

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

Division of Workers Compensation

RULE TITLES:	RULE NOS.:
Compensation Notice	4L-6.007
Notice of Election to be Exempt and Revocation of Election to be Exempt by Sole Proprietors, Partners, or Corporate Officers	4L-6.012
Record Keeping Requirements for Business Owners	4L-6.015
Misclassification of Employees as Independent Contractors	4L-6.018
Inapplicability of Exemptions to Commercial Building Projects Valued at \$250,000 or Greater	4L-6.020

PURPOSE AND EFFECT: 4L-6.007: Section 440.40, Florida Statutes, as amended in the 2002 legislative session, provides that the Department may by rule prescribe the form of a notice regarding the new Anti-Fraud Reward program. At the workshop the development of the form will be discussed.

4L-6.012: Section 440.05, Florida Statutes, permits sole proprietors and partners to elect to be exempt from the requirements of the workers' compensation law, provided that they submit certain federal tax records with their applications. New businesses lack federal tax records which would enable them to qualify for an exemption. The purpose of this rule amendment is to implement the changes to that section enacted in Chapter 2002-236, Laws of Florida (CS/CS/SB 108). The effect of the rule is to adopt criteria that will enable the new sole proprietor or partner to demonstrate an intent to engage in a legitimate enterprise within the construction industry and not evade the statutory requirements for an exemption. Rule 4L-6.012(2)(c), which specified reporting requirements of corporate officers of corporations actively engaged in the construction industry, is deleted because of conflict with the reporting requirements specified in the new legislation amending Section 440.05(13), Florida Statutes.

4L-6.015: Section 440.107, Florida Statutes, requires employers to maintain true and accurate business records as the Division prescribes by rule. The purpose of this rule amendment is to place on employers specific record maintenance requirements to provide regulatory investigators with the documentation they will need to determine that every worker is covered under workers' compensation according to provisions of Sections 440.10(1) and 440.38(1), F.S. The rule amendment clarifies what types of records all employers must maintain and make available to the Division upon request.

4L-6.018: Section 440.10(1)(f), Florida Statutes, prescribes a penalty not to exceed \$5,000 where an employer misclassifies an employee as an independent contractor and willfully fails to secure the payment of workers' compensation. This rule implements the changes to that section enacted Chapter 2002, 236, Laws of Florida (CS/CS/SB 108), which delete the willfulness requirement and instruct the Division to adopt rules to administer the provision. The rule prescribes a penalty for an employer who misclassifies an employee an independent contractor. The penalty for the first violation is \$2500 and increases in a schedule up to \$5,000 for the fourth violation.

4L-6.020: The purpose of this Rule is to implement the changes to Section 440.02, Florida Statutes, enacted in Chapter 2002-236, Laws of Florida (CS/CS/SB 108), that invalidate the use of workers' compensation exemptions at any commercial building project valued at \$250,000 or greater. In effect the Rule defines a "commercial building project" as a site on which construction operations for a "commercial building" have begun until completed. Also the Rule specifies that the value of a "commercial building project" is determined by the cost on the building permit, the building permit application, public announcements, the opinion of a licensed real estate professional, or a method recognized by specified organizations. SUBJECT AREA TO BE ADDRESSED: Rule amendments to address amendments to Chapter 440, Florida Statutes, created by Chapter 2002-236, Laws of Florida (CS/CS/SB 108), specifically the anti-fraud program notice, criteria for workers' compensation law exemption, maintenance of business records, and penalties for misclassification of employees as independent contractors.

SPECIFIC AUTHORITY: 440.05, 440.10(1)(f), 440.107, 440.107(2), 440.107(7), 440.40, 440.591, 440.593 FS.

LAW IMPLEMENTED: 440.02(14)(b),(c), 440.05, 440.107(2), 440.107(5),(6),(7), 440.40, 440.591, 440.593 FS.

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

TIME AND DATE: 9:30 a.m., August 6, 2002

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Philip Wilcox, Investigations Manager, Bureau of Compliance, 200 East Gaines Street, Tallahassee, FL 32399-4228, phone number (850)488-2333, Ext. 173

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4L-6.007 Compensation Notice.

Preliminary text of the above rule is not available.

4L-6.012 Notice of Election to be Exempt and Revocation of Election to be Exempt by Sole Proprietors, Partners, or Corporate Officers.

(1) Any sole proprietor or partner actively engaged in the construction industry, and any corporate officer of a construction or non-construction industry corporation, who elects to be exempt from the provisions of the workers' compensation law (Chapter 440, Florida Statutes) shall file with the Division a Notice of Election to be Exempt (~~DWC LES Form BCM - 250~~).

(2) The following documentation shall be attached by the applicant to every Notice of Election to be Exempt (~~DWC LES Form BCM - 250~~):

(a) Each sole proprietor actively engaged in the construction industry shall attach a copy of the sole proprietor's Federal Income Tax Form 1040 and its accompanying Schedule C as filed by the applicant with the Internal Revenue Service (IRS) for the most recent tax year.

(b) Each partner of a partnership actively engaged in the construction industry shall attach a copy of the partner's Federal Income Tax Schedule K-1 (Form 1065), and Form 1040 and its accompanying Schedule E as filed by the applicant with the IRS for the most recent tax year.

(c) In lieu of the documents required in paragraphs (a) and (b) above, a sole proprietor or partner that is engaged in the construction industry but has not been in business long enough to provide the federal tax documentation prescribed in paragraphs (a) and (b) shall establish that it intends to engage in a legitimate enterprise within the construction industry by submitting all of the following: Each corporate officer shall attach, if the applicant is not listed as an officer of the corporation on the current records of the Florida Secretary of State, Division of Corporations, must provide a notarized affidavit must attesting that the applicant is a bona fide officer of the corporation and providing the date such appointment or election became or shall become effective.

1. A copy of any occupational license required by the jurisdiction in which the business is located or performing regular work;

2. A copy of any trade license required by the political subdivision of the State in which the work is being performed or a state license required under Chapter 489, F.S.;

3. Proof that the business has obtained a fictitious name if a fictitious name is used;

4. A Federal Employer Identification Number issued to the business applying for the exemption; and

5. A copy of a certificate of commercial liability insurance for the business applying for the exemption.

(3) The following information may be stricken by any applicant from a Federal Income Tax Form before filing same with the Division:

(a) ~~Identification of the spouse and dependents of the applicant, including filing status;~~

(b) ~~Any W-2 income, interest and dividend income, refunds, credits, alimony received, capital gains or losses other than those associated with the applicant's business enterprise;~~

(c) ~~IRA distributions, pensions, annuities, farm income, unemployment compensation, or social security benefits;~~

(d) ~~Any deductions from income in order to derive adjusted gross income;~~

(e) ~~Tax computation, credits, other taxes, payments, refunds or amounts owed.~~

(4) No change.

(5) Any sole proprietor, partner or corporate officer who has been issued an exemption from the provisions of Florida's workers' compensation law (Chapter 440, Florida Statutes) may revoke such exemption by filing with the Division a Revocation of Election to be Exempt (~~DWC LES Form BCM - 250-R~~).

(6) No change.

(7) Notice of Election to be Exempt (~~DWC LES Form BCM - 250~~), or Revocation of Election to be Exempt (~~DWC LES Form BCM - 250-R~~), shall only be filed by an applicant on the applicant's own behalf.

(8) No change.

Specific Authority 440.05, 440.591 FS. Law Implemented 440.05 FS. History-- Amended 2-15-94, 12-28-97, 2-2-00, 9-6-01, Formerly 38F-6.012, Amended

4L-6.015 Record Keeping Requirements for Business Owners.

In order for the Division to determine that an employer is in compliance with the provisions of Chapter 440, F.S., every business entity conducting business within the state of Florida shall maintain for the immediately preceding three year period true and accurate records for that business for all periods of time from the present to a minimum of three years prior. Such business records shall include, but not be limited to, original documentation of the following, (or copies, when originals are not in the possession of or under the control of the business entity):

(1) All Any and all workers' compensation insurance policies of purchased by the business entity for workers' compensation insurance coverage, and any and all endorsements, notices of cancellation, nonrenewal, or reinstatement of such policies same;

(2) All Any and all records, including correspondence, pertaining to premium audits conducted by an insurer of such policies. In the event a business entity is unable or unwilling, upon request by the Division, to produce in a timely manner any of the above, and/or the business claims to not be required

~~by Chapter 440, Florida Statutes, to carry workers' compensation insurance coverage, and/or the Division determines that the business entity is not in compliance with the provisions of Chapter 440, Florida Statutes, by failing to carry workers' compensation insurance coverage, then that business entity shall be required to produce to the Division the following records:~~

~~(3)(1) Time sheets, time cards, attendance records, earnings records, payroll summaries or other Rrecords indicating for every pay period a description of work performed and amount of pay or description of other remuneration paid or owed to each person by the business entity, such as time sheets, time cards, attendance records, earnings records, payroll summaries, payroll journals, ledgers or registers, daily logs or schedules, time and materials listings.~~

~~(4)(2) All Any and all contracts entered into with to which the business is or was a party for the services of a professional employer organization (PEO) or employee leasing company, temporary labor company, payroll or business record keeping company; If such services are not pursuant to and in the event a written contract was not executed, written documentation including the name, business address, telephone number, and FEIN or social security number of all principals if an FEIN is not held, of each such PEO, temporary labor company, payroll or business record keeping company; and~~

(a) For every contract with a PEO; a payroll ledger for each pay period during the contract period identifying each worker by name, address, home telephone number, and social security number or documentation showing that the worker was eligible for employment in the United States during the contract for his/her services, and a description of work performed during each pay period by each worker, and the amount paid each pay period to each worker. A business entity may maintain such records or contract for their maintenance by the PEO to which the records pertain.

(b) For every contract for temporary labor; work slips for each day temporary labor services were used identifying each worker by name, address, home telephone number, and social security number or documentation showing that the worker was eligible for employment in the United States during the contract for his/her services, and a description of work performed each pay period by each worker, and the amount paid each pay period to each worker and by the business entity to the temporary labor company. A business entity may maintain such records or contract for their maintenance by the temporary labor provider to which the records pertain.

~~(5)(3) All Any and all~~ contracts to which the business was or is a party for services performed by an independent contractor, or in the event a written contract was not executed, written documentation including the name, business address, telephone number, and FEIN or social security number if an FEIN is not held, of each independent contractor; and proof of workers' compensation insurance held by each independent

contractor during the life of the contract for his/her services or records sufficient to prove that the independent contractor was not required pursuant to Chapter 440, Florida Statutes, to have workers' compensation insurance coverage during that time period;

~~(6)(4) All Any and all~~ check ledgers and bank statements for checking, savings, credit union, or any other bank accounts established by the business entity or on its behalf; and

~~(7)(5) All Any and all~~ federal income tax forms prepared by or on behalf of the business and all State of Florida, Division of Unemployment Compensation UCT-6 forms and any other forms or reports prepared by the business or on its behalf for filing with the Florida Division of Unemployment Compensation.

Specific Authority 440.107(2), 440.591 FS. Law Implemented 440.107(2), 440.591 FS. History--Amended 2-2-00, Formerly 38F-6.015, Amended

4L-6.018 Misclassification of Employees as Independent Contractors.

(1) An employer who fails to secure compensation as required by Sections 440.10(1) and 440.38(1), Florida Statutes, for each employee classified by the employer as an independent contractor but who does not meet the criteria of an independent contractor specified in Section 440.02, Florida Statutes, shall be assessed a penalty in the following amount:

(a) \$2500 per misclassified employee for the first two misclassified employees per site; and

(b) \$5,000 per misclassified employee after the first two misclassified employees per site.

(2) The Division shall determine that an employer has misclassified an employee as an independent contractor if:

(a) The employer in any way reports that a worker who is an employee pursuant to Section 440.02(14), Florida Statutes, is an independent contractor;

(b) The employer maintains records identifying the worker as an independent contractor; or

(c) The employer holds out the employee as an independent contractor for federal tax purposes.

Specific Authority 440.10(1)(f), 440.591 FS. Law Implemented 440.10(1)(f), FS. History--New

4L-6.020 Inapplicability of Exemptions to Commercial Building Projects Valued at \$250,000 or Greater.

(1) A workers' compensation exemption obtained by a sole proprietor, partner, or officer of a corporation actively engaged in the construction industry does not apply to work performed at a commercial building project estimated to be valued at \$250,000 or greater.

(2) "Commercial building project" means the site on which construction operations for a "commercial building," as defined in Section 440.02(40), Florida Statutes, have begun until those operations are completed.

(3) A commercial building project is valued at the greater of the cost of improvements stated on or determined by:

(a) The construction permit(s);

(b) The application for the construction permit(s); or

(c) The Southern Building Code Congress International (SBCCI) Building Valuation Data produced on March 31, 2002, which is incorporated herein by reference.

Specific Authority 440.107, 440.591 FS. Law Implemented 440.02(14)(b), 440.10 (1)(b) FS. History–New

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: Aquaculture Best Management Practices

RULE CHAPTER NO.: 5L-3

PURPOSE AND EFFECT: The purpose and effect is to make amendments and additions to the Aquaculture Best Management Practices Manual, July 2000.

SUBJECT AREA TO BE ADDRESSED: Aquaculture Best Management Practices Manual, July 2000.

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.002, 597.003, 597.004 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kal Knickerbocker, Division of Aquaculture, 1203 Governor’s Square Boulevard, 5th Floor, Tallahassee, Florida 32301, (850)488-4033

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Probable Cause Panel

RULE NO.: 6F-2.006

PURPOSE AND EFFECT: The purpose of developing a new rule on this subject is to codify formally the procedures authorized by law. The effect is that guidelines will be available for the Commission and affected institutions to follow for disciplinary proceedings.

SUBJECT AREA TO BE ADDRESSED: The subject to be discussed at this meeting is procedures to be followed by the Commission for Independent Education for determination of probable cause.

SPECIFIC AUTHORITY: 246.207(1)(d), 246.213(1), 246.226(3) FS.

LAW IMPLEMENTED: 246.226, 246.2265, 246.227, 246.228 FS.

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

TIME AND DATE: 3:00 p.m., Sunday, July 28, 2002

PLACE: Marriott Marina, 1881 S. W. 17th Street, Ft. Lauderdale, FL 33316

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, Telephone (850)487-3673

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Mental Health Services – Definitions

RULE NO.: 33-404.103

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to designate additional mental health treatment facilities to ensure separation of male and female inmates and to expand the definition of isolation management rooms to include additional areas of an institution deemed suitable by the Office of Health Services in consultation with the warden of the institution.

SUBJECT AREA TO BE ADDRESSED: Mental health services – treatment facilities.

SPECIFIC AUTHORITY: 944.09, 945.49 FS.

LAW IMPLEMENTED: 944.09, 945.49 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-404.103 Mental Health Services – Definitions.

(1) through (7) No change.

(8) “Mental Health Treatment Facility” means an in-patient facility, as defined by sections 33-404.201-404.210, Florida Administrative Code, for the treatment of inmates with a diagnosed mental illness that the Secretary of the Department specifically designates to provide acute psychiatric care at the hospital level, in contrast to less intensive levels of care such as

outpatient mental health care, transitional mental health care, or crisis stabilization care. The secretary has designated the Corrections Mental Health Institution at Zephyrhills Correctional Institution as the primary mental health treatment facility. The secretary has also designated Lowell Correctional Institution and Dade Correctional Institution as mental health treatment facilities to ensure that male and female inmates are kept separate and apart while ensuring access to clinically appropriate freedom of movement.

(9) through (11) No change.

(12) "Isolation management room" means a room in an infirmary, transitional care unit, crisis stabilization unit, or a mental health facility, or other areas of an institution which have been deemed suitable by the Office of Health Services in consultation with the warden, which has been physically inspected and certified by a regional or central health care professional as being suitable for housing acutely psychotic inmates or those who are at risk for self-injury.

(13) through (14) No change.

Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.49 FS. History--New 5-27-97, Formerly 33-40.003, Amended

DEPARTMENT OF CORRECTIONS

RULE TITLES: Administrative Confinement 33-602.220 Protective Management 33-602.221

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify terms used in conjunction with administrative confinement; revise the process for recording data for administrative confinement and protective management inmates, clarify the process for the operation of confinement units, and provide for the use of new forms and the deletion of obsolete forms.

SUBJECT AREA TO BE ADDRESSED: Administrative Confinement and Protective Management.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 33-602.220 Administrative Confinement. (1) Definitions. (a) through (m) No change.

(n) Offender Based Information System (OBIS) – refers to an electronic data system used by the Department of Corrections to record and retrieve offender information.

(2) Procedures for Placement in Administrative Confinement.

(a) No change.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in subsection (11) of this rule. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate's comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment on a Report of Administrative Confinement, Form DC6-233a, including the reasons for the action and a summary of the inmate's comments. Form DC6-233a is incorporated by reference in (11) of this rule. The heading and Section I shall be completed by the official who placed the inmate in administrative confinement. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in (11) of this rule. This section shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement. The reason shall correspond with one of the reasons for placement stated in subsection (3) of this rule. Once Section I has been completed, the official who placed the inmate in administrative confinement shall sign Section I and forward the report to classification prior to the end of his or her shift or workday. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration during the forthcoming 72-hour review attached to the form.

(c) The Institutional Classification Team shall review inmates in administrative confinement within 72 hours. The ICT's findings and decision shall be documented in the electronic classification contact log in OBIS. The only exception to being reviewed within 72 hours is when the ICT cannot complete its review within the allotted timeframe due to a holiday. If the review cannot be completed within 72 hours, the action of the senior correctional officer shall be reviewed within 72 hours by the duty warden, documented on the DC6-229, Daily Record of Segregation, and evaluated within 5 days by the ICT. Inmates placed into administrative confinement shall not be released from this status until approved by the ICT. The classification supervisor shall be responsible for ensuring that the ICT docket is prepared. The ICT Chairperson is responsible for scheduling the ICT hearing date and time. ~~All Reports of Administrative Confinement, DC6-233a, shall be completed the same day an inmate is placed into confinement and forwarded to the institutional classification unit to be placed on the docket.~~ The ICT shall review inmates for release. During this review the ICT shall consider pending disciplinary hearings and other pending issues or actions. If an inmate has been held in administrative confinement pending a disciplinary hearing and the decision is not to impose disciplinary confinement as a part of the disciplinary action, the disciplinary team or hearing officer shall notify the confinement supervisor who shall coordinate the release of the inmate from administrative confinement. If the confinement supervisor discovers other pending issues or actions, the ICT shall be required to immediately review the case. In the event it is necessary to release an inmate from administrative confinement during weekends or holidays the duty warden is authorized to approve the release immediately.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a) through (b) No change.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates, (Rule 33-602.221, F.A.C.). The inmate shall be placed in administrative confinement by a senior correctional officer when the inmate presents a signed written statement alleging that the inmate fears for his safety from other inmates, and that the inmate feels there is no other reasonable alternative open to him. A senior correctional officer shall place an inmate in administrative confinement, pending review for protective management, based on evidence that such a review is necessary and the senior correctional officer determines that no other reasonable alternative is available. The inmate shall be encouraged to provide information and otherwise cooperate with the investigation of the matter. The protective management process, including the ICT's action, shall be completed within 15 working days from the initial confinement of the inmate.

1. The Institutional Classification Team (ICT) shall complete an OBIS electronic classification contact log entry approving the inmate's continuation in confinement. This entry will initiate an appointment for an investigation to be conducted gather information. ~~A member of the ICT shall complete the heading and section IA of the DC6-234, Report of Protective Management. Form DC6-234 is incorporated by reference in (11) of this rule. The committee member shall utilize the documentation in the DC6-233a, Report of Administrative Confinement, for the information necessary to complete this portion of the report. The report shall then be forwarded to the investigative official assigned to investigate the reasons for protection. The investigator shall enter the results of the investigation in the electronic classification contact log in OBIS; this entry will automatically schedule an complete Section IB of the report and return it to the ICT review appointment.~~

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in subsection (11) of this rule. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request.

3. Once the investigation is complete, the ICT shall interview the inmate to determine whether the inmate has a legitimate, verifiable need for protection. The ICT shall review all documentation available concerning the need for protection to include any written statements submitted by the inmate. The inmate's written request for release and the DC6-203 will also be reviewed. ~~The ICT shall document its findings and recommendations on the Report of Protective Management, Form DC6-234.~~ The following elements shall be considered in determining whether protective management is necessary:

a. through g. No change.

4. The ICT shall make recommendations concerning protective management based on the facts within 15 working days from the date of initial confinement. The ICT's findings and recommendations shall be entered in the electronic classification contact log in OBIS; this entry will automatically schedule an SCO review appointment. Whether the ICT recommends protective management or not, the inmate shall remain in administrative confinement at that facility pending review by the SCO. ~~The DC6-234 shall be forwarded to the State Classification Office along with team findings, recommendations and all other related documentation. All non-electronic related documentation shall be made available to the SCO by the ICT.~~ The State Classification Office shall approve, disapprove or return for additional information the recommendation of the Institutional Classification Team.

5. The State Classification Office (SCO) shall determine within five working days whether protection is necessary based upon the investigation and any follow-up ~~they~~ ~~he~~ deems appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall ~~also~~ be documented ~~in~~ ~~on~~ the electronic classification contact log in OBIS Report of Protective Management, Form DC6-234, and this report shall be returned to the institution. If the SCO determines that a need for protection exists, ~~they~~ ~~he~~ shall directly indicate in the Report of Protective Management that the inmate shall be placed in a protective management unit or transferred to resolve the inmate's need for protection. If a decision is made to transfer the inmate for housing in a protective management unit or to resolve the inmate's need for protection at the inmate's current location, the inmate shall be kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO's decision by the ICT ~~and this notification shall be documented on the Report of Protective Management, DC6-234.~~ At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate's acknowledgement of being informed of the SCO denial and the inmate's decision on whether or not to appeal shall be documented on the electronically produced Notification of Protective Management Disapproval, Form DC6-137 DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-137 is incorporated by reference in subsection (11) of this rule. The inmate shall remain in administrative confinement until the appeal process is complete.

6. Within three working days after an inmate has been either received at a protective management facility for the purpose of protective management or after an inmate already housed at a facility with a protective management unit has been approved for protective management by the SCO, a determination shall be made by the ICT as to appropriate housing. The ICT shall ensure that the housing supervisor assesses the inmate being placed into the protective management unit for his potential for risk to or from other inmates in the protective management unit. The inmate shall remain in administrative confinement until this assessment decision is made.

(d) through (f) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director and the emergency action center in central

office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director to continue to house inmates beyond the 24 hour period. Prior to placing inmates in the same cell, the inmates will be interviewed by the housing supervisor to ensure a determination shall be made that none of the inmates constitute a threat to any of the others.

(b) No change.

(c) Prior to placement of an individual in an administrative confinement cell, it shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221, Cell Inspection, shall be used for this purpose. Form DC6-221 is incorporated by reference in subsection (11) of this rule. Routine searches of each cell may be conducted at any time, but will be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Segregation. All inmates will be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit will be thoroughly searched, to include at a minimum, food cart and trays, laundry and linens and inmate property.

(d) The administrative confinement cells shall be physically separate from other confinement cells and the cell doors will feature remotely controlled locking devices, whenever possible given the physical design of the facility, and the number of inmates housed in administrative confinement shall not exceed the number of bunks in the cell. Whenever such location is not possible, physical barriers shall preclude the cross association of those in administrative confinement with those in other status confinement. Administrative confinement cells shall be built to permit verbal communication and unobstructed observation by the staff. The officers assigned will exercise care to maintain the noise within the unit to a reasonable level. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(5) Conditions and Privileges.

(a) through (j) No change.

(k) Legal Access – Legal materials shall be as accessible to inmates in administrative confinement as to inmates in general population as long as security concerns permit. An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps shall be taken to ensure the inmate is not denied needed access while in confinement. Although the

inmate may not be represented by an attorney at any administrative hearing, access shall be granted for legal visits at any reasonable time during normal business hours to the inmate's attorney or aide to that attorney. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent shall be allowed to purchase paper, security pens and envelopes for this purpose through a canteen order. Typewriters or typing services are not considered required items and shall not be permitted in confinement cells. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a certified research aide ~~law clerk~~ for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in administrative confinement shall possess only a security pen. Other types of pens and pencils shall be confiscated and stored until the inmate is released from administrative confinement status. Inmates who are in possession of working pens or pencils when placed in administrative confinement will be issued a security pen. Inmates who are not indigent must purchase additional pens when needed from the canteen. If a security pen ~~are is~~ unavailable, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. An inmate who has been provided a "writer/reader" shall be allowed access to such for the purpose of reading or preparing correspondence.

(n) through (o) No change.

(p) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement

officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Medical restrictions can also place limitations on the exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Recreational equipment may be available for the exercise period provided such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(6) Restraint and Escort Requirements.

(a) through (f) No change.

(g) Inmates utilized as house-men or orderlies shall be confined to their assigned cells when not working.

(7) through (8) No change.

(9) Administrative Confinement Records.

~~(a) A Report of Administrative Confinement, Form DC6-233a, shall be kept for each inmate placed in administrative confinement. A photocopy of the DC6-233a, with section I completed, shall be kept in administrative confinement with the other confinement records for each inmate. Upon completion of the DC6-233a, the white copy of the form shall be mailed to central office to be filed in the central office inmate record and the yellow copy shall be filed in the institutional inmate record.~~

(a)(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as the inmate is in administrative confinement in the housing area for 30 days, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record. The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled

inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing area for 30 days one week, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(b)(e) No change.

(10) Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed at least every 18 months ~~by the chief of security to determine whether a rotation is necessary. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in subsection (11) of this rule. The required supervisor shall conduct an interview with the officer and complete section II of the DC6-295 and forward the form to the chief of security.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; interview the officer and officers' supervisors for the period of review; when necessary and shall make a recommendation to the warden as to the necessity of a rotation. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. The warden's decision will be documented in section VI of the DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed DC6-295. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

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

(b) Form DC6-203, Protection Waiver/Appeal Decision Form, effective date _____ ~~2-12-01~~.

(c) Form DC6-228, Inspection of Special Housing Record, effective date 2-12-01.

(d) Form DC6-229, Daily Record of Segregation, effective date 2-12-01.

~~(e) Form DC6-233a, Report of Administrative Confinement, effective date 2-12-01.~~

~~(f) Form DC6-234, Report of Protective Management, effective date 2-12-01.~~

~~(e)(g)~~ Form DC6-221, Cell Inspection, effective date 2-12-01.

(f) Form DC6-295, Special Housing Unit Rotation Review, effective _____.

(g) Form DC6-137, Notification of PM Disapproval, effective _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History--New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, _____.

33-602.221 Protective Management.

(1) No change.

(2) Procedures for placement in Protective Management.

(a) No change.

(b) Inmates on death row, in close management or disciplinary confinement are not eligible for placement in protective management. However, if an inmate in one of these statuses requests protection, procedures outlined in Rule 33-602.220, F.A.C., shall be completed begin.

(c) If it is determined that an inmate on death row, close management or disciplinary confinement needs protection, the inmate will be afforded such protection in his or her current status. Upon completion of that special status, the institutional classification team (ICT) shall review the inmate's need for protection and make recommendations to the state classification office (SCO), who shall determine the appropriate action to resolve the inmate's protection needs.

(d) ~~When Once the ICT and SCO determines have determined~~ that protective management is appropriate for an inmate, the inmate shall be interviewed by the housing supervisor and a review shall be initiated to assess the inmate's potential risk to or from determine if any of the inmates in the protective management unit are a threat to the inmate being placed or if the inmate being placed is a threat to other inmates in the unit. The completion of this review will be documented on Form DC6-235, Record of Protective Management. Form DC6-235 is incorporated by reference in subsection (10) of this rule. If the inmate can not be placed for ~~this these~~ reasons the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitute a threat to any of the others and document such on Form DC6-235, Record of Protective Management.

(b) No change.

(c) Prior to placement of an individual in a protective management cell, the cell shall be thoroughly inspected to ensure that the cell is in proper order. The officer conducting the inspection will complete and sign the Cell Inspection, DC6-221, attesting to the conditions of the cell. The inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221 is incorporated by reference in subsection 33-602.220(11)(10), F.A.C.

(d) No change.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235, Record of Protective Management, and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others ~~or to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security.~~ If an inmate’s clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover himself or herself. ~~Form DC6-235 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-12-01.~~

(b) through (g) No change.

(h) Counseling Interviews – Counseling shall be provided to protective management inmates in-cell or out of cell when deemed necessary by mental health staff. ~~The ICT will determine whether an inmate in protective management may~~

~~be removed from his or her cell to attend interviews and counseling sessions when they determine that it is safe to do so, or whether counseling must take place in cell.~~

(i) through (j) No change.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided through correspondence or visits from the inmate research aide law clerk. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer reader). An inmate who is provided an auxiliary aid will be allowed access to a certified research aide law clerk for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in protective management shall be allowed to possess pens and pencils of the same type and number as those in general population. If it is determined that there is a safety, security or sanitation risk these items shall be confiscated and stored until the inmate is released from protective management status. The inmate shall be issued a security pen; if a security pen is unavailable the inmate shall be allowed to sign out a regular pen from the housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail documents or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of preparing correspondence.

(n) through (o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the

wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the ~~Daily Record of Protective Management Segregation~~, Form ~~DC6-235 DC6-229~~. Form ~~DC6-235 DC6-229~~ is incorporated by reference in subsection ~~33-602.220(10)~~ of this rule. Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Report of Protective Management, Form DC6-235.

(q) through (s) No change.

(t) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-235, Record of Protective Management, and reported to the ICT. The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction shall be documented on Form DC6-235, Record of Protective Management.

(5) Work assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action on Form DC6-210, Incident Report, and shall be reviewed by the warden or ICT the ~~next working following~~ day. Form DC6-210 is incorporated by reference in subsection 33-602.210(9), F.A.C. Refusal of a work assignment shall result in disciplinary action pursuant to Rules 33-601.301-601.314, F.A.C. Inmates who refuse work assignments will not be allowed other housing unit activities. Those who accept work assignments shall be subject to awards of gain time pursuant to Rule 33-601.101, F.A.C., in the same manner as general population.

(b) No change.

~~(e) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-234, Report of Protective Management, and reported to the ICT. Form DC6-234 is incorporated by reference in rule 33-602.220(10). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order, or effective management of the institution. The ICT's decision for continuing restriction shall also be documented on Form DC6-235, Record of Protective Management.~~

(6) No change.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the ~~Daily Record of Protective Management Segregation~~, Form ~~DC6-235 DC6-229~~, if, during the visit by staff, any discussion of significance, action or behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. At least every 30 minutes ~~hour~~ by a correctional officer, but on an irregular schedule.

2. through 9. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Forms DC4-650 is incorporated by reference in subsection 33-602.220(11)(40), F.A.C.

(8) Review of Protective management.

(a) through (d) No change.

(e) If the inmate submits a request for release in writing at any time after being placed in protective management, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in subsection 33-602.220(11)(40), F.A.C. The inmate shall complete Form

DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate’s written request. The ICT shall docket and review the inmate’s request, and interview the inmate. The ICT shall submit their recommendation along with the DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.

(9) Protective Management Records.

(a) A printed copy of the electronic Report of Protective Management, ~~Form DC6-234~~ shall be kept for each inmate placed in protective management.

(b) An Inspection of Special Housing Record, Form DC6-228 shall be maintained in each protective management area. Form DC6-228 is incorporated by reference in subsection ~~(11)(10)~~ of Rule 33-602.220, F.A.C. Each staff person shall sign the record when entering and leaving the protective management area. Prior to leaving the protective management area, each staff member will indicate any specific problems including any inmate who requires medical attention.

(c) No change.

(10) Form DC6-235, Record of Protective Management, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is _____.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History—New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Health Quality Assurance

RULE TITLES:	RULE NOS.:
Definitions	59A-12.002
Administration, Forms, Fees	59A-12.003
Governing Body	59A-12.004
Quality of Care	59A-12.006
Quality Assurance	59A-12.007
Accreditation	59A-12.0071
Accreditation Organizations	59A-12.0072
Subscriber Grievance Procedure	59A-12.010
Internal Risk Management Program	59A-12.012
Statewide Provider and Subscriber Assistance Program Forms	59A-12.020

PURPOSE AND EFFECT: The Agency for Health Care Administration (AHCA) is proposing a workshop to amend Rules 59A-12.002, 59A-12.003, 59A-12.004, 59A-12.006, 59A-12.007, 59A-12.0071, 59A-12.0072, 59A-12.010, 59A-12.012 and 59A-12.020, F.A.C. to implement section 641.56, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Health Maintenance Organizations (HMO) and Prepaid Health Clinics (PHP). These proposed changes will specify: (a) Clarification of the definition of an HMO and PCP medical staff; (b) Requirements

to submit an application for a Health Care Provider Certificate and a form to submit for an annual regulatory assessment; (c) Governing Body’s responsibility for risk management programs; (d) Quality of care guidelines and subscribers rights; (e) Quality assurance requirements; (f) Identification of department that determines organizations financial viability; and (g) Reporting requirements for accreditation organizations. SPECIFIC AUTHORITY: 641.56 FS.

LAW IMPLEMENTED: 641, Part III 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: 8:30 a.m. – 4:30 p.m., August 7, 2002
 PLACE: 2727 Mahan Drive, Building 3, Room A, 1st Floor Conference Room, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Betty Jean Cettie, Medical/Health Care Program Analyst, Bureau of Managed Health Care, Agency for Health Care Administration, (850)414-8971

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59A-12.002 Definitions.

(1) All terms defined in the Health Maintenance Organization Act, Chapter 641, F.S., which are used in these rules shall have the same meaning as in the act.

(2) HMO. Health Maintenance Organization shall be abbreviated as HMO in these rules.

(3) PHC. Prepaid Health Clinic shall be abbreviated as PHC in these rules.

(4) PCP. Primary Care Provider shall be abbreviated as PCP in these rules.

~~(5)~~(4) Emergency Services. Services which are needed immediately because of an injury or unforeseen medical condition as provided for in the subscriber’s contract. These must be provided or arranged to be provided on a 24-hour basis by the HMO or PHC, but also may cover inpatient services or outpatient services that are furnished by an appropriate source other than the HMO or PHC when the time required to reach HMO or PHC providers, or alternatives authorized by the HMO or PHC, would mean the risk of permanent damage to the subscriber’s health. Notwithstanding the above, these services are considered to be emergency services only as long as transfer of the subscriber to the HMO’s or PHC’s source of health care or designated alternative is precluded because of risk to the subscriber’s health or because transfer would be unreasonable given the distance involved in the transfer and the nature of the medical condition.

~~(6)(5)~~ Medical Staff of the HMO or PHC. A formal organization of employed physicians or a contracted network of providers in an HMO or PHC with the delegated responsibility to maintain acceptable standards in the delivery of health care and to plan for continued betterment of that care.

~~(7)(6)~~ Minimum Services. Minimum services include the following:

(a) Emergency Care. Emergency inpatient, outpatient and physician services shall be available on a 24-hour, 7-day a week basis, either by the HMO or PHC through its own facilities or through arrangements with providers. Emergency resuscitation supplies shall be available. In addition, emergency services, as defined in these rules, shall be covered by the HMO or PHC.

(b) Inpatient Hospital Services. Inpatient hospital services shall be available on a 24-hour, 7-day a week basis either through the HMO's own facility or through arrangements with hospitals. Inpatient hospital services shall include, for example: room and board, general nursing care, meals and special diets when medically necessary, use of operating room and related facilities, use of intensive care unit and services, x-ray services, laboratory and other diagnostic tests, drugs, medications, biologicals, anesthesia and oxygen services, radiation therapy, inhalation therapy, and administration of whole blood and blood plasma. ~~220~~

(c) Physician Care. Physician care, provided or supervised by physicians licensed under Chapter 458, 459, 460 or 461, F.S., to include PCPs and specialists of sufficient type and number to adequately provide for the contracted services. Physician care shall include consultant and referral services by a physician.

(d) Ambulatory Diagnostic Treatment. Outpatient diagnostic treatment services with an emphasis directed toward primary care. Ambulatory diagnostic treatment shall include diagnostic laboratory and diagnostic radiological services; and

(e) Preventive Health Care Services. A program of health evaluation, education and immunizations which is designed to prevent illness and disease and to improve the general health of HMO or PHC subscribers. This program shall include at least the following:

1. Well-child care from birth;
2. Periodic health evaluations for adults;
3. Eye and ear screenings by a physician for children through age 21 ~~17~~ to determine the need for vision or hearing correction; and
4. Pediatric and adult immunizations, in accord with accepted medical practice.

~~(8)(7)~~ Peer Review. Ongoing evaluation of services by Florida licensed health care professionals to achieve and maintain high standards of professional practice within the discipline.

~~(9)(8)~~ Quality of Care. The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers in the community.

~~(10)(9)~~ Health Care Personnel Engaged to Provide Health Care Services. A health care professional obligated in advance by written contract to provide health care services to an HMO or PHC subscriber. Said contract must include specific hold harmless language relieving the subscriber of any obligation to the provider for unpaid health care costs for covered benefits.

~~(11)(40)~~ ICD-9-CM. The International Classification of Diseases, 9th Revision, Clinical Modifications shall be abbreviated as ICD-9-CM in these rules.

~~(12)(41)~~ Second medical opinion. A consultation by a physician other than the member's primary care physician, whose specialty ~~speciality~~ is appropriate to the need, and whose services are obtained when the member disputes the appropriateness or necessity of a surgical procedure, is subject to a serious injury or illness, including failure to respond to the current treatment plan.

~~(13)(42)~~ Serious Injury or Illness. An injury or illness, the natural history of which, if untreated, is likely to result in death, to progress to a more severe form, or to develop complications.

Specific Authority 641.56 FS. Law Implemented 641.36, 641.51 FS. History—New 1-28-88, Amended 3-11-92, Formerly 10D-100.002, Amended

59A-12.003 Administration, Forms, Fees.

(1) Application. "Application for Health Care Provider Certificate", AHCA Form 3002, Feb.1998, HRS Form 1710, Nov.—87 obtained from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308, which forms are incorporated herein by reference, must be completed in the manner specified within the application in order for each individual item to be considered complete for the purpose of determining that a properly completed application has been filed. The application shall be accompanied by a filing fee of \$1,000.00 payable to ~~the~~ AHCA and shall be completed by each entity desiring to obtain a Health Care Provider Certificate as an HMO or PHC. The application shall specify the contact person or persons for the HMO or PHC. During the review ~~investigation~~ of the entity only contact persons specified within the application shall be allowed access to the application materials submitted.

(2) Application Review Process for Health Care Provider Certificate. Upon receipt of the Application for Health Care Provider Certificate from a proposed HMO or PHC, ~~the~~ AHCA shall review the application within 30 days of receipt. ~~The~~ AHCA shall provide notification to the proposed HMO or PHC of deficiencies in the application within this 30-day period. The applicant has 90 days from the date of the filing of the

application to file any additional information requested by ~~the~~ AHCA. By the end of the 90-day period if the additional information has not been received the application will be denied in accordance with Chapter 120, F.S. Within 90 days after the application has been completed ~~the~~ AHCA shall approve or deny the application.

(3) Certificate of Authority. The application for a Health Care Provider Certificate must include a copy of the letter sent to the applicant accepting the receipt of an application for a Certificate of Authority submitted by the organization to the Department of Insurance.

(4)(3) Geographic Area Expansions. The HMO or PHC may not change its geographic area unless it follows the applicable requirements set forth in Section 641.495(2), F.S. Each HMO or PHC shall submit the required notarized "Affidavit by HMO for Expansion of Service Area", AHCA Form 3160-1005, April 2002 HRS Form 1693, Feb. 87, which is hereby adopted and incorporated by reference. Copies may be obtained by writing ~~the~~ AHCA, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308.

(5)(4) Assessments. Annual Assessment. The Agency for Health Care Administration shall determine the regulatory assessment percentage necessary to be imposed for each calendar year. AHCA Form "Regulatory Assessment Worksheet for Health Maintenance Organizations, Prepaid Health Clinics, and Exclusive Provider Organizations", AHCA Form 3160-1004, July 1995, which is hereby adopted and incorporated by reference, will be provided to the organization for calculating the annual regulatory assessment percentage and premium volume. Copies may be obtained by writing the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308. The annual regulatory assessment shall not exceed the statutory limitations and must be paid by the date specified in the Administrative Assessment Order, on or before December 1 of each year the regulatory assessment percentage necessary to be imposed for that calendar year which will be payable on or before the following April 1. HRS Form 1711, Nov. 87, "Health Maintenance Organizations or Prepaid Health Clinics Regulatory Assessment Work Sheet", which is hereby adopted and incorporated by reference, will be provided to the organization for calculating the annual regulatory assessment based on assessment percentage and premium volume. The annual regulatory assessment shall not exceed the statutory limitations.

Specific Authority 641.56, 641.36, 641.41, 641.58 FS. Law Implemented 641.21, 641.47, 120.60(2), 641.22, 641.495 FS. History—New 1-28-88, Formerly 10D-100.003, Amended.

59A-12.004 Governing Body.

(1) Each HMO or PHC shall have a governing body that sets policy and has overall responsibility for the organization including the following:

(a) Adopting organizational bylaws, rules and regulations or similar form of document which provides a clear concise statement of the mission, goals, and objectives of the organization;

(b) Adopting a quality assurance program that monitors the key areas of health care delivery to identify problems and insure the early recognition of opportunities to improve the delivery of quality health care services; and

(c) Maintaining ultimate responsibility for ongoing quality assurance, risk management programs and credentialing programs.

(2) Nothing in this rule shall prohibit the designation of qualified management personnel to implement the provisions of subsection (1) and to manage the operation of the HMO or PHC in the geographic area or areas serviced. The relationship between management personnel and the governing body shall be set forth in writing including each person's authority, responsibilities and functions.

Specific Authority 641.56 FS. Law Implemented 641.49(3), 641.22, 641.49 FS. History—New 1-28-88, Formerly 10D-100.004, Amended.

59A-12.006 Quality of Care.

Each HMO or PHC shall:

(1) Make available to each member an appropriate health assessment in accordance with preventive health guidelines and professional standards in the community.

(2) Provide for or arrange the following services as a minimum:

(a) Coordination of all necessary care contracted for with the subscriber;

(b) Acute episodic care, with appropriate ancillary services necessary for proper evaluation and treatment, for example:

1. Laboratory studies;
2. Diagnostic radiology;
3. Treatment plan;
4. Specialty consultation referrals.

(c) Chronic disease screening, and follow-up treatment for prevention of complications, for example:

1. Periodic update of history and physical examination;
2. Hypertension follow-up; and
3. Diabetes follow-up.

(d) Health risk appraisal and prevention measures, for example:

1. Dietary counseling ~~counseling~~;
2. Smoking cessation education;
3. Stress reduction counseling; ~~counseling~~ and
4. Substance abuse education;

(e) Family planning services.

(3) Ensure that the health care services it provides or arranges for are accessible to the subscriber with reasonable promptness. Such services shall include, at a minimum:

- (a) Establishment of an appointment system;
- (b) A method to distinguish among emergency, urgent, and routine cases.
 - 1. Emergencies will be seen immediately;
 - 2. Urgent cases will be seen within 24 hours;
 - 3. Routine symptomatic cases will be seen within two weeks;
 - 4. Routine non_symptomatic cases will be seen as soon as possible;
- (c) A provision that patients with appointments should have a professional evaluation within one hour of scheduled appointment time. If a delay is unavoidable, patient shall be informed and provided an alternative;
- (d) Average travel time from the HMO geographic services area boundary to the nearest primary care delivery site and to the nearest general hospital under arrangement with the HMO to provide health care services of no longer than 30 minutes under normal circumstances. Average travel time from the HMO geographic services area boundary to the nearest provider of specialty physician services, ancillary services, specialty inpatient hospital services and all other health services of no longer than 60 minutes under normal circumstances. ~~The AHCA shall waive this requirement if the HMO provides sufficient justification as to why the average travel time requirement is not feasible or necessary in a particular geographic service area;~~
- (e) Provision of accessible hours of operation and after hours emergency services;
- (f) Maintenance of staffing patterns within generally accepted HMO or PHC industry norms for meeting projected subscriber needs and for expeditiously satisfying the requirements of the benefit package as offered by the HMO or PHC; and
- (g) Maintenance of a professional staff or arrangements with providers, duly licensed as required to practice in Florida.
- (4) Make grievance files available during normal business hours for inspection by the agency. ~~Department together with~~ The files shall contain a written summary of the actions taken by the HMO or PHC: including actions taken through the review by the quality improvement process.
- (5) Coordinate the overall health care of each member, and, when possible, provide this coordination through a single health care professional, who will maintain a unified health record on the member.
- (6) Assure that services provided members through referral sources are reported to the HMO or PHC or a designated health care professional in order that all appropriate medical information is filed in the member's medical record in a timely manner.

(7) Provide a system whereby a member may request and obtain a second medical opinion if the member feels that he is not responding to the current treatment plan in a satisfactory manner after a reasonable lapse of time for the condition being treated.

The primary care physician must be so informed by the member, and a request for a consultation initiated. Such a consultation shall be provided upon authorization by the Medical Director.

(8) Inform subscribers of their rights and responsibilities set forth in Section 381.026, F.S., as well as the rights and responsibilities of the managed care organization incorporated in the member's handbook. Assure that physicians and hospitals treat all HMO and PHC patients with equal dignity and consideration as their non-HMO and non-PHC patients. If the department determines that a physician or hospital is not treating HMO and PHC patients with equal dignity and consideration, the AHCA shall notify the HMO or PHC immediately.

Specific Authority 641.56 FS. Law Implemented 641.49, 641.54, 641.495(3), 641.515 FS. History--New 1-28-88, Amended 3-11-92, Formerly 10D-100.006, Amended _____.

59A-12.007 Quality Assurance.

- (1) Each HMO or PHC shall have an ongoing quality assurance program designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and resolve identified problems at the prevailing professional standard of care.
- (2) The quality assurance plan shall be in writing and shall describe the program's objectives, organization and problem solving activities.
- (3) The scope of the program shall include, at a minimum, the following:
 - (a) Evaluation of clinical performance (peer review);
 - (b) Review of medication usage;
 - (c) Evaluation as to appropriate use of tests and studies, for example: lab, x-ray and EKG;
 - (d) Evaluation of subscriber grievances;
 - (e) A utilization review process;
 - (f)(e) Evaluation of outcomes of care using criteria developed by physicians and other health professionals to evaluate patient care patterns and clinical performance for health services provided; and
 - (g)(f) Written procedures for taking appropriate remedial action whenever, as determined under the quality assurance program, inappropriate or substandard services have been provided or services which should have been provided were not.

(4) All findings, conclusions, recommendations, actions taken and results of actions taken shall be documented and reported through organizational channels that have been established.

Specific Authority 641.56 FS. Law Implemented 641.49(3)(o), 641.495, 641.51 FS. History—New 1-28-88, Amended 3-11-92, Formerly 10D-100.007, Amended.

59A-12.0071 Accreditation.

As a condition of doing business in the state, each HMO or PHC shall apply for accreditation within 1 year and be accredited within 2 years of the organization’s receipt of its Certificate of Authority. HMOs and PHCs with existing Certificates of Authority must apply for accreditation within 1 year and be accredited within 2 years of the effective date of this rule. All HMOs and PHCs must undergo reaccreditations not less than once every 3 years. Accreditation and reaccreditation must be awarded by an accreditation organization approved by the agency pursuant to Rule 59A-12.0072, F.A.C.

(1) The agency will provide technical assistance, upon request by an HMO or PHC, in order to assist new or existing organizations to develop and maintain quality assurance systems ~~and for the purpose of complying with the accreditation requirement.~~

(2) The agency will monitor and determine the accreditation status of all existing HMOs and PHCs on an ongoing basis and group them into the following categories:

- (a) Three year accreditation;
- (b) Less than three year accreditation;
- (c) Not applied and surveyed for accreditation within the appropriate time frame;
- (d) Applied for accreditation but not surveyed within the appropriate time frame;
- (e) Surveyed, findings of the accreditation agency not final;
- (f) Failed accreditation survey;
- (g) New HMO or PHC, accreditation not currently due.

(3) The agency shall verify the compliance of HMOs and PHCs with the accreditation requirement with the accreditation organizations and shall initiate action for HMOs and PHCs classified under (2)(c), (d), and (f) above. For those HMOs and PHCs under (2)(e) above, the agency shall not take administrative action until receipt of the final determination of accreditation from either the HMO, PHC or the accrediting body.

(4) The agency shall file an administrative order to show cause against those HMOs and PHCs under paragraphs (2)(c), (d), and (f) which are not in compliance with the accreditation requirement.

(5) The penalties to be assessed against organizations not achieving accreditation will be as follows:

ACCREDITATION STATUS

Not applied for accreditation within the time frames of this rule
 Applied, not surveyed within the time frames of this rule

Failed initial or renewal accreditation survey

Failed follow-up Accreditation survey conducted subsequent to a failed accreditation survey

PENALTY

Suspension of enrollment for a period not exceed one year or until accreditation is received if less than one year; Two counts of willful violation as specified under ss. 641.52(5), F.S.

Suspension of enrollment for a period not to exceed one year or until accreditation is received if less than one year; One count of willful violation as specified under ss. 641.52(5), F.S.

No fine;
 Suspension of the enrollment beyond the current enrollment level for a period not to exceed one year or until accreditation is received if less than one year;

Revocation of the Health Care Provider Certificate

(6) For those HMOs and PHCs failing an accreditation survey the agency shall assess the need to mitigate the penalties specified under subsection(5) based upon:

(a) The potential threat to subscribers’ health, safety, and welfare as determined by assessing compliance with standards specified in Rule 59A-12, F.A.C. The agency shall also assess the findings of the accreditation survey;

(b) The financial viability of the organization as determined by the Department of Insurance; and

(c) The extent of the organization’s efforts to initiate corrective action.

(7) Those HMOs and PHCs classified under (2)(c), (d), or (f) will be surveyed by the agency to ensure compliance with minimum standards for a Health Provider Certificate specified in Rule 59A-12, F.A.C.

(8) For those HMOs and PHCs failing the initial accreditation survey the agency shall require the HMO or PHC to enter into a corrective action process for the purpose of achieving accreditation.

(9) The agency shall monitor the progress of those organizations not in compliance in cooperation with the accreditation organization to ensure that HMOs and PHCs come into compliance with the accreditation requirement.

(10) Those HMOs and PHCs failing an initial or renewal accreditation survey must receive at least accreditation under paragraph (2)(b) during a subsequent accreditation survey by the original accrediting organization. Accreditation must be

received within one year of the final accreditation decision by the accrediting agency or within a time frame mutually agreeable to the agency, the accreditation organization, and the HMO or PHC. An HMO or PHC may, at any time, seek accreditation from another accreditation organization provided that the HMO or PHC enters into a corrective action process under subsection (8) to achieve accreditation with the original accreditation organization.

~~(11) The Agency shall conduct annual validation surveys on accredited HMOs and PHCs to ensure ongoing compliance with accreditation standards. Selection of the organizations to be surveyed shall be based on the following information:~~

~~(a) Reports received from the accreditation organization, Department of Insurance, or other state or federal regulatory agency regarding the quality of care provided by the organization;~~

~~(b) Quality of care grievance reports received pursuant to s. 641.511, F.S.;~~

~~(c) Performance data submitted by the HMO pursuant to ss. 408.704(4), F.S.;~~

~~(d) Quality of care complaints received from subscribers or providers by the agency.~~

Specific Authority 641.56 FS. Law Implemented 641.495, 641.512, 641.515(1), 641.52(1)(e), 641.52(1)(g) FS. History--New 3-11-92, Formerly 10D-100.0071, Amended 11-21-94, _____.

59A-12.0072 Accreditation Organizations.

The accreditation organization must have nationally recognized experience in HMO accreditation activities and in the appraisal of medical practice and quality assurance in a HMO setting. As a minimum requirement for approval of the accreditation organization, the following criteria must be met:

(1) The accreditation organization must allow representatives from the department to accompany the accreditation organization throughout the accreditation process, but the department representatives shall not participate in the final accreditation or assessment determination.

(2) The accreditation organization must have at least 3 years of experience in reviewing all of the types of HMOs commonly found doing business in the State of Florida.

(3) The accreditation organization must have experience in conducting accreditation reviews for HMOs in at least 5 states of the United States or 2 regions of the Health Care Financing Administration, United States Department of Health and Human Services.

(4) Standards for accreditation must be developed with the input of the medical community, the HMO industry and health care consumers.

(5) The accreditation program shall, at a minimum, include standards for the following aspects of HMO operations:

- (a) Quality Assurance Program;
- (b) Provider Credentialing;

- (c) Utilization Review Program;
 - (d) HMO Member Rights and Responsibilities;
 - (e) Medical Records;
 - (f) HMO Governance; and
 - (g) Preventive Health Services.
- (6) The accreditation program may include standards for the following services:

- (a) Clinical laboratory services;
- (b) Diagnostic and therapeutic radiology services;
- (c) Pharmacy;
- (d) Plant, technology, and safety management;
- (e) Surgical and anesthesia services.

(7) The standards for accreditation shall be reviewed and updated at regular intervals not to exceed 2 years by the accreditation organization.

(8) The accreditation organization shall be required to submit its standards for HMO accreditation to the agency department every 3 years for approval.

(9) Accreditation review teams shall include at least 1 physician experienced in HMO quality assurance program management. Reviewers shall undergo formal training in using the established standards for the HMO reviews.

(10) The accreditation organization shall maintain an internal quality assurance program to ensure the quality and continuity of the review program.

(11) The accreditation organization shall not currently be involved in the operation of the HMO or PHC, nor in the delivery of health care services to its subscribers.

(12) The accreditation organization shall not have contracted with or conducted consultations with the HMO or PHC seeking accreditation within the last 2 years for other than accreditation purposes.

Specific Authority 641.56 FS. Law Implemented 641.512 FS. History--New 3-11-92, Formerly 10D-100.0072, Amended _____.

59A-12.010 Subscriber Grievance Procedure.

Each HMO or PHC shall establish a subscriber grievance procedure as specified under Section 641.511, Florida Statutes provided for by the Department of Insurance rule, Rule 4-31.078, F.A.C.

Specific Authority 641.56 FS. Law Implemented 641.495(8), 641.311 FS. History--New 1-28-88, Formerly 10D-100.010, Amended _____.

59A-12.012 Internal Risk Management Program.

(1) Every health maintenance organization shall, as a part of its administrative function, establish an internal risk management program. Such program shall include as a minimum:

- (a) The investigation and analysis of the frequency and causes of general categories and specific types of incidents;
- (b) The development of appropriate measures to minimize the risk of injuries and incidents to patients;

(c) The analysis of patient grievances which relate to patient care and the quality of medical services; and

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the health care facility to report injuries and incidents. The risk management program shall be the ultimate responsibility of the governing body of the HMO.

(2) Every ~~staff model and combination of individual practice association and staff model~~ HMO which has an annual premium volume of \$10 million or more shall employ or contract with a licensed risk manager who shall be responsible for implementation and oversight of the organization's internal risk management program. A part-time risk manager shall not be responsible for risk management programs in more than four organizations or facilities. Every individual practice association model and every HMO with an annual premium volume of less than \$10 million shall designate an officer or employee of the HMO to serve as risk manager.

(3) Incident Reporting System. An incident reporting system shall be established for each HMO. Procedures shall be detailed in writing and disseminated to all employees of the HMO. All new employees, within 30 days of employment, shall be instructed in the operation and responsibilities of the incident reporting system. At least annually all non physician personnel employed by the organization working in clinical areas and providing patient care shall receive 1 hour of risk management and risk prevention education and training including the importance of accurate and timely incident reporting. The incident reporting system shall include the prompt, within 3 calendar days, reporting of incidents to the risk manager. Incident reports shall be on a form developed by the HMO for the purpose and shall contain at least the following information:

(a) The patient's name, date of birth, sex, physical findings or diagnosis and, if hospitalized; locating information, admission time and date, and the facility's name;

(b) A clear and concise description of the incident including time, date, exact location, and coding elements as needed for the annual report based on ICD-9-CM;

(c) Whether or not a physician was called and, if so, a brief statement of said physician's recommendations as to medical treatment, if any;

(d) A listing of all persons known to be involved directly in the incident, including witnesses, along with locating information for each; and

(e) The name, signature and position of the person completing the report, along with date and time that the report was completed.

(4) Incident Report and Patient Grievance Review and Analysis. The HMO shall be responsible for regular and systematic review of all incident reports and written patient

grievances for the purpose of identifying trends or patterns as to time, place or persons and, upon emergence of any trend or pattern in incident occurrence, shall develop recommendations for appropriate corrective action and risk management prevention education and training. Summary data shall be systematically maintained for 3 years.

(5) Fifteen Day Reports. If an adverse or untoward incident, whether occurring in the facilities of the organization or arising from health care prior to admission to the facilities of the organization or in the facility of one of its providers, results in:

(a) The death of a patient; or

(b) Severe brain or spinal damage to a patient; or

(c) A surgical procedure being performed on the wrong patient; or

(d) A surgical procedure unrelated to the patient's diagnosis or medical needs being performed on any patient, the organization shall report this incident to the department within 15 calendar days of its occurrence. The report shall be made on HRS Form 1654, "Code 15", effective 12-89 which is incorporated by reference. Any reportable incidents, pursuant to this section that are submitted more than 15 calendar days from occurrence by the organization must be justified in writing by the organization administrator.

(6) Summary Reports. At least quarterly or more often as may be required by the governing body, the risk manager shall provide a summary report to the governing body, which includes information about activities of risk management.

(7) System Review by ~~the~~ AHCA. Evidence of the incident reporting and analysis system and copies of summary reports and evidence of recommended and accomplished corrective actions shall be made available for review to ~~the~~ AHCA upon request during the normal business hours.

Specific Authority 641.55, 641.56 FS. Law Implemented 641.44, 641.45 FS. History--New 1-28-88, Amended 3-11-92, Formerly 10D-100.012, Amended

59A-12.020 Statewide Provider and Subscriber Assistance Program Forms.

The following is a list of the forms utilized by the Division of Managed Care and Health Quality in its dealings with Participants in the Statewide Provider and Subscriber Assistance Program, which are hereby incorporated by reference in this rule. A copy of these forms may be obtained by writing to the Statewide Provider and Subscriber Assistance Program, 2727 Mahan Drive, Building 1, Suite 339, Mail Stop 26, Tallahassee, Florida 32308.

FORM NO./REVISION DATE	TITLE
AHCA Form 3160-0006, 05/00	Agency for Health Care Administration Statewide Provider and Subscriber Assistance Program Quarterly Report of Subscriber Grievances
AHCA Form 3160-0007, 05/00	Statewide Provider and Subscriber Assistance Program Request for Review and Release Form
AHCA Form 3160-0008, 05/00	Agency for Health Care Administration Statewide Provider and Subscriber Assistance Program HMO Response Form

AHCA Form 3160-0010, 05/00 Statewide Provider and Subscriber Assistance Program Hearing Information Sheet
 AHCA Form 3160-0011H, 05/00 Statewide Provider and Subscriber Assistance Program HMO/Subscriber Hearing Response Form
 AHCA Form 3160-0011S, 05/00 Statewide Provider and Subscriber Assistance Program Subscriber/Provider Hearing Response Form

Specific Authority 408.15 FS. Law Implemented 408.7056 FS. History--New 9-17-00, Amended.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE CHAPTER TITLE: Ron Silver Senior Drug Program
 RULE CHAPTER NO.: 59G-12
 RULE TITLES: Purpose, Definitions, Eligibility/Enrollment, Program Administration, Program Forms
 RULE NOS.: 59G-12.001, 59G-12.002, 59G-12.003, 59G-12.004, 59G-12.005

PURPOSE AND EFFECT: The purpose of this rule is to provide a framework by which the Agency for Health Care Administration will administer subsections (1) and (2) of Section 409.9065, Florida Statutes, the Ron Silver Senior Drug Program.

SUBJECT AREA TO BE ADDRESSED: Ron Silver Senior Drug Program.

SPECIFIC AUTHORITY: 409.9065(4)(b) FS.

LAW IMPLEMENTED: 409.9065(4)(b) FS.

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

TIME AND DATE: 1:00 p.m., August 5, 2002
 PLACE: Conference Room C, Bldg 3, 2727 Mahan Drive, Tallahassee, FL 32308
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Matthew Dull, Medicaid Pharmacy Services, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)487-4441

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

CHAPTER 59G-12 – RON SILVER SENIOR DRUG PROGRAM.

59G-12.001 Purpose.

The purpose of these rules is to implement the Ron Silver Senior Drug Program (program) to be administered by the Agency for Health Care Administration as directed in subsections (1) and (2) of Section 409.9065, Florida Statutes.

The program will provide a pharmacy benefit to low-income elderly residents of Florida to help address the need for prescription drug coverage.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) History--New.

59G-12.002 Definitions.

(1) The Agency for Health Care Administration (agency) is the single state Medicaid agency and the state agency designated to administer the Ron Silver Senior Drug Program, which will be known as the ‘Silver Saver’ program.

(2) The Department of Children and Families, in accordance with Section 409.902, Florida Statutes, will determine the eligibility of individuals applying for enrollment in the Ron Silver Senior Drug Program.

(3) The Department of Elder Affairs will assist the Agency for Health Care Administration in designing and implementing outreach and education for the program through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other outreach and educational initiatives.

(4) The Ron Silver Senior Drug Program is a Medicaid program providing prescribed drug benefits to individuals aged 65 and older meeting certain other eligibility criteria and who do not otherwise receive a pharmacy benefit from Medicaid. The program is being implemented under an approved Federal, Section 1115 waiver. The program shall be known as the ‘Silver Saver’ program.

(5) Under the Silver Saver Program eligible and enrolled individuals may receive a pharmacy benefit of up to \$160 per month.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) History--New.

59G-12.003 Eligibility/Enrollment.

For state fiscal year 2002-03, enrollment in the Silver Saver Program will be limited to a monthly enrollment ceiling of 58,472. An individual may be determined eligible for the program but not enrolled if there is no available enrollment space. Enrollment will occur each month comparing enrollment against the enrollment ceiling. If additional enrollment spaces are available because of terminations, eligibles will be added to the enrollment roster in the date order of eligibility determinations. An individual will not have access to the pharmacy benefits in this program until determined both eligible and enrolled. Enrollment will begin in the month in which the agency notifies an individual that he is enrolled.

(1) To be eligible for the Silver Saver Program an individual must meet the following criteria:

- (a) be a Florida resident and age 65 or older;
- (b) be eligible for Medicare;
- (c) have an income level between 88 and 120 percent of the federal poverty level; and

(d) be already enrolled in the Medicaid program under the Qualified Medicare Beneficiaries eligibility category, the Specified Low-Income Medicare Beneficiaries eligibility category, or meet the income and other qualifying criteria for either category but has not been subject to an assets test in determining eligibility. If eligibility was established without an assets test the individual is eligible for a drug only benefit and not the other benefits afforded to Qualified Medicare Beneficiaries or Specified Low-Income Medicare Beneficiaries.

(2) To be enrolled in the Silver Saver Program an individual must be determined eligible for the program, notified by the agency of enrollment in the program and activation of the drug benefit, and provided with a Medicaid identification card if the enrollee does not already have one.

(3) Eligibility for the Silver Saver Program will be determined by the Department of Children and Families.

(4) Individuals who meet the eligibility requirements are not mandated to participate in the program.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) History--New

59G-12.004 Program Administration.

(1) The agency shall administer the Silver Saver Program.

(2) The agency will implement the beneficiary cost-sharing requirement as follows:

(a) No premium, enrollment fee or annual deductible will be charged to the beneficiary; and

(b) A mandatory three-tiered co-payment as follows: \$2.00 for generic drugs; \$5.00 for brand name drugs listed on the Medicaid Preferred Drug List (PDL); and \$15.00 for brand name drugs not listed on the Medicaid PDL.

(3) All current Medicaid pharmacy benefit management programs will be used with this population, including, a limit of four brand-name prescriptions per month with prior authorizations required for exceptions to the limit, clinical and PDL prior authorizations, drug utilization review (DUR), intensified benefits management and other cost control measures;

(4) All drugs must be purchased through Medicaid participating pharmacies.

(5) A Medicaid participating pharmacy is not required to dispense a Medicaid reimbursable drug until the beneficiary has met his cost-sharing requirement.

(6) All drugs will qualify for all federal and state supplemental rebate agreements.

(7) Medicaid will be considered the payer of last resort as any other insurance benefits must be used prior to payment by Medicaid.

(8) The agency, through the Medicaid fiscal agent, will maintain a waiting list for individuals determined to be eligible by the Department of Children and Families but who cannot be enrolled due to the enrollment ceiling.

(9) The agency will review the status of eligibles each month and move eligible individuals into enrollment status as openings occur.

(10) The Department of Children and Families, in accordance with Section 409.902, Florida Statutes, shall:

(a) Determine eligibility;

(b) Develop and distribute applications for the program; and

(c) Receive and process applications to determine eligibility.

(11) The Department of Elder Affairs will assist the agency in coordinating outreach to and education for potential eligibles through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other marketing and educational approaches.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) History--New

59G-12.005 Program Forms.

The following forms shall be used by the Silver Saver program, and are hereby incorporated by reference and available through either the agency or the Department of Children and Families:

(1) Silver Saver Application form, developed by the Department of Children and Families.

(2) Recipient notifications of eligibility and enrollment, developed by the Department of Children and Families and the agency, respectively.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) History--New

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:

Definitions 61G15-18.011

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

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 471.003(2)(f), 471.008, 471.013(1)(a)1.,2. FS.

LAW IMPLEMENTED: 471.003(2)(f), 471.005(6), 471.013(1)(a)1.,2., 471.025(3), 471.033(1)(j) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Inactive Registration RULE NO.: 61J1-2.005

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to inactive registration.

SPECIFIC AUTHORITY: 475.614, 475.619 FS.

LAW IMPLEMENTED: 475.613(2), 475.618, 475.619 FS

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 6, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Application by Individuals RULE NO.: 61J1-3.001

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to application submissions for licensure.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617, 475.624 FS

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 6, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Where to Apply RULE NO.: 61J1-3.002

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statute giving the Department the authority to perform these functions rather than the Division.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to the application process for licensure.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.615 FS

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 6, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Continuing Education RULE NO.: 61J1-4.003

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Temporary Practice
 PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to comply with statutory changes.
 SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to obtaining application forms for submission for temporary licensure.
 SPECIFIC AUTHORITY: 475.614 FS.

RULE NO.: 61J1-7.005

LAW IMPLEMENTED: 475.630 FS.
 A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 6, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Probation
 PURPOSE AND EFFECT: The purpose of the proposed rule development is to amend provisions relating to failure to timely comply with the requirements of probation to comply with the statutory authority.
 SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to probation requirements.

RULE NO.: 61J2-24.006

SPECIFIC AUTHORITY: 475.05 FS.
 LAW IMPLEMENTED: 455.227, 475.25 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: 8:30 a.m. or as soon thereafter as possible, August 21, 2001

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-31R
 RULE CHAPTER TITLE: Water Resource Implementation Rule
 RULE CHAPTER NO.: 62-40
 PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will substantively amend many sections of Chapter 62-40. Topics include watershed management, "local sources first," minimum flows and levels, regional water supply planning, water shortages, reservations of water, water conservation, reuse of reclaimed water, the Florida Water Plan, and District Water Management Plans.
 For more information, call Arnetria Thomas, (850)488-0784. The Department will hold rule development workshops on August 8, 9, and 13, 2002.

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 Dentistry

RULE TITLE: Determination of Probable Cause
 PURPOSE AND EFFECT: The Board proposes to amend rule text to clarify Probable Cause Panel membership.
 SUBJECT AREA TO BE ADDRESSED: Probable Cause Panel membership.
 SPECIFIC AUTHORITY: 456.073(4), 466.004(4) FS.
 LAW IMPLEMENTED: 456.073(4) FS.

RULE NO.: 64B5-13.001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-13.001 Determination of Probable Cause.

(1) No change.

(2) The probable cause panel shall be appointed by the Chairman and shall be composed of three members, two of which must be dentists who hold valid and active dental licenses in this State. At least two members of the probable cause panel must be present to constitute a quorum. If only two members are present, the determination of probable cause shall require the affirmative vote of both members present.

(a) One or two members may be former dentists or consumer Board members.

(b) At least one member must be a current Board member who holds a valid and active license in this State.

(c) through (e) No change.

(3) No change.

Specific Authority 456.073(4), 466.004(4) FS. Law Implemented 456.073(4) FS. History--New 11-11-79, Amended 12-7-81, 7-13-82, Formerly 21G-13.01, Amended 1-18-89, Formerly 21G-13.001, Amended 11-22-93, Formerly 61F5-13.001, 59Q-13.001, Amended 9-27-2001, Amended _____.

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE CHAPTER TITLE: Standards for Onsite Sewage Treatment and Disposal Systems
RULE CHAPTER NO.: 64E-6

PURPOSE AND EFFECT: Develop rules to address comments from the Joint Administrative Procedures Committee, incorporate necessary technical changes and incorporate modifications proposed through the Technical Review and Advisory Panel.

SUBJECT AREA TO BE ADDRESSED: Areas to be discussed include: existing system evaluation and modification standards and procedures; permitting, construction and inspection standards for system abandonment; system construction permit application requirements; portable restroom and holding tank permitting, construction, inspection and operating standards; issuance and renewal of contractor registration certificates; standards of practice and disciplinary guidelines for registered septic tank contractors and master septic tank contractors; and issuance and renewal of certificates of partnerships and corporations.

SPECIFIC AUTHORITY: 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS.

LAW IMPLEMENTED: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.0066, 381.0067, 386.041, 386.051, 489.552, 489.553, 489.554, 489.555, 489.556, 489.557, 489.558 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerald Briggs, Department of Health, Bureau of Onsite Sewage Programs, HSES, 4042 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1713

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Food Stamp Employment and Training
RULE NO.: 65A-1.605

PURPOSE AND EFFECT: The proposed rule amendment provides for policy changes to the Food Stamp Employment and Training (FSET) program as required under Chapter 445, F.S., the Workforce Innovation Act of 2000, and changes to federal regulations in 7 CFR 273.7, published June 19, 2002, in the Federal Register. The Act provides authority for the Agency for Workforce Innovation (AWI) to provide FSET services through an Interagency Agreement with the Department of Children and Family Services (DCFS).

SUBJECT AREA TO BE ADDRESSED: The amendment provides for deletion of obsolete references to the Department of Labor and Employment Security and designates AWI as the state agency responsible for the provision of FSET program services. It also provides for DCFS to determine food stamp eligibility; impose penalties for mandatory participants who fail to comply with FSET work requirements without good cause; to lift sanctions upon notification of compliance in accordance with federal Food Stamp Program regulations in 7 CFR s. 273.7; and, form revisions to be incorporated by reference to reflect statutory and regulatory changes.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.31, 445.004 FS.

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

TIME AND DATE: 9:00 a.m., August 6, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Audrey Mitchell, 1317 Winewood Blvd., Bldg. 3, Room 421, Tallahassee, FL 32399-0700, Telephone (850)488-3090
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES:	RULE NOS.:
Definitions	65A-1.701
SSI-Related Medicaid Coverage Groups	65A-1.710
SSI-Related Medicaid Non-Financial Eligibility Criteria	65A-1.711
SSI-Related Medicaid Resource Eligibility Criteria	65A-1.712
SSI-Related Medicaid Income Eligibility Criteria	65A-1.713
Income and Resource Criteria	65A-1.716

PURPOSE AND EFFECT: Rules 65A-1.701, 65A-1.712, 65A-1.713 and 65A-1.716 are amended to revise the percentage of the monthly poverty income guidelines that is used in the MEDS-AD Medicaid program as the maximum income for applicants. The 2002 legislature amended s. 409.904(1), F.S., to reduce the percentage of the federal poverty index used to determine maximum income applicable in the MEDS-AD program from 90% to 88%. This legislative action is effective July 1, 2002.

Rules 65A-1.710, 65A-1.711, 65A-1.712 and 65A-1.713 are amended to implement the Ron Silver Senior Drug Program. This program provides certain senior Florida residents who are eligible for Medicare Part A with prescription drug coverage. This legislative action is effective August 1, 2002.

SUBJECT AREA TO BE ADDRESSED: These proposed amendments bring the percentage of the federal poverty guidelines used as maximum income applicable to the MEDS-AD Medicaid program to the level required by 2002 legislative action. Additionally, they implement the Ron Silver Senior Drug Program.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.9065, 409.919 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: 10:00 a.m., August 5, 2002

PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT, IF AVAILABLE, IS: Audrey

Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, Telephone (850)488-3090

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Family Day Care Standards and Large Family Child Care Homes	65C-20

PURPOSE AND EFFECT: The modifications to the rules will implement legislative changes related to child care standards and training, implement changes in state standards regarding health related issues for child care, transportation of children in care and child safety standards.

SUBJECT AREA TO BE ADDRESSED: Family Day Care Standards and Large Family Child Care Homes.

SPECIFIC AUTHORITY: Chapter 2002-170, LOF., 402.305(2) FS.

LAW IMPLEMENTED: Chapter 2002-170, LOF., 402.305(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
TIME AND DATE: 10:00 a.m., August 6, 2002

PLACE: Hillsborough Workforce Center, 9215 N. Florida Ave., Suite 101, Excellence and Diversity Conference Room, Tampa, Florida 33612

TIME AND DATE: 10:00 a.m., August 7, 2002

PLACE: Family Central, 840 S. W. 81st Ave., 2nd Floor, North Lauderdale, Florida 33068

TIME AND DATE: 10:00 a.m., August 8, 2002

PLACE: Kids Incorporated of the Big Bend, 1170 Capital Circle, N. E., Room PDC1, Tallahassee, Florida 32301

The purpose of these workshops will be to draft rules in Chapter 65C-20, Florida Administrative Code, to address the areas of training, health related requirements, record keeping, and transportation.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Suzanne Bellamy Woodcock, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 392, Tallahassee, FL 32399, (850)488-4900

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Child Care Standards	65C-22

PURPOSE AND EFFECT: The modifications to the rules will implement legislative changes related to child care standards and training, implement changes in state standards regarding health related issues for child care, transportation of children in care and child safety standards.

SUBJECT AREA TO BE ADDRESSED: Child Care Standards.

SPECIFIC AUTHORITY: Chapter 2002-170, LOF., 402.305(2) FS.

LAW IMPLEMENTED: Chapter 2002-170, LOF., 402.305(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., August 6, 2002

PLACE: Hillsborough Workforce Center, 9215 N. Florida Ave., Suite 101, Excellence and Diversity Conference Room, Tampa, Florida 33612

TIME AND DATE: 10:00 a.m., August 7, 2002

PLACE: Family Central, 840 S. W. 81st Ave., 2nd Floor, North Lauderdale, Florida 33068

TIME AND DATE: 10:00 a.m., August 8, 2002

PLACE: Kids Incorporated of the Big Bend, 1170 Capital Circle, N. E., Room PDC1, Tallahassee, Florida 32301

The purpose of these workshops will be to draft rules in Chapter 65C-22, Florida Administrative Code, to address the areas of training, health related requirements, record keeping, and transportation.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Suzanne Bellamy Woodcock, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 392, Tallahassee, FL 32399, (850)488-4900

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE CHAPTER TITLE: Specialized Child Care Facilities for the Care of Mildly Ill Children
RULE CHAPTER NO.: 65C-25

PURPOSE AND EFFECT: The modifications to the rule will adopt changes in child care standards for health related issues and record keeping for child care.

SUBJECT AREA TO BE ADDRESSED: Specialized Child Care Facilities for the Care of Mildly Ill Children.

SPECIFIC AUTHORITY: Chapter 2002-170, LOF., 402.305(2) FS.

LAW IMPLEMENTED: Chapter 2002-170, LOF., 402.305(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., August 6, 2002

PLACE: Hillsborough Workforce Center, 9215 N. Florida Ave., Suite 101, Excellence and Diversity Conference Room, Tampa, Florida 33612

TIME AND DATE: 10:00 a.m., August 7, 2002

PLACE: Family Central, 840 S. W. 81st Ave., 2nd Floor, North Lauderdale, Florida 33068

TIME AND DATE: 10:00 a.m., August 8, 2002

PLACE: Kids Incorporated of the Big Bend, 1170 Capital Circle, N. E., Room PDC1, Tallahassee, Florida 32301

The purpose of these workshops will be to draft rules in Chapter 65C-25, Florida Administrative Code, to address the areas of health related requirements and record keeping.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Suzanne Bellamy Woodcock, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 392, Tallahassee, FL 32399, (850)488-4900

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE TITLE: Repeal, Amendment, and Readoption of Sections of Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), Volusia County Special Act
RULE NO.: 68B-3.008

PURPOSE AND EFFECT: The purpose of this rule development effort is to expand the list of gears allowable in Volusia County inland saltwaters to include pinfish traps as allowed by Section 370.1105(1)(b), Florida Statutes, and recreational blue crabs traps meeting the requirements of Rule Chapter 68B-45, F.A.C. Additionally, language regarding commercial blue crab traps considered archaic is being deleted from the rule, again referring to the specifications in Rule Chapter 68B-45, F.A.C. The effect of this effort will be to promote uniformity of trapping gears across the state.

SUBJECT AREA TO BE ADDRESSED: Traps fisheries of Volusia County.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.; s. 2, Ch. 83-134, Laws of Fla., as amended by Ch. 84-121, Laws of Fla.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.; s. 2, Ch. 83-134, Laws of Fla., as amended by Ch. 84-121, Laws of Fla.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Roy Crabtree, Division of Marine Fisheries, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-3.008 Repeal, Amendment, and Readoption of Sections of Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), Volusia County Special Act.

(1) through (2) No change.

(3) This section intended to readopt certain provisions of Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as a Commission rule. As of the effective date of this section, the aforesaid Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as readopted, shall read as follows:

(a) It is unlawful for any person, firm or corporation to harvest or attempt to harvest marine species of fish in the inland salt waters of Volusia County in any way or with any appliance other than with the ordinary cast net, rod and reel, pinfish trap meeting the specifications of s. 370.1105(1)(b), Florida Statutes, or hook and line except as provided otherwise in Rule 68B-3.008, F.A.C. Legal size flounders may be taken by the means of a barbed spear, with not more than three (3) prongs.

(b) through (g) No change.

(h) No person, firm or corporation shall set or place, or cause to be set or placed, any trap ~~or other device~~ for the taking of crabs for any purpose in the inland salt waters of Volusia County, unless such trap meets all the requirements of Rule Chapter 68B-45, F.A.C. ~~or device is buoyed with a device other than glass, attached to each such trap or device used for taking crabs, buoy to be of sufficient strength and buoyancy to continuously remain afloat and must be of such hue and brilliancy as to be easily seen and located. Provided further, that each crab trap or device used for taking crabs must have a permit number attached permanently both to the trap and to the buoy. This permit number shall be issued by the Department of Environmental Protection (formerly the Department of Natural Resources) upon the receipt of application for such number by the owner of such trap or device. The design of the application and of the permit numbers shall be determined by said department. The trap permit number must be painted in legible figures not less than three (3) inches high on each buoy marking the set of any trap or other device used for taking crabs.~~ A person may use traps for taking crabs for personal consumption if such person meets all the requirements for blue crab harvest with a trap for other than commercial purposes as established by Rule Chapter 68B-45, F.A.C. ~~without a buoy and without a permit if the traps or lines attached to the traps~~

~~are held by the person and provided the size of the traps does not exceed twenty four (24) inches in their largest dimension when closed or forty eight (48) inches in the largest dimension when open.~~ No trap may be abandoned or discarded in or along the shore of the waters of Volusia County. Not more than two hundred (200) crab traps shall be fished under one (1) permit. No buoyed crab traps shall be left unattended for more than seventy-two (72) hours, weather permitting. No buoyed crab traps shall be placed within one hundred (100) yards of any bridge or dock where fishing is legal from that bridge or dock except that persons with written permission of the owner of a dock may place legal traps closer to that dock.

Specific Authority Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 10-19-89, Amended 1-9-91, 1-1-92, 7-1-92, 11-26-92, 10-3-94, 9-30-96, 7-30-97, Formerly 46-3.008, Amended

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Uniform Primary and General Election Ballot

RULE NO.: 1S-2.032

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to prescribe additional requirements for uniform primary and general election ballots.

SUMMARY: The rule provides guidance on clear and unambiguous ballot instructions and directions, individual race layout and overall ballot layout.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 101.151(8) FS.

LAW IMPLEMENTED: 101.151(8) FS.

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

TIME AND DATE: 3:00 p.m. – 5:00 p.m., August 9, 2002

PLACE: Room 100, Collins Building, 107 West Gaines St., Tallahassee, FL 32399-0250

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Sarah Jane Bradshaw, (850)245-6200, at least three days in advance of the meeting.