

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Continuing Education for Biennial Renewal
 RULE NO.: 64B8-13.005

PURPOSE AND EFFECT: The proposed rule amendment is intended to address continuing education credit by Board members.

SUMMARY: The proposed rule amendment revises the rule with regard to continuing education credit for Board members.

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

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

SPECIFIC AUTHORITY: 456.013(6),(7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-13.005 Continuing Education for Biennial Renewal.

(1) No change.

(2)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks.

(b) Five hours of continuing medical education in the subject area of risk management may be obtained by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine in compliance with the following:

1. through 2. No change.

3. The licensee must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. A licensee may receive CME credit in risk management for attending the disciplinary portion of a Board meeting only if he or she is attending on that date solely for that purpose; he or she may not receive such credit if appearing at the Board meeting for another purpose. A member of the Board of Medicine may obtain 3 ~~5~~ hours of continuing medical education in the subject area of risk management and 2 hours

of continuing medical education in the subject area of prevention of medical errors for attendance at the disciplinary portion of one Board meeting.

(3) through (11) No change.

Specific Authority 456.013(6),(7), 456.031(4), 458.309, 458.319 FS. Law Implemented 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS. History--New 9-7-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1-26-97, Formerly 59R-13.005, Amended 5-18-99, 2-7-01, 6-4-02, 10-8-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2003

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.034
 RULE TITLE: Polling Place Procedures Manual

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule published in the October 17, 2003, Vol. 29, No. 42, issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF LEGAL AFFAIRS

Florida Elections Commission

RULE NO.: 2B-1.0025
 RULE TITLE: Complaints

NOTICE OF RULE CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 42 (Oct. 17, 2003), issue of the F.A.W.

2B-1.0025 Complaints.

(1) through (5) No change.

~~(6) Notwithstanding the provisions of subsections (4) and (5), if any complainant fails to raise all violations of the Election Code that arise from the facts alleged on the face of the complaint at the time of filing the complaint, the complainant shall be barred from filing any subsequent complaint or complaints based upon the allegations of violations of the Election Code that should have been raised based on the facts alleged on the face of the first complaint. The Complainant shall also be barred from filing any~~

~~subsequent complaint or complaints based upon allegations that were raised at the time of filing the first complaint or that should have been raised based on the facts alleged on the face of the first complaint. This rule shall take effect immediately and applies to all complaints pending before the Commission. The doctrines of res judicata and collateral estoppel apply to all complaints filed with the Florida Elections Commission.~~

(7) through (9) renumbered (6) through (8) No change.

Specific Authority 106.26(1) FS. Law Implemented Section 105.071, 106.25 FS. History--New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-11-98, 1-2-02, _____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6E-1.003
 RULE TITLE: Definition of Terms

NOTICE OF CORRECTION

The Commission for Independent Education hereby gives notice that the above-referenced rule which was published in the September 19, 2003 issue of the Florida Administrative Weekly, Vol. 29, No. 38, has been corrected to change the citation noted in the Specific Authority to: 1005.22(1)(e) FS.

The foregoing change does not affect the substance of the proposed rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-3.255
 RULE TITLE: Emergency Care

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 36, September 5, 2003, issue of the Florida Administrative Weekly.

(3) OFF-SITE EMERGENCY DEPARTMENTS. A hospital operating an emergency department located other than on the hospital campus shall meet all of the criteria in this section and Chapter 395.1041, Florida Statutes, required of that hospital's on-site emergency department. This criteria includes:

(a) Inspection by the agency's Office of Plans and Construction prior to occupancy;

(b) Meeting all state and federal emergency access requirements including transfer to the nearest hospital with capability to treat the patient;

(c) Accreditation consistent with the hospital's accreditation;

(d) The provision of emergency services equal to the services provided at the hospital's on-site emergency department, 24 hours per day, 7 days per week. Actual services may be provided at the off-site emergency department or via transport to the on-site emergency department or hospital. Transportation from the off-site emergency department to the hospital's main campus must be provided by the hospital either directly or by contract. All services provided by on-call physicians must be available to patients that present at the off-site emergency department as well as the hospital's on-site emergency department.

(e) Outdoor signage must clearly identify the off-site emergency department as an emergency department of the hospital.

Specific Authority 395.1031, 395.1041, 395.1055, 401.024 FS. Law Implemented 395.1031, 395.1041, 395.1055 FS. History--New 9-4-95, Formerly 59A-3.207, Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill McCort, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida or (850)487-0641

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-8.200
 RULE TITLE: Home and Community-Based Waiver Services

NOTICE OF ADDITIONAL HEARING

Notice is hereby given that a second hearing has been requested regarding proposed Rule 59G-8.200, F.A.C. The request is being made on behalf of the Florida Association of Support Coordinators. The Notice of Rule Development was published in Vol. 29, No. 3, January 17, 2003, issue of the Florida Administrative Weekly. The Rule Development Workshop was held February 4, 2003. The Notice of Proposed Rulemaking was published in Vol. 29, No. 30, July 25, 2003, issue of the Florida Administrative Weekly, with the first public hearing held August 19, 2003. The first Notice of Change was published in Vol. 29, No. 42, October 17, 2003. The second Notice of Change was published in Vol. 29, No. 47, November 21, 2003.

The second public hearing is scheduled for:

DATE AND TIME: 2:00 p.m. – 4:00 p.m., Tuesday, January 6, 2004

PLACE: AHCA Headquarters, 2727 Mahan Drive, Building #3, Conference Room “A”, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Henderson, Medicaid Services, 2727 Mahan Drive, Building #3, Mail Stop #20, Tallahassee, FL 32308, (850)414-9756

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
59G-12	Silver Lifesaver Rx Program
RULE NOS.:	RULE TITLES:
59G-12.002	Definitions
59G-12.005	Program Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 41, October 10, 2003, issue of the Florida Administrative Weekly.

Change #1 59G-12.002(4):

(4) The Silver Lifesaver Rx Program is a Medicaid program providing prescribed drug benefits to individuals aged 65 and older meeting certain other eligibility criteria and have exhausted pharmacy benefits under Medicare, Medicaid, or any other insurance plan who do not otherwise receive a pharmacy benefit from Medicaid. The program shall be known as the Silver Lifesaver Rx Program.

Change #2 59G-12.005(1):

(1) Silver Lifesaver Rx Silver Saver Application form, ~~Silver Lifesaver Rx CF ES 2935, effective January 2004,~~ may be obtained by calling (888)419-3456.

Specific Authority 409.9065(4)(a) FS. Law Implemented 409.906(20), 409.9065(4)(a), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended

Change #3

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003 ~~October 10, 2003~~

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Division of Health Awareness and Tobacco

RULE NO.:	RULE TITLE:
64F-12.015	Licensing, Application, Permitting

NOTICE OF CORRECTION

Notice is hereby given that the Notice of Change to paragraph 64F-12.015(11)(f), F.A.C., as published in Vol. 29, No. 46, on November 14, 2003 which changed the proposed rule as originally published in Vol. 29, No. 40, on October 3, 2003, issue of the Florida Administrative Weekly, incorrectly identified subparagraph 64F-12.015(11)(e), F.A.C., in the body of the Notice of Change. Paragraph 64F-12.015(11)(f), F.A.C., should read “Submit \$47.00 for each fingerprint card submitted.”

The other subparagraphs in subsection 64F-12.015(11), F.A.C., will read as published in Vol. 29, No., 40, on October 3, 2003.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
65E-5	Mental Health Act Regulations
RULE NOS.:	RULE TITLES:
65E-5.601	Operation and Administration of State Mental Health Treatment Facilities
65E-5.602	Rights of Residents of State Mental Health Treatment Facilities

NOTICE OF CHANGE

Notice is hereby given that the following changes has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 37 (September 12, 2003) issue of the Florida Administrative Weekly.

65E-5.601 Operation and Administration of State Mental Health Treatment Facilities.

~~(1) In order to protect the health and safety of individuals residing in state civil mental health facilities, the department shall specify the procedure for reporting critical incidents in Departmental Operating Procedure.~~

~~(1)(2)(a)~~ (a) In order to protect the welfare of the individuals residing in state civil mental health facilities, the department shall establish the following a uniform grievance process for residents of all state civil mental health treatment facilities. ~~At a minimum, the policy should address the process for filing a grievance and establish accountability for managing the issue to resolution. The process This procedure~~ shall be explained during the orientation process and in written orientation materials.

(b) Any grievance may be verbal or written. When the grievance is verbal, the facility will provide a party not named in the dispute to assist the resident in writing the grievance. The grievance shall detail the issue and the remedy sought. All resident grievances shall be addressed to the resident advocate and the unit director or treatment team leader. The Resident Advocacy Office shall monitor all grievances.

(c) The grievance shall be date-stamped upon receipt by the unit director or treatment team leader. ~~Where possible, the grievance should be resolved in the shortest period.~~ At a minimum, the resident shall receive a written response to the grievance within 14 calendar days from date of receipt. The resident or the resident's representative may appeal the disposition of a grievance to the facility administrator.

(d) The ~~steps procedure~~ for filing a grievance as stated in this rule shall be conspicuously posted in the living areas where the residents can read the ~~steps procedure~~. ~~The procedure shall be available in other languages of the resident population.~~

~~(3) The department shall specify, in operating procedure, the format for the clinical records of individuals residing in state civil mental health treatment facilities.~~

~~(4) The department shall develop statewide operating procedures for the management and operations of state civil mental health treatment facilities.~~

~~(5) The department shall require each state civil mental health treatment facility to develop a system of quality improvement or performance improvement.~~

Specific Authority 394.457(5) FS. Law Implemented 394.457(2), 394.459(5) FS. History—New _____

65E-5.602 Rights of Residents of State Mental Health Treatment Facilities.

(1) ~~Each state civil mental health treatment facility shall have ready access to telephones~~ make telephones available for residents. Any restriction on telephone usage shall be documented in the clinical record. Such documentation shall specify the reason for the restriction, its duration, and the treatment goals and interventions aimed at lifting the restriction. At no time, shall there be a restriction of telephone access to his or her legal counsel, the Florida Abuse Registry, Local or Statewide Advocacy Councils, or the Advocacy Center for Persons with Disabilities.

(2) ~~The Department shall develop operating procedures to~~ protect the confidentiality of records within the facility and in transport to other facilities and other therapeutic services.

(3) Each state civil mental health treatment facility shall post instructions conspicuously in living areas and visiting areas where residents and visitors can read the instructions on how to report a complaint.

(4) Each state civil mental health treatment facility shall establish visiting hours for each of its residential units. The visiting hours shall be based on the needs of residents and their visitors and shall minimize interruption of the individual's treatment program schedules. Each state civil mental health treatment facility shall post its visiting hours in places where residents and visitors frequent. Visiting hours shall be provided to the resident, family, and representatives at the time of admission. Visitors may request exceptions to posted visiting hours with the Unit Director or treatment team leader.

(5) Each state civil mental health treatment facility shall establish with the local county supervisor of elections, a process for allowing eligible residents to register and to vote in public elections. The process shall be published and provided to each resident and conspicuously posted in living areas where residents can read it. The resident's representative shall also be informed of the process. The facility shall make available voter registration forms, applications for absentee ballots, and absentee ballots.

(6) No state civil mental health treatment facility shall initiate any mental health treatment, including psychotropic medication, until express and informed consent for psychiatric treatment is obtained from a person legally qualified to give it, except in the following situations:

(a) Where emergency psychotropic medication treatment is ordered by a physician, as defined in s. 394.455(21), F.S., to preserve the immediate safety of the resident or others in the facility;

(b) When a person is admitted to a state mental health treatment facility and has a current prescription for psychotropic medication(s), is unable to provide express and informed consent, is determined by the admitting physician to be in need of the medication prescribed prior to admission and an alternative decision maker is being pursued through the court; or

(c) When a Court Order is obtained after adequate notice and hearing.

(7)(a) Any limitation or restriction of a resident's access to the grounds or treatment program shall be based on clearly documented evidence of risks to self or others.

(b) The time span during which residents are allowed access to the grounds shall be specified conspicuously and posted in living areas. Access to grounds may be limited during the hours a resident is scheduled to attend prescribed programming. Access to grounds status shall be established and documented in the clinical record for all newly admitted persons within 72 hours of admission.

(c) An individualized plan shall be developed and documented in the clinical record for residents who have been identified by the treatment team as experiencing significant loss of independent access to grounds.

(d) Those residents certified by the facility as experiencing long-term loss of independent access to grounds based on physical health issues or adaptive deficits shall be provided opportunities to go outside unless medically contraindicated.

(e) Any change to access to the grounds status shall be based on the treatment team's assessment. An assessment of risk shall consider, at a minimum, the following categories of risk:

1. Suicide attempts or threats.
2. Intentional self-injury.
3. Homicide.
4. Assault.
5. Elopement.
6. Substance abuse.
7. Physically vulnerable.
8. Psychotropic medication issues, and
9. Other potentially harmful behaviors.

(f) Decisions about changes in access to grounds status shall be based in part on an assessment of risk, with criteria influencing access changes being documented and filed in the person-centered record.

~~(g) An assessment of risk shall consider, at a minimum, the following categories of risk:~~

1. ~~Suicide attempts or threats,~~
2. ~~Intentional self-injury,~~
3. ~~Homicide,~~
4. ~~Assault,~~
5. ~~Elopement,~~
6. ~~Substance abuse,~~
7. ~~Physically vulnerable,~~
8. ~~Psychotropic medication issues, and~~
9. ~~Other potentially harmful behaviors.~~

~~(h) With the exception of emergency situations, physicians write treatment orders prescribing a change in access to grounds status.~~

~~(i) Residents who are restricted to their residence shall not leave without a specific order designating a location, the level of staff supervision required, and the length of time to be spent at the location.~~

~~(j)~~ Teams shall show progressive actions taken to manage significant, recurring issues for residents in the least restrictive manner possible. The exception shall be those changes where a resident's access to the grounds is limited due to serious, acute health/safety matters. Interventions must be documented in order to show the use of the least intrusive, most positive methods for the restoration of freedom of movement and follow through with treatment before the use of more restrictive options.

~~(k)~~ Residents who disagree with limitations to grounds access shall have a right to a review of those limitations. Each treatment facility shall publish procedures to insure the

limitations are reviewed. The resident or the resident's representative may appeal the restriction to the facility administrator through the grievance process.

~~(l)~~ Residents shall retain their access to grounds status when transferred from one residential area to another, unless their psychological or physical condition has changed, ~~requiring a limitation to grounds access by a physician's order~~ and based on a comprehensive risk assessment.

~~(m)~~ Residents who do not have full access to the grounds shall be provided the opportunity to exit the building for outside time and physical exercise on a daily basis, excluding severe weather conditions, for at least a half-hour per day. Residents have the right to decline to go outside, if they so choose.

~~(n)~~ All residents with full or prescribed access to grounds (as indicated in their individualized service plan) shall be provided with an orientation to grounds and boundaries of the facility.

~~(o) Restraint and seclusion shall be used only in situations of emergency as a safety measure, when there is imminent and substantial danger of bodily harm to the individual or others. Where possible, behavioral crises shall be prevented. The use of restraint or seclusion shall be individualized to the needs of the resident and his or her ability to regain control.~~

Specific Authority 394.457(5) FS. Law Implemented 394.457(2), 394.459(5),(12) FS. History--New _____.

DEPARTMENT OF FINANCIAL SERVICES

Board of Funeral and Cemetery Services

RULE NO.: 69K-5.008
 RULE TITLE: Request for Additional Information – Applications
 NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 29, No. 39, September 26, 2003, issue of the Florida Administrative Weekly. The following changes are being made in response to comments from the Joint Administrative Procedures Committee.

The next to the last sentence of the rule now reads as follows:

Failure to respond to such request within sixty (60) days after the date of the request will be construed by the department and the Board of Funeral and Cemetery Services as grounds for denial of an application in accordance with the provisions of Section 120.60(2), F.S., and the file shall ~~may~~ be closed, ~~unless good cause is shown that it remain open.~~

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