

~~(b)(e)~~ In calculating the percentage of market, an insurer shall only use the figure for the preceding year's total premiums written in the state as compiled by the Office based upon the annual statements submitted by insurers insurance companies.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.915(5),(6), 627.918(1) FS. History--New 1-16-83, Amended 7-1-85, Formerly 4-59.09, 4-59.009, Amended 6-4-92, 1-2-02, Formerly 4-171.002, Amended _____.

69O-171.008 Insurer Experience Reporting – Calendar Year Experience.

(1) Any insurer authorized to transact fire, homeowner's, multiple peril, commercial multiple peril, medical malpractice, product liability, workers' compensation, private passenger automobile liability, commercial automobile liability, private passenger automobile physical damage, commercial automobile physical damage, directors' and officers', or other liability insurance shall report, for each such line of insurance, the information required by Section 627.915(2), Florida Statutes, or required by rule, ~~on by completing and submitting to the Office of Insurance Regulation the Form OIR-B1-308 (Rev. 07/03) "Calendar Year Experience", which is in accordance with the instructions provided therein hereby incorporated by reference, and is available and is to be completed and submitted on the Office's website:~~ http://www.fldfs.com/DI4-308.

(2) Reports for the preceding calendar year are due on or before April 1 of each year.

~~(3) Form OIR-308, "Calendar Year Experience", as amended, shall take effect on the amended date of this rule. Form OIR-308 is hereby incorporated by reference.~~

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.915(2),(6), 627.918(1) FS. History--New 1-16-83, Amended 7-1-85, Formerly 4-59.07, Amended 6-15-88, Formerly 4-59.007, 4-171.008, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Milnes, Property and Casualty Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 2004

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE NO.:
IT-1.001

RULE TITLE:
Division of Cultural Affairs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S. in response to comments received from the Joint Administrative Procedures Committee. The rule was originally published in Vol. 31, No. 7 of the February 18, 2005 issue of the Florida Administrative Weekly.

IT-1.001 Division of Cultural Affairs.

(18) Programs for Individual Artists. The purpose of this program area is to foster the development of individual artists. There are two funding categories as outlined below:

(a) Individual Artist Fellowship Program. This program is designed to recognize the creation of new artworks by individuals of exceptional talent and demonstrated ability. Fellowship awards support the general artistic and career advancement of the individual artist.

1. To be eligible for a fellowship, an applicant must: be a legal resident of Florida, as defined by Section 196.015, Florida Statutes, or Section ~~222.17~~ ~~22-17~~, Florida Statutes, and agree to maintain Florida residency for the duration of the fellowship period; be at least 18 years of age; not be enrolled in any undergraduate or graduate degree-seeking program during the fellowship period; have not received a fellowship award during the five-year period preceding the new award period; and not serve as a grant review panelist if he/she has an application before the same discipline panel.

2. Eligible applicants must submit a completed Fellowship application form (CA2E012, eff. 8/02, incorporated by reference and available from the Division, 1001 DeSoto Park Drive, Tallahassee, Florida 32301); with all required samples of work in the discipline appropriate formats described in the program guidelines, on or before the announced postmark deadline. Samples of work must be original and authentic representations of the applicant's work.

3. The panel reviews for the disciplines of dance, interdisciplinary, media arts, and folk arts are based on a combined rating of the following criteria: the quality and consistency in the body of work, as evidenced by each applicant's submission samples, professional achievements, reputation, and peer support and respect as evidenced through the application form and support materials. Folk art applicants are also evaluated on the "traditionality" of the art form.

(f)(e) DR-15EZN	Instructions for <u>2005</u> 2004 DR-15EZ Sales and Use Tax Returns (R. <u>01/05</u> 01/04)	_____ <u>09/04</u>
(g)(f) No change.		
(h)(g) DR-15MO	<u>Florida Tax on Purchases</u> Out-of-State Purchase Return (R. <u>09/04</u> 06/04)	_____ <u>08/02</u>
(i)(h) DR-15N	Instructions for <u>2005</u> 2004 DR-15 Sales and Use Tax Returns (R. <u>01/05</u> 01/04)	_____ <u>09/04</u>
(i) DR-15SA	Sales and Use Tax Return [Semi-Annual] (R. 06/02)	_____ <u>04/03</u>
(j) DR-15SAN	Annual and Semiannual Sales and Use Tax Return Instructions (R. 12/02)	_____ <u>04/03</u>
(k) through (n) renumbered (j) through (m)	No change.	

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-8.003
 RULE TITLE: Tax Statement; Overpayments
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in accordance with subparagraph 120.54(3)(d)1., F.S., to the proposed amendments to Rule 12B-8.003, F.A.C., published in Vol. 31, No. 6, pp. 538-539, February 11, 2005, issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Procedures Committee, dated March 21, 2005, Page 5 of Form DR-908N, Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return, has been changed, so that, when adopted, the second paragraph of Schedule IV, Computation of Salary Credit, will read as follows:

The term “salaries” does not include amounts paid as commissions. The term “employees” does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except “adjusters”, “managing general agents” and “service representatives,” as defined in § 626.015, F.S.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facilities and Agency Licensing

RULE NO.: 59A-8.0185
 RULE TITLE: Home Health Agencies Personnel Policies

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 6, of the February 11, 2005, issue of the Florida Administrative Weekly. The changes are based upon written comments received by the Agency for Health Care Administration that testifying regarding communicable disease including tuberculosis is not within the statutory scope of practice for chiropractic physicians in Section 460.403(9)(a), Florida Statutes, and therefore, health care professionals licensed under 460 should not be added to paragraph 59A-8.0185(2)(a), F.A.C., as proposed. The Agency has reviewed the statutes and concurs with the comments.

The change is as follows:

59A-8.0185 Home Health Agencies Personnel Policies.

(2) Personnel policies for all full time and part-time employees shall include the following:

(a) Requirement that, prior to contact with patients the new employee must submit a statement from a health care professional licensed under Chapter 458 or 459 ~~or 460~~, F.S., a physician’s assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, based on an exam within the last six months, that the employee is in reasonably good health and appears to be free from apparent signs or symptoms of a communicable disease including tuberculosis, pursuant to Section 381.0011(4), F.S. It is the responsibility of the agency to ensure that employees continue to appear to be in good health. If any employee is later found to have, or is suspected of having, a communicable disease, he shall be removed from duties until the administrator determines that such condition no longer exists. A new employee, who has been an employee of another licensed home health agency, may provide a copy of his health care statement from the files of the former employer provided that the statement was not issued more than 2 years prior and that the employee has not had a break in service of more than 90 days. Medical information is confidential and must not be disclosed without the specific consent of the person to whom it pertains. The written request to release medical information must be kept on file.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anne Menard, Supervisor, Home Care Unit, Bureau of Health Facility Regulation, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32399-3253, e-mail: menarda@ahca.myflorida.com.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE CHAPTER NO.: 60A-1
RULE NO.: 60A-1.016
RULE CHAPTER TITLE: General Regulations
RULE TITLE: Contract and Purchase Order Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule, as noticed in Vol. 31, No. 5, February 4, 2005 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF MANAGEMENT SERVICES

State Technology Office

RULE CHAPTER NO.: 60DD-8
RULE NO.: 60DD-8.002
RULE CHAPTER TITLE: Statewide Law Enforcement Radio System
RULE TITLE: Third Party Subscriber Classifications; Application Process

NOTICE OF CHANGE

Notice is hereby given in accordance with subparagraph 120.54(3)(d)1., F.S., that the following changes have been made to the proposed rules published in the Vol. 30, No. 51 (December 17, 2004) and Vol. 31, No. 8 (February 25, 2005) issues of the Florida Administrative Weekly:

60DD-8.002 Third Party Subscribers Classifications; Application Process.

(1) Third Party Subscribers shall be classified as follows:

(a) Local Law Enforcement and other First Responders – Agencies of local government and other Third Party Subscribers providing law enforcement, fire, and emergency medical services.

(b) Other Public Safety – Agencies of local government not directly involved with law enforcement.

(c) Interoperability Users – Local government agencies requiring communications with state or local government law enforcement agencies using the State interoperability talk groups, and having no more than twenty-five (25) subscriber radios on the system.

(d) State Government Users – Non-JTF User agencies of state government.

(e) Federal – Federal government entities that are authorized by the State Technology Office pursuant to 47 C.F.R. § 90.179 and the provisions of this rule chapter.

(f) Personnel that are task-assigned or liaison to a JTF Agency User in direct support of the JTF Agency User’s mission but are not a member of the JTF Agency User shall be classified as JTF Agency Users under this rule chapter, provided that all communication on the system is in direct coordination with the JTF Agency User. Separate internal talk groups set up strictly for the use of a non-JTF Agency User shall constitute eligible Third Party Subscriber use under this rule chapter. Such groups shall be subject to the same eligibility requirements and membership conditions as any Third Party Subscriber.

(2) Third Party Subscribers wishing to apply to use the Statewide Law Enforcement Radio System shall complete the Third Party Application and Agreement for access to the Statewide Law Enforcement Radio System (Form No. STO-SLERS-001, Effective - -), which hereby incorporated by reference. Form No. STO-SLERS-001 is available on line at www.myflorida.com or by writing to:

Statewide Law Enforcement Radio System
System Manager
State Technology Office
4030 Esplanade Way, Suite 280P
Tallahassee, Florida 32399-0950

(a) Upon receipt of the application, the State Technology Office will within 7 days notify the Contractor that the application has been received. The Contractor will then submit a proposal to the applicant and, upon Contractor and the applicant reaching agreement, submit the proposed agreement to the State Technology Office. The proposed agreement shall contain the proposed terms and conditions, proposed term of subscription, proposed radio coverage requirements, proposed site usage, necessary frequencies and licensing, an overview of equipment, overview of network operation, maintenance and reporting, and an analysis of traffic load impact to the system. The proposed agreement must include a proposed Statement of Responsibilities which defines roles and responsibilities of the Contractor, the Third Party Subscriber and the State Technology Office. For Local Law Enforcement and other First Responders, the proposed agreement shall include the plan to include the encrypted Interoperability talk groups in the Third Party Subscriber’s radios. The proposed agreement shall include a projection of the applicant’s growth and impact on the system in terms of additional radio users expected through the year 2020.

(b) After receipt of the proposed agreement, the State Technology Office will review the proposed agreement for compliance with paragraph 60DD-8.002(2)(a), F.A.C., and within 60 days provide the Contractor and applicant with recommendations, if any, regarding the proposed agreement. The State Technology Office shall review the proposed agreement with the Technical and Standard Operations Procedures Committees of the Joint Task Force on State Agency Law Enforcement Communications, and, if the applicant's use in no way diminishes the State's use of SLERS or the State's right to control its FCC licenses, present the proposed agreement to the Board of Directors of the Joint Task Force on State Agency Law Enforcement Radio Communications for its comments. If the State Technology Office makes recommendations regarding the proposed agreement, the Contractor shall prepare a final proposed agreement and resubmit the proposed agreement to the State Technology Office.

(c) The State Technology Office shall determine whether the final proposed agreement meets the following conditions:

1. The applicant meets the definition of a Third Party Subscriber in paragraph 60DD-8.001(1)(p), F.A.C.;
2. The proposed use of the system by the applicant will not cause the hourly average waiting time per call to exceed 0.5 seconds at any site;
3. The proposed use of the system by the applicant will not cause degradation to security or existing operations.

(d) If in response to a proposal the State Technology Office requests an applicant to provide radio frequencies for the system, the applicant shall submit with the final proposal a letter to the System Manager listing the frequencies and authorizing their use.

(e) Upon satisfactory completion of the procedures set forth in paragraphs 60DD-8.002(2)(a)-(d), F.A.C., the State Technology Office shall authorize third party use of the system by the applicant.

(3) Local Law Enforcement and other First Responders will be granted call priorities equivalent to those granted to State Law Enforcement Users. All other Third Party Subscribers shall have lower call priorities.

Specific Authority 282.106(16) FS. Law Implemented 282.1095 FS. History--New _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tom Brooks, P.E., Manager, Statewide Law Enforcement Radio System, State Technology Office, 4030 Esplanade Way, Suite 280P, Tallahassee, Florida 32399-0950, (850)414-6768, Tom.Brooks@MyFlorida.com

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NOS.:	RULE TITLES:
61A-7.004	Annual Certification Requirements
61A-7.005	Triennial Renewal Requirements
61A-7.010	Penalty Guidelines for Chapter 386, Florida Statutes – Florida Clean Indoor Air Act
61A-7.013	Penalty Guidelines for Florida Statute 561.695 – Stand-Alone Bar Enforcement
61A-7.015	Appeals

SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 41, October 10, 2003 and the first notice of change published in Vol. 30, No. 14, April 23, 2004, issues of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

61A-7.004 shall now read as follows:

A qualifying stand-alone bar receiving an “ss” or “ssf” designation shall file an annual affidavit, ~~DBPR ABT 6040~~, DBPR ABT 4000A-040, incorporated herein by reference, certifying that, on or before the licensee's annual beverage license renewal, for the preceding twelve months, no more than ten percent of total gross revenue was derived from retail sales of food consumed on the licensed premises. The percentage of food sales shall be computed by dividing gross revenues from the sale of food consumed on the premises by the gross revenue of the licensed premises. Failure to file an affidavit in compliance with Section 561.695(5), F.S. shall result in loss of designation.

Rule 61A-7.005 shall now read as follows:

Every third year after the initial designation, on or before the licensee's annual beverage license renewal, in order to renew the designation, a licensed vendor holding an “ssf” designation shall provide to the division a Procedures Report, prepared by a Florida certified public accountant, on DBPR Form ABT 4000A-400 and containing the license name, license number, physical location address, the owner of the license and the period of the report, along with the CPA company name, accountant name and signature and the accountant's license number with date of expiration. DBPR Form ABT 4000A-400, herein incorporated by this reference, effective 02-15-2005, may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, FL 32399-1022 or may be downloaded from the internet at ~~http://state.fl.us/dbpr/abt/contact/index.shtml~~ http://www.state.fl.us/dbpr/abt/forms/index.shtml.

The report must:

Provide the actual percentage of food sales for consumption on premises calculated pursuant to section (3) of this rule; and

(1) Provide information for the preceding 36-month period from the renewal date; and

(2) Provide the total gross sales revenue for each year, with a total for the 3-year period, as well as the total gross sales revenue from food for consumption on premises for each year and a total for the 3-year period, and the percentage of food sales for consumption on premises to total revenue for each year and for the 3-year period.

Rule 61A-7.010 shall now read as follows:

(1) This rule sets forth the penalties which shall be routinely imposed upon licensees who are supervised by the Division Alcoholic Beverages and Tobacco, Department of

STATUTE	VIOLATION	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	EACH SUBSEQUENT OCCURRENCE
386	Failure to comply with Florida Clean Indoor Air Act within Florida Statute 386.	\$275	\$550	\$750	<u>\$1,750</u>

Rule 61A-7.013 shall now read as follows:

(1) This rule sets forth the penalties which shall be imposed upon licensees who are supervised by the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation. Enforcement supervisors and bureau chiefs are authorized to accept settlement offers that do not deviate from the penalty guidelines. The penalties provided

Business and Professional Regulation. Enforcement supervisors and bureau chiefs are authorized to accept settlement offers that do not deviate from the penalty guidelines. The penalties below shall be assessed for violations occurring thirty days after a notice to comply is issued. If a person refuses to comply with this part after having been assessed such penalty the department may file a complaint in the circuit court of the county in which the enclosed indoor workplace is located to require compliance.

(2) The penalty guidelines set forth in the table that follows shall serve to provide field offices and licensees or permittees with penalties that the division will routinely impose for violations.

below are for violations one through three, within a two-year period, and a fourth or subsequent violation occurring anytime within the aforementioned time period or thereafter.

(2) The penalty guidelines set forth in the table that follows shall serve to provide field offices and licensees or permittees with penalties that the division will routinely impose for violations.

STATUTE	VIOLATION	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE	SUBSEQUENT OCCURRENCE
561.695	Failure to comply with stand-alone bar designation requirements within Florida Statute 561.695	Warning	\$500	Suspension of designation for 14 days and \$1000	60 days suspension of designation and \$2000	<u>Revocation</u>

STATUTE	VIOLATION	FIRST OCCURRENCE	EACH SUBSEQUENT OCCURRENCE
561.695(5)	Failure to file annual affidavit upon renewal	Loss of smoking designation	Loss of smoking designation

Rule 61A-7.015 shall now read as follows:

The procedure for appeal under Rule 61A-7, F.A.C., shall be as provided in Section 120.68, Florida Statutes.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Renee Alsobrook, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NOS.:	RULE TITLES:
61A-7.006	Records Required To Maintain the Designation
61A-7.007	Formula for Compliance With Required Percentage of Gross Food Sales Revenue
61A-7.008	For Percentage of Gross Alcohol Sales For Consumption on the Licensed Premises Revenue Formula
61A-7.009	Method Used to Determined Whether an Establishment is Predominately Dedicated to the Serving of Alcoholic Beverages

NOTICE OF CORRECTION

Notice is hereby given that the name of the person originating the proposed rule, the name of the supervisor or person who approved the proposed rule, the date proposed rule was approved, and the date the original notice of proposed rule development appeared in the F.A.W were all inadvertently omitted from the notice of proposed rule making published in the Florida Administrative Weekly on March 11, 2005 in Vol. 31, No. 10.

These corrections do not change the substance of the rule.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Martinez, Special Counsel, Florida Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0063

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Florida Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: 61G10-18.002
RULE TITLE: Board Approval of Continuing Education Providers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 43, of the October 22, 2004, Florida Administrative Weekly. The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The Board, at its telephonic meeting held on January 26, 2005, in Tallahassee, Florida, determined that changes should be made to the rule.

When changed, subsection (2) shall read as follows:

(2) To allow the Board to evaluate an application for continuing education provider status, the applicant must submit the following on Provider Approval Application form Number DBPR-LA-001 effective 3-23-05; adopted and incorporated herein by reference and copy of which can be obtained from the Board office:

(a) The name, address and telephone number and if available email address and fax number of the prospective provider;

(b) Type of organization applying: Accredited University, College or Community College; Vocational/Technical School; Private School; Professional Organization, Association or Independent Entity;

(c) A sample copy certificate of completion which the provider shall supply to all licensees who successfully complete courses given by the provider. The certificate of completion shall indicate on its face area, the provider name, the provider number, course title, course number, licensee name, licensee license number, date course was completed, total number of hours successfully completed in each subject covered during the continuing education course; and

(d) A non refundable application fee of \$ 250.

(e) A summary of qualifications to demonstrate compliance with subsection 61G10-18.002(1), F.A.C., including:

1. Whether applicant is an individual seeking provider status, a business entity seeking provider status, a professional organization seeking provider status, a governmental entity seeking provider status, or an educational facility seeking provider status.

2. The scope of applicant’s business.

3. The length of time the applicant has been in the business of offering continuing education courses.

4. The geographical size of business or professional organization e.g.. an international company or organization, a national company or organization, a regional company or organization, or a local company or organization.

5. Whether the applicant is directly or indirectly affiliated with the profession of Landscape Architecture. (i.e. An irrigation firm is directly affiliated; an insurance company is indirectly affiliated.)

6. Whether the applicant provides continuing education services to any other Boards, or to other professions.

7. If applicant is not a business, but an individual, please attach a curriculum vitae or resume listing applicant’s education and work experience.

A list of the above requested information is available for your convenience from the Board Office or may be printed from the Board Web Site at MyFlorida.com./dbpr.

Specific Authority 455.2124, 455.2179, 481.306, 481.313 FS. Law Implemented 455.2179, 481.313, 553.841 FS. History–New 9-19-01, Amended 6-6-02, 4-13-03,_____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.016
 RULE TITLE: Fees: Examination and Post-Examination Review

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 3, January 21, 2005, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

The text of the rule shall now read as follows:

64B-1.016 Fees: Examination and Post-Examination Review.

(1)(a) The following fees shall be assessed by the department to cover administrative costs, actual per-applicant costs, and costs incurred to develop, purchase, validate, administer, and defend the following department developed, administered, or managed examinations:

Exam Fees		
Profession	Exam	Exam Fee
Chiropractic Medicine	Physical Diagnosis	\$705.00
	Technique	\$120.00
	X-Ray	\$145.00
	Laws & Rules	\$70.00
Dental	Clinical	\$320.00
	Laws & Rules	\$75.00
Dental Hygiene	Clinical	\$405.00
	Laws & Rules	\$25.00
Electrolysis	National	\$150.00
Hearing Aid Specialist	National	\$300.00
Massage	Colonics	\$375.00
Nursing Home Administrator	Laws & Rules	\$300.00
	National	\$20.00
Opticianry	Practical	\$545.00
	Neutralization	\$190.00
Optometry	Clinical	\$1,100.00
	Pharmacology	\$245.00
	Laws & Rules	\$80.00
Osteopathic Medicine	National	\$2,750.00
	Laws & Rules	\$20.00
Physical Therapy	National	\$5.00
	Laws & Rules	\$20.00
Physical Therapist Assistant	National	\$5.00
	Laws & Rules	\$20.00
Psychology	Laws & Rules	\$200.00

(b) For those examinations administered by the computer based testing vendor, the candidate will be assessed a fee by the vendor.

(2) The department shall assess the following non-refundable post examination review fees to cover the actual cost to the department to provide the examination review:

Review Fees		
Profession	Exam	Review Fee
Chiropractic Medicine	Physical Diagnosis	\$100.00
	Technique	\$100.00
Dental	Clinical	\$125.00
Dental Hygiene	Clinical	\$100.00
Hearing Aid Specialist	National Clinical	\$150.00
Opticianry	Practical	\$75.00
	Neutralization	\$100.00
Optometry	Clinical	\$100.00
Physical Therapy	Laws & Rules	\$100.00
Physical Therapy Assistant	Laws & Rules	\$100.00

For those examinations administered through the department's contracted computer based testing vendor, the candidate will be assessed a fee by the vendor to conduct the post-examination review.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Weaver, Testing Services Manager, 4052 Bald Cypress Way, Bin #C90, Tallahassee, Florida 32399-1703

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-6.011
 RULE TITLE: Performance of Pro Bono Services

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule, as noticed in Vol. 30, No. 4, January 23, 2004, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.7141
 RULE TITLE: SSI-Related Medicaid Post Eligibility Treatment of Income

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule, in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 48, November 24, 2004, Florida Administrative Weekly. A Notice of Change published in Vol. 31, No. 12, on March 25, 2005, shows the entire text, after changes were made, and does not isolate only those changes. This notice shows only the changes that are made.

TEXT OF PROPOSED RULE CHANGES:

65A-1.7141 SSI-Related Medicaid Post Eligibility Treatment of Income.

After an individual satisfies all non-financial and financial eligibility criteria for Hospice, institutional care services or Assisted Living waiver (ALW/HCBS), the department determines the amount of the individual's patient responsibility. This process is called "post eligibility treatment of income."

(1) For Hospice and institutional care services, the following deductions are applied to the individual's income to determine patient responsibility:

(d) The department applies the formula and policies in 42 U.S.C. section 1396r-5 to compute the community spouse income allowance after the institutionalized spouse is determined eligible for institutional care benefits. The standards used are found in subsection paragraph 65A-1.716(5), F.A.C. The current standard Food Stamp utility allowance is used to determine the community spouse's excess utility expenses.

(e) For community Hospice cases, a spousal allowance equal to the SSI Federal Benefit Rate (FBR) minus the spouse's own monthly income shall be deducted from the individual's income. If the individual has a spouse and a dependent child(ren) they are entitled to a portion of the individual's income equal to the Temporary Cash Assistance consolidated need standard (CNS) minus the spouse and dependent's income. For CNS criteria, refer to subsection 65A-1.716(1), F.A.C.

(g) Effective January 1, 2004, the department allows a deduction for the actual amount of health insurance premiums, deductibles, coinsurance charges and ~~actual~~ medical expenses, not subject to payment by a third party, incurred by a Medicaid recipient for programs involving post eligibility calculation of a patient responsibility, as authorized by the Medicaid State Plan and in accordance with 42 CFR 435.725.

1. The medical/remedial care services or item must meet all the following criteria:

~~e. Be paid by the recipient or their representative using the recipient's funds;~~

~~d. Be paid to the provider of services;~~

~~c.e. Not be a Medicaid compensable expense; and~~

~~d.f. Not be covered by the facility or provider per diem.~~

2. For services or items not covered by the Medicaid State Plan, the amount of the deduction will be the actual amount for services or items incurred not to exceed the highest of a payment or fee recognized by Medicare, commercial payers, or any other contractually liable third party payer for the same or similar service or item.

~~3.2.~~ Expenses for services or items received prior to the first month of Medicaid eligibility can only be used in the initial projection of medical expenses if the service or item was

provided during the three months prior to the month of application and is anticipated that the expense for the service or item will ~~to~~ recur in the initial projection period.

~~4.3.~~ For the initial projection period, the department will allow a deduction ~~for (a) the actual amount of health insurance premiums (prorated if paid less frequently than monthly) and (b) a deduction~~ for the anticipated amount of uncovered medical expenses incurred during the three months prior to the date of application, and that are recurring (reasonably anticipated to occur) expenses ~~expected to recur~~ in the initial projection period.

~~5.4.~~ Actual incurred and recognized expenses will be deducted in each of the three months prior to the Medicaid application month when an applicant requests three months prior Medicaid coverage and is eligible in the prior month(s).

~~6.5.~~ The initial projection period is the first day of the first month of ~~the client's~~ Medicaid eligibility beginning no earlier than the application month through the last day of the sixth month following the month of approval. A semi-annual review is scheduled for the fifth month after the month approved to evaluate the recipient's actual incurred medical expenses for the prior six months.

~~7.6.~~ For the semi-annual review, the department will request documentation of the recipient's actual incurred medical expenses for the prior six months.

a. If the recipient documents their actual expenses, staff must compare the total projected expenses budgeted with the total actual recurring expenses to determine if the projection was accurate. If the projection was overstated or understated by more than \$120, the department must use the amount overstated or understated by more than \$120 combined with the total expenses anticipated ~~expected~~ to recur and any non-recurring one-time expenses incurred during the period to compute an average amount to deduct from patient responsibility for the next projection period, if possible. If an adjustment is not possible ~~in the next period~~, the department must adjust the patient responsibility for each past month in which an expense was overstated.

b. If a recipient fails to document their actual expenses for the last projection period at the time of their semi-annual review, the department must assume the recipient did not incur the expense(s) which was projected. The department will remove the deduction for the next projection period and calculate the total amount of deductions incorrectly credited in the prior projection period to adjust the recipient's future patient responsibility. If an adjustment is not possible ~~in the next period~~, the department must adjust the patient responsibility for each past month in which an expense was overstated.

~~8.7.~~ The steps in subparagraph (g)~~7.6.~~ above must be repeated for each semi-annual review.

~~9.8.~~ Recipients must report their uncovered medical expenses timely.

a. New, recurring uncovered medical expenses must be reported ~~within 10 days of receiving the service or~~ no later than the tenth day of the month in which their next semi-annual review is due. If the due date falls on a weekend or holiday, the recipient must report by the end of the next regularly scheduled business working day. Recurring expenses reported timely will be included in the calculation of patient responsibility beginning with the month the expense was incurred. Recurring expenses not reported timely will be included in the calculation of patient responsibility beginning the month reported and will be prorated for the remaining months of the projection period, but no adjustments in patient responsibility will be made for past months in which expenses went unreported.

b. Non-recurring ~~(one-time)~~ uncovered medical expenses must be reported no later than the tenth day of the month in which the next semi-annual review is due. If the due date is a weekend or holiday, the recipient must report by the end of the next regularly scheduled business working day. Non-recurring expenses reported timely will be held until the semi-annual review month and prorated over the next six-month period. Non-recurring expenses not reported timely will not be included as a deduction in the patient responsibility calculation.

(2) For ALW/HCBS, the following deductions shall apply in computing patient responsibility:

(a) An allowance for personal needs in the amount equal to the Optional State Supplementation (OSS) (as defined in Chapter 65A-2, F.A.C.) cost of care plus the OSS personal need allowance.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Nathan Lewis, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 449, Tallahassee, FL 32399-0700, (850)414-5927

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES:	RULE NOS.:
Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods	12BER05-1
Department of Revenue Electronic Database	12BER05-2
Certification of Service Address Databases	12BER05-3
Use of Enhanced Zip Code Method to Assign Service Addresses to Local Taxing Jurisdictions	12BER05-4

SPECIFIC FACTS AND REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The Communications Services Tax Simplification Law (Chapter 202, F.S.) requires that communications services dealers must collect and remit local communications services taxes based on the rate of the local taxing jurisdiction in which customer service addresses are located. The Department of Revenue is required to develop and maintain an electronic database in which local service addresses are assigned to local jurisdictions, and local governments are required to provide information for inclusion in the database. The initial electronic database has been developed, and the announcement concerning its availability and initial effective date was included in the April 5, 2002, issue of the Florida Administrative Weekly. Use of certain methods to assign service addresses, including use of a database that has been certified by the Department of Revenue as meeting statutory accuracy standards, entitles a dealer to a higher collection allowance and to protection against liability for taxes, interest, and penalties resulting from erroneous service address assignments. The promulgation of these emergency rules ensures the following: 1) that communications services tax dealers are informed of their obligations concerning the assignment of customer service addresses, of the methods of assigning addresses that will entitle dealers to protection against liability, and of the methods of assigning addresses that will entitle a dealer to a higher collection allowance; 2) that the procedures and forms for the Department and local governments to maintain the accuracy of the database on an on-going basis are immediately available; and 3) that the procedures and forms for application for certification by the Department of databases used by communications services tax dealers are available.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized promulgation of emergency rules, and the renewal of such rules, to administer the provisions of the Communications Services Tax Simplification Law. Emergency rules are the most appropriate means of ensuring that local governments have procedures and forms in place to assure they can meet the statutory deadline to submit changes for inclusion in the next update of the Department of Revenue database. Emergency rules are also the most appropriate means for providing communications services dealers and others with procedures and forms to apply for certification of service address databases.

The Department of Revenue has sought comment on these emergency rules to the extent possible within the time restraints resulting from the statutory requirements.

SUMMARY OF THE RULES: Emergency Rule 12BER05-1 provides guidelines on: 1) the requirement that communications services dealers assign customer service addresses to local taxing jurisdictions; 2) the use of certain