

letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.

(2) No change.

(3) Effective January 1, 2002, all applicants for initial or renewal of initial license or licensure by endorsement shall submit to the Board proof of completion of a two (2) hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for the profession. The course shall be provided by a Department-approved continuing education provider and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. The address of the Board of Speech Language Pathology & Audiology is 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256.

Specific Authority 468.1135(4), 456.013(7) FS. Law Implemented 468.1185, 468.1145(2), 456.013(7) FS. History—New 3-14-91, Amended 5-25-92, Formerly 21LL-2.001, Amended 11-30-93, Formerly 61F14-2.001, 59BB-2.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Speech-Language and Audiology
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language and Audiology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 11, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-144.002	Approval Procedures
4-144.005	Credit for Reinsurance
4-144.010	Accounting Requirements; Life and Health Reinsurance Agreements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 35, on August 31, 2001, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing and the rule challenge.

4-144.002 Approval Procedures.

~~(1) A retaliatory application fee shall be submitted pursuant to Section 624.5091, Florida Statutes. The retaliatory fee is the greater of:~~

~~(a) the amount that the applicant's domiciliary state or country would charge a Florida domestic insurer making application in the applicant's state or country of domicile, or~~

~~(b) the Florida application fee pursuant to Section 624.501(20)(c), Florida Statutes.~~

~~(1)(2) An insurer seeking the status of an accredited approved reinsurer pursuant to Section 624.610(3)(b)1. 624.610(2)(a)2., Florida Statutes, shall comply with the instructions contained in Form DI4-923, "Application For Accredited Approved Reinsurer Or Satisfactory Non-Approved Reinsurer Status," rev. 11/01 3/93 and submit the following forms. Forms relating to specific types of insurance are to be submitted only by companies issuing policies relating to the type of insurance specified on the form.~~

~~(a) Form DI4-927, "Application For License To Conduct Business In The State of Florida Accredited Reinsurer Status," rev 11/01 8-91;~~

~~(b) Form DI4-841, "Invoice, Request For Payment of Application Fees," rev. 8-91;~~

~~(b)(e) Form DI4-903, "Invoice, Request For Payment of Fingerprint Charges, rev. 4/97 4/94;~~

~~(c)(d) Form DI4-1524 144, "Uniform Consent to Service of Process" rev. 9/21/01 "Consent and Agreement in Re Service of Process," rev. 11-90;~~

~~(e) Form DI4-514, "Resolution Form," rev. 11-90;~~

~~(f) Form DI4-414, "Paid Representative Registration," rev. 6/01/89;~~

~~(d)(g) Form DI4-516, "Insurance Holding Company System Registration Statement," rev. 4/97 11-90;~~

~~(e)(h) Form DI4-1298 DI4-844, "Management Information Form," rev. 4/97 10-91;~~

~~(f)(i) Form DI4-1423 DI4-422, "Biographical Statement and Affidavit," rev. 9/21/01 11-90;~~

~~(g)(j) Form DI4-450, "Authority For Release of Information," rev. 8-91;~~

~~(h)(k) Fingerprint cards furnished by the Department of Insurance, according to instructions in Form DI4-938, "Fingerprint Card Instructions," rev. 7/99 4/91;~~

~~(i)(l) The material required by Form DI4-905 "Instructions for Furnishing Background Investigative Reports," rev. 2/01 8/93;~~

~~(m) DI4-904, "Proformas, Life Companies, pages 1-4 (Exhibits 1A, 1B, 2A, and 2B)," rev. 5-91;~~

~~(n) DI4-896, "Proformas, Property and Casualty Companies, pages 1-18," rev. 5-91; and~~

~~(o) DI4-901, "Life, Accident and Health Insurer Lines of Business by Company Code," rev. 5/91.~~

~~(p)~~ DI4-877, "Property and Casualty Insurer Lines of Business by Company Code," rev. 5/91.

(j) DI4-1464, "FORM AR-1 Certificate of Assuming Insurer", rev. 8/00;

~~(k)(q)~~ In addition, prior to a final decision on whether to grant accredited ~~approve the~~ reinsurer status, the Department shall request such other information as is necessary, depending on the facts and circumstances of the specific insurer, pursuant to Section 624.610, Florida Statutes, to determine whether the insurer meets the standards and the financial standards to ensure adequate protection for those to whom they owe obligations. The financial standards used in making this determination shall be substantially as high as those applicable to an authorized insurer, as found in Part III of Chapter 624, Chapter 628, or Chapter 629, Florida Statutes. The Department shall make no final decision on reinsurer status without complete information.

(2) The cost and expenses incurred by the Department to review a reinsurer's request for accreditation shall be charged for and collected from the requesting reinsurer. Costs are defined as the sum of the time spent by Department personnel calculated at payroll rates inclusive of personnel benefit expenses and overhead expenses for each Department employee, and other Department expenses related to processing the application; or, the actual charges incurred by a third party retained to assist in the Department's review of the application. Should it become necessary to hire an outside consultant in the process of the review, the reinsurer shall be contacted in advance to consent to this and agree to the cost. In the event that the Department and the reinsurer agree to utilize the services of an outside consultant to conduct the review the following applies:

(a) The acceptability of a person or firm to the Department shall be determined based on consideration of the person or firm's professional competence, objectivity, and cost.

(b) Consent of the reinsurer shall be demonstrated by written confirmation from an officer of the reinsurer agreeing to an examination or the specific services to be performed by the person or firm, and acknowledgment that the person or firm is acceptable to the reinsurer and that the cost will be paid by the applicant.

(c) All payments for services under this provision shall be made directly to the person or firm in accordance with the rates and terms agreed to by the Department, the insurer, and the person or firm performing the examination.

(3) An insurer seeking the status of a trusteed satisfactory ~~non-approved~~ reinsurer pursuant to Section 624.610, Florida Statutes, shall comply with the instructions contained in Form DI4-1466, "Application for Trusteed Reinsurer Status For Single Assuming Reinsurer", rev. 11/01 and submit the following: ~~submit all of the forms listed in subsection (2)(a)-(m) in addition to all of the items indicated on Page 2 of~~

Form DI4-923, "Satisfactory Non-Approved Reinsurer Status Instructions," rev. 8-91, to the extent not duplicated in subsection (2)(a)-(n), above.

(a) A copy of its annual statement with information substantially the same as that required to be filed in and with the National Association of Insurance Commissioners convention blank by authorized insurers in the same format required by such form and including all supporting documents. The blanks are adopted and incorporated by reference in subsection 4-144.005(2), F.A.C.;

(b) A certified copy of the trust agreement and any trust amendments;

(c) A certified copy of the approval of the trust and trust amendments by the commissioner of the state in which the trust is domiciled or of the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust;

(d) A statement from the trustee of the trust to the commissioner having regulatory oversight of the trust certifying the balance of the trust and the trust's investments at the preceding year end with certification that the trust will not expire prior to the following December 31;

(e) Form DI4-1524, "Uniform Consent to Service of Process" rev. 9/21/01;

(f) Form DI4-1298, "Management Information Form," rev. 4/97;

(g) Form DI4-1423, "Biographical Affidavit," rev. 9/21/01 for all individuals listed on Form DI4-1298;

(h) Form DI4-1469, rev. 8/2000, "Certificate of Assuming Insurer to Submit to Examination and Bear the Cost of Examination";

(i) "Checklist Trust Agreement for Trusteed Reinsurer" is included in Form DI4-1466, rev. 11/01.

(4) All forms listed in subsections (1), (2), and (3), above, are hereby adopted and incorporated by reference. All forms may be obtained from and shall be submitted to the Applications Coordination Section, Division of Insurer Services, Department of Insurance, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0300. All checks shall be made payable to the Florida Department of Insurance.

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1),(2),(3),(5), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.061, 628.801, 629.081 FS. History--New 1-30-91, Formerly 4-108.002, Amended 5-12-94, _____.

4-144.005 Credit for Reinsurance Allowed a Domestic Ceding Insurer.

(1) No change.

(2) Credit for reinsurance by a domestic insurer shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited approved as a reinsurer in this state pursuant to Section 624.610(3)(b) ~~624.610(2)(a)2.~~, Florida Statutes, and Rule 4-144.002, F.A.C. Florida Administrative

Code, as of any date on which statutory financial statement credit for reinsurance is claimed. An ~~accredited approved~~ reinsurer pursuant to Section ~~624.610(3)(b), 624.610(2)(a)2.~~ Florida Statutes:

(a) through (b) No change

(c) Files annually and quarterly with the Department a copy of its annual and quarterly statements filed on the National Association of Insurance Commissioners convention blanks, ~~which are hereby adopted and incorporated by reference,~~ with the insurance department of its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement and maintains a surplus as regards policyholders in accordance with Section ~~624.610(3)(b)1.d. 624.408,~~ Florida Statutes, and whose approval has been granted by the Department. ~~If quarterly statements are not required by the state of domicile, quarterly statements shall only be required upon written request of the Department. The following National Association of Insurance Commissioners blanks are hereby adopted and incorporated by reference:~~

~~(1) NAIC Annual Statement Blank Life/Accident/Health 2001.~~

~~(2) NAIC Quarterly Statement Blank Life/Accident/Health 2001.~~

~~(3) NAIC Annual Statement Blank Health 2001.~~

~~(4) NAIC Quarterly Statement Blank Health 2001.~~

~~(5) NAIC Annual Statement Blank Property and Casualty 2001.~~

~~(6) NAIC Quarterly Statement Blank Property and Casualty 2001.~~

(3)(a) No credit for reinsurance shall be allowed a domestic ceding insurer:

1. If the assuming insurer's approval has been revoked by the Department; or

2. In the case of an assuming insurer that is not a licensed or ~~accredited approved~~ reinsurer, unless the assuming insurer agrees in the reinsurance agreements:

(1) through (b) No change.

(4) Credit for Reinsurance – Reinsurers Maintaining Trust Funds.

(a)1. Pursuant to Sections ~~624.610(3)(c)1, 624.610(2)(a)4, and 624.610(2)(b)4,~~ Florida Statutes, the Department shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a ~~qualified financial institution as defined in Section 624.610(5)(b), Florida Statutes~~ ~~bank or trust company that is subject to supervision by any state of the United States or that~~

~~is a member of the Federal Reserve System,~~ for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest.

2. through (b)2.a.(II) No change.

(III) In addition to these trusts, the group shall maintain a trustee surplus of which ~~\$100,000,000~~ ~~\$50,000,000~~ shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

b. No change.

~~3.a. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the Annual Statement Instructions and Accounting Practices and Procedures Manual of the NAIC, adopted and incorporated by reference in Rule 4-137.001(4), Florida Administrative Code) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation in any state of the United States, shall:~~

~~(I) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group; and~~

~~(II) Maintain a joint trustee surplus of which \$50,000,000 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and~~

~~(III) File a properly executed Form AR-1, adopted and incorporated by reference in paragraph (2)(a), as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.~~

~~b. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Department an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.~~

(c)1.a. through 1.c.(V) No change.

~~(VI) Any amendment to the trust shall be filed with the Department no later than thirty (30) days after approval of the amendment by the commissioner who has the regulatory oversight of the trust.~~

2. through (d) No change.

~~(e) Assets deposited in the trust and the trustee surplus of a single assuming insurer shall consist of assets of a quality and limitation substantially similar to that required in Part II of Chapter 625, Florida Statutes, and shall be valued according to their fair market value.~~

(f) Assets deposited in the trust and the trustee surplus of a group including incorporated and individual unincorporated underwriters established to meet the requirements of Section 624.610(3)(c)3.b., Florida Statutes, shall be of the type and subject to limitations of the following:

(e)1. Assets deposited in the trusts established pursuant to Section 624.610(3)(c)3.b., Florida Statutes, and this section shall be valued according to their fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. Financial institution as defined in Section 624.610(5)(a), Florida Statutes, clean irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 624.610(5)(a), Florida Statutes, and investments of the type specified in this subsection.

2. through 5.g. No change.

h. Letters of Credit.

(I) In order for a letter of credit to qualify in funding the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Department) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(II) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and willful misconduct.

(5) Trust agreements qualified under Section 624.610(4) 624.610(2)(b)2., Florida Statutes.

(a) No change.

(b) Required conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in Section 624.610(5)(b), Florida Statutes. As used in this subsection (5), a qualified United States financial institution is one which is a member of the Federal Reserve System.

2. through 9. No change.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and willful misconduct.

11. Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of Section 624.610(4) 624.610(2)(b)2., Florida Statutes, in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon

the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. through c. No change.

12. Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of Section 624.610(4) 624.610(2)(b)2., Florida Statutes, in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. through c. No change.

13. The reinsurance agreement may, but need not, contain the provisions required in (d)1.b. of this subsection (5), so long as these required conditions are included in the trust agreement.

14. No change.

(c) No change.

(d) A reinsurance agreement may contain provisions that stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by Part II of Chapter 625 of the Florida Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement.

(6) Letters of credit qualified under Section 624.610(4)(c) 624.610(2)(b)3., Florida Statutes.

(a)1. through 5. No change.

6.a. As used in this subsection (6), “beneficiary” means the domestic insurer for whose benefit the letter of credit has been established and any successor ~~of the beneficiary~~ by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver or conservator.

b. No change.

(b) through (e) No change.

(f) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 624.610(5)(a), Florida Statutes.

(g) No change.

(7) Credit shall be allowed foreign and alien insurers when the reinsurance is ceded to an assuming insurer which is domiciled or licensed in, or, in the case of a U.S. branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under these rules, and the assuming insurer and the reinsurance agreement meets the requirements established by this rule and Section 624.610, Florida Statutes. ~~or U.S. branch of an alien assuming insurer:~~

~~(a) Maintains a surplus as regards policyholders in an amount not less than \$2,500,000; and~~

~~(b) Submits to the authority of this state to examine its books and records; provided, however,~~

~~(c) The requirement of paragraph (a), above, does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.610 FS. History—New 1-30-91, Formerly 4-108.005, Amended 12-25-97,_____.

4-144.010 Accounting Requirements: Life and Health Reinsurance Agreements.

(1) through (2)(a)7.b. No change.

c. In determining the reserve interest rate adjustment, the formula must reflect the ceding company's investment earnings and incorporate all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula.

Note that the line references are for the 2001 ~~1994~~ National Association of Insurance Commissioners (NAIC) Annual Statement and are supplied as a convenient reference. Line references may be different in subsequent annual statements.

$$\text{Rate} = 2 * (\text{I} + \text{CG}) \div (\text{X} + \text{Y} - \text{I} - \text{CG})$$

Where: I is the net investment income (Exhibit 2, Line 16, Column 7)

CG is capital gains less capital losses (Exhibit 3, Line ~~40~~ 9, Column 4 plus Exhibit 4, Line 9 ~~40~~, Column 4)

X is the current year cash and invested assets (Page 2, Line 11 ~~40A~~, Column 1) plus investment income due and accrued (Page 2, Line 18 ~~46~~, Column 1) less borrowed money (Page 3, Line 22, Column 1)

Y is the same as X but for the prior year

8. through (5) No change.

Specific Authority 624.308(1), 624.424(1), 624.610(12),~~(14)~~ FS. Law Implemented 624.307(1), 624.424(1), 624.610(4),(6),(10),(11),(12), 625.012(8), 626.9641(1)(d),(h), 631.051, 631.061, 631.071, 631.081 FS. History—New 1-30-91, Formerly 4-108.010, Amended 3-28-96,_____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER NO.: 5C-11
RULE CHAPTER TITLE: Swine Garbage Feeding

RULE NO.: 5C-11.015
RULE TITLE: Feeding Garbage; Application for Permit; Fees

NOTICE OF CORRECTION

The Florida Department of Agriculture and Consumer Services announces a correction to the Notice of Proposed Rulemaking, regarding Chapter 5C-11, Swine Garbage Feeding, Feeding Garbage, Application for Permit; Fees, which appeared in the January 25, 2002, issue of the Florida Administrative Weekly, Vol. 28, No. 4, page 270.

Specifically, the notice indicated that if requested within 21 days of the date of the notice, a hearing would be held at 10:00 a.m., February 6, 2002, Room 316, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida.

The correct date and time will be 10:00 a.m., February 18, 2002.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER NO.: 5C-13
RULE CHAPTER TITLE: State Diagnostic Laboratories

RULE NO.: 5C-13.004
RULE TITLE: Schedule of Fees

NOTICE OF CORRECTION

The Florida Department of Agriculture and Consumer Services announces a correction to the Notice of Proposed Rulemaking, regarding Chapter 5C-13, State Diagnostic Laboratories, Schedule of Fees for Services, which appeared in the January 25, 2002, issue of the Florida Administrative Weekly, Vol. 28, No. 4, page 271.

Specifically, the notice indicated that if requested within 21 days of the date of the notice, a hearing would be held at 1:00 p.m., February 8, 2002, Room 316, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida.

The correct date and time will be 1:00 a.m., February 18, 2002.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER NO.: 5C-24
RULE CHAPTER TITLE: Schedule of Fees for Services

RULE NO.: 5C-24.003
RULE TITLE: Official Certificate of Veterinary Inspection

NOTICE OF CORRECTION

The Florida Department of Agriculture and Consumer Services announces a correction to the Notice of Proposed Rulemaking, regarding Chapter 5C-24, Schedule of Fees for Services, Official Certificate of Veterinary Inspection, which appeared in the January 25, 2002, issue of the Florida Administrative Weekly, Vol 28, No. 4, page 276.

Specifically, the notice indicated that if requested within 21 days of the date of the notice, a hearing would be held at 1:00 p.m., February 6, 2002, Room 316, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida.

The correct date and time will be 1:00 a.m., February 18, 2002.

DEPARTMENT OF REVENUE

Division of Child Support Enforcement

RULE NO.: 12E-1.028
 RULE TITLE: Garnishment by Levy
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to this proposed rule, as published in the Florida Administrative Weekly on November 21, 2001, Vol. 27, No. 47, pp. 5527-5530. These changes are in response to comments received from the Joint Administrative Procedures Committee, in accordance with s. 120.54(3)(d)1., F.S.

New subsection (4) has been added to proposed Rule 12E-1.028, F.A.C., so that, when adopted, the subsection will read:

(4) Custodian's Response to Notice of Freeze. Within five days after receipt of the Notice of Freeze, the custodian of assets shall advise the department of assets in the custodian's possession or control, and the value and location of the assets.

Subsection (4) of proposed Rule 12E-1.028, F.A.C., has been renumbered (5) and has been changed, so that, when adopted, the subsection will read:

(5) Notice to the Obligor of Intent to Levy. The department shall give notice of its intent to levy on the obligor's assets by sending a Notice of Intent to Levy by certified mail with return receipt requested to the obligor's most current address listed by the department. If the department has no current address for the obligor, the department shall send the notice to the obligor's address of record provided by the custodian of the assets, if one is provided. The notice shall inform the obligor and any joint owner of the right to contest the intended levy not later than 21 days after the date of receipt of the notice. The notice must inform the obligor and joint owner that they may request an informal conference with the department to resolve any disputed matters concerning the levy. To request an informal conference, they must contact the person indicated in the notice upon receipt of the notice. Their rights will not be adjudicated at an informal conference, and the right to contest the intended levy by requesting a formal or informal hearing will not be affected by requesting or participating in an

informal conference. A request for informal conference does not extend the 21 days allowed for contesting the intended levy. Mediation pursuant to s. 120.573, F.S., is not available as an alternative remedy. If the obligor or joint owner meets in person with an employee of the department, the employee may hand deliver the notice in lieu of mailing it. The employee shall attest to hand delivery of the notice by completing an Affidavit of Service by Hand Delivery, which shall constitute good and sufficient proof of receipt of notice by the obligor or joint owner.

Subsection (5) of proposed Rule 12E-1.028, F.A.C., has been renumbered (6). Paragraphs (a) and (d) of renumbered (6) have been changed, so that the reference to subsection (8) has been changed to subsection (9) and the reference to subsection (9) has been changed to subsection (10). When adopted, paragraphs (a) and (d) of renumbered subsection (6) will read:

(a) The department determines in accordance with subsection (9) of this rule that all or part of the frozen assets belong exclusively to a joint owner.

(d) The department determines that all or part of the assets are current earnings that are exempt from the levy in accordance with subsection (10) of this rule.

Subsection (6) of proposed Rule 12E-1.028, F.A.C., has been renumbered (7) and paragraph (a) of renumbered (7) has been changed, so that the reference to paragraph (10)(a) has been changed to paragraph (11)(a). When adopted, paragraph (a) of renumbered subsection (7) will read:

(a) In accordance with s. 409.25656(7)(d), F.S., if an obligor who received a Notice of Intent to Levy consents in writing to the levy, the department shall levy before the end of the time periods provided in paragraph (11)(a) of this rule. Upon request, the department shall provide an obligor or joint owner with a Consent to Levy form.

Subsections (7) through (9) of proposed Rule 12E-1.028, F.A.C., have been renumbered (8) through (10) No change.

Subsection (10) of proposed Rule 12E-1.028, F.A.C., has been renumbered (11) and renumbered subsection (11) has been changed, so that, when adopted, the subsection will read:

(11) Notice of Levy.

(a) Unless the obligor and each joint owner, if any, consents to a levy as provided in subsection (7) of this rule, the department shall not send a Notice of Levy to the custodian of the obligor's assets until after the latest of the following time periods:

1. Thirty days from the date the custodian of assets received the Notice of Freeze (the first day of this time period is the day after the date the custodian received the notice); or

2. Thirty days from the earlier of the dates the department sent or hand delivered the Notice of Intent to Levy to the obligor in accordance with subsection (5) of this rule (the first day of this time period is the day after the date the department sent or hand delivered the notice); or

3. If the intended levy is contested in accordance with s. 409.25656(8) and (9), F.S., the department shall not send the Notice of Levy to the custodian until after a final disposition occurs that is favorable to the department.

(b) The department shall send a Notice of Levy to the custodian by certified mail with return receipt requested.

(c) When the custodian is required by a Notice of Levy to transfer the assets to the department or pay to the department the amount owed to the obligor, up to the amount of past due or overdue support stated in the notice, the custodian shall provide with the asset or payment the obligor's name, social security number and the control number referenced on the Notice of Levy.

(d) The department shall send a Notice of Levy only after determining, on the date of issuance of the notice, that none of the conditions in subparagraphs 1. through 5. of paragraph (2)(b) above exist. The department shall send a Notice of Levy if the conditions in subparagraph 6. of paragraph (2)(b) above exist, provided the past due or overdue support owed in the case is greater than zero.

DEPARTMENT OF REVENUE

**NOTICE OF CABINET AGENDA
ON FEBRUARY 27, 2002**

The Governor and Cabinet, on February 27, 2002, sitting as head of the Department of Revenue, will consider approval of new Rule 12E-1.028, F.A.C., for adoption. The proposed rule was originally noticed in the Florida Administrative Weekly of November 21, 2001, Vol. 27, No. 47, pp. 5520-5530. A public hearing on the proposed rule was held on December 17, 2001. No members of the public appeared at the public hearing. Written comments concerning the proposed rule were received from the Joint Administrative Procedures Committee. In response to the comments, changes have been made to the proposed rule as it appeared in the Florida Administrative Weekly. A Notice of Change describing the changes appears in the February 15, 2002 issue of the Florida Administrative Weekly.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-40
RULE CHAPTER TITLE: Highway Beautification and Landscape Management

RULE NO.: 14-40.003
RULE TITLE: Highway Landscape Projects

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Florida Administrative Weekly, Vol. 27, No. 51, December 21, 2001, Pages 6003 through 6008.

SUMMARY OF CHANGES: A public hearing was conducted on January 14, 2002, at the time and place specified in the notice of rulemaking.

1. The following changes resulted from comments received at that hearing:

a. 14-40.003(2)(f) is changed to read:

(f) "Non Governmental Entity" means any person or organization, other than a governmental entity, who seeks approval of a highway landscape project.

b. 14-40.003(a)7. is changed to read:

7. Plans prepared by or for Department highway landscape projects, ~~the total estimated cost of which are \$10,000 or greater,~~ must be signed and sealed by prepared by a registered landscape architect. Signing and sealing of plans submitted to the Department for review must be in accordance with Part II of Chapter 481, Florida Statutes, Landscape Architecture.

c. 14-40.003(3)(e) is changed to read:

(e) An abutting private property owner is not required to comply with subsection (3)(d) of this Rule and may apply for a permit to alter or install landscape materials on the Department's non limited access right of way directly abutting the owner's property between the right of way line and the nearest edge of pavement through submission of a Permit for Landscaping on State Road Right of Way, Form #850-060-03, Rev. 05/00, which is incorporated herein by reference and is available at any Department District Maintenance Office. Abutting private property owners must submit for approval a landscape plan, maintenance plan, and work zone traffic control plan. Approval will only be granted when it is determined that all plans meet the requirements of this Rule section. No permit will be issued to an abutting private property owner to provide visibility of such property through the cutting, trimming, or removal of trees, shrubs, or herbaceous plants.

d. 14-40.003(6) is changed to read:

(6) Donation of Landscape Projects. The Department will accept donations of plants, materials, installation, and maintenance for landscape projects on the State Highway System that meet the requirements of this Rule ~~Chapter~~.

2. In addition to the above listed changes resulting from the public hearing, two technical corrections were made in response to a review by the Joint Administrative Procedures Committee:

a. Law Implemented: Add 339.24, Florida Statutes.

b. Correction of a typographical error in the wording of Paragraph 8 of Form 850-060-03. The revision date for that form also is changed from 05/00 to 02/02.

NOTE: For purposes of this change notice, the add/delete coding shown reflect changes from the "amended" language, i.e., treating the previously proposed amendments as having been made. The filed rule amendment will show add/delete language of the proposed amendment and this change based upon the current Florida Administrative Code.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-4.051
 RULE TITLE: Exemptions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to proposed Rule 40D-4.051, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 47, November 21, 2001, issue of the Florida Administrative Weekly:

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) through (5) No change.

(6) Any system for a mining or mining related activity which has a valid permit ~~or exemption confirmation letter~~ issued by the District or the Department pursuant to Rule 40D-45.041 ~~or Rule 40D-45.051~~, F.A.C. This exemption shall be for the plans, terms and conditions approved in the permit ~~or exemption confirmation letter~~ issued pursuant to Chapter 40D-45, F.A.C. ~~Proposed modifications to systems previously exempt under Rule 40D-45.051, F.A.C., may be subject to permitting under Chapter 40D-4, F.A.C.~~ as provided in Rule 40D-4.054, F.A.C. If an operator of a system previously permitted under Chapter 40D-45, F.A.C., proposes an "alteration" as the term is defined in subsection 40D-4.021(7), F.A.C., such system shall be reviewed under the provisions of Chapter 40D-4, F.A.C.

(7) through (12) renumbered (8) through (13) No change.

Specific Authority 373.044, 373.118, 373.414(9) FS. Law Implemented 373.413, 373.419 FS. History-Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01,

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER NO.: 59A-4
 RULE CHAPTER TITLE: Minimum Standards for Nursing Homes

RULE NOS.: 59A-4.103
 RULE TITLES: Licensure, Administration and Fiscal Management

59A-4.106
 Facility Policies
NOTICE OF CHANGE

Proposed amendments to Chapter 59A-4, F.A.C., minimum standards for nursing homes, were published November 2, 2001, in Vol. 27, No. 44 of the Florida Administrative Weekly.

59A-4.103 Licensure, Administration and Fiscal Management.

(1) The licensee or prospective licensee shall make application for an initial, renewal or change of ownership license to operate a nursing home facility and shall provide all of the information required by this rule and chapter 400, Part II, F.S., on AHCA form 3110-6001, January, 2002,

'Application for Nursing Home Licensure" and "Instructions for Completing Application for Nursing Home Licensure", which is incorporated by reference and AHCA forms 3110-0011, 3110-0011A, 3110-0011B, 3110-0011C, and 3110-0011D, August, 2001, "Controlling Interest Affidavit for Nursing Homes", which is incorporated by reference, and AHCA Form 1332-0001, January, 2002, "Proof of Financial Ability Schedule", which is incorporated by reference, available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, Tallahassee, Florida 32308.

59A-4.106 Facility Policies.

(1)(f) All resident transfers and discharges shall be in accordance with the facility's policies and procedures, provisions of s. 400.022, F.S., and s. 400.0255, F.S., this rule ~~and other applicable state and federal laws~~ and will include notices provided to residents which are incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, Revised, May, 2001, "Nursing Home Transfer and Discharge Notice," and 3120-0003, Revised May, 2001, "Fair Hearing Request For Transfer or Discharge From a Nursing Home," and 3120-0004, Revised, May, 2001, "Long-Term Care Ombudsman Council Request for Review of Nursing Home Discharge and Transfer." These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308. The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.

Law Implemented 400.022, 400.0255, 400.102, 400.141, 400.141(7), 400.151, 400.23, 765.110 FS.

The following sentence is injected at the top of page seven of nine on AHCA Form 3001-6001, "Additional Instructions for New Medicare Provider Agreement for Change of Ownership/Change of Licensed Operator Application":

If the effective date of a Change of Ownership results in the late filing of a license renewal, the late fine will be imposed pursuant to Section 400.111(1), F.S.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NOS.: 61J1-4.002
 RULE TITLES: Equivalency Education
 61J1-4.003 Continuing Education
 61J1-4.005 Notice of Satisfactory Course Completion
 61J1-4.008 Continuing Education for School Instructor

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 26, No. 45, November 7, 2000; and Vol. 27, No. 27, July

6, 2001, and as amended in Vol. 27, No. 36, September 7, 2001, issues of the Florida Administrative Weekly. The changes are in response to comments received by the Joint Administrative Procedures Committee and for the purpose of publishing the entire text of the rules as amended and proposed by the Florida Real Estate Appraisal Board.

61J1-4.002 Equivalency Education.

The criteria for approval of equivalency for courses completed by individuals seeking credit for pre-registration, pre-licensure, pre-certification, or appraiser continuing education shall be that the course or courses covered substantially the same subject matter, hours of attendance, hours of instruction, and completion standards as prescribed by the Florida Real Estate Appraisal Board in Rules 61J1-4.001, 4.003 or 4.007, Florida Administrative Code. Application for past course evaluation shall be accompanied by an official transcript or other documentation showing the subjects taken together with the date completed and grade received. If the requested information is found lacking to show course equivalency, the board shall request supportive documentation to determine course equivalency.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617 FS. History--New 10-15-91, Formerly 21VV-4.002, Amended 4-6-98, _____.

61J1-4.003 Continuing Education.

(1) All registered, licensed and certified appraisers must satisfactorily complete a minimum of 30 hours of 50 minutes each of appraiser continuing education as prescribed or approved by the Florida Real Estate Appraisal Board, without duplication of material, during each renewal period as defined in Rule 61J1-2.002, Florida Administrative Code. Of the 30 hours, a minimum of 7 hours with a maximum of 18 hours, without significant duplication of material, shall include an update of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and will review and update the Florida Real Estate Appraisal License Law and board rules, and provide an introduction to other state and federal laws affecting real estate appraisals. A minimum of 3 hours shall be dedicated to an update of the Florida Real Estate Appraisal License Law and board rules. A registered, licensed or certified appraiser is not required to complete the 30 hours of continuing education as a condition for initial registration, licensure or certification renewal if the time between the effective date on the initial registration, license or certificate and the beginning of the initial registration, licensure or certificate renewal is less than 12 months.

(2) The board shall approve for appraisal continuing education credit any course, seminar or conference in the real estate appraisal practice area provided by national or state recognized appraisal organization, accredited university, college, community college, area technical center, state or federal agency or commission or proprietary real estate school. The course will be approved for 24 months. A course may not

be offered after the expiration date except for a course that is begun before the expiration date may be completed even if the completion date is after the expiration date. The criteria for approval shall be as set out in subsection (3) below.

(3) Satisfactory completion of the board prescribed or approved continuing education course or courses of classroom instruction is demonstrated by successfully meeting standards established for each board prescribed course. These standards for approval of continuing education courses for appraisers shall be that the course or courses contain at least 3 hours of instruction and cover real estate appraisal related topics such as ad valorem taxation, arbitration, business courses related to real estate appraisal, construction estimating, ethics and standards of professional practice, land use planning, zoning and taxation, management, leasing, brokerage, timesharing, property development, real estate appraisal (valuations/evaluations), real estate financing and investment, real estate law, real estate litigation, real estate appraisal related computer applications, real estate securities and syndication, and real property exchange. Approval of satisfactory course completion shall not be issued to any registrant, licensee or certificate holder not attending a minimum of 90% of each of the classroom hours of board prescribed course instruction.

(a) A copy of the course and all course materials shall be submitted to the Board for evaluation at least 90 days prior to use. The Board will issue a status report to the course provider within 60 days after submission of the course. Approval must be granted before the course and examinations, if required, may be offered. It is the responsibility of the institution, school, or entity offering the Board approved courses to keep the course materials current and accurate, and notify the Board at least 90 days before implementing any significant changes to the course during its approval period.

(b) The national or state recognized appraisal organization, accredited university, college, community college, area technical center, state or federal agency or commission, or proprietary real estate school offering these Board prescribed or approved courses shall fully inform each student of the standards and requirements at the commencement of each course by providing each student a course syllabus that clearly states the course objective(s) and explains the desired learning outcomes. At least 70% of the desired learning outcomes shall be at the application level or higher. No more than 10% of the desired learning objectives shall be at the knowledge level. Notice of course completion shall be made as prescribed by the Board in Rule 61J1-4.005, Florida Administrative Code.

(c) For purposes of this rule, "application level" is defined as the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information.

(d) For purposes of this rule, "knowledge level" is defined as recalling specific facts, patterns, methods, terms, rules, dates, formulas, names, or other information that must be committed to memory.

(4)(a) The continuing education courses required in this rule may be taught by a Board approved equivalent distance education course. Distance education is education that takes place when the learner is separated from the source of instruction by time and/or distance. Such distance education course subject matter, assignment work, scholastic standards and other related requirements shall be substantially the same as the course offered by classroom instruction, having due regard however, to the different method of presentation.

(b) A copy of the distance education course materials and a copy of each form of the course examination that will be administered to students shall be submitted to the Board for evaluation and approval at least 90 days prior to use. A minimum of 2 course examinations for each course shall be submitted for approval. The examination may be administered at the end of the course or portions of the examination may be administered to students at appropriate intervals during the course. The Board will issue a status report to the course provider within 60 days after submission of the course and examinations. Approval must be granted before the course and examinations may be offered. Thereafter, the course and examinations shall be maintained by each institution, school, or entity offering the distance education course(s) in accordance with the Board approved standard as subsequently modified by changing times, standards and laws. It is the responsibility of the institution, school or entity offering the Board approved distance education courses to keep the course material current and accurate, and notify the Board at least 90 days before implementing any significant changes to the course during its approval period.

(c) Satisfactory completion of the Board prescribed continuing education course(s) through distance education is demonstrated by achieving a grade of 80% or higher on the Board approved examination. Students failing the Board prescribed course examination must repeat the Board prescribed distance education course of study prior to being eligible to again take the course examination, which must be a different examination from the one the student previously failed.

(d) The objective of the distance education course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. This examination shall consist of a minimum of 3 questions per instructional hour. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The answer key must reference the page number(s) containing the information on which each question and correct answer is based. The answer key must be unique for each form of the

examination. At least 70% of the questions on each form of the test shall be at the application level or higher. No more than 10% of the questions on each form of the test shall be at the knowledge level.

(e) In all Board approved continuing education courses by distance education, the institution, school or entity shall provide to students an address, telephone number, or e-mail address of a Board approved instructor to answer inquiries.

(f) Continuing education courses by distance education will be approved for 24 months at which point the course will expire unless submitted to the board and approved for renewal. Courses may not be offered or distributed after the expiration date. However, a 15-day grace period beyond the expiration date will be allowed in order to grade an examination postmarked or otherwise received prior to the expiration date of the course. Students must be notified of the course expiration date upon receipt of the course materials.

(5) The Florida institution, organization, permitted real estate school or board approved entity offering these board prescribed or approved courses shall fully inform each student of the standards, requirements and criteria at the commencement of each course. Each student shall receive a copy of the most current course approval letter, issued by the board, at the commencement of each course. Notice of course completion shall be as prescribed by Rule 61J1-4.005, Florida Administrative Code.

(6) These board prescribed or approved courses shall be offered by a nationally or state recognized appraisal organization, area technical centers, accredited university, college and community college, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451, Florida Statutes, or at a place approved by the board. Satisfactory completion of these courses will not entitle any person to renew a registration, license or certification until such person has met all requirements of law.

(7) A registrant, licensee, or certificate holder, including a board member, may earn five (5) classroom hours by attending an entire meeting where the board considers disciplinary cases, for a maximum of ten (10) of the required thirty (30) hours; provided that, the individual is not appearing as a party to a disciplinary action and notifies the Division of Real Estate, Education Section, of the intent to attend at least seven (7) days prior to the meeting. Of the required 30 classroom hours, 5 hours may be earned by attending a meeting of the board wherein disciplinary cases are considered. Attendance must be for the entire day that the board is in session. At least 7 days advance notice of the intent to attend the board meeting must be given to the Education Section of the Division of Real Estate so attendance may be monitored. Failure to give advance notice will result in no credit hours. A maximum of 10 hours will be allowed during a renewal cycle. Credit hours may

~~not be earned when the registrant, licensee or certificate holder attends a disciplinary case session as a party to a disciplinary action.~~

~~(8) Any current member of the Florida Real Estate Appraisal Board who attends at least 8 meetings of the board in a renewal period where disciplinary cases involving violations of the USPAP, amendments to the USPAP and revisions to Chapter 475, Part II, are discussed shall receive 30 hours of continuing education.~~

(8)(9) Credit towards the continuing education requirements of this rule may also be satisfied by teaching board approved appraisal courses. Credit shall be awarded on an hour-for-hour basis. Individuals claiming such credit must teach the appraisal course during the renewal cycle in which credit is claimed and may not claim the course more than once in the renewal cycle. The board may request supportive documentation to ascertain course content and to verify the date(s), time, place and hours taught.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.618 FS. History—New 10-15-91, Amended 4-21-92, 6-7-92, Formerly 21VV-4.003, Amended 11-3-94, 4-6-98, 9-6-98, _____.

61J1-4.005 Notice of Satisfactory Course Completion.

(1) Applicants must submit, with the application for registration, licensure or certification a grade report as proof to the department that they have satisfactorily completed the applicable course(s) prescribed in Rule 61J1-4.001 or 4.002, Florida Administrative Code.

(2) through (6) No change.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615 FS. History—New 10-15-91, Formerly 21VV-4.005, Amended 7-19-95, 4-6-98, _____.

61J1-4.008 Continuing Education for School Instructors.

(1) All persons holding “school instructor” permits shall recertify their competency during each renewal period as defined in Rule 61J1-2.002, Florida Administrative Code, by satisfactorily completing a minimum of 21 hours of instruction in real estate appraisal subjects and instructional techniques as prescribed by the board. A school instructor is not required to complete the 21 hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months. Of the required 21 hours, up to 14 hours may be applied toward the continuing education requirement for registration, licensure, or certification pursuant to Rule 61J1-4.003, Florida Administrative Code.

(2) All board prescribed 21 hours of instruction shall consist of 7-hour seminar conducted by the board and a minimum of 7-hours of board approved instruction in real estate appraisal subjects and a minimum of 7-hours of board approved instruction consisting of an update of the Uniform Standards of Professional Appraisal Practice (USPAP) as defined in s. 475.611(1)(m), Florida Statutes, a review and

update of the Florida Real Estate Appraisal License Law and board rules, and an introduction to other state and federal laws affecting real estate appraisals. A minimum of 3 of the 7 update hours shall be dedicated to an update of the Florida Real Estate Appraisal License Law and board rules. The 14 hours of instruction may be offered by accredited universities, colleges, and community colleges, in this state, by real estate schools registered pursuant to s. 475.451, Florida Statutes, and entities approved by the board. Requests for approval to offer the 7-hours of instruction in real estate appraisal subjects and the 7-hours of instruction in USPAP shall be made to the board at least 90 days prior to offering the course. The requests shall include a detailed course description and the criteria for satisfactory course completion. The Board will issue a status report to the course provider at least 60 days after submission of the course. Approval must be granted before the course may be offered. The criteria for approval shall be as set in subsection (4) below

(3) Satisfactory completion of the board conducted 7-classroom hour seminar is demonstrated by attending all 7-classroom hours of instruction. Satisfactory completion of the remaining hours of instruction is demonstrated by completing the board approved course(s). In accordance with the standards established by the board. In Rule 61J1-4.003, Florida Administrative Code.

(4) The institution, school or approved entity offering the board approved 7-hours of instruction in real estate appraisal subjects and the 7-hours of instruction in USPAP, the Florida Real Estate Appraisal License Law and Board rules, and other state and federal laws affecting real estate appraisals shall inform each student of the standards and requirements at the commencement of each course. Each student shall receive a copy of the most current course approval letter, issued by the board, at the commencement of each course. The enforcement thereof shall be the responsibility of the board and the DBPR and their decision on any such matters shall be final. The institution, school or approved entity will be responsible for issuing a grade report. The information required in the grade report can be located in Rule 61J1-4.005, Florida Administrative Code.

(a) The Board shall approve any course, seminar, or conference in the real estate appraisal practice area provided by a national or state recognized appraisal organization, accredited university, college, community college, area technical center, state or federal agency or commission, or proprietary real estate school for appraisal continuing education credit for school instructors. The standards for board approval of appraisal continuing education courses for school instructors shall be that the course or courses cover real estate appraisal related topics, be designed to be training oriented to teach school instructors how to present the courses, and to provide updates on statutes and rules relevant to the appraisal industry. The course will be approved for 24 months. A course

may not be offered after the expiration date except for a course that is begun before the expiration date may be completed ~~completed~~ even if the completion date is after the expiration date.

(b) Satisfactory completion of the board prescribed or approved continuing education course or courses is demonstrated by successfully meeting standards established for each Board prescribed course.

(c) A copy of the course and all course materials shall be submitted to the Board for evaluation at least 90 days prior to use. The Board will issue a status report to the course provider within 60 days after submission of the course. Approval must be granted before the course and examinations, if required, may be offered. It is the responsibility of the institution, school, or entity offering the Board-approved courses to keep the course materials current and accurate, and notify the Board at least 90 days before implementing any significant changes to the course during its approval period.

(d) The national or state recognized appraisal organization, accredited university, college, community college, area technical center, state or federal agency or commission, or proprietary real estate school offering these Board prescribed or approved courses shall fully inform each student of the standards and requirements at the commencement of each course by providing each student a course syllabus that clearly states the course objective(s) and explains the desired learning outcomes. At least 70% of the desired learning outcomes shall be at the application level or higher. No more than 10% of the desired learning objectives shall be at the knowledge level. Notice of course completion shall be made as prescribed by the Board in Rule 61J1-4.005, Florida Administrative Code.

(5)(a) The continuing education courses required in this rule may be taught by a Board approved equivalent distance education course. Distance education is education that takes place when the learner is separated from the source of instruction by time and/or distance. Such distance education course subject matter, assignment work, scholastic standards and other related requirements shall be substantially the same as the course offered by classroom instruction, having due regard however, to the different method of presentation.

(b) A copy of the distance education course materials and a copy of each form of the course examination that will be administered to students shall be submitted to the Board for evaluation and approval at least 90 days prior to use. A minimum of 2 course examinations for each course shall be submitted for approval. The examination may be administered at the end of the course or portions of the examination may be administered to students at appropriate intervals during the course. The Board will issue a status report to the course provider within 60 days after submission of the courses and examinations. Approval must be granted before the course and examination may be offered. Thereafter, the course and

examinations shall be maintained by each institution, school, or entity offering the distance education course(s) in accordance with the Board approved standard as subsequently modified by changing times, standards, and laws. It is the responsibility of the institution, school, or entity offering the Board approved distance education courses to keep the course material current and accurate, and notify the Board at least 90 days before implementing any significant changes to the course during its approval period.

(c) Satisfactory completion of the Board prescribed continuing education course(s) through distance education is demonstrated by achieving a grade of 80% or higher on the Board approved examination. Students failing the Board prescribed course examination must repeat the Board prescribed distance education course of study prior to being eligible to again take the course examination, which must be a different examination from the one the student previously failed.

(d) The objective of the distance education course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. This examination shall consist of a minimum of 3 questions per instructional hour. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The answer key must reference the page number(s) containing the information on which each questions and correct answer is based. The answer key must be unique for each form of the examination. At least 70% of the questions on each form of the test shall be at the application level or higher. No more that 10% of the questions on each form of the test shall be at the knowledge level.

(e) In all Board approved continuing education courses by distance education, the institution, school, or entity shall provide to students an address, telephone number, or e-mail address of a Board approved instructor to answer inquires.

(f) Continuing education courses by distance education will be approved for 24 months at which point the course will expire unless submitted to the Board and approved for renewal. Courses may not be offered or distributed after the expiration date. However, a 15-day grace period beyond the expiration date will be allowed in order to grade an examination postmarked or otherwise received prior to the expiration date of the course. Students must be notified of the course expiration date upon receipt of the course materials.

Specific Authority 475.61 FS. Law Implemented 475.618 FS. History--New 10-15-95, Amended 9-6-98, 11-15-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Florida Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: October 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 9, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-27R

RULE CHAPTER NO.: 62-4.242 RULE CHAPTER TITLE:
Antidegradation Permitting
Requirements; Outstanding
Florida Waters; Outstanding
National Resource Waters;
Equitable Abatement

NOTICE OF RELOCATION OF HEARING

The Department of Environmental Protection announces the relocation of the rulemaking hearing for consideration of proposed amendments to Chapter 62-4, Florida Administrative Code, as part of the current triennial review of state surface water quality standards. The original notice of proposed rulemaking, published in the January 25, 2002 issue of the Florida Administrative Weekly, Vol. 28, No. 4, pages 295-296, and on the Department's web home page at <http://www.dep.state.fl.us/> stated that the proposed rule amendments were scheduled for consideration and possible adoption by the Florida Environmental Regulation Commission on February 28, 2002, at the Sheraton Hotel in West Palm Beach. The location of the adoption hearing has been moved. The proposed rule amendments are now scheduled for a hearing before the Environmental Regulation Commission at the time, date and place shown below:

TIME AND DATE: 9:00 a.m., February 28, 2002

PLACE: South Florida Water Management District, 3301 Gun Club Road, B-1 Auditorium, West Palm Beach, Florida 33406

The Department regrets any inconvenience this change in location may have caused. If you have any questions concerning this notice or the proposed rule amendments, please contact Eric Shaw, Department of Environmental Protection, Bureau of Watershed Management, 2600 Blair Stone Road, MS 3570, Tallahassee, Florida 32399-2400, telephone (850)921-9929.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 98-52R

RULE CHAPTER NO.: 62-302 RULE CHAPTER TITLE:
Surface Water Quality Standards

NOTICE OF RELOCATION OF HEARING

The Department of Environmental Protection announces the relocation of the rulemaking hearing for consideration of proposed amendments to Chapter 62-302 of the Florida Administrative Code as part of the current triennial review of state surface water quality standards. The original notice of

proposed rulemaking, published in the January 25, 2002 issue of the Florida Administrative Weekly, Vol. 28, No. 4, page 296, and on the Department's web home page at <http://www.dep.state.fl.us/> stated that the proposed rule amendments were scheduled for consideration and possible adoption by the Florida Environmental Regulation Commission on February 28, 2002, at the Sheraton Hotel in West Palm Beach. The location of the adoption hearing has been moved. The proposed rule amendments are now scheduled for a hearing before the Environmental Regulation Commission at the time, date and place shown below:

TIME AND DATE: 9:00 a.m., February 28, 2002

PLACE: South Florida Water Management District, 3301 Gun Club Road, B-1 Auditorium, West Palm Beach, Florida 33406

The Department regrets any inconvenience this change in location may have caused. If you have any questions concerning this notice or the proposed rule amendments, please contact Eric Shaw, Department of Environmental Protection, Bureau of Watershed Management, 2600 Blair Stone Road, MS 3570, Tallahassee, Florida 32399-2400, telephone (850)921-9929.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-37R

RULE CHAPTER NO.: 62-302 RULE CHAPTER TITLE:
Surface Water Quality Standards
RULE NO.: 62-302.540 RULE TITLE:
Everglades Protection Area
Phosphorus Criterion

NOTICE OF CONTINUATION OF HEARING

SUMMARY: The Department of Environmental Protection gives notice of the continuation of the rule adoption hearing for the adoption of the Everglades Protection Area Phosphorus Criterion, proposed Rule 62-302.540, F.A.C.

The Notice of Proposed Rulemaking was published in the December 28, 2001 issue of the Florida Administrative Weekly, Vol. 27, No. 52, at page 6110. On January 31, 2002, the Environmental Regulation Commission opened the hearing and approved an extended schedule of continuations of the hearing, to be held during future meetings. The next meeting and hearing continuation will occur on February 28, 2002, with subsequent meetings and hearing continuations to be held on March 21, 2002; April 25, 2002; May 30, 2002; June 27, 2002; August 29, 2002; September 26, 2002; and October 24, 2002. The expected final adoption date by the Environmental Regulation Commission is October 24, 2002.

The full text of this notice, which includes specific information about meeting times, locations and anticipated subject matter to be covered, is published on the Internet at the Department of

Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

For further information, please contact: Frank Nearhoof, Division of Water Resource Management, Everglades Technical Support Section, Mail Station 3560, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)921-9489.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 98-56R

RULE NO.: 62-532 RULE TITLE: Water Well Permitting and Construction Requirements
NOTICE OF CHANGE

The proposed rule was noticed in Vol. 28, No. 1, Florida Administrative Weekly.

SUMMARY: As a result of the public hearing, the Department has made changes to Rule Chapter 62-532, Water Well Permitting and Construction Requirements. The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-2.006 RULE TITLE: Examiners for Practical Examination
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 45, November 9, 2001, Florida Administrative Weekly has been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE RULE WITHDRAWAL IS: Joe Baker, Jr., Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.002 RULE TITLE: Penalties
NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule, as published in Vol. 27, No. 45, November 9, 2001, issue of the Florida Administrative Weekly. The changes are in response to comments received from the staff of the Joint Administrative Procedures Committee and comments provided

during the February 1, 2002, telephone conference call. Subsections (1)(a),(c),(d),(e),(2)(a),(b),(d),(e),(i),(j),(k),(q),(v), and (x) of the rule shall now read as follows:

(1)(a) Practicing or attempting to practice podiatric medicine or advertising podiatric services in this State without an active license to practice podiatric medicine pursuant to Chapter 461, Florida Statutes, or with a license fraudulently obtained. In the case of an applicant, the Board shall deny the application. In the case of a licensee who has obtained or attempted to obtain a license by fraud, the Board shall impose probation to revocation and a fine of \$1000 to \$10,000, depending on the severity of the act. In the case of a licensee who has practiced, attempted to practice, or advertised while holding an inactive license, the Board shall impose a reprimand with or without a period of suspension and a fine of \$1000 to \$5000.

(c) Selling or fraudulently obtaining or furnishing any podiatry diploma, license, or record of registration or aiding or abetting in the same. The Board in the case of a licensee shall impose a penalty ranging from suspension to revocation and a fine of \$1000 to \$10,000. In the case of an applicant, the Board shall deny the application.

(d) Making any willfully false oath or affirmation whenever an oath or affirmation is required by Chapter 461, Florida Statutes. The Board in the case of licensee shall impose a penalty ranging from suspension to revocation and a fine of \$2000 to \$10,000. In the case of an applicant, the Board shall deny the application.

(e) Using the name or title “Podiatrist,” “Doctor of Podiatry,” “Doctor of Podiatric Medicine,” or using the phrase “foot clinic,” “foot doctor,” “Podiatric Technician,” or any other name, title, or phrase which would lead the public to believe that such person is engaging in the practice of podiatric medicine, unless such person is licensed as a podiatrist in this State. The Board in the case of a licensee shall impose a penalty ranging from a reprimand to suspension, and a fine of \$1000 to \$10,000. In the case of an applicant, the Board shall deny the application.

(2)(a) Attempting to obtain, obtaining or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board. In the case of an applicant, the Board shall deny the application. In the case of a licensee, the Board shall impose a penalty of a reprimand to suspension and a fine of \$500 to \$10,000, based on the severity of the offense.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. In the case of a licensee, the Board shall impose a penalty that parallels the action taken by the other jurisdiction and a fine from \$250 to \$10,000, depending upon the nature of the offense and the substantiating evidence. In the case of an applicant, the Board shall deny the application.

(d) Advertising in a manner which is false, deceptive or misleading. The Board shall impose a penalty ranging from reprimand to probation and a fine from \$1000 to \$5000.

(e) Advertising, practicing or attempting to practice under a name other than one's own. The Board shall impose a penalty ranging from reprimand to suspension and a fine from \$1000 to \$5000.

(i) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed podiatrist. If negligent, the Board shall impose a penalty ranging from reprimand to probation and a fine of \$2500 to \$10,000. If fraud, the Board shall impose a penalty ranging from probation to revocation and a fine of \$10,000.

(j) Paying or receiving any commission, bonus, kickback, rebate or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The Board shall impose a penalty ranging from reprimand to suspension and a fine of \$1000 to \$10,000.

(k) Making misleading, deceptive, untrue or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community. The Board shall impose a penalty ranging from probation to suspension and a fine of \$500 to \$10,000.

(q) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatrist to himself except those prescribed, dispensed or administered to the podiatrist by another practitioner authorized to prescribe, dispense or administer them. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$10,000.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$5000, depending on the severity of the offense.

(x) Violating any provision of Chapter 461 or 456, Florida Statutes, or any rule of the Board or Department. The Board shall impose a penalty ranging from reprimand to revocation and a fine of \$1000 to \$10,000, depending on the severity of the offense.

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

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE NO.:
64B20-7.001

RULE TITLE:
Disciplinary Guidelines

NOTICE OF CHANGE

Notice is hereby given that the attached changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 46, November 16, 2001 issue of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

(Substantial rewording of Rule 64B20-7.001 follows. See Florida Administrative Code for present text.)

64B20-7.001 Disciplinary Guidelines.

(1) Purpose. The Legislature created the Board to assure protection of the public from persons who do not meet minimum requirements for safe practice or who pose a danger to the public. Pursuant to 456.079, F.S., the Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 468, Part I, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; multiple counts of the violated provisions or a combination of the violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) The range of penalties including any and all in Section 456.072(2), F.S., is:

(a) Denial of an application for licensure with conditions to be met prior to any re-application.

(b) Revocation or Permanent Revocation, with no or limited ability to re-apply or suspension of a license.

(c) Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense and costs of investigation and prosecution.

(d) Issuance of a Letter of concern, remedial education, and/or refund of fees billed.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify to assure protection of the public, including requiring the speech-language pathologist or audiologist to attend continuing education courses or to work under the supervision of another licensed speech-language pathologist or audiologist.

(f) Restriction of the authorized scope of practice.

(3) Any individual who had their license revoked by this Board, and has complied with all of the disciplinary terms and conditions set forth in the final order, shall apply for initial license by satisfying the requirements as specified in Section 468.1185, F.S.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refunds of fees billed and collected from the patient or a third party on behalf of the patient.

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) <u>Procuring or attempting to procure, or renew a license by misrepresentation, bribery, fraud or through an error of the Department or the Board.</u> (468.1295(1)(a), F.S.); (456.072(1)(h), F.S.)	(a) <u>From suspension to revocation of the license and an administrative fine of \$10,000.00.</u>	(a) <u>From suspension to revocation of the license and an administrative fine of \$10,000.00.</u>	(a) <u>From revocation, without the ability to reapply, and an administrative fine of \$10,000.00.</u>
(b) <u>Action taken against license by another jurisdiction.</u> (468.1295(1)(b), F.S.) (456.072(1)(f), F.S.)	(b) <u>Imposition of discipline which would have been if the substantive violation occurred in Florida up to suspension/denial until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken and a \$10,000.00 administrative fine.</u>	(b) <u>Imposition of discipline which would have been if the substantive violation occurred in Florida up to revocation until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken and a \$10,000.00 administrative fine.</u>	(b) <u>Revocation and a \$10,000 administrative fine.</u>
(c) <u>Guilty of a crime directly related to the ability to practice speech pathology or audiology.</u> (468.1295(1)(c), F.S.); (456.072(1)(l), F.S.)	(c) <u>From 6 months probation with conditions to 1 year suspension and an administrative fine ranging from \$1,000.00 \$5,000.00, or refusal to certify an application for licensure.</u>	(c) <u>From 1 year suspension of the license to revocation and an administrative fine ranging from \$5,000.00 to \$10,000, or refusal to certify an application for licensure.</u>	
(d) <u>Filing a false report or failing to file a report as required. Such reports or records shall include only those which the person is required to make or file as a speech pathologist or audiologist.</u> (468.1295(1)(d), F.S.)	(d) <u>From a letter of concern to reprimand of the license, and an administrative fine of \$10,000.00.</u>	(d) <u>From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u>	(d) <u>From probation to suspension of the license, and an administrative fine of \$10,000.00.</u>

<u>(e) False, deceptive, or misleading advertising. (468.1295(1)(e), F.S.).</u>	<u>(e) From a letter of concern to 6 months suspension of the license, and an administrative fine of \$10,000.00.</u>	<u>(e) From 6 to 9 months suspension of the license, and an administrative fine of \$10,000.00.</u>	<u>(e) From 9 months suspension to revocation of the license, and an administrative fine of \$10,000.00.</u>
<u>(f) Fraud or deceit, or negligence, incompetence, or misconduct in the authorized practice of speech pathology or audiology. (468.1295(1)(f), F.S.).</u>	<u>(f) From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u>	<u>(f) From probation to suspension of the license, and an administrative fine of \$10,000.00.</u>	<u>(f) From suspension to revocation of the license, and an administrative fine of \$10,000.00.</u>
<u>(g)I. Violation or repeated violation of Chapter 468, Part I or Chapter 456, or any rules promulgated pursuant thereto, or a subpoena of the Department. (468.1295(1)(g),(i),F.S.) (456.072(1)(b),(q),F.S.)</u>	<u>(g)I. From reprimand to suspension of the license, and an administrative fine ranging from \$1,000 to \$3,000.00, or refusal to certify an application for licensure.</u>	<u>(g)I. From probation to revocation of the license, and an administrative fine ranging from \$3,000.00 to \$6,000.00, or refusal to certify an application for licensure.</u>	<u>(g)I. From suspension to revocation of the license, and an administrative fine ranging from \$6,000.00 to \$10,000.00, or refusal to certify an application for licensure.</u>
<u>2. Violation of a lawful order of the Board or Department.</u>	<u>2. From a letter of concern to reprimand of the license, and an administrative fine ranging from \$1,000.00 to \$3,000.00, or refusal to certify an application for licensure.</u>	<u>2. From probation to suspension of the license, and an administrative fine ranging from \$3,000.00 to \$5,000.00, or refusal to certify an application for licensure.</u>	<u>2. From suspension to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.</u>
<u>(h) Practicing with a revoked, suspended, inactive or delinquent license. (468.1295(1)(h), F.S.).</u>	<u>(h) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$1,000.00, or refusal to certify an application for licensure.</u>	<u>(h) From probation to suspension of the license and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure.</u>	<u>(h) From suspension to revocation, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.</u>
<u>(i) Using, promoting any testimonial, promotional literature, any advertising matter, warranty, label, brand however disseminated or published which is misleading, deceiving or untruthful. (468.1295(1)(j), F.S.).</u>	<u>(i) From reprimand to suspension of the license, and an administrative fine of \$10,000.00.</u>	<u>(i) From probation to suspension, and an administrative fine of \$10,000.00.</u>	<u>(i) From suspension to revocation, and an administrative fine of \$10,000.00.</u>
<u>(j) Showing or demonstrating or, in the event of sale, delivery or a product unusable or impractical for the purpose represented or implied by such action. (468.1295(1)(j), F.S.).</u>	<u>(j) From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u>	<u>(j) From probation to suspension of the license, and an administrative fine of \$10,000.00.</u>	<u>(j) From suspension to revocation of the license and an administrative fine of \$10,000.00.</u>

<p><u>(k) Failure to maintain and have available for inspection by the Agency certification for the testing and calibration of any audiometric testing equipment designated by the Board covering the current year as well as the three (3) years prior.</u> <u>(468.1295(1)(5), F.S.).</u></p>	<p><u>(k) From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.</u></p>	<p><u>(k) From probation to suspension, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(k) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(l) Aiding, assisting, procuring, or advising any licensed person to practice speech-language pathology or audiology contrary to this part or to a rule of the Department or the Board adopted thereto.</u> <u>(468.1295(1)(l), F.S.).</u></p>	<p><u>(l) From a reprimand to probation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(l) From probation to suspension of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(l) From suspension to revocation of the license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(m) Misrepresentation of professional services available in the fitting, sale, adjustment, service or repair of a hearing aid, or use of any other term or title connoting availability of professional services when such use is not accurate.</u> <u>(468.1295(1)(m), F.S.);</u> <u>(456.072(1)(i), F.S.).</u></p>	<p><u>(m) From a letter of concern to probation of the license, and an administrative fine \$10,000.00.</u></p>	<p><u>(m) From probation to suspension of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(m) From suspension to revocation of the license and an administrative fine of \$10,000.00.</u></p>
<p><u>(n) Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of the conditions or limitations imposed upon the guarantee.</u> <u>(468.1295(1)(n), F.S.);</u> <u>(456.072(1)(n), F.S.).</u></p>	<p><u>(n) From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(n) From probation to revocation of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(n) From suspension to revocation and an administrative fine of \$10,000.00.</u></p>

<p><u>(o) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as absence of anything in the ear or leading to the ear, or the like, without disclosing clearly or conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.</u> (468.1295(1)(o), F.S.).</p>	<p><u>(o) From letter of guidance to suspension of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(o) From suspension to revocation of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(o) From suspension to revocation of the license, without the ability to reapply, and an administrative fine of \$10,000.00.</u></p>
<p><u>(p) Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.</u> (468.1295(1)(p), F.S.).</p>	<p><u>(p) From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(p) From probation to suspension of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(p) From suspension to revocation of the license, and an administrative fine of \$10,000.00.</u></p>
<p><u>(q) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.</u> (468.1295(1)(q), F.S.);</p>	<p><u>(q) From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.</u></p>	<p><u>(q) From probation to revocation of the license, and an administrative fine ranging from \$750.00 to \$900.00, or refusal to certify an application for licensure.</u></p>	<p><u>(q) From suspension to revocation of the license, and an administrative fine ranging from \$900.00 to \$1,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(r) Representing or implying that hearing aid is or will be “custom-made,” “made to order,” or “prescription-made” or in any other sense specially fabricated for an individual person, when such is not the case.</u> (468.1295(1)(r), F.S.);</p>	<p><u>(r) From reprimand to probation of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(r) From probation to suspension of the license, and an administrative fine of \$10,000.00.</u></p>	<p><u>(r) From suspension to revocation of the license, and an administrative fine of \$10,000.00.</u></p>
<p><u>(s) Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.</u> (468.1295(1)(s), F.S.);</p>	<p><u>(s) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(s) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.</u></p>	<p><u>(s) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.</u></p>

<p><u>(t) Failing to notify the department in writing of a change in current mailing and place-of-practice mailing address within thirty (30) days after such change.</u> (468.1295(1)(t))</p>	<p><u>(t) Letter of guidance to reprimand of license and an administrative fine of \$250.00 to \$500.00.</u></p>	<p><u>(t) Reprimand to probation of license and an administrative fine of \$500.00 to \$750.00.</u></p>	<p><u>(t) Reprimand to suspension of license and an administrative fine of \$750.00 to \$1,000.00.</u></p>
<p><u>(u) Failure to provide all information as described in Section 468.1245(1), 468.1225(5)(b) and 468.1246.</u> (468.1295(1)(u))</p>	<p><u>(u) From a letter of guidance to reprimand of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(u) From reprimand to probation of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(u) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(v) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.</u></p>	<p><u>(v) Reprimand of the license, and an administrative fine ranging from \$500.00 to \$3,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(v) Probation of the license, and an administrative fine ranging from \$3,000.00 to \$6,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(v) Six month suspension, and an administrative fine ranging from \$6,000.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(w) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.</u> (468.1295(1)(w))</p>	<p><u>(w) From reprimand to suspension of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(w) From probation to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(w) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(x) Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.</u> (468.1295(1)(x))</p> <p><u>Should the violator be an unlicensed person, the Board will request the Department to enter a cease and desist order.</u></p>	<p><u>(x) From a reprimand to probation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(x) From probation to suspension of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(x) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>
<p><u>(y) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience and authorization to perform them.</u> (468.1295(1)(y))</p>	<p><u>(y) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u></p>	<p><u>(y) From reprimand to suspension of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u></p>	<p><u>(y) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u></p>

<u>(z) Committing any act upon a patient or client which would constitute sexual batter or which would constitute sexual misconduct as defined pursuant to section 468.1296. (468.1295(10)(z))</u>	<u>(z) From reprimand to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u>	<u>(z) From probation to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u>	<u>(z) From suspension to revocation of license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u>
<u>(aa) Impairment under 456.076, Florida Statutes. (468.1295(1)(aa))</u>	<u>(aa) Referral to Physicians Recovery Network (PRN) up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.</u>	<u>(aa) Referral to PRN up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.</u>	<u>(aa) Referral to PRN up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.</u>
<u>(bb) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto. (468.1295(1)(bb))</u>	<u>(bb) From a reprimand to probation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.</u>	<u>(bb) From probation to suspension of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.</u>	<u>(bb) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.</u>

Specific Authority 468.1135(4) FS. Law Implemented 456.063, 456.072, 456.076, 468.1295, 468.1296 FS. History—New 2-7-91, Amended 11-9-92, Formerly 21LL-7.001, 61F14-7.001, Formerly 59BB-7.001, Amended 10-25-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Speech-Language and Audiology
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language and Audiology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 398, SHOPPING SPREE
SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 398, “SHOPPING SPREE,” for which the Department of the Lottery will start selling tickets on a date

RULE NO.: 53ER02-6

to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prizewinners and the number and size of prizes in the game.
THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER02-6 Instant Game Number 398, SHOPPING SPREE.

(1) Name of Game. Instant Game Number 398, “SHOPPING SPREE.”

(2) Price. SHOPPING SPREE lottery tickets sell for \$1.00 per ticket.

(3) SHOPPING SPREE lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number (VIRN) under the latex area on the ticket. To be a valid winning SHOPPING SPREE lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the