

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Arbitration Provisions **RULE NO.:** 4-149.025

PURPOSE AND EFFECT: In reaction to a recent increase in the number of insurance policy form filings containing misleading mandatory arbitration clauses the Department seeks to initiate rulemaking to address this situation. Problems to be addressed include:

The risk that policyholders may be misled into believing that they have waived legal rights which, as a matter of law, are not waivable.

The risk that a consumer may buy a policy with no notice that the policy contains a mandatory arbitration provision. As a result of this, the consumer may be misled into buying a policy which, because of the mandatory arbitration provision, has less value than policies without arbitration provisions against which the policy was being compared.

The Department seeks public input in the development of rules in this area.

SUBJECT AREA TO BE ADDRESSED: Mandatory arbitration provisions in insurance policies.

SPECIFIC AUTHORITY: 624.308(1), 626.9611 FS.

LAW IMPLEMENTED: 624.155, 624.307(1), 626.9541(1)(a)1.,(b), 627.411 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., October 23, 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rich Robleto, Chief, Bureau of Life and Health Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5110

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

DEPARTMENT OF INSURANCE

RULE TITLE: Records and Reports of Information by Workers' Compensation Insurers Required **RULE NO.:** 4-189.0055

PURPOSE AND EFFECT: This rule is required by HB 1803 (2001), to implement reporting and recording duties of workers' compensation insurers.

SUBJECT AREA TO BE ADDRESSED: The new required rule concerns the promulgation of reporting and record keeping requirement of workers' compensation insurers. A previous workshop was noticed in Vol. 28, No. 1, January 4, 2002, and held on January 31, 2002.

SPECIFIC AUTHORITY: 624.308(1), 627.914(1) FS.

LAW IMPLEMENTED: 624.308(1), 627.914(1) FS.

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

TIME AND DATE: 9:30 a.m., November 19, 2002

PLACE: Room 143, 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry Marson, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0330, (850)413-5372

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

DEPARTMENT OF INSURANCE

RULE TITLES: Rates **RULE NOS.:** 4-191.054
Actuarial Memorandum and Definitions 4-191.055

PURPOSE AND EFFECT: The amendments to Rules 4-191:

- Remove the requirements for information that is not needed upon initial review of an HMO filing
- Allow for a streamlined filing of trend for business with less than 1,000 Florida subscribers in force
- Clarify details that are needed in order to adequately review a filing

SUBJECT AREA TO BE ADDRESSED: Filing and approval of health maintenance organization rate filings.

SPECIFIC AUTHORITY: 641.31, 641.36 FS.
 LAW IMPLEMENTED: 641.21(1)(e), 641.22(2),(4),(6), 641.31(2),(3), 641.31074, 641.3922(3) FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 9:00 a.m., October 16, 2002
 PLACE: Room 143, 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 below.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-191.054 Rates.

(1) Before charging or quoting premiums to subscribers, an HMO shall file for approval the rating methodology by which those premiums were determined with the Department.

(a) No change.

(b) For purposes of this rule, ~~and~~ Rule 4-191.055, F.A.C., and the time periods established in Section 641.31, Florida Statutes, a filing is considered “filed” with the Department upon receipt of the material required in paragraph (2)(a), below. For purposes of this rule and Rule 4-191.055, F.A.C., the term “filed” does not mean “approved”.

(2) Filings of rating methodologies shall provide adequate information, so that the Department, in accordance with generally accepted actuarial principles as applied to Health Maintenance Organizations, may verify that the rating methodology does not produce inadequate, excessive, or unfairly discriminatory premiums. All rate classifications should be clearly identified, and the formulas and/or methods of calculating premiums adequately described, as defined in Rule 4-191.055, F.A.C.

(a) The components of HMO rate filings shall consist of one copy of all of the items in subparagraphs 1. through 4. Filings for small group coverage subject to s. 627.6699, F.S. shall be filed pursuant to, and comply with, Chapter 4-149, F.A.C.

1. A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, a rate revision or a resubmission. If the filing is a resubmission,

the letter should indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval. ~~Letters requiring a reference to a Florida filing number will not be processed without the inclusion of the Florida filing number.~~

2. No change.

3. Rate pages which define all proposed rates, rating factors, and methodologies for determining rates applicable in the state.

4. No change.

(b) through (c) No change.

(3) through (4) No change.

(5) HMOs with fewer than 1,000 Florida subscribers, for all individual forms combined or for all group forms combined, may, at their option, file a streamlined rate increase filing not exceeding medical trend as provided in paragraph 4-149.003(7), F.A.C. The filing shall be made in accordance with paragraph 4-191.054(2)(a), F.A.C., with a certification that the filing includes all individual forms or all group forms in lieu of the actuarial memorandum required by Rule 4-191.055, F.A.C. Rate filings shall be signed by a qualified actuary.

(6)(a) Rates for group conversion contracts, issued on a group or on an individual basis are exempt from the loss ratio requirements below. The loss ratio for group conversion contracts shall not be less than 120 percent %. The premium for a converted contract may not exceed 200 percent of the standard risk rate, as published in Chapter 4-149, Part X, F.A.C.

(b) Rates for contracts, including riders and endorsements, issued to individual (non-group) ~~s~~ subscribers shall be deemed excessive if anticipated loss ratios for such contracts are less than 70%.

(c) Rates for contracts, including riders and endorsements, issued to group subscribers shall be deemed excessive if ~~anticipated target~~ loss ratios anticipated over the rating period for such contracts are less than the following: those indicated in the Loss Ratio Table – Group Contracts:

~~1. Loss Ratio Table – Group Contracts~~

Group Size	Loss Ratio in %
51 to 100	70%
101 to 500	75%
over 500	80%

~~2. No rate shall be deemed excessive if the anticipated loss ratio is greater than or equal to 80%. Loss ratio shall be calculated as 3. divided by 4. where 3. and 4. are calculated as follows:~~

~~3. The anticipated costs attributable to items (a) through (h) less the anticipated revenues associated with items (i) and (j). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.~~

- ~~a. Physician services;~~
- ~~b. Other professional services;~~
- ~~c. Outside referrals;~~
- ~~d. Emergency room, out-of-area, other;~~
- ~~e. Occupancy, depreciation and amortization (medical and hospital);~~
- ~~f. In-patient;~~
- ~~g. Other medical;~~
- ~~h. Incentive pool adjustment;~~
- ~~i. Co-payments;~~
- ~~j. C.O.B. and subrogation.~~

~~4. The anticipated revenues attributable to items (a) through (c). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.~~

- ~~a. Premium;~~
- ~~b. Fee-for-services;~~
- ~~c. Title XVIII — Medicare.~~

~~(d) Rates for contracts providing home health care coverage pursuant to Section 641.2018, Florida Statutes, shall comply with the provisions of Chapters 4-157 and 4-149, F.A.C.~~

~~(7) Rates are inadequate if the following condition is not met:~~

~~(a) The premiums derived from the rating structure, plus investment income, co-payments, and revenues from coordination of benefits and subrogation, fees-for-service and reinsurance recoveries are not set at a level at least equal to the anticipated cost of medical and hospital benefits during the period for which the rates are to be effective, and the other expenses which would be incurred if other expenses were at the level for the current or nearest future period during which the HMO is projected to make a profit. For this analysis, investment income shall not exceed 3% of total projected revenues. In order that the Department may determine HMO other expense levels at the time of profitability, HMOs which have never reported a profit for twelve consecutive months shall maintain on file with the Department a financial projection for future periods until the HMO is projected to be profitable for 12 consecutive months.~~

~~(b) Individual contracts do not incorporate the projected entire effects of insurance trend.~~

~~(c) The premium schedule is determined such that if all assumptions are satisfied, the annual rate increase needed will exceed medical trend.~~

~~(8) Premiums as to a risk or group of risks are unfairly discriminatory if:~~

(a) For individual non-group subscribers, the premiums charged deviate from the filed rating methodology.

(b) For group subscribers not subject to experience rating, the premiums charged are designed to produce total revenue for that group which differs from the revenue requirements for its rating class, as filed with the Department of Insurance. For group subscribers subject to experience rating, the premiums charged deviate from the filed rating methodology.

(c) Changes to the underlying age/gender slope, or reduction in the anticipated loss ratio for the form, or durational slope for individual contract forms, resulting in subscriber impact greater than 150 percent of medical trend, as defined by subsection 4-149.003(7), F.A.C., unless phased-in over a 3 year period.

(d) When an insurer discontinues offering a particular policy form for health insurance coverage pursuant to Sections 627.6425(3)(a) or 641.31074(3)(a), Florida Statutes, the nonrenewal of coverage shall occur on the policy anniversary, and the offer of new coverage pursuant to Section 627.6425(3)(a)2., or 641.31074(3)(a)2., Florida Statutes, shall be considered a renewal of coverage and shall be renewed on the policy anniversary at the same class basis as the coverage being discontinued. If the forms do not have consistent class definitions, the class shall be determined based on the original application and underwriting status of the individual when the discontinued coverage was first issued.

(9) No change.

(10) Prohibitions. A premium schedule is unfairly discriminatory if it incorporates any of the following:

(a) Select and Ultimate Premium Schedules, as defined in paragraph 4-191.055(4)(j), F.A.C., are prohibited. Select and ultimate premium schedules are premium schedules that have premiums that vary based on the time elapsed since issuance of the contract.

(b) Attained age premium schedules where the slope by age is substantially different from the slope of the ultimate claim cost curve are prohibited. Attained age premium schedules are defined in paragraph 4-191.055(4)(a), F.A.C. An attained-age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available renewable age. These requirements do not apply to any group contract where the final premium charged is an average of the individual members.

(c) Premium structures that provide for retroactive cost determination, or if the subscriber or policyholder participate in the experience under the form.

Specific Authority ~~641.31, 641.36~~ FS. Law Implemented ~~641.21(1)(e), 641.22(2), (4), (6), 641.31(2), (3), 641.31074, 641.3922(3)~~ FS. History--New 2-22-88, Amended 10-25-89, Formerly 4-31.054, Amended 10-8-96, 8-15-02,

4-191.055 Actuarial Memorandum and Definitions.

(1)(a) In order for a rate filing to be reviewed properly by the Department, the actuarial memorandum required by subparagraph 4-191.054(2)(a)2., F.A.C., shall contain the items listed in subsection (2), below, for a new product filing, a rate revision or justification of existing rates.

(b)1. Pricing assumptions shall reflect assumptions based on sound actuarial principles reflecting actual anticipated experience. Pricing assumptions shall be based on the HMO experience to the degree credible, and industry experience where HMO experience is not credible, available or appropriate.

~~2. Assumptions shall reflect what the HMO fully expects to occur, rather than assumptions developed primarily for rate filing purposes, based on sound actuarial principles.~~

~~2.3. All such items shall be adequately justified by supporting data. In reviewing these assumptions, the Department will use, as an initial point of reference, comparisons of the assumptions with those from similar products of the same HMO, similar products of other HMO's and independent studies.~~

3. New forms shall include a rate and benefit comparison to other similar forms of the HMO. The HMO shall demonstrate that the premium rate schedules represent an actuarially sound relationship between the forms and between benefit options within forms.

4. Rate revision filings shall clearly list and justify all rating factors and methods proposed to be changed. Additional information will be required, if, given the particular facts and circumstances of the filing, the Department determines that the additional information is necessary to properly complete its review of the filing to determine if the benefits are reasonable in relation to the premiums charged.

(c) No change.

(2) Note that the numbers preceding the item names refer to the descriptions in subsection (3), below.

(a) through (b) No change.

~~(c) Item 3. Renewability Clause.~~

~~(d) Item 4. Applicability.~~

~~(c)(e) Item 3.5. Morbidity.~~

~~(d)(f) Item 4.6. Retention Expenses.~~

~~(g) Item 7. Marketing Method.~~

~~(h) Item 8. Underwriting.~~

~~(e)(i) Item 5.9. Rate Classes.~~

~~(j) Item 10. Issue Age Range.~~

~~(f)(k) Item 6.11. Area Factors.~~

~~(l) Item 12. Average Monthly Premium.~~

~~(g)(m) Item 7.13. Premium Modalization Rules.~~

~~(n) Item 14. Claim Liability and Reserves.~~

~~(h)(o) Item 8.15. Trend Assumption – Medical and Insurance.~~

~~(i)(p) Item 9.16. Minimum Required Loss Ratio for the Form.~~

~~(j)(q) Item 10.17. Anticipated Loss Ratio for the Form.~~

~~(r) Item 18. Distribution of Business.~~

~~(s) Item 19. Contingency & Risk Margins.~~

~~(k)(t) Item 11.20. Experience – Past and Future.~~

~~(l)(u) Item 12.21. History of Rate Adjustments.~~

~~(m)(v) Item 13.22. Number of Subscribers.~~

~~(n)(w) Item 14.23. Proposed Effective Date.~~

~~(o)(x) Item 15.24. Actuarial Certification.~~

(3) Descriptions.

(a) No change.

(b) The descriptions, by item number, of the terms listed above in subsection (2) follow:

1. through 2. No change.

~~3. Renewability Clause: This section shall identify the renewability classification of the form.~~

~~4. Applicability: This section shall specify whether the HMO anticipates new issues under the form or renewals only.~~

~~3.5. Morbidity: This section shall describe the morbidity basis for the form, including the source or sources used. Any substantive adjustments from either the source or earlier assumptions shall be explained. For new plans or forms, a PMPM development shall be provided. Utilization or claim cost assumption differences from other plans or prior filings shall be explained and justified. The morbidity assumed shall be adequately justified by supporting data.~~

~~4.6. Retention Expenses: This section shall include a brief description of any expense assumptions used, including for example, per contract and percentage of premium expense for acquisition, maintenance, and commissions, contingency, and risk margins. These must be provided separately for each contract year. This section shall provide the reason and basis for any differences in retention between groups issued coverage under the same form.~~

~~7. Marketing Method: This section shall provide a brief description of the market and the marketing method. An example of an acceptable brief description is: "This product is sold to employee-employer groups by a captive agency force." The information requested is not intended to compromise the HMO's proprietary interests but rather to inform the Department's consideration of allocation of expenses and acquisition costs.~~

~~8. Underwriting: This section shall provide a brief description of the extent to which this product will be underwritten, if any, and the expected impact by duration and in total, on the claim costs. The HMO shall state separately the effects of different types of underwriting: medical, financial and plan appropriateness. An example of an acceptable brief~~

description is: "This Policy form is subject to limited underwriting with yes/no questions. The expected impact is: Duration 1 = .15; duration 2 = .05; overall = .03 decrease in claim costs." The information requested is not intended to compromise the HMO proprietary interests but rather to permit the Department to evaluate past and prospective loss experience.

5.9. Rate Classes: This section shall state all the attributes upon which the rates vary. Rate classifications may include but not necessarily be limited to age, sex, subscriber type (single, couple or family), industry, effective date, charges or discounts for group size, riders, co-payments, limitations on benefits, retention and any rate guarantees for extended period. This section shall indicate the issue age range of the form.

10. Issue Age Range: This section shall specify the issue age range of the form. A statement shall be made as to whether the premiums are on an issue age, attained age or other basis.

6.11. Area Factors: This section shall include a brief description for any area factors used, and an explanation of any changes since the last filing. The area factors and definitions must also be displayed, including a definition of which counties are included in each area. Area factors shall reflect the relative cost differences between the areas.

12. Average Monthly Premium: This section shall display the average monthly premium by county. If a rate adjustment is proposed, average monthly premiums reflecting the Premium Schedule both before and after the proposed adjustment shall be provided. The average monthly premium per policy for individual coverage or per certificate for group coverage shall be calculated based on the distribution of Florida business considering all criteria having a rate difference. This distribution is the anticipated issue distribution if the filing is a new policy form, and the actual in force distribution if the filing is for a rate revision or rate justification. Premiums for riders, endorsements and amendments must be added to the base plan premiums to yield this average.

7.13. Premium Modalization Rules: This section shall display the modalization factors and fees as applicable. For premium modes other than monthly, the level of the fees and factors shall be adequately justified by supporting data.

14. Claim Liability and Reserves: This section represents the present value of future claim payments on claims incurred prior to the valuation date. This includes both the accrued and unaccrued portions of the liability and reserve as of the valuation date. A complete description of the development of these reserves shall be presented. A display which compares the reserve held to the actual claim runoff shall be included. For loss ratio purposes, the interest rates used to determine these reserves and liabilities shall be consistent with the HMO's premium determination interest rates, which may be different from rates used for valuation purposes. Claim runoff is a common insurance industry term which means the pattern of claims payout after the establishment of reserves.

8.15. Trend Assumptions: This section must describe the trend assumptions used in pricing. These assumptions must be appropriate for the specific HMO, product design, benefit configuration, and time period. Any and all factors affecting the projection of future claims must be presented. In no case will trend be approved for rating periods in excess of one year. The trend assumptions shall be presented under two categories: Medical and Insurance.

a. through b. No change.

c. In determining medical trend, the HMO shall use credible data and make appropriate adjustments to claims data to isolate the effects of medical trend only. This shall not include the effects of underwriting wearoff, aging, changes to claim costs due to changes in demographics, policy coverages, geographic distribution, or reinsurance.

d. An HMO without fully credible data may, at its option, use an annual medical trend assumption not to exceed the values in subsection 4-149.003(7), F.A.C., for the medical trend assumption without providing explicit trend justification.

9.16. Minimum Required Loss Ratio for the Form: This section shall provide the loss ratio standard for the form as approved in the original or subsequent filing for the form, state the minimum required loss ratio for the form as defined in subsection 4-191.054(6), F.A.C.

10.17. Anticipated Loss Ratio for the Form: This loss ratio is defined in paragraph 4-191.054(6)(c), F.A.C.

a. This section shall provide the anticipated loss ratio for the form.

b. For individual contracts, this section shall also include the approved or proposed durational loss ratio table for the form. For new filings or changes to the durational table, the actuary shall explain and justify the underwriting impact and the resulting durational loss ratio pattern. Applying pricing persistency and interest assumptions, the durational loss ratio table shall develop the loss ratio standard for the form.

c. The target loss ratio may not be reduced from the loss ratio in the prior approved filing without approval. If the HMO proposes to reduce the target loss ratio for the form from the approved target loss ratio, this section shall provide justification for such change. This shall include detailed expense information and the areas and reasons for expense increases.

18. Distribution of Business: This section shall provide the anticipated issue distribution for new policy forms and the actual in force distribution for rate revisions. All criteria having a rating difference shall be included.

19. Contingency and Risk Margins: This section shall describe the contingency and risk margins anticipated for the Policy Form at the time of the filing.

11.20. Experience on the Policy Form.

a. (Past Experience): This section shall display the actual experience on the form. Experience from inception-to-date (or the last three years for group coverages, with no separation of

~~experience data by issue year required~~) shall be displayed, although, with proper interest adjustment, the experience for calendar years more than five years in the past may be combined. For each calendar year and, where appropriate, for individual contracts each contract year ~~or issue year~~, the following information shall be displayed:

- ~~(I)a.~~ Calendar Year,
- ~~(II)b.~~ Earned premium,
- ~~(III)c.~~ Paid claims, including capitation,
- ~~(IV)d.~~ Paid loss ratio ~~(=III/II) (=c)/(b)~~,
- ~~(V)e.~~ Change in claim liability and reserve, reflecting actual runoff.
- ~~(VI)f.~~ Incurred claims ~~(=III+V) (=c)+(e)~~,
- ~~(VII)g.~~ Incurred loss ratio ~~(=VI/II) (=f)/(b)~~.
- ~~(VIII)~~ Expected claims
- ~~(IX)~~ Expected loss ratio ~~(=VIII/II)~~
- ~~(X)~~ Actual to expected ratio ~~(=VI/VIII or =VII/IX)~~
- ~~(XI)~~ Earned premium restated to a manual premium rate basis for the last three years; i.e., removing the impact of adjustments to the actual earned premium due to the impact of rate limits, experience rating or retention differences from the target loss ratio.

~~For periods where the actual claim runoff is complete, that data shall be displayed to replace (f).~~

b. Future periods:

~~(I) This section shall be the basis and demonstration that the proposed rate change is in compliance with the standards of this rule.~~

~~(II) This section shall provide the anticipated experience over the rating period, and shall provide the method, formulas and assumptions used in determining the projected values from the experience period used.~~

~~(III) The experience period shall be the most current available 12-month period. The experience period data used shall be the earned premium restated to the current manual rate basis for the entire experience period, indifferent of the anniversary dates of the underlying contracts. The HMO shall also provide the actual experience over the rating period.~~

~~(IV) The HMO shall indicate how the experience period data has been adjusted for large nonrecurring claims, reinsurance recoveries, coordination of benefits and subrogation, benefit changes or other actuarial consideration that affect the determination of anticipated claims.~~

~~(V) Alternatively, the HMO may chose to develop the proposed rate without the use of premiums based on claim PMPM divided by the target loss ratio.~~

~~c. A rate which results in an actual to expected ratio over the rating period which is less than 1.0 shall be deemed to be excessive.~~

~~12.24. History of Rate Adjustments: This section shall list the approval dates and average percentage rate adjustments in Florida by county or rating region, from inception.~~

~~13.22. Number of Subscribers: This section shall report the number of Florida subscribers/certificateholders who will be affected by the proposed rate revision.~~

~~14.23. Proposed Effective Date: This section shall state the proposed effective date and method of the proposed rate revision implementation. Rate changes may occur only on contract renewal.~~

~~15.24. Actuarial Certification: A signed cCertification by a qualified actuary that to the best of the actuary's knowledge and judgment:~~

~~a. The rates are neither inadequate nor excessive nor unfairly discriminatory,~~

~~b. The rates are appropriate for the classes of risks for which they have been computed,~~

~~c. The entire rate filing is in compliance with the applicable laws of the State of Florida and with the rules of the Department of Insurance, and complies with Actuarial Standard of Practice No. 8 "Regulatory Filings for Rates and Financial Projections for Health Plans," as adopted by the Actuarial Standards Board, January, 1989, and Actuarial Standard of Practice No. 16 "Actuarial Practice concerning Health Maintenance Organizations and Other Managed-Care Health Plans," as adopted by the Actuarial Standards Board, July, 1990, which standards are is hereby adopted and incorporated by reference. A copy of the standard may be obtained from the Bureau of Life & Health Forms and Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328.~~

~~d. If the actuary is unable to provide such an opinion, a detailed explanation and reason for any qualification shall be provided as part of the certification.~~

~~e. In providing the actuarial opinion and certification, the actuary shall consider actuarial standards of practice and the qualification standards for prescribed statements of actuarial opinion.~~

~~(4) Definitions.~~

~~(a) Actual to expected ratio:~~

~~1. This is the ratio of actual incurred claims divided by expected claims. This is equivalent to the actual loss ratio divided by the expected loss ratio.~~

~~2. For projected periods, the actual to expected ratio is the ratio of the projected claims divided by the expected claims.~~

~~Attained Age Premium Schedule: An attained age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available renewable age. These~~

requirements do not apply to any group contract where the final premium charged is an average of the individual members.

(b) Anticipated loss ratio: The present value of future benefits divided by the present value of future premiums computed over the entire future lifetime of the policy form. For group insurance, this is over the rating period and alternatively referred to as "target loss ratio."

(c)(b) Credible Data:

1. If a policy form has 2,000 or more subscribers in force, then full (100%) credibility is given to the experience; if fewer than 500 subscribers are in force, then zero (0%) credibility is given. Linear interpolation is used for in force amounts between 500 and 2,000.

2. For group policy forms, the numbers in this definition refer to group subscribers.

3. The complement of the credibility factor, for data that is not fully credible, shall be medical trend. A combination of Florida and industry data shall be used only if Florida only data is not fully credible.

(d) Earned premiums: The portion of the total premium paid by the insured attributable to the period of coverage elapsed. This includes all modal loadings, fees, or charges that are required to be paid by the insured.

(e) Expected claims:

1. The actual earned premium, or for projected periods the projected premium, times the applicable policy durational loss ratio from the approved durational loss ratio table which was in effect for the time period covered by the premiums. For group policies, the durational loss ratio is the target loss ratio.

2. For group policies, this reflects the aggregation of the actual target loss ratio for the group, i.e., reflecting actual different retention loads by group, and not the assumed aggregate target loss ratio for the form.

(f) Expected loss ratio: This is the ratio of expected claims divided by earned premium.

(g)(e) Group HMO Policy Form: This means any insurance provided by a group master contract issued to any entity.

(h)(d) Group Size: For Group HMO Policy Forms, the group size is the average number of subscribers per employer.

(i) Incurred claims: Incurred claims are claims occurring within a fixed period, whether or not paid during the same period, under the terms of the policy form.

1. Claims include scheduled benefit payments, capitation payments, reimbursement benefit payments, or services provided by a provider or through a provider network for medical, dental, vision, disability, and similar health benefits.

2. Claims do not include state assessments, taxes, HMO expenses, or any expense incurred by the HMO for the cost of adjusting and settling a claim, including the review,

qualification, oversight, management or monitoring of a claim or incentives or compensation to providers for other than the provision of health care services.

3. An HMO may, at its discretion, include costs that are demonstrated to reduce claims, such as a fraud intervention program or case management costs, which are identified in each filing, and are demonstrated to reduce claims costs and do not result in increasing the experience period loss ratio by more than 5 percent.

(e) through (h) renumbered (j) through (m) No change.

(i) Renewal Clauses: Guaranteed Renewable means that renewal cannot be declined by the HMO for any reason other than those detailed in Sections 641.31074, and 627.6425, Florida Statutes, but the HMO can revise rates on a class basis.

(n) Renewal: This is the date 12 months after the original effective date of the policy and each subsequent anniversary period.

(j) Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the contract.

(o)(k) No change.

Specific Authority 641.31, 641.36 FS. Law Implemented 641.22(2), 641.31(2),(3) FS. History—New 10-8-96, Amended 4-20-98, 8-15-02.

DEPARTMENT OF EDUCATION

Florida School for the Deaf and The Blind

RULE TITLES: Code of Student Conduct 6D-7.007
Grounds for Disciplinary Action 6D-7.0072

PURPOSE AND EFFECT: These rules establish the responsibilities, rights and conduct of the students enrolled in the Florida School for the Deaf and the Blind.

SUBJECT AREA TO BE ADDRESSED: Amendment of language in the rules to bring changes needed to meet today's standards.

SPECIFIC AUTHORITY: 242.331(3) FS.

LAW IMPLEMENTED: 120.53(1)(b), 242.331(4), 230.23(6)(d) FS.

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

TIME AND DATE: 9:00 a.m., Saturday, October 19, 2002

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

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

DEPARTMENT OF EDUCATION

State Board of Independent Colleges and Universities

RULE TITLES:	RULE NOS.:
Introduction to the Rules	6E-1.001
Authority of the Board	6E-1.002
Definition of Terms	6E-1.003
Licensure Required; Exemptions from Licensure	6E-1.0031
Fair Consumer Practices	6E-1.0032
Diploma Programs	6E-1.0033
Fees and Expenses	6E-1.0034
Permission to Operate	6E-1.0035
Honorary Degrees	6E-1.0041
Minimum Standards for Use of the Term "College" or "University"	6E-1.0045

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are: updating the rules to reflect the new Commission instead of the two previous boards wherever the agency is referenced; adding definitions required to implement the new law; bringing rules from 6F, State Board of Nonpublic Career Education, to be combined into one title; rewriting the requirements for licensure for independent postsecondary education institutions to reflect the new statute; updating the fair consumer practices to fit all levels of institutions under the purview of the Commission; revising the fee schedule to reflect current and future costs of the new Commission; removing references to permission to operate, as that status is repealed in the new law, and institutions currently holding the status are given 90 days after the effective date to become licensed or cease operating in Florida; and updating the requirements for using the terms "college" and "university."

SPECIFIC AUTHORITY: 1005.04(1)(f), 1005.22(1)(e)1., 1005.31, 1005.33(3), 1005.34 FS.

LAW IMPLEMENTED: 1005.01, 1005.02(7), 1005.03, 1005.04, 1005.05, 1005.06, 1005.21(1), 1005.22, 1005.31, 1005.33, 1005.34, 1005.35 FS.

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

TIME AND DATE: 10:00 a.m., Monday, October 21, 2002
PLACE: Keiser College, 1700 Halstead Blvd., Tallahassee, FL
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, 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 EDUCATION

State Board of Independent Colleges and Universities

RULE TITLES:	RULE NOS.:
Temporary Licensure of Colleges	6E-2.001
Other Types of College Licensure	6E-2.002
Minimum Standards for Licensure	6E-2.004
Nontraditional College Programs	6E-2.0041
Medical Clinical Clerkship Programs	6E-2.0042
Denial, Probation, or Revocation of Licensure or Other Status	6E-2.0061
Amendments to Applications	6E-2.008
Colleges which Discontinue Operation	6E-2.009
Agents; License Required; Procedures for Licensure	6E-2.010
Designating Resident Agent	6E-2.015

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are: updating the rules to reflect the new Commission instead of the two previous boards wherever the agency is referenced; bringing rules from 6F, State Board of Nonpublic Career Education, to be combined into one title; rewriting the standards for licensure for independent postsecondary education institutions to reflect the new statute; adding provisions implementing new types of licensure; revising the standards for distance learning to fit all levels of institutions under the purview of the Commission; updating the rule regarding medical clinical clerkship programs provided in Florida hospitals by foreign medical schools; revising the rule regarding actions against a licensee to reflect the provisions in the new law; combining the best parts of both former boards' rules regarding modifications to programs offered by institutions; specifying proper procedures for the orderly closing of an institution; revising the rules relating to recruiters; and updating the rule regarding designation of resident agents for out-of-state institutions or corporations operating in Florida.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.31, 1005.32, 1005.33, 1005.38, 1005.39 FS.

LAW IMPLEMENTED: 1005.21(1), 1005.22(1)(e),(h), 1005.31, 1005.33, 1005.34, 1005.35, 1005.36, 1005.38, 1005.39 FS.

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

TIME AND DATE: 10:00 a.m., Monday, October 21, 2002

PLACE: Keiser College, 1700 Halstead Blvd., Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, 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 EDUCATION

State Board of Independent Colleges and Universities

RULE TITLE: Administration of the Board RULE NO.: 6E-3.002

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are the organization and administration of the new Commission for Independent Education, including officers and terms, committees, quorum and voting, agendas, rulemaking, and parliamentary procedures.

SPECIFIC AUTHORITY: 1005.22(1)(d) FS.

LAW IMPLEMENTED: 1005.22(1)(d) FS.

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

TIME AND DATE: 10:00 a.m., Monday, October 21, 2002

PLACE: Keiser College, 1700 Halstead Blvd., Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, 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 EDUCATION

State Board of Independent Colleges and Universities

RULE CHAPTER TITLES: Fiscal Matters RULE CHAPTER NOS.: 6E-4

RULE TITLES: Fees and Expenses RULE NOS.: 6E-4.001

Fines 6E-4.003

Student Protection Fund 6E-4.005

Institutional Assessment Trust Fund 6E-4.007

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are the fiscal considerations for the Commission, gathering into one new chapter all matters related to finances; setting a new fee schedule to cover the expenses of the Commission's operations, as no General Revenue funds are used in its budget; and reflecting the provisions of the new statute.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.35, 1005.38(1) FS.

LAW IMPLEMENTED: 1005.22, 1005.35, 1005.37, 1005.38 FS.

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

TIME AND DATE: 10:00 a.m., Monday, October 21, 2002

PLACE: Keiser College, 1700 Halstead Blvd., Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, 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 REVENUE

Sales and Use Tax

RULE TITLES: Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods RULE NOS.: 12A-19.070

Department of Revenue Electronic Database 12A-19.071

Certification of Service Address Databases 12A-19.072
 Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions 12A-19.073

PURPOSE AND EFFECT: The Communications Services Tax Simplification Law (Chapter 202, F.S.) requires that communications services dealers must collect and remit local communications services taxes based on the rate of the local taxing jurisdiction in which customer service addresses are located. The Department of Revenue is required to develop and maintain an electronic database in which local service addresses are assigned to local jurisdictions, and local governments are required to provide information for inclusion in the database. Use of certain methods to assign service addresses, including use of a database that has been certified by the Department of Revenue as meeting statutory accuracy standards, entitles a dealer to a higher collection allowance and to protection against liability for taxes, interest, and penalties resulting from erroneous service address assignments. The promulgation of these proposed rules ensures the following: 1) that communications services tax dealers are informed of their obligations concerning the assignment of customer service addresses, of the methods of assigning addresses that will entitle dealers to protection against liability, and of the methods of assigning addresses that will entitle a dealer to a higher collection allowance; 2) that the procedures for the Department and local governments to maintain the accuracy of the database on an on-going basis are available; 3) that the procedures for application for certification by the Department of databases used by communications services tax dealers are available; and 4) that interested parties are aware that the applicable forms have been incorporated into Rule 12A-19.100, F.A.C.

The purposes of the proposed creation of Rule 12A-19.070, F.A.C., Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods, are to provide guidelines on: 1) the requirement that communications services dealers assign customer service addresses to local taxing jurisdictions; 2) the use of certain databases to avoid liability for errors in customer service address assignments; 3) the due diligence standard applicable to dealers using databases that provide protection for liability for errors in assigning customer service addresses; and 4) the collection allowance available depending on the database used by a communications services dealer.

The purposes of the proposed creation of Rule 12A-19.071, F.A.C., Department of Revenue Electronic Database, are to provide guidelines on: 1) the electronic customer service database maintained by the Department of Revenue; 2) the procedures for local taxing jurisdictions to request changes to the Department of Revenue database; and 3) procedures for

any substantially affected person to object to the assignment of a customer service address in the Department of Revenue database.

The purpose of the proposed creation of Rule 12A-19.072, F.A.C., Certification of Service Address Databases, is to provide guidelines on the standards and procedures for certification of a customer service address database developed by a communications services dealer or a vendor.

The purpose of the proposed creation of Rule 12A-19.073, F.A.C., Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions, is to provide guidelines on the use of an enhanced zip code method to assign customer service addresses.

These proposed rules adopt and incorporate by reference two (2) sets of instructions that are incorporated into the on-line Department of Revenue service address database. The on-line instructions incorporated by reference are the "Guide for Address Change Requests" and the "Instructions for Preparing and Submitting Customer Address Files for Certification Testing." These proposed rules also reference the incorporation of four (4) forms required for administration of the Communications Services Tax Simplification Law in Rule 12A-19.100, F.A.C. The forms are: DR-700012, "Application for Certification of Communications Services Database"; DR-700020, "Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax)"; DR-700022, "Local Communications Services Tax Notification of Jurisdiction Change"; and DR-700025, "Objection to Communications Services Tax Electronic Database Service Address Assignment."

SUBJECT AREA TO BE DISCUSSED: The subject of this rule development workshop is to develop the requirements to be used by the Department regarding situsing service addresses to the appropriate local taxing jurisdiction and the procedures for certification of databases.

SPECIFIC AUTHORITY: 202.26(3)(b),(f),(g), 202.28(1) FS.
LAW IMPLEMENTED: 202.22, 202.23, 202.28, 202.34(1)(a) FS.

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

TIME AND DATE: October 17, 2002, 10:00 a.m.
PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such

proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (voice) and (800)955-8771 (TDD). THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT ARE: Linda Bridges, Revenue Program Administrator I ((850)488-7157), and Jennifer Silvey, Senior Attorney, ((850)922-4727), Technical Assistance and Dispute Resolution, Office of the General Counsel, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods.

(1)(a) Dealers of communications services that are required to collect local communications services taxes must assign each customer service address to a specific local taxing jurisdiction for purposes of determining the appropriate local communications services tax rate to be applied to sales made to that address. Local communications services taxes must be collected and remitted for each service address in accordance with the service address assignments in the most current version of the electronic database maintained by the Department, as discussed in Rule 12A-19.071, F.A.C. Except as otherwise provided in subsection (2), a dealer is liable for any taxes, interest, and penalties that are due as a result of errors in the assignment of service addresses to local taxing jurisdictions.

(b) In determining the liability for taxes, interest, and penalties of a dealer who has failed to assign a service address to the correct local taxing jurisdiction, the Department will take into account any amount of tax that was collected and erroneously assigned by the dealer to another local taxing jurisdiction. The Department will reallocate and redistribute such amounts between the local taxing jurisdictions involved to apply the payment of taxes to the correct local taxing jurisdiction. Interest and penalties will be applied only to the excess of the correct amount of local communications services tax due on the sale over the amount of local communications services tax collected and erroneously assigned to an incorrect local taxing jurisdiction.

(2)(a) A dealer will not be liable for any local communications services taxes, interest, or penalty due solely because of an error in assigning a service address to a local taxing jurisdiction if the dealer exercised due diligence in employing one of the following methodologies in assigning that service address:

1. The electronic database maintained by the Department, as provided in Rule 12A-19.071, F.A.C.;

2. a database that has been certified by the Department, as provided in Rule 12A-19.072, F.A.C.;

3. an enhanced zip code method, as discussed in Rule 12A-19.073, F.A.C.; or

4. a database that, upon audit by the Department, is determined to have met the accuracy rate criterion required for certification under Rule 12A-19.072, F.A.C., at the time of the sale on which local communications services taxes are due.

(b) A dealer must timely notify the Department of the method or methods to be used in assigning service addresses on form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule 12A-19.100, F.A.C.). If a dealer changes the method or methods to be used, the dealer must notify the Department on form DR-700020 of the change in method or methods and of the effective date of the change.

(c) Due Diligence. In order to avoid liability for tax, penalty, and interest resulting from errors in the assignment of customer service addresses to local taxing jurisdictions under paragraph (a), a dealer must exercise due diligence in employing one of the methodologies described. The dealer must exercise the care and attention that is expected from and ordinarily exercised by a reasonable and prudent person when ascertaining the correct amount of tax due on sales made by that person.

1. A dealer is exercising due diligence if that dealer expends reasonable resources to accurately and reliably implement a method described in paragraph (a) and maintains adequate internal controls in the assignment of service addresses. Internal controls in the assignment of service addresses are adequate if the dealer has in place and consistently follows procedures to obtain and incorporate accurate updates to its database at least once every six months and corrects errors in assignments of service addresses within 120 days from discovering such errors.

2. A communications services dealer must maintain records establishing that the dealer has exercised due diligence for the period of time during which the Department is authorized to assess taxes on sales of communications services by that dealer. Such records include instructions or procedures provided to employees, contracts and correspondence with third-party vendors or service providers concerning the acquisition or maintenance of data, documentation establishing that the data was consistently updated at least once every six months, records concerning customer or local taxing jurisdiction objections to the assignment of service addresses and responses to those objections, and any other records that pertain to the acquisition, maintenance, and revision of the data upon which service address assignments are based.

3. If a communications services dealer uses a certified database provided by a third party vendor, the communications services dealer must exercise due diligence in its own conduct in using the database. For example, the dealer must follow the

vendor's instructions on use of the database and promptly incorporate any updates supplied by the vendor. As part of its due diligence, the dealer has a duty to take reasonable steps to ascertain that the vendor maintains the database so as to ensure continuing qualification for certification. For example, if a vendor failed to provide an update to the database when scheduled to do so, a reasonable and prudent dealer relying on that vendor's database would contact the vendor and make inquiry.

(d) If a communications services dealer uses multiple databases or methodologies, such dealer is protected from liability for tax, interest, and penalty only as to service addresses assigned as specified in paragraph (a) of this subsection. Such a dealer is liable as provided in subsection (1) for taxes, interest, and penalties in regard to erroneous jurisdictional assignments for any service address assigned by any other methodology. A dealer that uses multiple databases must maintain documents that demonstrate that a service address has been assigned employing a methodology described in paragraph (a) in order to be held harmless for local communications services taxes resulting from erroneous assignment of that service address.

(e)1. Employing a method described in paragraph (a) protects a dealer from liability for local communications services taxes and related interest and penalties that would otherwise have been due to a local taxing jurisdiction. A dealer's employment of a method described in paragraph (a) does not deprive a purchaser of the right to a refund of overpayment of local communications services taxes resulting from an erroneous assignment of that customer's service address to a local taxing jurisdiction with a higher rate than that in effect in the correct local taxing jurisdiction. If a purchaser complies with the procedural requirements of Section 202.23, F.S., and establishes that the dealer has incorrectly assigned the purchaser's service address and that an overpayment of local communications services tax has resulted, the dealer must refund the amount of the overpayment to the purchaser. Upon making such refund, the dealer would be entitled to an equal credit or refund from the Department upon proper reporting to the Department of the amount and jurisdictions involved.

2. For purposes of this paragraph, a purchaser that establishes that a dealer has assigned the purchaser's service address to a different local taxing jurisdiction from the one to which that address was assigned in the electronic database maintained by the Department as of the date of the sale has established a presumption that the dealer's assignment was erroneous. If a dealer believes that the assignment of the purchaser's address in the Department's database is incorrect, the dealer should refer that refund claim to the Department for a determination in accordance with the procedures in Section 202.23, F.S. A dealer who assigned a purchaser's service address in accordance with the most recent information available from the electronic database maintained by the

Department at the time of the sale on which the purchaser asserts that tax was overpaid shall not be liable to make a refund to the purchaser unless the Department has subsequently revised the assignment of that address to correct an error and such revision had retroactive effect as of the date of the sale involved pursuant to paragraph 12A-19.071(3)(c), F.A.C.

(3) Collection Allowance.

(a) Any communications services dealer that employs a methodology described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .75 percent on taxes collected on service addresses assigned using the described methodologies. Any communications services dealer that employs any methodology that is not described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .25 percent on taxes collected on service addresses assigned using such other methodology. A communications services dealer that is not liable for an assessment of taxes, interest, and penalties by reason of employing a database that is found upon audit to meet the accuracy criteria for certification, as described in subparagraph (2)(a)4., is entitled to a collection allowance of .25 percent until such time as an application for certification is made and approved.

(b) A communications services dealer must maintain adequate records to demonstrate that a .75 percent collection allowance was claimed only in regard to taxes that were collected for service addresses that were assigned employing a methodology that qualifies for that allowance. If a communications services dealer's records do not clearly establish the correct collection allowance for each service address, the dealer shall be entitled to only a .25 percent collection allowance on sales made to any service address that the dealer cannot establish was assigned using a database or methodology that qualifies for the .75 percent collection allowance.

(c) A communications services dealer must also timely and correctly remit all tax and meet all the other requirements of Section 202.28, F.S., in order to be entitled to any collection allowance. This rule deals only with determining the amount of collection allowance available to a dealer who otherwise qualifies to receive the allowance. It does not create any separate entitlement to an allowance other than that set forth in Section 202.28, F.S.

Specific Authority 202.26(3)(b),(f),(g), 202.28(1) FS. Law Implemented 202.22(1),(4),(5),(6), 202.23, 202.28, 202.34(1)(a) FS. History--New

12A-19.071 Department of Revenue Electronic Database.

(1)(a) The Department will maintain an electronic database that assigns service addresses to local taxing jurisdictions in a format that satisfies the requirements of Section 202.22(2)(a), F.S. The electronic database will be

maintained on the Department's website at the address inside the parentheses (<http://www.myflorida.com/dor>). Local taxing jurisdictions and communications services providers will be provided with access codes to permit them to register as users of the database. Registered local taxing jurisdictions and communications services dealers will have the capability of downloading databases of addresses assigned to each local taxing jurisdiction. Local taxing jurisdictions will also have access to an on-line form for requesting changes in service address assignments. The database will also have a single address lookup feature that will permit any person to enter an address and ascertain to which local jurisdiction it is assigned. Use of the single address lookup feature will not require an access code or registration.

(b) When a change to the database has been approved, it will be stored in an auxiliary file pending its inclusion in the next scheduled update of the database. The individual address lookup feature will search this auxiliary file as well as the current database and may therefore reflect information that has not yet been incorporated into the database available for downloading and use by local taxing jurisdictions and communications services dealers. In such cases, the individual address lookup page will carry a statement notifying the viewer that it reflects a pending change to the database.

(c) The availability of the initial database and of subsequent updates will be announced in the Florida Administrative Weekly. Updates will incorporate corrections of any errors discovered since the last preceding update as well as changes in addresses or jurisdictional boundaries based on information provided by local taxing jurisdictions. Updates will be posted on the Department's website at least 90 days prior to the effective date of the update and will also be available to dealers of communications services and vendors of databases in magnetic or electronic media for a fee equal to the cost of furnishing the update in such media. Requests for electronic or magnetic media copies should be addressed to Communications Services Tax, Local Government Jurisdiction Unit, Post Office Box 5885, Tallahassee, Florida 32314-5885.

(2)(a) Local taxing jurisdictions have a continuing obligation to provide the Department with information to update the database, such as changes in service addresses, annexations, incorporations, reorganizations, and any other changes to jurisdictional boundaries. Local taxing jurisdictions must inform the Department of the identity of the jurisdictions' officers or employees who are authorized to act as contact persons with the Department on database matters. Each local jurisdiction may designate up to two contact persons for this purpose. Unless the Department is notified otherwise, the Department is authorized to accept either contact person's signature for purposes of this rule.

(b) Local taxing jurisdictions must submit information requesting changes to the database electronically following the on-line Guide for Address Change Requests (hereby

incorporated by reference). The information must also be submitted on form DR-700022, Local Communications Services Tax Notification of Jurisdiction Change (incorporated by reference in Rule 12A-19.100, F.A.C.).

(c) The local taxing jurisdiction must specify the effective date of any information to be incorporated in the database. The effective date must be the next January 1 or July 1 after the date of submission of the information to the Department. Changes must be submitted no later than the date that is 120 days prior to the January 1 or July 1 on which changes are to be effective.

(d)1. Each requested change or addition to the database must be supported by competent evidence. Competent evidence is documentation that establishes that the service addresses affected by the requested change or addition are located in the local taxing jurisdiction indicated on the request. Examples of competent evidence include annexation ordinances, articles of incorporation of a new municipality, or the plat filed for a newly approved subdivision. Competent evidence must clearly designate the service addresses that are affected.

2. If a requested change is to move an address from one local taxing jurisdiction to another, competent evidence includes the consent of the local taxing jurisdiction that did not request the change. To facilitate processing of the change, the local taxing jurisdiction requesting the change should attempt to obtain a written consent to the change signed by an authorized contact person of the non-requesting jurisdiction. Form DR-700022 contains an authorization statement that will serve as the written consent of the non-requesting local taxing jurisdiction when signed by that jurisdiction's authorized contact person. If the requesting jurisdiction has not obtained the written consent of the non-requesting jurisdiction, the Department will contact the non-requesting jurisdiction before making the change. Based upon the response of the non-requesting jurisdiction, the Department will take the following action in regard to the requested change:

a. If the non-requesting jurisdiction consents in writing, the Department will accept and process the change.

b. If the non-requesting jurisdiction objects in writing, the Department will treat the requested change as one that must be resolved by the local taxing jurisdictions involved as provided in subsection (3).

c. If the non-requesting jurisdiction fails to either consent or object in writing within 20 days after the date on which the Department notified that jurisdiction of the requested change, the Department will accept and process the change. This will not preclude the non-requesting jurisdiction from subsequently objecting to the new address assignments after they have been processed.

(e) Examples.

1. A local taxing jurisdiction approves the plat and grants the permits necessary for development of a new subdivision on February 1, 2005. The plat indicates street names but no address numbers have yet been assigned by the postal authorities. In order for the addresses to be added to the electronic database effective the following July 1, the local taxing jurisdiction must file form DR-700022 with a copy of the approved subdivision plat and submit on-line address change information by March 3, 2005. If that deadline is not met, the earliest date on which the new service addresses can be added to the database is January 1, 2006. In order to meet the deadline and be certain that the actual address numbers are included, the contact person for the local taxing jurisdiction may request the addition of a range of numbers that is certain to include the actual numbers. Because the development of the subdivision affects only the requesting jurisdiction, no consent from any other jurisdiction is required.

2. A municipality annexes an area with 1500 service addresses that was formerly in an unincorporated area of the county. The annexation will be effective July 1, 2003. The municipality's database contact person timely enters address change requests for 1525 addresses on-line and files a form DR-700022 on February 15, 2003. Included with the form are a copy of the annexation ordinance and a map with the annexed area outlined, with street address ranges included in the annexed area noted. The county database contact person has not signed the form DR-700022 or otherwise given written consent to the changes. On February 20, 2003, the Department notifies the county of the requested changes and provides copies of the municipality's form DR-700022, annexation ordinance, and map. The county does not respond with written consent or a written objection. On March 14, 2003, the Department processes the changes, and they are included in an update available on April 1, 2003, to take effect July 1, 2003. The county's database contact person notifies the Department on July 15, 2003, that the county believes the database now incorrectly assigns 25 service addresses to the municipality. The Department will handle this as an objection to the database, as discussed in subsection (3).

(3)(a) Any substantially affected party may object to information contained in the initial electronic database or any update to the electronic database by submitting form DR-700025, Objection to Communications Services Tax Electronic Database Service Address Assignment (incorporated by reference in Rule 12A-19.100, F.A.C.), along with competent evidence to support the party's objection. Examples of substantially affected parties include purchasers of communications services who pay local communications services taxes, dealers who are required to collect local communications services taxes, and local taxing jurisdictions that object to a change to the database proposed by another local taxing jurisdiction. Examples of competent evidence include an electric utility bill from a provider that operates only within a particular local taxing jurisdiction, a voter registration

card indicating the voter residing at a service address is entitled to vote in municipal elections or only in county elections, or a map that includes the boundaries of a local taxing jurisdiction and clearly places a service address inside or outside those boundaries. For example, if a map shows that a street is entirely within the boundaries of a municipality, that map is competent evidence that a service address on that street should be assigned to that municipality in the database. The Department will notify the affected party of any deficiencies in the objection or competent evidence.

(b) Upon receipt of an objection on a completed form DR-700025, including competent evidence to support the objection, the Department will forward copies of the form, along with the associated documentation, to the database contact person in each affected taxing jurisdiction. The Department will instruct each local taxing jurisdiction to indicate in writing its determination in regard to the objection. If the affected local taxing jurisdictions each indicate agreement with the objection, the Department will revise the electronic database accordingly. If a local taxing jurisdiction fails to respond within a reasonable time, which shall be no less than 30 days, such jurisdiction shall be deemed to have indicated agreement with the objection. If either local taxing jurisdiction notifies the Department in writing that it does not agree with the objection, the Department will immediately reassign the address with a special designation that indicates that the jurisdictional assignment of the address is in dispute. The service address will be reassigned to a local taxing jurisdiction when one of the following events occurs:

1. The Department receives written notification from the local taxing jurisdiction that did not agree with the change requested in the objection that such local taxing jurisdiction has subsequently determined that the change should be made;

2. The Department receives written notification from the party that filed the form DR-700025 that the objection was erroneous and the assignment in the database was correct; or

3. The Department is provided with a copy of a final order, judgment, or other binding written determination resolving the jurisdictional assignment of the contested address.

(c) No communications services provider who relies on the assignment of a service address in the database will be held liable for any tax, interest, or penalty in regard to that service address if the assignment is later determined to be erroneous under this subsection. For purposes of making refunds to purchasers, a correction to the database will have retroactive effect to the July 1 or January 1 on which the erroneous assignment took effect if the form DR-700025 objecting to the assignment is filed no later than the August 31 following an assignment that took effect on July 1 or the February 28 following an assignment that took effect on January 1.

Specific Authority 202.26(3)(b),(g) FS. Law Implemented 202.22(2), 202.23 FS. History—New

12A-19.072 Certification of Service Address Databases.

(1) A communications services dealer that develops and maintains its own database for assigning service addresses to local taxing jurisdictions or a third party vendor that provides a database for sale to communications services dealers or uses such a database in providing billing or other services to communications services dealers may apply to the Department for certification of the database. A database will be certified if it assigns street addresses, address ranges, post office boxes, and post office box ranges to the proper local taxing jurisdictions with an overall accuracy rate of 95 percent with a 95 percent level of confidence, based on a statistically reliable sample. Accuracy must be measured based on the entire geographic area within the state of Florida covered by the database for which certification is sought.

(2)(a) Application for certification must be made to the Department on form DR-700012, Application for Certification of Communications Services Database (incorporated by reference in Rule 12A-19.100, F.A.C.) and in accordance with the on-line Instructions for Preparing and Submitting Customer Address Files for Certification Testing (available at the Department's website, www.myflorida.com/dor, and hereby incorporated by reference). All applicable portions of the application must be completed.

(b) The Department will notify the applicant of any errors or omissions in the application and of all additional information or documentation required within 90 days of receipt of the application. The Department will review the application and contact the individual designated in the application concerning any additional information required and the format in which such information must be submitted. The applicant shall provide access to all records, facilities, and processes reasonably required to review, inspect, or test the database within 10 working days of the Department's request for such access.

(c) The Department will test the applicant's database by comparing the assignments of service addresses to the assignments of service addresses in the Department's on-line database described in Rule 12A-19.071, F.A.C. The Department will notify the applicant of all service addresses that do not match the Department's database regardless of whether the applicant's database meets the accuracy criterion for certification.

(d) Within 180 days of receipt of a completed application, the Department will issue a written determination.

1. If the notice grants certification, it will specify the expiration date, which will be three years or four years from the date of the notice.

2. If the notice denies certification, it must specify the grounds, inform the applicant of any available remedy, and set forth procedures for protesting the denial. If the applicant cures all of the defects that formed the basis for denial, the Department will issue a notice certifying the database. The

Department is authorized to grant certification of the database even in cases where the applicant has filed a petition and a proceeding is pending under Chapter 120, F.S.

(3) An application for recertification of a database must be submitted on form DR-700012 when the certification period expires. If an application for recertification is received prior to the stated expiration date of the certification period, the prior certification will not expire until the Department takes final action on the application for recertification. In such cases, if the Department denies recertification, the prior certification will remain in effect until the time for administrative or judicial review of the Department's denial of recertification has expired or, if later, the date fixed by order of the reviewing court.

(4) Certification or recertification of a database is effective upon the date of the Department's notice approving the application. Except when extended as provided under subsection (3), when a timely application for recertification has been filed, a certification or recertification is effective through the date stated on the notice, which shall be either three years or four years from the date of the notice. The database will be assigned a three-year expiration date if the applicant's business partner number assigned by the Department's accounting system program ends in an even number and a four-year expiration date if the applicant's business partner number ends in an odd number.

(5) In determining whether a database qualifies for certification, the Department will consider whether the applicant will implement procedures designed to maintain the accuracy level required for certification throughout the certification period. If the Department obtains information indicating that a certified database is not being properly maintained and updated to insure on-going accuracy at the required levels, the Department will notify the applicant and review the operation and maintenance of that database. If the Department determines that a database no longer qualifies for certification and remedial steps are not promptly taken, the Department will revoke the certification. The Department shall first provide notice to the applicant of its intent to revoke the certification, as provided in Section 120.60, F.S., and afford the applicant a point of entry under Chapter 120, F.S., to contest the notice of intent.

(6) Certification is contingent upon there being no material changes to the database or procedures for its updating and maintenance. If there are such changes, the applicant should inform the Department and request a determination whether a new form DR-700012 should be submitted. If practicable, the Department will test the effect of the changes rather than require a new certification procedure for the entire database. A material change is any change that could reasonably be expected to affect whether the database would still meet the 95 percent accuracy level required for certification. Examples of changes that could be material would be an expansion of the service area covered by a database, the merger of two or more

databases, a change in the sources from which information for the database is obtained, or alteration of the methods by which service addresses are assigned, updated, or corrected. Changes made in the course of consistently followed procedures to obtain and incorporate accurate updates and to correct errors in assignments of service addresses as required to satisfy the due diligence standards set forth in paragraph 12A-19.070(2)(c), F.A.C., are not material changes that require Department review of a database.

Specific Authority 202.26(3)(g) FS. Law Implemented 202.22(3) FS. History—New _____.

12A-19.073 Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions.

(1) An enhanced zip code method is a method of assigning service addresses to local taxing jurisdictions based on United States postal zip codes of at least nine digits.

(2) A communications services dealer may avoid liability as provided in Rule 12A-19.070, F.A.C., for tax, penalty, and interest resulting from errors in assigning service addresses to local taxing jurisdictions by employing an enhanced zip code method only if the requirements of this rule are satisfied.

(3) The dealer or the vendor providing the database is not permitted to rely solely on the location of the post office to which an enhanced zip code is assigned by the United States Postal System if the area covered by the enhanced zip code is not entirely located within the same local taxing jurisdiction as the post office. In some cases, the area included in an enhanced zip code overlaps local jurisdictional boundaries or is outside the local taxing jurisdiction where the post office to which a zip code is assigned is located. In addition, a dealer may provide services to customer service addresses for which an enhanced zip code is not available, because the service address is in a rural area or is without postal delivery. The dealer or the vendor must use a reasonable methodology to assign service addresses in such circumstances. The dealer or vendor will be considered to have used a reasonable methodology if it relies on information obtained from one or more of the following sources:

(a) The Department’s electronic database as described in Rule 12A-19.071, F.A.C.;

(b) A database that has been certified by the Department as provided in Rule 12A-19.072, F.A.C.;

(c) Representatives of relevant local taxing jurisdictions whose responsibilities entail knowledge of the location of addresses as within or without their jurisdictions;

(d) The United States Census Bureau; or

(e) The United States Postal Service.

The dealer must maintain records that establish the methodology used to assign service addresses, as provided in this subsection.

(4) The dealer employing an enhanced zip code method to assign service addresses to local jurisdictions must satisfy the notification and due diligence requirements set forth in paragraphs 12A-19.070(2)(b) and (c), F.A.C. For purposes of due diligence requirements, a communications services dealer or an enhanced zip code database vendor is deemed to have expended reasonable resources to accurately and reliably implement an enhanced zip code method if the requirements of subsection (3) have been met. The database vendor or dealer must also maintain adequate internal controls to assure the on-going accuracy of an enhanced zip code database as described in subparagraph 12A-19.070(2)(c)1., F.A.C.

(5) In order to be entitled to the 0.75 percent collection allowance, a communications services dealer that employs an enhanced zip code method to assign service addresses must satisfy the requirements of subsection 12A-19.070(3), F.A.C.

Specific Authority 202.26(3)(b),(f), 202.28(1) FS. Law Implemented 202.22(1),(4),(6),(7), 202.28(1)(b)2. FS. History—New _____.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

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

PURPOSE AND EFFECT: To revise the requirements for minimum contributions to the Florida College Savings Program so that the minimum contributions will be to the Program, rather than to individual investment options within the Program.

SUBJECT AREA TO BE ADDRESSED: The minimum contribution requirements applicable to the Florida College Savings Program.

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

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., October 14, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

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

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE: Contingent Benefactor
 RULE NO.: 19B-16.008

PURPOSE AND EFFECT: To delete the requirement that changes to the person named as the contingent benefactor for an account in the Florida College Savings Program be notarized.

SUBJECT AREA TO BE ADDRESSED: The requirements for changing the contingent benefactor of an account in the Florida College Savings Program.

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

LAW IMPLEMENTED: 240.553 FS.

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

TIME AND DATE: 2:00 p.m., October 14, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514.

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

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Inmate Grievances – Terminology and Definitions	33-103.002
Inmate Grievances – Miscellaneous Provisions	33-103.015

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definition of ‘grievance of reprisal’ and to clarify which reviewing authority is designated to respond to each type of grievance.

SUBJECT AREA TO BE ADDRESSED: Inmate grievances.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-103.002 Inmate Grievances – Terminology and Definitions.

Terminology and Definitions. The following terms, as defined, shall be standard usage throughout the department:

(1) through (8) No change.

(9) Grievance of Reprisal: refers to a grievance submitted by an inmate alleging that staff have or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure ~~or for a particular incident.~~

(10) through (12) No change.

(13) Reviewing Authority: Staff who are authorized to sign grievances as the final authority for review, e.g., warden, assistant warden, deputy warden, or the Secretary’s representative.

(a) Formal Level: Major Institutions – warden or assistant warden;

(b) Private correctional facilities – warden, deputy warden, or, when determined by staff in the Bureau of Inmate Grievance Appeals that further review is required, the warden, deputy warden, or the Executive Director of the Privatization Commission;

(c) Road prisons, vocational centers, work camps, community correctional centers, and contract community facilities – warden or assistant warden of the supervising institution.

(d) Grievance Appeals: Bureau chief, inmate grievance administrator, or correctional services administrator designated by the Secretary to serve as his representative.

(e) The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans With Disabilities Act, grievances challenging placement in close management, grievances of an emergency nature, grievances of reprisal or grievances of a sensitive nature.

(14) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History– New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) through (5) No change.

(6) At no time will an inmate who is alleging that he was physically abused as described in Section 944.35(3), Florida Statutes, or alleging reprisal by staff, as defined in subsection 33-103.002(9), F.A.C., be directed to submit his or her grievance to the staff person who is the subject of the complaint, nor will the grievance be referred to a staff person who is the subject of the complaint.

(7) through (11) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER TITLE: Minimum Standards for Home Health Agencies

RULE CHAPTER NO.: 59A-8

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the rule, including items required by the Florida Statute changes and language clarification. Conforming to changes in the Florida Statutes includes adding language on do not resuscitate orders and revising language on the cost assessment for confirmed investigations. Language is added to further clarify such areas as tuberculin skin tests for staff, in-service training requirements, emergency relocations, and reasons for denial of renewal of licenses. The home health agency application for licensing is also updated.

SUBJECT AREA TO BE ADDRESSED: Minimum Standards for Home Health Agencies.

SPECIFIC AUTHORITY: 400.461-.497, 400.512-.518 FS.

LAW IMPLEMENTED: 400.461-.497, 400.512-.518 FS.

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

TIME AND DATE: 10:00 a.m. – 1:00 p.m., October 16, 2002

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Anne Menard, Agency for Health Care Administration, Home Care Unit, 2728 Mahan Drive – Mail Stop 34, Tallahassee, FL 32308 or menarda@fdhc.state.fl.us

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE CHAPTER TITLE: Examinations

RULE CHAPTER NO.: 64B-1

PURPOSE AND EFFECT: The Department of Health proposes to review the existing language in the entirety of this chapter to address all matters pertaining to examinations.

SUBJECT AREA TO BE ADDRESSED: Examinations.

SPECIFIC AUTHORITY: 456.004, 456.013, 456.014, 456.017, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.014, 456.017, 458.347 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: Christie Brown, Department of Health/MQA, 4052 Bald Cypress Way, Bin #C90, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: Criteria for Approved Continuing Education

RULE NO.: 64B10-15.002

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

SUBJECT AREA TO BE ADDRESSED: Criteria for approved continuing education.

SPECIFIC AUTHORITY: 468.1685(1), 468.1715(3) FS.

LAW IMPLEMENTED: 456.013, 456.036(7),(8), 468.1715, 468.1725 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-1753

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

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Requirements for License Renewal

RULE NO.: 64B11-5.001

PURPOSE AND EFFECT: The Board proposes to conduct a rules workshop to review and discuss the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Continuing education hour requirements and other requirements, including but not limited to, changing the number of hours of home study courses allowed for renewal.

SPECIFIC AUTHORITY: 456.036, 468.219 FS.
 LAW IMPLEMENTED: 456.013, 456.033, 456.036, 468.219 FS.

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

TIME AND DATE: 9:00 a.m., Tuesday, December 3, 2002

PLACE: 4042 Bald Cypress Way, Room 301, Tallahassee, Florida 32399-3255

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board's Executive Director at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the department with respect to any matter considered at this meeting, they will need a record of proceedings, and for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Division of Disease Control

RULE TITLE: RULE NO.:

Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines 64D-3.011

PURPOSE AND EFFECT: The Bureau proposes an amendment to update rule text related to material incorporated by reference.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is updating rule text related to material incorporated by reference.

SPECIFIC AUTHORITY: 381.003(1)(e)2. FS.

LAW IMPLEMENTED: 232.032 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 PLACE: 1:00 p.m. (EST), October 11, 2002

PLACE: Room 340N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Susan Lincicome, Senior Management Analyst Supervisor, Department of Health, Bureau of Immunization, Room 210N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719, (850)245-4342 (Mailing address: 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64D-3.011 Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines.

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

(2) Documentation Requirements

(a) Certification of Immunization – Only fully immunized children shall be issued a Florida Certification of Immunization, which must be provided on DH Form 680 Florida Certification of Immunization, Certificate of Immunization for K-12 Excluding 7th Grade Requirements (Part A-1), and/or Certificate of Immunization Supplement for 7th Grade Requirement (Part A-2), incorporated by reference in subsection 64D-3.011(5), F.A.C. DH Form 680, Florida Certification of Immunization, shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools, and Child Care Facilities Effective ~~July 2001~~ August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July ~~2001~~ 2002, as incorporated by reference in subsection 64D-3.011(5), F.A.C. A child may attend school only after an authorized school official has examined the certificate for validity. A valid Florida Certification of Immunization shall be properly dated and signed or authorized by a physician. Data elements transferred through the Florida Automated System for Transferring Education Records (FASTER) will include all antigen doses by dates of immunization. The original paper DH Form 680, the Florida Certification of Immunization, shall remain in the student's cumulative health record.

(b)1. through (9) No change.

Specific Authority 232.032(1), 381.0011(13), 381.003(1),(2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i) FS. History–New 12-29-77, Amended 6-7-82, 11-6-85, Formerly 10D-3.88, Amended 2-26-92, 9-20-94, 9-21-95, 4-7-96, Formerly 10D-3.088, Amended 7-14-99, 1-22-01, 7-23-01, 8-7-02, _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: RULE NO.:
 Overpayment and Benefit Recovery 65A-1.900

PURPOSE AND EFFECT: This proposed amendment sets thresholds for establishing or pursuing food stamp claims.

SUBJECT AREA TO BE ADDRESSED: This rule amendment sets food stamp program claim thresholds for establishing claims in general and pursuing claims specifically under bankruptcies.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.41 FS.

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

TIME AND DATE: 10:00 a.m., October 14, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: John Bowman, Program Administrator, Building 3, Room 417, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, (850)921-5549

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

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-37.002
Fund Availability and Allocation	67-37.003
Local Housing Assistance Plans	67-37.005
Review of Local Housing Assistance Plans and Amendments	67-37.006
Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans	67-37.007
Local Housing Assistance Trust Fund	67-37.008
Local Affordable Housing Incentive Strategies	67-37.010
Interlocal Entities	67-37.011
Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds	67-37.015
Reporting Requirements	67-37.016

PURPOSE AND EFFECT: This Rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the State Housing Initiatives Partnership (SHIP) Program which provides funds to local governments as an incentive to create partnerships to produce and preserve affordable housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshops will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-37, Florida Administrative Code.

SPECIFIC AUTHORITY: 420.907 FS.

LAW IMPLEMENTED: 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079 FS.

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

TIME AND DATE: 10:00 a.m., October 15, 2002

PLACE: East Central Florida Regional Planning Council, Council Meeting Room, North Wymore Road, Suite 100, Maitland, Florida 32751

TIME AND DATE: 2:00 p.m., October 17, 2002

PLACE: Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Thomas W. Burt, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE ON FLORIDA HOUSING FINANCE CORPORATION'S WEB SITE WWW.FLORIDAHOUSING.ORG

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE CHAPTER TITLE: Boats and Vehicles **RULE CHAPTER NO.:** 68A-11

PURPOSE AND EFFECT: The purpose of the proposed rule is to delete provisions of the rule that are now inconsistent with changes made to Chapter 375, F.S. during the 2002 legislative session. Specific changes include the deletion of the requirement to annually register off-road vehicles used on public lands.

SUBJECT AREA TO BE ADDRESSED: Registration and use of off-road vehicles.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

A HEARING ON THE PROPOSED RULE DEVELOPMENT WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S REGULARLY SCHEDULED PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida 33050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Timothy A. Breault, Division of Wildlife, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-3831; James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

Section II
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: PERFORMANCE SPECIFICATIONS AND STANDARDS FOR MOTOR VEHICLE BRAKE FLUID

RULE NO.: 5F-6.001

PURPOSE AND EFFECT: The purpose of Rule 5F-6.001, F.A.C., is to adopt the most recent version of Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluid, revised October 1, 2001.

SUMMARY: Proposed Rule 5F-6.001, F.A.C., will specify that the Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluid, revised October 1, 2001, is the accepted standard for implementation of Chapter 526, Florida Statutes.

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: 526.52(1) FS.

LAWS IMPLEMENTED: 526.53(1),(2), 526.54 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 10:00 a.m., Monday, October 21, 2002

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, (850)488-9740

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-6.001 Performance Specifications and Standards for Motor Vehicle Brake Fluid.

(1) The performance specifications and standards for brake fluid adopted by the United States Department of Transportation and contained in Motor Vehicle Safety Standard No. 116, Motor Vehicle Brake Fluid, revised October 1, 2001, are hereby adopted as rules of the Department of Agriculture and Consumer Services.

(2) The violation of any provisions or standards of this rule is subject to penalties, provided in Chapter 526, Part II, Florida Statutes.

Specific Authority 526.52(1) FS. Law Implemented 526.53(1)(2), 526.54 FS. History--New 5-8-78, Formerly 5F-6.01, Amended 12-9-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric Hamilton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 30, 2002

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE: LOCAL GOVERNMENT COMPREHENSIVE PLANNING CERTIFICATION PROGRAM

RULE CHAPTER NO.: 9J-35

Table with 2 columns: RULE TITLES and RULE NOS. containing items like Purpose, Definitions, Application Period, etc.

PURPOSE AND EFFECT: The proposed rulemaking implements requirements of section 163.3246(6), F.S. The effect of the rulemaking is a proposed new rule chapter to set forth procedures governing local government applications for participation in the Local Government Comprehensive Planning Certification Program and the review and evaluation of those applications by the Department of Community Affairs, Division of Community Planning.