Section I
Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:
Florida Teacher Certification Examinations 6A-4.0021

PURPOSE AND EFFECT: The purpose of this rule development is to review the ninth edition of the FTCE Competencies and Skills for the Florida Teacher Certification Examinations, to establish a standard passing score for the Professional Education Test, to adjust the standard passing score for the Exceptional Student Education subject area test, to effect a processing fee for a score verification session, to implement educator recommendations about the weighting of the English 6-12 subject area test, to specify the time limit for requesting a score verification, to modify the days required to request a score verification session, and to include language about the number of days between a score verification session and the next retest (previously only in law). The effects of these changes are that updated competencies for 10 recently revised tests for 2005 will be available to examination candidates (Art K-12, Preschool Birth-Age 4, Health K-12, Spanish K-12, German K-12, French K-12, Biology 6-12, Chemistry 6-12, Earth/Space Science 6-12, Physics 6-12), permanent passing scores for two tests will be established, weighting for the English 6-12 test composite score will be changed, a processing fee for score verification sessions will be required, score verification requests must be submitted in 31 days after score is reported, and existing operating procedures for retesting after a score verification session will be codified into rule.

SUBJECT AREA TO BE ADDRESSED: Florida Teacher Certification Examinations.

SPECIFIC AUTHORITY: 1012.56(8), 1012.59 FS.

LAW IMPLEMENTED: 1012.56, 1012.59 FS.

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

TIME AND DATE: 9:00 – 11:00 a.m., September 7, 2004

PLACE: Florida Department of Education, Room 403, 325 West Gaines Street, Tallahassee, FL 32399

Requests for the rule development workshop should be addressed to: Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Cornelia S. Orr, Administrator, Office of Assessment and School Performance, Accountability, Research, and Measurement, 325 W. Gaines Street, Suite 414, Tallahassee, FL 32399, (850)245-0513

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: RULE NO.:
Fair Consumer Practices 6E-1.0032

PURPOSE AND EFFECT: The Commission proposes development of this rule amendment to clarify admission standards and add guidance for licensees regarding special requirements or limitations of students.

SUBJECT AREA TO BE ADDRESSED: The requirements for admission and special requirements or limitations for students.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.34 FS.

LAW IMPLEMENTED: 1005.04, 1005.22(1)(k), 1005.31(13), 1005.32(5), 1005.34 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-1.0032 Fair Consumer Practices.

(1) through (5) No change.

(6) Each prospective student shall be provided a written copy, or shall have access to an electronic copy, of the institution's catalog prior to enrollment or the collection of any tuition, fees or other charges. The catalog shall contain the following required disclosures, and catalogs of licensed institutions must also contain the information required in subsections 6E-2.004(11) and (12), F.A.C.:

(a) through (f) No change.

(g) Admissions: The institution shall disclose its method of assessing a student's ability to ~~complete~~ successfully complete the course of study for which he or she has applied. The requirements for admission ~~(such as high school diploma, general equivalency diploma, or its equivalent)~~ and for

graduation shall be disclosed. If the practice of a career has special requirements or limitations, such as certain physical or language capabilities or lack of a criminal record, such requirements or limitations shall be disclosed to prospective students interested in training for that career.

(h) through (k) No change.

(7) through (9) No change.

Specific Authority 1005.22(1)(e)1., 1005.34 FS. Law Implemented 1005.04, 1005.22(1)(k), 1005.31(13), 1005.32(5), 1005.34 FS. History–New 10-19-93, Amended 4-2-96, 11-5-00, 1-7-03, 1-20-04, 3-29-04, _____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: RULE NO.:
Institutional Licensure 6E-2.002

PURPOSE AND EFFECT: The Commission proposes the rule amendment to clarify that an application is required to apply for annual licensure.

SUBJECT AREA TO BE ADDRESSED: The process for granting an annual license.

SPECIFIC AUTHORITY: 1005.22(1)(e), 1005.31(2),(3) FS.

LAW IMPLEMENTED: 1005.22(1)(o),(2)(d), 1005.31, 1005.32, 1005.33 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-2.002 Institutional Licensure.

(1) No change.

(2) Annual License.

(a) Granting. An institution that holds a Provisional License, or seeks renewal of an Annual License, shall be granted an Annual License for a period not to exceed one year when the Commission determines that the institution has submitted an application demonstrating ~~demonstrated~~ full compliance with all licensure standards and that all appropriate fees have been paid. A satisfactory on-site visit must occur prior to the granting of an initial Annual License. An accredited institution may submit a report of a satisfactory visit by its accrediting agency to satisfy this requirement.

(b) through (d) No change.

(3) No change.

Specific Authority 1005.22(1)(e), 1005.31(2),(3) FS. Law Implemented 1005.22(1)(o),(2)(d), 1005.31, 1005.32, 1005.33 FS. History–Repromulgated 12-5-74, Formerly 6E-4.01(1)(f)-(i), Readopted 11-11-75, Amended 2-6-78, 5-7-79, 10-13-83, Formerly 6E-2.02, Amended 11-27-88, 11-29-89, 10-19-93, 4-2-96, 4-11-00, 1-7-03, 12-23-03, _____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: RULE NO.:
Actions Against a Licensee; Penalties 6E-2.0061

PURPOSE AND EFFECT: The Commission proposes development of this rule amendment to delete improper language relating to the procedure for notice of denial of licensure.

SUBJECT AREA TO BE ADDRESSED: To delete unnecessary language for probable cause determinations by clarifying the procedure.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.32(7), 1005.38 FS.

LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-2.0061 Actions Against a Licensee; Penalties.

(1) through (6) No change.

(7) Probable cause. Determinations of probable cause shall be made as provided in Section 1005.38, F.S. Probable cause panels shall be appointed to consider suspected violations of law and to make findings, which shall be reported to the full Commission. If the probable cause panel makes a determination of probable cause, the Commission shall issue an administrative complaint ~~or notice of denial of licensure,~~ and shall issue a cease and desist order as provided in Section 1005.38, F.S., if necessary to stop the violations. Probable cause panels shall be appointed and shall serve as follows:

(a) through (c) No change.

(8) through (10) No change.

Specific Authority 1005.22(1)(e)1., 1005.32(7), 1005.38 FS. Law Implemented 1005.32(7), 1005.34(3), 1005.38 FS. History–New 10-13-83, Formerly 6E-2.061, Amended 5-20-87, 11-27-88, 11-29-89, 12-10-90, 10-19-93, 1-7-03, 7-20-04, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Safety Inspection of Bridges	14-48
RULE TITLES:	RULE NOS.:
Purpose	14-48.001
Safety Inspection of Bridges	14-48.0011
Definitions	14-48.002
Designation of Division	14-48.003
Application of Standards	14-48.004
Inspection Requirements	14-48.005
Qualification of Personnel	14-48.006
Qualifications for Certification	14-48.007
Certification	14-48.008
Refusal, Revocation or Suspension of Certificate	14-48.009
Training Courses	14-48.010
Inspection Report	14-48.011
Inventory	14-48.012
Recording and Coding Guide for Maintenance Inspection of Public Bridges	14-48.013
Executive and Legislative Reports	14-48.014

PURPOSE AND EFFECT: The 14 existing rules in this rule chapter have obsolete organizational references, need to be updated, and are being replaced with a single rule covering Safety Inspection of Bridges.

SUBJECT AREA TO BE ADDRESSED: The 14 existing rules are obsolete. All 14 rules are being repealed and replaced by a single rule covering Safety Inspection of Bridges.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 335.074 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

SAFETY ~~BRIDGE~~ INSPECTION OF BRIDGES ~~STANDARDS~~

14-48.001 Purpose.

Specific Authority 334.044 (2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.01, Repealed _____.

14-48.0011 Safety Inspection of Bridges.

(1) Purpose. The purpose of this rule is to establish standards for safety inspection of bridges, as well as certification requirements for bridge inspectors.

(2) The *Manual for Condition Evaluation of Bridges*, 1994, Second Edition as revised by the 1995, 1996, 1998, and 2000, interim revisions, published by the American Association of State Highway and Transportation Officials (AASHTO), is hereby incorporated by reference and made a part of this rule. Copies of this manual are available from AASHTO, 444 North Capitol Street, Northwest, Suite 249, Washington, DC 20001.

(3) The Federal Highway Administration *Recording and Coding Guide for the Structure Appraisal of the Nation's Bridges*, December 1995, is hereby incorporated by reference and made a part of this rule. This manual is available on line and can be downloaded at http:www.fhwa.dot.gov/bridge/mtguide.pdf.

(4) Training Course. Bridge inspectors must complete the Safety Inspection of In-Service of Highway Bridges course provided by the National Highway Institute. Information regarding this training can be obtained by contacting the National Highway Institute at its website: http://www.nhi.fhwa.dot.gov/default.asp.

(5) The Department will certify persons with a minimum of five years of bridge construction or maintenance inspection experience in a responsible capacity, who have completed the training course as bridge inspectors. The five years of constructive experience must include at least one year of experience conducting bridge safety inspections meeting the requirements of the National Bridge Inspection Standards, 23 C.F.R., Part 650, Subpart C, incorporated herein by reference. The other four years may include any combination of the following: engineering education, bridge construction, bridge maintenance, materials testing, or additional bridge safety inspection. The Application for Bridge Inspection Certification, DOT Form 850-010-16, Rev. 09/04, is hereby incorporated by reference and made a part of this rule. Copies of this form can be obtained from State Maintenance Office, 605 Suwannee Street, MS 52, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2) FS. Law Implemented 335.074 FS. History–New _____.

14-48.002 Definitions.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.02, Repealed _____.

14-48.003 Designation of Division.

Specific Authority 334.044 (2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.03, Repealed _____.

14-48.004 Application of Standards.

Specific Authority 334.044 (2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.04, Repealed _____.

14-48.005 Inspection Requirements.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 316.535, 339.05 FS., Federal Highway Program Manual Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.05, Repealed _____.

14-48.006 Qualification of Personnel.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 337.11 FS. History–New 6-6-77, Formerly 14-48.06, Repealed _____.

14-48.007 Qualifications for Certification.

Specific Authority 334.044(2) FS. Law Implemented 335.074 FS. History–New 6-6-77, Formerly 14-48.07, Repealed _____.

14-48.008 Certification.

Specific Authority 334.044(2) FS. Law Implemented 335.074 FS. History–New 6-6-77, Formerly 14-48.08, Repealed _____.

14-48.009 Refusal, Revocation or Suspension of Certificate.

Specific Authority 334.044(2) FS. Law Implemented 120.569, 120.57, 335.074 FS. History–New 6-6-77, Formerly 14-48.09, Amended 1-17-99, Repealed _____.

14-48.010 Training Courses.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual, Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.10, Repealed _____.

14-48.011 Inspection Report.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 339.05, 120.53(1)(b) FS., Federal Highway Program Manual, Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.11, Repealed _____.

14-48.012 Inventory.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual, Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.12, Repealed _____.

14-48.013 Recording and Coding Guide for Maintenance Inspection of Public Bridges.

Specific Authority 334.044(2) FS. Law Implemented 335.074, 339.05 FS., Federal Highway Program Manual, Volume 6, Chapter 7, Section 4, Subsection 1. History–New 6-6-77, Formerly 14-48.13, Repealed _____.

14-48.014 Executive and Legislative Reports.

Specific Authority 334.044(2) FS. Law Implemented 335.074 FS. History–New 6-6-77, Formerly 14-48.14, Repealed _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Public-Private Transportation Facilities 14-107
RULE TITLE: RULE NO.:
Public-Private Transportation Facilities 14-107.0011

PURPOSE AND EFFECT: Rule 14-107.0011, F.A.C., is substantially reworded. The current Sections (1) through (8) are replaced with totally reworded Sections (1) through (4). "Public-" is added to the title of both the rule and the rule chapter.

SUBJECT AREA TO BE ADDRESSED: Rule 14-107.0011, F.A.C., substantially reworded.

SPECIFIC AUTHORITY: 334.30 FS.

LAW IMPLEMENTED: 334.30 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 14-107.0011 follows. See Florida Administrative Code for present text.)

14-107.0011 Public-Private Transportation Facilities.

(1) An initial fee of $50,000 payable to the Florida Department of Transportation must accompany a public-private transportation facility proposal. Proposals received without the initial fee shall not be accepted.

(2) Payment shall be made by cash, cashier's check, or any other non-cancelable instrument. Personal checks will not be accepted.

(3) If the initial fee is not sufficient to pay the Department's costs of evaluating the proposals, the Department shall request in writing additional amounts required. The public-private partnership or private entity submitting the proposal shall pay the requested additional fee within 30 days. Failure to pay the additional fee shall result in the proposal being rejected.

(4) The Department shall refund any fees in excess of the costs of evaluating the proposal after the evaluation is complete.

Specific Authority ~~334.044(2),~~ 334.30 FS. Law Implemented 334.30 FS. History–New 3-13-97, Amended _____.

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."

PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE TITLES:	RULE NOS.:
Agenda Conference Participation	25-22.0021
Point of Entry into Proposed Agency Action Proceedings	25-22.029
Reconsideration of Non-Final Orders	25-22.0376
Oral Argument	25-22.058
Motion for Reconsideration of Final Orders	25-22.060

PURPOSE AND EFFECT: The proposed rules clarify when and how participation at agenda conferences will proceed, and how participation on motions for reconsideration will be handled. The proposed rules also allow filing of a cross-petition when the Commission takes proposed agency action.

SUBJECT AREA TO BE ADDRESSED: Participation at agenda conferences and filing of cross-petitions on proposed agency action.

SPECIFIC AUTHORITY: 350.01(7), 350.127(2) FS.

LAW IMPLEMENTED: 120.525, 120.569, 120.57, 364.05, 366.06, 367.081, 367.081(4)(a), 367.0817 FS.

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

TIME AND DATE: 9:30 a.m., September 17, 2004

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida

The workshop request must be submitted in writing to: Marlene Stern, Office Of The General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Marlene Stern, Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6230

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

PART I – GENERAL PROVISIONS

25-22.0021 Agenda Conference Participation.

(1) Participation at agenda conferences may be informal or by oral argument. The Commission determines when and whether participation is allowed in accordance with this rule. The notice for each agenda conference contains a list of items to be discussed, and identifies the type of participation allowed. The notice is available in hard copy or on the Commission's internet site, www.psc.state.fl.us/agendas, at least seven days before the agenda conference. ~~Persons who may be affected by Commission action on certain items on the agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases and declaratory statements) will be allowed to address the Commission concerning those items when taken up for discussion at the conference.~~

(2) Oral argument at agenda conference. ~~When a recommendation is presented and considered in a proceeding where a hearing has been held, no person other than staff who did not testify at the hearing and the Commissioners may participate at the agenda conference. Oral or written presentation by any other person, whether by way of objection, comment, or otherwise, is not permitted, unless the Commission is considering new matters related to but not addressed at the hearing.~~

(a) Oral argument at agenda conference will only be entertained for dispositive motions such as motions to dismiss, motions for summary final order, and for motions for reconsideration of non-final or final orders. Only parties to the docket may participate in the oral argument. Participation at agenda conference for all other types of items shall be informal.

(b) Oral argument must be requested by separate written motion filed concurrently with the motion on which argument is requested. The motion for oral argument shall state with particularity why oral argument would aid the Commissioners in understanding and evaluating the issues to be decided. Granting or denying a motion for oral argument is at the sole discretion of the Commission. If the motion for oral argument is granted at an agenda conference, the oral argument may occur at that agenda conference.

(c) The Commission may, at any time, request discussion on any issue to be decided by a dispositive motion. Parties are advised to come to the agenda conference prepared to address all issues associated with a dispositive motion on the agenda, even if a motion for oral argument has not been made by a party, or if a motion made by a party pertains to a limited number of issues.

(d) When a motion for reconsideration of a non-final or final order is filed, a party that fails to file a written response to a written argument for reconsideration shall be precluded from responding to that argument during oral argument.

(e) The staff attorney assigned to the docket may participate in any oral argument.

(f) Oral argument will not be entertained on a motion for oral argument.

(3) Informal Participation. ~~Nothing in this rule shall preclude the Commission from making decisions during the course of or at the conclusion of a hearing.~~

(a) Any person who may be affected by an item set for agenda conference will be allowed to address the Commission concerning that item when it is taken up for discussion, except as provided in (3)(b)-(d) and (4), below. To participate informally, affected persons need only appear at the agenda conference and request the opportunity to address the Commission on an item listed on the agenda.

(b) Parties may not participate when the Commission staff presents a post-hearing recommendation on the merits of a case after the close of the record.

(c) When an item pertains to a docket set for hearing or in which a hearing has been held, only parties may participate, except that parties may not participate in the deliberations on post-hearing recommendations on the merits of a case after the close of the record, and parties may not participate informally on dispositive motions as described in paragraph (2)(a) of this rule.

(d) In certain types of cases in which the Commission issues an order based on a given set of facts without hearing, such as declaratory statements and interim rate orders, the Commission allows informal participation at its discretion.

(4) The Commission reserves the discretion to limit or restrict informal participation as needed to ensure the orderly disposition of matters before it. In limiting or restricting informal participation the Commission will consider such things as the number of persons who wish to address the Commission on an item, the number of items to be taken up at the agenda conference, the procedural status of the docket to which the item pertains, and the complexity of the issues addressed in an item.

(5) Nothing in this rule shall preclude the Commission from making decisions during the course of or at the conclusion of a hearing.

Specific Authority 350.01(7), 350.127(2) FS. Law Implemented 120.525 FS. History–New 3-23-93, Amended _____.

25-22.029 Point of Entry into Proposed Agency Action Proceedings.

(1) After agenda conference, the Division of the Commission Clerk and Administrative Services shall issue written notice of the proposed agency action (PAA), advising all parties of record that, except for PAA orders establishing a price index pursuant to Section 367.081(4)(a), Florida Statutes, they have 21 days after issuance of the notice in which to file a request for a Section 120.569 or 120.57, Florida Statutes, hearing. For PAA orders establishing a price index pursuant to Section 367.081(4)(a), Florida Statutes, ~~T~~the time for requesting a Section 120.569 or 120.57, Florida Statutes, hearing shall be 14 days from issuance of the notice of ~~for~~ PAA orders establishing a price index ~~pursuant to Section 367.081(4)(a), Florida Statutes~~. The Commission will require a utility to serve written notice of the PAA on its customers if the Commission finds that it is necessary in order to afford adequate notice.

(2) No change.

(3) One whose substantial interests may or will be affected by the Commission's proposed action may file a petition for a Section 120.569 or 120.57, Florida Statutes, hearing, in the form provided by Rule 28-106.201, F.A.C. Any such petition shall be filed within the time stated in the notice issued pursuant to subsection (1), of this rule~~.~~, and shall identify the particular issues in the proposed action that are in dispute. Within 10 days of service of the initial petition, any other party or Commission staff may file a cross-petition identifying additional particular issues on which a hearing is requested. Issues in the proposed action that are not identified in the petition or a cross-petition shall be deemed stipulated.

(4) The Commission will not entertain a motion for reconsideration of proposed agency action.

Specific Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57, 364.05, 366.06, 367.081, 367.081(4)(a), 367.0817 FS. History–New 12-21-81, Formerly 25-22.29, Amended 7-8-92, 5-3-99, _____.

25-22.0376 Reconsideration of Non-Final Orders.

(1) through (4) No change.

~~(5) Oral argument on any motion filed pursuant to this rule may be granted at the discretion of the Commission. A party who fails to file a written response to a point on reconsideration shall be precluded from responding to that point during oral argument.~~

Specific Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History–New 9-3-95, Amended 7-11-96, _____.

25-22.058 Oral Argument.

~~(1) The Commission may grant oral argument upon request of any party to a Section 120.57, Florida Statutes, formal hearing. A request for oral argument shall be contained on a separate document and must accompany the pleading upon which argument is requested. The request shall state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues before it. Failure to file a timely request for oral argument shall constitute waiver thereof.~~

~~(2) If granted, oral argument shall be conducted at a time and place determined by the Commission. Unless otherwise specified in the notice, oral argument shall be limited to 15 minutes to each party. The staff attorney may participate in oral argument.~~

~~(3) Requests for oral argument on recommended or proposed orders and exceptions pursuant to Section 120.58(1)(c), Florida Statutes, must be filed no later than 10 days after exceptions are filed.~~

Specific Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History–New 12-21-81, Formerly 25-22.58, Amended 3-23-93, Repealed _____.

25-22.060 Motion for Reconsideration of Final Orders.

(1) Scope and General Provisions.

(a) Any party to a proceeding who is adversely affected by an order of the Commission may file a motion for reconsideration of that order. The Commission will not entertain any motion for reconsideration of any order that ~~which~~ disposes of a motion for reconsideration. ~~The Commission will not entertain a motion for reconsideration of a Notice of Proposed Agency Action issued pursuant to Rule 25-22.029, F.A.C., regardless of the form of the Notice and regardless of whether or not the proposed action has become effective under subsection 25-22.029(6), F.A.C.~~

(b) through (d) No change.

(e) A motion for reconsideration of an order adopting, repealing, or amending a rule shall be treated by the Commission as a petition to adopt, repeal, or amend a rule under Section 120.54~~(5)~~(7), Florida Statutes, and Rule 28-103.006 ~~25-22.012~~, F.A.C.

~~(f) Oral argument on any pleading filed under this rule shall be granted solely at the discretion of the Commission. A party who fails to file a written response to a point on reconsideration is precluded from responding to that point during the oral argument.~~

(2) through (3) No change.

Specific Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History–New 12-21-81, Amended 10-4-84, Formerly 25-22.60, Amended 7-11-96, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
Correctional Officer Uniform Requirements 33-602.601

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

SUBJECT AREA TO BE ADDRESSED: Correctional officer uniforms.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.601 Correctional Officer Uniform Requirements.

The following are conditions and requirements for wearing correctional officer uniforms:

(1) Correctional officers shall be issued and required to wear uniforms as designated by the Secretary according to job assignment, security, and institutional operations. Correctional officers' uniforms shall consist of: shoes; socks; pants or skirt; belt; undershirt; shirt; tie; safety equipment and apparel; equipment accessories; decorum (hash marks, patches, rank insignia, badges, pins, whistle); and if necessary, raingear, windbreakers, jackets, hats, or gloves. Uniforms shall be worn in a complete or full manner at all times while an employee is performing official duties. The uniform or any parts of it furnished by the department shall not be worn during off-duty hours or when an employee is not acting in an official capacity, except when traveling directly to and from work. No part of the uniform may be duplicated by an employee for any purpose.

(2) Employees are solely responsible for alterations to and care of uniforms and clothing issued by the department. The department shall only be responsible for cleaning the uniform issued for deployment to correctional emergency response teams and rapid response teams.

(3) The following uniform accessories shall be provided by the correctional officer:

(a) Shoes;

(b) Boots (except for C.E.R.T. and Rapid Response Teams, Canine, Boot Camp staff, and extended day staff);

(c) Belts;

(d) Socks or stockings;

(e) Gloves;

(4) The following uniform components will be issued by the Department:

(a) Shirts,

(b) Trousers,

(c) Outer Coat,

(d) Cap,

(e) Glove pouch,

(f) Tie.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History–New _____.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Implementation	40C-2.031
General Permit by Rule	40C-2.042
Exemptions	40C-2.051
Publications Incorporated by Reference	40C-2.101
Limiting Conditions	40C-2.381

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to amend the General Consumptive Use Permit by Rule regulating small irrigation uses below consumptive use permit thresholds in subsection 40C-2.041(1), F.A.C., allowing for no more than two days per week for landscape irrigation, repeal two exemptions converting them to a new general permit by rule, amend the limiting conditions rule to clarify that the permit conditions adopted by rule are also applicable to General Permits by Rule, and revise the Applicant's Handbook: Consumptive Uses of Water, to reflect these changes.

SUBJECT AREA TO BE ADDRESSED: Amendments to General Permit by Rule and related consumptive use rules regarding regulation of small irrigation uses.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171, 373.216 FS.

LAW IMPLEMENTED: 373.109, 373.118, 373.216, 373.219, 373.223, 373.250, 373.609 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 Noon, September 22, 2004

PLACE: Department of Environmental Protection, 7825 Baymeadows Way, Suite B-200, Conference Room A, Jacksonville, Florida 32256

TIME AND DATE: 10:00 a.m. – 12:00 Noon, September 23, 2004

PLACE: St. Johns River Water Management District, Headquarters, 4049 Reid Street, Palatka, Florida 32177-2529

TIME AND DATE: 6:30 p.m. – 8:30 p.m., September 30, 2004

PLACE: St. Johns River Water Management District, Altamonte Springs Service Center, 975 Keller Road, Altamonte Springs, FL 32714-1618

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma K. Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32178-2529, (386)329-4459, Suncom 860-4459, e-mail: nmesser@sjrwmd.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-2.031 Implementation.

(1) through (3) No change.

(4) In conjunction with the general consumptive use permit by rule program implemented under paragraph 40C-2.031(1)(d), F.A.C., all persons with ~~individual~~ consumptive use permits on 7-23-91 shall be prohibited from ~~limited to~~ irrigating between the hours of 10:00 a.m. ~~4:00 p.m.~~ and 4:00 p.m. ~~10:00 a.m.~~ subject to the exceptions specified in Rule 40C-2.042, F.A.C., unless a permit modification is obtained which specifies otherwise.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.219, 373.223, 373.224, 373.226 FS. History–New 1-1-83, Formerly 40C-2.031, 40C-2.0031, Amended 7-23-91, 12-6-93, 2-15-95, 1-7-99, _____.

40C-2.042 General Permit by Rule.

A general consumptive use permit by rule is hereby established for ~~landscape, golf course, recreation, agriculture and nursery irrigation, and for aquaculture, ornamental and aerating fountains, and all other types of uses. This section shall apply to all~~ consumptive uses of water listed below that ~~which~~ do not meet or exceed any ~~an individual~~ permitting threshold under subsection 40C-2.041(1), F.A.C., except as provided in subsection (7). However, this section shall not apply to domestic uses of water by individuals, i.e. water used for the household purposes of drinking, bathing, cooking or sanitation. Persons using or proposing to use water in a manner not authorized under this section, must obtain ~~apply for~~ a ~~general~~ permit pursuant to Chapter 40C-2, 40C-20, or 40C-22, F.A.C., ~~or a modification of their individual permit pursuant to this chapter.~~

(1) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water to irrigate ~~landscape,~~ agricultural crops, nursery plants, and golf courses ~~and recreational areas~~, provided the irrigation does not occur between the hours of 10:00 a.m. ~~4:00 p.m.~~ and 4:00 p.m. ~~10:00 a.m.~~ daily. Such water use shall be subject to the following exceptions ~~and alternative water conservation practices~~:

(a) Irrigation using a micro-irrigation system is allowed anytime.

~~(b) The use of water for irrigation from a reclaimed water system is allowed anytime provided appropriate signs are placed on the property to inform the general public and District enforcement personnel of such use. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods.~~

~~(c) The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.~~

(b)~~(d)~~ Irrigation of, or in preparation for planting, ~~sod,~~ agricultural crops, or nursery stock, is allowed at any time of day for one 30 day period provided that the irrigation is limited to the minimum amount necessary for crop or plant establishment. Irrigation of ~~new landscape and~~ newly seeded or sprigged golf course areas is allowed at any time of day for one 60 day period.

(e) through (l) renumbered (c) through (g) No change.

(h)~~(m)~~ Irrigation using a ~~one~~ hand-held hose equipped with an automatic shut-off nozzle is allowed anytime.

(2)(a) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water for landscape irrigation, provided the irrigation does not occur more than two days per week and not between the hours of 10:00 a.m. and 4:00 p.m. daily. Landscape irrigation means the outside watering of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential and recreation areas, cemeteries, public, commercial, and industrial establishments, and public medians and rights of way. Such water use shall be subject to the following exceptions:

1. Irrigation using a micro-irrigation system is allowed anytime. Micro-irrigation means the frequent application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation. For the purposes of this permit, micro-irrigation does not include above or in-ground sprinkler systems.

2. Irrigation of new landscape, is allowed at any time of day on any day for the initial 30 days, every other day for the next 30 days, and every third day for the following 30 days, for a total of one 90-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.

3. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices is allowed anytime within 24 hours of application.

4. Irrigation systems may be operated anytime for maintenance and repair purposes not to exceed ten minutes per hour per zone.

5. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed anytime.

(b) A local government may enforce paragraph (2)(a) within its jurisdiction by adopting an ordinance incorporating these provisions. If the local government chooses to identify specific days on which landscape irrigation will occur, then the schedule within the ordinance shall be:

1. Landscape irrigation at odd numbered addresses must only occur on Wednesday and Saturday; and

2. Landscape irrigation at even numbered addresses or no address must only occur on Thursday and Sunday.

3. Non-residential landscape irrigation may be designated on two alternative days other than those combinations in subparagraphs 1. or 2. above to address utility system-related demands.

(2) through (4) renumbered (3) through (5) No change.

(6)~~(5)~~ The Board hereby grants a general permit ~~by rule~~ to each person located within the District to use water for the augmentation of any pond which is ~~under~~ 1/2 acre or smaller in size, provided the following conditions are met:

(a) through (c) No change.

~~(6) All of the consumptive uses authorized under this section are presumed to meet the conditions for issuance of permits in Rule 40C-2.301, F.A.C. Note: Individual and general (Chapter 40C-20, F.A.C.), consumptive use permittees may be subject to different irrigation and conservation requirements than those established above when necessary to meet the applicable criteria of Rule 40C-2.301, F.A.C. Specific requirements will be listed as conditions of these permits.~~

(7) The Board hereby grants a general permit to each person located within the District to withdraw groundwater from a well solely to irrigate a total of one acre or less of landscape on contiguous property, provided the withdrawal does not meet or exceed any thresholds of paragraphs 40C-2.041(1)(a)-(c), F.A.C. This permit is subject to all the requirements in paragraph (2)(a) and the exceptions in subparagraphs (2)(a)1.-5.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.118, 373.219, 373.223, 373.250, 373.609 FS. History–New 7-23-91, Amended 1-7-99, _____.

40C-2.051 Exemptions.

No permit shall be required under the provisions of this chapter ~~rule~~ or Chapter 40C-20 or 40C-22, F.A.C., for the following water uses:

(1) Domestic consumption of water by individual users as defined by Section 373.019(4)~~(6)~~, Florida Statutes.

(2) through (5) No change.

~~(6) Withdrawals of ground water to irrigate residential landscape areas less than one acre in size, which withdrawals would otherwise require an individual consumptive use permit under paragraph 40C-2.041(1)(c), F.A.C., only.~~

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

~~(10) Withdrawal of ground water from a well with a water bearing casing six inches or greater in diameter to irrigate residential or commercial landscape areas less than one acre in size, provided the withdrawal does not exceed the threshold of paragraph 40C-2.041(1)(a), F.A.C.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103, 373.171, 373.216, 373.219, 403.501 et seq., 288.501 et seq. FS. History–New 1-1-83, Formerly 40C-2.051, 40C-2.0051, Amended 8-18-87, 11-19-87, 9-12-89, 12-6-93, 8-18-94, 4-25-96, 10-2-96, 11-11-03, _____.

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, and the "Water Conservation Public Supply" requirements in Appendix I of the document entitled "Applicant's Handbook, Consumptive Uses of Water", _____ ~~4-10-02~~. The purpose of the document is to provide

information regarding the policy, procedure, criteria, and conditions that ~~which~~ pertain to the District's administration of the consumptive use permitting program.

(2) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.109, 373.219, 373.223, 373.229, 373.236, 373.239, 373.250 FS. History–New 1-1-83, Amended 5-31-84, Formerly 40C- 2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, _____.

40C-2.381 Limiting Conditions.

(1) No change.

(2)(a) The Board hereby determines and finds that the inclusion of the following limiting conditions on general permits issued under Chapter 40C-20, F.A.C., and ~~individual~~ permits issued under this chapter are necessary in order to meet the requirements set forth in subsection 40C-2.381(1), F.A.C., and will be imposed at the time that a consumptive use permit is issued or granted by rule:

1. through 8. No change.

(b) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.219(1) FS. History–New 1-1-83, Amended 5-31-84, Formerly 40C-2.381, 40C-2.0381. Amended 8-1-89, 7-23-91, _____.

APPLICANT'S HANDBOOK SECTION

2.0 Definitions

(a) through (p) No change.

(q) Landscape Irrigation – The outside watering of shrubbery, trees, lawns, grass, ground covers, plants vines, gardens and other such flora which are ~~planted and are~~ situated in such diverse locations as residential and recreation areas, cemeteries, public, commercial, and industrial establishments, and public medians and rights of way.

(r) through (mm) No change.

3.4.1 The following types of use are exempt from the requirements to obtain a consumptive use permit:

(a) through (e) No change.

~~(f) Withdrawals of ground water to irrigate residential landscape areas less than one acre in size, which withdrawals would otherwise require an individual consumptive use permit under 3.2.2 only.~~

(g) through (i) renumbered (f) through (h) No change.

~~(j) Withdrawals of ground water from a well with a water bearing casing six inches or greater in diameter to irrigate residential or commercial landscape areas less than one acre in size, provided the withdrawals do not exceed the threshold of paragraph 40C-2.041(1)(a), F.A.C.~~

6.2.3 Type of Use Classes: Each permit shall be identified with one or more of the following use classifications:

(a) through (b) No change.

(c) Agricultural use – the use of water for the commercial production of crops or the growing of farm products, including, but not limited to, vegetables, citrus and other fruits, pasture, sod, rice and other commodities for human consumption or domestic animal feed.

(d) through (l) No change.

(m) Landscape irrigation – the outside watering of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential and recreation areas, cemeteries, public, commercial, and industrial establishments, and public medians and rights of way.

(m) through (s) through (n) through (t) No change.

~~(t) Urban landscape irrigation – the outside watering or sprinkling of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora which are situated in such diverse locations as residential landscapings, recreation areas, cemeteries, public, commercial and industrial establishments, public medians and rights of way.~~

(u) through (w) No change.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Insurance Agents and Agency Services

RULE TITLES:	RULE NOS.:
Purpose	59B-14.001
Definitions	59B-14.002
Exclusions	59B-14.003
Satisfaction Survey Reporting Requirements	59B-14.004
Premiums and Benefits Reporting Requirements	59B-14.005
Company Contact Information	59B-14.006
Certification	59B-14.007
Administrative Penalties	59B-14.008

PURPOSE AND EFFECT: The proposed rules require that health insurers report premium costs, benefits design, and insured satisfaction data to the agency for purposes of consumer information. The proposed rules require an annual report of health insurer data in a uniform electronic format. The proposed rules require health insurers to submit a certification that the health insurer data is true and accurate using a form incorporated by reference. The proposed rules require that health insurers deliver an audit report to the agency from an independent auditor that attests to the validity of the satisfaction survey methodology. The proposed rules notify health insurers that failure to report in whole or in part is subject to administrative penalties as provided in Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Health insurers are required to make available to the agency data on premium costs, benefits design, and insured satisfaction for purposes of consumer information. The agency is developing rules specifying data reporting procedures for these indicators as required by Section 408.05(3)(l) and authorized in 408.061(1)(c), Florida Statutes.

SPECIFIC AUTHORITY: 408.061(1)(c), 408.08(4), 408.08(5) FS.

LAW IMPLEMENTED: 408.05(3)(l) FS.

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

TIME AND DATE: 10:00 a.m., September 9, 2004

PLACE: Agency for Health Care Administration, Building 3, First Floor, Conference Room D, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Beth C. Dye, Bureau Chief, State Center for Health Statistics, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59B-14.001 Purpose.

(1) The rules in this section describe the requirements for reporting insured satisfaction data to the Agency for Health Care Administration (AHCA) for the purpose of providing comparative information to consumers.

(2) The rules in this section describe the requirements for reporting premium costs and benefits design data to AHCA for the purpose of providing comparative information to consumers.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.002 Definitions.

(1) "Health insurer" means an entity that provides hospital and medical coverage licensed under Chapter 627, Florida Statutes or a health maintenance organization licensed under Chapter 641, Florida Statutes.

(2) "Health plan" means a commercial health policy of a health insurer or a health maintenance organization.

(3) "Reporting year" means the year prior to the year in which the report is due to be submitted to the Agency for Health Care Administration (AHCA).

(4) "High deductible plan" means a health plan that meets the minimum deductible requirements to qualify for a health savings account.

(5) "Hospital days" means days of hospitalization in a licensed hospital to treat physical and mental conditions requiring intensive or acute care.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.003 Exclusions.

(1) Health insurers with less than $1,000,000 in premiums in the year prior to the reporting year.

(2) Health plans with less than 5,000 insureds as of October 1 of the reporting year.

(3) New health insurers starting operations after October 1 of the reporting year.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(1) FS. History–New _____.

59B-14.004 Satisfaction Survey Reporting Requirements.

(1) Health insurers licensed under Chapter 627, Florida Statutes and under Chapter 641, Florida Statutes shall report survey data using the Consumer Assessment of Health Plans (CAHPS) Version 3.0 questionnaire to the Agency for Health Care Administration (AHCA) on February 1 of each year performed for a random sample of insureds during the previous calendar year. The data shall be submitted in the format provided in (3) below. The data shall be submitted with an acceptable audit report as provided in (4) below.

(2) A separate survey shall be performed for insureds of high deductible health plans, health maintenance organization plans, and other plans, and for adults 18 years and older and for children younger than 18 years.

(3) The survey method and sample size shall meet the standards of federal Agency for Healthcare Research and Quality (AHRQ) National CAHPS Benchmarking Database. The survey data shall be submitted in the format established by the National CAHPS Benchmarking Database available from the website: http://ncbd.cahps.org/Home/index.asp.

(4) The survey method shall be audited by a National Committee for Quality Assurance (NCQA) approved auditor. Information on approved auditors is available from the website: http://www.ncqa.org. An acceptable audit report shall state that the survey method meets the standards of the NCQA or National CAHPS Benchmarking Database. The signed audit report may be submitted electronically.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.005 Premiums and Benefits Reporting Requirements.

(1) Health insurers licensed under Chapter 627 and Chapter 641, Florida Statutes shall report premium costs and benefits design data to the Agency for Health Care Administration (AHCA) on February 1 of each year describing premium costs and benefits design for each of the insureds included in the satisfaction survey required to be reported February 1 of the same year as specified in Rule 59B-13.004, F.A.C.

(2) The following premiums costs and benefits design data shall be reported for each insured sampled:

(a) Policy number assigned by the health insurer;

(b) Designate plan type as either (1) high deductible plan, (2) health maintenance organization, or (3) other health plan;

(c) Monthly premium;

(d) Designate coverage type as either (1) single, (2) couple, or (3) family;

(e) Designate group type as either (1) non-group, (2) small group, or (3) large group;

(f) County of insured;

(g) Prescribed medicine monthly co-payment level 1;

(h) Prescribed medicine monthly co-payment level 2;

(i) Prescribed medicine monthly co-payment level 3;

(j) Annual benefit payment limitation;

(k) Lifetime benefit payment limitation;

(l) Annual hospital days limitation;

(m) Lifetime hospital days limitation;

(n) Number of contracted hospitals in Florida;

(o) Number of contracted physicians in Florida;

(p) Hospitalization coinsurance percentage;

(q) Physician service coinsurance percentage;

(r) Annual deductible.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.006 Company Contact Information.

Each health insurer shall include the following company and contact information when submitting a report required in this section to the Agency for Health Care Administration:

(1) Name of company;

(2) NAIC number;

(3) Florida insurance company code number assigned by Office of Insurance Regulation;

(4) Year beginning continuous license in Florida;

(5) Company website;

(6) Contact name;

(7) Contact title;

(8) Contact address;

(9) Contact direct telephone number;

(10) Company telephone number;

(11) Contact e-mail address;

(12) Contact FAX number.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.007 Certification.

(1) Each health insurer shall provide certification of the accuracy of the health insurance performance report including all data required in this section as provided in Section 408.061(1)(c), Florida Statutes.

(2) The certification shall be submitted to the Agency for Health Care Administration (AHCA) by February 1 of each year using the Certification of Health Insurance Performance Report incorporated by reference. The Certification of Health Insurance Performance Report will be available from the AHCA website at www.fdhs.state.fl.us. The signed Certification of Health Insurance Performance Report may be submitted electronically.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

59B-14.008 Administrative Penalties.

(1) Failure to report as required in this section in whole or in part is subject to administrative fines as provided in Section 408.08(5), Florida Statutes.

(2) The Agency for Health Care Administration shall notify the Office of Insurance Regulation if a health insurer fails to report in whole or in part as provided in Section 408.08(4), Florida Statutes.

Specific Authority 408.061(1)(c) FS. Law Implemented 408.05(3)(l) FS. History–New _____.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida State Employees Charitable Campaign	60L-39
RULE TITLES:	RULE NOS.:
Scope and Purpose	60L-39.001
General Requirements	60L-39.002
Statewide Steering Committee	60L-39.003
Eligibility Criteria for Participation by Charitable Organizations	60L-39.004
Application Procedures	60L-39.005
Duties and Responsibilities of the Fiscal Agent	60L-39.006
Appeals	60L-39.007

PURPOSE AND EFFECT: To consider amendments to the Rules listed above.

SUBJECT AREA TO BE DISCUSSED: Scope and Purpose of Chapter 60L-39, F.A.C., General Requirements, Statewide Steering Committee, Eligibility Criteria for Participation by Charitable Organizations, Application Procedures, Duties and Responsibilities of Fiscal Agent and Appeals.

SPECIFIC AUTHORITY: 110.181(3)(a) FS.

LAW IMPLEMENTED: 110.181 FS.

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

TIME AND DATE: 3:30 p.m. – 5:00 p.m., September 8, 2004

PLACE: 4050 Esplanade Way, Suite 280N, Tallahassee, Florida 32399-0950

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should advise the Department of Management Services at least 2 calendar days before the workshop, by contacting: Julie Shaw, Executive ADA Administrator, (850)487-3423.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Kuczwanski, Chairman, Florida State Employees Charitable Campaign, Department of Management Services, 4050 Esplanade Way, Suite 280L, Tallahassee, Florida 32399-0950, (850)414-6736

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: RULE NO.:
Continuing Education Renewal Requirements 61-20.508

PURPOSE AND EFFECT: To consider changes to continuing education renewal requirements, and conduct a workshop on the rule to that end.

SUBJECT AREA TO BE ADDRESSED: Continuing Education requirements for renewal of licenses.

SPECIFIC AUTHORITY: 468.4315(2), 468.4336, 468.4337 FS.

LAW IMPLEMENTED: 455.2124, 468.4336, 468.4337 FS.

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

TIME AND DATE: 10:00 a.m – 12:00 Noon, Friday, October 8, 2004

PLACE: The Florida Mall Hotel, 1500 Sand Lake Road, Orlando, Florida 32809

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Malone, Executive Director, Regulatory Council of Community Association Managers, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, FL 32399

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: RULE NO.:
Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States 61G1-11.017

PURPOSE AND EFFECT: The Board proposes to add a rule to address the grounds in which a licensee who is the spouse of a member of the U.S. Armed Forces may qualify for exemption from renewal requirements.

SUBJECT AREA TO BE ADDRESSED: Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States.

SPECIFIC AUTHORITY: 455.02(2) FS.

LAW IMPLEMENTED: 455.02(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G1-11.017 Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States. A licensee who is the spouse of a member of the Armed Forces of the United States and has been caused to be absent from the State of Florida because of their spouse's duties with the Armed Forces shall be exempt from all licensure renewal provisions under these rules during such absence. The licensee must show proof to the Board of their absence from the state and the spouse's military status.

Specific Authority 455.02(2) FS. Law Implemented 455.02(2) FS. History–New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: RULE NO.:
Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 61G1-12.004

PURPOSE AND EFFECT: The Board proposes development of this rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

SPECIFIC AUTHORITY: 455.2273 FS.

LAW IMPLEMENTED: 455.224 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750.

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: RULE NO.:
Citations 61G1-12.005

PURPOSE AND EFFECT: The Board proposes development of this rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 455.224, 455.225, 481.306 FS.

LAW IMPLEMENTED: 455.224 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

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

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: RULE NO.:

Definitions of "Licensed Clinical Social Worker, or the Equivalent, Who is a Qualified Supervisor" 64B4-11.007

PURPOSE AND EFFECT: The Board proposes to review the existing rules to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Definition of "Licensed Clinical Social Worker, or the Equivalent, Who is a Qualified Supervisor."

SPECIFIC AUTHORITY: 491.004(5), 491.005(1) FS.

LAW IMPLEMENTED: 491.005(1)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: RULE NO.:

Definitions of "Licensed Marriage and Family Therapist with at Least Five Years Experience, or the Equivalent, Who is a Qualified Supervisor" 64B4-21.007

PURPOSE AND EFFECT: The Board proposes to review the existing rules to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Definition of "Licensed Marriage and Family Therapist with at Least Five Years Experience, or the Equivalent, Who is a Qualified Supervisor."

SPECIFIC AUTHORITY: 491.003(3), 491.004(5), 491.005(3)(c) FS.

LAW IMPLEMENTED: 491.005(3)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: RULE NO.:

Definitions of "Licensed Mental Health Counselor, or the Equivalent, Who is a Qualified Supervisor 64B4-31.007

PURPOSE AND EFFECT: The Board proposes to review the existing rules to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Definition of "Licensed Mental Health Counselor, or the Equivalent, Who is a Qualified Supervisor."

SPECIFIC AUTHORITY: 491.004(5), 491.005(4)(c) FS.

LAW IMPLEMENTED: 491.005(4)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLE: RULE NO.:
Posting of Prices 64B6-6.009

PURPOSE AND EFFECT: The Board proposes to clarify the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Posting of prices.

SPECIFIC AUTHORITY: 484.044 FS.

LAW IMPLEMENTED: 484.051 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B6-7.009 Posting of Prices.

(1) No change.

(2) Notice of availability of itemization of purchase price shall be displayed in an area easily visible to the prospective client by one of the following:

(a) through (b) No change.

Specific Authority 484.044 FS. Law Implemented 484.051 FS. History–New 8-12-87, Formerly 21JJ-6.008, 61G9-6.008, Amended _____.

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLE: RULE NO.:
Fraudulent, False, Deceptive or Misleading Advertising 64B6-7.004

PURPOSE AND EFFECT: The Board proposes to clarify the existing language in this rule.

SUBJECT AREA TO BE ADDRESSED: Fraudulent, false, deceptive or misleading advertising.

SPECIFIC AUTHORITY: 456.077, 484.044 FS.

LAW IMPLEMENTED: 456.077, 484.056(1)(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B6-7.004 Fraudulent, False, Deceptive or Misleading Advertising.

An advertisement or advertising is fraudulent, false, deceptive or misleading if it:

(1) through (2) No change.

(3) Is misleading or deceptive because its content or the context in which it is presented makes only a partial disclosure of relevant facts.

(a) Specifically, it is misleading and deceptive to advertise a discounted price~~, without identifying either in the advertisement or at the store or other location where sales of products or services take place, the specific product or service against which the discounted price applies and without specifying either in the advertisement or at the store or other location where sales of products or services take place~~, without specifying the usual price for the product or services identified either in the advertisement or at the store or other location where sales of product or services take place.

(b) No change.

(4) through (6) No change.

Specific Authority 484.044 FS. Law Implemented 484.056(1)(f) FS. History–New 8-12-87, Amended 10-15-90, Formerly 21JJ-7.007, 61G9-7.007, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE TITLES:	RULE NOS.:
Definitions	65E-5.100
Delegation of Authority	65E-5.110
Mental Health Personnel	65E-5.115
Forms	65E-5.120
Continuity of Care Management System	65E-5.130
Transfer Evaluations for Admission to State Mental Health Treatment Facilities from Receiving Facilities	65E-5.1301
Admissions to State Treatment Facilities	65E-5.1302
Discharge from Receiving and Treatment Facilities	65E-5.1303
Discharge Policies of Receiving and Treatment Facilities	65E-5.1304
Discharge from a State Treatment Facility	65E-5.1305
Rights of Persons	65E-5.140
Person's Right to Individual Dignity	65E-5.150
Right to Treatment	65E-5.160
General Management of the Treatment Environment	65E-5.1601
Individual Behavioral Management Programs	65E-5.1602
Right to Express and Informed Consent	65E-5.170
Emergency Treatment Orders for Psychotropic Medications	65E-5.1703
Right to Quality Treatment	65E-5.180
Maintenance of the Facility	65E-5.1802
Right to Communication and Visits	65E-5.190
Right to Care and Custody of Personal Effects	65E-5.200
Right to Vote in Public Elections	65E-5.210
Right to Habeas Corpus	65E-5.220
Guardian Advocate	65E-5.230
Health Care Surrogate or Proxy	65E-5.2301
Clinical Records; Confidentiality	65E-5.250
Transportation	65E-5.260
Transportation Exception Plan	65E-5.2601
Voluntary Admission	65E-5.270
Involuntary Examination	65E-5.280
Minimum Standards for Involuntary Examination Pursuant to Section 394.463, F.S.	65E-5.2801
Involuntary Outpatient Placement	65E-5.285
Involuntary Inpatient Placement	65E-5.290
Continued Involuntary Inpatient Placement at Treatment Facilities	65E-5.300
Transfer of Persons Among Facilities	65E-5.310
Discharge of Persons on Involuntary Status	65E-5.320
Training	65E-5.330
Eligibility Criteria and Procedures for Designation of Baker Act Receiving Facilities	65E-5.350
Minimum Standards for Designated Receiving Facilities	65E-5.351
Procedures for Complaints and Investigations in Receiving Facilities	65E-5.352
Criteria and Procedures for Suspension or Withdrawal of Designation of Receiving Facilities	65E-5.353
Baker Act Funded Services Standards	65E-5.400

PURPOSE AND EFFECT: Chapter 65E-5, Florida Administrative Code, with its Baker Act Forms included by reference, is being revised to comply with the new Chapter 2004-385, Laws of Florida, (amends Chapter 394, Part I, F.S., the Baker Act) requirements for involuntary outpatient placement.

SUBJECT AREA TO BE ADDRESSED: Revision of Chapter 65E-5, Florida Administrative Code, Mental Health Act Regulation.

1. Development of involuntary outpatient rules to conform to Chapter 2004-385, Laws of Florida, (amends Chapter 394, Part I, F.S., the Baker Act) requirements.
2. Revision of Baker Act forms to incorporate involuntary outpatient placement law requirements, add clarifying language, and include "person first" language.
3. Clarification of existing rule language.
4. Revision of existing rule language to conform to "person first" language.

SPECIFIC AUTHORITY: Chapter 2004-385, Section 10, L.O.F., 394.453, 394.455, 394.457(1),(3),(5),(c),(6)(a), 394.4598, 394.461(4), 394.4615, 394.463, 394.4655, 394.467 FS.

LAW IMPLEMENTED: 90, 117.05(5)(b)2., 316, 394.455(9),(17),(19),(25),(29), 394.457, 394.4573, 394.459, 394.4598, 394.461(4), 394.4615, 394.462, 394.4625, 394.463, 394.4625, 394.4655, 394.467, 394.468, 394.469, 395, 415, 458.331, 765, 817.505 FS.

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

TIME AND DATE: 10:00 a.m., Tuesday, September 7, 2004

PLACE: Building 4, Winewood Office Complex, 1317 Winewood Blvd., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Ron Kizirian, Government Operations Consultant II, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Room 211, Tallahassee, Florida 32399-0700, (850)413-0928

Any person may submit information regarding the proposed rule development to the above name and address.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65E-5.100 Definitions.

As used in this chapter the following words and phrases have the following definitions:

(1) Advance directive means a witnessed written document described in Section 765.101, F.S.

(2) Administrator means the chief administrative officer of a receiving or treatment facility or service provider or his or her designee.

(3)~~(2)~~ Assessment means the systematic collection and integrated review of individual-specific data. It is the process by which individual-specific information such as examinations and evaluations are gathered, analyzed, monitored and documented to develop the person's ~~patient's~~ individualized plan of treatment and to monitor ~~progress toward~~ recovery. Assessment specifically includes efforts to identify the person's key medical and psychological needs, competency to consent to treatment, patterns of a co-occurring mental illness and substance abuse, as well as clinically significant neurological deficits, traumatic brain injury, organicity, physical disability, developmental disability, need for assistive devices, and physical or sexual abuse or trauma.

(4)~~(3)~~ Brief isolation means an involuntarily imposed isolation or segregation of the person ~~patient~~ from others, not requiring a physician's~~, as defined in Section 394.455(21), F.S.,~~ order, such as time-out types of intervention but which cannot include closed or locked doors.

(5)~~(4)~~ Case manager means a person ~~employed~~ as defined in Section 394.4573(1)(b), F.S.; also known as a care manager.

(6)~~(5)~~ Discharge plan means the plan developed with and by the person ~~patient~~ which sets forth how the person ~~patient~~ will meet his or her needs, including living arrangements ~~housing~~, transportation, aftercare, physical health, and securing needed psychotropic medications for the post-discharge period of up to 21 days.

(7)~~(6)~~ Emergency treatment order (ETO) means the written emergency order prepared by a physician ~~utilized~~ in response to a person ~~patient~~ presenting an imminent danger to himself or others. The order shall be consistent with the most integrated ~~least restrictive~~ treatment requirements that authorizes the use of specific emergency medical psychiatric treatment interventions including the emergency administration of medications or the emergency imposition of restraints or seclusion, including one-on-one counseling. The issuance of an order for such extraordinary measures requires a medical review of the person's ~~patient's~~ condition for causal medical factors, such as insufficiency of medication blood levels, medication interactions with psychiatric or other medications, side effects or adverse reactions to medications, organic or disease or medication based metabolic imbalances or toxicity, or other biologically based or influenced symptoms; therefore, all emergency treatment orders may only be written by physicians ~~individuals~~ possessing the prerequisite clinical medical capacity to comprehensively integrate such issues, and who are licensed under the authority of Chapter 458 or 459, F.S. Those individuals must review, integrate and subsequently comprehensively respond to such metabolic balances in the issuance of an emergency treatment order amending the person's ~~patient's~~ immediate course of treatment. The use of an emergency treatment order, consistent with the most integrated ~~least restrictive~~ treatment requirements, for persons ~~patients~~ includes:

(a) Absent more appropriate interventions, ETO for immediate administration of rapid response psychotropic medications to a person ~~patient~~ to expeditiously treat symptoms that if left untreated, present an immediate danger to the safety of the person ~~patient~~ or other individuals ~~persons~~ in the facility.

(b) Absent more appropriate medical interventions, ETO for restraint or seclusion of a person ~~patient~~ to expeditiously treat symptoms that if left untreated, present an imminent danger to the safety of the person ~~patient~~ or persons in the facility~~, absent more appropriate medical interventions~~.

(c) ETO, as used in this chapter, excludes the implementation of individualized behavior management programs as described and authorized in Rule 65E-5.1602, F.A.C., of this rule.

(8)~~(7)~~ Examination means the integration of the medical physical examination required under Section 394.459(2), F.S., with other diagnostic activities to determine if the person ~~patient~~ is medically stable and to rule out abnormalities of thought, mood, or behavior that mimic psychiatric symptoms but are due to non-psychiatric medical causes such as disease, infection, injury, toxicity, or metabolic disturbances. Examination includes the identification of person-specific risk factors for treatment such as elevated blood pressure, organ dysfunction, substance abuse, or trauma.

(9)~~(8)~~ Health care proxy means a competent adult who has not been expressly designated by an advance directive to make health care decisions for a particular incapacitated individual, but is authorized pursuant to Section 765.401, F.S., to make health care decisions for such individual.

(10)~~(9)~~ Health care surrogate means any competent adult expressly designated by a principal's advance directive to make heath care decisions on behalf of the principal upon the principal's incapacity.

(11) Mental Health Counselor means an individual who is licensed as a mental health counselor under Chapter 491, F.S.

(12) Most Integrated means interventions that promote or are most conducive to the person's recovery and involve the least institutional settings conducive to the success of the person.

(13) Person means an individual served in or by a mental health facility or provider.

(14)~~(10)~~ PRN means an individualized order for the care of an individual person ~~patient~~ which is written after the person ~~patient~~ has been seen by the practitioner, which order sets parameters for attending staff to implement according to the circumstances set out in the order. PRNs for the use of seclusion or restraints are not permitted.

(15)~~(11)~~ Protective medical devices mean a specific ~~special~~ category of restraint that includes devices, or combinations of devices, to restrict movement for purposes of protection from falls or complications of physical care, such as geri-chairs, posey vests, mittens, belted wheelchairs, sheeting, and bed rails. The requirements for the use and documentation of use of these devices are for specific medical purposes rather than for behavioral control ~~different from the general requirements for the use of restraint in this rule~~.

(16)~~(12)~~ Restraint means the immobilization of a person's body in order to restrict free movement or range of motion, whether by physical holding or by use of a mechanical device. For purposes of this chapter, restraint includes all applications of such procedures, specifically including emergency treatment orders and emergency medical procedures which includes protective medical devices for ambulating safety, or furniture used to protect mobility-impaired persons from falls and injury. The use of walking restraints when used during transportation under the supervision of trained staff is not considered restraint.

(17)~~(13)~~ Seclusion means an emergency response in which, as a means of controlling a person's ~~patient's~~ immediate symptoms or behavior, the person's ~~patient's~~ ability to move about freely has been limited by staff or in which a person ~~patient~~ has been physically segregated in any fashion from other persons ~~patients~~. Seclusion is an involuntarily imposed closed door or locked door isolation of the person ~~patient~~ from others and requires a written order by a physician~~, as defined in Section 394.455(21), F.S.,~~ except as described and authorized in Rule 65E-5.1602, F.A.C., of this rule chapter.

(18)~~(14)~~ Standing order means a broad protocol or delegation of medical authority that is generally applicable to specific persons ~~a population of patients~~, hence not individualized. As limited by this chapter, it prohibits improper delegations of authority to staff that are not authorized by the facility, or not permitted by practice licensing laws, to independently make such medical decisions; such as decisions involving determination of need, medication, routes, dosages for psychotropic medication, or use of restraints or seclusion upon a person ~~patient~~.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.457, 394.459, 394.4625, 394.4655, 394.467 FS. History–New 11-29-98, Amended _____.

65E-5.110 Delegation of Authority.

In order to protect the health and safety of persons ~~patients~~ treated in or served by any receiving or treatment facility or any service provider, any delegation of an administrator's authority pursuant to Chapter 394, F.S., or these rules shall be documented in writing prior to exercising the delegated authority. Routine delegations of authority shall be incorporated in the facility's written policies.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.457(5)(a), 394.4655 FS. History–New 11-29-98, Amended _____.

65E-5.115 Mental Health Personnel.

Whenever the term physician, psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or mental health counselor is used in these rules, the term is as defined in Section 394.455, F.S., or these rules.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.457(5)(a) FS. History–New _____.

65E-5.120 Forms.

All forms referred to in this chapter are available from the department's website, http://www.dcf.state.fl.us/mentalhealth/laws/baform2004.pdf, or may be obtained from the department's district or regional mental health program offices ~~by requesting a copy of the booklet entitled, "Baker Act Forms"~~. Single copies of the forms or a disk containing electronic copies of all the forms are also available from district or regional offices. Recommended forms are those which are not required by the department but which have been determined to satisfy the specific requirements for which the form was developed. Mandatory forms may not be altered.

Specific Authority 394.457(5) FS. Law Implemented 394.457(5) FS. History–New 11-29-98, Amended _____.

65E-5.130 Continuity of Care Management System.

Persons receiving care ~~case~~ management services.

(1) At the time of admission and continuing until successfully determined, receiving facilities shall inquire of the person ~~patient~~ or significant others as to the existence of any advance directives and as to the identity of the person's care ~~patient's case~~ manager. If a care ~~case~~ manager for the person ~~patient~~ is identified, the administrator or designee shall request the person's ~~patient's~~ authorization to notify the person's care ~~patient's case~~ manager or the care ~~case~~ management agency of the person's ~~patient's~~ admission to the facility. If authorized, such notification shall be made within 12 hours to the published 24-hour telephone listing for the care ~~case~~ manager or care ~~case~~ management agency. This inquiry, notification, and the identity of the care ~~case~~ manager or care ~~case~~ management agency, if any, shall be documented on the face sheet or other prominent location in the person's ~~patient's~~ clinical record.

(2) A department funded mental health care ~~case~~ manager, when notified by a receiving facility that a client has been admitted, shall visit that person ~~patient~~ as soon as possible but no later than two working days after notification to assist with discharge and aftercare planning to the most integrated ~~least restrictive~~, appropriate and available placement. If the person

~~patient~~ is located in a receiving facility outside of the care ~~case~~ manager's district of residence, the department funded mental health care ~~case~~ manager may substitute a telephone contact for a face-to-face visit which shall be documented in the care ~~case~~ management record and in the person's ~~patient's~~ clinical record at the receiving facility.

Specific Authority 394.457(5) FS. Law Implemented 394.4573(2) FS. History–New 11-29-98, Amended _____.

65E-5.1301 Transfer Evaluations for Admission to State Mental Health Treatment Facilities from Receiving Facilities.

(1) A person in a receiving facility ~~civil patient~~ shall not be transferred to a state treatment facility without the completion of a transfer evaluation, in accordance with Section 394.461(2), F.S., using mandatory form CF-MH 3089, Jan 05 ~~98~~, "Transfer Evaluation," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~. The process for conducting such transfer evaluations shall be developed by the community mental health center or clinic and be approved by the district or regional office of the department where the center or clinic is located and shall include:

(a) Designation of the contracted mental health centers or clinics that are responsible for conducting the transfer evaluations, including the receiving facilities or persons ~~patients~~ for which each center or clinic is responsible;

(b) Establishment of the time within which a mandatory form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C., shall be completed. This form shall be completed by the designated community mental health center and submitted to the court for all persons ~~patients~~ for whom involuntary placement in a state treatment facility is sought, and directly to the state treatment facility for all persons ~~patients~~ for whom voluntary admission is sought; and

(c) Specification of the minimum training and education of the persons qualified to conduct the transfer evaluations and the training and educational qualifications of the evaluators' immediate supervisor. Unless otherwise established in writing by the district, the evaluator shall have at least a bachelor's degree and the immediate supervisor a master's degree in a clinical or human services area of study.

(2) A community mental health center or clinic shall evaluate each person ~~patient~~ seeking voluntary admission to a state treatment facility and each person ~~patient~~ for whom involuntary placement in a state treatment facility is sought, to determine and document:

(a) Whether the person meets the statutory criteria for admission to a state treatment facility; and

(b) Whether there are ~~appropriate~~ more ~~societally~~ integrated ~~and less restrictive~~ mental health treatment resources available to meet the person's ~~patient's~~ needs.

(3) Following an evaluation of the person ~~patient~~, the executive director of the community mental health center or clinic shall recommend the admission to a state treatment facility or, if criteria for involuntary placement are not met, to alternative treatment programs and shall document that recommendation by completing and signing the form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C.

(a) The executive director's responsibility for completing and signing mandatory form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C., may be delegated in writing to the chief clinical officer of the center or clinic.

(b) An original signature on the mandatory form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C., is required.

(c) A copy of the mandatory form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C., shall be retained in the files of the community mental health center or clinic.

(d) The completed and signed mandatory form CF-MH 3089, "Transfer Evaluation," as referenced in subsection 65E-5.1301(1), F.A.C., shall be forwarded to the court before the hearing at which a person's ~~patient's~~ involuntary placement in a state treatment facility will be considered. The evaluator, or in the absence of the evaluator, another knowledgeable staff person employed by the community mental health center or clinic, shall be present at any hearing on involuntary placement in a state treatment facility to provide testimony as desired by the court.

Specific Authority 394.457(5) FS. Law Implemented 394.455(29) FS. History–New 11-29-98, Amended _____.

65E-5.1302 Admissions to State Treatment Facilities.

(1) Receiving facilities must obtain approval from the state treatment facility prior to the transfer of a person ~~patient~~. A state treatment facility shall be permitted to accept persons ~~patients~~ for transfer from a receiving facility if the administrator of the receiving facility has provided the following documentation, ~~in advance of a pre-admission staffing,~~ which documentation shall be retained in the person's ~~patient's~~ clinical record:

(a) Use of recommended form CF-MH 7000, Jan 05 ~~98~~, "State Mental Health Facility Admission Form," with all required attachments, which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for documentation;

(b) Use of recommended forms CF-MH 3040, Jan 05 ~~98~~, "Application for Voluntary Admission," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or CF-MH 3008, Jan 05 ~~98~~, "Order for

Involuntary Inpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for documentation; and

(c) Mandatory form CF-MH 3089, "Transfer Evaluation" as referenced in subsection 65E-5.1301(1), F.A.C.

(2) Use of recommended form CF-MH 7002, Jan 05 ~~98~~, "Physician to Physician Transfer," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for documentation when completed by the referring physician~~, as defined in Section 394.455(21), F.S.,~~ or in the absence of the referring physician~~, as defined in Section 394.455(21), F.S.,~~ the designated shift charge nurse on duty at the time of transfer. The form shall accompany the person ~~patient~~ to the state treatment facility and upon arrival shall be presented to admitting staff.

(3) If a person ~~patient~~ awaiting transfer to a state treatment facility improves to the degree that he or she no longer meets the criteria for involuntary placement or that such transfer is unnecessary, the receiving facility shall discharge the person ~~patient~~ as specified in Section 394.469, F.S.

Specific Authority 394.457(5) FS. Law Implemented 394.4573(2) FS. History–New 11-29-98, Amended _____.

65E-5.1303 Discharge from Receiving and Treatment Facilities.

(1) Before discharging a person ~~patient~~ who has been admitted to a facility, the person ~~patient~~ shall be encouraged to actively participate in treatment and discharge planning activities and shall be notified in writing of his or her right to seek treatment from the professional or agency of the person's ~~patient's~~ choice and the person ~~patient~~ shall be assisted in making appropriate discharge plans. The person ~~patient~~ shall be advised that, pursuant to Section 394.460, F.S., no professional is required to accept persons ~~patients~~ for psychiatric treatment.

(2) Discharge planning shall include and document consideration of the following:

(a) The person's ~~patient's~~ transportation resources;

(b) The person's ~~patient's~~ access to stable living arrangements ~~housing~~;

(c) How assistance in securing needed living arrangements ~~housing~~ or shelter will be provided to individuals who are at risk of re-admission within the next three weeks due to homelessness or transient status and prior to discharge shall request a commitment from a shelter provider that assistance will be rendered;

(d) Assistance in obtaining a timely aftercare appointment for needed services, including ~~medically appropriate~~ continuation of prescribed psychotropic medications. Aftercare appointments for medication and care ~~case~~ management shall be requested to occur not later than 7 days after the expected date of discharge; if the discharge is delayed, the facility will notify the aftercare provider. The facility shall coordinate with the aftercare service provider and shall document the aftercare planning;

(e) To ensure a person's ~~patients'~~ safety and provide continuity of essential psychotropic medications, such prescribed psychotropic medications, prescriptions, or multiple partial prescriptions for psychotropic medications, or a combination thereof, shall be provided to a person when discharged ~~discharged patient~~ to cover the intervening days until the first scheduled medication aftercare appointment, or for a period of up to 21 calendar days, whichever occurs first. Discharge planning shall address the availability of and access to prescribed psychotropic medications in the community;

(f) The person ~~patient~~ shall be provided ~~given~~ education and written information about his or her ~~their~~ illness and ~~their~~ psychotropic medications including other prescribed and over-the-counter medications, the common side-effects of any medications prescribed and any adverse clinically significant drug-to-drug interactions common between that medication and other commonly available prescribed and over-the-counter medications;

(g) The person shall be provided contact and program i~~I~~nformation about and referral to any community-based peer support services in the community;

(h) The person shall be provided contact and program i~~I~~nformation about and referral to any needed community resources; and

(i) Referral to substance abuse treatment programs, trauma or abuse recovery focused programs, or other self-help groups, if indicated by assessments.

(j) The person shall be provided information about advance directives, including how to prepare and use the advance directives.

(3) Should a person in a receiving or treatment facility meet the criteria for involuntary outpatient placement rather than involuntary inpatient placement, the facility administrator may initiate such involuntary outpatient placement, pursuant to Section 394.4655, F.S., and Rule 65E-5.290, F.A.C.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.4573(2), 394.4655(1) FS. History–New 11-29-98, Amended _____.

65E-5.1304 Discharge Policies of Receiving and Treatment Facilities.

Receiving and treatment facilities shall have written discharge policies and procedures which shall contain:

(1) Agreements or protocols for transfer and transportation arrangements between facilities;

(2) Protocols for assuring that current medical and legal information, including day of discharge medication administered, is transferred before or with the person ~~patient~~ to another facility; and

(3) Policy statements which reflect cooperation with local publicly-funded mental health and substance abuse providers and which will both facilitate access by publicly funded care ~~case~~ managers, as designated by the department's district or regional Mental Health and Substance Abuse Program Supervisor ~~district administrator~~, and ensure ~~enhance~~ the continuity of services and access to necessary psychotropic medications within the time necessary to avoid interruption of recovery.

Specific Authority 394.457(5) FS. Law Implemented 394.459(11) FS. History–New 11-29-98, Amended _____.

65E-5.1305 Discharge from a State Treatment Facility.

(1) When a state treatment facility has established an anticipated discharge date for discharge to the community which is more than seven days in advance of the person's ~~patient's~~ actual discharge, at least seven days notice must be given to the community agency which has been assigned care ~~case~~ management responsibility for the implementation of the person's ~~patient's~~ discharge plan. Use of recommended form CF-MH 7001, Jan 05 ~~98~~, "State Mental Health Facility Discharge Form," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

(2) On the day of discharge from a state treatment facility, the referring physician~~, as defined in Section 394.455(21), F.S.,~~ or, in the absence of the physician~~, as defined in Section 394.455(21), F.S.,~~ the designated charge nurse, shall immediately notify the community aftercare provider or entity responsible for dispensing or administering medications. Use of recommended form CF-MH 7002, "Physician to Physician Transfer," as referenced in subsection 65E-5.1302(2), F.A.C., will be considered by the department to be sufficient.

Specific Authority 394.457(5) FS. Law Implemented 394.4573, 394.459(11), 394.468 FS. History–New 11-29-98, Amended _____.

65E-5.140 Rights of Persons ~~Patients~~.

(1) Every person ~~patient~~ admitted to a designated receiving or treatment facility or ordered to treatment at a service provider shall be provided with a written description of his or her ~~their~~ rights at the time of admission. Use of recommended form CF-MH 3103, Jan 05 ~~98~~, "Rights of Persons in Mental Health Facilities and Programs" ~~Patients~~," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. A copy of the rights statement, signed by the person ~~patient~~ evidencing receipt of the copy, shall be placed in the person's ~~patient's~~ clinical record and shall also be provided to the person's ~~patient's~~ guardian, guardian advocate, representative, and health care surrogate or proxy.

(2) To assure that persons ~~patients~~ have current information as to their rights ~~as a mental health patient~~, a copy of the Florida Mental Health Act (Chapter 394, part I, Florida Statutes) and Mental Health Act Regulations (Chapter 65E-5, Florida Administrative Code) shall be available, and provided upon request, in every psychiatric unit of each receiving and treatment facility and by each service provider and, upon request shall be made available for review by any person ~~patient~~, guardian, guardian advocate, representative, or health care surrogate or proxy. The administrator or designee of the facility or service provider shall make physicians, ~~as defined in Section 394.455(21), F.S.,~~ nurses, and all other direct service staff aware of the location of these documents so they are able to promptly access them upon request.

(3) Patient R~~r~~ights posters, including those with telephone numbers for the Florida Abuse Hotline, Florida Local Advocacy Council ~~Human Rights Advocacy Committee~~, and the Advocacy Center for Persons with Disabilities, shall be legible, a minimum of 14 point font size, and shall be posted immediately next to telephones which are available for persons served by the facility or provider ~~patient use~~.

(4) Each person ~~patient~~ shall be afforded the opportunity to exercise his or her ~~their~~ rights in a manner consistent with Section 394.459(1), F.S. The imposition of individual or unit restrictions and the development of unit policies and procedures shall address observance of protecting rights of persons served ~~patient's rights~~ in developing criteria or processes to provide for ~~patient~~ care and safety.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.459(12), 394.4655 FS. History–New 11-29-98, Amended _____.

65E-5.150 Person's ~~Patient's~~ Right~~s~~ to Individual Dignity.

(1) To preserve a person's ~~patient's~~ right to freedom of movement, and where consistent with the clinical condition of the person ~~individual patient~~, receiving and treatment facilities shall maximize and document ~~patient~~ access to fresh air, sunshine and exercise for persons served~~,~~ within the facility's physical capabilities and management of risks. When ~~accommodated by~~ a suitable area is immediately adjacent to the unit, the staff shall afford each person ~~patient shall be afforded~~ an opportunity to spend at least one half hour per day in an open, out of doors, fresh air activity area, unless there is a physician's~~, as defined in Section 394.455(21), F.S.,~~ order prohibiting this, with documentation in the person's clinical record of the clinical reasons that access to fresh air will not be accommodated ~~is not appropriate~~.

(2) Use of specific ~~special~~ clothing for identification purposes such as surgical scrubs or hospital gowns to identify persons ~~patients~~ who are in need of specific ~~special~~ precautions or behavior modification restrictions is prohibited as a

violation of individual ~~patient~~ dignity. Prison or jail attire shall not be permitted for persons admitted or retained in a receiving facility except while accompanied by a uniformed law enforcement officer, for purposes of security. Under non-psychiatric medical circumstances, use of specific ~~special~~ clothing may be ordered by the person's ~~patient's~~ physician~~, as defined in Section 394.455(21), F.S.,~~ on an individual basis. Documentation of the circumstances shall be included in the person's ~~patient's~~ clinical record.

Specific Authority 394.457(5) FS. Law Implemented 394.459(1) FS. History–New 11-29-98, Amended _____.

65E-5.160 Right to Treatment.

(1) Persons shall have the opportunity to participate in the preparation of their own treatment and discharge plans at receiving and treatment facilities and service providers. In instances when the person ~~patient~~ refuses or is unable to participate in such planning, such refusal or inability shall be documented in the person's ~~patient's~~ clinical record.

(2) Comprehensive service assessment and treatment planning, including discharge planning, shall begin the day of admission and shall also include the person's care ~~case patient's~~ manager if any, the person's friends, ~~patient's~~ family, significant others, or guardian, as desired by the person ~~patient~~. If the person has a court appointed guardian, the guardian shall be included in the service assessment and treatment planning. Obtaining legal consent for treatment, assessment and planning protocols shall also include the following:

(a) How any advance directives will be obtained and their provisions addressed and how consent for treatment will be expeditiously obtained for any person unable to provide consent;~~,~~

(b) Completion of necessary diagnostic testing and the integration of the results and interpretations from those tests~~,~~ ~~including the individual's strengths and weaknesses;~~ The results and interpretation of the results shall be reviewed with the person;

(c) The development of treatment goals specifying the factors and symptomology precipitating admission and addressing their resolution or mitigation;~~,~~

(d) The development of a goal within an individualized treatment plan, including the individual's strengths and weaknesses, that addresses each of the following: living arrangements ~~housing~~, social supports, financial supports, and health, including mental health. Goals shall be inclusive of person's ~~patient~~ choices and preferences and utilize available natural social supports such as family, friends, and peer support group meetings and social activities;

(e) Objectives for implementing each goal shall list the actions needed to obtain the goal, and shall be stated in terms of outcomes that are observable, measurable, and time-limited;

(f) Progress notes shall be dated and shall address each objective in relation to the goal, describing the corresponding progress, or lack of progress being made. Progress note entries and the name and title of writer must be clearly legible;

(g) Periodic reviews shall be comprehensive, include the person, and shall be the basis for major adjustments to goals and objectives. Frequency of periodic reviews shall be determined considering the degree to which the care provided is acute care and the projected length of stay of the person ~~patient~~;

(h) Progress note observations, participation by the person, rehabilitative and social services, and medication changes shall reflect an integrated approach to treatment;

(i) Facilities shall update the treatment plan, including the physician~~, as defined in Section 394.455(21), F.S.,~~ summary, at least every 30 days during the person's ~~patient's~~ hospitalization except that persons ~~patient~~s retained for longer then 24 months shall have updates at least every 60 days;~~.~~

(j) Service providers treating persons on involuntary outpatient placement orders shall update the treatment plan, in consultation with the person or his or her substitute decision-maker at least every three months. The court shall be notified of any material modification of the plan to which the person or substitute decision-maker is in agreement. Any material modifications of the treatment plan that are contested by the person or substitute decision-maker must be approved or disapproved by the court in advance of the modification;

(k)~~(j)~~ The clinical record shall comprehensively document the person's ~~patient's~~ care and treatment, including injuries sustained and all uses of emergency treatment orders;~~.~~ and

(l)~~(k)~~ Persons ~~Patients~~ who will have a continued involuntary outpatient placement hearing pursuant to Section 394.4655(7), F.S., or continued involuntary inpatient placement hearing pursuant to Section 394.467(7), F.S., shall be provided with comprehensive re-assessments, the results of which shall be available at the hearing.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.459(2), 394.4655 FS. History–New 11-29-98, Amended _____.

65E-5.1601 General Management of the Treatment Environment.

(1) Management and personnel of the facility's treatment environment shall use positive incentives in assisting persons ~~patients~~ to acquire and maintain socially positive ~~appropriate~~ behaviors as determined by the person's ~~patient's~~ age and developmental level.

(2) Each designated receiving and treatment facility shall develop a schedule of daily activities listing the times for specific events, which shall be posted in a common area and provided to all persons ~~patients~~.

(3) Interventions such as the loss of personal freedoms, loss of earned privileges or denial of activities otherwise available to other persons ~~patients~~ shall be minimized and utilized only after the documented failure of the unit's positive incentives for the individuals involved.

(4) Facilities shall ensure that any verbal or written information provided to persons must be accessible in the language and terminology the person understands.

Specific Authority 394.457(5) FS. Law Implemented 394.459(2),(11) FS. History–New 11-29-98, Amended _____.

65E-5.1602 Individual Behavioral Management Programs. When an individualized treatment plan requires interventions beyond the existing unit rules of conduct, the person ~~following~~ shall be included, and ~~in~~ the person's ~~patient's~~ treatment plan shall reflect ~~for such interventions~~:

(1) Documentation, signed by the physician~~, as defined in Section 394.455(21), F.S.,~~ that the person's ~~patient's~~ medical condition does not exclude the proposed interventions;

(2) Consent for the treatment to be provided;

(3) A general description of the behaviors requiring the intervention, which may include previous emergency interventions;

(4) Antecedents of that behavior;

(5) The events immediately following the behavior;

(6) Objective definition of the specific ~~target~~ behaviors, such as specific acts, level of aggression ~~force~~, encroachment on others' space, self-injurious behavior or excessive withdrawal;

(7) Arrangements for the consistent collection and recording of data;

(8) Analysis of data;

(9) Based on data analysis, development of intervention strategies, if necessary;

(10) Development of a written intervention strategy that includes criteria for starting and stopping specific staff interventions and the process by which they are to occur;

(11) Continued data collection, if interventions are implemented; and

(12) Periodic review and revision of the plan based upon data collected and analyzed.

Specific Authority 394.457(5) FS. Law Implemented 394.459(2),(11) FS. History–New 11-29-98, Amended _____.

65E-5.170 Right to Express and Informed Consent.

(1) Establishment of Consent.

(a) Receiving Facilities. As soon as possible, but in no event longer than 24 hours from entering a designated receiving facility on a voluntary or involuntary basis, each person ~~patient~~ shall be examined by the admitting physician~~, as defined in Section 394.455(21), F.S.,~~ to assess ~~determine~~ the person's ~~patient's~~ ability to provide express and informed consent to admission and treatment. The examination of a minor for this purpose may be limited to the documentation of the minor's age. The examination of a person alleged to be incapacitated for this purpose may be limited to the documentation of letters of guardianship. Documentation of the assessment results ~~this determination~~ shall be placed in the person's ~~patient~~'s clinical record. The facility shall determine whether a person ~~patient~~ has been adjudicated as incapacitated and whether a guardian has been appointed by the court. If a guardian has been appointed by the court, the limits of the authority of the guardian shall be determined prior to allowing the guardian to authorize treatment. A copy of any court order delineating a guardian's authority to consent to mental health or medical treatment shall be obtained by the facility and included in the person's ~~patient~~'s clinical record prior to allowing the guardian to give express and informed consent to treatment for the person ~~patient~~.

(b) Treatment Facilities. Upon entering a designated treatment facility on a voluntary or involuntary basis, each person ~~patient~~ shall be examined by the admitting physician~~, as defined in Section 394.455(21), F.S.,~~ to assess ~~determine~~ the person's ~~patient's~~ ability to provide express and informed consent to admission and treatment, which shall be documented in the person's ~~patient's~~ clinical record. The examination of a person alleged to be incapacitated or incompetent to consent to treatment, for this purpose, may be limited to documenting the letters of guardianship or order of the court. If a person ~~patient~~ has been adjudicated as incapacitated and a guardian appointed by the court or if a person ~~patient~~ has been found to be incompetent to consent to treatment and a guardian advocate has been appointed by the court, the limits of authority of the guardian or guardian advocate shall be determined prior to allowing the guardian or guardian advocate to authorize treatment for the person ~~patient~~. A copy of any court order delineating a guardian's authority to consent to mental health or medical treatment shall be obtained by the facility and included in the person's ~~patient's~~ clinical record prior to allowing the guardian to give express and informed consent to treatment for the person ~~patient~~.

(c) If the admission is voluntary, the person's ~~patient's~~ competence to provide express and informed consent for admission shall be documented by the admitting physician~~, as defined in Section 394.455(21), F.S~~. Use of recommended form CF-MH 3104, Jan 05 ~~98~~, "Certification of Person's ~~Patient's~~ Competence to Provide Express and Informed Consent," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. The completed form or other documentation shall be retained in the person's ~~patient's~~ clinical record. Facility staff monitoring the person's ~~patient's~~ condition shall document any observations which suggest that a person ~~patient~~ may no longer be competent to provide express and informed consent to his or her treatment. In such circumstances, staff shall notify the physician~~, as~~

~~defined in Section 394.455(21), F.S.,~~ and document in the person's ~~patient's~~ clinical record that the physician~~, as defined in Section 394.455(21), F.S.,~~ was notified of this apparent change in clinical condition.

(d) In the event a change in the ability of a person on voluntary status ~~a voluntary patient's clinical status~~ affects his or her ~~the~~ ~~patient's~~ competence to provide express and informed consent to treatment, the change shall be immediately documented in the person's ~~patient's~~ clinical record. A person's refusal to consent to treatment is not, in itself, an indication of incompetence to consent to treatment.

1. If the person ~~patient~~ is determined to be competent to consent to treatment and meets the criteria for involuntary inpatient placement, the facility administrator shall file with the court a petition for involuntary placement. Use of recommended form CF-MH 3032, Jan 05 ~~98~~, "Petition for Involuntary Inpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

2. If the person ~~patient~~ is incompetent to consent to treatment, and meets the criteria for involuntary inpatient placement, the facility administrator shall expeditiously file with the court both a petition for the adjudication of incompetence to consent to treatment and appointment of a guardian advocate, and a petition for involuntary inpatient placement. Upon determination that a person ~~patient~~ is incompetent to consent to treatment the facility shall expeditiously pursue the appointment of a duly authorized substitute decision-maker that can make legally required decisions concerning treatment options or refusal of treatments for the person ~~patient~~. Use of recommended forms CF-MH 3106, Jan 05 ~~98~~, "Petition for Adjudication of Incompetence to Consent to Treatment and Appointment of a Guardian Advocate," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, and CF-MH 3032, "Petition for Involuntary Inpatient Placement," as referenced in subparagraph 65E-5.170(1)(d)1., F.A.C., or CF-MH 3130 "Petition for Involuntary Outpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

(e) Competence to provide express and informed consent shall be established and documented in the person's ~~patient~~'s clinical record prior to the approval of a person's ~~patient's~~ transfer from involuntary to voluntary status or prior to permitting a person ~~patient~~ to consent to his or her own treatment if that person ~~patient~~ had been previously determined to be incompetent to consent to treatment. Use of recommended form CF-MH 3104, "Certification of Person's ~~Patient's~~ Competence to Provide Express and Informed Consent," as referenced in paragraph 65E-5.170(1)(c), F.A.C., properly completed by a physician~~, as defined in Section 394.455(21), F.S.,~~ will be considered by the department to be sufficient.

(f) Any guardian advocate appointed by a court to provide express and informed consent to treatment for the person ~~patient~~ shall be discharged and a notice of such guardian advocate discharge provided to the court upon the establishment and documentation that the person ~~patient~~ is competent to provide express and informed consent.

(g) If a person ~~patient~~ entering a designated receiving or treatment facility has been adjudicated incapacitated under Chapter 744, F.S., as described in Section 394.455(14), F.S., express and informed consent to treatment shall be sought from the person's ~~patient's~~ guardian.

(h) If a person ~~patient~~ entering a designated receiving or treatment facility has been determined by the attending physician ~~and another physician, as defined in Section 394.455(21), F.S.,~~ to be incompetent to consent to treatment as defined in Section 394.455(15), F.S., express and informed consent to treatment shall be expeditiously sought by the facility from the person's ~~patient's~~ guardian advocate or health care surrogate or proxy.

(i) A copy of the letter of guardianship, court order, or advance directive shall be reviewed by facility staff to ensure that the substitute decision-maker has the authority to provide consent to the recommended treatment on behalf of the person ~~patient~~. If the facility relies upon the expression of express and informed consent for person ~~patient~~ treatment from a substitute decision-maker, a copy of this documentation shall be placed in the person's ~~patient's~~ clinical record and shall serve as documentation of the substitute decision-maker's authority to give such consent. With respect to a health care proxy, where no advance directive has been prepared by the person ~~patient~~, facility staff shall document in the person's ~~patient's~~ clinical record that the substituted decision-maker was selected in accordance with the list of persons and using the priority set out in Section 765.401, F.S. When a health care surrogate or proxy is used, the facility shall immediately file a petition for the appointment of a guardian advocate.

(2) Authorization for Treatment.

(a) Express and informed consent, including the right to ask questions about the proposed treatment, to receive complete and accurate answers to those questions, and to negotiate treatment options, shall be obtained from a person ~~patient~~ who is competent to consent to treatment. If the person ~~patient~~ is incompetent to consent to treatment, such express and informed consent shall be obtained from the duly authorized substitute decision-maker for the person ~~patient~~ before any treatment is rendered, except where emergency treatment is ordered by a physician~~, as defined in Section 394.455(21), F.S.,~~ for the safety of the person ~~patient~~ or others.

(b) A copy of information disclosed while attempting to obtain express and informed consent shall be given to the person ~~patient~~ and to any substitute decision-maker authorized to act on behalf of the person ~~patient~~.

(c) When presented with an event or an alternative which requires express and informed consent, the competent person ~~patient~~ or, if the person ~~patient~~ is incompetent to consent to treatment, the duly authorized substitute decision-maker, shall provide consent to treatment, refuse consent to treatment, negotiate treatment alternatives, or revoke consent to treatment. Use of recommended forms CF-MH 3042a, Jan 05 ~~98~~, "General Authorization for Treatment Except Psychotropic Medications," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., ~~from the district mental health program office~~, and CF-MH 3042b, Jan 05 ~~98~~, "Specific Authorization for Psychotropic Medications," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient as documentation of express and informed consent and any decisions made pursuant to that consent. If used, recommended form CF-MH 3042a, "General Authorization for Treatment Except Psychotropic Medications," as referenced in paragraph 65E-5.170(2)(c), F.A.C., shall be completed at the time of admission to permit routine medical care, psychiatric assessment, and other assessment and treatment except psychotropic medications. The more specific recommended form CF-MH 3042b, "Specific Authorization for Psychotropic Medications," as referenced in paragraph 65E-5.170(2)(c), F.A.C., or its equivalent, shall be completed prior to the administration of any psychotropic medications, except under an emergency treatment order. The completed forms, or equivalent documentation, shall be retained in the person's ~~patient's~~ clinical record.

(d) No facility or service provider 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 instances ~~cases~~ where emergency treatment is ordered by a physician~~, as defined in Section 394.455(21), F.S.,~~ to preserve the immediate safety of the person ~~patient~~ or others.

(3) Receiving and treatment facilities shall request copies of any advance directives completed by persons admitted to the facilities, from the person ~~patient~~ or the person's ~~patient's~~ family or representative.

(4) In addition to any other requirements, at least the following must be given to the person ~~patient~~ before express and informed consent will be valid:

(a) Identification of the proposed medication, together with a plain language explanation of the proposed dosage range, the frequency and method of administration, the recognized short-term and long-term side effects, any contraindications which may exist, clinically significant interactive effects with other medications, and similar information on alternative medications which may have less severe or serious side effects.

(b) A plain language explanation of all other treatments or treatment alternatives recommended for the person ~~patient~~.

(5) If a change in medication is recommended which is not included in the previously signed CF-MH 3042b, "Specific Authorization for Psychotropic Medications" form, as referenced in paragraph 65E-5.170(2)(c), F.A.C., after an explanation and disclosure of the altered treatment plan is provided by the physician~~, as defined in Section 394.455(21), F.S.,~~ express and informed consent must be obtained from the person authorized to provide consent and be documented in the person's ~~patient~~'s clinical record prior to the administration of the treatment or medication.

(6) The facility or service provider staff shall explain to a guardian, guardian advocate, or health care surrogate or proxy, the duty of the substitute decision-maker to provide information to the facility or service provider on how the substitute decision maker may be reached at any time during the person's ~~patient's~~ hospitalization or treatment to provide express and informed consent for changes of treatment from that previously approved ~~clinically significant changes of treatment~~.

(7) Electroconvulsive ~~To assure the safety and rights of the patient, electroconvulsive~~ treatment may be recommended to the person ~~patient~~ or the person's ~~patient's~~ substitute decision-maker by the attending physician~~, as defined in Section 394.455(21), F.S., if~~ Such recommendation must also be concurrently recommended by at least one other physician~~, as defined in Section 394.455(21), F.S.,~~ not directly involved with the person's ~~patient's~~ care who has reviewed the person's ~~patient's~~ clinical record. Such recommendation shall be documented in the person's ~~patient's~~ clinical record and shall be signed by both physicians~~, as defined in Section 394.455(21), F.S~~. When completed, recommended form CF-MH 3057, Jan 05 ~~98~~, "Authorization for Electroconvulsive Treatment," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. If used, this form shall also be signed by the person ~~patient~~, if competent, or by the guardian advocate, if previous court approval has been given, or by the guardian where the person ~~patient~~ has been found by the court to be incapacitated, or by the health care surrogate if the person ~~patient~~ had expressly delegated such authority to the surrogate in the advance directive. Express and informed consent from the person ~~patient~~ or his or her substitute decision-maker, as required by Section 394.459(3), F.S., including an opportunity to ask questions and receive answers about the procedure, shall be noted on or attached to recommended form CF-MH 3057, "Authorization for

Electroconvulsive Treatment," as referenced in subsection 65E-5.170(7), F.A.C., or its equivalent, as documentation of the required disclosures and of the consent. Each signed authorization form is permission for the person ~~patient~~ to receive a series of up to, but not more than, a stated number of electroconvulsive treatments. Additional electroconvulsive treatments require additional written authorization. The signed authorization form shall be retained in the person's ~~patient's~~ clinical record and shall comply with the provisions of Section 458.325, F.S.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.455(9), 394.459(3), 394.4655 FS. History–New 11-29-98, Amended _____.

65E-5.1703 ~~Psychiatric~~ Emergency Treatment Orders for Psychotropic Medications.

An emergency treatment order for psychotropic medication supersedes the person's ~~individual's~~ right to refuse ~~psychotropic medication~~ if based upon the physician's assessment~~, as defined in Section 394.455(21), F.S., determination~~ that the individual is not capable of exercising voluntary control over his or her ~~their~~ own symptomatic behavior and that these uncontrolled symptoms and behavior are an imminent danger to the person ~~patient~~ or to others in the facility. When emergency treatment with psychotropic medication is ordered for a minor or an incapacitated or incompetent adult ~~person~~, facility staff shall document attempts to promptly contact the guardian, guardian advocate, or health care surrogate or proxy to obtain express and informed consent for the treatment in advance of administration where possible and if not possible, as soon thereafter as practical.

(1) The physician's~~, as defined in Section 394.455(21), F.S.,~~ initial order for emergency treatment may be by telephone but such a verbal order must be reduced to writing upon receipt and signed by a physician~~, as defined in Section 394.455(21), F.S.,~~ within 24 hours.

(2) Each emergency treatment order shall only be valid and shall be authority for emergency treatment only for a period not to exceed 24 hours.

(3) The need for each emergency treatment order must be documented in the person's ~~patient's~~ clinical record in the progress notes and in the section used for physician's, ~~as defined in Section 394.455(21), F.S.,~~ orders and must describe the specific behavior which constitutes a danger to the person ~~patient~~ or to others in the facility, and the nature and extent of the danger posed.

(4) Upon the initiation of an emergency treatment order the facility shall, within two court working days, petition the court for the appointment of a guardian advocate pursuant to the provisions of Section 394.4598, F.S., to provide express and informed consent, unless the person ~~patient~~ voluntarily withdraws a revocation of consent or requires only a single emergency treatment order for emergency treatment.

(5) If a second emergency treatment order is issued for the same person ~~patient~~ within any seven day period, the petition for the appointment of a guardian advocate pursuant to the provisions of Section 394.4598, F.S., to provide express and informed consent shall be filed with the court within one court working day.

(6) While awaiting court action, treatment may be continued without the consent of the person ~~patient~~, but only upon the daily written emergency treatment order of a physician~~, as defined in Section 394.455(21), F.S.,~~ who has determined that the person's ~~patient's~~ behavior each day during the wait for court action continues to present an immediate danger to the safety of the person ~~patient~~ or others and who documents the nature and extent of the emergency each day of the specific danger posed. Such orders may not be written in advance of the demonstrated need for same.

(7) To assure the safety and rights of the person ~~patient~~, and since emergency treatment orders by a physician~~, as defined in Section 394.455(21), F.S.,~~ absent ~~patient~~ express and informed consent are ~~is~~ permitted only in an emergency, any use of psychotropic medications other than rapid response medications requires a detailed and complete justification for the use of such medication. Both the nature and extent of the imminent emergency and any orders for the continuation of that medication must be clearly documented daily as required above.

Specific Authority 394.457(5) FS. Law Implemented 394.459(3), 394.463(2)(f) FS. History–New 11-29-98, Amended _____.

65E-5.180 Right to Quality ~~of~~ Treatment.

The following ~~minimum~~ standards shall be required in the provision of quality mental health treatment:

(1) Each receiving and treatment facility and service provider shall, using nationally accepted accrediting standards for guidance, develop written policies and procedures for planned program activities designed to enhance a person's ~~patient's~~ self image, as required by Section 394.459(2)(d), F.S. These policies and procedures shall include curriculum, specific content, and performance objectives and shall be delivered by staff with content expertise. Medical, rehabilitative, and social services shall be evidence based ~~integrated~~ and provided in the most integrated ~~least restrictive~~ manner consistent with the safety of the persons served ~~patient or patients~~.

(2) Each facility and service provider, using nationally accepted accrediting standards for guidance, shall adopt written professional standards of quality, accuracy, completeness, and timeliness for all diagnostic reports, evaluations, assessments, examinations, and other procedures provided to persons ~~individuals~~ under the authority of Chapter 394, part I, F.S. Facilities shall monitor the implementation of those standards to assure the quality of all diagnostic products. Standards shall include and specify provisions addressing:

(a) The minimum qualifications to assure competence and performance of staff who administer and interpret diagnostic procedures and tests;

(b) The inclusion and updating of pertinent information from previous reports, including admission history and key demographic, social, economic, and medical factors;

(c) The dating, accuracy and the completeness of reports;

(d) The timely availability of all reports to users;

(e) Reports shall be legible and understandable;

(f) The documentation of facts supporting each conclusion or finding in a report;

(g) Requirements for the direct correlation of identified problems with problem resolutions which consider the immediacy of the problem or time frames for resolution and which include recommendations for further diagnostic work-ups;

(h) Requirement that the completed report be signed and dated by the administering staff; and

(i) Consistency of information across various reports and integration of information and approaches across reports.

(3) Psychiatric Examination. Psychiatric examinations shall include:

(a) ~~Patient~~ M~~m~~edical history, including psychiatric history, developmental anomalies ~~abnormalities~~, physical or sexual abuse or trauma, and substance abuse;

(b) Examination, evaluative or laboratory results, including mental status examination;

(c) Working diagnosis, ruling out non-psychiatric causes of presenting symptoms of abnormal thought, mood or behaviors;

(d) Course of psychiatric interventions including:

1. Medication history, trials and results;

2. Current medications and dosages;

3. Other psychiatric interventions in response to identified problems;

(e) Course of other non-psychiatric medical problems and interventions;

(f) Identification of prominent risk factors including physical health, psychiatric and co-occurring substance abuse; and

(g) Discharge or transfer diagnoses.

(4) So that care will not be delayed upon arrival, procedures for the transfer of the physical custody of persons ~~patients~~ shall specify and require that documentation necessary for legal custody and medical status, including the person's medication administration record for that day, shall either precede or accompany the person ~~patient~~ to his or her ~~their~~ destination.

(5) Mental health services provided shall comply with the following ~~minimum~~ standards:

(a) In designated receiving facilities, the on-site provision of emergency psychiatric reception and treatment services shall be available 24-hours-a-day, seven-days a week, without regard to the individual's financial situation.

(b) Assessment standards shall include provision for determining the presence of a co-occurring mental illness and substance abuse, and clinically significant physical and sexual abuse or trauma.

(c) A clinical safety assessment shall be accomplished at admission to determine the person's need for, and the facility's capability to provide, an environment and treatment setting that meets the person's ~~patient's~~ need for a secure facility or close levels of staff observation.

(d) The development and implementation of protocols or procedures for conducting and documenting the following shall be accomplished by each facility:

1. Determination of a person's ~~patient's~~ competency to consent to treatment within 24 hours after admission;

2. Prompt identification of a duly authorized decision-maker for the person ~~patient~~ upon any person ~~patient~~ being determined not to be competent to consent to treatment;

3. Obtaining express and informed consent for treatment and medications before administration, except in an ~~a medical~~ emergency; and

4. Required involvement of the person ~~patient~~ and guardian, ~~or~~ guardian advocate, or health care surrogate or proxy, in treatment and discharge planning.

(e) Use of age sensitive interventions in the implementation of seclusion or in the use of physical force as well as the authorization and training of staff to implement restraints, including the safe positioning of persons in restraints. Policies, procedures and services shall incorporate specific ~~special~~ provisions regarding the restraining of minors, elders, and persons who are frail or with ~~special~~ medical problems such as potential problems with respiration.

(f) Plain language documentation in the person's ~~patient's~~ clinical record of all uses of "as needed" or emergency applications of medications, and all uses of physical force, restraints, seclusion, or "time-out" procedures upon persons ~~patients~~, and the explicit reasons for their use.

(g) The prohibition of standing orders or similar protocols for the emergency use of psychotropic medication.

(h) Timely provision of required training for guardian advocates including activities and available resources designed to assist family members and guardian advocates in understanding applicable treatment issues and in identifying and contacting local self-help organizations.

(6) Each designated receiving and treatment facility shall develop a written procedure for the receipt, review, and prompt investigation of oral or written complaints by a person ~~patient~~ about his or her care while hospitalized, which shall be documented in the person's ~~patient's~~ clinical record.

(7) Bodily Control and Physical Management Techniques.

(a) All staff who have ~~with patient~~ contact with persons served by the facility shall receive training in:

1. Verbal de-escalation techniques designed to reduce confrontation; and

2. Use of bodily control and physical management techniques based on a team approach.

(b) All staff who have ~~with patient~~ contact with persons served by the facility shall receive training in safe and effective techniques that are alternatives to seclusion and restraint for managing violent behavior. Training shall include techniques that are consistent with the age of persons ~~patients~~ being served by the facility.

(c) ~~Less restrictive~~ V~~v~~erbal de-escalation interventions shall be employed before physical interventions, unless physical injury is imminent. Use of recommended form CF-MH 3124, Jan 05 ~~98~~, "Personal Safety Plan" ~~"De-Escalation Preference Form,"~~ which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for the purpose of guiding individualized intervention techniques. If used, this form shall be completed at or soon as practical after admission.

(d) Each facility shall have written policies and procedures specifying the frequency of providing drink, toileting, and check of bodily positioning to avoid traumatizing persons and retaining the person's maximum degree of dignity and comfort during the use of bodily control and physical management techniques.

(8) Brief Isolation.

(a) In the event of two or more isolation interventions which exceed 15 minutes each or a cumulative total of isolation in excess of 60 minutes during any 24-hour period, a meeting of the treatment team to assess the cause of the isolation, review the adequacy of the intervention~~, and if appropriate,~~ to develop more integrated ~~appropriate~~ therapeutic interventions is required.

(b) Each use of brief isolation lasting more than 15 minutes shall be documented in the person's ~~patient's~~ clinical record.

(9) Seclusion.

(a) As used in this subsection, seclusion means any time a person's ability to move about freely has been limited by staff or the person has been segregated in any fashion from other persons ~~patients~~, as a means of controlling the person's ~~patient's~~ immediate symptoms or behavior. Seclusion is an involuntarily imposed closed door or locked door isolation of the person ~~patient~~ from others. The seclusion process shall evidence consideration that alternatives such as those listed in recommended form CF-MH 3124, "Personal Safety Plan" ~~"De-Escalation Preference Form,"~~ as referenced in paragraph 65E-5.180(7)(c), F.A.C., have been considered by implementing staff. In order to enhance ~~patient~~ safety of all persons served by the facility, each person ~~patient~~ shall be searched for contraband before ordering ~~placing~~ the person ~~patient~~ into seclusion.

(b) Brief isolation shall be attempted prior to imposing seclusion, whenever possible.

(c) In order to assure ~~patient~~ safety, a written order by a physician~~, as defined in Section 394.455(21), F.S.,~~ shall be required for each use of seclusion.

(d) In an emergency, any registered nurse or the highest level staff member who is immediately available and who is trained in seclusion procedures, may initiate seclusion if in accord with specific written facility policies. If imposed without a prior written order, an order must be obtained from a physician~~, as defined in Section 394.455(21), F.S.,~~ and written within one hour of initiation of seclusion or the person ~~patient~~ must be immediately released from seclusion. All verbal orders for seclusion must be signed within 24 hours of the initiation of seclusion by an authorizing physician~~, as defined in Section 394.455(21), F.S.~~ If seclusion is initiated by a staff member other than an advanced registered nurse practitioner or a registered nurse, an advanced registered nurse practitioner or a registered nurse shall assess the need for seclusion and document it in the chart within 15 minutes of initiation. Persons ~~Patients~~ released from seclusion due to the lack of an order or without the nursing assessment may not again be ordered ~~placed~~ into seclusion within the following 12 hours without an accompanying order.

(e) Physicians~~, as defined in Section 394.455(21), F.S.,~~ authorized by the facility to order seclusion in a receiving or treatment facility, shall exercise this authority under the oversight of the facility's medical oversight committee.

(f) Where seclusion is ordered, it may only be ordered by a physician~~, as defined in Section 394.455(21), F.S.,~~ and it may be ordered for a period up to:

1. One hour for minors under nine years of age;

2. Two hours for minors ~~over~~ nine years of age up to the age of 18; and

3. Four hours for adults.

(g) A seclusion order may be extended by repeating these timeframes after review by a physician~~, as defined in Section 394.455(21), F.S.,~~ or advanced registered nurse practitioner.

(h) Where seclusion is to be used upon the occurrence of specific behavior, this intervention must comply with the provisions of Rule 65E-5.1602, F.A.C.

(i) Each use of seclusion and the name of the person initiating the seclusion must be documented in a unit log book or similar automated registry maintained for this purpose; each use and explicit reason for seclusion shall also be recorded in the Person's ~~patient's~~ clinical record. Upon initiation of seclusion, the log book shall sequentially record all uses of seclusion, and for each use, the date and time of initiation and release, and elapsed time.

(j) During each period of seclusion, the person ~~patient~~ must:

1. Be offered ~~reasonable~~ opportunity to drink~~,~~ and to toilet as requested, and to have range of motion as needed.

2. Be observed by staff trained in this function at least every 15 minutes, for injury and respiration, and the findings immediately documented. Documentation of the observations and the staff person's name shall be recorded at the time the observation takes place. At least once every hour, such documented observation shall be conducted by a nurse.

(k) Every secluded person ~~patient~~ shall be immediately informed of the behavior that caused his or her ~~their~~ seclusion and the behavior and conditions necessary for their release. This shall be documented in the person's clinical record.

(l) Facilities shall develop and staff shall use criteria to guide early termination from seclusion. When seclusion is terminated early and the same symptomatic behavior which caused the application of seclusion is still evident, the original order can be reapplied.

(m) Upon release from seclusion, the person's ~~patient's~~ physical condition shall be observed, evaluated, and documented. After the person's ~~patient's~~ release, therapeutic discussion of the event and alternative means of responding must be offered to the person ~~patient~~ by staff not involved with the event. The results of this offer and any resulting discussion shall be documented.

(n) If two or more incidents of seclusion of a person ~~patient~~ are necessary within a 24-hour period, the treatment team shall analyze the person's ~~patient's~~ clinical record for trends or patterns relating to conditions, events, or individuals present immediately before or upon the onset of the behavior warranting the seclusion, and of the conditions presented upon the person's ~~patient's~~ release from seclusion. The treatment team shall review the effectiveness ~~adequacy~~ of the emergency intervention~~, and if appropriate,~~ and develop more appropriate therapeutic interventions. Documentation of this review shall be placed in the person's ~~patient's~~ clinical record.

(10) Restraints.

(a) In imposing restraints on a person ~~patient~~, use of age and physical fragility sensitive techniques shall be utilized. If a device is used for age or fragility reasons, it should be so documented in the person's ~~patient's~~ clinical record.

(b) Walking restraints may only be used during transportation under the supervision of trained staff. The use of walking restraints is prohibited except for purposes of off-unit transportation.

(c) Restraints are an emergency medical psychiatric measure to be used only for the immediate physical protection of the person ~~patient~~ or others and may be imposed only upon the order of a physician~~, as defined in Section 394.455(21), F.S~~. The order shall include the specific behavior prompting the use of restraints, the type of restraint ordered, time limit for restraint use, the positioning of the person ~~patient~~ for respiratory and other medical safety considerations, and the behavior necessary for the person's ~~patient's~~ release from restraint. Any use of restraint shall be in accordance with applicable federal and state regulations and with facility policies and procedures which shall require staff proficiency in age and fragility-sensitive appropriate techniques, including medical risk considerations of positioning the person ~~patient~~. The restraint process shall evidence consideration that individual's choice alternatives as identified in the recommended form CF-MH 3124, "Personal Safety Plan" ~~"De-Escalation Preference Form,"~~ as referenced in paragraph 65E-5.180(7)(c), F.A.C., have been considered.

(d) In an emergency, a registered nurse or the highest level staff member who is immediately available and who is trained in restraint procedures, may initiate restraints. However, an order by a physician~~, as defined in Section 394.455(21), F.S.,~~ must be obtained and written within the person's ~~patient's~~ clinical record within one hour of initiation or the person ~~patient~~ must be immediately released from the restraints. If restraints are initiated by a staff member other than a nurse, the nurse shall assess the need for restraints and document it in the chart within 15 minutes of initiation. All orders for restraint must be signed within 24 hours of the initiation of the restraints.

(e) If a physician~~, as defined in Section 394.455(21), F.S.,~~ is authorized to order restraints in a receiving or treatment facility, such physician ~~professional~~ shall practice under the oversight of the facility's medical oversight committee.

(f) Where restraint is ordered, it may only be ordered by a physician~~, as defined in Section 394.455(21), F.S.,~~ and it may be ordered for an initial period up to:

1. One hour for minors under nine years of age;

2. Two hours for minors ~~over~~ nine years of age up to ~~and under~~ the age of 18; and

3. Four hours for adults.

(g) A restraint order may be extended by repeating these timeframes, after review by a physician~~, as defined in Section 394.455(21), F.S.,~~ or an advanced registered nurse practitioner.

(h) In order to protect the ~~patient~~ safety of each person served by a facility, each person ~~patient~~ shall be:

1. Searched for contraband before or immediately after being placed into restraints; and

2. Evaluated medically to determine the need or lack of need to elevate the person's ~~patient's~~ head and torso during restraint prior to placing the person ~~patient~~ into restraints. Such evaluation of the need or lack of need shall be documented in the order for restraints.

(i) Each use of restraint and the name of the person initiating the restraint must be documented in a unit log book or similar automated registry maintained for this purpose; each use and explicit reason for restraint shall also be recorded in the person's ~~patient's~~ clinical record. Upon initiation of

restraints, the log book shall sequentially record all uses of restraints, and for each use, the date and time of initiation, release, and elapsed time.

(j) During each period of restraint, the person ~~patient~~ must:

1. Be offered ~~reasonable~~ opportunity to drink~~,~~ and to toilet as requested, and to have range of motion as needed;

2. Be located in areas, whenever possible, not subject to view by individuals ~~persons~~ other than staff or where they are exposed to potential injury by other persons ~~patients~~; and

3. Be observed by staff trained in this skill ~~function~~ at least every 15 minutes, for circulation, injury, and respiration, and the findings immediately documented. Documentation of the observations and the staff person's name shall be recorded at the time the observation takes place. At least once every hour, such documented observation shall be conducted by a nurse.

(k) Every restrained person ~~patient~~ shall be informed of the behavior that caused his or her ~~their~~ restraint and the behavior and conditions necessary for their release after 15 minutes of calm.

(l) Facilities shall develop and staff shall use criteria to guide early termination from restraint. When restraint is terminated early and the same behavior which caused the application of restraints is still evident, the original order can be reapplied.

(m) Upon release from restraints, the person's ~~patient's~~ physical condition shall be observed, evaluated, and documented. After the person's ~~patient's~~ release from restraints ~~seclusion~~, discussion of the event and alternative means of responding must be offered to the person ~~patient~~ by staff not involved with the event. The results of this discussion shall be documented in the person's clinical record.

(n) Since restraint is an emergency procedure, within 48 hours after any use of restraint, the circumstances preceding its imposition and the person's ~~patient's~~ treatment plan must be reviewed to determine whether changes in the plan are advisable in order to prevent the further use ~~need~~ of restraint.

(o) Nothing herein shall effect the ability of emergency medical technicians, paramedics or physicians~~, as defined in Section 394.455(21), F.S.,~~ or any person acting under the direct medical supervision of a physician~~, as defined in Section 394.455(21), F.S.,~~ to provide examination or treatment of incapacitated persons in accordance with Section 401.445, F.S.

(11) Use of Protective Medical Devices with Frail or Mobility Impaired Persons ~~Patient~~s.

(a) When ordering ~~using~~ safety or protective devices such as posey vests, geri-chairs, mittens, and bed rails which also restrain, facility staff shall consider alternative means of providing such safety so that the person's ~~patient's~~ need for regular exercise is accommodated to the greatest extent possible.

(b) Where frequent or prolonged use of safety or protective devices are required, the person's ~~patient's~~ treatment plan shall address debilitating effects due to decreased exercise levels such as circulation, skin, and muscle tone and the person's ~~patient's~~ need for maintaining or restoring bowel and bladder continence.

(c) The treatment plan shall include scheduled activities to lessen deterioration due to the usage of such protective medical devices.

(12) Elevated Levels of Supervision. Receiving and treatment facilities shall ensure that where one-on-one supervision is ordered by a physician ~~required~~, it shall be continuous and shall not be interrupted as a result of shift changes or due to conflicting staff assignments. Such supervision shall be continuous until documented as no longer medically necessary by a physician~~, as defined in Section 394.455(21), F.S~~.

(13) Seclusion and Restraint Oversight. Each facility utilizing seclusion or restraint procedures shall establish and utilize a committee, that includes medical staff, to conduct timely reviews of each use of seclusion and restraint, and monitor patterns of use, for the purpose of assuring most integrated ~~least restrictive~~ approaches are utilized to reduce the frequency and duration of use upon persons served by the facility ~~patients~~.

Specific Authority 394.457(5) FS. Law Implemented 394.459(4) FS. History–New 11-29-98, Amended _____.

65E-5.1802 Maintenance of the Facility.

The facility shall ensure the proper functioning and maintenance of the facility structure, finishes, fixtures, furnishings, and equipment. The facility shall ensure the ready availability of necessary medical equipment or devices for the populations served, including restraint equipment that is suitable to the safety and medical needs of the persons being served.

Specific Authority 394.457(5) FS. Law Implemented 394.459(4) FS. History–New 11-29-98, Repromulgated _____.

65E-5.190 Right to Communication and Visits.

(1) If the treatment team imposes any restrictions on~~, such as with~~ whom the person ~~patient~~ in a receiving or treatment facility may communicate, such restrictions and justification shall be recorded in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3049, Jan 05 ~~98~~, "Restriction of Communication or Visitors," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. Facility staff shall make ~~adult~~ competent adults ~~patients~~ aware that they have the ability to waive the confidentiality of their presence in a receiving or treatment facility and allowing all or specified persons the person ~~patient~~ selects access to free and open communication with the person ~~patient~~. Recommended form CF-MH 3048, Jan 05, "Confidentiality Agreement," will be considered by the department to be sufficient for this purpose.

(2) Prompt access to a telephone shall be provided to each person ~~patient~~ requesting to call his or her legal counsel, Florida Abuse Registry, Florida Local Advocacy Council, ~~Human Rights Advocacy Committee,~~ or the Advocacy Center for Persons with Disabilities.

Specific Authority 394.457(5) FS. Law Implemented 394.459(5) FS. History–New 11-29-98, Amended _____.

65E-5.200 Right to Care and Custody of Personal Effects.

Each designated receiving and treatment facility shall develop policies and procedures governing what personal effects will be removed from persons ~~patients~~ for reasons of personal or unit safety, how they will be safely retained by the facility, and how and when they will be returned to the person ~~patient~~ or other authorized individual ~~person~~ on the person's ~~patient's~~ behalf. Policies and procedures shall specify how contraband and other personal effects determined to be detrimental to the person ~~patient~~ will be addressed when not returned to the person ~~patient~~ or other authorized individual ~~person~~. An inventory of personal effects shall be witnessed by two staff and by the person ~~patient~~, if able, at the time of admission, at any time the inventory is amended, and at the time the personal effects are returned or transferred. Use of recommended form CF-MH 3043, Jan 05 ~~98~~, "Inventory of Personal Effects," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

Specific Authority 394.457(5) FS. Law Implemented 394.459(6) FS. History–New 11-29-98, Amended _____.

65E-5.210 Right to Vote ~~Voting~~ in Public Elections.

The facility shall have voter registration forms and applications for absentee ballots readily available at the facility or in accordance with the procedures established by the supervisor of elections, and shall assure that each person ~~patient~~ who is eligible to vote and wishes to do so, may exercise his or her franchise. Each designated receiving and treatment facility shall develop policies and procedures governing how persons ~~patients~~ will be assisted in exercising their right to vote.

Specific Authority 394.457(5) FS. Law Implemented 394.459(7) FS. History–New 11-29-98, Amended _____.

65E-5.220 Right to Habeas Corpus.

(1) Upon admission to a receiving or treatment facility, each person ~~patient~~ shall be given notice of his or her ~~their~~ right to petition for a writ of habeas corpus and for redress of grievances. Use of recommended form CF-MH 3036, Jan 05 ~~98~~, "Notice of Right to Petition for Writ of Habeas Corpus or for Redress of Grievances," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient to document this notice. A copy of the notice shall be provided to the guardian, guardian advocate, representative, or the health care surrogate or proxy, and the person's ~~patient's~~ clinical record shall contain documentation that the notice was provided. A petition form shall be promptly provided by staff to any person ~~patient~~ making a request for such a petition. Use of recommended form CF-MH 3090, Jan 05 ~~98~~, "Petition for Writ of Habeas Corpus or for Redress of Grievances," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

(2) Receiving and treatment facilities shall accept and forward to the appropriate court of competent jurisdiction a petition submitted by a person ~~patient~~ or others in any form in which it is presented.

Specific Authority 394.457(5) FS. Law Implemented 394.459(8) FS. History–New 11-29-98, Amended _____.

65E-5.230 Guardian Advocate.

(1) A copy of the completed recommended form CF-MH 3106, "Petition for Adjudication of Incompetence to Consent to Treatment and Appointment of a Guardian Advocate," as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., which is considered by the department to be sufficient, or its equivalent, shall be given to the person ~~patient~~, the person's ~~patient's~~ representative if any, and to the prospective guardian advocate with a copy retained in the person's ~~patient's~~ clinical record.

(2) The person's ~~patient's~~ clinical record shall reflect clear evidence that the guardian advocate has completed the training required by Section 394.4598(4), F.S., and further training required pursuant to a court order, prior to being asked to provide express and informed consent to treatment. Use of recommended form CF-MH 3120, Jan 05 ~~98~~, "Certification of Guardian Advocate Training Completion," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, for documentation will be considered by the department to be sufficient.

(3) When a guardian advocate previously appointed by the court cannot or will not continue to serve in that capacity, and the person ~~patient~~ remains incompetent to consent to treatment, the facility administrator shall petition the court for a replacement guardian advocate. A copy of the completed petition shall be given to the person ~~patient~~, the current guardian advocate, the prospective replacement guardian advocate, person's ~~patient's~~ attorney, and representative, with a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3106, "Petition for Adjudication of Incompetence to Consent to Treatment and Appointment of a Guardian Advocate," as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., is considered by the department to be sufficient for this documentation if parts I and III are completed.

(4) If the court finds the person incompetent to consent to treatment a guardian advocate shall be appointed. Use of recommended form CF-MH 3107, Jan 05 ~~98~~, "Order Appointing Guardian Advocate," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or other order used by the court, will be considered by the department to be sufficient for documentation of this finding. The order shall be provided to the person ~~patient~~, guardian advocate, representative, and to the facility administrator for retention in the person's ~~patient's~~ clinical record.

(5) If a guardian advocate is required by Section 394.4598, F.S., or otherwise to petition the court for authority to consent to extraordinary treatment, a copy of the completed petition form shall be given to the person ~~patient~~, a copy to the attorney representing the person ~~patient~~, and a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3108, Jan 05 ~~98~~, "Petition Requesting Court Approval for Guardian Advocate to Consent to Extraordinary Treatment," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for such documentation. Any order issued by the court in response to such a petition shall be given to the person ~~patient~~, attorney representing the person ~~patient~~, guardian advocate, and to the facility administrator, with a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3109, Jan 05 ~~98~~, "Order Authorizing Guardian Advocate to Consent to Extraordinary Treatment," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or other order used by the court will be considered by the department to be sufficient for such documentation.

(6) At any time a person ~~patient~~, who has previously been determined to be incompetent to consent to treatment and had a guardian advocate appointed by the court, has been found by the attending physician~~, as defined in Section 394.455(21), F.S.,~~ to have regained competency to consent to treatment, the facility shall notify the court which appointed the guardian advocate of the patent's competence and the discharge of the guardian advocate. Use of recommended form CF-MH 3121, Jan 05 ~~98~~, "Notification to Court of Person's ~~Patient's~~ Competence to Consent to Treatment and Discharge of Guardian Advocate," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, for documentation will be considered by the department to be sufficient.

Specific Authority 394.457(5) FS. Law Implemented 394.4598 FS. History–New 11-29-98, Amended _____.

65E-5.2301 Health Care Surrogate or Proxy.

(1) During the interim period between the time a person ~~patient~~ is determined by two physicians~~, as defined in Section 394.455(21), F.S.,~~ to be incompetent to consent to treatment and the time a guardian advocate is appointed by a court to provide express and informed consent to the person's ~~patient's~~ treatment, a health care surrogate designated by the person ~~patient~~, pursuant to chapter 765, part II, F.S., may provide such consent to treatment.

(2) In the absence of an advance directive or when the health care surrogate named in the advance directive is no longer able or willing to serve, a health care proxy, pursuant to Chapter 765, Part IV, F.S., may also provide interim consent to treatment.

(3) Upon the documented determination by one or more physicians ~~two physicians~~, ~~as defined in Section 394.455(21), F.S.,~~ that a person ~~patient~~ is incompetent to make health care decisions for himself or herself, the facility shall notify the surrogate or proxy in writing that the conditions under which he or she can exercise his or her authority under the law have occurred. Use of recommended form CF-MH 3122, Jan 05 ~~98~~, "Certification of Person's ~~Patient's~~ Incompetence to Consent to Treatment and Notification of Health Care Surrogate/Proxy," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for this purpose.

(4) If the surrogate selected by the person is not available or is unable to serve or if no advance directive had been prepared by the person, a proxy shall be designated as provided by law. Use of recommended form CF-MH 3123, Jan 05, "Affidavit of Proxy," which is incorporated by reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient for this purpose.

(5)~~(4)~~ A petition for adjudication of incompetence to consent to treatment and appointment of a guardian advocate shall be filed with the court within two court working days of the determination by the physicians~~, as defined in Section 394.455(21), F.S.,~~ of the person's ~~patient's~~ incompetence to consent to treatment. Use of recommended form CF-MH 3106, "Petition for Adjudication of Incompetence to Consent to Treatment and Appointment of a Guardian Advocate," as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., will be considered by the department to be sufficient for this purpose.

(6)~~(5)~~ The facility shall immediately provide to the health care surrogate or proxy the same information required by statute to be provided to the guardian advocate. In order to protect the safety of the person ~~patient~~, the facility shall make available to the health care surrogate or proxy the training required of guardian advocates and ensure that the surrogate or

proxy communicate with the person ~~patient~~ and person's ~~patient's~~ physician~~, as defined in Section 394.455(21), F.S.,~~ prior to giving express and informed consent to treatment.

(7) Each designated receiving and treatment facility shall adopt policies and procedures specifying how its direct care and assessment staff will be trained on how to honor each person's treatment preferences as detailed in his or her advance directives. Persons shall be provided information about advance directives and offered assistance in completing advance directives for persons who are willing and able to do so.

Specific Authority 394.457(5) FS. Law Implemented 394.4598, 765 FS. History–New 11-29-98, Amended _____.

65E-5.250 Clinical Records; Confidentiality.

(1) Except as otherwise provided by law, verbal or written information about a person ~~patient~~ shall only be released when the competent person ~~patient~~, or a duly authorized legal decision-maker such as guardian, guardian advocate, or health care surrogate or proxy provides consent to such release. When such information is released, a copy of a signed authorization form shall be retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3044, Jan 05 ~~98~~, "Authorization for Release of Information," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient if used as documentation. Consent or authorization forms may not be altered in any way after signature by the person ~~patient~~ or other authorized decision-maker nor may a person ~~patient~~ or other authorized decision-maker be allowed to sign a blank form.

(2) Facility staff shall inform persons ~~advise patient~~s that they have the right ~~ability~~ to waive, in writing, the confidentiality of their presence in a receiving or treatment facility~~, to the extent the patient may choose, allowing all or only specified persons~~ and to accept free and open communication with all or a group of individuals as specified by ~~with~~ the person ~~patient~~, such as telephone calls.

(3) For purposes of Section 394.4615(3)(b), F.S., a "qualified researcher" is one who after making application to review confidential data and who, after documenting his or her bona fide academic, scientific or medical credentials and describing the particular research which gives rise to the request, is determined by the administrator of a receiving or treatment facility or by the Secretary of the department, to be eligible to review such data. In making that determination the administrator or the Secretary shall weigh the person's ~~patient's~~ right to privacy against the benefit of disclosure and shall determine whether the disclosure is in the best interest of the state. Person ~~Patient~~ identifying information obtained by such a qualified researcher shall not be further disclosed without the express and informed consent of the person or individual ~~patient or person~~ authorized to provide consent for him or her.

(4) When a person's ~~patient's~~ access to his or her clinical record or any part of his or her record is restricted by written order of the attending physician~~, as defined in Section 394.455(21), F.S.,~~ such restriction shall be documented in the person's ~~patient's~~ clinical record. If the request is denied or such access is restricted, a written response shall be provided to the person ~~patient~~. Use of recommended form CF-MH 3110, Jan 05 ~~98~~, "Restriction of Person's ~~Patient~~ Access to Own Record," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for such documentation.

(5) Each receiving facility shall develop detailed policies and procedures governing release of records to persons ~~patient~~s, including criteria for determining what type of information may be harmful to persons ~~patients~~, establishing a reasonable time for responding to requests for access, and identifying methods of providing access that ensure clinical support to the person ~~patient~~ while securing the integrity of the record.

Specific Authority 394.457(5) FS. Law Implemented 394.4615 FS. History–New 11-29-98, Amended _____.

65E-5.260 Transportation.

(1) Each law enforcement officer who takes a person ~~Each district administrator shall maintain a list, for each county within the district, of the designated law enforcement agency responsible for taking persons~~ into custody upon the entry of recommended form CF-MH 3001, Jan 05 ~~98~~, "Ex Parte Order for Involuntary Examination," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or other form provided by the court, or the execution of mandatory form CF-MH 3052b, Jan 05 ~~98~~, "Certificate of Professional Initiating Involuntary Examination," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., or completion of mandatory form CF-MH 3052a, Jan 05 "Report of a Law Enforcement Officer Initiating Involuntary Examination," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., shall ensure that such forms accompany the person to the receiving facility for inclusion in the person's clinical record ~~and may be obtained from the district mental health program office~~.

(2) The designated law enforcement agency shall transport the person ~~patient~~ to the nearest receiving facility as required by statute, documenting this transport on mandatory form CF-MH 3100, Jan 05 ~~98~~, "Transportation to Receiving Facility", which is hereby incorporated by reference as if fully

set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C ~~from the district mental health program office~~. The designated law enforcement agency may decline to transport the person to a receiving facility only if the county has contracted with a transport service funded by the county to provide this service. Part II of mandatory form CF-MH 3100, "Transportation to Receiving Facility," as referenced in subsection 65E-5.260(2), F.A.C., reflecting the agreement between law enforcement and the transport service shall accompany the person ~~patient~~ to the receiving facility and shall be retained in the person's ~~patient's~~ clinical record.

Specific Authority 394.457(5) FS. Law Implemented 394.462 FS. History–New 11-29-98, Amended _____.

65E-5.2601 Transportation Exception Plan.

(1) In determining whether to approve a proposal for an exception or exceptions to the transportation requirements of Section 394.462(3), F.S., the following shall be considered by the department:

(a) The specific provision from which an exception is requested;

(b) Evidence presented by the department's district or region of community need and support for the request;

(c) Whether the proposal is presented in a format that is clear, simple, and can be readily implemented by all parties and the public;

(d) How the proposed plan will improve services to the public and persons needing Baker Act services; and

(e) Whether the geographic boundaries identified in the proposal are distinct and unambiguous.

(2) The proposal must include provisions which address:

(a) Accountability for delays or confusion when transportation fails to respond appropriately;

(b) How disputes which may arise over implementation of the plan will be resolved;

(c) Identification of the public official whose position is responsible for the continuing oversight and monitoring of the service in compliance with the terms of the approved proposal;

(d) The plan for periodically monitoring compliance with the proposal, public satisfaction with the service provided, and assurance of ~~patient~~ rights of persons served by the facility;

(e) The method complaints and grievances are to be received and resolved; and

(f) Community support and involvement including a description of the participation of designated public and private receiving facilities, law enforcement, transportation officials, consumers, families, and advocacy groups.

(3) The approval by the ~~local health and human services board and the~~ governing boards of any affected counties, shall be certified in writing by the district or region's Mental Health and Substance Abuse Program Supervisor ~~administrator~~, prior to the plan's submission to the Secretary of the department.

Specific Authority 394.457(5) FS. Law Implemented 394.462(3) FS. History–New 11-29-98, Amended _____.

65E-5.270 Voluntary Admission.

(1) Use of recommended form CF-MH 3040, "Application for Voluntary Admission," as referenced in paragraph 65E-5.1302(1)(b), F.A.C., will be considered by the department to be sufficient to document an application of a competent adult for admission to a receiving facility. Use of recommended form CF-MH 3097, Jan 05 ~~98~~, "Application for Voluntary Admission – Minors," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient to document a guardian's application for admission of a minor to a receiving facility. Use of recommended form CF-MH 3098, Jan 05 ~~98~~, "Application for Voluntary Admission – State Treatment Facility," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., ~~from the district mental health program office~~, will be considered by the department to be sufficient to document an application of a competent adult for admission to a state treatment facility. Any application for voluntary admission shall be based on the person's ~~patient's~~ express and informed consent.

(a) Use of recommended form CF-MH 3104, "Certification of Person's ~~Patient's~~ Competence to Provide Express and Informed Consent," as referenced in paragraph 65E-5.170(1)(c), F.A.C., will be considered by the department to be sufficient to document the competence of a person to give express and informed consent to be on ~~a~~ voluntary status ~~patient~~. The original of the completed form shall be retained in the person's ~~patient's~~ clinical record.

(b) Use of recommended form CF-MH 3104, "Certification of Person's ~~Patient's~~ Competence to Provide Express and Informed Consent," as referenced in paragraph 65E-5.170(1)(c), F.A.C., will be considered by the department to be sufficient to document a person applying for transfer from involuntary to voluntary status is competent to provide express and informed consent. The original of the completed form shall be filed in the person's ~~patient's~~ clinical record. A change in legal status must be followed by notice sent to individuals ~~persons~~ pursuant to Section 394.4599, F.S.

(2) Persons on voluntary status ~~Voluntary patient~~s shall be advised of their right to request discharge. Use of recommended forms CF-MH 3051a, Jan 05 ~~98~~, "Notice of Right of Person on Voluntary Status ~~Patient's Right~~ to Request Discharge from a Receiving Facility," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or CF-MH 3051b, Jan 05 ~~98~~, "Notice of Right of Person on Voluntary Status ~~Patient's Right~~ to Request Discharge from a Treatment Facility," which is incorporated by reference as if fully set out here and may be obtained pursuant

to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient to document the giving of such advice. A copy of the notice or its equivalent shall be given to the person ~~patient~~ and to the person's ~~patient's~~ parent if a minor, with the original of each completed application and notice retained in the person's ~~patient's~~ clinical record.

(3) Documenting the assessment of persons pursuant to Section 394.4625(1)(b), F.S., shall be done prior to moving the person from his or her ~~their~~ residence to a receiving facility for voluntary admission. Use of recommended form CF-MH 3099, Jan 05 ~~98~~, "Certification of Ability to Provide Express and Informed Consent for Voluntary Admission and Treatment of Selected Persons From Facilities Licensed under Chapter 400, F.S." ~~Pursuant to Section 394.4625(1), F.S.,"~~ which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

(4) If a competent adult ~~patient~~ or the guardian of a minor refuses to consent to mental health treatment, the person ~~patient~~ shall not be eligible for admission on a voluntary status. A person on voluntary status ~~patient~~ who refuses to consent to or revokes consent to treatment shall be discharged from a designated receiving or treatment facility within 24 hours after such refusal or revocation, unless the person ~~patient~~ is transferred to involuntary status or unless the refusal or revocation is freely and voluntarily rescinded by the person ~~patient~~. When a person ~~patient~~ refuses or revokes consent to treatment, facility staff shall document this immediately in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3105, Jan 05 ~~98~~, "Refusal or Revocation of Consent to Treatment," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. Should a competent person ~~patient~~ withdraw his or her refusal or revocation of consent to treatment, the person ~~patient~~ shall be asked to complete Part II of recommended form CF-MH 3105, "Refusal or Revocation of Consent to Treatment," as referenced in subsection 65E-5.270(4), F.A.C., or similar documentation, and the original shall be retained in the person's ~~patient's~~ clinical record.

(5) An oral or written request for discharge made by any person ~~patient~~ following admission to the facility shall be immediately documented in the person's ~~patient's~~ clinical record. Use of recommended forms CF-MH 3051a, "Notice of Right of Person on Voluntary Status ~~Patient's Right~~ to Request Discharge from a Receiving Facility," as referenced in subsection 65E-5.270(2), F.A.C., or CF-MH 3051b, "Notice of Right of Person on Voluntary Status ~~Patient's Right to~~ Request Discharge from a Treatment Facility," as referenced in subsection 65E-5.270(2), F.A.C., will be considered by the department to be sufficient. This form may also be completed by a relative, adult friend, or attorney of the person ~~patient~~.

(6) When a person on voluntary status ~~patient~~ refuses treatment or requests discharge and the facility administrator makes the determination that the person ~~patient~~ will not be discharged within 24 hours from a designated receiving or treatment facility, a petition for involuntary inpatient placement or involuntary outpatient placement shall be filed with the court by the facility administrator. Use of recommended form CF-MH 3032, "Petition for Involuntary Inpatient Placement," as referenced in subparagraph 65E-5.170(1)(d)1., F.A.C., or recommended form CF-MH 3130, "Petition for Involuntary Outpatient Placement", as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., will be considered by the department to be sufficient. The first expert opinion by a psychiatrist shall be obtained on the petition form within 24 hours of the request for discharge or refusal of treatment to justify the continued detention of the person ~~patient~~ and the petition shall be filed with the court within two court working days after the request for discharge or refusal to consent to treatment was made.

(7) If a person is delivered to a receiving facility for voluntary examination from any program or residential placement licensed under the provisions of chapter 400, F.S., without first arranging an independent evaluation of the resident's competence to provide express and informed consent to admission and treatment, as required in Section 394.4625(1)(b) and (c), F.S., the receiving facility shall notify the Agency for Health Care Administration by using recommended form CF-MH 3119, Jan 05, "Notification of Non-Compliance with Required Certificate," which is incorporated by reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.4625 FS. History–New 11-29-98, Amended _____.

65E-5.280 Involuntary Examination.

(1) Court Order. Documentation of sworn testimony using recommended form CF-MH 3002, Jan 05 ~~98~~, "Petition and Affidavit Seeking Ex Parte Order Requiring Involuntary Examination," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, or other form used by the court, will be considered by the department to be sufficient. Documentation of the findings of the court on recommended form CF-MH 3001, "Ex Parte Order for Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., or other order used by the court, will be considered by the department to be sufficient for any person for whom there is reason to believe the criteria for involuntary examination are met. The ex parte order for involuntary

examination, with attached document giving the findings, shall accompany the person ~~patient~~ to the receiving facility and be retained in the person's ~~patient~~'s clinical record.

(2) Law Enforcement.

(a) If a law enforcement officer, in the course of his or her official duties, initiates an involuntary examination, the officer shall complete the mandatory form CF-MH 3052a, Jan 05 ~~98~~, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C. ~~which is hereby incorporated by reference as if fully set out here and may be obtained from the district mental health program office.~~

(b) Mandatory form CF-MH 3052a, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1) ~~65E-5.280(2)(a)~~, F.A.C., shall accompany the person ~~patient~~ to the nearest receiving facility for retention in the person's ~~patient's~~ clinical record.

(3) Professional Certificate.

(a) A professional authorized by Section 394.463(2)(a)3., F.S., who determines, after personally examining a person believed to meet the involuntary examination criteria within the preceding 48 hours, verifies that the criteria are met, is authorized to ~~shall~~ execute the mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination" as referenced in subsection 65E-5.260(1), F.A.C.

(b) Mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., shall expire seven days after the certificate is signed, unless the person ~~patient~~ has been taken into custody and delivered to a receiving facility or to a jail, in which case the certificate expires when the person was taken into custody. The certificate shall be executed immediately upon its initiation and ~~The certificate~~ is valid throughout the state. The completed certificate shall accompany the person ~~patient~~ to a receiving facility and be retained in the person's clinical record.

(4) Emergency Medical Services.

(a) Use of recommended form CF-MH 3101, Jan 05 ~~98~~, "Hospital ~~Emergency Medical Services'~~ Determination that Person Does Not Meet Involuntary Placement Criteria," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient documentation of the results of the examination prescribed in Section 394.463(2)(g), F.S.

(b) Receiving facilities shall develop policies and procedures that expedite the transfer of persons referred from non-designated hospitals after examination or treatment of an emergency medical condition, within the 12 hours permitted by law.

(c)~~(b)~~ The 72-hour involuntary examination period set out in Section 394.463(2)(f), F.S., may not be exceeded. In order to document the 72-hour period has not been exceeded, use of recommended form CF-MH 3102, Jan 05 ~~98~~, "Request for Involuntary Examination After Stabilization of Emergency Medical Condition ~~Services~~," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. The form may be sent by fax, or otherwise, to promptly communicate its contents to a designated ~~the nearest~~ receiving facility at which appropriate medical treatment is available.

(5) In order for the department to implement the provisions of Section 394.463(2)(e), F.S., and to ensure that the Agency for Health Care Administration will be able to analyze the data it receives pursuant to that section, designated receiving facilities shall forward copies of each recommended form CF-MH 3001, "Ex Parte Order for Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., or other order provided by the court, mandatory form CF MH 3052a, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1) ~~65E-5.280(2)(a)~~, F.A.C., mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., accompanied by mandatory form CF-MH 3118, Jan 05 ~~98~~, "Cover Sheet to Agency for Health Care Administration," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, to: BA Reporting Center, FMHI-MHC 2618, 13301 Bruce B. Downs Boulevard, Tampa, Florida 33612-3807.

(6) If a person ~~patient~~ is delivered to a receiving facility for an involuntary examination from any program or residential placement licensed under the provisions of chapter 400, F.S., without an ex parte order, the mandatory form CF-MH 3052a, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1) ~~65E-5.280(2)(a)~~, F.A.C., or mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., the receiving facility shall notify the Agency for Health Care Administration by the method and timeframe required by law. The receiving facility's use of recommended form CF-MH 3119, Jan 05 ~~98~~, "Notification of Non-Compliance with Required Certificate," as referenced in subsection 65E-5.270(7), F.A.C. ~~which is incorporated by reference as if fully set out here and may be obtained from the district mental health program office~~, will be considered by the department to be sufficient.

(7) Documentation that each completed form was submitted in a timely way shall be retained in the person's ~~patient's~~ clinical record.

Specific Authority 394.457(5) FS. Law Implemented 394.463 FS. History–New 11-29-98, Amended _____.

65E-5.2801 Minimum Standards for Involuntary Examination Pursuant to Section 394.463, F.S.

The involuntary examination is also known as the initial mandatory involuntary examination.

(1) Whenever an involuntary examination is initiated by a circuit court, a law enforcement, or a mental health professional as provided in Section 394.463(2), F.S., an examination by a physician or clinical psychologist must be conducted and documented in the person's clinical record. The examination, conducted at a facility licensed under Chapter 394 or 395, F.S., must contain: ~~The involuntary examination at Chapter 394 or 395, F.S., licensed facilities shall include:~~

(a) A determination of whether the person is medically stable;

(b) A determination that abnormalities of thought, mood, or behavior due to non-psychiatric causes have been ruled out;

(c) A thorough review of any observations of the person's recent behavior;

(d) A review of mandatory form CF-MH 3100, "Transportation to Receiving Facility," as referenced in subsection 65E-5.260(2), F.A.C., and recommended form CF-MH 3001, "Ex Parte Order for Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., or other form provided by the court, or mandatory form CF-MH 3052a, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1) ~~65E-5.280(2)(a)~~, F.A.C., or mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C.

(e) A brief psychiatric history; and

(f) A face-to-face examination of the person in a timely manner to determine if the person ~~patient~~ meets criteria for release.

(2) If the physician or clinical psychologist conducting the initial mandatory involuntary examination determines that the person does not meet the criteria for involuntary inpatient placement or involuntary outpatient placement, the person can be offered voluntary placement, if appropriate, or released directly from the hospital providing emergency medical services. Such determination must be documented in the person's clinical record.

(3)~~(2)~~ If not released, use of recommended form CF-MH 3040, "Application for Voluntary Admission," as referenced in paragraph 65E-5.1302(1)(b), F.A.C., or recommended form CF-MH 3097, "Application for Voluntary Admission – Minors," as referenced in subsection 65E-5.270(1), F.A.C., will be considered by the department to be sufficient if the person ~~patient~~ wishes to apply for voluntary admission.

(4)~~(3)~~ If not released and the person ~~patient~~ wishes to transfer from involuntary to voluntary status, use of recommended form CF-MH 3104, "Certification of Person's ~~Patient~~'s Competence to Provide Express and Informed Consent," as referenced in paragraph 65E-5.170(1)(c), F.A.C., documenting the person ~~patient~~ is competent to provide express and informed consent, will be considered by the department to be sufficient.

(5)~~(4)~~ All results and documentation of all elements of the initial mandatory involuntary examination shall be retained in the person's ~~patient~~'s clinical record.

(6)~~(5)~~ If the person ~~patient~~ is not released or does not become ~~a~~ voluntary ~~patient~~ as a result of giving express and informed consent to admission and treatment in the first part of the involuntary examination, the person ~~patient~~ shall be examined by a psychiatrist to determine if the criteria for involuntary placement are met.

(7)~~(6)~~ After the initial mandatory involuntary examination, the person's ~~patient's~~ clinical record shall include:

(a) An intake interview;

(b) The mandatory form CF-MH 3100, "Transportation to Receiving Facility," as referenced in subsection 65E-5.260(2), F.A.C., and recommended form CF-MH 3001, "Ex Parte Order for Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C., or other form provided by the court, or mandatory form CF-MH 3052a, "Report of Law Enforcement Officer Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1) ~~65E-5.280(2)(a)~~, F.A.C., or mandatory form CF-MH 3052b, "Certificate of Professional Initiating Involuntary Examination," as referenced in subsection 65E-5.260(1), F.A.C.;

(c) The psychiatric evaluation, including the mental status examination or the psychological status report; and

(8)~~(7)~~ Disposition Upon Initial Mandatory Involuntary Examination.

(a) The release of a person ~~patient~~ from a receiving facility requires the documented approval of a psychiatrist, ~~or~~ clinical psychologist, or if the receiving facility is a hospital, the release may also be approved by an attending emergency department physician after the completion of an Initial Mandatory Involuntary Examination. Use of recommended form CF-MH 3111, Jan 05 ~~98~~, "Approval for Release of Person on Involuntary Status ~~Patient~~ from a Receiving Facility," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient. A copy of the form used shall be retained in the person's ~~patient's~~ clinical record.

(b) In order to document a person's transfer from involuntary to voluntary status, use of recommended form CF-MH 3040, "Application for Voluntary Admission," as referenced in paragraph 65E-5.1302(1)(b), F.A.C., or recommended form CF-MH 3097, "Application for Voluntary Admission – Minors," as referenced in subsection 65E-5.270(1), F.A.C., completed prior to transfer, will be considered by the department to be sufficient.

(c) A person for whom an involuntary examination has been initiated shall not be permitted to consent to voluntary admission until after examination by a physician~~, as defined in Section 394.455(21), F.S.,~~ to confirm his or her ~~their~~ ability to provide express and informed consent to treatment. Use of recommended form CF-MH 3104, "Certification of Person's ~~Patient's~~ Competence to Provide Express and Informed Consent," as referenced in paragraph 65E-5.170(1)(c), F.A.C., will be considered by the department to be sufficient for documentation.

(d) If the facility administrator, based on facts and expert opinions, believes the person ~~patient~~ meets the criteria for involuntary placement or is incompetent to consent to treatment, the facility shall initiate involuntary placement within 72 hours of the person's ~~patient~~'s arrival by filing a petition for involuntary placement. Use of recommended form CF-MH 3032, "Petition for Involuntary Inpatient Placement," as referenced in subparagraph 65E-5.170(1)(d)1., F.A.C., will be considered by the department to be sufficient. Such petition shall be signed by the facility administrator or designee within the 72-hour examination period. The petition shall be filed with the court within the 72-hour examination period or, if the 72 hours ends on a weekend or legal holiday, no later than the next court working day thereafter. A copy of the completed petition shall be retained in the person's ~~patient's~~ clinical record and a copy given to the person ~~patient~~ and his or her ~~their~~ duly authorized legal decision-maker or representatives.

(e) When a person on involuntary status ~~an involuntary patient~~ is released, notice shall be given to the person's ~~patient's~~ guardian or representative, to any individual ~~person~~ who executed a certificate for involuntary examination, and to any court which ordered the person's ~~patient's~~ examination with a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3038, Jan 05 ~~98~~, "Notice of Release or Discharge," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.463, 394.4655 FS. History–New 11-29-98, Amended _____.

65E-5.285 Involuntary Outpatient Placement.

(1) Petition for Involuntary Outpatient Placement.

(a) Proof of each criterion alleged must be by facts sufficient to reach the high standard of clear and convincing evidence and by evidence admissible pursuant to chapter 90, F.S. Hearsay evidence which is not otherwise admissible shall not be sufficient. Expert opinions and conclusions, alone, are not sufficient.

1. Evidence of age must be corroborated by date of birth shown on any one of the identification documents allowed by Section 117.05(5)(b)2., F.S. Such corroborated evidence is sufficient to document that the person is at least 18 years of age or older.

2. A diagnosis of mental illness shall be established and documented by a psychiatrist who has recently examined the person and whose observations of the person's condition are consistent with the statutory definition of mental illness, pursuant to Section 394.455(18), F.S., and the clinical description of that diagnosis as described in American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Washington, DC, American Psychiatric Association, which is incorporated by reference and may be obtained from the American Psychiatric Association, 1400 K Street, N. W., Washington, DC 20005.

3. The clinical determination that a person is unlikely to survive safely in the community without supervision must be supported by evidence showing previous incidents in which the person was in harmful situations which posed a real and substantial threat to his or her well being due to the person's lack of judgment, including the dates that the person was in such harmful situations.

4. The person's history of lack of compliance with treatment for mental illness must be supported by evidence showing specific previous incidents in which the person was non-compliant with treatment, including dates on which the person was non-compliant with treatment.

5. The person's involuntarily admission to a receiving or treatment facility or the mental health services in a forensic or correctional facility at least twice in the preceding 36 months, or person's acts of serious violent behavior toward self or others or attempted serious bodily harm to self or others at least once during the preceding 36 months, shall be supported by evidence admissible pursuant to Chapter 90, F.S.

6. Evidence of the unlikelihood of the person to voluntarily participate in the recommended treatment plan, and either his or her refusal of voluntary placement or inability to determine whether placement is necessary must be documented with dates and events supporting this finding.

7. Evidence of the person's treatment history and current behavior must be presented, including dates of such treatment to support the conclusion that the person needs involuntary

placement in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to self or others or a substantial harm to his or her well-being.

8. Evidence in addition to clinical determination or opinion must be presented to show what benefit the person would derive from involuntary outpatient placement that cannot be derived from voluntary outpatient placement.

9. Evidence in addition to clinical determination or opinion must be presented as to what more integrated alternatives were examined that would have offered an opportunity for the improvement of the persons condition and why each was judged to be inappropriate or unavailable.

(b) Petition filed by Receiving Facility Administrator.

1. If a person is retained involuntarily in a receiving facility, a petition for involuntary outpatient placement must be filed with the circuit court by the facility administrator within the 72-hour examination period, or if the 72 hours ends on a weekend or legal holiday, the petition shall be filed no later than the next court working day thereafter. Use of recommended form CF-MH 3130, Jan 05, "Petition for Involuntary Outpatient Placement," as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient. A copy of the completed petition shall be retained in the person's clinical record.

2. A petition filed by a receiving facility administrator shall be filed in the county where the facility is located.

3 The administrator of the receiving facility or a designated department representative shall identify the service provider that will have responsibility of developing a treatment plan and primary responsibility for service provision under an order for involuntary outpatient placement, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment. Recommended form CF-MH 3140, Jan 05, "Designation of Service Provider for Involuntary Outpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

4. A treatment plan, complying with the requirements of Section 394.4655, F.S., and this rule, shall be attached to the petition, along with a certification from the service provider that the proposed services are available and funded for the person. Recommended form CF-MH 3145, Jan 05, "Proposed Individualized Treatment Plan for Involuntary Outpatient Placement and Continued Involuntary Outpatient Placement", which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

5. If the service provider developing a treatment plan, pursuant to involuntary outpatient placement determines the person is in need of services that cannot be proposed due to non-availability of services, funding, a willing provider, or other reason, it shall submit a completed mandatory form CF-MH 3150, Jan 05, "Notice to Department of Children and Families of Non-Filing of Petition for Involuntary Outpatient Placement or Diminished Treatment Plan Due to Non-Availability of Services or Funding," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

6. A copy of the petition for involuntary outpatient placement and the proposed treatment plan shall be provided within one working day after filing by the clerk of the court to the respondent, department, guardian or representative, state attorney, and counsel for the respondent. A notice of filing of the petition shall be provided by the clerk of court using recommended form CF-MH 3021, Jan 05, "Notice of Petition for Involuntary Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., or other equivalent form adopted by the court will be considered by the department to be sufficient.

(c) Petition Filed by Treatment Facility Administrator.

1. A petition for involuntary outpatient placement filed by a treatment facility administrator shall be filed prior to the expiration of the involuntary inpatient placement order in the county where the person will be living after discharge from the treatment facility.

2. A copy of recommended form CF-MH 7001, Jan 05, "State Mental Health Facility Discharge Form", as referenced in subsection 65E-5.1305(1), F.A.C., shall be attached to the petition.

3. The service provider designated by the department that will have primary responsibility for service provision shall provide a certification to the court, attached to the petition, that the services recommended in the discharge plan are available in the local community and that the provider agrees to provide those services.

4. The petition shall have attached an individualized treatment or service plan that addresses the needs identified in the discharge plan developed by the treatment facility as represented by form CF-MH 3145, Jan 05, "Proposed Individualized Treatment Plan for Involuntary Outpatient Placement and Continued Involuntary Outpatient Placement," as referenced in subparagraph 65E-5.285(1)(b)4., F.A.C., shall be considered sufficient by the department. The plan must have been deemed to be clinically appropriate by a physician, clinical psychologist, psychiatric nurse, or clinical social worker, as defined in Section 394.455, F.S.

5. A copy of the petition for involuntary outpatient placement and the proposed treatment plan shall be provided within one working day after filing by the clerk of the court to the respondent, department, guardian or representative, state attorney, and counsel for the respondent. A notice of filing of the petition shall be provided by the clerk of court using recommended form CF-MH 3021, Jan 05, "Notice of Petition

for Involuntary Placement," as referenced in subparagraph 65E-5.285(1)(b)6., F.A.C., or other equivalent form adopted by the court will be considered by the department to be sufficient.

(2) Hearing on Petition for Involuntary Outpatient Placement

(a) The clerk of court shall provide notice of the hearing. Use of recommended form CF-MH 3035, Jan 05, "Notice of Petition for Involuntary Outpatient Placement," which is incorporated by reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

(b) A hearing on the petition for involuntary outpatient placement shall be conducted within five working days after the filing of the petition in the county in which the petition is filed. The person is entitled, with the concurrence of counsel, to at least one continuance of the hearing, for a period of up to four weeks. Recommended form CF-MH 3113, Jan 05, "Notice to Court – Request for Continuance of Involuntary Placement Hearing," which is incorporated by reference as if fully set out here, and may obtained pursuant to Rule 65E-5.120, F.A.C., shall be considered sufficient by the department.

(c) The person and his representative or guardian shall be informed by the court of the right to an independent expert examination and that if the person cannot afford such an examination, the court shall provide for one. Recommended form CF-MH 3022, Jan 05, "Application for Appointment of Independent Expert Examiner," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., and shall be considered by the department as sufficient.

(d) Use of recommended form CF-MH 3033, Jan 05, "Notification to Court of Withdrawal of Petition on Involuntary Inpatient or Involuntary Outpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient if the facility administrator seeks to withdraw the petition for involuntary outpatient placement prior to the hearing. The facility will retain a copy in the person's clinical record. When a facility withdraws a petition for involuntary placement, it shall immediately notify by telephone the court, state attorney, public defender or other attorney for the person, and guardian or representative of its decision to withdraw the petition.

(e) Testimony.

1. The court may waive the presence of the person from all or any part of the hearing if consistent with the best interests of the person and the person's counsel does not object. The person may refuse to testify at the hearing.

2. One of the two professionals who executed the involuntary outpatient placement petition must testify as a witness at the hearing.

3. In addition to one of the two professionals who executed the petition, other persons on the staff of the receiving or treatment facility who have direct knowledge of how the person meets the criteria for involuntary outpatient placement shall be identified on the petition and shall be present to testify at the hearing, as requested by the court.

4. The court shall allow testimony from individuals, including family members, deemed by the court to be relevant, regarding the person's prior history and how that prior history relates to the person's current condition. Such testimony must be factual as to events and dates, and may only state opinions and conclusions to the extent allowed by Chapter 90, F.S.

5. A representative of the designated service provider shall be present as a witness at the hearing to provide testimony about the proposed treatment or service plan as requested by the court.

(f) If the court determines the person does not meet the criteria for involuntary outpatient placement, but instead meets the criteria for involuntary inpatient placement use of recommended form CF-MH 3001, Jan 05, "Ex Parte Order for Involuntary Inpatient Examination," as referenced in subsection 65E-5.260(1), F.A.C., or other order used by the court, will be considered by the department to be sufficient.

(g) If the court determines the person meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to Section 397.675 F.S., and issues an order for one of the same, use of recommended form CF-MH 3114, Jan 05, "Order Requiring Involuntary Assessment and Stabilization for Substance Abuse and for Baker Act Discharge of Person," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., or other order entered by the court, will be considered by the department to be sufficient.

(3) Court Order.

(a) If the court concludes that the person meets the criteria for involuntary outpatient placement pursuant to Section 394.4655, F.S., it shall prepare an order. Use of recommended form CF-MH 3155, "Order for Involuntary Outpatient Placement or Continued Involuntary Outpatient Placement", as referenced in Rule 65E-5.290, F.A.C., or other order entered by the court, will be considered by the department to be sufficient for this purpose. This signed order shall be given to the person, guardian, guardian advocate or representative, counsel for the person, state attorney, and administrator of the receiving or treatment facility, with a copy of the order retained in the person's clinical record.

(b) Upon receipt of the court order for Involuntary outpatient placement, the administrator of the receiving or treatment facility will provide a copy of the court order and adequate documentation of a person's mental illness to the service provider, including any advance directives, a

psychiatric evaluation of the person, and any evaluations of the person performed by a clinical psychologist or clinical social worker.

(c) In order for the department to implement the provisions of Section 394.463(2)(e), F.S., and to ensure that the Agency for Health Care Administration will be able to analyze the data it receives pursuant to that section, service providers shall forward copies of each recommended form CF-MH 3155, "Order for Involuntary Outpatient Placement or Continued Involuntary Outpatient Placement," as referenced in Rule 65E-5.290, F.A.C., or other order provided by the court, accompanied by mandatory form CF-MH 3118, Jan 05, "Cover Sheet to Agency for Health Care Administration," as referenced in subsection 65E-5.280(5), F.A.C., to: BA Reporting Center, FMHI-MHC 2618, 13301 Bruce B. Downs Boulevard, Tampa, Florida 33612-3807.

(d) At any time material modifications are proposed to the court ordered treatment plan for which the person and his or her substitute decision maker if any, agree, the service provider shall submit recommended form CF-MH 3160, Jan 05, "Notice to Court of Modification to Treatment Plan for Involuntary Outpatient Placement and/or Petition Requesting Approval of Material Modifications to Plan," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient. If the person or his substitute decision maker object to the modifications proposed by the service provider or wish to propose modifications not proposed by the service provider, such a petition to the court shall use recommended form CF-MH 3160, Jan 05, "Notice to Court of Modification to Treatment Plan for Involuntary Outpatient Placement and/or Petition Requesting Approval of Material Modifications to Plan," as referenced in this subsection, will be considered by the department to be sufficient.

(e) If the person who is subject to an order for involuntary outpatient placement, or his or her substitute decision-maker, objects to the service provider that is court ordered to provide his or her treatment or services, recommended form CF-MH 3175, Jan 05, "Petition for Change of Involuntary Outpatient Placement Service Provider", which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

(f) If a physician has determined the person who is subject to a court order for involuntary outpatient placement has failed or has refused to comply with the treatment ordered by the court, and in his or her clinical judgment, efforts were made to solicit compliance and the person meets the criteria for involuntary examination, the person may be brought to a receiving facility pursuant to Section 394.463 Florida Statutes. Recommended form CF-MH 3165, Jan 05, "Physician's Certificate of Non-Compliance with Involuntary Outpatient Treatment Order and Initiation of Involuntary Examination," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

(4) Continued Involuntary Outpatient Placement.

(a) A request for continued involuntary outpatient placement by the service provider administrator shall be filed prior to the expiration of the period for which the treatment was ordered. Use of recommended form CF-MH 3180, Jan 05, "Petition Requesting Authorization for Continued Involuntary Outpatient Placement", which is incorporated by reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient as documentation of that request. The petition shall be filed with the clerk of the circuit court in the county where the person who is the subject of the petition resides.

(b) The petition requesting authorization for continued involuntary outpatient placement shall contain the signed statement of the person's physician or clinical psychologist justifying the request and shall be accompanied by the following additional documentation:

1. Support for the facts in the statement of the physician or clinical psychologist;

2. A brief summary of the person's treatment during the time he or she was subject to involuntary placement; and

3. An individualized plan of continued treatment.

(c) If the service provider developing a treatment plan, pursuant to involuntary outpatient placement determines the person is in need of services that cannot be proposed due to non-availability of services, funding, a willing provider, or other reason, it shall submit a completed mandatory form CF-MH 3150, Jan 05, "Notice to Department of Children and Families of Non-Filing of Petition for Involuntary Outpatient Placement or Diminished Treatment Plan Due to Non-Availability of Services or Funding," as referenced in subparagraph 65E-5.285(1)(b)5., F.A.C., will be considered by the department to be sufficient.

(d) Proof of each criterion alleged must be by facts sufficient to reach the high standard of clear and convincing evidence and by evidence admissible pursuant to chapter 90, F.S. Hearsay evidence which is not otherwise admissible shall not be sufficient. Expert opinions and conclusions, alone, are not sufficient.

(e) The clerk of court shall provide notice of the hearing. Use of recommended form CF-MH 3021, Jan 05, "Notice of Petition for Involuntary Placement as referenced in subparagraph 65E-5.285(1)(b)6., F.A.C., will be considered by the department to be sufficient.

(f) The person and his or her attorney may agree to a period of continued outpatient placement without a court hearing. Should such a hearing be waived, use of recommended form CF-MH 3185, Jan 05, "Notice to Court of Waiver of Continued Involuntary Outpatient Placement Hearing and Request for Order", which is incorporated by

reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient.

(g) Use of recommended form CF-MH 3033, Jan 05, "Notification to Court of Withdrawal of Petition on Involuntary Inpatient or Outpatient Placement," as referenced in paragraph 65E-5.285(2)(d), F.A.C., will be considered by the department to be sufficient if the facility administrator seeks to withdraw the petition for continued involuntary outpatient placement prior to the hearing. The facility will retain a copy in the person's clinical record. When a facility withdraws a petition for involuntary placement, it shall immediately notify by telephone the court, state attorney, attorney for the person, and guardian or representative of its decision to withdraw the petition.

(h) Based on the findings at the hearing, the court may extend the period of involuntary outpatient placement, release the person from involuntary outpatient placement, or find the person eligible for voluntary status. Use of recommended form CF-MH 3031, Jan 05, "Order for Continued Involuntary Inpatient Placement or for Release", which is incorporated by reference as if fully set out here, and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the department to be sufficient for this purpose. A copy of the completed order shall be filed in the person's clinical record and a copy shall be provided to the person, attorney, facility administrator, and guardian, guardian advocate or representative.

(i) In order for the department to implement the provisions of Section 394.463(2)(e), Florida Statutes, and to ensure that the Agency for Health Care Administration will be able to analyze the data it receives pursuant to that section, service providers shall forward copies of each recommended form CF-MH 3155, "Order for Involuntary Outpatient Placement or Continued Involuntary Outpatient Placement", as referenced in Rule 65E-5.290, F.A.C., or other order provided by the court, accompanied by mandatory form CF-MH 3118, Jan 05, "Cover Sheet to Agency for Health Care Administration", as referenced in subsection 65E-5.280(5), F.A.C., to: BA Reporting Center, FMHI-MHC 2618, 13301 Bruce B. Downs Boulevard, Tampa, Florida 33612-3807.

(j) If at any time material modifications are proposed to the court ordered treatment plan to which the person and his or her substitute decision maker, if any, agree, the service provider shall submit recommended form CF-MH 3160, Jan 05, "Notice to Court of Modification to Treatment Plan for Involuntary Outpatient Placement and/or Petition Requesting Approval of Material Modifications to Plan," as referenced in paragraph 65E-5.258(3)(d), F.A.C., will be considered by the department to be sufficient. If the person or his substitute decision maker object to the modifications proposed by the service provider or wish to propose modifications not proposed by the service provider, such a petition to the court shall use recommended form CF-MH 3160, Jan 05, "Notice to Court of Modification to Treatment Plan for Involuntary Outpatient Placement and/or Petition Requesting Approval of Material Modifications to Plan", as referenced in paragraph 65E-5.258(3)(d), F.A.C., will be considered by the department to be sufficient.

(k) If the person who is subject to an order for continued involuntary outpatient placement, or his or her substitute decision-maker, objects to the service provider that is court ordered to provide his or her treatment or services, recommended form CF-MH 3175, Jan 05, "Petition for Change of Involuntary Outpatient Placement Service Provider," as referenced in paragraph 65E-5.258(3)(e), F.A.C., will be considered by the department to be sufficient.

(l) If a physician has determined the person who is subject to a court order for involuntary outpatient placement has failed or has refused to comply with the treatment ordered by the court, and in his or her clinical judgment, efforts were made to solicit compliance and the person meets the criteria for involuntary examination, the person may be brought to a receiving facility pursuant to Section 394.463 F.S. Recommended form CF-MH 3165, Jan 05, "Physician's Certificate of Non-Compliance with Involuntary Outpatient Treatment Order and Initiation of Involuntary Examination," as referenced in paragraph 65E-5.285(3)(f), F.A.C., will be considered by the department to be sufficient.

(5) Discharge from Involuntary Outpatient Placement.

(a) At any time a person no longer meets each of the criteria for involuntary outpatient placement, the administrator of the service provider shall discharge the person from treatment or transfer the person, if the person is able and willing to provide express and informed consent, to voluntary status.

(b) Recommended form CF-MH 3038, Jan 05, "Notice of Release or Discharge," as referenced in paragraph 65E-5.2801(8)(e), F.A.C., will be considered by the department to be sufficient. The administrator of the service provider will provide notification to the person, guardian, guardian advocate, representative, attorney for the person, and the court that ordered such treatment, with a copy placed in the person's clinical record.

(c) At any time the person who is subject to an order for Involuntary Outpatient Placement or Continued Involuntary Outpatient Placement, or another person on his or her behalf, believes any one of the criteria for involuntary outpatient placement are no longer met, a petition for termination of involuntary outpatient placement order may be filed with the circuit court having jurisdiction. Recommended form CF-MH 3170, Jan 05, "Petition for Termination of Involuntary Outpatient Placement Order," which is hereby incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., will be considered by the

department to be sufficient. If the court determines to conduct a hearing on the petition, notice of the hearing shall be provided by the clerk of court, pursuant to Section 394.4599, F.S.

Specific Authority 394.4655(7) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 90, 117.05(5)(b)2., 394.4655(7) FS. History–New _____.

65E-5.290 Involuntary Inpatient Placement.

(1) If a person ~~patient~~ is retained involuntarily after an involuntary examination is conducted, a petition for involuntary inpatient placement or involuntary outpatient placement shall be filed with the court by the facility administrator within the 72-hour examination period, or if the 72 hours ends on a weekend or legal holiday, the petition shall be filed no later than the next court working day thereafter. Use of recommended form CF-MH 3032, "Petition for Involuntary Inpatient Placement" as referenced in subparagraph 65E-5.170(1)(d)1., F.A.C. or recommended form CF-MH 3130, "Petition for Involuntary Outpatient Placement," as referenced in subparagraph 65E-5.170(1)(d)2., F.A.C., will be considered by the department to be sufficient. A copy of the completed petition shall be retained in the person's ~~patient's~~ clinical record.

(2) Proof of each criterion alleged must be by facts sufficient to reach the high standard of clear and convincing evidence and by evidence admissible pursuant to Chapter 90, F.S. Hearsay evidence which is not otherwise admissible shall not be sufficient. Expert opinions and conclusions, alone, are not sufficient.

(3)~~(2)~~ Use of recommended form CF-MH 3021, Jan 05 ~~98~~, "Notice of Petition for Involuntary Placement," as referenced in subpargraph 65E-5.285(1)(b)6., F.A.C., ~~which is incorporated by reference as if fully set out here, and may be obtained from the district mental health program office~~, when properly completed, will be considered by the department to satisfy the requirements of Section 394.4599, F.S. A copy of that completed form, or its equivalent, shall be retained in the person's ~~patient's~~ clinical record. In all cases involving potential involuntary inpatient placement in a state treatment facility, a copy of the completed form shall also be provided to the designated community mental health center or clinic for purposes of conducting a transfer evaluation.

(4)~~(3)~~ Use of recommended form CF-MH 3113, Jan 05 ~~98~~, "Notice to Court – Request for Continuance of Involuntary Placement Hearing," as referenced in paragraph 65E-5.285(2)(b), F.A.C., ~~which is incorporated by reference as if fully set out here and may be obtained from the district mental health program office~~, will be considered by the department to be sufficient when used by the counsel representing a person ~~patient~~ in requesting a continuance. A completed copy of the form used shall be provided to the facility administrator for retention in the person's ~~patient's~~ clinical record.

(5)~~(4)~~ Use of recommended form CF-MH 3022, Jan 05 ~~98~~, "Application for Appointment of Independent Expert Examiner," as referenced in paragraph 65E-5.285(2)(c), F.A.C. ~~which is incorporated by reference as if fully set out here and may be obtained from the district mental health program office~~, will be considered by the department to be sufficient to request the expert examiner.

(6)~~(5)~~ Use of recommended form CF-MH 3033, Jan 05 ~~98~~, "Notification to Court of Withdrawal of Petition on Involuntary Inpatient or Outpatient Placement," as referenced in paragraph 65E-5.285(2)(d), F.A.C. ~~which is incorporated by reference as if fully set out here, and may be from the district mental health program office~~, will be considered by the department to be sufficient if the facility administrator seeks to withdraw the petition for involuntary placement prior to the hearing. The facility shall ~~will~~ retain a copy in the person's ~~patient's~~ clinical record. When a facility withdraws a petition for involuntary inpatient placement, it shall immediately notify by telephone the court, state attorney, attorney for the person ~~patient~~, and guardian or representative of its decision to withdraw the petition. In all cases involving potential involuntary inpatient placement in a state treatment facility, a copy of the notification form shall also be provided to the designated community mental health center or clinic responsible for conducting a transfer evaluation.

(7)~~(6)~~ If the court determines the person ~~patient~~ meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to Section 397.675, F.S., and issues an order, use of recommended form CF-MH 3114, Jan 05 ~~98~~, "Order Requiring Involuntary Assessment and Stabilization for Substance Abuse and for Baker Act Discharge of Person ~~Patient~~," as referenced in paragraph 65E-5.285(2)(g), F.A.C. ~~which is incorporated by reference as if fully set out here, and may be obtained from the district mental health program office~~, or other order used by the court, will be considered by the department to be sufficient.

(8) If at any time prior to the conclusion of the hearing on involuntary inpatient placement, the person instead meets the criteria for involuntary outpatient placement, the court may order the person evaluated for involuntary outpatient placement. Recommended form CF-MH 3115, Jan 05, "Order Requiring Evaluation for Involuntary Outpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., or other order used by the court, will be considered by the department to be sufficient.

(9)~~(7)~~ If the court concludes that the person ~~patient~~ meets the criteria for involuntary inpatient placement pursuant to Section 394.467, F.S., it shall prepare an order. Use of recommended form CF-MH 3008, "Order for Involuntary Inpatient Placement," as referenced in paragraph 65E-5.1302(1)(b), F.A.C., or other order used by the court, will be considered by the department to be sufficient for this

purpose. This signed order shall be given to the person ~~patient~~, guardian, guardian advocate or representative, counsel for the person ~~patient~~, state attorney, and administrator of the receiving or treatment facility, with a copy of the order retained in the person's ~~patient's~~ clinical record.

(10) In order for the department to implement the provisions of Section 394.463(2)(e), F.S., and to ensure that the Agency for Health Care Administration will be able to analyze the data it receives pursuant to that section, designated receiving facilities and treatment facilities shall forward copies of each recommended form CF-MH 3008, "Order for involuntary Inpatient Placement," as referenced in paragraph 65E-5.1302(1)(b), F.A.C., or other order provided by the court, accompanied by mandatory form CF-MH 3118, Jan 05, "Cover Sheet to Agency for Health Care Administration," as referenced in subsection 65E-5.280(5), F.A.C., to: BA Reporting Center, FMHI-MHC 2618, 13301 Bruce B. Downs Boulevard, Tampa, Florida 33612-3807.

Specific Authority 394.457(5) FS., Chapter 2004-385, Section 10, L.O.F. Law Implemented 394.467 FS. History–New 11-29-98, Amended _____.

65E-5.300 Continued Involuntary Inpatient Placement at Treatment Facilities.

(1) In order to request continued involuntary inpatient placement, the treatment facility administrator shall, prior to the expiration of the period during which the treatment facility is authorized to retain the person ~~patient~~, file a request for continued placement. Use of recommended form CF-MH 3035, Jan 05 ~~98~~, "Petition Requesting Authorization for Continued Involuntary Inpatient Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., ~~from the district mental health program office~~, will be considered by the department to be sufficient as documentation of that request. The petition shall be filed with the Division of Administrative Hearings within 20 days prior to the expiration date of a person's ~~patient~~'s authorized period of placement or, in the case of a minor, the date when the minor ~~patient~~ will reach the age of majority. The petition shall contain the signed statement of the person's ~~patient's~~ physician~~, as defined in Section 394.455(21), F.S.,~~ or clinical psychologist justifying the request and shall be accompanied by the following additional documentation:

(a) Support for the facts in the statement of the physician~~, as defined in Section 394.455(21), F.S.,~~ or clinical psychologist;

(b) A brief summary of the person's ~~patient's~~ treatment during the time he or she was placed; and

(c) An individualized treatment plan.

(2) Proof of each criterion alleged must be by facts sufficient to reach the high standard of clear and convincing evidence and by evidence admissible pursuant to Chapter 90. F.S. Hearsay evidence which is not otherwise admissible shall not be sufficient. Expert opinions and conclusions, alone, are not sufficient.

(3)~~(2)~~ The administrative law judge shall provide notice of the hearing. Use of recommended form CF-MH 3024, Jan 05 ~~98~~, "Notice of Petition for Continued Involuntary Placement," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient for this purpose. Copies shall be provided to the person ~~patient~~, attorney, and guardian, guardian advocate or representative, with a copy of the notice filed in the person's ~~patient's~~ clinical record.

(4)~~(3)~~ If the administrative law judge finds evidence that the person ~~patient~~ has regained his or her competency to consent to treatment, the administrative law judge shall notify the court appointing the guardian advocate. Use of recommended form CF-MH 3116, "Findings and Recommended Order Restoring Person's ~~Patient's~~ Competence to Consent to Treatment and Discharging the Guardian Advocate," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient.

(5)~~(4)~~ Based on the findings of the hearing, the administrative law judge may return the person ~~patient~~ to involuntary placement pending the next statutorily required periodic hearing, release the person ~~patient~~ from placement, or find the person ~~patient~~ eligible for voluntary status. Use of recommended form CF-MH 3031, Jan 05 ~~98~~, "Order for Continued Involuntary Inpatient Placement or for Release," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C., ~~from the district mental health program office~~, will be considered by the department to be sufficient for this purpose. A copy of the completed order shall be filed in the person's ~~patient's~~ clinical record and a copy shall be provided to the person ~~patient~~, attorney, facility administrator, and guardian, guardian advocate or representative.

(6) In order for the department to implement the provisions of Section 394.463(2)(e), F.S., and to ensure that the Agency for Health Care Administration will be able to analyze the data it receives pursuant to that section, designated receiving facilities and treatment facilities shall forward copies of each recommended form CF-MH 3031, "Order for Continued Involuntary Inpatient Placement or Release," as referenced in Rule 65E-5.300, F.A.C., or other order provided by the court, accompanied by mandatory form CF-MH 3118, Jan 05, "Cover Sheet to Agency for Health Care Administration," as referenced in subsection 65E-5.280(5), F.A.C., and may be obtained pursuant to Rule 65E-5.120, F.A.C., to: BA Reporting Center, FMHI-MHC 2618, 13301 Bruce B. Downs Boulevard, Tampa, Florida 33612-3807.

Specific Authority 394.457(5) FS., Chapter 20045-385, Section 10, L.O.F. Law Implemented .394.463(2)(e), 394.467(7) FS. History–New 11-29-98, Amended _____.

65E-5.310 Transfer of Persons ~~Patients~~ Among Facilities.

(1) Use of recommended form CF-MH 3046, Jan 05 ~~98~~, "Application for and Notice of Transfer to Another Facility," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~, will be considered by the department to be sufficient to request the transfer of a person ~~patient~~ to another receiving or treatment facility. This application, or its equivalent, shall be completed and filed with the facility administrator or designee. A copy of the completed application shall be retained in the person's ~~patient's~~ clinical record.

(2) The administrator of the facility or designee at which the person ~~patient~~ resides shall, without delay, submit an application for transfer to the administrator of the facility to which a person ~~patient~~ has requested transfer. Upon acceptance of the person ~~patient~~ by the facility to which the transfer is sought, the administrator of the transferring facility or his or her designee shall mail the statutorily required notices to the person ~~patient~~, the person's ~~patient's~~ attorney, guardian, guardian advocate or representative, retaining a copy in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3046, "Application for and Notice of Transfer to Another Facility," as referenced in subsection 65E-5.310(1), F.A.C., will be considered by the department to be sufficient for this documentation.

(3) If the proposed transfer of a person ~~patient~~ originates with the administrator of the facility or his or her designee or with the treating physician~~, as defined in chapter 458 or 459, FS.,~~ a notice of transfer is required. The notice shall be completed by the administrator or designee of the transferring facility, after acceptance of the person ~~patient~~ by the facility to which he or she will be transferred, with copies provided prior to the transfer to those required by law, with a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3046, "Application for and Notice of Transfer to Another Facility," as referenced in subsection 65E-5.310(1), F.A.C., will be considered by the department to be sufficient for this purpose.

(4) All relevant documents including a copy of the person's ~~patient's~~ clinical record, shall be transferred prior to or concurrent with the person ~~patient~~ to the new facility.

(5) Each facility shall develop and implement policies and procedures for transfer that provide for ~~patient~~ safety and care during transportation.

Specific Authority 394.457(5) FS. Law Implemented 394.4599, 394.4685 FS. History–New 11-29-98, Amended _____.

65E-5.320 Discharge of Persons on Involuntary Status ~~Patients~~.

A receiving or treatment facility administrator shall provide prompt written notice of the discharge of a person on ~~an~~ involuntary status ~~patient~~ to the person ~~patient~~, guardian, guardian advocate, representative, initiating professional, and circuit court, with a copy retained in the person's ~~patient's~~ clinical record. Use of recommended form CF-MH 3038, "Notice of Release or Discharge," as referenced in paragraph 65E-5.280(7)(e), F.A.C., will be considered by the department to be sufficient as documentation of such notice. If the discharge occurs while a court hearing for involuntary placement or continued involuntary placement is pending, all parties including the state attorney and attorney representing the person ~~patient~~, shall be given telephonic notice of the discharge by the facility administrator or his or her designee.

Specific Authority 394.457(5) FS. Law Implemented 394.463(3), 394.469 FS. History–New 11-29-98, Amended _____.

65E-5.330 Training.

(1) In order to ensure the protection of the health, safety, and welfare of persons ~~patients~~ treated in receiving and treatment facilities, required by Section 394.457(5)(b), F.S., the following is required:

(a) Each designated receiving and treatment facility shall develop policies and procedures for abuse reporting and shall conduct training which shall be documented in each employee's personnel record or in a training log.

(b) All staff who have contact with persons served ~~with patient contact~~ shall receive training in verbal de-escalation techniques and the use of bodily control and physical management techniques based on a team approach. ~~Less restrictive~~ V~~v~~erbal de-escalation interventions shall be employed before physical interventions, whenever possible.

(c) All staff who have contact with persons served ~~with patient contact~~ shall receive training in cardiopulmonary resuscitation within the first six months of employment if not already certified when employed and shall maintain current certification as long as duties require direct ~~patient~~ contact with persons served by the facility.

(d) A personnel training plan that prescribes and assures that direct care staff, consistent with their assigned duties, shall receive and complete before providing direct care or assessment services, 14 hours of basic orientation training, documented in the employee's personnel record, in the following:

1. ~~Patient rights~~ Rights of persons served by the facility and facility procedures required under Chapter 394, part I, F.S., and Chapter 65E-5, F.A.C.;

2. Confidentiality laws including psychiatric, substance abuse, HIV and AIDS;

3. Facility incident reporting;

4. Restrictions on the use of seclusion and restraints, consistent with unit policies and procedures, and this chapter;

5. Abuse reporting required by Chapter 415, F.S.;

6. Assessment for past or current sexual, psychological, or physical abuse or trauma;

7. Cross-training for identification of, and working with, individuals recently engaging in substance abuse;

8. Clinical risk and competency assessment;

9. Universal or standard practices for infection control;

10. Crisis prevention, crisis intervention and crisis duration services; ~~and~~

11. Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition;~~.~~ and

12. Honoring preferences contained in advance directives prepared by persons served by the facility.

(2) In addition to the training required in this rule, procedures must assure that mental health services staff shall annually receive 12 hours continuing training in the skills and knowledge employed in performing their respective responsibilities. Employees during their first year of employment shall undergo no less than the 14 hours of orientation, as described in paragraph (1)(c) above, and 12 hours of in-service training.

(3) Procedures shall require that individuals ~~professionals~~ who deliver the staff training curriculum for mental health services shall be qualified by their experience and training in the content presented.

(4) A plan shall be developed and implemented providing for the mandatory training for employees, emergency room personnel and physicians~~, as defined in Section 394.455(21), F.S.,~~ in the Baker Act, relative to their positions and responsibilities, and any implementing local coordination agreements or protocols.

Specific Authority 394.457(6)(a) FS. Law Implemented 394.457(5)(b),(6), 394.459(4) FS. History–New 11-29-98, Amended _____.

65E-5.350 Eligibility Criteria and Procedures for Designation of Baker Act Receiving Facilities.

(1) General Provisions. Pursuant to Section 394.455(26), F.S. and Section 394.461, F.S., only facilities designated by the department are permitted to involuntarily hold and treat persons for a mental illness, except as required by 42 USC 1395 for all hospitals providing emergency services for access, assessment, stabilization and transfer.

(2) Designation as a private receiving or treatment facility shall not entitle the facility to receive any funding appropriated for the Baker Act. Such funding is based solely on a contract between the department and the facility, specifically for this purpose.

(3) Two types of licensed civil facilities are authorized to provide acute psychiatric treatment and are eligible to apply for designation as receiving facilities. Since designation to receive persons under Chapter 394, Part I, F.A.C., does not distinguish between the capacity to serve adults and minors, all designated facilities are required to provide emergency services, consistent with their facility's licensure to persons regardless of age, except as provided for under (4) of this subsection.

(a) Hospitals licensed under the authority of Chapter 395, F.S., to provide psychiatric care may be designated as either public or private receiving facilities.

(b) Facilities licensed under the provisions of Chapter 394, part IV, F.S., shall only be designated as public receiving facilities and may include only crisis stabilization units (CSU) and children's crisis stabilization units (CCSU). Short-term residential treatment facilities (SRT) are not free-standing emergency care units and may only be designated collectively with a CSU or CCSU as part of a public receiving facility.

(4) Specific ~~Special~~ Circumstances for Designation. Pursuant to the exceptions authorized under Section 394.462(3), F.S., for transportation purposes, and at the discretion of the department's district or regional office with the approval of the Mental Health and Substance Abuse Program Supervisor, a facility designation may be modified or restricted to specify services for just adults or for just children, consistent with its license and subject to inclusion and subsequent approval by required parties as part of an approved transportation exemption plan.

(5) Application and Supporting Documentation for Designation. In order to apply for designation as a receiving facility, an applicant must complete and submit mandatory form CF-MH 3125, Jan 05 ~~98~~, "Application for Designation as a Receiving Facility," which is hereby incorporated by reference as if fully set out here and may be obtained in accordance with Rule 65E-5.120, F.A.C. ~~from the district mental health program office~~. Required application information includes:

(a) A copy of the facility's license issued pursuant to Chapters 394 or 395, F.S., evidencing its eligibility to apply for designation;

(b) A current certificate of good standing for the applicant organization issued by the Florida Secretary of State;

(c) Documentation of the applicant's governing authority action authorizing the application for designation;

(d) Description of proposed psychiatric services including any distinct programs to be provided to each of the following consumer age groups, and the projected numbers of persons to be served in each following group:

1. Minors below 10 years of age;

2. Minors between the ages of 10 to 17 years;

3. Adults;

4. Persons 60 or more years of age; and

5. Other specific ~~specialty~~ populations.

(e) The corresponding street address for each reception and treatment location for the above services must be provided. Designation is limited to only the locations specified in the application and approved by the department; and

(f) Documentation of community need for maintaining or expanding the present level of designated facilities' services to meet the existing need, and why the applicant is best suited to meet this need.

1. The information may address the public's need for specific ~~specialty~~ services for minors, aged, blind or hearing-impaired persons. Evidence of such need may include: Certificate of Need data and other information published by the Agency for Health Care Administration, the organization's or community's utilization of available or licensed bed capacity, geographical accessibility information, input from local governmental agencies, or information on the specific ~~special~~ needs of persons if the particular specialty services offered are accredited or certified by a nationally recognized body for that specific ~~specialty~~ population or service.

2. The applicant shall describe local need and accommodation of that need for indigent and low income individuals and families receiving the facility's services. The applicant shall describe how it shall protect economically vulnerable persons received for involuntary examination or treatment from exorbitant charges and billings for services. A statement comparing representative facility charges and billings for individuals who are uninsured or without a third party payer who are held under the provisions of the Baker Act to otherwise similar representative charges and billings for group health care members and insurers shall be included.

3. The applicant shall describe local need and accommodation of that need for indigent and low income individuals and families being discharged from the facility in need of continuing psychotropic medications. The applicant shall describe how it shall directly provide, or otherwise assist the person ~~patient~~ in ensuring continuity of availability of necessary psychotropic medications until a scheduled aftercare medication appointment.

(g) Documentation of key facility protocols to assure all involved practitioners and staff are knowledgeable of, and implement, person's ~~patient's~~ legal rights, key psychiatric care, records standards, complaint reporting, investigation and reviews to maintain a consistently high level of compliance with applicable Baker Act laws, ethical principles, and ~~patient~~ rights protections;

(h) Description of how the facility's physical structure, staffing and policies offers ~~patients~~ frequent, if not daily, opportunity for persons to have exercise, fresh air and sunshine, except as individually restricted and documented in the person's ~~patient's~~ clinical record and within the physical limitations of the facility;

(i) Description of how the facility's discharge planning policies provide for continuity of medication availability until post-discharge follow-up services are scheduled; and

(j) For general hospitals, a description of the means utilized to create or approximate a distinct psychiatric emergency reception and triage area that minimizes individual's exposure to undue and exacerbating environmental stresses while awaiting or receiving services.

(6) Application Process for Designation.

(a) Within 90 days of the effective date of this rule, all facilities desiring to obtain, or to retain, designation as a receiving facility must complete and submit mandatory form CF-MH 3125, "Application for Designation as a Receiving Facility," as referenced in subsection 65E-5.350(5), F.A.C., for departmental review. All receiving facility designations shall be subject to departmental review and authorization in accordance with the provisions of chapter 394, part I, F.S., and this chapter, within 240 days after the effective date of this rule.

(b) The department's district or regional office is responsible for receipt of the application, reviewing the application, requesting additional information as needed, verifying essential information, and forwarding the information along with the ~~district administrator's~~ recommendation of the Mental Health and Substance Abuse Program Supervisor to the Secretary for final action. Applications received that are incomplete will be returned by certified mail with a letter informing the applicant of missing items. The district or region will seek and review pertinent information from any source such as:

1. Accreditation status and submission of the latest survey report of the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) or other accrediting bodies;

2. Relevant history of compliance with the Baker Act and other related ~~patient~~ protection laws protecting persons served by mental health facilities;

3. Agency for Health Care Administration (AHCA) licensure reports and complaint investigation findings against the facility or professionals associated with the facility;

4. Actions, findings or reports of the Florida Local Advocacy Council, ~~Human Rights Advocacy Committee (HRAC)~~ and other district or regional consumer complaint offices;

5. Florida Abuse Hotline receipt, or lack or receipt, of complaints and actions;

6. Actions initiated by any state enforcement authority including the Florida Attorney General's Office, the Florida Department of Law Enforcement, the Florida Department of Insurance, and statewide or local State's Attorneys Offices; and

7. Actions initiated by any federal law enforcement or investigative authority including the federal Department of Health and Human Services, the federal Health Care and Finance Administration, and the Federal Bureau of Investigation against the facility, its employees, privileged personnel or contractors, subcontractors, or operators relating to ~~patient~~ services, billings or operations.

(c) The district, upon receipt of a properly completed application, shall schedule and advertise a public meeting for purposes of obtaining public input and information on the designation or re-designation of the applicant.

(d) In meeting the local need for designated facilities, priority shall be given to facilities with management that consistently exhibits high levels of compliance with Chapter 394, part I, F.S., this rule chapter, and related ~~patient~~ protection laws in Chapters 395, 415, 458, and 817, F.S., as documented in state agencies' files.

(e) The submission of the district or region's ~~district's~~ recommendation to the Secretary must include a listing of the key information sources and pertinent factors relied upon in making the recommendation and a summary of the comments and information received at the public meeting.

(f) Within 60 days of receiving the recommendation from the district or region ~~administrator~~, the Secretary, or the Secretary's designee, will review the district or region recommendation and supporting documentation and will issue final departmental action with regard to the application which may be approved, denied, or returned to the district or region for additional information or processing.

(g) The initial designation shall be for one, two or three years, randomly assigned, with one-third of facilities assigned an initial one year designation, one-third assigned an initial two year designation, and one-third assigned an initial three year designation. Thereafter, each approved designation will be for a period of three years.

(7) Re-Applications for Renewal of Designation.

(a) A re-application must be submitted for re-designation every three calendar years, after approval of initial applications.

(b) A renewal application shall be forwarded to the department at least 90 days prior to the expiration of its existing designation.

(c) A re-application must be submitted by a facility upon a change of controlling ownership of the facility or of the contractual management entity for the psychiatric service. Failure to submit notification to the department of changes of controlling ownership or a change in the management entity within 30 days after the change will terminate the facility's designation 60 days after the effective date of the action changing the control of ownership or management.

(d) Any change in the name of a facility that remains under the same ownership and management, must be reported in writing to the department's district or regional office within 30 days after the effective date of the change. Upon receipt of the notification, the department will issue a letter confirming receipt of the notification and extending designation until a replacement certificate of designation showing the correct facility name is received by the facility. Failure to provide such notification to the district or region ~~administrator~~ within 30 days of the change will result in the withdrawal of the designation upon the expiration of the 60th day following the facility name change.

(8) Certificate of Designation.

(a) Upon approval by the Secretary or his or her designee, the department shall issue a certificate of designation which shall include the following information on the face of the Certificate of Designation:

1. Effective commencement date and expiration date;

2. Name of the owner and licensee as stated on the facility license issued by the Agency for Health Care Administration; and

3. Street address of where ~~patient~~ services are provided ~~unit~~.

(b) The certificate shall be prominently displayed to the general public. Designation provided by this certificate is invalid if the information on the certificate is not correct or the information provided in the submitted application is false or misleading.

Specific Authority 394.461(4) FS. Law Implemented 394.461(4) FS. History–New 11-29-98, Amended _____.

65E-5.351 Minimum Standards for Designated Receiving Facilities.

(1) Any facility designated as a receiving facility failing to comply with this chapter may have such designation suspended or withdrawn.

(2) Each receiving facility shall have policies and procedures that prescribe, monitor and enforce all requirements specified in Chapter 65E-5, F.A.C.

(3) Each receiving facility shall assure that its reception, screening, and inpatient services are fully operational 24-hours-per-day, 7-days-per-week.

(4) Each receiving facility shall have a compliance program that monitors facility and professional compliance with Chapter 394, part I, F.S. and this chapter. Every such program shall specifically monitor the adequacy of and the timeframes involved in the facility procedures utilized to expedite obtaining informed consent for treatment. This program may be integrated with other activities.

(5) A public receiving facility that is affiliated with a publicly funded community mental health center shall ensure the centralized provision and coordination of acute care services for eligible individuals with an acute mental illness.

Specific Authority 394.461(4) F.S. Law Implemented 394.461(4) FS. History–New 11-29-98, Repromulgated _____.

65E-5.352 Procedures for Complaints and Investigations in Receiving Facilities.

Complaints with regard to the provisions of this chapter shall be filed with the district or region Mental Health and Substance Abuse Program Supervisor ~~of administrator,~~ or designee, of the district or region in which the violation is alleged to have

occurred. The district or region Mental Health and Substance Abuse Program Supervisor ~~administrator~~ shall appoint one or more employees to determine if an investigation is warranted. If warranted, the investigation may include the assistance of other agencies having jurisdiction over the facility. If the district or region Mental Health and Substance Abuse Program Supervisor administrator determines that a violation of this chapter has occurred:

(1) Corrective action shall be required and a reasonable time in which to correct the violation shall be accorded to the facility; or

(2) If the corrective action is not sufficient, or the district or region Mental Health and Substance Abuse Program Supervisor administrator determines that the violation warrants suspension or removal of designation, such action shall be considered pursuant to Rule 65E-5.353, F.A.C.

Specific Authority 394.461(4) FS. Law Implemented 394.461(4) FS. History–New 11-29-98, Amended _____.

65E-5.353 Criteria and Procedures for Suspension or Withdrawal of Designation of Receiving Facilities.

(1) The district or regional offices of the department shall continuously collect and monitor information relative to complaints or allegations against designated facilities from sources such as individuals, local advocacy or self-help groups, local organizations including law enforcement, the Agency for Health Care Administration, and the Florida Local Advocacy Council ~~human rights advocacy committee~~. When a district or region Mental Health and Substance Abuse Program Supervisor ~~administrator~~ recommends to the Secretary, or the Secretary's designee, withdrawal or suspension of designation, at least the following information must be submitted with the recommendation:

(a) Description of violations such as extent of violations of chapter 394, F.S., and this rule chapter, and the extent and seriousness of known injuries or injury including the severity and number of violations, severity and chronic violation of ~~client~~ rights, and any pattern of inadequate supervision, injury or harm to individuals; and

(b) Mitigating circumstances including the responsiveness and extent of any actions taken by the facility to remediate, compensate, or correct the situation, as well as the facility's recent history of charitable public service to persons with psychiatric disabilities in the community, and compliance and responsiveness to any prior violations or complaints.

(2) Suspension of Designation. When the district or region determines, that it is more likely than not that a facility, or its related entities, has failed to consistently meet one or more of the standards for designation or maintenance of designation under this chapter, it may suspend designation pending corrective action plan implementation. During the suspension period, no persons on involuntary status ~~patients~~ may be admitted to the facility. No re-application for designation as a receiving facility is required for reinstatement of designation.

(3) Withdrawal of Designation.

(a) Designation may be withdrawn upon approval of the Secretary, or the Secretary's designee, when the district or region determines that it is more likely than not that any pattern of violations, or combination of violations, of chapter 394, F.S., and this rule chapter exists such as deficient admission, transfer or ~~patient~~ care practices, deficient observation or documentation of ~~patient~~ rights abuses, deficient discharge practices, deceptive or misleading practices in marketing, admission recruitment or referral practices; fraudulent clinical or billing practices; or patient brokering is evident. Examples of such offenses include violations by the facility, or parties acting on behalf of or in concert with the facility, or acting under its supervision, having engaged in deceptive, fraudulent, exploitative, abusive, or neglect type violations of Florida law, including Chapter 394, F.S., Chapter 415, F.S., Section 817.505, F.S., and Section 458.331, F.S.

(b) Upon re-application after withdrawal of designation, the department must have clear and convincing evidence that the problems with the facility, or its practitioners, leading to withdrawal of designation have been corrected and will not reoccur. This may include required internal and external monitoring to document continued satisfactory performance.

Specific Authority 394.461(4) FS. Law Implemented 394.455(26), 394.461, 395, 415, 458.331, 817.505 FS. History–New 11-29-98, Amended _____.

65E-5.400 Baker Act Funded Services Standards.

(1) Applicability. Designation as a public receiving facility is required for any facility licensed under the authority of Chapters 395, or 394, F.S., to be eligible for payment from Baker Act appropriations. Designation does not in and of itself represent any agreement to pay for any services rendered pursuant to Chapter 394, part I, F.S., or this chapter. Public receiving facilities, under contract with the department, serve as a local focal point for district or region public information dissemination and educational activities with other local Baker Act involved entities and public agencies.

(2) Baker Act Funding.

(a) Only public receiving facilities, pursuant to Section 394.455(25), F.S., and only the costs of eligible Baker Act services provided to diagnostically and financially eligible persons ~~patients~~ may be paid with Baker Act appropriations;

(b) Baker Act services shall first be provided to acutely ill persons who are most in need of mental health services and are least able to pay.

(c) Persons ~~Patient~~s receiving Baker Act funded services must meet financial eligibility criteria as established by the federal poverty guidelines. Public receiving facilities may provide Baker Act funded services to acutely ill persons who are financially ineligible if the total number of days of service paid for with Baker Act funds for financially ineligible persons does not exceed 20 percent of the total number of days paid for with Baker Act funds.

(d) An individual's diagnostic and financial eligibility shall be documented on mandatory form CF-MH 3084, Jan 05 ~~98~~, "Baker Act Service Eligibility," which is incorporated by reference as if fully set out here and may be obtained pursuant to Rule 65E-5.120, F.A.C ~~from the district mental health program office~~.

(3) This section applies to all Baker Act funded providers. All services including hospital inpatient facilities, crisis stabilization units, short-term residential treatment programs, and children's crisis stabilization units providing services purchased by the department under this chapter shall be consistent with licensure requirements and must comply with written facility policies and procedures.

(4) Training. The training required in Rule 65E-5.330, F.A.C., is required for all direct service staff employed by publicly funded Baker Act service providers.

(5) Emergency Reception and Screening.

(a) Providers authorized by the department shall have a policy and procedure manual for the specific service being provided. The administration of the provider organization shall ensure the completeness and accuracy of the manual and that organizational operations are in accordance with the manual. The manual must be approved by the respective departmental district or regional office for completeness and consistency in implementing this chapter and Chapter 394, part I, F.S. The manual shall be consistent with the provisions of chapter 394, part I, F.S., and with Chapter 65E-5, F.A.C., and must include the following:

1. Procedures for responding to requests for services that specify a prompt screening to determine the person's immediacy of need, and for prioritizing access to services with limited availability. Staff skills shall be specific to the unique needs of the persons ~~special populations~~ to be served;

2. A description of the services offered, recipient eligibility criteria, how eligible recipient facilities or individuals are informed of service availability, service locations, costs, criteria for response, hours of operation, staffing with staff qualifications and supervision, and organizational line of authority to the operating entity;

3. Procedures to be utilized to implement and document staff training in accord with Rule 65E-5.330, F.A.C., staff proficiency or competency including the performance of any subcontractors employed to provide services, and how training will be used to effect remediable identified deficiencies;

4. Procedures for a complaint and grievance system that provide a prompt response to the individuals served, and mechanisms to monitor and evaluate service quality, and the outcomes attained by individuals served. Facility personnel shall provide each person served with a listing of his or her ~~their~~ rights and a telephone number to which complaints may be directed;

5. Procedures to determine if the individual has a care ~~case~~ manager from a mental health center or clinic, as well as notification and coordination of activities with the care ~~case~~ manager;

6. Procedures to maintain a clinical record for each individual served and its safeguarding in accordance with Section 394.4615, F.S.; and

7. Procedures to inform the public of the availability of services.

(b) Procedures must assure that a psychiatrist or a physician~~, as defined in Section 394.455, F.S.,~~ shall be available on-call for consultation at all times and hours during which emergency reception and screening services are operated.

(6) Mobile Crisis Response Service and Mental Health Overlay Program Requirements.

(a) The criteria and operational requirements for a mobile crisis response service and a mental health overlay program is defined in Section 394.455(19), F.S., and Section 394.455(17), F.S., respectively. The operation of these services is expressly limited to the program's ~~their~~ contract with the department.

(b) Providers authorized by the department to provide mobile crisis response services and mental health overlay programs shall have a policy and procedure manual for the specific service being provided. The administration of the provider organization shall ensure the completeness and accuracy of the manual and that organizational operations are in accordance with the manual. The manual must be approved by the departmental district or regional office in which the facility is located. The manual shall be consistent with the provisions of Chapter 394, part I, F.S. and these rules, and shall include:

1. A description of the services offered, eligibility criteria, how eligible recipient facilities or individuals are informed of service availability, criteria for response, hours of operation, staffing with staff qualifications and supervision, and organizational line of authority to the operating entity;

2. Procedures to be utilized to implement the provisions of Section 394.4625, F.S., including staff training, proficiency or competency assessment instruments to be administered, credentialing, and distribution of results obtained;

3. A description of on-site evaluation, educational, assistance or supportive services, if provided, to be rendered by mental health overlay programs. The extent and frequency of services offered must be described. Staff skills shall be specific to unique needs of the persons ~~special populations~~ to be served;

4. Procedures for the provision of a complaint and grievance procedure to be used by individuals served, and mechanisms to monitor and evaluate the service's quality and the outcomes attained by individuals served. Personnel shall provide each person served with a listing of his or her ~~their~~ rights and a telephone number to which complaints may be directed;

5. Procedures that require the provider's issuance of, and employees wearing of identification badges including a photograph of the employee, organization's name, and employees name and identification number, if full name is not used, for all employees responding to, or working in, off-site situations;

6. Procedures that assure determination of whether the individual has a care ~~case~~ manager from a mental health center or clinic, and require notification and coordination of activities with the care ~~case~~ manager; and

7. Procedures that require the maintenance of a clinical record for each individual served and ~~its~~ safeguarding it in accordance with Section 394.4615, F.S.

(c) Procedures must require employees' clinical activities and performance, as opposed to primarily administrative functions, are supervised by one of the following: a psychiatrist, physician, clinical psychologist, clinical social worker, or psychiatric nurse, as defined in Section 394.455, F.S.

(d) Procedures must assure that a physician or psychiatrist~~, as defined in Section 394.455, F.S.,~~ shall be available on-call for consultation at all times and hours during which mental health overlay programs and mobile crisis response services are operated.

(e) Procedures must be consistent with Section 394.462, F.S. and these rules, and must limit transportation of an involuntary person by the mental health overlay program or mobile crisis response service to only directly transporting individuals to the nearest designated receiving facility. In addition, the following provisions shall be met and described in the manual:

1. Liability insurance of no less than $100,000 per person shall be provided.

2. The vehicle shall be equipped with a Type 2A10BC fire extinguisher, seat belts, 2-way communication radio or cellular telephone with accompanying emergency telephone numbers, and a functioning air conditioner and heater.

3. Staff having the responsibility for transporting people shall be trained and experienced in transporting people with mental illness and substance abuse who may become confused, volatile, or combative.

4. At least two staff members shall be present to transport an individual. The total number of people in the vehicle at any time shall not exceed the legal seating capacity.

5. Firearms shall not be worn or carried in the vehicle.

6. Physical restraints, such as canvas cuffs, shall not be used except by personnel trained in their use, and only when necessary to protect the person being transported from injury to themselves or others. Any use of physical or mechanical restraints shall be fully and completely documented in the person's ~~patient's~~ clinical record.

7. The vehicle used to transport people shall be unmarked, maintained and operated in accordance with Chapter 316, F.S., and in a manner that protects the individual's rights, dignity and physical safety.

8. Procedures must require the immediate reporting of any unusual incidents or injuries, upon arrival at the intended destination.

(7) Requirements for Mental Health Overlay Programs in Nursing Homes, Assisted Living Facilities, Adult Day Care Centers, and Adult Family Care Homes.

(a) All plans, contracts and activities shall recognize that the primary responsibility for the care and treatment of individuals rests with the nursing home, assisted living facility, adult day care center, or adult family care home.

(b) Activities representative of those services appropriate to be provided by a mental health overlay program include:

1. Assisting in the development or implementation of individual care plans;

2. Assessing and making recommendations for needed physical or psychiatric services to the facility administrator; and

3. Providing training to facility staff or residents in various mental health skills or knowledge, such as anger management, psychotropic medications, depression, loss, physical and sexual trauma, and competency to consent determinations.

(c) Personnel shall provide each person served with a list of his or her ~~their~~ rights pursuant to Chapter 394, part I, F.S.

Specific Authority 394.457(3), 394.457(5)(c), 394.457(6)(a) FS. Law Implemented 316, 394.455(17),(19),(25), 394.463, 395 FS. History–New 11-29-98, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minimum Standards for Mandatory Boating Safety Courses	68D-36
RULE TITLES:	**RULE NOS.:**
Minimum Requirements for Training Facilities and Instructors	68D-36.004
Minimum Requirements for Boating Safety Courses	68D-36.008
Proof of Successful Completion of the Course	68D-36.009
Boating Safety Information and Instruction Requirements for Vessel Liveries	68D-36.010
Boating Safety Temporary Certificate Examination Program	68D-36.011

PURPOSE AND EFFECT: The Fish and Wildlife Conservation Commission (FWC), Division of Law Enforcement, proposes to review and update Rule 68D-36, F.A.C., to conform the rule to statutory changes made to Sections 327.39, 327.395, 327.54 and 327.731, Florida

Statutes. Changes under consideration include: updating the curriculum and conforming it to the current standards of the National Association of State Boating Law Administrators and current Florida and federal law; revising the portions of Rule 68D-36.008, F.A.C., that pertain to rented personal watercraft and other vessels and moving those requirements to a new rule section; revising the section on proof of successful completion of the course to eliminate obsolete requirements; and creating a new rule section to provide guidelines and procedures for administering the FWC's temporary certificate examination program. The intended effect is to make the rule consistent with current statutory requirements, to clarify the rule and make it easier to understand, and to codify temporary certificate examination program policies and procedures presently imposed by individual contacts.

SUBJECT AREA TO BE ADDRESSED: This rulemaking action will address boating safety education and instruction provided to persons 21 years of age or younger and to operators of rented personal watercraft and other rented vessels equipped with motors of 10 horsepower or greater. It will also address the boating safety information required to be displayed by vessel liveries. It will establish in rule the guidelines, policies, and procedures for the boating safety education temporary certificate examination program.

SPECIFIC AUTHORITY: 327.04, 327.39, 327.395, 327.54, 327.731 FS.

LAW IMPLEMENTED: 327.39, 327.395, 327.54, 327.731 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES LISTED BELOW.

TIME AND DATE: 6:00 p.m. – 8:00 p.m., September 8, 2004

PLACE: Broward Community College, Criminal Justice Institute, Central Campus, 3501 Davie Road, Building 22, Room 155, Davie, FL 33314

TIME AND DATE: 6:00 p.m. – 8:00 p.m., September 9, 2004

PLACE: Pinellas County Courthouse, 315 Court Street, Board of County Commissioners Assembly Room, 5th Floor, Clearwater, FL 33756

TIME AND DATE: 6:00 p.m. – 8:00 p.m., September 20, 2004

PLACE: Edgewater Beach Resort, Conference Center, 520 Beckrich Road, Panama City Beach, FL 32407

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Captain Alan Richard, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

RULE TITLE: RULE NO.:

Policies and Endorsements Covering Employees Engaged in Work in Florida 69L-6.019

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment to Rule 69L-6.019, F.A.C., is to describe activities that constitute "engaged in work" in this state by employees of a construction industry employer headquartered outside this state. Sections 440.10(1)(g) and 440.38(7), Florida Statutes, were amended to require employers headquartered outside this state who have employees "engaged in work" in this state to obtain a Florida workers' compensation policy or an endorsement utilizing Florida class codes, rates, rules, and manuals that are in compliance with and approved under the provisions of Chapter 440, Florida Statutes, and the Florida Insurance Code.

SUBJECT AREA TO BE ADDRESSED: Activities that constitute "engaged in work" in this state by employees of construction industry employers headquartered outside this state.

SPECIFIC AUTHORITY: 440.10(1)(g), 440.591 FS.

LAW IMPLEMENTED: 440.10(1)(g), 440.38(7) FS.

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

TIME AND DATE: 9:30 a.m., September 9, 2004

PLACE: Room 104J, Hartman Building, 2012 Capital Circle, Southeast, 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: Andrew Sabolic, Acting Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)413-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69L-6.019 Policies and Endorsements Covering Employees Engaged in Work in Florida.

(1) through (5) No change.

(6) An employee of a construction industry employer headquartered outside the state of Florida is "engaged in work" in Florida if he or she participates in any one of the following activities in the state of Florida:

(a) The employee engages in new construction, alterations, or any job or any construction activities involving any form of the building, clearing, filling, excavation or improvement in the size or use of any structure or the appearance of any land as defined in Section 440.02(8), F.S., or performs any job duties or activities which would be subject to those contracting classifications identified in the Contracting Classification Premium Adjustment Program contained in the Florida State Special pages of the Basic Manual (as incorporated in Rule 69L-6.021) within the borders of the state of Florida, regardless of whether an employee returns to his or her home state each night, or

(b) If the employer maintains a permanent staff of employees or superintendents and the staff employee or superintendent assigned to construction activities in Florida for the duration of the job or any portion thereof, or

(c) If the employer hires employees in Florida for the specific purpose of completing all or any portion of construction contract work and related construction activities in the state of Florida.

Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.10(1)(g), 440.38(7) FS. History–New 6-19-04, Amended _____.

Section II
Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE TITLES:	RULE NOS.:
Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation	3D-40.205
Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation	3D-40.225

PURPOSE AND EFFECT: The amendments to the rules revise and update the renewal forms to provide for certification upon license renewal that the continuing education requirements have been met. The amendments also update mailing addresses.

SUMMARY: The amendments to the rules amend the forms to provide for certification upon license renewal that the continuing education requirements have been met. The amendments also update mailing addresses.

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: 494.0011(2), 494.0064(2) FS.

LAW IMPLEMENTED: 494.0011(2), 494.0064 FS.

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

TIME AND DATE: 10:00 a.m., September 13, 2004

PLACE: Room 547, Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399

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 RULES IS: Greg Oaks, Office of Financial Regulation, Fletcher Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation.

(1)(a) Each active mortgage lender license and mortgage lender license pursuant to the saving clause shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form. Form OFR~~DBF~~-ML-R, Mortgage Lender License Renewal and Reactivation Form, revised 06/00, and Form OFR~~DBF~~-ML-RS, Mortgage Lender License Pursuant to Saving Clause Renewal and Reactivation Form, revised 7/1/2004 ~~06/00~~, are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of:

1. $25,000 or more imposed by Section 494.0065, F.S.; or

2. $250,000 or more imposed by Section 494.0061, F.S.

Upon request of the Department, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) No change.

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form OFR~~DBF~~-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 7/1/2004