in 1994.

(2)(3) Quarterly Reports: Within 30 days following each calendar quarter each small employer carrier shall file a report on Form ~~DI4-1117, Rev. 2/98~~ ~~DI4-QER~~, "Florida Employee Health Care Access Act Enrollment Report," rev. 7/93, which is hereby adopted and incorporated by reference. This form may be obtained from and shall be submitted to the Bureau of Life and Health ~~Forms and Rates Insurer Solvency and Market Conduct~~, Division of Insurer Services, Department of Insurance, ~~Larson Building~~, Tallahassee, FL 32399-03287 or submitted electronically. Forms are also available and may be printed from the Department's website: www.doi.state.fl.us.

(3)(a) All small employer carriers utilizing rating adjustments pursuant to Rule 4-149.037(7), F.A.C., shall make semiannual reports of their experience. The semiannual reports shall reflect experience from January 1 through June 30 and from July 1 through December 31 of each year. The reports shall be filed with the Department, Bureau of Life and Health Forms and Rates within 45 days following the last day of the reporting period. The carrier shall report:

1. The average number of employer groups during the reporting period.

2. The average number of covered employees during the reporting period.

3. Actual earned premiums during the reporting period.

4. Premiums that would have resulted from charging the approved community rate, excluding administrative and acquisition credits.

5. Premiums that would have resulted from charging the approved community rate, including administrative and acquisition credits.

6. (4)-(5) Total administrative and acquisition credits.

7. (3)-(4) Total deviation due to claims, health and duration status.

8. (7)/(3) Percentage deviation of charged rate to community rate for claims, health and duration status.

(b) If (3)(a)8. above is 5 per cent or more, the carrier shall limit the application of claim experience, health status, or duration adjustments to credits only effective no more than 60 days following the report date. This shall apply to all groups with original issue dates or anniversary dates for renewals on or after this 60 days. If a group was in process of application review and issuance, and would have received a surcharge, but the policy was not issued or renewed until after the 60 day period, the surcharge may not be applied.

(c) If the above report is not submitted by the date required, the carrier shall limit the application of claim experience, health status, or duration adjustments to credits only effective no more than 60 days following the due date. This shall apply to all groups with original issue dates or anniversary dates for renewals on or after this 60 days. If a group was in process of application review and issuance, and would have received a surcharge, but the policy was not issued or renewed until after the 60 day period, the surcharge may not be applied.

(d) A carrier that is limited to credits only, pursuant to (b) or (c) above, shall be limited to credits only until a subsequent reporting period demonstrating that (3)(a)8. above is less than 5 percent.

Specific Authority 627.6699(5)(i)3.a.,4.a.(15) FS. Law Implemented 624.424(6), 627.6699(5)(i)3.a., 4.a. FS. History--New 3-1-93, Amended 11-7-93,_____.

4-149.039 Designation of Election to Become a Risk-Assuming or Reinsuring Carrier Under Section 627.6699, Florida Statutes, the Employee Health Care Access Act.

(1) A small employer carrier shall file a final designation of election to become either a risk-assuming carrier or a reinsuring carrier ~~by October 31, 1993. This final election is binding for two years, from January 1, 1994, through December 31, 1995, after which an election shall be binding for a period of five years.~~ The small employer carrier desiring to be a risk-assuming carrier shall use Form DI4-1093, rev. 8/93, "State of Florida/Small Employer Carrier's Application to Become a Risk Assuming Carrier or a Reinsuring Carrier, As Required by Section 627.6699(9), Florida Statutes," rev. 8/93 which is hereby adopted and incorporated by reference.

(2) through (3) No change.

(4) Copies of the form may be obtained from and shall be submitted to the Bureau of Life and Health Forms and Rates Insurer Solvency and Market Conduct, Division of Insurer Services, Department of Insurance, ~~Larson Building~~, Tallahassee, FL 32399-03287 or submitted electronically. Forms are also available and may be printed from the Department's website: www.doi.state.fl.us.

Specific Authority 627.6699(15) FS. Law Implemented 627.6699(9),(10) FS. History--New 3-1-93, Amended 11-7-93,_____.

4-149.040 Change of Status of Small Employer Carrier's Election to Become Risk-Assuming Carrier or Reinsuring Carrier.

(1) Any small employer carrier seeking to change the election made by the carrier under Section 627.6699(9)(a), Florida Statutes, to become either a risk-assuming carrier or a reinsuring carrier shall request a change of status on Form DI4-1095, rev. 8/93, "State of Florida/Small Employer Carrier's Application to Modify Previous Election to Become a Risk Assuming or a Reinsuring Carrier, As Required by Section 627.6699(9), Florida Statutes," rev. 8/93, which is hereby adopted and incorporated by reference. Copies of the form may be obtained from and shall be submitted to the Bureau of Life and Health Forms and Rates Insurer Solvency and Market Conduct, Division of Insurer Services, Department of Insurance, ~~Larson Building~~, Tallahassee, FL 32399-03287 or submitted electronically. Forms are also available and may be printed from the Department's website: www.doi.state.fl.us.

(2) No change.

Specific Authority 627.6699(9)(b),(15) FS. Law Implemented 627.6699(9),(10),(11) FS. History--New 3-1-93, Amended 11-7-93,_____.

4-149.041 Marketing Communication Material and Marketing Guidelines.

(1) No change.

(2) Any insurer marketing small group health plans shall comply with the following guidelines.

(a) The small group health history or size shall not be used to direct the small group to a particular small group ~~plan or to direct the small group in or out of the Community Health Purchasing Alliances (CHPA's).~~

(b) 1. In determining eligibility for small group coverage an employer/employee income may not be used.

2. A carrier may request information and documentation to determine whether an individual qualifies as an active business that is eligible for coverage.

3. The following documentation may be requested or considered in determining eligibility if the document requested is one which the employer is required to have completed:

1. through 15. renumbered a. through o. No change.

4.a. Refusal to insure an eligible small employer because of the employer's unwillingness to provide information not necessary to establish eligibility pursuant to Section 627.6699(3)(v), Florida Statutes, violates Section 627.6699(5)(a), Florida Statutes.

b. Any statement which implies that providing such unnecessary information is necessary for coverage to be issued shall constitute an unfair method of competition in violation of Section 626.9541(1)(b), Florida Statutes.

~~(c) Issuance of small group coverage may not be conditioned upon the purchase of other coverage, i.e. life, dental, etc.~~

~~(d) Employees over 65 years of age must be offered small group coverage. Any individual who is enrolled in a small group plan and is 65 years of age or older will have a two month period following termination of coverages in which to enroll in a medicare supplement plan on a guarantee issue basis by an insurer that offers a medicare supplement plan.~~

~~(e) Usual and customary charges, except for negotiated discounts, shall be the same inside and outside the CHPA.~~

(f) through (g) renumbered (d) through (e) No change.

(f) Pursuant to Section 626.9611, Florida Statutes, the Department identifies the following as being prohibited by Section 626.9541(1)(b), Florida Statutes, for a small employer carrier that utilizes any of the permitted rate adjustments in Rule 4-149.037(7), F.A.C.:

1. To quote a rate which does not reflect the actual characteristics of the individual group; or

2. Where necessary underwriting information has not been analyzed, to quote a rate other than the approved community rate with disclosure that the rate may be adjusted up or down to 15 per cent for new groups or 10 per cent for renewal groups.

Specific Authority 627.6699(13)(i),(15), 626.9611 FS. Law Implemented 626.9541(1)(b),(g)2.,(x)3., 627.6699(3)(g),(v),(5)(a),(7),(12)(c),(13),(13)(b) FS. History--New 3-1-93, Amended 11-7-93, 4-23-95,_____.

4-149.043 Small Employer Health Reinsurance Program.

(1) No change.

(2) Of the {8} additional members of the board, subsequently amended to 13 in the 2000 legislative session. ~~five~~ {5} shall be selected from individuals recommended by small employer carriers. Any small employer carrier wishing to do so may submit a list of recommended appointees to the commissioner either on its own behalf or through its trade organization. The list shall be submitted ~~no later than October 29, 1993, and shall be sent~~ to: Chief, Bureau of Life and Health Forms & Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328 or submitted electronically. The carrier or trade organization submitting the list shall include the following information about the persons it is recommending:

(a) through (d) No change.

Specific Authority 624.308(1), 627.6699(11)(b)3.a. FS. Law Implemented 627.6699(11) FS. History--New 11-7-93, Amended.

DEPARTMENT OF INSURANCE

Division of Treasury

RULE TITLE: State of Florida Employees Deferred Compensation Plan

RULE NO.: 4C-6.003

PURPOSE AND EFFECT: The rule adopts an amended version of DI4-1176, the State of Florida Employees Deferred Compensation Plan, which contains several changes in response to the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGRTRRA). The amendments also prohibit transfer fees imposed on participants moving accounts from one provider to another, make various technical changes, and adopt forms revised to conform to EGRTRRA.

SUBJECT AREA TO BE ADDRESSED: Changes to the State of Florida Employees Deferred Compensation Plan.

SPECIFIC AUTHORITY: 112.215(11) FS.

LAW IMPLEMENTED: 112.215 FS.

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

TIME AND DATE: 9:30 a.m., November 27, 2001

PLACE: Room 415, Hermitage Center, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kandi Winters, Financial Administrator, Deferred Compensation Section, Division of Treasury, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0346, (850)413-3400

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE NOVEMBER 15 AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Termination of Staff Housing Assignment

RULE NO.: 33-208.510

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise a form incorporated by reference in the rule.

SUBJECT AREA TO BE ADDRESSED: Staff Housing.

SPECIFIC AUTHORITY: 20.315, 944.09, 945.025 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.025 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:

33-208.510 Termination of Staff Housing Assignment.

(1) Expiration.

(a) through (b) No change.

(c) Written notice to or from an occupant regarding any of the personnel actions under subparagraphs (1)(a)3., 4., or 5. above shall constitute notice of the expiration of the assignment to staff housing and the warden shall ensure that Form DC2-808C, Termination of Staff Housing Agreement, is completed and submitted to the service center personnel office. Form DC2-808C is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is August 16, 2000. Expiration shall be effective at the end of the last day of the occupant's employment in the class series or at the institution.

(2) through (3) No change.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History--New 9-1-88, Amended 6-22-89, Formerly 33-26.010, Formerly 33-602.510, Amended 8-16-00, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: RULE NO.:

Nursing Facility Beds 59C-1.036

PURPOSE AND EFFECT: The agency is proposing to amend certificate of need (CON) Rule 59C-1.036 by deleting those portions of the rule which concern CON review of proposals for hospital-based skilled nursing unit (SNU) beds licensed under Chapter 395, F.S. The amendment will occur simultaneously with adoption of a new Rule 59C-1.0365 that is limited to CON review of proposals for such SNU beds. A Notice of Proposed Rule Development concerning that new rule is expected to appear elsewhere in this edition of the FAW. The remaining portions of 59C-1.036, with necessary editorial changes, will concern only CON review of nursing facility beds licensed under Chapter 400, F.S. These proposed amendments and the proposed new SNU rule will be discussed at the rule development workshop scheduled below.

SUBJECT AREA TO BE ADDRESSED: Modification of rule 59C-1.036 so that it is limited to nursing facility beds licensed under Chapter 400, F.S. The remaining provisions in the current rule, which concern CON review of hospital-based skilled nursing unit (SNU) beds, will be modified and transferred to a new Rule 59C-1.0365.

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

LAW IMPLEMENTED: 408.036(1)(g) FS.

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

TIME AND DATE: 2:00 p.m., November 20, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, 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-1.036 Nursing Facility Beds.

(1) Agency Intent. This rule implements s. 408.034(3), F.S., which requires the agency to develop uniform need methodologies for certificate of need (CON) review of proposals, and s. 408.036(1)(g), F.S., which requires certificate of need review of projects for an increase in nursing home care beds licensed under Chapter 400, F.S. ~~nursing facility beds~~ The rule regulates the construction of new nursing facilities, the addition of new nursing facility beds, and conversion of other health care facility bed types to nursing facility beds, including conversion of licensed sheltered nursing facility beds in continuing care facilities regulated under section 651.118, F.S. Projects for addition of sheltered nursing home beds are excluded from this rule and regulated under Rule 59C-1.037, F.A.C., and conversion to nursing facility beds of acute care or

~~specialty care hospital beds licensed under Chapter 395, F.S. For purposes of this rule there are two types of nursing facility beds, nursing facility beds licensed under Chapter 400, F.S., excluding sheltered beds, and nursing facility beds licensed under Chapter 395, F.S. It is the intent of the agency to ensure the availability of nursing facility services to all persons needing such services, regardless of ability to pay. Nothing in this rule is intended to interpret, modify, limit or expand Florida law regarding standing, or the right of an existing health care provider to initiate or intervene in a formal administrative hearing challenging intended agency action on a certificate of need application for either Chapter 395 or Chapter 400 nursing facility beds regulated under this rule.~~

(2) ~~Separate~~ CON Reviews. Proposals for nursing facility beds seeking licensure under Chapter 400, F.S., will be comparatively reviewed to each other, ~~and proposals for nursing facility beds seeking licensure under Chapter 395, F.S., will be comparatively reviewed to each other.~~ This rule contains a methodology ~~separate methodologies~~ for determining the numeric need for nursing facility beds proposed to be licensed under Chapter 400, F.S., ~~and nursing facility beds proposed to be licensed as a distinct part of a hospital under Chapter 395, F.S.~~ An application for nursing facility beds seeking licensure under Chapter 400, F.S., shall not be approved in the absence or insufficiency of a numeric need indicated by the formula in subsection (4) of this rule, unless the absence or insufficiency of numeric need is outweighed by other information presented in a certificate of need application showing special circumstances consistent with applicable and relevant criteria in s. 408.035, F.S. ~~An application for nursing facility beds seeking licensure under Chapter 395, F.S., shall not be approved in the absence or insufficiency of a numeric need indicated by the formula in subsection (5) of this rule, unless the absence or insufficiency of numeric need is outweighed by other information presented in a certificate of need application showing special circumstances consistent with applicable and relevant criteria in s. 408.035, F.S.~~

(3) General Provisions.

(a) No change.

(b) Batching Cycles. Proposals for nursing facility beds seeking licensure under Chapter 400, F.S., ~~and proposals for nursing facility beds seeking licensure under Chapter 395, F.S.,~~ will be reviewed in the batching cycles established for nursing facility projects and described in paragraph 59C-1.008(1)(g)(4), F.A.C.

(c) No change.

(d) Subdistrict Need Determination. The agency will use the subdistrict designation shown in Rule 59C-2.200, F.A.C., for agency service districts 1 through 11 respectively in projecting need for nursing facility beds licensed under Chapter 400, F.S. ~~The agency will use the subdistrict~~

designation shown in Rule 59C-2.100, F.A.C., for agency service districts 1 through 11 respectively in projecting need for nursing facility beds licensed under Chapter 395, F.S.

(e) through (4) No change.

(5) ~~Numeric Need Formula for Nursing Facility Beds Seeking Licensure Under Chapter 395, F.S.~~

~~(a) Projected Need. In addition to the other relevant statutory and rule criteria used in considering the allocation of new or additional nursing facility beds to be licensed under Chapter 395, F.S., the agency will determine if there is a projected need for new or additional beds at the planning horizon according to the definitions and methodology specified in this subsection.~~

~~(b) Summary of Need Formula. The need formula for nursing facility beds seeking licensure under Chapter 395, F.S., links the projected subdistrict need to the projected subdistrict number of Medicare funded patient days in acute care hospital beds. That projected number is derived by multiplying the current number of such days times the expected growth in the subdistrict population age 65 and over. The projected subdistrict number of Medicare funded acute care patient days is multiplied by a ratio that compares all patient days in nursing facilities licensed under Chapter 395, F.S., to the projected Medicare funded acute care patient days. The ratio used in each subdistrict is equal to the larger of either the current ratio or the current median value of such ratios among subdistricts which had patient days in nursing facilities licensed under Chapter 395, F.S., in the most recent 6-month reporting period for which data are available preceding publication of the projected need. The resulting projected number of nursing facility patient days is divided by the number of days in the most recent 6-month reporting period, and then divided by an 80 percent occupancy standard, which produces a projected total need in the subdistrict for nursing facility beds licensed under Chapter 395, F.S. The projected total bed need is then reduced by the current number of licensed and approved beds to produce a net need for additional nursing facility beds licensed under Chapter 395, F.S. If the current occupancy of nursing facility beds licensed under Chapter 395, F.S., is less than 70 percent, the net need in the subdistrict is zero regardless of whether the formula otherwise shows a net need. The 70 percent standard is not applicable in subdistricts where there are no licensed or approved hospital-based skilled nursing beds.~~

~~(c) Need Formula. The formula for determining the net need in a subdistrict for nursing facility beds licensed under Chapter 395, F.S., is as follows:~~

$$NN = \frac{[(MAPD/2) \times (PPOP/CPOP) \times (RATIO)] - LNFB - ANFB}{(DAYS) \times (.80)}$$

where:

NN is the net need for additional nursing facility beds to be licensed under Chapter 395, F.S.

~~MAPD is the 12-month subdistrict total of Medicare funded patient days for discharges from acute care general hospitals in the subdistrict during the most recent fiscal year for which data are available to the agency as of the beginning of the quarter of the publication of the fixed need pool. MAPD/2 is an estimated 6-month total of such patient days.~~

~~CPOP is the current subdistrict population age 65 and over as of January 1 when the planning horizon is also January 1, or July 1 when the planning horizon is July 1. In the case of subdistricts that contain portions of a county, the allocation of the current county total population to those subdistricts shall be based on the proportional distribution of the county total in the most recent U.S. Census of Population.~~

~~PPOP is the projected subdistrict population age 65 and over as of January 1 when the planning horizon is also January 1, or July 1 when the planning horizon is July 1. In the case of subdistricts that contain portions of a county, the allocation of the projected county total population to those subdistricts shall be based on the proportional distribution of the county total in the most recent U.S. Census of Population.~~

~~DAYS is the number of calendar days in the most recent 6-month total of patient days in nursing facilities licensed under Chapter 395, F.S., as reported to the agency.~~

~~.80 equals the desired average 6-month occupancy rate for nursing facility beds licensed under Chapter 395, F.S., in the subdistrict.~~

~~RATIO is a subdistrict-specific ratio of projected patient days in nursing facilities licensed under Chapter 395, F.S., compared to projected Medicare funded acute care patient days, determined as follows:~~

~~1. For each subdistrict, calculate the ratio of current patient days in nursing facilities licensed under Chapter 395, F.S., to current Medicare funded acute care patient days by dividing the most recent 6-month total of patient days in nursing facilities licensed under Chapter 395, F.S., reported to the agency consistent with the provisions of subsection (6), by the estimated 6-month subdistrict total of Medicare funded patient days for discharges from acute care general hospitals in the subdistrict. The estimated 6-month subdistrict total of such patient days is equal to MAPD/2.~~

~~2. Rank all subdistricts with a calculated ratio greater than zero from the lowest to highest values, and identify the median ratio in this array.~~

~~3. If the ratio as calculated in step 1 is less than the median, including subdistricts with a ratio of zero, then RATIO equals the median ratio.~~

~~4. If the ratio as calculated in step 1 is equal to or greater than the median, then RATIO equals the current ratio calculated for that subdistrict.~~

~~LNFB is the current number of beds in nursing facilities licensed under Chapter 395, F.S. The number of these beds that is subtracted shall be the number as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool.~~

~~ANFB is the current number of approved beds for nursing facilities licensed under Chapter 395, F.S. The number of these beds that is subtracted shall be the number for which the agency has issued a certificate of need, a letter stating the agency's intent to issue a certificate of need, a signed stipulated agreement, or a final order granting a certificate of need, as of the most recent published deadline for agency initial decisions prior to publication of the fixed bed need pool.~~

~~(d) If the subdistrict average occupancy of nursing facility beds licensed under Chapter 395, F.S., during the most recent reporting period was less than 70 percent, net need in that subdistrict is zero regardless of results from the formula in paragraph (c). This provision does not apply in subdistricts where there are no licensed or approved hospital-based skilled nursing beds.~~

~~(e) Proposed Services. Applicants shall provide a detailed description of the services to be provided, staffing pattern, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies, and discharge policies.~~

~~(f) Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035(1)(c), F.S., the agency shall evaluate the following facts and circumstances:~~

~~1. Whether the applicant has had a nursing facility Medicare certification denied, revoked, or suspended within the 36 months prior to the application.~~

~~2. The extent to which the conditions identified in subparagraph 1. threatened or resulted in direct, significant harm to the health, safety or welfare of the nursing facility residents.~~

~~3. The extent to which the conditions identified within subparagraph 2. were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the agency.~~

~~(g) Harmful Conditions. The agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in subparagraphs (f)1. and (f)2. resulted in direct, significant harm to the health, safety or welfare of a nursing facility resident, and were not corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the agency.~~

~~(5)(6) No change.~~

~~(7) Applicability of this Amended Rule. This amended rule shall be applied beginning with the first nursing facility review cycle of 1998.~~

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.034(3), ~~408.035~~, 408.036(1)(g)(a),(b),(c),(d),(e) FS. History--New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(k), Amended 8-9-92, Formerly 10-5.036, Amended 10-6-92, 8-24-93, 6-11-98.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Hospital-Based Skilled Nursing Units
 RULE NO.: 59C-1.0365

PURPOSE AND EFFECT: The agency is proposing to revise existing requirements regarding certificate of need (CON) review of proposals for hospital-based skilled nursing unit (SNU) beds licensed under Chapter 395, F.S. The revision will be accomplished through adoption of a new rule limited to SNUs. The new rule will modify several provisions regarding SNU beds found in current Rule 59C-1.036, which also contains provisions regarding nursing facility beds licensed under Chapter 400, F.S. Upon adoption of the revised SNU requirements, Rule 59C-1.036 will be amended to delete references to SNUs, so that the remaining language will pertain only to Chapter 400 nursing facilities. A Notice of Proposed Rule Development concerning those other amendments is expected to appear elsewhere in this edition of the FAW.

The proposed revision of the SNU requirements responds to recent trends showing a decreasing hospital interest in establishing or maintaining a SNU. Need for a separate SNU rule is also suggested by the moratorium created by section 52 of Chapter 2001-45, Laws of Florida, which bars CON approval of any additional community nursing facility beds that would be licensed under Chapter 400, F.S., while allowing continued approval of SNU beds.

As noted above, the agency proposes to retain the Chapter 400 CON rule requirements in a revised Rule 59C-1.036 that concerns only Chapter 400 beds. Those proposed amendments and this proposed new SNU rule will be discussed at the rule development workshop scheduled below.

SUBJECT AREA TO BE ADDRESSED: Certificate of need (CON) review of hospital-based skilled nursing unit beds.

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

LAW IMPLEMENTED: 408.036(1)(g) FS.

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

TIME AND DATE: 2:00 p.m., November 20, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, 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-1.0365 Hospital-Based Skilled Nursing Units.

(1) Agency Intent. This rule implements s. 408.034(3), F.S., which requires the agency to develop uniform need methodologies for certificate of need (CON) review of proposals, and s. 408.036(1)(g), F.S., which requires certificate of need review of projects for the addition of hospital-based skilled nursing unit (SNU) beds licensed under Chapter 395, F.S. The rule regulates the proposed establishment of a SNU, the addition of new SNU beds, and the conversion of other health care facility bed types to SNU beds. The agency will consider applications for SNU beds in context with the applicable review criteria in section 408.035, F.S., and the standards and need criteria set forth in sections (3) through (6) of this rule.

(2) Definitions.

(a) “Agency.” The Agency for Health Care Administration.

(b) “District.” A health service planning district of the agency defined in subsection 408.032(5), F.S.

(c) “Skilled Nursing Unit (SNU).” A distinct part of a hospital licensed under Chapter 395, F.S., consisting of Medicare and Medicaid certified skilled nursing inpatient beds, and used for the provision of skilled nursing and related services to patients who require medical or nursing care, or services for the rehabilitation of injured, disabled, or sick persons. SNU beds are separately enumerated on the hospital license.

(d) “Subdistrict.” A group of counties, a county, or a portion of a county which forms a subdivision of a district. The subdistricts identified in this rule are the acute care subdistricts described in Rule 59C-2.100, F.A.C.

(3) General Provisions.

(a) Batching Cycles. Proposals for the addition of SNU providers and SNU beds will be reviewed in the batching cycles for “Other Beds and Programs” described in paragraph 59C-1.008(1)(g), F.A.C.

(b) CON Reviews. Proposals for the addition of SNU providers and SNU beds will be comparatively reviewed to each other.

(c) Challenges to Intended Agency Action. Nothing in this rule is intended to interpret, modify, limit or expand Florida law regarding standing, or the right of an existing health care provider to initiate or intervene in a formal administrative hearing challenging intended agency action on a certificate of need application for SNU beds regulated under this rule.

(d) Rural Hospitals. A rural hospital proposing SNU beds is exempt from the provisions of this rule provided the requirements of s. 408.036(3)(c), F.S., are met.

(e) Approval in Special Circumstances. An application for SNU beds shall not be approved in the absence or insufficiency of a numeric need indicated in subsections (4), (5) or (6) of this rule unless the absence or insufficiency of a numeric need is outweighed by other information presented in a certificate of need application showing special circumstances consistent with applicable and relevant criteria in s. 408.035, F.S.

(4) Numeric Need for a New SNU.

(a) Numeric need for a new SNU is demonstrated in any subdistrict where there is no existing or approved SNU.

(b) Numeric need for a new SNU in a subdistrict with at least one existing SNU is demonstrated if the subdistrict average occupancy rate for all licensed SNUs in the subdistrict was at least 75 percent during the 6 months ending prior to the beginning of the quarter of the publication of the fixed need pool.

(c) An additional new SNU will not be approved for a subdistrict where none of the approved new SNUs has been licensed as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool.

(5) Bed Capacity of a New SNU.

The number of beds proposed by an applicant for a new SNU under subsection (4) shall not exceed the number determined as follows:

$$N = (APD \times .12)$$

$$(DAYS \times .75)$$

where:

APD is the total of acute care patient days occurring at the applicant hospital during the 6 months ending prior to the beginning of the quarter of the publication of the fixed need pool.

.12 is the estimated proportion of acute care patient days that will be SNU days.

DAYS is the number of calendar days included in APD.

.75 equals the desired average 6 month occupancy rate for SNU beds.

(6) Expanded Capacity of an Existing SNU.

A hospital experiencing SNU occupancy of 75 percent or more during the 6 months ending prior to the quarter of publication of the fixed need pool may propose a number of additional beds not exceeding the number which, if added to the existing SNU capacity, would have reduced the average occupancy of that SNU to 75 percent.

(7) Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with SNU beds shall report to the agency, or its designee, the total number of patient days which occurred in the quarter and the number of such days that were Medicaid days.

(8) Applicability of this Rule. Upon adoption, the provisions in this rule replace and supersede the provisions respecting CON review of SNUs found in Rule 59C-1.036, F.A.C.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.036(1)(g) FS. History—New

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: State Group Insurance Program
 RULE CHAPTER NO.: 60P-1

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group insurance for state officers and employees under Section 110.123, Florida Statutes, and the prescription drug program under Section 110.12315.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.
 LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001
 PLACE: Room 260L, 4050 Esplanade Way, Tallahassee FL 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE RULES IS: Frederick J. Springer, Office of General Counsel, Suite 260, 4050 Esplanade Way, Tallahassee FL 32399-0950, (850)487-1898

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: State Group Health Self-Insurance Plan
 RULE CHAPTER NO.: 60P-2

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group insurance of several kinds for state officers and employees under Section 110.123, Florida Statutes; the prescription drug program under Section 110.12315; and the pretax benefits program under Section 110.161.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.
 LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001
 PLACE: Room 260L, 4050 Esplanade Way, Tallahassee FL 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE RULES IS: Frederick J. Springer, Office of General Counsel, Suite 260, 4050 Esplanade Way, Tallahassee FL 32399-0950, (850)487-1898

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: State Group Life Insurance Plan
 RULE CHAPTER NO.: 60P-3

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group life insurance for state officers and employees under Section 110.123, Florida Statutes.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.
 LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001
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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: RULE CHAPTER NO.:

General provisions and Definitions 60P-6

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group insurance of several kinds for state officers and employees under Section 110.123, Florida Statutes; the prescription drug program under Section 110.12315; and the pretax benefits program under Section 110.161.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.

LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001

PLACE: Room 260L, 4050 Esplanade Way, Tallahassee FL 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE RULES IS: Frederick J. Springer, Office of General Counsel, Suite 260, 4050 Esplanade Way, Tallahassee FL 32399-0950, (850)487-1898

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: RULE CHAPTER NO.:

State Group Disability Income Self Insurance Plan 60P-9

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group disability income insurance for state officers and employees under Section 110.123, Florida Statutes.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.

LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001

PLACE: Room 260L, 4050 Esplanade Way, Tallahassee FL 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE RULES IS: Frederick J. Springer, Office of General Counsel, Suite 260, 4050 Esplanade Way, Tallahassee FL 32399-0950, (850)487-1898

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

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Supplemental Insurance Plan 60P-10

PURPOSE AND EFFECT: To readopt this chapter verbatim in order to avoid the statutory repeal that would otherwise occur on January 1, 2002, pursuant to Section 42 of Chapter 2001-43, Laws of Florida. No amendments will be made in this proceeding.

SUBJECT AREA TO BE ADDRESSED: Group supplemental insurance for state officers and employees under Section 110.123, Florida Statutes.

SPECIFIC AUTHORITY: 110.123(3)(c),(5), 110.161(5) FS.

LAW IMPLEMENTED: 110.123, 17.04, 110.161, 110.12315 FS.

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

TIME AND DATE: 9:00 a.m., November 16, 2001

PLACE: Room 260L, 4050 Esplanade Way, Tallahassee FL 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE RULES IS: Frederick J. Springer, Office of General Counsel, Suite 260, 4050 Esplanade Way, Tallahassee FL 32399-0950, (850)487-1898

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-18R

RULE CHAPTER TITLE: Dredge and Fill Activities
 RULE CHAPTER NO.: 62-312

PURPOSE AND EFFECT: The purpose and effect of this proposed rule development is to amend the dredge and fill permitting rules of Chapter 62-312, F.A.C., to conform such rules with the new rules being adopted separately in chapter 62-345 for the establishment of a uniform wetland mitigation assessment method required by Section 373.414(18), F.S. The notice of rule development of the establishment of a uniform wetland mitigation assessment method in Rule Chapter 62-345 was previously published in the Florida Administrative Weekly on April 13, 2001, Vol. 27, No. 15, at page 1734.

SUBJECT AREA TO BE ADDRESSED: Dredge and fill permitting rules applied within the geographical territory of the Northwest Florida Water Management District.

SPECIFIC AUTHORITY: 373.414(18) FS.

LAW IMPLEMENTED: 373.414(18) FS.

IF REQUESTED, AND NOT DEEMED UNNECESSARY BY THE DEPARTMENT, RULE DEVELOPMENT WORKSHOPS WILL BE HELD CONCURRENTLY WITH RULE DEVELOPMENT WORKSHOPS ON THE DEVELOPMENT OF THE UNIFORM WETLAND MITIGATION ASSESSMENT METHOD IN CHAPTER 62-345.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance Bersok, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400, (850)921-9858, connie.bersok@dep.state.fl.us

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-11R

RULE CHAPTER TITLE: Environmental Resource Permitting
 RULE CHAPTER NO.: 62-330

RULE TITLE: Rules Adopted by Reference
 RULE NO.: 62-330.200

PURPOSE AND EFFECT: The purpose and effect of this proposed rule development is to amend the environmental resource permitting rules of the water management districts adopted by reference to conform such rules with the new rules being adopted separately in Chapter 62-345 for the establishment of a uniform wetland mitigation assessment method required by Section 373.414(18), F.S. The notice of rule development of the establishment of a uniform wetland mitigation assessment method in Rule Chapter 62-345 was previously published in the Florida Administrative Weekly on April 13, 2001, Vol. 27, No. 15, at page 1734.

SUBJECT AREA TO BE ADDRESSED: Environmental resource permitting rules of the water management districts adopted by reference.

SPECIFIC AUTHORITY: 373.414(18) FS.

LAW IMPLEMENTED: 373.414(18) FS.

IF REQUESTED, AND NOT DEEMED UNNECESSARY BY THE DEPARTMENT, RULE DEVELOPMENT WORKSHOPS WILL BE HELD CONCURRENTLY WITH RULE DEVELOPMENT WORKSHOPS ON THE DEVELOPMENT OF THE UNIFORM WETLAND MITIGATION ASSESSMENT METHOD IN CHAPTER 62-345.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance Bersok, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400, (850)921-9858, connie.bersok@dep.state.fl.us

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-19R

RULE CHAPTER TITLE: Mitigation Banking
 RULE CHAPTER NO.: 62-342

PURPOSE AND EFFECT: The purpose and effect of this proposed rule development is to amend the mitigation banking rules of Chapter 62-342 to conform such rules with the new rules being adopted separately in Chapter 62-345 for the establishment of a uniform wetland mitigation assessment method required by Section 373.414(18), F.S. The notice of rule development of the establishment of a uniform wetland mitigation assessment method in Rule Chapter 62-345 was previously published in the Florida Administrative Weekly on April 13, 2001, Vol. 27, No. 15, at page 1734.

SUBJECT AREA TO BE ADDRESSED: Mitigation banking rules.

SPECIFIC AUTHORITY: 373.414(18) FS.

LAW IMPLEMENTED: 373.414(18) FS.

IF REQUESTED, AND NOT DEEMED UNNECESSARY BY THE DEPARTMENT, RULE DEVELOPMENT WORKSHOPS WILL BE HELD CONCURRENTLY WITH RULE DEVELOPMENT WORKSHOPS ON THE DEVELOPMENT OF THE UNIFORM WETLAND MITIGATION ASSESSMENT METHOD IN CHAPTER 62-345.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance Bersok, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400, (850)921-9858, connie.bersok@dep.state.fl.us

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

**DEPARTMENT OF HEALTH
Board of Chiropractic Medicine**

RULE TITLE: Certified Chiropractic Physician’s Assistant Fees
RULE NO.: 64B2-12.015

PURPOSE AND EFFECT: The Board proposes to raise certified Chiropractic Physician’s Assistant Fees.

SUBJECT AREA TO BE ADDRESSED: The application fees for certified Chiropractic Physician’s Assistant.

SPECIFIC AUTHORITY: 460.405, 460.4165(9) FS.

LAW IMPLEMENTED: 456.036, 460.4165(3),(5),(6),(9) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A 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: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

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

**DEPARTMENT OF HEALTH
Board of Medicine**

RULE TITLES: Physician Assistant Licensure
Physician Assistant Licensure Renewal
Notice of Noncompliance
Citation Authority
RULE NOS.: 64B8-30.003
64B8-30.005
64B8-30.013
64B8-30.014

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to clarify requirements for licensure and renewal, address continuing education for prevention of medical errors, and new rules relating to notices of noncompliance and citation violations.

SUBJECT AREA TO BE ADDRESSED: Initial licensure and renewal requirements, continuing education requirements, and violations which are appropriate for notices of noncompliance and citations.

SPECIFIC AUTHORITY: 456.013, 456.031(2), 456.033(6), 456.073(3), 456.077, 458.309, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.017, 456.031, 456.033, 456.073(3), 456.077, 458.331, 458.347 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: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-30.003 Physician Assistant Licensure.

(1) No change.

(2) Applicants for licensure who have not passed the NCCPA licensure examination within five (5) attempts shall be required to complete a minimum of three (3) months in a full-time review course at an accredited physician assistant program approved by the Chair of the Physician Assistant Committee, which completion shall be documented by a letter signed by the head of the program stating that the applicant has satisfactorily completed the course.

(3)(2) No change.

(4) The applicant must submit notarized statements attesting to the following:

(a) completion of three hours of all Category I, American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome: the disease and its spectrum of clinical manifestations; epidemiology of the disease; related infections including TB; treatment, counseling, and prevention; transmission from healthcare worker to patient and patient to healthcare worker; universal precautions and isolation techniques; and legal issues related to the disease. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(b) completion of one hour of continuing medical education on domestic violence which includes information on the number of patients in that professional’s practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(c) completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any

state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S. for its employees may be used to partially meet this requirement.

(3) Requirements for Temporary Licensure.

(a) Applicants who are unlicensed physicians who are graduates of foreign medical schools may be issued temporary licenses by the Executive Director upon completion of requirements set forth in 64B8-30.003(1)(a)1., 2., 3., and 4., and (e)1., 2., 3., 4., and 5., if there is no information or legal issue suggesting that the applicant is not eligible.

(b) All temporary licenses issued by the Executive Director shall be reviewed and ratified or rescinded at the next regular meeting of the Council and the Board. Further, either board may authorize issuance of a temporary license once legal or factual issues are resolved in favor of the applicant.

(5)(4) No change.

(6)(5) Licensure as a Prescribing Physician Assistant.

(a) An applicant for license as a prescribing physician assistant shall, together with the supervising physician, jointly file the application for licensure as set forth in Rule 64B8-1.007 on form PAX/004, entitled "Application for Certification as Prescribing Physician Assistant", effective 3-25-96 (rev. 1-4-96), which is incorporated herein by reference and available from the Board office. The same application may be utilized by any alternate supervising physicians, provided that all supervising physicians practice in the same specialty area and in the same practice setting. A separate application form shall be required for each distinct specialty area of practice, as well as for each distinct practice setting. Satellite offices within the same practice do not constitute distinct practices.

(b) through (c) No change.

Specific Authority 456.013, 456.031(2), 456.033(6), 458.309, 458.347 FS. Law Implemented 456.013, 458.347, 456.017 FS. History—New 4-28-76, Amended 11-15-78, 10-23-80, 12-4-85, Formerly 21M-17.03, Amended 5-13-87, 11-15-88, 11-15-90, 1-9-92, 5-6-93, Formerly 21M-17.003, Amended 9-21-93, Formerly 61F6-17.003, Amended 9-8-94, 11-30-94, 10-25-95, 3-25-96, Formerly 59R-30.003, Amended 6-7-98, 8-19-99, 5-28-00,

64B8-30.005 Physician Assistant Licensure Renewal.

(1) A Physician Assistant must renew his licensure on a biennial basis.

(2) Requirements for Renewal

(a) through (c) No change.

(d) For all licensees no more and no less than one hour shall consist of training in domestic violence which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator

of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable. Submission of proof of completion of the HIV/AIDS education requirement set forth in Section 456.033, F.S.

(e) For all licensees one hour of Category I American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from healthcare worker to patient and patient to healthcare worker; infection control procedures, including universal precautions; epidemiology of the disease; related infections including TB; clinical management; prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Any hours of said CME may also be counted toward the CME license renewal requirement. In order for a course to count as meeting this requirement, licensees practicing in Florida must clearly demonstrate that the course includes Florida law on HIV/AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Only Category I hours shall be accepted.

(f) Notwithstanding the provisions of subsections (d) and (e), above, a physician assistant may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in HIV/AIDS or domestic violence, if that physician assistant has completed the HIV/AIDS or domestic violence continuing education in the immediately preceding biennium. This allows for end-of-life care and palliative health care continuing education to substitute for HIV/AIDS or domestic violence continuing education in alternate biennia.

(g) completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S. for its employees may be used to partially meet this requirement.

(3) Upon request by the Board or Department, the licensee must submit satisfactory documentation of compliance with the requirements set forth above.

(3) through (5) renumbered (4) through (6) No change.

Specific Authority 456.013, 456.031(1)(a), 456.033(1), 458.309, 458.347 FS. Law Implemented 456.013, 456.031(1), 456.033, 458.347 FS., s. 2, Ch. 91-22; s. 71, Ch. 91-297, Laws of Florida. History--New 5-13-87, Amended 1-9-92, Formerly 21M-17.0035, Amended 9-21-93, Formerly 61F6-17.0035, Amended 11-30-94, Formerly 59R-30.005, Amended 6-7-98.

64B8-30.013 Notice of Noncompliance.

(1) Pursuant to Section 456.073(3), Florida Statutes, the department is authorized to provide a notice of noncompliance for an initial offense of a minor violation if the board establishes by rule a list of minor violations. A minor violation is one which does not endanger the public health, safety, and welfare and which does not demonstrate a serious inability to practice the profession. A notice of noncompliance in lieu of other action is authorized only if the violation is not a repeat violation and only if there is only one violation. If there are multiple violations, then the Agency may not issue a notice of noncompliance, but must prosecute the violations under the other provisions of Section 456.073, Florida Statutes. A notice of noncompliance may be issued to a licensee for a first time violation of one or both of the violations listed in subsection (3)(b). Failure of a licensee to take action in correcting the violation within 15 days after notice shall result in the institution of regular disciplinary proceedings.

(2) The department shall submit to the board a monthly report detailing the number of notices given, the number of cases completed through receipt of a notarized statement of compliance from the licensee, and the types of violations for which notices of noncompliance have been issued. Notices of noncompliance shall be considered by the probable cause panels when reviewing a licensee's subsequent violations of a same or similar offense.

(3) The following violations are those for which the board authorizes the Agency to issue a notice of noncompliance:

(a) Failing to include the specific disclosure statement required by Section 456.062, F.S., in any advertisement for a free, discounted fee, or reduced fee service, examination or treatment.

(b) Violating any of the following provisions of chapter 458, as prohibited by Section 458.347(7)(g) and 458.331(1)(x), Florida Statutes:

1. Section 458.347(1), Florida Statutes, which provides for criminal penalties for the practice as a physician assistant without an active license. A notice of noncompliance would be issued for this violation only if the subject of the investigation met the following criteria: the subject was the holder of a license to practice as a physician assistant at all time material to the matter; that license was otherwise in good standing; and that license was or will be renewed and placed in an active status within 90 days of the date it reverted to delinquent status based on failure to renew the license. If the license was in a delinquent status for more than 90 days and the individual

continued to practice, then the matter would proceed under the other provisions of Section 456.073 and 456.035(1), Florida Statutes.

2. Failing to notify the board of a change of practice location, contrary to Sections 458.319(3) and 456.035(1), Florida Statutes.

Specific Authority 456.073(3), 458.309, 458.347(7)(g),(12) FS. Law Implemented 456.073(3), 458.331, 458.347(7)(g),(12) FS. History--New

64B8-30.014 Citation Authority.

(1) Pursuant to Section 456.077, Florida Statutes, the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the penalty to be imposed. In addition to any administrative fine imposed, the Respondent may be required by the department to pay the costs of investigation.

(2) If the violation constituted a substantial threat to the public health, safety, and welfare, such potential for harm must have been removed prior to issuance of the citation.

(3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

<u>VIOLATIONS</u>	<u>PENALTY</u>
<u>(a) CME violations (Sections 458.347(7)(c), 458.331(1)(g),(x), 456.072(1)(e),(s), F.S.)</u>	<u>Within twelve months of the date the citation is issued, Respondent must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium. Respondent must document compliance with the CME requirements for the relevant period; AND pay a \$250 fine</u>
<u>1. Failure to document required HIV/AIDS CME. (456.033, F.S.)</u>	<u>\$250 fine</u>
<u>2. Failure to document required domestic violence CME. (456.031, F.S.)</u>	<u>\$250 fine</u>
<u>3. Failure to document both the required HIV/AIDS and domestic violence CME.</u>	<u>\$500 fine</u>

<u>4. Documentation of some, but not all, 100 hours of required CME for license renewal.</u>	<u>\$25 fine for each hour not documented</u>
<u>(b) Obtaining license renewal by fraud or misrepresentation (Section 458.347(7)(g) and 458.331(1)(a), F.S.).</u>	<u>\$2500 fine</u>
<u>(c) Failure to document any of the 100 hours of required CME for license renewal (Sections 458.347(7)(c), 458.331(1)(x), F.S.).</u>	<u>\$2500 fine</u>
<u>(d) Practice on an inactive or delinquent license (Sections 456.036(1), 458.327(1)(a), 458.347(7)(g), 458.331(1)(x), F.S.).</u>	
<u>1. For a period of up to nine months.</u>	<u>\$100 for each month or part thereof.</u>
<u>2. For a period of nine months to twelve months.</u>	<u>\$150 for each month or part thereof.</u>
<u>(e) Failure to notify Department of change of practice address (Sections 456.035, 458.319(3), 458.331(1)(g), 458.347(7)(g), F.S.).</u>	<u>\$125 fine</u>
<u>(f) Failure of the physician assistant to clearly identify that he/she is a physician assistant. (Section 458.347(4)(e)1., 458.347(7)(g), 458.331(1)(g), F.S.)</u>	<u>\$250 fine</u>

(4) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Agency for Health Care Administration, Division of Regulation. Such review may be by telephone, in writing, or by facsimile machine.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, Florida Statutes, to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with other violations, then the procedures of Section 456.073, Florida Statutes, shall apply.

(6) The subject has 30 days from the date the citation becomes a final order to pay any fine imposed and costs. All fines and costs are to be made payable to the "Department of Health" and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine.

(7) The Agency for Health Care Administration shall, at the end of each calendar quarter, submit a report to the Board of the citations issued, which report shall contain the name of the subject, the violation, fine imposed, and the number of subjects who dispute the citation and chose to follow the procedures of Section 456.073, Florida Statutes.

Specific Authority 458.309, 456.077, 458.347(7)(g),(12) FS. Law Implemented 456.077, 458.331, 458.347(7)(g),(12) FS. History—New

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLES:	RULE NOS.:
Application for Licensure	64B15-6.002
Physician Assistant Licensure	64B15-6.003
Physician Assistant Licensure Renewal	64B15-6.0035
Notice of Noncompliance	64B15-6.0105
Citation Authority	64B15-6.01051

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to clarify requirements for licensure and renewal, address continuing education for prevention of medical errors, and new rules relating to notices of noncompliance and citation violations.

SUBJECT AREA TO BE ADDRESSED: Initial licensure and renewal requirements, continuing education requirements, and violations which are appropriate for notices of noncompliance and citations.

SPECIFIC AUTHORITY: 456.073(3), 456.077, 459.005, 459.022, 459.022(7)(f),(12) FS.

LAW IMPLEMENTED: 120.53(1)(a), 456.073(3), 456.077, 459.015, 459.022(7)(f),(12) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-6.002 Application for Licensure Certification.

(1) All persons applying for licensure certification as a physician assistant shall submit an application to the Department on forms approved by the Council and the Board and provided by the Department. The application shall be accompanied by the application fee.

(2) The application may not be used for more than one year from the date of receipt by the Council of the original application form and fee. The fee to be paid at the time of application for licensure certification shall be as set forth in Rule 64B15-10.002, F.A.C. After one year from the date that the original application and fee have been received in the Council office, a new application and fee shall be required from any applicant who desires licensure certification as a physician assistant.

Specific Authority 459.005 FS. Law Implemented 459.022 FS. History—New 10-18-77, Formerly 21R-6.02, Amended 10-28-87, 4-21-88, 5-20-91, 3-16-92, Formerly 21R-6.002, 61F9-6.002, 59W-6.002, Amended 6-7-98,_____.

64B15-6.003 Physician Assistant Licensure Certification.

(1) No change.

(2) Applicants for licensure who have not passed the NCCPA licensure examination within five (5) attempts shall be required to complete a minimum of three (3) months in a full-time review course at an accredited physician assistant program approved by the Chair of the Physician Assistant Committee, which completion shall be documented by a letter signed by the head of the program stating that the applicant has satisfactorily completed the course.

(3)(2) No change.

(4) The applicant must submit notarized statements attesting to the following:

(a) completion of three hours of all Category I, American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome: the disease and its spectrum of clinical manifestations; epidemiology of the disease; related infections including TB; treatment, counseling, and prevention; transmission from healthcare worker to patient and patient to healthcare worker; universal precautions and isolation techniques; and legal issues related to the disease. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(b) completion of one hour of continuing medical education on domestic violence which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patient to, resources in the local

community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six months to complete this requirement.

(c) completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S. for its employees may be used to partially meet this requirement.

(5)(3) Licensure Certification as a Prescribing Physician Assistant

(a) All persons applying for licensure certification as a prescribing physician assistant shall submit an application to the Council on a form approved by the Council and provided by the Department. The application shall be accompanied by the application fee.

(b) No change.

(c) The applicant shall have completed a minimum of 3 months of clinical experience in the specialty area of the supervising physician. For purposes of this rule, this means 3 continuous months of full-time practice or its equivalent, following full licensure certification as a physician assistant, within the 4 years immediately preceding the filing of the application.

(d) The fee for licensure certification as a prescribing Physician Assistant shall be as set forth in Rule 64B15-6.013, F.A.C., and shall be in addition to any other applicable fees in said rule. No additional fees will be required for any separate application for a distinct area of practice, or a change in practice setting during the same biennium.

Specific Authority 459.005, 459.022, 458.347(7) FS. Law Implemented 120.53(1)(a), 459.022 FS. History—New 10-18-77, Formerly 21R-6.03, Amended 10-28-87, 4-21-88, 4-18-89, 9-26-90, 5-20-91, 10-28-91, 3-16-92, Formerly 21R-6.003, Amended 11-4-93, 3-29-94, Formerly 61F9-6.003, Amended 2-1-95, Formerly 59W-6.003, Amended 6-7-98,_____.

64B15-6.0035 Physician Assistant Licensure Certification Renewal.

(1) A Physician Assistant must renew his certification on a biennial basis.

(2) Requirements for Renewal.

(a) through (c) No change.

(d) For all licensees no more and no less than one hour shall consist of training in domestic violence which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. Home study courses approved by the above agencies will be acceptable.

(e) For all licensees one hour of Category I American Medical Association Continuing Medical Education which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; the modes of transmission, including transmission from healthcare worker to patient and patient to healthcare worker; infection control procedures, including universal precautions; epidemiology of the disease; related infections including TB; clinical management, prevention; and current Florida law on AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Any hours of said CME may also be counted toward the CME license renewal requirements. In order for a course to count as meeting this requirement, licensees practicing in Florida must clearly demonstrate that the course includes Florida law in HIV/AIDS and its impact on testing, confidentiality of test results, and treatment of patients. Only Category I hours shall be accepted.

(f) Notwithstanding the provisions of subsections (d) and (e), above, a physician assistant may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in HIV/AIDS or domestic violence, if that physician assistant has completed the HIV/AIDS or domestic violence continuing education in the immediately preceding biennium. This allows for end-of-life care and palliative health care continuing education to substitute for HIV/AIDS or domestic violence continuing education in alternate biennia.

(g) completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education.

One hour or a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S., for its employees may be used to partially meet this requirement.

~~(d) Submission of proof of completion of the HIV/AIDS education requirement set forth in Section 456.033, F.S. In lieu of completing the HIV/AIDS education requirement, licensees are permitted to substitute a course in end-of-life care and palliative health care, provided the licensee has completed the HIV/AIDS education requirement in the immediately preceding biennium.~~

~~(e) Submission of proof of completion of the domestic violence education requirement set forth in Section 456.031, F.S. In lieu of completing the domestic violence course, licensees are permitted to substitute a course in end-of-life care and palliative health care, provided the licensee has completed the domestic violence requirement in the immediately preceding biennium.~~

(3) Upon request by the Board or Department, the licensee must submit satisfactory documentation of compliance with the requirements set forth above.

(4)(3) Renewal of Licensure Certification as a Prescribing Physician Assistant. In addition to the requirements of paragraph (2) above, a prescribing physician assistant shall attest to having completed a minimum of 10 hours of continuing education in the specialty area(s) of the supervising physician(s), during the previous 2 years. These hours may be utilized to meet the general continuing education requirement.

(5)(4) Licensure Certification Renewal Application.

(a) through (b) No change.

~~(6)(5) No change.~~

Specific Authority 459.005 FS. Law Implemented 459.022(7)(b),(c) FS. History—New 10-28-87, Amended 4-21-88, 1-3-93, Formerly 21R-6.0035, Amended 11-4-93, 3-29-94, Formerly 61F9-6.0035, 59W-6.0035, Amended 6-7-98, 10-16-01, _____.

64B15-6.0105 Notice of Noncompliance.

(1) Pursuant to Section 456.073(3), Florida Statutes, the Department is authorized to provide a notice of noncompliance for an initial offense of a minor violation if the Board establishes by rule a list of minor violations. A minor violation is one which does not endanger the public health, safety, and welfare and which does not demonstrate a serious inability to practice the profession. A notice of noncompliance in lieu of other action is authorized only if the violation is not a repeat violation and only if there is only one violation. If there are multiple violations, then the Agency may not issue a notice of noncompliance, but must prosecute the violations under the other provisions of Section 456.073, Florida Statutes. A notice of noncompliance may be issued to a licensee for a first time violation of one or both of the violations listed in subsection (3)(b). Failure of a licensee to take action in correcting the violation within 15 days after notice shall result in the institution of regular disciplinary proceedings.

(2) The Department shall submit to the Board a monthly report detailing the number of notices given, the number of cases completed through receipt of a notarized statement of compliance from the licensee, and the types of violations for which notices of noncompliance have been issued. Notices of noncompliance shall be considered by the probable cause panels when reviewing a licensee's subsequent violations of a same or similar offense.

(3) The following violations are those for which the Board authorizes the Agency to issue a notice of noncompliance:

(a) Failing to include the specific disclosure statement required by Section 456.062, F.S., in any advertisement for a free, discounted fee, or reduced fee service, examination or treatment.

(b) Violating any of the following provisions of chapter 458, as prohibited by Section 459.022(7)(f) and 459.015(1)(bb), Florida Statutes:

1. Section 459.022(1), Florida Statutes, which provides for criminal penalties for the practice as a physician assistant without an active license. A notice of noncompliance would be issued for this violation only if the subject of the investigation met the following criteria: the subject was the holder of a license to practice as a physician assistant at all time material to the matter; that license was otherwise in good standing; and that license was or will be renewed and placed in an active status within 90 days of the date it reverted to delinquent status based on failure to renew the license. If the license was in a delinquent status for more than 90 days and the individual continued to practice, then the matter would proceed under the other provisions of Section 456.073 and 456.035(1), Florida Statutes.

2. Failing to notify the Board of a change of practice location, contrary to Sections 459.008(3) and 456.035(1), Florida Statutes.

Specific Authority 456.073(3), 459.005, 459.022(7)(f),(12) FS. Law Implemented 456.073(3), 459.015, 459.022(7)(f),(12) FS. History—New

64B15-6.01051 Citation Authority.

(1) Pursuant to Section 456.077, Florida Statutes, the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the penalty to be imposed. In addition to any administrative fine imposed, the Respondent may be required by the Department to pay the costs of investigation.

(2) If the violation constituted a substantial threat to the public health, safety, and welfare, such potential for harm must have been removed prior to issuance of the citation.

(3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

VIOLATIONS

(a) CME violations (Sections 459.022(7)(b), 459.015(1)(g),(bb), 456.072(1)(e),(s), F.S.)

1. Failure to document required HIV/AIDS CME. (456.033, F.S.)

2. Failure to document required domestic violence CME. (456.031, F.S.)

3. Failure to document both the required HIV/AIDS and domestic violence CME.

4. Documentation of some, but not all, 100 hours of required CME for license renewal.

(b) Obtaining license renewal by fraud or misrepresentation (Section 459.022(7)(f) and 459.015(1)(a), F.S.)

(c) Failure to document any of the 100 hours of required CME for license renewal (Sections 459.022(7)(b), 459.015(1)(bb), F.S.)

(d) Practice on an inactive or delinquent license (Sections 456.036(1), 459.013(1)(a), 459.022(7)(f), 459.015(1)(bb), F.S.)

1. For a period of up to nine months.

2. For a period of nine months to twelve months.

(e) Failure to notify Department of change of practice address (Sections 456.035, 459.008(3), 459.015(1)(g), 459.022(7)(f), F.S.)

(f) Failure of the physician assistant to clearly identify that he/she is a physician assistant.

PENALTY

Within twelve months of the date the citation is issued, Respondent must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND pay a \$250 fine

\$250 fine

\$250 fine

\$500 fine

\$25 fine for each hour not documented

\$2500 fine

\$2500 fine

\$100 for each month or part thereof.

\$150 for each month or part thereof.

\$250 fine

(Section 459.022(4)(e)1., 459.022(7)(f), 459.015(1)(g), F.S.)

(4) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Agency for Health Care Administration, Division of Regulation. Such review may be by telephone, in writing, or by facsimile machine.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, Florida Statutes, to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with other violations, then the procedures of Section 456.073, Florida Statutes, shall apply.

(6) The subject has 30 days from the date the citation becomes a final order to pay any fine imposed and costs. All fines and costs are to be made payable to the "Department of Health" and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine.

(7) The Agency for Health Care Administration shall, at the end of each calendar quarter, submit a report to the Board of the citations issued, which report shall contain the name of the subject, the violation, fine imposed, and the number of subjects who dispute the citation and chose to follow the procedures of Section 456.073, Florida Statutes.

Specific Authority 456.077, 459.005, 459.022(7)(f),(12) FS. Law Implemented 456.077, 459.015, 459.022(7)(f),(12) FS. History--New

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLES:	RULE NOS.:
Application and License Fees	64B15-10.002
Active Status Renewal Fees	64B15-10.003
Inactive Status Renewal Fee	64B15-10.0031
Unlicensed Activity Fee	64B15-10.0075
Change of Status Fee	64B15-10.008
Delinquent Status Fee	64B15-10.009
Fees for Board Approved Continuing Education Providers	64B15-10.010

PURPOSE AND EFFECT: The Board proposes to amend the above referenced rules to update the rule text.

SUBJECT AREA TO BE ADDRESSED: Application, Certification and License Fees, Active Status Fees, Inactive Status Fee, Unlicensed Activity Fee, Processing of Status Fee, Delinquent Status Fee, Fees for Board Approved Continuing Education Providers.

SPECIFIC AUTHORITY: Section 14(8), 94-119, Laws of Florida, 456.013(2), 456.025(1), 456.036, 459.005, 459.0077, 459.009(2),(3), 459.0092 FS.

LAW IMPLEMENTED: Section 14(8), 94-119, Laws of Florida, 456.013(2), 456.036, 459.007, 459.008, 459.0077, 459.009(3)(b), 459.0092, 459.022(7)(b) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-10.002 Application; and Licensure Fees Certification and License Fees.

(1) The application fee for an osteopathic physician license shall be \$200. This fee is nonrefundable.

~~(2) The initial certification fee paid upon submission of the application for certification as a physician assistant shall be \$200 if the initial licensure occurs during the first year or any fraction thereof of the biennial period, and \$100 if initial licensure occurs during the second year or any fraction thereof, of the biennial period.~~

(3) through (4) renumbered (2) through (3) No change.

~~(5) The application fee for a physician assistant certificate shall be \$100. This fee is nonrefundable.~~

~~(4)(6) No change.~~

(5) Physician assistant fees shall be those set out in Rule 64B15-6.013.

Specific Authority 456.013(2), 456.025(1), 459.0077, 459.0092 FS. Law Implemented 456.013(2), 459.007, 459.0077, 459.0092 FS. History--New 10-23-79, Amended 10-3-83, Formerly 21R-10.02, Amended 5-13-87, 4-21-88, 10-28-91, 11-9-92, 4-1-93, Formerly 21R-10.002, 61F9-10.002, Amended 12-28-95, Formerly 59W-10.002, Amended 12-13-98,_____.

64B15-10.003 Active Status Renewal Fees.

Licenses shall be renewed biennially in accordance with the rules of the Department. Biennial active status renewal fee for osteopathic physicians ~~licensed pursuant to Sections 459.006, 459.007 and 459.0075, F.S.,~~ shall be \$400.

Specific Authority 459.005, 459.009(2),(3)(b) FS. Law Implemented 459.008, 459.009(3)(b), 459.022(7)(b) FS. History--New 10-23-79, Amended 10-3-83, 4-8-84, Formerly 21R-10.03, Amended 5-13-87, 4-21-88, 7-19-89, 10-28-91, Formerly 21R-10.003, 61F9-10.003, Amended 2-1-95, Formerly 59W-10.003, Amended 12-13-98,_____.

64B15-10.0031 Inactive Status Renewal Fee.

The renewal fee for inactive status license shall be:

- (+) \$200 for an osteopathic physician;
- ~~(-) \$100 for an osteopathic physician's assistant.~~

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History--New 4-17-95, Formerly 59W-10.0031, Amended.

64B15-10.0075 Unlicensed Activity Fee.

The Department of Health is authorized to collect an additional \$5.00 with each initial licensure fee and each biennial renewal fee for the purpose of investigating and prosecuting the unlicensed practice of osteopathic medicine.

Specific Authority 456.065, 459.005 FS. Law Implemented 456.065 FS. History--New.

64B15-10.008 Change Processing of Status Change Fee.

A licensee shall pay a change of status processing fee of one hundred dollars (\$100) when the licensee applies for a change in licensure status at any time other than during licensure renewal. The renewal period shall begin ninety (90) days prior to the end of the biennium and shall end on the last day of the biennium.

Specific Authority Section 14(8), 94-119, Laws of Florida. Law Implemented Section 14(8), 94-119, Laws of Florida. History--New 2-1-95, Formerly 59W-10.008, Amended.

64B15-10.009 Delinquent Status Fee.

(+) A delinquent status licensee shall pay a delinquency fee of four two hundred dollars (\$400) ~~(\$200)~~ when the licensee applies for active or inactive status.

~~(-) A delinquent status physician assistant licensee shall pay a delinquency fee of two hundred dollars (\$200) when the licensee applies for active or inactive status.~~

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History--New 2-1-95, Amended 12-28-95, Formerly 59W-10.009, Amended 11-27-97, Amended.

64B15-10.010 Fees for Board Approved Continuing Education Providers.

(1) The initial fee for approval as a continuing education provider shall be \$250.

(2) The biennial renewal fee for an approved continuing education provider shall be \$250.

Specific Authority 456.025(2), 459.005 FS. Law Implemented 456.025(2) FS. History--New.

DEPARTMENT OF HEALTH
Board of Osteopathic Medicine

RULE TITLES:	RULE NOS.:
Delinquent License	64B15-12.008
Osteopathic Faculty Certificate	64B15-12.009

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B15-12.008, F.A.C., to update the rule text. The Board proposes to promulgate a new rule which will address certificates which may be issued by the Department to a faculty member.

SUBJECT AREA TO BE ADDRESSED: Delinquent license, Osteopathic faculty certificate.

SPECIFIC AUTHORITY: Sect. 14, 94-119, Laws of Florida, 459.005, 459.0077 FS.

LAW IMPLEMENTED: Sect. 14, 94-119, Laws of Florida, 459.0077 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-12.008 Delinquent License.

(1) through (2) No change.

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

(a) No change.

(b) pay to the board either the active status or inactive status renewal fee, the delinquency fee, and if applicable the change of status processing fee; and

(c) No change.

Specific Authority Sect. 14, 94-119, Laws of Florida. Law Implemented Sect. 14, 94-119, Laws of Florida. History--New 11-28-94, Formerly 59W-12.008, Amended.

64B15-12.009 Osteopathic Faculty Certificate.

(1) An Osteopathic Faculty Certificate may be issued by the Department to a faculty member of a school accredited by the American Osteopathic Association upon the request of the dean of the school if the faculty member has demonstrated to the Board that:

(a) The faculty member is currently licensed to practice osteopathic medicine in another jurisdiction of the United States; and

(b) Is a graduate of a school of osteopathic medicine accredited by the American Osteopathic Association; and

(c) Files an application and otherwise meets the requirements contained in s. 459.0055, F.S.; and

(d) Has submitted the application fee required by Rule 64B15-10.002(6), F.A.C.

(2) An Osteopathic Faculty Certificate authorizes the holder to practice only in conjunction with his or her teaching duties at an accredited school of osteopathic medicine or in its affiliated teaching hospitals or clinics.

(3) Faculty Certificates shall automatically expire upon termination of the holder's relationship with the school or after a period of 24 months, whichever occurs first. Faculty Certificates are subject to cancellation or revocation by the Board for failure to comply with Chapters 456 and 459, F.S. and Chapter 64B15, F.A.C.

Specific Authority 459.005, 459.0077 FS. Law Implemented 459.0077 FS. History--New _____.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: _____ RULE NO.: _____

Continuing Education for Biennial Renewal 64B15-13.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to include language regarding courses on the prevention of medical errors.

SUBJECT AREA TO BE ADDRESSED: Continuing education for biennial renewal.

SPECIFIC AUTHORITY: 456.013(5),(6), 459.005, 459.008(4) FS.

LAW IMPLEMENTED: 456.013(5),(6), 459.008, 459.008(4) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-13.001 Continuing Education for Biennial Renewal.

(1)(a) Every person licensed pursuant to Chapter 459, F.S., except those licensed as physician assistants pursuant to Section 459.022, F.S., shall be required to complete forty (40) hours of continuing medical education courses approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. Seven Five of the continuing medical education hours required for renewal shall be one hour HIV/AIDS course, one hour Domestic Violence, one hour Risk Management Course, one hour Florida Laws and Rules, ~~and~~ one hour Managed Care Course, and two hour Prevention of Medical Errors Course.

(b) No change.

(2) No change.

(3)(a) No change.

(b) The ~~seven (7) five (5)~~ hours of continuing medical education found in 64B15-13.001(1)(a), F.A.C., shall be obtained by the completion of live, participatory attendance courses, as provided in (4) of this rule.

(c) through (e) No change.

(f) For purposes of this rule, a two hour Prevention of Medical Errors course shall include a study of root cause analysis, error reduction and prevention, and patient safety. The course shall address medication errors, surgical errors, diagnostic inaccuracies, and system failures, and shall provide recommendations for creating safety systems in health care organizations.

(4) Continuing education credit shall be awarded only for educational experiences that are specifically appropriate for and contain useful information directly pertinent to the practice of Osteopathic Medicine, and only if received through the following methods: The following courses are approved by the Board:

(a) By participating in courses offered by a Board-approved continuing education provider; or

(b) By participating in:

(a) through (i) renumbered 1. through 9. No change.

(5) Home study hours up to a maximum of eight (8) hours per biennium may be utilized toward continuing education requirements for renewal excluding the ~~seven five~~ hours listed in Rule 64B15-13.001(1)(a), F.A.C. In order to be acceptable, said home study hours must be approved by the AOA, the AMA, the Board, or approved for credit as a college or university extension course with approved grading and evaluation standards.

(6) No change.

~~(7) As of July 1, 1995, all licensees shall, as part of their biennial continuing education requirements, successfully complete a one-hour continuing education course on domestic violence as required by section 456.031, F.S.~~

~~(7)(8) No change.~~

Specific Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5),(6), 459.008, 459.008(4) FS. History--New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, _____.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLES: _____ RULE NOS.: _____

Application for Board Approved _____

Provider Status 64B15-13.004

Standards for Board Approved _____

Providers 64B15-13.0045

PURPOSE AND EFFECT: The Board proposes to promulgate two new rules to address applications for provider status and the standards for approved providers.

SUBJECT AREA TO BE ADDRESSED: Application for provider status and standards for approved providers.

SPECIFIC AUTHORITY: 456.027, 459.005, 459.0055 FS.

LAW IMPLEMENTED: 456.027, 459.0055 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-13.004 Application for Board Approved Provider Status.

(1) Entities or individuals who wish to become approved providers of continuing education must submit the approval fee set forth in Rule 64B15-10.010(1), Florida Administrative Code, and an application which contains the following information, and which is accompanied by the following documentation:

(a) The name of the contact person who will fulfill the reporting and documentation requirements for approved providers and who will assure the provider's compliance with Rule 64B15-13.0045; and

(b) The qualifications of all instructors, which may be evidenced by a curriculum vitae or professional licensure in the subject area taught.

(2) Provider approval may be granted for a period not to exceed the time from the date of approval to the end of the next successive licensure biennium after approval was obtained. Application for renewal of provider status shall be made at least 90 days prior to the end of the biennium in which approval expires and must be accompanied by the biennial renewal fee set forth in Rule 64B15-15.010(2). Renewal applications shall contain all information required for initial provider approval as well as course outlines and information evidencing compliance with Rule 64B15-13.0045 for each course offered during the provider status.

Specific Authority 456.027, 459.0055 FS. Law Implemented 456.027, 459.0055 FS. History--New _____.

64B15-13.0045 Standards for Board Approved Providers. Approved continuing professional education providers and providers authorized pursuant to Rule 64B15-13.004, Florida Administrative Code, shall comply with the following requirements:

(1) All courses shall reflect appropriate didactic and clinical training for the subject matter and shall be designed to meet specifically stated educational objectives.

(2) Instructors shall be adequately qualified by training, experience or licensure to teach specified courses.

(3) Facilities and equipment for each course in which patients are treated during instruction shall be adequate for the subject matter and method of instruction.

(4) Course length shall be sufficient to provide meaningful education in the subject matter presented. One half hour or one hour of continuing education credit shall be awarded for each 25 or 50 minutes of actual classroom or clinical instruction, respectively. No continuing education credit shall be awarded for participation of less than 25 minutes.

(5) Providers shall provide written certification to each participant who completes a continuing education course or portion of that course which consists of at least 25 minutes of instruction. Certification shall include the participant's name and license number, the provider's name and number, the course title, instructor, location, date offered and hours of continuing education credit awarded, and validation through the signature of the provider, official representative or instructor.

(6) Providers shall maintain records of each course offering for 4 years following each licensure biennium during which the course was offered. Course records shall include a course outline which reflects its educational objectives, the instructor's name, the date and location of the course, participants' evaluations of the course, the hours of continuing education credit awarded for each participant and a roster of participants by name and license number.

(7) Providers' records and courses shall be subject to Board review. Failure to maintain the standards set forth in this rule shall subject the provider to the suspension or rescission of the providership.

(8) Providers shall comply with rules promulgated by the Department of Health concerning the electronic transmission of course attendance information necessary to implement the electronic tracking system.

Specific Authority 456.027, 459.0055 FS. Law Implemented 456.027, 459.0055 FS. History--New _____.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Violations and Penalties

RULE NO.: 64B15-19.002

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule text with regard to violations and penalties to be imposed by the Board.

SUBJECT AREA TO BE ADDRESSED: Violations and Penalties.

SPECIFIC AUTHORITY: 456.079, 459.015(5) 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 PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-19.002 Violations and Penalties.

In imposing discipline upon applicants and licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited directly under each violation description.

(1) through (13) No change.

(14) Deceptive, untrue, or fraudulent misrepresentations in the practice of medicine.
(456.072(1)(a) & (m) & 459.015(1)(m), F.S.)

FIRST OFFENSE:	reprimand and \$10,000 \$5,000 fine	denial of licensure or suspension to be followed by probation and \$10,000 fine
SECOND OFFENSE:	No change.	

(15) through (55) No change.

(56) Performing or attempting to perform health care services on the wrong patient, a wrong procedure, an unauthorized, unnecessary or unrelated procedure.
(456.072(1)(aa), F.S.)

FIRST OFFENSE:	denial or probation and \$5,000 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension and \$10,000 fine	denial or revocation and \$10,000 fine

(57) Leaving a foreign body in a patient such as a sponge, clamp, forceps, surgical needle or other paraphernalia.
(456.072(1)(bb), F.S.)

FIRST OFFENSE:	denial or probation and \$5,000 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension and \$10,000 fine	denial or revocation and \$10,000 fine

Specific Authority 456.079, 459.015(5) FS. Law Implemented 456.072, 456.079 FS. History–New 9-30-87, Amended 10-28-91, 1-12-93, Formerly 21R-19.002, 61F9-19.002, 59W-19.002, Amended 2-2-98, 2-11-01, 6-7-01,

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Address of Licensee
RULE NO.: 64B32-1.006

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

SUBJECT AREA TO BE ADDRESSED: Address of Licensee.
SPECIFIC AUTHORITY: 468.36 FS.

LAW IMPLEMENTED: 468.36 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Board Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-1.006 Address of Licensee.

Each person holding a license issued pursuant to Part V of Chapter 468, Florida Statutes, must maintain on file with the Board the current place of practice and the residence address at which any notice required by law may be served by the Department, the Board, or its agents. Within 60 days of changing either address, whether or not within this state, the licensee shall notify the Board in writing of the new address.

Specific Authority 468.36 FS. Law Implemented 468.36, 456.035 FS. History–New 5-10-92, Formerly 21M-33.009, 61F6-33.009, 59R-70.009, Amended 3-16-98, Formerly 64B8-70.009, Amended.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

RULE CHAPTER TITLE: Rules of Practice and Procedure
RULE CHAPTER NO.: 65-2

RULE TITLE: Appearances
RULE NO.: 65-2.058

PURPOSE AND EFFECT: These rule amendments are to update the Department’s procedural rules for its federally required fair hearing process.

SUBJECT AREA TO BE ADDRESSED: Proposed rule amendment is to remove the reference under appearances to a class of person being represented in accordance with Rule 1.220 F.R.C.P.

SPECIFIC AUTHORITY: 409.285 FS.

LAW IMPLEMENTED: 409.285 FS.

IF REQUESTED IN WRITING AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 14, 2001
PLACE: 1317 Winewood Boulevard, Building 5, Room 203, Tallahassee, Florida 32399-0700
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Pritchard, Administrator, Office of Appeal Hearings, 1317 Winewood Blvd., Bldg. 5, Room 203, Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65-2.058 Appearances.

(1) A person may be represented by an attorney, or other qualified representative or may appear on his own behalf. ~~A class of persons may be represented as provided in Rule 1.220, F.R.C.P., proceedings under these rules.~~

(2) The hearing shall be attended by a representative of the Department.

(3) Food Stamps regulations allows the attendance of friends or relatives of the household if the household so chooses. The Hearings Officer has the authority to limit the number of persons in attendance if space limitations exist.

~~(4) These amendments are to be effective March 1, 1979.~~

Specific Authority ~~420.53, 20.05, 409.026, 409.285~~ FS. Law Implemented ~~420.53, 420.57, 420.58, 409.285~~ FS. History--New 5-17-78, Amended 3-1-79, Formerly 10-2.58, 10-2.058, Amended.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE CHAPTER TITLE: Public Assistance
RULE TITLE: Food Stamp Program Income and Expenses

RULE CHAPTER NO.: 65A-1
RULE NO.: 65A-1.603

PURPOSE AND EFFECT: This rule is being amended due to changes to the Food Stamp Act of 1977 as amended. It incorporates changes to the standard and basic utility allowances, which are more advantageous to the food stamp recipient.

SUBJECT AREA TO BE ADDRESSED: Food Stamp Program Income and Expenses.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.31 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS WORKSHOP WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., November 26, 2001
PLACE: Building 3, Room 455, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, FL 32399-0700, Telephone (850)488-3090

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Food Stamp Program Issuance
RULE NO.: 65A-1.604

PURPOSE AND EFFECT: The proposed rule amendment will update language as it pertains to the issuance of food stamp benefits. Rule 409.942, F.S., established the Electronic Benefit Transfer (EBT) program. The Electronic Benefit Transfer program is an electronic system that allows a participant to authorize the transfer of government benefits from a federal or state account to a retailer account to pay for products received. This transfer system is accomplished by an access device to a point of sale device. EBT electronically provides state administered cash and food stamp benefits to eligible participants. The Electronic Benefit Transfer System was systematically implemented in Florida beginning in 1998, with statewide implementation completed in 1999.

SUBJECT AREA TO BE ADDRESSED: Technical changes to the issuance of food stamps.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 409.942, 414.31 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS WORKSHOP WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., November 27, 2001
PLACE: Building 3, Room 455, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, FL 32399-0700, Telephone (850)488-3090

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

NAVIGATION DISTRICTS

Florida Inland Navigation District

RULE CHAPTER TITLE: Cooperative Assistance Program
RULE CHAPTER NO.: 66B-1

RULE TITLES: Policy
Funds Allocation
RULE NOS.: 66B-1.004
66B-1.005

Application Process	66B-1.006
Application Form	66B-1.007
Project Eligibility	66B-1.008
Project Administration	66B-1.009
Project Agreement	66B-1.010
Reimbursement	66B-1.011
Accountability	66B-1.012
Acknowledgement	66B-1.013

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to provide guidance to the District and the program applicants in the administration of the District's Cooperative Assistance Program. The proposed rule amendment consists of reorganizing and simplifying the rule, as well as some minor additions and deletions. The effect of the proposed rule amendments will be to clarify the intent and application of the program rules for a more effective and efficient program.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will include the following provisions in the program rule: add sub-headings to each sub-section; move policy sub-sections to appropriate rule sections; add non-compliance conditions to policy section; add education facilities and programs eligibility conditions; allow Board policy for determination for overall funding availability; set project funding ratio; define pre-agreement costs and eligibility; clarify the procedure for the application process; clarify the eligibility of interlocal agreement process; clarify the method of application evaluation; delete the application form section; list the property control requirements; set public marina eligibility; set the parameters of the project agreement; clarify matching funds requirement; set the provisions for minor cost estimate modifications; delete project agreement section; and clarify the reimbursement process.

The effect of the rule development is to implement changes in the administration of the District's Cooperative Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) FS.

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

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

PLACE: The District Office, 1314 Marcinski Road, Jupiter, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386

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

NAVIGATION DISTRICTS

Florida Inland Navigation District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Waterways Assistance Program	66B-2
RULE TITLE:	RULE NOS.:
Policy	66B-2.004
Funds Allocation	66B-2.005
Application Process	66B-2.006
Emergency Applications	66B-2.007
Project Eligibility	66B-2.008
Project Administration	66B-2.009
Reimbursement	66B-2.010
Accountability	66B-2.011
Acknowledgement	66B-2.012
Small-Scale Spoil Island Restoration and Enhancement Projects	66B-2.013

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to provide guidance to the District and the program applicants in the administration of the District's Waterways Assistance Program. The proposed rule amendment consists of reorganizing and simplifying the rule, as well as minor additions and deletions. The effect of the proposed rule amendments will be to clarify the intent and application of the program rules for a more effective and efficient program.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will include the following provisions in the program rule: add sub-headings to each sub-section; move policy sub-sections to appropriate rule sections; add project funding ratio and pre-agreement expenses criteria to the funds allocation section; cite the appropriate forms, minimum requirements and process for application; allow for specific rule exemptions for interlocal agreements; cite the appropriate form utilized for project evaluation and rating; delete application form section; set property control requirements for eligibility; require permits for eligibility; set public marina qualification criteria; clarify the administration of an agreement by establishing criteria for the project agreement, required matching funds, agreement modification and project completion; delete project agreement section; list the terms for reimbursement; set authorized expenditure criteria; and add a new section to administer the requirements of a small-scale spoil island restoration and enhancement program.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) FS.

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

TIME AND DATE: 11:30 a.m., November 27, 2001
PLACE: The District Office, 1314 Marcinski Road, Jupiter, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, Telephone Number (561)627-3386
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Requirements of Counties Before Approval of Electronic or Electromechanical Voting Systems
RULE NO.: 1S-2.007

PURPOSE AND EFFECT: The statutory authority for this rule no longer exists.

SUMMARY: The Department of State is repealing rules regarding the requirements of counties before approval of electronic and electromechanical voting systems.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 101.28 FS.

LAW IMPLEMENTED: 101.5607 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy K. Tuck, Assistant General Counsel, Division of Elections, Department of State, Room 1801, The Capitol, Tallahassee, Florida 32399-0250, (850)488-1402

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.007 Requirements of Counties Before Approval of Electronic or Electromechanical Voting Systems.

Specific Authority 101.28 FS. Law Implemented 101.5607 FS. History—New 8-7-74, Repromulgated 1-1-75, Formerly 1C-7.07, 1C-7.007, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Amy K. Tuck, Assistant General Counsel
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: L. Clayton Roberts
DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2001

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Testing of Voting Systems
RULE NO.: 1S-2.012

PURPOSE AND EFFECT: This rule must be repealed due to statutory provisions for the testing of voting systems. Accordingly, the rules no longer serve a purpose for the Department of State, Division of Elections.

SUMMARY: The Department of State is repealing rules regarding the testing of voting systems.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 101.35 FS.

LAW IMPLEMENTED: 101.35 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy K. Tuck, Assistant General Counsel, Division of Elections, Department of State, Room 1801, The Capitol, Tallahassee, Florida 32399-0250, (850)488-1402

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.012 Testing of Voting Machines.

Specific Authority 101.35 FS., as amended by Ch. 81-29, Laws of Florida. Law Implemented 101.35 FS., as amended by Ch. 81-29, Laws of Florida. History—New 12-15-81, Formerly 1C-7.12, 1C-7.012, Repealed

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: L. Clayton Roberts

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2001