

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

(5) No change.

Specific Authority 459.005, 459.022, 458.347(7) FS. Law Implemented 120.53(1)(a), 456.013, 456.031, 456.033, 459.022 FS. History—New 10-18-77, Formerly 21R-6.03, Amended 10-28-87, 4-21-88, 4-18-89, 9-26-90, 5-20-91, 10-28-91, 3-16-92, Formerly 21R-6.003, Amended 11-4-93, 3-29-94, Formerly 61F9-6.003, Amended 2-1-95, Formerly 59W-6.003, Amended 6-7-98, 3-10-02,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Application for Licensure  
 RULE NO.: 64B15-12.003

PURPOSE AND EFFECT: The Board proposes to discuss this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Application for licensure.

SPECIFIC AUTHORITY: 456.033(6), 459.005, 459.0055 (1)(i) FS.

LAW IMPLEMENTED: 456.033(6), 459.0055, 459.006, 459.007 FS.

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

TIME AND DATE: 6:00 p.m., March 15, 2002

PLACE: The Nova Southeastern University, Student Assembly Auditorium, 3200 South University Drive, Ft. Lauderdale, Florida

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-12.003 Applications for Licensure.

(1) No change.

(2) Applicants for licensure examination must have their application forms and fees submitted and received by the Board office and all information and documentation complete at least 30 days before the scheduled Board meeting in order to be considered by the Board. Applicants making initial application for licensure shall complete an educational course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. Any applicant who has not completed the course at the time of licensure, shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(3) No change.

Specific Authority 456.033(6), 459.005, 459.0055(1)(i) FS. Law Implemented 456.033(6), 459.0055, 459.006, 459.007 FS. History—New 6-4-91, Formerly 21R-12.003, 61F9-12.003, Amended 10-15-95, Formerly 59W-12.003, Amended 9-26-00,\_\_\_\_\_.

**Section II  
 Proposed Rules**

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLES:	RULE NOS.:
Certificate of Authority; Financial Requirements	3F-5.0016
Applications for Certificate of Authority	3F-5.002
Application for Transfer of a Certificate of Authority	3F-5.0022
Procedures for Licensing a New Cemetery	3F-5.004
Procedure for Licensing Existing Cemeteries	3F-5.005
Procedure for Licensing Transferred Cemeteries	3F-5.006
Conversion Procedures	3F-5.007
Request for Additional Information – Applications	3F-5.008
Regulatory Standards for Evaluating Applications by the Board	3F-5.009

PURPOSE AND EFFECT: The Board proposes to update these rules to incorporate updated forms and remove or replace obsolete language. Rule 3F-5.0016, F.A.C., is being amended to clarify that when an applicant does not have sufficient net worth, liquid assets or sufficient long-term assets, the Department may request additional financial information in an effort to verify that the assets are available. Rule 3F-5.008, F.A.C., is being amended to add Rule 3F-5.009, F.A.C., to the cited rules that provide methods, procedures, and supporting documentation for the licensing of new cemeteries, existing cemeteries, transferred cemeteries and for conversion procedures. This amendment also adds the Board of Funeral and Cemetery Services along with the department with authority to deny an application in accordance with Section 120.60(2), F.S.

SUMMARY: Rule 3F-5.0016, F.A.C., sets forth the financial requirements that must be met and maintained in order to operate as a certificate of authority, Rule 3F-5.002, F.A.C., sets out the requirements for obtaining a certificate of authority, Rule 3F-5.0022, F.A.C., sets out the requirements for transfer of a certificate of authority, Rule 3F-5.004, F.A.C., sets forth the procedures for licensing a new cemetery, Rule 3F-5.005, F.A.C., sets out the procedures for licensure of an existing cemetery, Rule 3F-5.006, F.A.C., sets forth the requirements for licensure of a transferred cemetery; Rule 3F-5.007, F.A.C., sets forth the procedures/requirements for a non-profit association cemetery to become a cemetery company, Rule 3F-5.008, F.A.C., sets out the time limits, methods, procedures, and supporting documents for conversion procedures when additional information is required for

applications for licensure. Rule 3F-5.009, F.A.C., sets forth the regulatory standards for evaluation of applicants applying to organize and operate a new cemetery company.

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

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

SPECIFIC AUTHORITY: 497.103, 497.407(1) FS.

LAW IMPLEMENTED: 497.103, 497.201, 497.209, 497.213, 497.237, 497.245, 497.301, 497.337, 497.405, 497.407 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A NOTICE OF HEARING DATE WILL BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):

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

THE FULL TEXT OF THE PROPOSED RULES IS:

3F-5.0016 Certificate of Authority; Financial Requirements.

(1) No change.

(2) A Certificate of Authority holder or applicant must submit its most recent year-end financial statements (including a balance sheet and income statement), with the Certificate of Authority application and annually thereafter as provided in Section 497.407(1), F.S. The financial statements must be prepared in accordance with generally accepted accounting principles (GAAP) as those principles have been defined by the Florida Board of Accountancy in Chapter 61H1-20, F.A.C. If the applicant does not have the minimum net worth as set forth in section three (3) or lacks sufficient liquid assets to satisfy current liabilities or does not appear to have any substantial long-term assets, the Department may request additional financial information including, but not limited to ~~The financial statements may omit~~ notes to financial statements and the statement of cash flows.

(3) through (6) No change.

Specific Authority 497.103 FS. Law Implemented 497.405, 497.407 FS. History--New 5-21-95, Amended 12-7-98, 10-18-99, 12-12-00,\_\_\_\_\_.

3F-5.002 Application for Certificate of Authority.

(1) Each entity desiring to obtain a certificate of authority shall apply to the Board by submitting the following:

(a) A completed application for Certificate of Authority, Form DBF-COA-1, effective February 7, 1995, and a Historical Sketch ~~of Principals~~, Form DBF-HistS 7/01,

incorporated herein by reference, effective \_\_\_\_\_, DBF-HS-1 effective April 25, 1994, which are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, The Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350. The application and historical sketch must be completed and signed within thirty (30) days prior to receipt by the Board; and

(b) No change.

(2) The Historical Sketch ~~of Principals~~ shall be completed by any person with power to direct the management or policies of the applicant.

(3) through (5)(c) No change.

Specific Authority 497.103, 497.407(1) FS. Law Implemented 497.405, 497.407 FS. History--New 4-25-94, Amended 2-7-95, 12-12-00,\_\_\_\_\_.

3F-5.0022 Applications for Transfer of a Certificate of Authority.

(1) When an entity which holds a certificate of authority changes ownership it shall cease operating under the certificate of authority. The successor owner may apply to transfer the COA and obtain a temporary certificate of authority to continue to operate. To be eligible to transfer a certificate of authority the successor entity must apply for a transfer within thirty (30) ~~30~~ days of the change in ownership by submitting the following to the Board of Funeral and Cemetery Services:

(a) A completed application for Transfer of a Certificate of Authority, Form DBF-COAT1, effective 5-13-97, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, The Fletcher Building, 101 East Gaines Street, ~~Suite 550~~, Tallahassee, Florida 32399-0350, and, for each principal, a Historical Sketch, as referenced in Rule 3F-5.002, F.A.C. of Principals, Form DBF-HS1, effective 4-25-94, which has been incorporated in Rule 3F-5.002, F.A.C. The application and historical sketch(es) must be completed and signed within thirty (30) days prior to receipt by the Board;

(b) A non-refundable application fee of \$100, which shall be the fee for the remainder of the annual license period in which the application is approved; and

(c) Financial statements documenting compliance with Rule 3F-5.0016, F.A.C.

(2) The Historical Sketch ~~of Principals~~ shall be completed by any person with power to direct the management or policies of the applicant.

(3) through (8) No change.

Specific Authority 497.103(1) FS. Law Implemented 497.407(11) FS. History--New 5-13-97, Amended\_\_\_\_\_.

3F-5.004 Procedures for Licensing a New Cemetery.

(1) Any legal entity wishing to establish a cemetery should review the requirements of the Florida Cemetery Act (Chapter 497, F.S.) ~~Florida Statutes~~ and applicable rules and

regulations before filing a formal application for permission to start a cemetery in the State of Florida. The following should then be completed and submitted to the Board:

(a) Application To Organize A New Cemetery Company, Form DBF CEMN 7/01, incorporated herein by reference, DBF-F-34, effective \_\_\_\_\_; ~~October 23, 1991, which is hereby incorporated by reference;~~

(b) Historical Sketch, as referenced in Rule 3F-5.002, F.A.C.; Of Proponents, Form DBF-F-31, effective ~~October 23, which is hereby incorporated by reference;~~

(c) Current Financial Statement of each proponent, Form DBF-F-32 10/91, effective October 23, 1991, which is hereby incorporated by reference, ~~of each proponent;~~

(d) through (f) No change.

(g) A non-refundable application fee in the amount of \$5,000. Upon receipt of the above-completed documents and application fee, the Department will conduct an investigation; ~~to determine the need for a new cemetery.~~

~~(2) If the Department determines a need for a cemetery in the area of the proposed site as required by Section 497.201(3), F.S., the applicant shall be notified that the following additional information must be prepared and submitted:~~

(a) through (c) renumbered (h) through (j) No change.

~~(d) Written approval from the Local Board of Health or other such agency having jurisdiction;~~

~~(e) A certified report from a registered testing laboratory establishing the water table of the property;~~

~~(f) Designation of a general manager who shall be a person of good moral character having not less than one year's experience in the cemetery business in Florida.~~

~~(2)(3) If the application a certificate of authorization is approved, issued the following will be required:~~

(a) No change.

(b) Certification from Trustee of deposit of \$50,000 ~~\$25,000~~ in "Care and Maintenance Trust Fund";

(c) Designation of a general manager Establishment of a "Merchandise Trust Fund";

(d) Certification from an Attorney or Title Company that the proposed acreage is free and clear from any financial encumbrances and submit a copy of deed showing notice required by Section 497.201, 006, F.S., has been recorded;

(e) No change.

(f) Completion Of An Application To Transact Cemetery Business, Form ~~DBF-F-33~~ DBF-CEM 1/96, Rev. 7/01, incorporated herein by reference, effective \_\_\_\_\_, ~~October 23, 1991, which is hereby incorporated by reference~~ and a license fee of \$250, refundable if license is not issued;

(g) through (h) No change.

~~(4) Criteria for licensing a new cemetery.~~

~~(a) In making its determination as to the need for an additional cemetery company for the general benefit of the public, the Department shall not increase the available inventory of burial spaces beyond the expected need for a period of 30 years from the date of application.~~

~~(b) In the investigation to determine need for a new cemetery the Department shall consider the following criteria: The population, its rate of growth, the death rate, and the ratio of burials to deaths shall be determined from latest statistical information available for the community in which the proposed cemetery is to be located.~~

~~(3)(5) All forms herein are hereby incorporated by reference and available by mail from The Department of Banking and Finance, Division of Securities and Financial Services, Finance, Suite 553, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350.~~

Specific Authority 497.103 FS. Law Implemented 497.201, 497.237, 497.245, 497.337 FS. History-New 9-29-75, Amended 6-21-77, 6-21-78, 11-2-78, Formerly 3D-30.15, Amended 10-23-91, Formerly 3D-30.015, Amended 12-8-98,\_\_\_\_\_.

3F-5.005 Procedure for Licensing Existing Cemeteries.

Existing cemeteries at the time of the 1959 adoption of the Florida Cemetery Act shall continue in full force and effect but shall file the following with the Board:

(1) through (4) No change.

(5) Historical Sketch of each proponent, as referenced in Rule 3F-5.002, F.A.C., Of Proponents, Form DBF-F-31, effective \_\_\_\_\_, ~~October 23, 1991, which is hereby incorporated by reference, of each proponent.~~

(6) through (8) No change.

Specific Authority 497.103 FS. Law Implemented 497.103, 497.301, 497.237, 497.213 FS. History-New 9-29-75, Amended 11-2-78, 1-27-81, Formerly 3D-30.16, Amended 10-23-91, Formerly 3D-30.016, Amended\_\_\_\_\_.

3F-5.006 Procedure for Licensing Transferred Cemeteries.

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

(c) Historical Sketch of each proponent, as referenced in Rule 3F-5.002, F.A.C.; Of Proponents, Form DBF-F-31, effective ~~October 23, 1991, which is hereby incorporated by reference, of each proponent;~~

(d) through (g) No change.

(3) through (6) No change.

(7) All forms herein are ~~hereby incorporated by reference~~ and available by mail from The Department of Banking and Finance, Division of Finance, Fletcher Building, 101 East Gaines Street, ~~Suite 550~~, Tallahassee, Florida 32399-0350.

Specific Authority 497.103 FS. Law Implemented 497.201(1), 497.209 FS. History-New 9-29-75, Amended 11-2-78, 1-27-81, Formerly 3D-30.17, Amended 10-23-91, Formerly 3D-30.017, Amended 9-18-01,\_\_\_\_\_.

3F-5.007 Conversion Procedures.

When a municipal, church owned, fraternal or community and non-profit association cemetery converts to a cemetery company as defined in Section 497.005, F.S., then said cemetery shall file the following with the department:

(1) through (6) No change.

(7) Historical Sketch of each proponent, as referenced in Rule 3F-5.002, F.A.C. Of Proponents, Form DBF-F-31, effective October 23, 1991, which is hereby incorporated by reference, of each proponent.

(8) through (11) No change.

(12) All forms herein are ~~hereby incorporated by reference~~ and available by mail from The Department of Banking and Finance, Division of Finance, ~~Suite 553~~, Fletcher Building, Tallahassee, Florida 32399-0350.

Specific Authority 497.103 FS. Law Implemented 497.201, 497.213 FS. History—New 9-29-75, Amended 1-27-81, Formerly 3D-30.19, Amended 10-23-91, Formerly 3D-30.019, Amended \_\_\_\_\_.

3F-5.008 Request for Additional Information – Applications.

Rules 3F-5.004, 3F-5.005, 3F-5.006, ~~and~~ 3F-5.007, and 3F-5.009, F.A.C., provide methods, procedures and supporting documentation for the licensing of new cemeteries, existing cemeteries, transferred cemeteries and for conversion procedures. All information the applicant wants to present in order to support the application should be submitted with the original filing. The required exhibits in the application forms are not intended to limit the applicant’s presentation of any of the requirements, but merely represent the minimum information to be filed. Additional information must be submitted within ~~sixty (60) 60~~ days after a request ~~therefor~~ therefore if specifically requested by the department within ~~thirty (30) 30~~ days after receipt of the application. Failure to respond to such request within ~~sixty (60) 60~~ days after the date of the request ~~will may~~ be construed by the department and the Board of Funeral and Cemetery Services as grounds for denial of an application in accordance with the provisions of Section 120.60(2), F.S. Florida Statutes, and the file may be closed, unless good cause is shown that it remain open. Should the file be closed pursuant to these provisions, the applicant shall be duly notified. (See Rule 3-3.012(1)(a) and (3), F.A.C.)

Specific Authority 497.103 FS. Law Implemented 120.60(2), 497.201(2)(a), 497.209 FS. History—New 12-22-81, Formerly 3D-30.29, 3D-30.029, Amended \_\_\_\_\_.

3F-5.009 Regulatory Standards for Evaluating Applications by the Board.

(1) When an application for authority to organize and operate a new cemetery company is filed, it is the applicant’s responsibility to meet the statutory criteria warranting the grant of authority. ~~The Department shall conduct an investigation pursuant to Section 497.201(2), Florida Statutes, and report its findings to the Board.~~ If, in the opinion of the Board, any one of the criteria as set forth in Section 497.201, F.S., Florida

~~Statutes~~, which requires board review and approval has not been met and cannot be remedied by the applicant, the Department cannot approve the application.

The applicant shall submit information addressing the following:

(a) through 2. No change.

3. An applicant shall demonstrate that it has sufficient capital to sustain its operations until its first projected profitable year. Sufficient capital shall mean that the applicant is able to cover its cumulative losses until projected profitability; provided that, in no event may the tangible accounting net worth of the applicant be less than \$50,000. The demonstration of sufficient capital shall be made by submittal of a reasonable business plan covering every year from inception up to and including its first projected year of profitability and providing:

a. through c. No change.

4. If the Board determines that capital may not be sufficient to provide adequate care and maintenance of the cemetery grounds or to maintain overall financial stability, the Board may require the application to provide a performance bond in an amount determined by the Board. The performance bond should be made payable to the Department and should be maintained until the first year of profitability.

5. The Department shall claim the bond upon placing the cemetery company into receivership.

(b) Proposed executive officers, directors or principals.

1. The proposed officers, directors or principals shall each submit an executed Historical Sketch, ~~Form DBF-HS-1, effective as referenced in Rule 3F-5.002, F.A.C., 4/25/94, which has been incorporated in Rule 3F-5.002, F.A.C.,~~ and shall have reputations evidencing honesty and integrity. They shall have employment and business histories demonstrating their responsibility in financial affairs. The fact that a proposed officer, director or principal has been adjudicated bankrupt or has filed for relief under the Federal Bankruptcy Act shall be considered a material factor in the evaluation of responsibility in financial affairs.

2. No change.

3. The proposed general manager shall have at least three (3) years ~~1 year~~ of direct cemetery management experience within seven (7) 7 years of the application as a general manager, director, regulator of a cemetery or similar position having an equivalent level of responsibility for a cemetery. The general manager must have a reputation evidencing honesty and integrity and an employment history demonstrating competent past experience. It is not necessary that the name of the general manager be submitted with the application. However, this individual must be named and have submitted an executed Historical Sketch, as referenced in Rule 3F-5.002, F.A.C. Form DBF-HS-1, not later than ninety (90) days prior

to applicant's intended opening date. The applicant may not open for business without prior approval of the general manager by the Department.

4. through 5. No change.

Specific Authority 497.103 FS. Law Implemented 497.201 FS. History--New 7-22-97, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral and Cemetery Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2001 and December 28, 2001

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Assessment of Limited English Proficient Students

RULE NO.: 6A-1.09432

PURPOSE AND EFFECT: The purpose of this proposed new rule is to both guarantee the participation of limited English proficient (LEP) students in the statewide assessment testing program and to establish the appropriate instructional decisions that are to follow from the test results of LEP students, collectively and individually.

SUMMARY: This rule addresses the participation of limited English proficient students in the statewide assessment testing program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 232.245(2)(b) FS.

LAW IMPLEMENTED: 232.245 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., March 26, 2002

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, 400 South Monroe Street, Tallahassee, Florida 32399-0400, (850)413-0555

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09432 Assessment of Limited English Proficient Students.

(1) All students classified as limited English proficient (LEP) must participate in the statewide assessment program, prescribed in Section 229.57, Florida Statutes. There is no categorical exemption from participation in the statewide assessment program for LEP students.

(2) An exemption from participation in any component of the statewide assessment program for an individual LEP student may only be made by specific action of a LEP committee as defined in subsection 6A-6.0901(5), FAC., and only for a student whose date of classification as LEP falls within one (1) year prior to the assessment date.

(a) The LEP committee, in making its decision, shall consider the following factors:

1. Level of mastery of basic competencies or skills in English and home language according to appropriate local, state, and national criterion-referenced standards;

2. Grades from the current or previous years; or

3. Other test results.

(b) The LEP committee shall exempt a LEP student from participation in a component of the statewide assessment program if it determines that the student's participation would have an unsound instructional effect on the student.

(3) The use of LEP assessment data for school grading purposes shall be as stated in Rule 6A-1.09981, FAC.

(4) LEP assessment data shall be used by school districts and schools to evaluate the effectiveness of their instructional programs for LEP students and to follow-up such evaluations with appropriate adjustments, modifications, and improvements of the district's and the school's LEP programs. The district's LEP plan, pursuant to Section 233.058, Florida Statutes, and Rule 6A-6.0905, FAC., shall be revised whenever substantive changes in the district's LEP program are required.

(5) Assessment results of individual students shall be used by schools to evaluate the progress of individual students. When indicated, such evaluations shall result in appropriate adjustments, modifications, and improvements of each individual LEP student plan, pursuant to Rules 6A-6.0901, 6A-6.0902, and 6A-6.0903, FAC. A LEP committee shall be convened whenever substantive changes in an individual LEP student plan are required.

(6) No promotion or retention decision may be made for any individual student classified as LEP based solely on a score on any single assessment instrument, whether such assessment instrument is part of the statewide assessment program or of a particular district's formal assessment process. A formal retention recommendation regarding a LEP student may be made through action of a LEP committee.

Specific Authority 232.245(2)(b) FS. Law Implemented 232.245 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 1, 2002

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Cooperative Projects and Activities
PURPOSE AND EFFECT: This rule authorizes district school boards to establish educational consortia which are designed to provide joint programs and services to cooperating school districts. The proposed rule change incorporates new standards in generally accepted accounting principles relative to the fund type used to account for consortia activities.

RULE NO.: 6A-1.099

SUMMARY: The fund type required to be used to account for consortia activity is revised from an internal service fund to the appropriate proprietary fund as determined by generally accepted accounting principles.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 229.053(1), 230.23(4)(j),(12) FS.
LAW IMPLEMENTED: 229.053(2)(h),(i),(j), 230.23(4)(j), (12) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., March 26, 2002
PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeanine Blomberg, Director, Division of Support Services, 325 West Gaines Street, Room 814, Tallahassee, Florida 32399-0400, (850)488-6023

THE FULL TEXT OF THE PROPOSED RULE IS:

- 6A-1.099 Cooperative Projects and Activities.
(1) through (2)(d) No change.
(e) Accounting. All financial transactions of the consortium are to be accounted for separately by the district of record in the appropriate proprietary fund as determined by generally accepted accounting principles recorded in an internal service fund of the district of record. Income to the

internal service fund will be composed of payments from cooperating districts, including the district of record, receipts from goods and services provided non-member districts, and the receipts from grants to the consortium. Cooperating districts, including the district of record, may make payments to the consortium in advance of delivery of services and products. Disbursements from the internal service fund shall include payments for products and services, including agreed-upon services furnished by the district of record, and any refunds due cooperating districts. All transactions with the district of record shall be recorded in the internal service fund. Accounts used shall be those as prescribed in the publication entitled, "A Manual... Financial and Program Cost Accounting and Reporting for Florida Schools, as incorporated by reference in Rule 6A-1.001, FAC."

(f) through (i) No change.

Specific Authority 229.053(1), 230.23(4)(j),(12) FS. Law Implemented 229.053(2)(h),(i),(j), 230.23(4)(j),(12) FS. History--New 2-20-64, Amended 9-17-72, Repromulgated 12-5-74, Amended 6-9-81, 9-27-84, Formerly 6A-1.99, Amended, e.f. A Manual... Financial and Program Cost Accounting and Reporting for Florida Schools.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

RULE CHAPTER TITLE: Management of Uplands Vested in the Board of Trustees
RULE CHAPTER NO.: 18-2

RULE TITLE: Policies, Standards, and Criteria for Evaluating, Approving or Denying Requests to Use Uplands
RULE NO.: 18-2.018

PURPOSE AND EFFECT: The purpose is to delete subparagraph 18-2.018(3)(b)7. of the rule, enabling the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to be more flexible in negotiations when it exchanges conservation lands with other parties, in accordance with Section 253.42, Florida Statutes. The effect will be elimination of the "two for one" acreage exchange requirement of the rule.

SUMMARY: The subparagraph deleted requires the Board of Trustees to obtain twice the acreage that it conveys in exchanges of natural resource lands. This requirement unnecessarily constrains the Board of Trustees, preventing it from making more beneficial exchanges. The amendment

would eliminate this requirement, giving the Board of Trustees greater flexibility to negotiate exchanges in accordance with the aforementioned statute.

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

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

**SPECIFIC AUTHORITY:** 253.03(7)(a) FS.

**LAW IMPLEMENTED:** 253.42 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Greg Wilson, Bureau Chief, Bureau of Public Land Administration, Department of Environmental Protection, M.S. 130, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000, (850)488-2291

**THE FULL TEXT OF THE PROPOSED RULE IS:**

18-2.018 Policies, Standards, and Criteria for Evaluating, Approving or Denying Requests to Use Uplands.

Applications to use Trustees-owned uplands and decisions to approve or reject such applications will be based on all of the following:

- (1) through (2) No change.
- (3)(a) through (b)1.-6. No change.

~~7. Every exchange of natural resource lands shall result in the trustees acquiring a minimum of twice the amount of acreage being conveyed out of state ownership.~~

- (c) through (f) No change.

Specific Authority 253.03(7)(a) FS. Law Implemented 253.03, 253.034, 253.04, 253.111, 253.115, 253.42-44, 253.47, 253.51-61, 253.62, 253.77, 253.82, 259.035, 270.07, 270.08, 270.11 FS. History--New 6-4-96, Amended \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Greg Wilson

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Eva Armstrong, Director, Division of State Lands; and Board of Trustees of the Internal Improvement Trust Fund

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 12, 2002.

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** February 8, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

**RULE TITLE:**  
Special Petition

**RULE NO.:**  
19B-12.001

**PURPOSE AND EFFECT:** This rule revision is required due to the implementation of Section 240.553, Florida Statutes and the creation of the Florida College Savings Program.

**SUMMARY:** This rule change revises the Florida Prepaid College Board's existing rule on special petitions to include the rule chapter relating to the Florida College Savings Program. This change is being made because of the implementation of Section 240.553, Florida Statutes and the creation of the Florida College Savings Program.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None prepared.

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

**SPECIFIC AUTHORITY:** 240.551(5), 240.553(6) FS.

**LAW IMPLEMENTED:** 240.551, 120.542, 240.553 FS.

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

**TIME AND DATE:** 2:00 p.m., March 15, 2002

**PLACE:** Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19B-12.001 Special Petition.

(1) Any person ~~who desires~~ ~~desiring~~ to petition the Board for relief from procedures and policies within Chapters 19B-4 through 11, ~~and~~ 19B-13, ~~and~~ 19B-16, F.A.C., may do so by filing a petition with the Executive Director of the Board or by filing a petition for a waiver or variance of the Board rule pursuant to s. 120.542, F.S.

(2) The petition shall contain the name and address of the person requesting relief; the specific nature of the relief requested; the name and address of any purchaser, benefactor, designated beneficiary or beneficiary on any disputed contract (if applicable); the prepaid college contract or participation agreement account numbers of the contract in question; the rule or policy from which the petition is requesting relief; the date of request; and the signature of the petitioner.

(3) The chairman has the authority to respond on behalf of the Board. The response must be in writing and must be made within 45 days of receipt of the petition from the person requesting relief.

Specific Authority 240.551(5), 240.553(6) FS. Law Implemented 120.542, 240.551, 240.553 FS. History--New 2-6-90, Formerly 4G-12.001, Amended 6-20-96, 12-16-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: February 5, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: February 8, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Application of Rule Chapter; Definitions  
 RULE NO.: 19B-16.001

PURPOSE AND EFFECT: To implement s. 240.553, F.S., outline the application of Rule Chapter 19B-16, and define terms to be used in the Florida College Savings Program.

SUMMARY: This new rule implements s. 240.553, F.S. and provides that Rule Chapter 19B-16, F.A.C., applies to participants in the Florida College Savings Program. It defines the terms used in Rule Chapter 19B-16, F.A.C., for the Florida College Savings Program. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6)(a),(7),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.001 Application of Rule Chapter; Definitions.

(1) These rules apply to participants in the Florida College Savings Program, a qualified tuition program that allows persons to make contributions to a trust account established for the purpose of meeting some or all of the qualified higher education expenses of a designated beneficiary.

(2) For the purposes of the Florida College Savings Program and Rule Chapter 19B-16, F.A.C.:

(a) "Account" means an account in the program established pursuant to a participation agreement.

(b) "Account balance" means the amount remaining in an account, including all contributions to the account, investment gains or losses, after deduction of the management fee.

(c) "Application" means the Florida College Savings Program form adopted pursuant to Rule 19B-16.002, F.A.C.

(d) "Automatic contribution plan" means a method of making contributions to an account in the Program whereby funds are automatically withdrawn from a benefactor's bank account on a pre-scheduled, recurring basis.

(e) "Benefactor" means a person who submitted a completed application together with the minimum contribution to the Program required pursuant to Rule 19B-16.004. The benefactor is the owner of the account established for the designated beneficiary named in the application.

(f) "Board" means the Florida Prepaid College Board.

(g) "Contingent benefactor" means a person designated pursuant to Rule 19B-16.008, F.A.C.

(h) "Custodial capacity" means an account where the benefactor acts in a representative capacity pursuant to a court order appointing a guardian, pursuant to the Uniform Transfers to Minors Act or pursuant to the Uniform Gifts to Minors Act.

(i) "Designated beneficiary" means the same as that term is defined in s. 529 of the Internal Revenue Code.

(j) "Eligible educational institution" means the same as that term is defined in s. 529 of the Internal Revenue Code.

(k) "Internal Revenue Code" means the same as that term is defined in s. 240.553(2)(e), Florida Statutes.

(l) "Investment options" means the investment options available to benefactors that are described in the Comprehensive Investment Plan for the Program adopted by the Board and approved by the State Board of Administration, pursuant to s. 240.553(5)(g), Florida Statutes.

(m) "Management fee" means the periodic fee charged to each account, pursuant to the contract between the Board and the program manager.

(n) "Member of the family" means the same as that term is defined in s. 529 of the Internal Revenue Code.

(o) "Participation agreement" means the contract between a benefactor and the Board.

(p) "Person" means the same as the term "person," as used in s. 529 of the Internal Revenue Code.

(q) "Program" means the Florida College Savings Program.

(r) "Program manager" means the entity with which the Board contracts for the operation of the Program, in accordance with the requirements of s. 240.553(5) and (6), Florida Statutes.

(s) "Qualified higher education expenses" means the same as that term is defined in s. 529 of the Internal Revenue Code.

(t) "Qualified tuition program" means the same as that term is defined in s. 529 of the Internal Revenue Code.



(u) “Rollover distribution” means the transfers described in Rule 19B-16.009, F.A.C.

Specific Authority 240.553(6)(a),(7),(8) FS. Law Implemented 240.553 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: RULE NO.:

Application for Participation in the Florida College Savings Program 19B-16.002

PURPOSE AND EFFECT: To implement s. 240.553, F.S., create an application process for the Florida College Savings Program, and specify information that must be included in the Application for the Program.

SUMMARY: This new rule outlines the application process and delineates certain requirements for the Florida College Savings Program. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6)(a),(7) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.002 Application for Participation in the Florida College Savings Program.

(1) Any person may apply for participation in the Program by submitting a completed Florida College Savings Program application, along with an initial contribution to the Program that meets the requirements of Rule 19B-16.004, F.A.C. Benefactors and designated beneficiaries do not have to be residents of the State of Florida. Any natural person named as the benefactor in a completed application must have reached the age of majority and must be a citizen or resident alien of the United States.

(2) The Florida College Savings Program Application, Form No. FCSP 01-03, is hereby incorporated by reference. The effective date of the form is April 1, 2002.

(3) Only one (1) benefactor and one (1) designated beneficiary can be named on an application, except that scholarship accounts may be established for the benefit of one (1) or more beneficiaries identified in the future. A benefactor may submit applications for more than one designated beneficiary. More than one benefactor may submit an application for the same designated beneficiary.

Specific Authority 240.553(6)(a),(7) FS. Law Implemented 240.553 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: RULE NO.:

Participation Agreement 19B-16.003

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and specify elements of the Participation Agreement for the Florida College Savings Program.

SUMMARY: This new rule specifies that the participation agreement, along with the benefactor’s completed Florida College Savings Program application, constitutes the contract between the Board and the benefactor. It also provides that the benefactor (account owner) retains ownership of all funds in the Florida College Savings Program, except when the benefactor is acting in a custodial capacity. The rule provides that the agreement remains in effect until terminated pursuant to Rule 19B-16.011, F.A.C. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(7),(8),(9) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Savings Program Participation Agreement, Form No. FCSP 01-04, is hereby incorporated by reference. The effective date of the form is April 1, 2002.

(2) Except when a participation agreement is established by a benefactor functioning in a custodial capacity, a benefactor, or any successor benefactor, retains ownership of all funds in his or her account, except for those funds actually distributed from the account, on behalf of a designated beneficiary.

(3) The benefactor may at any time increase or decrease contributions to the Program for the designated beneficiary.

(4) A participation agreement shall remain in effect until terminated pursuant to Rule 19B-16.010, F.A.C.

Specific Authority 240.553(6),(7),(8),(9) FS. Law Implemented 240.553 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Payment and Minimum Contributions      RULE NO.: 19B-16.004

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and outline the requirements for payments and minimum contributions to a Florida College Savings Program account.

SUMMARY: This new rule provides that deposits to the Florida College Savings Program must be made by check, money order, rollover distribution, electronic fund transfer, automatic contribution plan or employer payroll deduction. Deposits using credit cards, third party checks of more than \$10,000.00 or more, traveler's checks and cashiers checks are not allowed. It prohibits the benefactor and designated beneficiary from directing the investment of any contributions or amounts held in the Program. It provides that the benefactor may select an investment option on his or her application form and states the options may be changed to the extent permitted by s. 529 of the Internal Revenue Code. The rule details what materials and contributions must be submitted to the Board in order to establish a Florida College Savings account and provides minimum amounts for subsequent contributions to the account. The rule establishes the minimum amounts for contributions to the Program. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(7),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.004 Payment and Minimum Contributions.

(1) Contributions to an account may be made by checks, money orders, rollover distributions, electronic funds transfers, automatic contribution plan or employer payroll deductions. Contributions may not be made by credit cards or other means of credit, third party checks of \$10,000.00 or more, traveler's checks or cashier's checks.

(2) Neither a benefactor nor a designated beneficiary shall direct the investment of any contributions or amounts held in the Program.

(3) The benefactor must select one or more investment options for the funds contributed to an account on the application. A benefactor may change the selection of the investment options that will apply to future contributions to an account at any time. A benefactor may transfer all or any portion of the funds invested in one investment option or options to another investment option or investment options, to the extent permitted under s. 529 of the Internal Revenue Code.

(4) To establish an account, a benefactor must submit, together with the completed application, one of the following:

(a) A deposit of not less than twenty-five dollars (\$25.00) per investment option; or

(b) An authorization for a payroll deduction or automatic contribution plan in an amount not less than fifteen dollars (\$15.00) per investment option.

(5) After an account is established, all subsequent contributions by the benefactor to the account shall be:

(a) In an amount of not less than twenty-five dollars (\$25.00) dollars per investment option; or

(b) Made through an authorization for a payroll deduction or automatic contribution plan in an amount not less than fifteen dollars (\$15.00) per investment option.

(6) A benefactor may make a contribution to the account at any time.

Specific Authority 240.553(6),(7),(8) FS. Law Implemented 240.553 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Maximum Account Balance Limit  
PURPOSE AND EFFECT: To implement s. 240.553, F.S., and provide a maximum account balance limit for the Florida College Savings Program.

SUMMARY: This new rule provides that the maximum account balance limit by a benefactor on behalf of a designated beneficiary shall be calculated by multiplying the qualified higher education expenses at the most expensive eligible institution as reported in the College Cost and Financial Aid Handbook, 2002, published by the Board by seven (7) and rounding the product down to the nearest \$1,000 increment. It provides that the Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. It requires the Board to return

contributions in excess of the maximum account balance limit. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(7),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.005 Maximum Account Balance Limit.

(1) The maximum account balance limit shall be determined annually by the Board. The maximum account balance limit shall be calculated by multiplying the qualified higher education expenses, including tuition fees, room and board, and supplies, at the most expensive eligible educational institution, as reported in College Cost and Financial Aid Handbook 2002, published by the College Board, by seven (7), and rounding the resulting product downward to the nearest \$1,000.00 increment. The maximum account balance limit shall not exceed the amount permitted pursuant to s. 529 of the Internal Revenue Code. The Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. Accounts for a designated beneficiary that have reached the maximum account balance limit may continue to accrue investment earnings.

(2) If the Board receives contributions for a designated beneficiary that exceed the maximum account balance limit, the Board shall return the excess to the person making the contribution.

Specific Authority 240.553(6),(7),(8) FS. Law Implemented 240.553 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE: Change of Benefactor
RULE NO.: 19B-16.006
PURPOSE AND EFFECT: To implement s. 240.553, F.S., and delineate how and when a benefactor may be changed on a Florida College Savings Program account.

SUMMARY: This new rule provides the circumstances under which a benefactor may be changed on a Florida College Savings Program account. It requires that a benefactor submit a notarized, written request to the Board in order to transfer the ownership of the participation agreement to another eligible person. It provides that a contingent benefactor will become the account benefactor in the event of the death of the original benefactor. The rule details how the benefactor for an account may be changed via court order. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.006 Change of Benefactor.

(1) A benefactor may transfer ownership of a participation agreement to another person at any time, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity. To complete a change of ownership, the benefactor must submit to the Board a notarized, written request to transfer the ownership of the participation agreement to a person who has achieved the age of majority together with an application executed by the person to whom the participation agreement is to be transferred.

(2) Upon the death of the benefactor, if the benefactor has named a contingent benefactor, the contingent benefactor shall become the benefactor if the Board receives a certified copy of the death certificate of the deceased benefactor and a completed application signed by the contingent benefactor.

(3) A change in the benefactor of an account may also be effected by a court order or by the notarized, written request from the personal representative of the benefactor's estate accompanied by a certified copy of the death certificate of the benefactor and letters of administration issued to the personal representative. In either case, the successor benefactor must submit to the Board a completed application signed by the successor benefactor.

Specific Authority 240.553(6),(8) FS. Law Implemented 240.553 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE: Change of Designated Beneficiary
RULE NO.: 19B-16.007

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and provide the circumstances under which a change of designated beneficiary may be effected on a Florida College Savings Program account.

SUMMARY: This new rule explains the process for changing a designated beneficiary of a Florida College Savings Program account. It provides that an account benefactor may change the designated beneficiary to any member of the family of the then-current designated beneficiary through a written, notarized request to the Board. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(7),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.007 Change of Designated Beneficiary.

Except when a participation agreement is established by a benefactor functioning in a custodial capacity, a benefactor may change the designated beneficiary to any member of the family of the then-current designated beneficiary, at any time, by submitting a written, notarized request signed by the benefactor directing the Board to change the designated beneficiary for the account.

Specific Authority 240.553(6),(7),(8) FS. Law Implemented 240.553 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Contingent Benefactor

RULE NO.: 19B-16.008

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and provide for the designation of a contingent benefactor by a benefactor of a Florida College Savings Program account.

SUMMARY: This new rule delineates the process by which a benefactor may designate and change a contingent benefactor who will enjoy a right of survivorship in the benefactor's Florida College Savings Program account. It provides that, upon the death of the benefactor, the contingent benefactor must provide the Board with a certified copy of the death certificate of the deceased benefactor and a completed application. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(8) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.008 Contingent Benefactor.

The benefactor may designate a contingent benefactor on the application who will enjoy a right of survivorship in the event of the death of the benefactor and who will become the owner of the account automatically upon the death of the benefactor, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity. Upon the death of the benefactor, the contingent benefactor shall become the benefactor if the Board receives a certified copy of the death certificate of the deceased benefactor and a completed application signed by the contingent benefactor. Subject to any applicable limitations associated with the benefactor functioning in a custodial capacity, the benefactor may change the contingent benefactor at any time without the consent of the contingent benefactor by submitting a written, notarized request signed by the benefactor to the Board.

Specific Authority 240.553(6),(8) FS. Law Implemented 240.553 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Rollover Distributions

RULE NO.: 19B-16.009

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and set forth the circumstances when transfers may be made into or from Florida College Savings Program accounts.

SUMMARY: This new rule authorizes transfers of funds into or out of accounts in the Florida College Savings Program, to the extent such transfers are permitted by s. 529 of the Internal Revenue Code. A benefactor may make such transfers by submitting a written, notarized request to the Board.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None prepared.

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

**SPECIFIC AUTHORITY:** 240.553(6),(7),(8) FS.

**LAW IMPLEMENTED:** 240.553 FS.

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

**TIME AND DATE:** 2:00 p.m., March 15, 2002

**PLACE:** Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19B-16.009 Rollover Distributions.

Except when functioning in a custodial capacity, a benefactor may make a transfer of funds into an account in the Program or from an account in the Program to the extent permitted by s. 529 of the Internal Revenue Code by submitting a notarized, written request to the Board.

Specific Authority 240.553(6),(7),(8) FS. Law Implemented 240.553 FS. History--New

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Florida Prepaid College Board

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Florida Prepaid College Board

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 5, 2002

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

**RULE TITLE:** Termination and Withdrawals; Distributions **RULE NO.:** 19B-16.010

**PURPOSE AND EFFECT:** To implement s. 240.553, F.S., and provide rules for termination, withdrawals and distribution of funds from a Florida College Savings Program accounts.

**SUMMARY:** This new rule provides delineates circumstances under which a benefactor may voluntarily terminate a participation agreement and when the Board will involuntarily terminate a participation agreement. The rule allows a benefactor to voluntarily terminate a participation agreement at any time by submitting a written, notarized request for

termination and provides that the amount of the refund to the benefactor will be the account balance. Voluntary termination also occurs when the account balance is zero, as a result of withdrawals from a Savings Program account. The proposed rule provides that the Board will involuntarily terminate an account if the benefactor has made a material misrepresentation in the initial application submitted to the Board or any other communication to the Board, or if no account contributions or withdrawals have been made for 25 calendar years. The proposed rule defines three types of material misrepresentations. Also, the proposed rule provides that the Board will normally terminate an account if the balance in the savings program account is less than \$250.00 after twenty-four months after the account is established, unless the benefactor files a special petition pursuant to Rules 19B-12.001 and 19B-12.003(3), F.A.C. This rule is being created to implement the Florida College Savings Program.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None prepared.

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

**SPECIFIC AUTHORITY:** 240.553(6),(8),(9) FS.

**LAW IMPLEMENTED:** 240.553 FS.

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

**TIME AND DATE:** 2:00 p.m., March 15, 2002

**PLACE:** Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19B-16.010 Termination and Withdrawal: Distributions.

(1)(a) A benefactor may voluntarily terminate a participation agreement at any time by submitting a written, notarized request to terminate the participation agreement to the Board and receive a refund. Any written request for voluntary termination of a participation agreement shall be processed within thirty (30) days following receipt of the request by the Board. The amount of the refund to the benefactor will be the account balance.

(b) A participation agreement shall be deemed to have been voluntarily cancelled when the benefactor requests a distribution of all funds in the account so that the account balance is zero. However, the benefactor of an account that has

been voluntarily cancelled may reactivate the account and the participation agreement at any time by making a contribution to the account.

(2) Involuntary termination of a participation agreement shall occur:

(a) Upon a determination by the Board that the benefactor has made a material misrepresentation in the application submitted to the Board by the benefactor or in any communication from the benefactor to the Board regarding the Florida College Savings Program. A material misrepresentation includes, but is not limited to, providing an invalid Social Security Number or Taxpayer Identification Number, falsely certifying that the benefactor is a citizen or resident alien of the United States, or providing a false certification that a person is a member of the family of a designated beneficiary.

(b) When no contributions to or withdrawals from the account have been made for twenty-five (25) calendar years. The Board shall extend such period for ten calendar years if it receives a notarized, written request or requests by a benefactor. Any time spent by the designated beneficiary as an active duty member of the armed services of the United States tolls such time periods.

(3) The Board will terminate a benefactor's participation agreement if the balance in the account is less than two hundred fifty dollars (\$250.00) on the first day of any calendar month that is more than twenty-four (24) months following the date on which the Board received the benefactor's application and initial contribution to the Program, unless the Board receives a special petition seeking waiver of this rule pursuant to Rule 19B-12.001 and subsection 19B-12.003(3), F.A.C.

(4) Upon involuntary termination of a participation agreement, the benefactor will be entitled to a refund of the account balance.

(5) A benefactor may request a distribution by submitting a notarized, written request to the Board. Distributions may be made from an account by any method allowed pursuant to s. 529 of the Internal Revenue Code.

Specific Authority 240.553(6),(8),(9) FS. Law Implemented 240.553 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE TITLE: Unclaimed Refunds  
RULE NO.: 19B-16.011

PURPOSE AND EFFECT: To implement s. 240.553, F.S., and provide procedures which the Board will follow regarding unclaimed refunds of account balances in the Florida College Savings Program.

SUMMARY: This new rule provides for procedures by which the Board is to dispose of unclaimed refunds of accounts of the Florida College Savings Program. It requires that the Board mail written notice to any benefactor whose account has been terminated and a refund check has been issued but not negotiated after a six year period. It provides that the notice will explain what process the benefactor must complete in order to obtain a refund of the account funds held by the Board. The rule requires that the Board post a list of account owners due a refund under the Florida College Savings Program on the Board's website. Finally, the rule provides that any account funds that remain unclaimed after seven years will escheat to the state pursuant to Chapter 717, Florida Statutes. This rule is being created to implement the Florida College Savings Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 240.553(6),(9) FS.

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., March 15, 2002

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.011 Unclaimed Refunds.

(1) The Board shall mail written notice to any benefactor of an account terminated pursuant to Rule 19B-16.010, F.A.C., when the benefactor has not negotiated the refund check for such account after a period of six (6) years. The notice shall indicate the procedure which the benefactor must follow to obtain a refund of the monies held by the Board for said accounts and that if a claim for a refund is not made within seven (7) years of the termination of the account that the funds shall be subject to disposition as provided under Chapter 717, Florida Statutes. An alphabetical list of the names of the account owners of such accounts shall be posted on the Board's website on the Internet. Any such refund for any

account terminated pursuant to Rule 19B-16.010, F.A.C., which remains unclaimed after seven (7) years shall be subject to disposition pursuant to Chapter 717, Florida Statutes.

(2) The Board shall annually review and approve the list of unclaimed refunds which have remained unclaimed for the periods required under this rule and are subject to disposition pursuant to Chapter 717, Florida Statutes.

Specific Authority 240.553(6),(9) FS. Law Implemented 240.553 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

**REGIONAL PLANNING COUNCILS**  
**South Florida Regional Planning Council**

RULE TITLE: Rule Making Proceeding  
PURPOSE, EFFECT AND SUMMARY: This rule amendment repeals Rule 29J-2.005, F.A.C., which pertains to the Rule Making Proceedings by the South Florida Regional Planning Council. Pursuant to Section 120.536(1), F.S., the Rule has not received authorizing legislation nor has it been previously repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54, 163.01, 186.501 FS.

LAW IMPLEMENTED: 120.54(1), 163.01(5)(h), 186.505 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite 140, Hollywood, Florida 33021

THE FULL TEXT OF THE PROPOSED RULE IS:

29J-2.005 Rule Making Proceeding.

Specific Authority 120.54, 163.01, 186.501 FS. Law Implemented 120.54(1), 163.01(5)(h), 186.505 FS. History--New 7-4-76, Formerly 29J-2.05, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2002

**REGIONAL PLANNING COUNCILS**

**South Florida Regional Planning Council**

RULE TITLE: Declaratory Statements  
RULE NO.: 29J-2.006

PURPOSE, EFFECT AND SUMMARY: This rule amendment repeals Rule 29J-2.006, F.A.C., which pertains to Declaratory Statements by the South Florida Regional Planning Council. Pursuant to Section 120.536(1), F.S., the Rule has not received authorizing legislation nor has it been previously repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54, 163.01, 186.501 FS.

LAW IMPLEMENTED: 120.54(1), 163.01(5)(h), 186.505 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite 140, Hollywood, Florida 33021

THE FULL TEXT OF THE PROPOSED RULE IS:

29J-2.006 Declaratory Statements.

Specific Authority 120.54, 163.01, 186.501 FS. Law Implemented 120.54(1), 163.01(5)(h), 186.505 FS. History--New 7-4-76, Formerly 29J-2.05, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2002



**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Restoration of Forfeited Gain Time

RULE NO.: 33-601.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify circumstances under which inmates are ineligible for restoration of forfeited gain time.

SUMMARY: The proposed rule clarifies circumstances under which inmates are ineligible for restoration of forfeited gain time.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 944.275 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.275 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

**THE FULL TEXT OF THE PROPOSED RULE IS:**

33-601.105 Restoration of Forfeited Gain Time.

(+) Restoration of gain time as a positive management tool. Gain time that has been forfeited under the current commitment as a result of disciplinary action or revocation of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release shall be subject to restoration when the restoration would produce the same or greater benefits as those derived from the forfeiture in the first place. Only those inmates whose adjustment and performance since their last disciplinary report or revocation of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release has exceeded that which is required to comply with all the behavioral objectives are eligible for consideration. The restoration shall only be considered when the inmate has clearly performed positively over a period of time and it appears the inmate will continue this positive adjustment without further violating the rules of the department or the laws of the state and the inmate is serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(1)(+) Eligibility.

(a) Restoration of gain time due to loss by disciplinary action:

1.a. There must be an elapsed time of at least one year since the last disciplinary action occurred.

2.b. The inmate must be serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed.

3.e. The inmate's institutional adjustment and performance exceed that which is required to comply with all the behavioral objectives and the inmate must have completed or be participating in all available programs recommended by the classification team.

4.d. Inmates who have been ~~convicted in judicial court or been found guilty of one of the~~ after they have received disciplinary reports for the offenses listed below and who have a criminal conviction arising from the same incident shall be ineligible for restoration of forfeited ~~will not be eligible to have gain time reinstated on these specific charges:~~

1-1 Assault or battery or attempted assault or battery with a deadly weapon;

1-2 Unarmed Assault, where a physical attack was made against department staff;

1-5 Sexual Battery;

2-1 Participating in riots, strikes, mutinous acts or disturbances;

3-1 Possession of weapons, ammunition, or explosives;

3-4 Trafficking in Drugs;

4-1 Escape or attempted escape.

5.e. Once an inmate has gain time restored, subsequent losses of gain time due to disciplinary action will make the inmate ineligible for further restoration.

6.f. Gain time that is lost prior to an inmate receiving an additional commitment for an offense committed while in custody of the department will not be considered for restoration.

(b)2. Restoration of gain time forfeited by violation of the conditions of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release may be considered only when there have been no new convictions for offenses that occurred during the period of release.

1.a. There must be a minimum of one year from the effective date of the parole revocation or violation of the conditions of provisional release, supervised community release, conditional medical release, control release, or conditional release;

2.b. The inmate must be discipline free (formal reports) since return as a parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

3.e. The inmate's adjustment and performance must exceed that which is required to comply with all behavioral objectives since return as a parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;

4.d. The inmate must have completed or be participating in all available programs recommended;

5.e. Any inmate who receives restoration of gain time forfeited due to parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violation will not be eligible for restoration on any subsequent parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violation while serving the same commitment;

6.f. The inmate must be serving the portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(2)(b) How processed. Restoration of gain time will be considered only when the inmate has met the criteria specified in (1)(a) of this rule. There is no entitlement for consideration based upon an inmate's request. The final approving authority for restoration of forfeited gain time will be the Deputy Director of Institutions. The institution where the inmate is assigned will be notified and the facility staff will notify the inmate of the decision.

~~(2) Adjusted disciplinary action. Forfeited gain time shall be restored on the recommendation of the warden when it is determined that the gain time was improperly forfeited or where it appears that an error was made which should be corrected. When it is discovered through a review of the inmate's record at the time of routine progress reports that inappropriate disciplinary procedures were used or additional facts reveal that the disciplinary charge was improper or where the disciplinary report should not have been written against the inmate, the classification officer shall prepare a recommendation documenting the circumstances of the incorrect or inappropriate forfeiture of gain time. The classification officer shall forward the request through the institutional classification team, Chief, Bureau of Classification and Central Records, to the Deputy Director of Institutions who will act as final reviewing authority and shall approve, disapprove, or return the recommendation in cases of this type to the institution for additional information. If approved, the Bureau of Classification and Central Records will make the changes in the record and notify the institution where the inmate is assigned.~~

Specific Authority 20.315, 944.09, 944.275 FS. Law Implemented 20.315, 944.09, 944.275, 944.28 FS. History-New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended 8-30-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jerry Vaughan  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 31, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 11, 2002

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Institution Visits and Tours and Inmate or Probationer Presentations and Programs for the Public  
RULE NO.: 33-602.230

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide detailed guidelines for conducting juvenile offender tours pursuant to s. 945.75, F.S.

SUMMARY: The proposed rule provides detailed guidelines for conducting juvenile offender tours pursuant to s. 945.75, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 945.75 FS.

LAW IMPLEMENTED: 944.09, 944.23, 945.75 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.230 Institution Visits and Tours and Inmate or Probationer Presentations and Programs for the Public.

(1) Except as authorized in subsection (2) Below, nNo tours by persons under 18 years of age beyond a common assembly area such as the visiting park will be permitted. Student groups shall be assembled in this common area and given briefings by staff members and shown orientation/training videos. Inmates shall not participate in these orientation briefings.

(2) Juvenile Offender Tour Programs. Juveniles under supervision shall be allowed to tour facilities of the department only upon court order or documented direction from the court. Such documentation shall list the name of the sponsor and each juvenile participant approved by the court for such a tour.

(a) Definitions.

1. Adult Escorts – Where used herein, refers to outside sponsors 18 years of age or older who will accompany juvenile participants during the juvenile offender tour program.

2. Central Office Program Manager – Where used herein, refers to the staff member in the Bureau of Classification and Central Records who coordinates the juvenile offender tour program with designated institutions and the Bureau of Security Operations.

3. Designated Institutions – Where used herein, refers to institutions designated by the secretary or his designee to provide the juvenile offender tour program in all four regions, thereby ensuring accessibility to juvenile offenders statewide.

4. Inmate Presenter – Where used herein, refers to an inmate whose participation in the program is voluntary, who has met prescreening criteria outlined in this rule, and who has successfully completed training to provide juvenile offenders with an accurate and realistic account of prison life and the effects of incarceration.

5. Juvenile Offender – Where used herein, refers to a youth not more than 17 years of age, but not less than 10 years of age, who is under court order to participate in a juvenile offender tour program.

6. Juvenile Offender Tour Program – Refers to a program implemented by the Department of Corrections which provides Florida's courts with an intervention program that discourages juvenile offenders from continuing a criminal lifestyle by providing the juvenile offender with a realistic look at prison life.

7. Outside Sponsor – Where used herein, refers to an organization or agency working with a court to provide adult escorts for juvenile offenders participating in the juvenile offender tour program.

8. Tour Program Facilitator – Where used herein, refers to the staff member at the institution who is responsible for supervising tours and coordinating tours in conjunction with the central office program manager.

(b) All tour requests from outside sponsors shall be in writing and shall be routed to the warden.

(c) Staff Responsibilities for the Juvenile Offender Tour Program.

1. The warden shall:

a. Designate a staff member as the tour program facilitator;

b. Based upon program activity, determine the number of inmate presenters who will participate in the program;

c. Ensure the selection of staff to participate in the program; and

d. Evaluate and approve or reject tour requests at least 20 days in advance of the proposed tour date. Rejections shall be based on a determination that the tour is not in the best rehabilitative interests of the inmates incarcerated or that the tour will have an adverse impact on the security or orderly operation of the facility.

2. The institutional tour program facilitator shall:

a. Subsequent to the warden's approval of the tour, function as the primary contact point with the courts, outside sponsors, and the central office program manager.

b. Ensure that all requirements of this rule are met, including:

I. Providing necessary supervision;

II. Advising outside sponsors of the guidelines contained in the rule;

III. Ensuring that department personnel are physically present during the tour, presentation or program, along with the outside sponsor; and

IV. Answering questions from the group.

c. Select and train inmate presenters;

d. Coordinate and provide orientation for participating staff;

e. Secure a copy of the court order for each juvenile that directs the juvenile offender's participation in the program from the outside sponsor and maintain a file of the copies of the court orders for three years;

f. Report scheduling and completion results of the tour to the central office program manager.

g. Ensure that all program guidelines are explained to the tour participants before allowing them entry into the compound;

h. Coordinate notification to the court of tour participants who are disruptive or inappropriately dressed.

3. The central office program manager shall:

a. Maintain liaison with the Bureau of Security Operations regarding safety and security issues in the administration of the juvenile offender tour program;

b. Establish and maintain a database of institutions approved by the secretary to conduct tours, designated tour program facilitators, and statistical results of tours.

(d) Inmate Presenters.

1. Inmates who wish to volunteer as presenters for the juvenile offender tour program shall submit Form DC6-236, Inmate Request, to the tour program facilitator. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

2. In order to be selected as an inmate presenter, an inmate must:

a. Be free of disciplinary reports for a minimum of six months;

b. Not be a certified or non-certified security threat group member;

c. Be close custody or lower;

d. Not have been in close management in the last 24 months; and

e. Not have a history of serious disciplinary reports or sex offense convictions.

3. Inmate presenters shall receive at least four hours of training concerning presentation content. Inmate presenters shall receive instruction on and are expected to demonstrate an

understanding of and a positive attitude towards the purpose and goals of the tour program. Inmate presenters will be trained that they will not:

a. Use profanity, obscenities, individual confrontation, intimidation, or physical contact with tour participants, ("Scared Straight" techniques will not be used.)

b. Exercise any control or authority over any tour participant.

c. Remove their own nor tour participant's clothing.

d. Exchange personal information such as home addresses or telephone numbers with any tour participant.

e. Give to or receive anything from tour participants, or

f. Use any tobacco products.

4. Inmate presenters shall:

a. Wear uniforms that are clean, properly fitted, and in good repair.

b. Maintain proper grooming in accordance with department rules, and

c. Use courtesy in all their dealings with tour participants and adult escorts.

(e) Tours.

1. Tour groups shall be limited to no more than 15 tour participants, not including sponsors and escorts.

2. Outside sponsors shall provide one adult escort of the same sex for every six or less tour participants.

(f) Upon tour approval, the tour program facilitator shall advise the outside sponsor in writing of the expectations and requirements of this rule, including the following:

1. Tour participants shall not be admitted if wearing inappropriate attire which includes:

a. Halter tops or other bra-less attire.

b. Underwear type tee shirts.

c. Tank tops or shorts.

d. Fishnet shirts or swimsuits.

e. Skin tight clothing or spandex clothing.

f. Clothes made with see-through fabric (unless a non-see-through garment is worn underneath).

g. Dresses or skirts more than three inches above the knee.

or  
h. Any article of clothing with a picture or language which presents a potential threat to the security or order of the institution.

2. Tour participants shall not be permitted the following:

a. Excessive jewelry.

b. Radios.

c. Cell phones or pagers.

d. Cameras or recording devices.

e. Purses.

f. Pocket knives.

g. Fingernail clippers.

h. Money, or

i. Prescription medications, except:

I. Only the dosage necessary for the tour period shall be allowed;

II. The medication shall be in its original prescribed container; and

III. Needles and syringes shall be left in the tour participant's locked transportation vehicle.

(g) The outside sponsor shall be responsible for taking corrective action against disruptive participants. Unresolved situations shall result in the disruptive participants being removed from the tour. If necessary, the tour shall be terminated.

(h) The tour program facilitator shall, not later than two workdays following completion of the tour, report tour scheduling and completion results to the central office program manager.

(3) through (7)(b) No change.

(e) If the tour or program is for juveniles and is based on a court order or direction from the court, the supervisor or coordinator shall secure a copy of the order from the sponsor, with the name of each juvenile on it.

Specific Authority 20.315, 944.09, 945.75 FS. Law Implemented 944.09, 944.23, 945.75 FS. History--New 10-6-83, Formerly 33-5.12, Amended 7-27-89, 3-8-98, Formerly 33-5.012, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: January 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: January 11, 2002

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE:

Prescribed Drug Services

RULE NO.:

59G-4.250

PURPOSE, EFFECT AND SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Prescribed Drug Services, Coverage, Limitations and Reimbursement Handbook, July 2001. This handbook contains the required changes of the 2000 Legislature including four brand-name limit, 34-day supply, surety bonds for pharmacies, and the Prescription Affordability Act for Seniors. In addition, this handbook also contains the required changes of the 2001 Legislature, including four brand limits for nursing homes, preferred drug formulary, and expansion of prior authorization. The effect will be to incorporate, by reference in the rule, the current Florida Medicaid Prescribed Drug Coverage, Limitations, and Reimbursement Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912 FS.

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

TIME AND DATE: 9:00 a.m. – 2:00 p.m., March 18, 2002

PLACE: Conf. Room C, Bldg. 3, 2728 Mahan Drive, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: George O. Kitchens, Medicaid Pharmacy Services, 2728 Mahan Drive, Ft. Knox Bldg. 3, MS 38, Tallahassee, Florida 32308, (850)487-4441

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.250 Prescribed Drug Services.

(1) This rule applies to all prescribed drug services providers enrolled in the Medicaid program.

(2) All participating prescribed drug services providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Prescribed Drug Services Coverage, Limitations and Reimbursement Handbook, July 2001 ~~February 2001~~, which is incorporated by reference, and available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 FS. History—New 1-1-77, Amended 6-30-77, 10-1-77, 2-1-78, 4-1-78, 9-28-78, 6-1-79, 2-28-80, 11-11-81, 7-3-84, Formerly 10C-7.42, Amended 3-11-86, 12-5-88, 6-4-90, 10-29-90, 5-20-92, 4-11-93, Formerly 10C-7.042, Amended 12-28-95, 8-3-97, 2-11-98, 9-13-99, 7-20-00, 7-01-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra J. Berger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, MD, FAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2001

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Division of Beaches and Shores**

RULE CHAPTER TITLE: Shrimp  
 RULE CHAPTER NO.: 62B-2

SUMMARY OF NOTICE: Notice of repeal for obsolete Chapter 62B-2, F.A.C., “Shrimp” because the enabling statute was repealed and the program does not exist.

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**

**Division of Beaches and Shores**

RULE CHAPTER TITLE: Crawfish  
 RULE CHAPTER NO.: 62B-3

Notice of repeal for obsolete Chapter 62B-3, F.A.C., “Crawfish” because the enabling statute was repealed and the program does not exist.

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**

**Division of Beaches and Shores**

RULE TITLE: Gear and Equipment – Stone Crab Regulation  
 RULE NO.: 62B-6.015

Notice of repeal for obsolete Chapter 62B-6.015, F.A.C., “Gear and Equipment – Stone Crab Regulation” because the enabling statute was repealed and the program does not exist.

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**

**Division of Beaches and Shores**

RULE CHAPTER TITLE: Oyster Harvesting Prohibited in All Waters of Franklin County and in Indian Lagoon in Gulf County  
 RULE CHAPTER NO.: 62B-46

Notice of repeal for obsolete Chapter 62B-46, F.A.C., “Oyster Harvesting Prohibited in All Waters of Franklin County and in Indian Lagoon in Gulf County” because the enabling statute was repealed and the program does not exist.

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 Clinical Social Work, Marriage and Family Therapy and Mental Health**

RULE TITLE: Approval of Continuing Education Providers  
RULE NO.: 64B4-6.004  
PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUMMARY: The Board deems it necessary to amend this rule to address the requirements of continuing education directors.

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

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

SPECIFIC AUTHORITY: 491.004(5), 491.0085(1),(3),(4) FS.  
LAW IMPLEMENTED: 491.0085(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health/MQA, 4052 Bald Cypress Way, Tallahassee, Florida 32399

**THE FULL TEXT OF THE PROPOSED RULE IS:**

64B4-6.004 Approval of Continuing Education Providers.  
(1) through (2)(f)6. No change.

7. Ensure that the provider complies with all applicable state and federal laws and regulations.

(3) through (6) No change.

Specific Authority 491.004(5), 491.0085(1), (3), (4) FS. Law Implemented 491.0085(1) FS. History—New 1-9-94, Formerly 61F4-6.004, Amended 10-2-94, 12-29-96, Formerly 59P-6.004, Amended 12-11-97, 2-9-99,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 4, 2002

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Continuing Education for Biennial Renewal  
RULE NO.: 64B15-13.001  
PURPOSE AND EFFECT: The purpose of the rule amendments is to update the requirements for continuing education for biennial renewal.

SUMMARY: The Board is amending this rule to increase the required continuing education hours required for biennial renewal, adding language which defines in detail the requirements for the two hour required course for the prevention of medical errors, and allowing licensees to substitute certain courses. Unnecessary language is being deleted.

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

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

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

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

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

**THE FULL TEXT OF THE PROPOSED RULE IS:**

64B15-13.001 Continuing Education for Biennial Renewal.

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

- (b) No change.
- (2) No change.
- (3)(a) No change.

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

(c) through (e) No change.

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

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

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

(b) By participating in:

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

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

(6) No change.

(7) In lieu of the domestic violence course or the HIV/AIDS course, a licensee may complete a course in end of life care and palliative health care if the licensee has completed an approved domestic violence course in the immediately preceding biennium. As of July 1, 1995, all licensees shall, as part of their biennial continuing education requirements, successfully complete a one-hour continuing education course on domestic violence as required by Section 456.031, F.S.

(8) All applicants for an initial license, reactivation or reinstatement of their licensee who obtained the required domestic violence, end of life and palliative health care, or HIV/AIDS course for initial licensure, reactivation or reinstatement within six (6) months immediately preceding licensure renewal may use the same domestic violence, end of life palliative health care, or HIV/AIDS hours obtained for initial licensure, reactivation or reinstatement to meet the requirements for licensure renewal.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2001

## DEPARTMENT OF HEALTH

### Board of Osteopathic Medicine

RULE TITLE: RULE NO.:

Standards for the Prescription of

Obesity Drugs

64B15-14.004

PURPOSE AND EFFECT: The purpose of this substantial rewording is to clarify the standards for the prescription of obesity drugs.

SUMMARY: The Board is substantially rewording this rule to clearly define the standards required for osteopathic physicians who prescribe obesity drugs for their patients.

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

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

SPECIFIC AUTHORITY: 459.005, 459.0135 FS.

LAW IMPLEMENTED: 459.0135 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B15-14.004 follows. See Florida Administrative Code for present text.)

64B15-14.004 Standards for the Prescription of Obesity Drugs.

The prescription of medication for the purpose of enhancing weight loss should only be performed by osteopathic physicians qualified by training and experience to treat obesity. All licensees are expected to abide by the following guidelines and standards in the utilization of any drug, any synthetic compound, any nutritional supplement or herbal treatment, for the purpose of providing medically assisted weight loss.

(1) To justify the use of weight loss enhancers as set forth above, the patient must have a Body Mass Index (BMI) of 30 or above, or a BMI of greater than 27 with at least one

comorbidity factor, or a measurable body fat content equal to or greater than 25% of total body weight for male patients or 30% of total body weight for women. The prescription of such weight loss enhancers is not generally appropriate for children. Any time such prescriptions are made for children, the prescribing osteopathic physician must obtain a written informed consent from the parent or legal guardian of the minor patient in addition to complying with the other guidelines and standards set forth in this rule. BMI is calculated by use of the formula  $BMI = kg/m^2$ .

(2) Osteopathic physicians in Florida are prohibited from prescribing, ordering, dispensing, or administering any weight loss enhancer that is both a serotonergic and anorexic agent unless the drug has been approved by the Food and Drug Administration (FDA) specifically for use in weight loss management. Selective serotonin re-uptake inhibitors (SSRIs) that have not been approved by the FDA for weight loss may not be prescribed, ordered, dispensed, or administered for such purposes.

(3) An initial evaluation of the patient shall be conducted prior to the prescribing, ordering, dispensing, or administering of any drug, synthetic compound, nutritional supplement or herbal treatment and such evaluation shall include an appropriate physical and complete history; appropriate tests related to medical treatment for weight loss; and appropriate medical referrals as indicated by the physical, history, and testing; all in accordance with general medical standards of care.

(a) The initial evaluation may be delegated to an appropriately educated and trained osteopathic physician's assistant licensed pursuant to Chapter 459, Florida Statutes, or an appropriately educated and trained advanced registered nurse practitioner licensed pursuant to Chapter 464, Florida Statutes.

(b) If the initial evaluation required above is delegated to an osteopathic physician's assistant or to an advance registered nurse practitioner, then the delegating osteopathic physician must personally review the resulting medical records prior to the issuance of an initial prescription, order, or dosage.

(4) Prescriptions or orders for any drug, synthetic compound, nutritional supplement or herbal treatment for the purpose of assisting in weight loss must be in writing and signed by the prescribing osteopathic physician. Initial prescriptions or orders of this type shall not be called into a pharmacy by the osteopathic physician or by an agent of the osteopathic physician. Even if the osteopathic physician is registered as a dispensing osteopathic physician, a hard copy of the written prescription must be maintained in the patient's medical records for each time such weight loss enhancers are prescribed, ordered, dispensed, or administered.

(5) At the time of delivering the initial prescription or providing the initial supply of such drugs to a patient, the prescribing osteopathic physician must personally meet with the patient and personally obtain an appropriate written informed consent from the patient. Such consent must state that there is a lack of scientific data regarding the potential danger of long term use of combination weight loss treatments, and shall discuss potential benefits versus potential risks of weight loss treatments. The written consent must also clearly state the need for dietary intervention and physical exercise as a part of any weight loss regimen. A copy of the signed informed consent shall be included in the patient's permanent medical record.

(6) Each osteopathic physician who is prescribing, ordering, or providing weight loss enhancers to patients must assure that such patients undergo an in-person re-evaluation within 2 to 4 weeks of receiving a prescription, order, or dosage. The re-evaluation shall include the elements of the initial evaluation and an assessment of the medical effects of the treatment being provided. Any patient that continues on a drug, synthetic compound, nutritional supplement or herbal treatment assisted weight loss program shall be re-evaluated at least once every 3 months.

(7) Each osteopathic physician who prescribes, orders, dispenses, or administers any drug, synthetic compound, nutritional supplement or herbal treatment for the purpose of assisting a patient in weight loss shall maintain medical records in compliance with Rule 64B15-15.004, Florida Administrative Code, and must also reflect compliance with all requirements of this rule.

(8) Each osteopathic physician who prescribes, orders, dispenses, or administers weight loss enhancers for the purpose of providing medically assisted weight loss shall provide to each patient a legible copy of the Weight-Loss Consumer Bill of Rights as set forth in Section 501.0575(1)(a) through (e)3., Florida Statutes. The osteopathic physician shall also conspicuously post said document in those rooms wherein patients are evaluated for weight loss treatment.

(9) Any osteopathic physician who advertises practice relating to weight loss or whose services are advertised by another person or entity shall be responsible for assuring that such advertising meets the requirements of Rule 64B15-14.001, Florida Administrative Code. In addition advertising of weight loss treatment shall be considered false, deceptive, or misleading if it contains representations that:

- (a) Promise specific results;
- (b) Raise unreasonable expectations;
- (c) Claim rapid, dramatic, incredible, or safe weight loss;
- (d) State or suggest that diets or exercise are not required;

or

- (e) Suggest that weight loss is effortless or magical.



Specific Authority ~~459.005, 459.0135 F.S., Section 188, Chapter 97-264, Laws of Florida. Law Implemented 459.0135 F.S., Section 188, Chapter 97-264, Laws of Florida. History—New 3-29-98, Amended~~.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2001

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Accounting and Auditing**

RULE NOS.:	RULE TITLES:
3D-20.0021	Procedures for Filing Claim
3D-20.0022	Proof of Ownership and Entitlement to Unclaimed Property
3D-20.0030	Definitions

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 33 (August 17, 2001), issue of the Florida Administrative Weekly.

3D-20.0021 Procedures for Filing Claim.

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

(b) If the claim is denied, written notice containing rights to request a hearing as provided in Sections 120.569 and 120.57, F.S., will be mailed to the claimant at the address provided in the claim. The claim will be denied without prejudice and may be refilled at any time. ~~However, if the unclaimed property has been awarded to another claimant, in good faith, prior to refiling, the later filed claim may be denied with prejudice. Written notice containing rights of appeal will be provided.~~

(3) through (6)(c)2. No change.

3. Full disclosure will be recognized by the Department when the following language, fully completed with all appropriate blanks filled in, is conspicuously, and as a single statement, incorporated within the Agreement ~~just prior to the signature of the owner~~, as follows:

**FULL DISCLOSURE STATEMENT**

Pursuant to Chapter 717, F.S., this unclaimed property is currently being held by the Florida Department of Banking and Finance. ~~The property was reported in the name of (exact name of the owner(s) as listed in UCP~~

~~records), and sent to the Department in (mm/dd/yy). The person/entity that reported it to the state is (XYZ Corporation). The person/entity's last date of contact with the apparent owner was (mm/dd/yy). The property consists of (\$/# of shares/SDB contents – list contents), from (type of property – utility deposit/wages/etc.) The property has an approximate value of \_\_\_\_\_.~~

4. through 5. No change.

~~6. Contracts for the recovery of small estate accounts pursuant to Section 717.1243, F.S., by Estate Affidavit (Form DBF-UP-1243), in lieu of probate, are subject to Section 717.135(1), F.S. If it is necessary to open an estate for the purpose of collecting the unclaimed property, or to reopen an estate to obtain a new order for the purpose of collecting the unclaimed property, then the fee cap exemption set forth in Section 717.135(1)(b), F.S., shall apply. However, fee caps shall apply to closed probate estates and estates that have never been probated.~~

~~7. In the case of guardianship proceedings, the fee cap exemption only applies to those proceedings opened for the purpose of collecting the unclaimed property, or where a new order must be obtained to collect the unclaimed property.~~

(7) through (11)(a)1. No change.

~~2. Securities. The Department will liquidate all securities issues which can be sold as soon as practicable unless the security cannot be sold due to market liquidity, current valuation or on-going corporate activity. Payment will be provided as follows: processed for the property (either cash value of securities, shares or securities, or certificates) in the account at the time the claim is filed, unless liquidation is requested by the claimant or has already been requested by the Department.~~

~~a. If the securities have been liquidated, payment of the cash proceeds will be made by warrant, and mailed to the owner's address. The Department will deliver the securities to the owner, unless securities cannot be transferred or sold due to current valuation or ongoing corporate activity, for example, mergers, reorganizations or splits.~~

~~b. Securities in a claimed account, for which liquidation has not been requested, will be registered in the owner's name and transferred electronically to the owners' existing brokerage account, provided the information required by the securities industry is available at the time the claim is filed. If the security can be certificated and delivery of the certificate is requested, the certificate will be mailed to the owner. The securities will be delivered in physical form, or directly transferred into an owner's brokerage account if the information is provided to the Department at the time the claim is filed with the Department. The information required by the securities industry for electronic transfer could include the broker or agent's DTC (Depository Trust Corporation) number, ABA (American Banker's Association) number, the owners' account number and account registration.~~