

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Frank Dino, Office of Insurance Regulation, E-mail Dinof@dfs.state.fl.us.

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

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

DEPARTMENT OF FINANCIAL SERVICES

Office of Insurance Regulation

RULE TITLE: Healthy Lifestyle Rebate

RULE NO.: 69O-191.0545

PURPOSE AND EFFECT: To implement the provisions of HB 1629 regarding rebates for healthy lifestyles in HMO filings.

SUBJECT AREA TO BE ADDRESSED: Healthy Lifestyle Rebate.

SPECIFIC AUTHORITY: 641.36, 641.31(2) FS.

LAW IMPLEMENTED: 641.31(40) FS. [HB 1629]

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

TIME AND DATE: 9:00 a.m., August 19, 2004

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 IS: Frank Dino, Office of Insurance Regulation, e-mail: dinof@dfs.state.fl.us

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

Section II Proposed Rules

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."

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Routine Mail	33-210.101
Legal Documents and Legal Mail	33-210.102
Privileged Mail	33-210.103

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: provide for the copying of incoming correspondence that is disapproved for specified reasons in order to allow review of the rejected material during the inmate grievance process; to provide for consistency in rule language; to provide for the handling of mail between inmates and persons under civil commitment as sexually violent predators; and to clarify what must be included in the institution address on incoming and outgoing correspondence.

SUMMARY: The proposed rules provide for the copying of incoming correspondence that is disapproved for specified reasons in order to allow review of the rejected material during the inmate grievance process; provide for the handling of mail between inmates and persons under civil commitment as sexually violent predators; and clarify what must be included in the institution address on incoming and outgoing correspondence.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 944.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.11 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 RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-210.101 Routine Mail.

(1) through (6) No change.

(7) Correspondence with inmates of other penal institutions shall be subject to the prior approval of the warden of each institution. Either warden shall withhold approval if he finds that the intended correspondence would present a substantial threat of interference with the security, order or rehabilitative objectives of his institution.

(8) Correspondence with individuals under civil commitment as sexually violent predators shall be subject to the prior approval of the warden. The warden shall withhold approval if he finds that the intended correspondence would present a substantial threat of interference with the security, order or rehabilitative objectives of his institution.

~~(9)(8)~~ Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods or services. For the purposes of this rule this includes advertising for pen-pals; inmates are not prohibited from corresponding with pen pals, but shall not place ads soliciting pen pals. Inmates are prohibited from receiving correspondence or materials from persons or groups marketing advertising services, or from subscribing to advertising services. Inmates who post ads or have ads posted with the assistance of another person shall be subject to disciplinary action.

~~(10)(9)~~ Inmates may not send mail to any person who has advised the warden that he does not wish to receive mail from the inmate. The parents or legal guardians of a person under the age of 18 may advise that mail is not to be sent to such person. Upon receipt of such advisement, the warden will cause to be prepared an acknowledgement specifying that the inmate will not be permitted to send mail to the person requesting the correspondence restriction and that such person should return any further mail received from the inmate and notify the warden of the attempt to correspond. After the inmate is notified of the correspondence restriction, any further attempt to correspond will be considered a violation of this rule and of section 9-14 of the Rules of Prohibited Conduct, (Rule 33-601.314, F.A.C.) and will subject the inmate to disciplinary action.

~~(11)(10)~~ Outgoing or incoming mail shall be disapproved for mailing or delivery to the inmate if any part of it:

(a) Depicts or describes procedures for the construction of or use of weapons, ammunitions, bombs, chemical agents, or incendiary devices;

(b) Depicts, encourages, or describes methods of escape from correctional facilities or contains blueprints, drawings or similar descriptions of Department of Corrections facilities or institutions, or includes road maps that can facilitate escape from correctional facilities;

(c) Depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs or other intoxicants;

(d) Is written in code;

(e) Depicts, describes or encourages activities which may lead to the use of physical violence or group disruption;

(f) Encourages or instructs in the commission of criminal activity;

(g) Is dangerously inflammatory in that it advocates or encourages riot, insurrection, disruption of the institution, violation of department or institution rules, the violation of which would present a serious threat to the security, order or rehabilitative objectives of the institution or the safety of any person;

(h) Threatens physical harm, blackmail or extortion;

(i) Pictorially depicts sexual conduct as defined by Section 847.001, F.S., as follows:

1. Actual or simulated sexual intercourse;

2. Sexual bestiality;

3. Masturbation;

4. Sadoomasochistic abuse;

5. Actual contact with a person's unclothed genitals, pubic area, buttocks, or, if such person is a female, breast;

6. Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

(j) Presents nudity or a lewd exhibition of the genitals in such a way as to create the appearance that sexual conduct is imminent, i.e., display of contact or intended contact with genitals, pubic area, buttocks or female breasts orally, digitally or by foreign object, or display of sexual organs in an aroused state.

(k) Contains criminal history, offender registration, or other personal information about another inmate or offender which, in the hands of an inmate, presents a threat to the security, order or rehabilitative objectives of the correctional system or to the safety of any person;

(l) Is not in compliance with incoming mail regulations set forth in subsections (2) and (3) of this rule (incoming mail only);

(m) Contains or appears to contain unknown or unidentifiable substances; or

(n) Otherwise presents a threat to the security, order, or rehabilitative objectives of the Correctional System, or to the safety of any person.

~~(12)(11)~~ No inmate may establish or conduct a business through the mail during his period of incarceration.

~~(13)(12)~~ Inmates shall be prohibited from entering contests or sweepstakes through the mail while incarcerated.

~~(14)(13)~~ When an inmate is prohibited from sending a letter, the letter and a written and signed notice stating one of the authorized reasons for disapproval and indicating the portion or portions of the letter causing disapproval will be

given to the inmate. When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be given notice in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. If contraband is discovered in the mail (other than contraband of an illegal nature), the contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. In either case the inmate may file a grievance to be reviewed by an officer or official other than the person disapproving the mail. Form DC2-521 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 12-4-02.

(a) When an inmate is prohibited from sending a letter, the letter and a written and signed notice stating one of the authorized reasons for disapproval and indicating the portion or portions of the letter causing disapproval will be given to the inmate. When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be given notice in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender.

(b) If the incoming mail is disapproved for one of the reasons listed in subsections (7), (8), or (9), paragraph (11)(a) through (k) or (n), subsection (12) or (13) of this rule, the institution shall make a copy of the correspondence before returning it to the sender with the Unauthorized Mail Return Receipt, Form DC2-521, included. The institution is not required to copy incoming correspondence disapproved pursuant to subsection (7) if the return address on the envelope was the reason for determining that the mail was sent from an inmate at another penal institution.

(c) The copies shall be retained by the institution for 30 days, not including any time that a grievance appeal is pending, provided the inmate has initiated the process by filing a formal grievance within 15 days of notice of the mail rejection. The inmate is not required to file an informal grievance of the mail rejection.

(d) If unauthorized items are contraband is discovered in the mail (other than items contraband of an illegal nature), the unauthorized contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt, Form DC2-521, included. In either case the inmate may file a grievance to be reviewed by an officer or official other than the person disapproving the mail.

(e) Form DC2-521 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is December 4, 2002.

~~(15)~~(14) The address of all incoming mail must contain the inmate's committed name, identification number and institutional address. The return address of all outgoing mail must contain ~~only~~ the inmate's committed name, identification number and institutional name and institutional address. The inmate's dorm and bunk locations are not required in either the address of incoming mail or the return address of outgoing mail. No prefix other than inmate, Mr., Ms., Miss, or Mrs. nor any suffix other than Jr., Sr. or Roman numeral such as II or III may be included as part of the committed name in the return address. The institutional name in the return address must be spelled out completely with no abbreviations. All outgoing routine mail will be stamped "mailed from a state correctional institution" by mail room staff.

(15) through (20) renumbered (16) through (21) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03, _____.

33-210.102 Legal Documents and Legal Mail.

(1) through (6) No change.

(7) When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. If unauthorized items are contraband is discovered in the mail (other than items contraband of an illegal nature), the unauthorized contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. Form DC2-521 is incorporated by reference in Rule 33-210.101, F.A.C.

(8) Processing of Legal Mail.

(a) All incoming legal mail will be opened in the presence of the inmate to determine that the correspondence is legal mail and that it contains no unauthorized items contraband. Only the signature and letterhead may be read. If the incoming mail is not legal mail, it will be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection (8) of this rule because it was being transmitted under the guise of legal mail. The inmate whom the mail was addressed shall receive a copy of the form letter.

(b) Inmates shall present all outgoing legal mail unsealed to the mail collection representative to determine, in the presence of the inmate, that the correspondence is legal mail and that it contains no unauthorized items ~~contraband~~. Only the address may be read to determine whether it is properly addressed to a person or agency listed in subsection (2) of this rule. If the outgoing mail contains unauthorized items ~~contraband~~ or is not legal mail, the inmate shall be subject to disciplinary action. If the outgoing mail is legal mail and it contains no unauthorized items ~~contraband~~, the mail collection representative shall stamp the document(s) to be mailed and the inmate's copy, if provided by the inmate, "Provided to (name of institution) on (blank to insert date) for mailing." The mail collection representative shall then have the inmate initial the document(s) next to the stamp. For confinement areas, the staff member who picks up the legal mail each day shall stamp the documents, have the inmate place his or her initials next to the stamp, and have the inmate seal the envelope in the staff member's presence. The use of mail drop boxes for outgoing legal mail is prohibited.

(c) through (12) No change.

(13) The address on all incoming legal mail should contain the inmate's committed name, identification number, institutional name and address; the inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay. When legal mail cannot be delivered because the envelope does not contain enough information for a positive identification of the inmate recipient, the mail will be returned to the sender along with Form DC2-528, Legal Mail – Unable to Deliver. Form DC2-528 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 25, 2003.

(14) The return address on all outgoing correspondence must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's committed name or identification number is missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing legal mail with the complete institutional name and address and shall mail it without delay. All outgoing legal mail will be stamped "mailed from a state correctional institution" by mail room staff.

(15) through (16) No change.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 10-8-76, Amended 4-19-79, 7-2-81, 6-8-82, 9-23-85, Formerly 33-3.05, Amended 10-7-86, 8-20-89, 4-4-91, 9-1-93, 4-28-96, 2-12-97, 5-25-97, 10-7-97, 12-7-97, 2-15-98, Formerly 33-3.005, Amended 12-20-99, Formerly 33-602.402, Amended 5-5-02, 12-4-02, 5-11-03, 8-25-03.

33-210.103 Privileged Mail.

(1) through (2) No change.

(3) When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. If unauthorized items ~~are contraband~~ is discovered in the mail (other than items ~~contraband~~ of an illegal nature), the unauthorized ~~contraband~~ item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. Form DC2-521 is incorporated by reference in Rule 33-210.101, F.A.C.

(4) Processing of Privileged Mail.

(a) All incoming privileged mail shall be opened in the presence of the inmate to determine that the correspondence is privileged mail and that it contains no unauthorized items ~~contraband~~. Only the signature and letterhead may be read. If the incoming mail is not privileged mail, it will be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection (4) of this rule because it was being transmitted under the guise of privileged mail. The inmate to whom the mail was addressed shall receive a copy of the form letter.

(b) Inmates shall present all outgoing privileged mail unsealed to the mail collection representative to determine, in the presence of the inmate, that the correspondence is privileged mail and that it contains no unauthorized items ~~contraband~~. Only the address may be read to determine whether it is properly addressed to a person or agency listed in subsection (1) of this rule. If the outgoing mail contains unauthorized items ~~contraband~~ or is not privileged mail, the inmate shall be subject to disciplinary action.

(c) No change.

(5) The address on all incoming privileged mail should contain the inmate's committed name, identification number, institutional name and address. The inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay.

(6) The return address on all outgoing correspondence must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk numbers are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's name or identification number is

missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing privileged mail with the complete institutional name and address and shall mail it without delay. All outgoing privileged mail will be stamped "mailed from a state correctional institution" by mail room staff.

(7) through (8) No change.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 9-1-93, Amended 5-25-97, 2-15-98, Formerly 33-3.0052, Amended 12-20-99, Formerly 33-602.403, Amended 5-5-02, 12-4-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE:

Offender Grievance Procedures

RULE NO.:

33-302.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language.

SUMMARY: The proposed rule deletes language that sets specific time frames for issuance of responses and that provides instructions for provision of copies to staff members.

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: 944.09 FS., 45 CFR 164.530

LAW IMPLEMENTED: 944.09 FS., 45 CFR Part 160, 164

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.101 Offender Grievance Procedures.

(1) No change.

(2) The following procedures outline the steps to be taken by an offender under field supervision, including an offender in pretrial intervention who has a complaint concerning actions on supervision. Steps for filing complaints, except in those complaints addressed in subsection (5) below, are:

(a) No change.

(b) If the offender is dissatisfied with the outcome of the verbal discussion with the officer, and the officer's supervisor if the offender chooses to discuss the complaint verbally with the supervisor, the offender may submit a written grievance outlining the problem to the officer's immediate supervisor for further review. The supervisor shall respond, in writing, with a response that attempts to resolve the issue, ~~within 20 calendar days of the receipt of the grievance. A copy of both the grievance and the supervisor's response shall be forwarded to the circuit administrator for informational purposes. A copy of the grievance and all responses to the grievance shall be maintained in the offender file.~~

(c) In the event the issue is not resolved with the supervisor, the offender may forward her or his grievance, along with the supervisor's response, to the circuit administrator for review. The circuit administrator shall respond to the offender in writing, with a response that attempts to resolve the issue, ~~within 20 calendar days of receipt of the grievance.~~

(d) In the event the issue is not resolved with the circuit administrator, the offender may forward her or his grievance, along with the circuit administrator's response to the regional director of probation and parole for review. The regional director of probation and parole shall provide a written response, which attempts to resolve the issue, ~~within 20 calendar days of receipt of the grievance.~~

(e) In the event the issue is not resolved with the regional director of probation and parole, the offender may forward her or his grievance, along with the regional director of probation and parole's response, to the assistant secretary of probation and parole. The assistant secretary of probation and parole shall respond to the grievance ~~within 30 days of receipt of the grievance.~~

(3) through (6) No change.

Specific Authority 944.09 FS. 45 CFR 164.530. Law Implemented 944.09 FS. 45 CFR Part 160, 164. History—New 5-28-86, Amended 10-1-89, 9-30-91, 2-15-98, Formerly 33-24.005, Amended 3-4-01, 7-30-01, 2-4-02, 5-12-02, 7-30-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Beth Atchison

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE:

Written Monthly Reports

RULE NO.:

33-302.110

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: delete obsolete and unnecessary language; emphasize offender reporting responsibilities; and require provision of additional information on each monthly report to the supervising officer.

SUMMARY: The proposed rule deletes obsolete and unnecessary language; emphasizes offender reporting responsibilities; and requires provision of information related to income, employment, and payment of monetary obligations on each monthly report to the supervising officer.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.110 Written Monthly Reports.

(1) ~~The offender~~ ~~Correctional probation officers~~ shall inform the offender, at the time orientation is provided, that she or he is required to submit a full and truthful report to the officer on a monthly basis, unless otherwise specified by the supervision order.

~~(a) Form DC3-268, Written Monthly Report, is the form offenders shall submit on a monthly basis to their correctional probation officer. Form DC3-268 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 1, 2001.~~

~~(b) The Written Monthly Report, Form DC3-268, requires the offender shall to provide information relating to activities for the previous month, including:~~

~~(a)1- The offender's place of residence;~~

~~(b)2- The offender's place of employment;~~

~~(c)3- The offender's gross income earned monthly;~~

~~(d) The offender's effective date of unemployment (if applicable), reason for unemployment, and source of income during the unemployed period;~~

~~(e) The offender's number of dependents;~~

~~(f) Information regarding offender's second job (if applicable);~~

~~(g)4- Payments made by the offender including restitution, court costs, cost of supervision, or other monetary obligations imposed by the court or releasing authority;~~

~~(h) If monthly monetary obligation payment was not met, reason monetary obligation was not paid;~~

~~(i)5- Problems experienced by the offender; and,~~

~~(j)6- Other information that needs to be discussed with the correctional probation officer during the required office visit.~~

~~(2) Upon receipt, the correctional probation officer shall review the report, discuss changes or concerns, and document receipt of the report in case notes. Written Monthly Report, Form DC3-268, submitted by the offender under his or her supervision to:~~

~~(a) Ensure the report is complete;~~

~~(b) Identify status changes not reported previously in employment, residence, or arrest activity;~~

~~(c) Identify problems occurring during the month that the offender wishes to discuss further;~~

~~(d) Review any difficulties or irregularities;~~

~~(e) Determine necessary action to rectify any difficulties or irregularities; and,~~

~~(f) Make referrals in order to assist the offender with community resources and services available, as necessary.~~

~~(3) The correctional probation officer shall sign and date Form DC3-268 to acknowledge the report was reviewed. He or she shall also document receipt of Form DC3-268 in the electronic case notes, including any additional instructions given to the offender or information obtained during the office visit.~~

~~(4) The original copies of all of the Written Monthly Reports submitted by an offender will be maintained by the correctional probation officer in the offender's file.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 8-1-01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Beth Atchison

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE:

RULE NO.:

Correctional Probation Officer Badges

33-302.115

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to move rule language specific to correctional probation officers from the general employee grooming rule to a new rule in the community corrections section of the rules, and to clarify provisions regarding the wearing of the correctional probation officer badge.

SUMMARY: The proposed rule moves language specific to correctional probation officers from the general employee grooming rule to a new rule in the community corrections section of the rules, and clarifies provisions regarding the wearing of the correctional probation officer badge.

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: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.115 Correctional Probation Officer Badges.

(1) Circuit administrators shall maintain control and inventory of correctional probation officer badges within each circuit.

(a) The circuit administrator shall issue badges to officers after certification is received.

(b) The circuit administrator or designee shall conduct annual circuit badge inventories and submit the circuit badge inventory to the regional director. The annual circuit badge inventory shall include the following information:

1. Badge number.

2. Name of officer, in the last-name-first-first-name-last format (or blank if not issued).

3. Circuit and office location.

4. Status (including issued, not issued, stolen, lost, or retired), and

5. Total counts for each status, including the total number of badges issued, the total number of badges not issued, the total number of badges stolen, the total number of badges lost, and the total number of badges retired.

(c) The regional director or designee shall compile the circuit inventories to complete annual regional badge inventories and submit the regional badge inventories to the Director of Community Corrections.

(2) Only badges issued by the department shall be used to conduct officially designated duties. The badge shall be silver colored metal for correctional probation officers and correctional probation senior officers and gold color for correctional probation specialists, correctional probation

supervisors, correctional probation senior supervisors, correctional probation administrators, and fugitive apprehension coordination team correctional services consultants. Badges shall be pre-numbered with black lettering.

(3) Use of the issued badge as a credential for personal purpose is prohibited.

(4) Badges shall be visibly displayed on the correctional probation officer's person or readily accessible in order for the correctional probation officer to properly identify himself or herself to the public. Additional provisions addressing display of badges worn by correctional probation officers are contained in Rule 33-302.104, F.A.C.

(5) Loss or theft of a badge shall be reported to the officer's immediate supervisor within 72 hours of the officer becoming aware that the badge was stolen or lost. Theft or loss of a badge shall be reported by the officer on the Community Corrections Incident Report, Form DC3-225, followed by a MINS report by the circuit administrator. Form DC3-225 is incorporated by reference in Rule 33-302.104, F.A.C. The officer shall be responsible for reimbursing the department for any issued badge which is lost.

(6) Correctional probation officers shall maintain their original badge issued if transferred to another circuit or region. The circuit administrator or designee in both circuits shall update their badge inventories accordingly. Once the officer has transferred to another circuit, the sending circuit administrator or designee shall remove the badge information from the circuit's inventory and the receiving circuit administrator or designee shall add the badge information to his or her circuit's inventory.

(7) Correctional probation officers who leave the department shall return their badges to the circuit administrator prior to departing.

(8) Correctional probation officers promoted to a position outside the class series or who retire from the department under honorable conditions and who are eligible to retire under the State of Florida retirement system, including retirement under medical disability, who desire to retain their issued badges, shall make a request to the regional director.

(9) Regional directors shall review requests submitted by employees to maintain their badges and forward recommendations to the Director of Community Corrections for final approval. Officers who retire shall be allowed to retain their issued badges. Officers who are promoted shall be allowed to keep their badges upon reimbursement of the department of the cost of a replacement badge. The badge of a correctional probation officer who is killed in the line of duty shall be presented to the employee's next of kin.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Beth Atchison
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: James V. Crosby, Jr.
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 8, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 19, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: Transfer Procedures for Youthful Offenders
RULE NO.: 33-601.224

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to delete language that is unnecessary and duplicative of statute.

SUMMARY: The rule is being repealed as it is unnecessary and duplicative of language in Section 958.11, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 958.11 FS.

LAW IMPLEMENTED: 958.11 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.224 Transfer Procedures for Youthful Offenders.

Specific Authority 958.11 FS. Law Implemented 958.11 FS. History--New 10-11-95, Formerly 33-33.010, Formerly 33-506.104, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 6, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE: Youthful Offender Program Participation
RULE NO.: 33-601.226

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to expand the daily hours for the extended day program for youthful offenders and to provide the process for handling of recommendations for sentence modifications once approved or disapproved by the sentencing judge.

SUMMARY: The proposed rule reflects that the extended day program is a 16-hour rather than a 12-hour program, and provides additional language to address the handling of recommendations once approved or disapproved by the sentencing judge.

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: 958.11 FS.

LAW IMPLEMENTED: 958.11, 958.12 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.226 Youthful Offender Program Participation.

(1) Each youthful offender institution shall provide a programmatically diversified extended day of 16 ~~42~~ hours of required inmate participation six days a week, contingent upon available resources.

(2) No change.

(3) Successful participation in all phases of the youthful offender extended day program and successful completion of the offender management plan and reclassification to minimum or community custody will result in an evaluation by the ICT to determine the inmate's eligibility for a recommendation to the court for a modification of sentence at any time prior to the scheduled expiration of sentence as provided in Section 958.04(2)(d), F.S. Requests for sentence modification will not be made before successful completion of the extended day program.

(a) through (h) No change.

(i) If the recommendation is approved by the sentencing judge, the community corrections office shall send the certified court order to the Bureau of Sentence Structure and Population Management for the inmate to be released through the department's release procedures.

(j) If the judge disapproves the modification request, the community corrections office that handled the modification request shall notify the chief of the Bureau of Classification and Central Records and the ICT. The ICT shall notify the inmate.

Specific Authority 958.11(1) FS. Law Implemented 958.11, 958.12 FS. History--New 10-11-95, Amended 9-11-97, Formerly 33-33.013, Amended 3-13-01, Formerly 33-506.106, Amended 4-2-02, 2-19-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Discipline – Terminology and Definitions 33-601.302

RULE NO.:

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the use of the Contact Card to document inmate behavior.

SUMMARY: The proposed rule clarifies that the Contact Card is used to document inmate behavior.

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: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.302 Inmate Discipline – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the Department:

(1) No change.

(2) Contact Card – refers to Form DC6-256, a written log used to document ~~aberrant~~ behavior of an inmate. Correctional officers maintain this card in the inmate's assigned dormitory. Form DC6-256 is incorporated by reference in paragraph 33-601.313(1)(c), F.A.C.

(3) through (16) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 3-12-84, Formerly 33-22.02, Amended 12-30-86, 10-01-95, Formerly 33-22.002, Amended 5-21-00, 2-11-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2004

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Publications, Rules and Interagency

RULE NO.:

Agreements Incorporated by Reference 40E-4.091

PURPOSE AND EFFECT: To amend Section 4.2.8 of the "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – September 2003" to revise the drainage basins in the environmental resource permitting rules to consider cumulative impacts on a scale of 38 more naturally derived watersheds, which are already adopted by rule in the Basis of Review for Environmental Resource Permits (Figure 4.4-1).

SUMMARY: The proposed rule amendment will consolidate drainage basins for purposes of cumulative impact reviews.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413 FS.

LAW IMPLEMENTED: 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426 FS.

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

TIME AND DATE: 9:00 a.m., September 8, 2004

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

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Lori Ojala, District Clerk, (561)682-6297, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Robbins, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6951 or (561)682-6951, e-mail: rrobbins@sfwmd.gov; For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299, e-mail: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) No change.

(a) "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – September, 2003".

(b) through (k) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: November 15, 2004

Specific Authority 373.044, 373.113, 373.171, 373.413 FS. Law Implemented 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 4-6-03, 4-14-03, 9-16-03, _____.

(The following represents proposed changes to section 4.2.8 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – September, 2003" incorporated by reference in Rule 40E-4.091, F.A.C.)

4.2.8 Cumulative Impacts

Pursuant to paragraph 4.1.1(g), an applicant must provide reasonable assurances that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in subsection 4.1.1(c) and by evaluating the impacts to functions identified in subsection 4.2.2. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, the District will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface water, and consequently the condition for issuance in section 4.1.1(g), will be satisfied. For purposes of performing a cumulative impact analysis, drainage basins shall be those depicted on Figure 4.4-1. The drainage basins within the District are identified on Figure 4.2.8-1.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert G. Robbins, Director, Natural Resource Management Division, Environmental Resource Regulation Department

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: Definitions
RULE NO.: 61G15-18.011

PURPOSE AND EFFECT: This rule is being amended to delete obsolete terminology, update and clarify terminology pursuant to Chapter 471, F.S., as it relates to being in responsible charge of engineering decisions in the practice of professional engineering.

SUMMARY: This rules sets forth the meaning of the terminology used in the professional engineering rules to determine if an engineer is in responsible charge of engineering decisions.

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

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

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

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Acting Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.011 Definitions.

As used in Chapter 471 and in these rules where the context will permit the following terms have the following meanings:

(1) "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record ~~an engineer to be in responsible charge~~ shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of electronic communication devices, devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, or via facsimile transmission be available in a reasonable period of time.

2. No change.

(b) Engineering decisions which must be made by and are the responsibility of the Engineer of Record ~~engineer in responsible charge~~ are those decisions concerning permanent or temporary work which could create a danger to the health, safety, and welfare of the public, such as, but not limited to, the following:

1. through 4. No change.

(c) As a test to evaluate whether an engineer is the Engineer of Record, ~~in responsible charge~~, the following shall ~~must~~ be considered:

1. The engineer shall ~~An engineer who signs and seals engineering documents in responsible charge~~ must be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made them and possessed sufficient knowledge of the project to make them. Examples of questions to be answered by the engineer could relate to criteria for design, applicable codes and standards, methods of analysis, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individuals should be able to clearly define the span and degree of control and how it was exercised and to demonstrate that the engineer was answerable within said span and degree of control necessary for the engineering work done.

2. The engineer shall be completely in charge of, and satisfied with, the engineering aspects of the project.

3. The engineer shall have the ability to review design work at any time during the development of the project and shall be available to exercise judgment in reviewing these documents.

4. The engineer shall have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.

(d) No change.

(2) through (5) No change.

Specific Authority 471.003(2)(f), 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(6), 471.013(1)(a)1., 2., 471.025(3), 471.033(1)(j) FS. History--New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 3, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 18, 2004

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 Medical Quality Assurance

RULE TITLES: RULE NOS.:
Definitions 64B-5.001

Submission of Program Information, Submission
of Licensee Program Completion Data,
Licensee Self-Submission, Address 64B-5.002

PURPOSE AND EFFECT: Subsection 456.025 (7), Florida Statutes, provides a mandate to the Department of Health to implement an electronic continuing education (CE) tracking system for each biennial licensure renewal cycle for which electronic renewals are implemented, and to integrate such system into the department's existing licensure and renewal systems. All approved continuing education providers are required by statute to provide information on program attendance to the department necessary to implement the electronic CE tracking system, and the department by rule is to specify the form and procedures by which such information is to be submitted. The purpose and effect of proposed new Rules 64B-5.001 and 5.002, F.A.C., is to implement the Legislature's mandate codified in this subsection of Florida Statutes.

SUMMARY: Proposed new Rule 64B-5.001, F.A.C., establishes definitions necessary to implement the electronic CE tracking system rule. Proposed new Rule 64B-5.002, F.A.C., establishes the form and procedures for provider submission of program information and licensee program completion data, and for licensee self-submission of program data. Finally, addresses are provided for the submission of such required information.

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

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

SPECIFIC AUTHORITY: 456.004(5), 456.025(7) FS.

LAW IMPLEMENTED: 456.013(9), 456.025(7) FS.

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

TIME AND DATE: 9:00 a.m. – 1:00 p.m., Tuesday, August 10, 2004

PLACE: Capital Circle Office Complex, 4042 Bald Cypress Way, Room 301, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Knepton, Department of Health, 4052 Bald Cypress Way, Bin #C00, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

CONTINUING EDUCATION

64B-5.001 Definitions.

For the purposes of this rule chapter, the following definitions will apply:

(1) “Approved provider” means a person as defined in Section 1.01(3), Florida Statutes, that is required to be approved by a board, or the department when there is no board, to provide continuing education or whose programs are required to be approved by a board, or the department when there is no board.

“Approved provider” also means an institution of higher learning or school that is required to be approved by a board, or the department when there is no board, to provide continuing education or whose programs are required to be approved by a board, or the department when there is no board.

(2) “Continuing education (CE) tracking system” means the Department of Health designated electronic system through which approved providers and licensees submit necessary information on program attendance.

(3) “Program” includes a class, seminar, lecture, presentation, symposium, convention at which continuing education is presented by a professional trade association, self-study or home-study hours, or other activity offered for the purpose of complying with continuing education requirements established in statute or rule approved by the board or the department when there is no board.

(4) “Electronically” refers to the submission of information and data via the Internet.

(5) “Maximum Allowable” refers to the total number of hours that a licensee can possibly earn for attending an approved provider program.

(6) “Hours Earned” refers to the total number of hours that a licensee is awarded during the approved provider program.

(7) “Mandatory Hours” refers to those specific hours, which are designated by law or by board rule, or by rule of the department when there is no board, as mandatory.

Specific Authority 456.004(5), 456.025(7) FS. Law Implemented 456.013(9), 456.025(7) FS. History—New _____.

64B-5.002 Submission of Program Information, Submission of Licensee Program Completion Data, Licensee Self-Submission, Address.

For the purposes of implementing and maintaining the CE tracking system, the following requirements apply:

(1) Submission of program information. Unless otherwise provided by rule of a board or the department when there is no board, prior to the date a program is to be offered, all approved providers must electronically submit the following program information through the CE tracking system: the provider name, the name of the program, when the program is being offered, and the maximum allowable credit hours approved by the board or the department when there is no board according to procedures set forth in the rules of each board or by the department when there is no board. Upon receipt of such information the CE tracking system will assign a program number for the purpose of tracking each continuing education program, or at an approved provider’s request, the CE tracking system can use a program number convenient to and assigned by the approved provider or a board. Program information can be updated, as necessary, by the approved provider up until the day the program is offered.

(2) Submission of licensee program completion data; licensee self-submission.

(a) All approved providers shall submit licensee program completion data through the CE tracking system within ninety (90) days of program completion, unless otherwise provided by rule of a board or the department when there is no board. Required information includes the provider number, the program name, the number for the program assigned by the CE tracking system or the number provided to the CE tracking system by the approved provider or a board, the date the program was completed and the license numbers of licensees who participated in the program. The approved provider may submit the total hours earned during the program by each licensee without specifically delineating the individual courses or lectures constituting the total. The approved provider shall specifically list the licensee’s completion of any subject hours mandated by law.

(b) Such licensee program completion data shall be submitted electronically through the CE tracking system by using either the designated spreadsheet format, the designated text file format, entering the data directly to the CE tracking system, using a compatible format, or through submission of the scan card which is hereby incorporated by reference and effective _____, all of which are available through the

Department of Health at the internet or street address in paragraph (4) below. The scan card shall contain the appropriate designation for submission of detailed information for each profession's required continuing education and mandatory hours, and shall be completed according to the instructions on the scan card.

(c) Licensees may, at their option, self-report any CE hours earned electronically to the internet address in paragraph (4) below. Licensees shall not be charged any fees for electronically self-reporting CE hours through the CE tracking system. A board or the department when there is no board may restrict, by rule, which hours may be self-reported.

(3) An approved provider or licensee who unsuccessfully attempts to electronically submit any information as provided in this rule, has the option of submitting that information in one of the formats specified in paragraph (2) together with a statement regarding the unsuccessful attempted compliance. It must be sent by certified U.S. mail as indicated in paragraph (4). Such submission will meet the requirements of this rule.

(4) Address. All information and data required by this rule shall be submitted electronically to the following Internet address: <https://www.cebroke.com>. For the purposes of paragraph (3), the information may be mailed to the CE Tracking Unit, Division of Medical Quality Assurance, Department of Health, 4052 Bald Cypress Way, Bin#C00, Tallahassee, FL 32399-3250.

Specific Authority 456.004(5), 456.025(7) FS. Law Implemented 456.013(9), 456.025(7) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy Jones, Director, Division of Medical Quality Assurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Amy Jones, Director, Division of
Medical Quality Assurance
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 12, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 10, 2003

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:
Exemption of Spouses of Members of Armed

Forces from Licensure Renewal Provisions 64B3-8.006
PURPOSE AND EFFECT: To exempt spouses of members of
the Armed Forces from specific license renewal requirements
pursuant to the Florida legislature.

SUMMARY: The licensee spouse of a member of the military
is exempt from renewal requirements while out of Florida, but
must notify the Board within six months of their return to
Florida or the spouse's discharge from the military. This
exemption may continue for the duration of the biennium.

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

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

SPECIFIC AUTHORITY: 456.024(2), 483.817 FS.

LAW IMPLEMENTED: 456.024(2) 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: Joe Baker, Jr., Executive Director,
Board of Clinical Laboratory Personnel, 4052 Bald Cypress
Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-8.006 Exemption of Spouses of Members of Armed
Forces from Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces
of the United States shall be exempt from all licensure renewal
provisions for any period of time which the licensee is absent
from the State of Florida due to the spouse's duties with the
Armed Forces. The licensee must document the absence and
the spouse's military status to the Board. The licensee is
required to notify the Board of a change in status within six
months of the licensee's return to the State of Florida or the
spouse's discharge from active duty. If the change of status
occurs within the second half of the biennium, the licensee is
exempt from the continuing education requirement for that
biennium.

Specific Authority 456.024(2), 483.817 FS. Law Implemented 456.024(2) FS.
History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Clinical Laboratory
Personnel
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 18, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 2, 2004

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:
Biennial Renewal of Massage
Establishment License 64B7-28.002

PURPOSE AND EFFECT: The Board proposes to change the rule to conform it to the biennial licensure renewal periods codified by the Department of Health at subsection 64B-9.001(4), F.A.C., and by the Board of Massage Therapy at Rule 64B7-28.003, F.A.C.

SUMMARY: The rule conforms the biennial renewal month deadline to August 31, of the biennial renewal year.

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

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

SPECIFIC AUTHORITY: 480.035(7), 480.043(8), 480.044 FS.

LAW IMPLEMENTED: 480.043(8), 480.044(1)(e), 480.067(1)(b) 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: Pamela King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.002 Biennial Renewal of Massage Establishment License.

All license renewals for massage establishments shall meet the requirements as set forth in Chapter 480, F.S., and these rules. All massage establishments shall renew their licenses on or before ~~August~~ January 31 of each biennial year, according to the fee schedule as set forth in Rule 64B7-27.007, F.A.C., and the insurance coverage requirements of subsection 64B7-26.002(4), F.A.C. If, however, the massage establishment does not renew its license timely, the license shall be considered delinquent. If a massage establishment is operating with a delinquent license, said establishment is in violation of Section 480.047(1)(b), F.S., and is subject to the criminal penalties as provided for in Section 480.047(2), F.S. In order to renew a delinquent license, the massage establishment shall pay the late fee for delinquent renewal in the amount of seventy-five dollars (\$75.00) as set forth in Section 480.044(2), F.S., and the biennial renewal fee as specified in Rule 64B7-27.007, F.A.C.

Specific Authority 480.035(7), 480.043(8), 480.044 FS. Law Implemented 480.043(8), 480.044(1)(e), 480.067(1)(b) FS. History—New 11-27-79, Formerly 21L-28.02, Amended 1-7-86, 1-30-90, 1-3-91, Formerly 21L-28.002, 61G11-28.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Licensure by Examination **RULE NO.:** 64B8-51.002

PURPOSE AND EFFECT: The Board Proposes to review the rule to determine whether the proposed amendment is necessary.

SUMMARY: Additional requirements for licensure by examination.

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: 478.43(1),(4) FS.

LAW IMPLEMENTED: 456.017, 478.45 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE BOARD'S NEXT MEETING TO BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kay Howerton, Executive Director, Electrolysis Council, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-51.002 Licensure by Examination.

(1) Every applicant for licensure as an electrologist by examination shall demonstrate to the Council that the applicant:

(a) through (b) No change.

(c) Possesses a high school diploma from a high school accredited by the Florida Department of Education, Southern Association of Colleges and School, or Association of Colleges and Schools, a graduate equivalency diploma, college diploma, university diploma, or technical school diploma if such college, university, or technical school required high school or graduate equivalency diploma for admission.

(d) through (g) No change.

(2) through (3) No change.

Specific Authority 478.43(1),(4) FS. Law Implemented 456.017, 478.45 FS. History—New 5-31-93, Formerly 21M-76.002, 61F6-76.002, Amended 7-11-95, Formerly 59R-51.002, Amended 11-13-97, 2-17-00, 5-28-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kay Howerton, Executive Director, Electrolysis Council,
Board of Medicine/MQA

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

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 4, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 27, 2004

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: RULE NO.:
Disciplinary Guidelines; Range of Penalties;

Aggravating and Mitigating Circumstances 64B9-8.006
PURPOSE AND EFFECT: The Board proposes the rule
amendments to update the requirements and the disciplinary
guidelines for professional profiling and credentialing.

SUMMARY: The proposed rule amendments set forth the
disciplinary guidelines and the penalties for failing to verify
profile contents within the required 30-day period in Section
456.041(17), Florida Statutes.

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: 456.072, 456.079 FS.

LAW IMPLEMENTED: 456.072, 456.079, 464.018 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: Dan Coble, Executive Director, Board
of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02,
Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties;
Aggravating and Mitigating Circumstances.

(1) through (2) No change.

(3) The following disciplinary guidelines shall be followed
by the Board in imposing disciplinary penalties upon licensees
for violation of the noted statutes and rules:

(a) through (jj) No change.

(kk) Failing to comply with the requirements for profiling
and credentialing, including, but not limited to, failing to
provide initial information, failing to timely provide updated
information, or making misleading, untrue, deceptive, or
fraudulent representations on a profile, credentialing, or initial
or renewal licensure application; or failing to verify the profile
contents and to correct any factual errors in his or her profile
within the 30-day period.

(Section 456.072(1)(v) or 456.041(7), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine	\$500 fine and suspension to be followed by probation
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension followed by probation

For failure to verify the profile contents and to correct any
factual errors in his or her profile within the 30-day period in
Section 456.041(17), F.S., a fine of up to \$100 per day.

(ll) through (zz) No change.

(4) through (6) No change.

Specific Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079,
464.018 FS. History—New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89,
7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006,
Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00,
5-8-00, 5-2-02, 1-12-03, 2-22-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 14, 2004