

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Definition of Terms
 RULE NO.: 6E-1.003
 PURPOSE AND EFFECT: This rule is being amended to add the definition of Generally Accepted Accounting Principles to the terms that are defined for use with these rules.
 SUBJECT AREA TO BE ADDRESSED: Definitions.
 SPECIFIC AUTHORITY: 1005.22(1)(e) FS.
 LAW IMPLEMENTED: 1005.22, 1005.31 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-1.003 Definition of Terms.

Terms used in these rules are defined in Section 1005.02, F.S. In addition, as used in the rules of this Commission, unless the context clearly indicates otherwise:

(1) through (28) No change.

(29) Generally Accepted Accounting Principles (GAAP), effective September 30, 2002, is defined in the Board of Accountancy Rule 61H1-20.007, F.A.C.

(29) through (49) renumbered (30) through (50) No change.

Specific Authority 1005.22(1)(e) FS. Law Implemented 1005.22, 1005.31 FS. History—Repromulgated 12-5-74, Amended 7-28-75, Formerly 6E-4.01(8), Readopted 11-11-75, Amended 3-7-77, 10-13-83, Formerly 6E-1.03, Amended 2-22-89, 11-29-89, 10-19-93, 4-11-00, 1-7-03, 12-23-03, 7-20-04,_____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Fair Consumer Practices
 RULE NO.: 6E-1.0032
 PURPOSE AND EFFECT: This rule is being amended to clarify a reduction of tuition of fees.
 SUBJECT AREA TO BE ADDRESSED: Fair Consumer Practices.
 SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.34 FS.
 LAW IMPLEMENTED: 1005.04, 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 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 (6)(k) No change.

(7) Reduction of tuition or fees: A reduction in tuition, fees, or other charges may be implemented when there are specific criteria for student eligibility and selection procedures precisely disclosed within a policy at the institution. All students within the enrollment period the reduction is offered must be eligible to apply for this reduction under the same circumstance. The institution must maintain verifiable records including detailed and complete data when students are granted a bona fide reduction in tuition or fees. This must include copies of all application records, notes of selection committee meetings, and copies of notices to the student who received the reduction. This information shall be kept on file at the institution for on site review by CIE.

(7) through (9) renumbered (8) through (10) No change.

Specific Authority 1005.22(1)(e)1., 1005.34 FS. Law Implemented 1005.04, 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 TRANSPORTATION

RULE CHAPTER TITLE: Regulation of Encroachments Over State Rights of Way
 RULE CHAPTER NO.: 14-43
 RULE TITLE: Regulation of Overhanging Encroachments
 RULE NO.: 14-43.001

PURPOSE AND EFFECT: The definitions are amended, including the addition of a definition for “applicant.” Other definitions are amended and other amendments are made regarding permitting matters. A revised application form also is being incorporated by reference.

SUBJECT AREA TO BE ADDRESSED: Rule 14-43.001, F.A.C., is being amended, to include a definition for the term “applicant” and other amendments regarding permitting matters, including incorporating by reference a revised application form.

SPECIFIC AUTHORITY: 334.044(2), 337.407 FS.

LAW IMPLEMENTED: 337.406, 337.407, 479.01, 479.16, 768.28 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:

14-43.001 Regulation of Overhanging Encroachments.

(1) Definitions.

~~(a)~~ “(Applicant)” means any person or entity, including a local governmental entity, seeking permission for an overhanging encroachment.

~~(b)(a)~~ “(Banner)” means any object or thing attached to one or more existing permanent supports, a length or sheet of cloth, fabric, plastic, or other flexible material bearing a message which may be either of the following:

1. “Pole Banner” means a banner which is located adjacent to the travel lanes of the roadway and is attached to a single ~~an~~ existing permanent support.

2. “Street Banner” means a banner which extends over the travel lanes of the roadway and is attached to two ~~one~~ or more existing permanent supports.

~~(c)(b)~~ “(Canopy)” means a permanent or semi-permanent, on-premise roof-like encroachment or projection partially extending over the right of way.

~~(d)(e)~~ “(Department)” means the State of Florida Department of Transportation.

~~(d)~~ “(Governmental Entity)” has the same meaning as provided in Section 11.45(1)(d)(e), Florida Statutes.

~~(d)(e)~~ “(Local Governmental Entity)” has the same meaning as provided in Section 11.45(1)(d), Florida Statutes.

~~(e)(f)~~ “(Overhanging Encroachment)” for purposes of this rule means a sign, canopy, or banner, as these terms are herein defined, which is ~~are~~ placed along and over any state roads which are within municipalities, or which are of curb and gutter construction outside municipalities.

~~(f)(g)~~ “(Sign)” has the same meaning as provided in Section 479.01(14), Florida Statutes.

(2) Overhanging encroachments ~~as authorized by are prohibited on the Interstate System. Overhanging encroachments shall be authorized, pursuant to~~ Section 337.407(1), Florida Statutes, are subject to the following conditions:

(a) No new supports may be located within state right of way.

(b) Any overhanging encroachment must be allowed by the affected local governmental entity.

(c) Any overhanging encroachment which interferes with Department construction must be adjusted or removed at the owner’s expense.

(d) Overhanging encroachments may not obstruct the view of any traffic signal, traffic device, or official sign, nor in any way interfere with motorists’ ability to safely operate their vehicles.

(e) Overhanging encroachments must comply with the setback or clearance requirements set forth in subsections (3) and (4) below. The Department will notify the owner ~~that if~~ the overhanging encroachment must be adjusted within 36 hours of notification to meet setback or clearance requirements, and, upon failure of the owner to make such adjustment, it shall be removed by the Department. If the overhanging encroachment presents a safety hazard, the Department shall remove it and notify the owner of the removal.

(f) No overhanging encroachment may be erected or maintained which would interfere with the Department’s maintenance, operation, or other use of a transportation facility.

(g) When an overhanging encroachment must be removed by the Department, the owner may reclaim it within 30 calendar days from the date of removal, upon payment of any costs incurred by the Department in removing the encroachment.

(3) Signs and Canopies. Signs and canopies are prohibited along and over limited access roadways. Signs and canopies which meet the criteria of Section 479.16(1), Florida Statutes, may only be placed along and over any other roads within corporate limits of a municipality, or outside municipalities where curb and gutter construction exists in compliance with the following conditions:

(a) Where curb and gutter construction exists, the entire structure, including attachments and supports, must clear the sidewalk vertically by at least nine feet, the outside edge of the structure must be at least two feet behind a vertical line extending upward from the face of the curb, and the entire structure must comply with the Department’s clear zone requirements set forth in Table 2.11.9 Clear Zone Widths and Table 2.11.10 Clear Zone Widths for Curved Alignments on Highways With Flush Shoulders (January 2000, Revised 1/01), incorporated herein by reference. Copies of these tables are available from the Department’s Maintenance Office, 605 Suwannee Street, MS 52, Tallahassee, Florida 32399-0450.

(b) Within municipalities where there is no curb and gutter construction, the entire structure, including attachments and supports, may not extend more than six feet over the right of way; may not extend closer than 12 feet from the edge of the driving lane; must have a vertical clearance of at least 7.5 ~~40~~ feet; and the entire structure must comply with the Department’s clear zone requirements as set forth in Table

2.11.9 Clear Zone Widths and Table 2.11.10 Clear Zone Widths for Curved Alignments on Highways With Flush Shoulders, referenced in paragraph (a) above.

(c) The design of said canopies or signs, as to bracing and attachments to buildings, shall be approved for safety features by the appropriate official of the local governmental entity agency affected.

(d) No canopy or sign shall be erected away from the site of the business which it promotes.

(e) Lighting of signs and canopies shall conform to the requirements of Section 479.11(5), Florida Statutes.

(4) Banners. Banners may be placed along and over any state roads which are within municipalities, or which are of curb and gutter construction outside municipalities subject to the following conditions:

(a) ~~The written authorization for the placement of banners from the local governmental entity within whose jurisdictional boundaries the banners are to be placed must be the applicant provided.~~

(b) Banners will be allowed for the a period set forth in the application not to exceed 30 consecutive calendar days. Banners will not be allowed to be displayed within 180 days of the last day of its most recent display period.

~~(c) Banners are allowed for routinely recurring events, e.g., events occurring monthly or quarterly, unless otherwise provided in this rule, provided the banner is displayed for no more than three consecutive days per month, for 12 months.~~

~~(c)(4)~~ Pole banners must be placed a minimum of 1,000 feet apart on the same side of the travel lane on all limited access facilities, and on non limited access facilities outside the corporate limits of a municipality.

1. The lowest point of the banner must be at least 14 1/2 feet above the pavement elevation;

2. ~~A~~ The pole banner must be attached to a light standard or other such device which is permanently located in the right of way. Banners may not be attached to any utility pole.

~~(d)(e)~~ Placement of banners on frangible light standards or other frangible devices will require a load rating analysis, signed and sealed by a registered professional engineer, certifying that the specific light standards or devices used to support the banners will handle the additional load placed on the structures by the banner and attachments, and will not exceed the wind loading design requirements of the structure. Copies of load rating analyses previously submitted are acceptable for subsequent applications when all specifications are the same.

(f) Banners may not be placed within 500 feet of a limited access interchange.

(g) Street banners may only be placed on the right of way of non limited access roadways and must vertically clear the pavement by at least 18 feet. Street banners must be a minimum of 1,000 feet apart.

(5) Applications for an overhanging encroachment must be made in writing to the appropriate District Maintenance Office.

(a) Applications for overhanging signs and canopies shall include:

1. The name and address of the applicant.

2. A drawing sketch of the sign or canopy, drawn to scale, including any ~~which includes the message, letterings, logos, or emblems.~~

3. A sketch of the specific location of the sign or canopy, including height, location of supports, proximity to utility poles, and the identification of the state highway where the sign or canopy will be located.

4. Sketches or specific descriptions of the method to be used to affix the sign or canopy to the support structure(s).

5. Proof of compliance with any applicable local governmental regulations.

(b) Applications for banners shall be made no later than 30 days and no earlier than 365 days prior to the requested installation date. The application shall be on Application for Banner, DOT Form ~~575-070-18 850-040-75~~, Rev. ~~10/04 07/04~~, incorporated herein by reference. Copies of DOT Form ~~575-070-18 850-040-75~~ are available from the State Maintenance Engineer or any District Maintenance Engineer. The application shall include:

1. The name, address, and telephone number of the applicants. The name of a contact person whom the Department may contact regarding the banner installation and display also must be supplied. ~~If the applicant is a business or governmental entity, the name of the contact person must be supplied.~~

2. A ~~sketch or~~ drawing of the banner(s), drawn to scale, including any message, logo, or emblem which includes the entire message that will appear on the banner(s).

3. A sketch of the specific location of the banner(s), including height, location of supports, proximity to utility poles, and the identification of the state highway where the banner(s) will be located.

4. Sketches, photographs, or specific descriptions of the method to be used to affix the banner(s) to the support structure(s).

~~5. The beginning and ending dates of the event being promoted.~~

~~5.6.~~ The beginning and ending dates of the display period requested.

~~6.7.~~ Proof of compliance with the requirements of subsection (4)(c) and any local governmental regulations.

~~8. Written authorization from the local governmental entity granting permission to the applicant for the installation of the banners. No banner shall be allowed when the local governmental entity has an ordinance prohibiting its installation.~~

~~9. When the roadway requested for banner installation is under the ownership of an Expressway Authority, written authorization from the affected Expressway Authority granting permission to the applicant for the installation of the banners must be provided.~~

~~7.10.~~ A load rating analysis by a registered professional engineer. See paragraph (4)(d), above.

(c) Banners will not be allowed where a Department construction project is planned or ongoing during the requested display period.

(d) The ~~a~~Applicant shall agree as follows:

1. To the extent provided by law, ~~each the a~~Applicant shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by ~~an the a~~Applicant, its agents, or employees arising from activities associated herewith.

2. When the Department receives a notice of claim for damages that may have been caused by the ~~a~~Applicant in the performance of activities hereunder, the Department will immediately forward the claim to ~~all the a~~Applicants. The ~~a~~Applicants and the Department will evaluate the claim and report their findings to each other within 14 working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the ~~a~~Applicants in the defense of the claim or to require that the ~~a~~Applicants defend the Department in such claim as described in this section. The Department's failure to promptly notify ~~each the a~~Applicant of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the ~~a~~Applicants. The ~~a~~Applicants shall bear all expenses of the Department in defense of the claim.

(e) If the application is denied, the Department shall provide a Notice of Administrative Hearing Rights to ~~each the a~~Applicant.

(6) Failure to comply with the provisions of this rule shall result in the issuance of a Notice of Intent to Deny the Application or a Notice of Noncompliance, which shall include a Notice of Administrative Hearing Rights.

(7) Provision of any notice, denial, revocation, or Notice of Administrative Hearing Rights by the Department under this rule shall not constitute or create entitlement to an administrative hearing where such right does not otherwise exist.

Specific Authority 334.044(2), 337.407 FS. Law Implemented 337.406, 337.407, 479.01, 479.16, 768.28 FS. History—Amended 3-21-64, 5-9-70, 7-9-75, Formerly 14-43.01, Amended 8-3-99, 8-2-01, _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF 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 Medicine

RULE TITLE: RULE NO.:

List of Approved Forms; Incorporation 64B8-1.007

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to incorporate revised forms into the rule and add additional forms which are utilized by the Board.

SUBJECT AREA TO BE ADDRESSED: The incorporation of new and revised forms into the rule.

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board

office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) through (16) No change.

(17) DH-MQA 1031, entitled "Florida Board of Medicine Office Surgery Registration Form," (4/04).

~~(18)(17)~~ No change.

~~(19)(18)~~ DH-MQA 1069, entitled "~~ARNP/EMT/Paramedic Advanced Registered Nurse Practitioner (ARNP) Protocol Form,~~" (9/04) (10/02).

(19) through (22) renumbered (20) through (23) No change.

(24) DH-MQA 1087, entitled "Application for Licensure as an Anesthesiologist Assistant," (7/04).

(25) DH-MQA 1088, entitled "Anesthesiologist Assistants Financial Responsibility," (7/04).

(26) DH-MQA 1089, entitled "Anesthesiologist Assistant Protocol," (7/04).

(23) through (27) renumbered (27) through (31) No change.

Specific Authority 120.55(1)(a)(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), ~~458.3475~~, 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, ~~458.3475~~, 458.348, 458.351, 465.0276 FS. History—New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, 11-17-03, 4-19-04, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: _____ RULE NO.:

Prescribing by Registered Interns, Residents, and Fellows 64B8-6.010

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the prescribing of drugs by interns, residents and fellows.

SUBJECT AREA TO BE ADDRESSED: Prescribing of drugs by interns, residents and fellows.

SPECIFIC AUTHORITY: 458.345, 458.309 FS.

LAW IMPLEMENTED: 458.345, 458.303(1)(d) 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-6.010 Prescribing by Registered Interns, Residents, and Fellows.

(1) Resident physicians, interns, or fellows employed by a hospital and engaged in an accredited training program complying with the provisions of Section 458.345, Florida Statutes, may in the normal course of their employment prescribe medicinal drugs described ~~other than those appearing~~ in schedules set out in Chapter 893, Florida Statutes.

(2) Each resident physician, intern, or fellow authorized by this rule to prescribe medicinal drugs shall utilize the Department issued registration number as his or her prescriber number. Any prescription written by such resident physician, intern, or fellow shall have the registration/prescriber number printed thereon.

Specific Authority 458.345, 458.309 FS. Law Implemented 458.345, 458.303(1)(d) FS. History—New 8-2-83, Amended 1-16-84, Formerly 21M-23.10, Amended 1-31-90, Formerly 21M-23.010, 61F6-23.010, 59R-6.010, Amended 4-6-99, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES: _____ RULE NOS.:

Supervision of Physician’s Assistants or Anesthesiologist Assistants 64B8-8.007

Citation Authority 64B8-8.017

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address supervision of anesthesiologist assistants and to clarify its rules with regard to issuance of citations.

SUBJECT AREA TO BE ADDRESSED: Supervision of anesthesiologist assistants and citations.

SPECIFIC AUTHORITY: 456.073, 458.309, 458.347 FS.

LAW IMPLEMENTED: 456.073, 456.077, 458.347(7)(f), 456.048 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-8.007 Supervision of Physician’s Assistants or Anesthesiologist Assistants.

No physician whose license to practice medicine has been placed on probation shall, during the term of probation, serve as a Primary Supervising Physician or Alternate Supervising Physician, or in any other supervisory capacity, to a Physician’s Assistant or Anesthesiologist Assistant.

Specific Authority 458.309, 458.347 FS. Law Implemented 456.073, 458.347(7)(f), 456.048 FS. History—New 11-15-88, Formerly 21M-20.007, 61F6-20.007, 59R-8.007, Amended _____.

64B8-8.017 Citation Authority.

In lieu of the disciplinary procedures contained in Section 456.073, F.S., the offenses enumerated in this rule may be disciplined by the issuance of a citation. The citation shall include a requirement that the licensee correct the offense, if possible, within a specified period of time, impose whatever obligations will correct the offense, and impose the prescribed penalty.

- (1) through (2) No change.
- (3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

Violations	Penalty
(a) through (o) No change.	
<u>(p) Section 458.331(1)(h), F.S., unintentional failure to file a report as required.</u>	<u>\$500 fine</u>

(4) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Department of Health, Division of Regulation. ~~Such review may be by telephone, in writing, or by facsimile machine.~~

~~(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with other violations, then the procedures of Section 456.073, F.S., shall apply.~~

(6) The subject has 30 days from the date the citation becomes a final order to pay any fine imposed and costs. All fines and costs are to be made payable to the “Department of Health” and sent to the Board of Medicine, the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine.

~~(5)(7)~~ The Department of Health shall, at the end of each calendar quarter, submit a report to the Board of the citations issued, which report shall contain the name of the subject, the violation, fine imposed, and the number of subjects who chose to follow the procedures of Section 456.073, F.S.

Specific Authority 456.077, 458.309 FS. Law Implemented 456.072(2)(d), 456.077 FS. History—New 12-30-91, Formerly 21M-20.017, Amended 11-4-93, Formerly 61F6-20.017, Amended 8-23-95, Formerly 59R-8.017, Amended 4-7-99, 1-27-00, 1-31-02, 1-12-03, 7-27-04, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Continuing Education for Biennial Renewal 64B8-13.005

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address continuing education requirements for licensure renewal.

SUBJECT AREA TO BE ADDRESSED: Continuing education requirements for renewal.

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

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

IF REQUESTED 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-13.005 Continuing Education for Biennial Renewal.

(1) Every physician licensed pursuant to Chapter 458, F.S., shall be required to complete 40 hours of continuing medical education courses approved by the Board in the 24 months preceding each biennial renewal period as established by the Department.

~~(a) For licensees who are renewing a medical license for the first time at least 1 of such continuing medical education hours required for renewal shall concern risk management.~~

(b) through (e) renumbered (a) through (d) No change.

(2) through (9) No change.

(10) In addition to the continuing medical education credits authorized above, a physician who serves as a supervising physician for a licensed physician who is under direct supervision for a period of at least one year, shall be entitled to receive 6 hours of continuing medical education credit. Any physician who serves as a monitoring physician for a licensed physician who is under indirect supervision for a period of at least one year, shall be entitled to receive 3 hours of continuing medical education credit.

(10) through (11) renumbered (11) through (12) No change.

Specific Authority 456.013(6),(7), 456.031(4), 458.309, 458.319 FS. Law Implemented 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS. History--New 9-7-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1- 26-97, Formerly 59R-13.005, Amended 5-18-99, 2-7-01, 6-4-02, 10-8-03, 5-4-04, 5-20-04.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Requirements for Electrolysis Training
RULE NO.: 64B8-53.001

Programs Approved by the Board

PURPOSE AND EFFECT: The Council proposes the development of the above-referenced rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements for Electrolysis Training Programs Approved by the Board.

SPECIFIC AUTHORITY: 478.43(4), 478.50(4)(b) FS.

LAW IMPLEMENTED: 478.43(4), 478.45(1)(e), 478.50(4)(b) 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 ADMINSTRATIVE WEEKLY.

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

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Equipment and Devices; Protocol for
RULE NO.: 64B8-56.002

Laser and Light-Based Devices

PURPOSE AND EFFECT: The Council proposes the development of the above-referenced rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Equipment and Devices; Protocols for Laser and Light-Based Devices.

SPECIFIC AUTHORITY: 478.43 FS.

LAW IMPLEMENTED: 458.331(1)(v), 458.348(3), 478.42(5), 478.43(4) 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 ADMINSTRATIVE WEEKLY.

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

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Risk Management

RULE TITLES: Certificate of Coverage
RULE NOS.: 69H-2.004

Other Forms Adopted 69H-2.008

Property Damage Coverage for

State-Owned Vehicles 69H-2.010

PURPOSE AND EFFECT: The amendment to Rule 69H-2.004, F.A.C., provides an addendum to assess the amount of reimbursement paid for property damage coverage and administrative costs associated with off-duty coverage for motor vehicles used by law enforcement officers. Essentially, state agencies that employ such officers will be assessed a premium for those officers so the Division of Risk Management can pay covered claims. This will establish transparency as to determination of charges and premiums to state agencies. The purpose of this amendment to Rule 69H-2.008, F.A.C., is to reflect changes to the Automobile Accident Form. The changes allow the user to include an accident map and allow the user to include a more descriptive summary of the accident. The purpose of the adoption of Rule 69H-2.010, F.A.C., is to establish a deductible for officers determined to be at fault in incidents involving approved activities in motor vehicles used by the officers. This creates cost expectations in budget planning for state agencies and officers. The rule also creates a structure for processing and adjusting claims in the Division of Risk Management. It will adjust claims by off-duty law enforcement officers involved in motor vehicle accidents.

SUBJECT AREA TO BE ADDRESSED: Property damage coverage for state-owned vehicles.

SPECIFIC AUTHORITY: 284.39, 284.311 FS.

LAW IMPLEMENTED: 284.30, 284.31, 284.40, 284.311 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., November 16, 2004

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: George Rozes, Senior Management Analyst II, Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0336, (850)413-4754

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69H-2.004 Certificate of Coverage.

(1) The Department shall adopt and use a Certificate of Coverage form indicating the insured agency and the coverage provided by the Fund.

(2) Form DI4-867, "State Employee Workers' Compensation and Employer's Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide employee workers' compensation and employer's liability coverage to the agency named on the certificate.

(3) Form DI4-863, "General Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide general liability insurance coverage to the agency named on the certificate.

(4) Form DI4-864, "Fleet Automobile Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide fleet automobile liability coverage to the agency named on the certificate.

(5) Form DFS-D0-864A, "State Risk Management Trust Fund Addendum to Automobile Liability Certificate of Coverage for Off-Duty Law Enforcement Vehicle Property Damage," rev. 7/04, which is hereby adopted and incorporated by reference, will be used to provide addendum to automobile liability coverage to the agency named on the certificate.

(6)(5) Form DI4-865, "Federal Civil Rights Liability and Employment Discrimination Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide coverage for federal civil rights actions under 42 U.S.C.S. 1983 or similar federal statutes to the agency named on the certificate.

(7)(6) Form DI4-862, "Court Awarded Attorney Fees Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide coverage for court awarded attorney's fees in other proceedings against the agency named on the certificate.

Specific Authority 284.39 FS. Law Implemented 284.31 FS. History--New 7-29-72, Formerly 4-30.05, 4-30.005, Amended 1-7-92, 6-28-01, Formerly 4H-2.004, Amended _____.

69H-2.008 Other Forms Adopted.

(1) The following forms are hereby adopted and incorporated by reference. These forms shall be used to aid the Division in the performance of its administrative duties by securing pertinent facts and information on claims filed against the Fund, as the circumstances of particular cases may require.

- | | | | |
|-----|--------------|---|----------------|
| (a) | DFS-D014-261 | Automobile Accident Report | rev. 1/03 6/00 |
| (b) | DI4-866 | Mileage Reimbursement | rev. 3/01 |
| (c) | DI4-1403 | General Liability Loss Report | rev. 6/00 |
| (d) | DI4-1404 | Lien Disclosure Statement | rev. 3/01 |
| (e) | DI4-1406 | Insurer's Disclosure Statement Pursuant to Section 627.4137, F.S. | rev. 6/00 |
| (f) | DFS-D0-1407 | Medical Authorization | rev. 3/04 |
| (g) | DI4-1410 | Substitute Form W9 | new 6/00 |

(2) Copies of each form adopted and incorporated by reference in this rule are available from the Division of Risk Management, Department of Financial Services, Larson Building, Tallahassee, Florida 32399-0336.

Specific Authority 284.39 FS. Law Implemented 284.30, 284.40 FS. History--New 1-7-92, Amended 6-28-01, Formerly 4H-2.008, Amended 7-4-04, _____.

69H-2-010 Property Damage Coverage for State-Owned Vehicles.

(1) Definitions: The following definitions shall apply to the property damage coverage established in this Rule:

(a) "Motor vehicle" – Any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semi trailer designed for use with such vehicle. The term includes a "private passenger motor vehicle" which is any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type. The term also includes a "commercial motor vehicle" which is any motor vehicle that is not a private passenger motor vehicle. The term does not include a mobile home or any motor vehicle which is used in mass transit other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the State.

(b) "At fault" – A law enforcement officer shall be deemed "at fault" if the "contributing cause" code on a Florida Traffic Crash Report Long Form is anything other than code "01", (no improper driving action).

(c) "Actual cash value" – Replacement cost minus depreciation.

(d) "Property damage" – Physical damage to the covered motor vehicle due to collision or impact with another vehicle or object or due to other accidental loss.

(2) Coverage Provided.

(a) The State Risk Management Trust Fund (The Fund) will pay for property damage to a motor vehicle owned by a state agency when this property damage occurs while the motor vehicle is being used by a law enforcement officer, as defined in Section 943.10, F.S., for off-duty work for which the officer must reimburse the state, subject to the exclusions and deductible amounts, as defined in subsections (2)(d) and (2)(e) of this Rule. The Fund will pay reasonable repair costs or the actual cash value of the vehicle whichever is less.

(b) If an independent appraisal of the property damage is required, the Fund will pay for this expense. If the accidental loss results in the motor vehicle being declared a total loss, the Fund will pay the state agency the actual cash value of the motor vehicle (minus any applicable deductible amounts), and the Fund shall retain the salvage value of the motor vehicle.

(c) The Fund will reduce the payments for property damage to the state agency by any applicable deductible amount when the law enforcement officer is determined to be at fault in causing property damage to the motor vehicle.

(d) Exclusions: The Fund will not pay for property damage if:

1. The law enforcement officer was not in the course and scope of approved off-duty activities when the property damage occurred;

2. The law enforcement officer is found to have acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety or property;

3. The law enforcement officer does not have to reimburse the State for use of the motor vehicle;

4. The property damage is due to wear and tear or mechanical breakdown;

5. The property damaged is equipment owned by the state and unattached to the motor vehicle; or

6. The property damaged is the personal property of the law enforcement officer.

(e) Limit of Liability: The Fund's limit of liability will be the lesser of the actual cash value of the damaged property or an amount necessary to repair or replace the property with other property of like kind and quality. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. If a repair or replacement results in better than like kind of quality, the Fund will not pay for the betterment.

(f) Secondary coverage: The coverage set forth in this Rule is secondary to any primary coverage available from any other source. A claim must first be presented under all existing primary coverages available to the claimant, after which a claim under this Rule may be made.

(3) Premium Assessments and Reimbursement.

(a) The Division of Risk Management (The Division) will determine the exposure base for the calculation of costs of providing physical damage coverage according to the number of law enforcement officers using state motor vehicles while performing off-duty employment.

(b) The Division will determine the experience base by the dollar amount paid on claims.

(c) Each state agency shall, no later than April 1 each fiscal year, report to the Division the estimated number of law enforcement officers using state motor vehicles while performing their off-duty employment for the upcoming fiscal year. A state agency shall use Form DFS-D0-861, "Exposure Base Inquiry", rev. 6/00, hereby adopted and incorporated by reference. Copies of this form are available from the Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0337:

(d) Premium calculation.

1. The Division will calculate the total premium based on agencies' experience and exposure (except for the first year). Assessment amounts will fluctuate each year depending on exposure and experience criteria.

2. The assessment amount will be the total anticipated cash payments to be made for property damage payments during the fiscal year, plus an additional charge to offset the Division's operating costs. The Division will calculate this additional charge by multiplying the total anticipated annual property damage payments by an industry average operating cost percentage.

3. The Division will apply any surplus or deficit amounts assessed in the fiscal year, less the administrative portion of the assessment, against the following fiscal year assessment.

4. The Division will assess each state agency according to its proportionate amount of the entire statewide assessment.

(e) Invoices.

1. Each fiscal year, the Division will invoice each state agency for the total amount of its assessment.

2. Each state agency shall pay the assessed amount to the Division within thirty days following the state agency's receipt of the assessment invoice. Payments will be provided from one of the agencies' standard operating categories.

3. Each state agency will administer and collect the law enforcement officers' portion of the agency assessment. The Division shall have no role in this administration and collection. Reimbursements will not be given to officers who leave state employment during the covered fiscal year. The premium is annualized, and will not be prorated for those officers who leave state employment or who request coverage during the covered fiscal year.

(f) Questions regarding this Rule will be addressed to the Finance and Accounting Director, Division of Risk Management, 200 East Gaines Street, Tallahassee, FL 32399-0337.

(4) Deductible Assessment.

(a) The Division will apply a deductible amount toward the costs of repairs and/or total loss payments, for accidents in which the off-duty officer is determined to be at fault.

(b) The Division will compute the deductible amount and adjust the amount at the beginning of each fiscal year. The Division will notify state agencies of the deductible amount no later than July 1 of each fiscal year.

(5) Claims Processing.

(a) Accidents shall be reported to the Division, using Form DFS-D0-261 "Automobile Accident Report", rev. 1/03, which is hereby adopted and incorporated by reference. Copies of the form adopted and incorporated by reference in this subsection are available from the Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0338.

(b) The state agency will submit all supporting documentation for the accident to the Division, including at a minimum the following:

1. The name of the state agency employing the law enforcement officer;

2. A statement certifying that: a) the employee is a law enforcement officer as defined in Section 943.10, Florida Statutes; b) the state agency approved the off-duty employment; c) the law enforcement officer was required to reimburse the agency for use of the motor vehicle; and d) the law enforcement officer purchased coverage by payment of a premium for the fiscal year in which the accident occurred, verified by a receipt from the Agency showing such payment or a copy of the law enforcement officer's pay stub showing such payment.

3. If the form described in subsection (5)(a) of this Rule is unavailable, then an opinion as to whether the state agency believes the law enforcement officer was at fault in causing the property damage;

4. Photographs of the vehicle damage if feasible;

5. If other than a total loss of the motor vehicle occurs, then two estimates for vehicle repairs, and invoices for the repairs; and

6. All available accident reports.

(c) The Division will adjust the claim and issue payment for the repairs to the state agency, according to its Policies and Procedures.

(d) In the event of a total loss claim, the Division will dispose of the salvage and retain any salvage value.

(e) The Division will pursue subrogation on claims caused by the negligence of another party, and will retain any funds recouped by it.

(f) Questions regarding this Rule will be addressed to the Insurance Specialist II, Automobile Appraisals, Division of Risk Management, 200 East Gaines Street, Tallahassee, FL 32399-0338.

Specific Authority 284.311 FS. Law Implemented 284.311 FS. History—New

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE TITLE: Recovery and Purchase Agreements

RULE NO.: 69I-20.0011

PURPOSE AND EFFECT: The purpose of the rule development is to address issues raised subsequent to the enactment of recent amendments to Chapter 717, F.S., regarding recovery and purchase agreements.

SUBJECT AREA TO BE ADDRESSED: Recovery and purchase agreements.

SPECIFIC AUTHORITY: 717.138 FS.

LAW IMPLEMENTED: 717.135, 717.1351, 717.139 FS.

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

TIME AND DATE: 9:00 a.m., Wednesday, November 17, 2004

PLACE: Suite 547, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)410-9461

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69I-20.0011 Recovery and Purchase Agreements.

(1) Sections 717.135(2)(d) and 717.1351(5), F.S., provide the requirements for recovery and purchase agreements. The Department interprets this language as allowing:

(a) An additional signature line for multiple claimants or purchasers.

(b) Use of bolding for the words "Original Signature of CLAIMANT" on the Recovery Agreement.

(c) Use of bolding for the words "Original Signature of OWNER" on the Purchase Agreement.

(d) Addition of corporate representatives' titles with their names on the Recovery Agreement or the Purchase Agreement (example: John Smith, President) or the adding of their title to their signature in the same manner.

(e) Placement of the words "pending" prior to the words "NET AMOUNT TO BE PAID CLAIMANT", if it is not possible to determine the percentage interest of an heir or legatee prior to a determination on the issue by the probate court.

(2) The Department interprets Sections 717.135(2)(d) and 717.1351(5), F.S., as prohibiting any modification of the order or sequence of the statutory language.

Specific Authority 717.138 FS. Law Implemented 717.135, 717.1351, 717.139 FS. History—New _____.