

requirements. Administrative Rules 65A-1.601 and 65A-1.604 will be repealed and relevant food stamp provisions added to Administrative Rule 65A-1.602. Administrative Rule 65A-1.602 will be amended to clarify FSP case processing; provide SR option requirements; and, add Electronic Benefit Transfer issuance requirements.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 409.942, 414.31, 414.32 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: 10:30 a.m., June 16, 2005

PLACE: Building 3, Room 439, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jennifer Lange, Chief, Program Policy, Economic Self-Sufficiency, Building 3, Room 450, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, (850)921-0253

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:
 Recount Procedures 1S-2.031

PURPOSE AND EFFECT: The primary purpose of the proposed changes to the rule is provide statewide and uniform procedures and standards for conducting a manual recount of a touchscreen voting system when a manual recount is triggered by the results of a machine recount under Section 102.141, Florida Statutes. No such procedures or standards are in place following the expiration of Emergency Rule 1SER04-01.

Emergency Rule 1SER04-01, relating specifically to manual recounts for touchscreen voting systems, had been adopted in October 15, 2004, to replace subsection (7) of Rule 1S-2.031, Florida Administrative Code. Subsection (7) had provided that manual recounts of touchscreen ballots were not required because the purpose for which such recounts are done could not be accomplished because an overvote could not be cast and a determination could not be made regarding a clear indication of a voter's choice of an undervote on such touchscreen voting systems. Nonetheless, on August 27, 2004, subsection (7) was declared invalid and contrary to Section 102.166, Florida Statutes by an administrative law judge in American Civil Liberties Union of Florida, Inc., et al. v. Florida Department of State, Case No. 04-2341RX. The timing and nature of the administrative ruling just before the upcoming 2004 General

Elections posed the imminent danger that processes for conducting manual recounts would be created on an ad hoc county-by-county basis and that such disparate processes would have an adverse effect on the conduct of elections.

In an effort to minimize the potential for such disparity in the electoral process, the Department adopted Emergency Rule 1SER04-01 which remained effective until January 13, 2005. The Department now seeks to put into place permanent statewide and uniform procedures and standards which are necessary for conducting manual recounts of touchscreen voting systems, and to make other attendant changes to the rule to conform.

A Notice of Proposed Rule Development was published on January 21, 2005, in the Florida Administrative Weekly (Vol. 31, No. 3) which included a notice of a scheduled workshop but no draft of the proposed rule was available. The workshop was held on February 22, 2005, but there were no public attendees.

SUMMARY: The proposed rule generally provides procedures and standards for conducting manual recounts of touchscreen voting systems and makes other technical conforming changes. 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: 102.166 FS.

LAW IMPLEMENTED: 102.166 FS.

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

DATE AND TIME: 3:00 p.m., Monday, June 13, 2005

PLACE: Department of State, R. A. Gray Building, Heritage Hall, Tallahassee, Florida

Any person requiring a special accommodation to participate in the hearing because of a disability should contact Nancy Whitfield, (850)245-6262, at least three (3) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria Matthews, Division of Elections, Office of General Counsel, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.031 Recount Procedures.

(1) General applicable provisions.

(a) All procedures relating to machine and manual recounts shall be open to the public.

(b)(2) At least two members of the county canvassing board shall be present during all times a machine or manual recount is being conducted.

~~(c)(3)~~ All recounts are to be ordered by the respective county canvassing board or canvassing commission responsible for certifying the results of the race or races being recounted.

(d) In a machine recounts ordered by the county canvassing board, such board shall notify the candidates or committees in the affected race or races that a machine recount will be conducted. If a machine recount is ordered by the Elections Canvassing Commission, the Division of Elections shall notify the candidates or committees in the affected race or races that a machine recount will be conducted. In addition, notice of all machine recounts shall be posted on the door of the public entrance to the building where the office of the supervisor of elections is housed so that the notice is accessible to the public 24 hours a day.

(e) In all manual recounts, after the completion of a manual recount, the county canvassing board shall examine the ballots that were not allocated to any candidate or issue choice to determine if revisions are necessary to Rule 1S-2.027, F.A.C., (Clear Indication of Voter's Choice on a Ballot) and shall notify the Division of Elections if revisions are necessary.

(f) All machine and manual recounts conducted pursuant to this Rule must be completed in such a manner as to provide the county canvassing board sufficient time to comply with the provisions of Section 102.112, F.S. Any returns not received by the department by the time specified in subsection (2) of Section 102.112, F.S., shall be ignored and the results on file at that time shall be certified by the department.

(g)(4) As used in this rule, the term:

1. "Ballot image" means an electronic record of the content of a ballot cast by a voter and recorded by the voting device.

2. "Ballot image report" means the printout of ballot images for each machine or precinct generated pursuant to subparagraph (4)(b)1.

3. "Complete canvass report" means the voting system report from the machine recount that contains the results for each contest in each precinct (such report includes the total votes for each candidate or issue, the total number of undervotes and overvotes for each candidate or issue, and the total ballots cast for each race or issue).

4. "Overvote" means that the elector designated more names than there are persons to be elected to an office or designated more than one answer to a ballot issue.

5. "Undervote" means that the tabulator recorded no vote for the office or ~~issue question~~ or that the elector did not designate the number of choices allowed for the office or issue ~~raee~~.

(2)(5) Machine Recounts shall be conducted as follows:

~~(a) The canvassing board responsible for ordering the machine recount shall be responsible for notifying the candidates or committees in the affected race or races that a machine recount will be conducted. In addition, notice of the~~

~~machine recount shall be posted on the door of the public entrance to the building where the supervisor of elections office is housed so that the notice is accessible to the public 24 hours a day.~~

~~(a)(b) Optical Scan Ballot Machine Recounts.~~

The following procedures apply to machine recounts of optical scan ballots involving all county, multicounty, federal or statewide offices or issues required by law to be recounted:

1. The tabulating equipment being used in the recount must be tested pursuant to the provisions of Section 101.5612, F.S. The county canvassing board may, but is not required to, use the same tabulating equipment that ballots were originally tabulated on. If the test shows no error, the county canvassing board shall proceed with the machine recount ~~the results of the machine recount shall be deemed correct~~. If the test indicates an error, the county canvassing board shall correct the error and proceed with ~~repeat~~ the machine recount.

2. Procedure when only one race is being recounted or where more than one race is being recounted and the voting system will allow for the sorting of overvotes and undervotes in more than one race at the same time:

a. The supervisor of elections shall change the election parameters so that the recounted race or races will be tabulated and so that ballots containing overvotes and undervotes in the recounted race or races can be sorted from the other ballots during the machine recount.

b. The county canvassing board or its representatives shall put each ballot through the tabulating equipment and determine the votes in the recounted race or races. During this process, the overvoted and undervoted ballots in the recounted race or races must be sorted.

c. Sorted ballots shall be placed in a sealed container or containers until it is determined whether a manual recount will be conducted. Seal numbers shall be recorded at the time the ballots are placed in the containers.

3. Procedure when more than one race is being recounted by machine and the voting system does not allow the sorting of overvotes and undervotes on more than one race at a time:

a. The county canvassing board or its representatives shall put each ballot through the tabulating equipment and determine the votes in the affected races.

b. The county canvassing board shall produce vote counts for those races involved in the machine recount.

c. Prior to a manual recount being conducted, the supervisor of elections shall change the election parameters and the ballots for the manually recounted race or races shall be put back through the tabulating equipment and overvotes and undervotes for each race shall be sorted separately.

~~(b)(c) Touchscreen Ballot Machine Recounts.~~

The following procedures apply to machine recounts of touchscreen ballots involving all county, multicounty, federal or statewide offices or issues required by law to be recounted:

1. The county canvassing board shall be required to produce printed vote totals for the affected race or races for each precinct and early voting site.

2. The county canvassing board shall verify that the total votes for the recounted race or races taken from the printed vote totals for each precinct and early voting site are the same as the total votes shown on the county totals from election night. If there is a discrepancy, the county canvassing board shall investigate and resolve the discrepancy.

(3)(6) Optical Scan Ballot Manual Recount.

The following procedures apply to manual recounts of optical scan ballots involving all county, multicounty, federal or statewide offices or issues required by law to be recounted:

(a) Ballots with overvotes and undervotes shall be transported to the location of the manual recount by two members of the county canvassing board and a sworn law enforcement officer. From the time the manual recount is started until completion of the recount, including times of recess, the ballots shall be guarded by a sworn law enforcement officer.

(b) If the manual recount is ordered by the Elections Canvassing Commission, the Division of Elections Commission shall notify the candidates and chairmen of the state executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of a ballot issue, that a manual recount has been ordered. The candidates or chairmen are responsible for contacting the supervisor of elections in each county involved in the manual recount to find out when and where the recount will be conducted and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

(c) If the manual recount is ordered by the county canvassing board, the supervisor of elections shall notify the candidates and chairmen of the county executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of a ballot issue, that a recount has been ordered and shall provide information regarding the time and the place of the Manual recount and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

(d) In addition, each county canvassing board shall provide public notice of the time and place of the manual recount immediately after determining the need for a manual recount pursuant to Section 102.166, F.S. The notice shall be in either a newspaper of general circulation in the county or posted in at least four conspicuous locations in the county. Because of the time constraints in conducting the manual recount, the canvassing board shall also contact media outlets in the community so that the public is made aware of the recount as soon as possible. The manual recount shall begin as

soon as practicable in order for the recount to be concluded in time for the certification of results to be submitted pursuant to Section 102.112, F.S.

(e) The manual recount shall be conducted in a room large enough to accommodate the necessary number of counting teams, the canvassing board members and representatives of each candidate, political party or political committee entitled to have representatives. Members of the public and the press (observers) shall be allowed to observe the recount from a separate area designated by the county canvassing board, which area may be outside of the actual recount area but which will allow the observers to view the activities. In addition to the sworn law enforcement officer guarding the ballots, there shall be a sworn law enforcement officer to keep order in and around the recount area.

(f) The county canvassing board shall determine the number of overvotes and undervotes to be manually recounted. If the recount involves candidates or issues on a statewide or multicounty basis, each county canvassing board shall notify the Elections Canvassing Commission of the number of overvotes and undervotes in the county for the affected race. Any candidate whose ultimate success or failure in the race could be adversely or favorably impacted by the manual recount, presuming recount results most favorable and least favorable to the candidate, shall be entitled to representatives at the recount as provided in paragraph (g). ~~In addition, in any primary where more than one candidate may proceed to a subsequent primary or general election, the candidates receiving the highest and second highest number of votes shall be entitled to representatives as provided in paragraph (g) at the recount if the recount could result in those candidates switching positions in the official returns.~~

(g) Each candidate entitled to representatives as outlined in paragraph (f) is entitled to a number of representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If the race being recounted is a partisan race, each political party with candidates entitled to representatives is entitled to one representative. Each candidate or political party entitled to representatives must provide a list of the names of each representative designated.

(h) In order to be entitled to representatives at the manual recount, a political committee supporting or opposing a ballot issue which is being recounted must have provided in its statement of organization, on file before the election, that the committee is specifically supporting or opposing the issue in question. If more than one committee is registered as supporting or opposing the issue, each side shall be entitled to one representative per counting team plus one for the county canvassing board, regardless of the number of committees supporting or opposing the ballot issue. The county canvassing board shall notify each committee chairman of the number of representatives it is entitled to have present at the recount,

which shall be determined by taking the total number of representatives allowed and dividing it by the number of registered committees on that side of the issue. The committee chairman must provide a list of the names of each representative designated.

(i) In the case of a manual recount regarding the retention of a judicial candidate, the judicial candidate is entitled to representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If there are political committees organized to oppose the retention of such judicial candidate, those committees are entitled to representatives pursuant to paragraph (h).

(j) Representatives and observers must not interfere with or disturb the recount in any way. If the conduct of the representatives or observers impedes the recount process, the recount will stop until the situation is corrected. If the disturbance continues, upon majority vote of the county canvassing board, the persons causing the disturbance shall be removed from the premises by the law enforcement officer charged with maintaining order at the recount.

(k) Prior to the beginning of the manual recount, the county canvassing board, the members of the counting teams and the representatives entitled to be present, shall jointly review the rules and statutes governing recount procedures and what constitutes a clear indication that the voter has made a definite choice ~~voter intent with the members of the counting teams and with the representatives entitled to be present~~. At the beginning of the manual recount, the seal numbers on the containers shall be announced as they are broken and compared to the numbers previously recorded.

(l) Each counting team shall review the ballots before them to determine if there is or is not a clear indication that the voter has made a definite choice, as specified in Rule 1S-2.027, F.A.C. If the counting team is unable to make the determination, or if there is an objection to the decision of the counting team by a designated representative, the ballot shall be set aside for the county canvassing board's determination.

(m) Each counting team shall place the ballots in stacks indicating:

1. Votes for each candidate or issue choice;

2. Ballots which the counting team has determined there is no clear indication that the voter made a definite choice for an office or ballot question; and

3. Ballots to be set aside for the county canvassing board's determination.

(n) The counting team shall count and record the number of votes for each candidate or issue choice, the number of ballots which the counting team has determined there is no clear indication that the voter made a definite choice, and the number of ballots which are to be given to the canvassing board for its determination and shall submit those totals to the county canvassing board.

(o) Each ballot set aside because the counting team was unable to make a determination that there is a clear indication that the voter has made a definite choice must be placed in a separate envelope with a notation of the precinct number, why the team was unable to make the determination, and the names of the members of the counting team. If a ballot was set aside because of an objection to the decision of the counting team by a representative, the envelope must contain the precinct number, the names of the members of the counting team, the counting team's initial determination, the reasoning behind the challenge and the name and representative capacity of the person bringing the challenge.

(p) The county canvassing board shall review each ballot set aside to determine if there is or is not a clear indication that the voter has made a definite choice, as specified in Rule 1S-2.027, F.A.C. All three members of the county canvassing board must be present for this determination and the determination must be by majority vote.

(q) The records of the manual recount shall detail the number of votes each candidate or issue choice received and the number of ballots not allocated to any candidate or issue choice. The county canvassing board shall then certify the number of votes for each candidate or issue choice by combining the totals on the machine during the sorting process with the totals of the manual recount.

(r) The activities of the county canvassing board in making determinations of ballots to be counted shall be recorded by either audio or audio/video tape. In addition, minutes of the manual recount shall be made and approved by the canvassing board. All tapes and minutes shall be made available to the public within 2 weeks of the time the canvassing board certifies the results of the election.

(s) If ballots were sorted for more than one race during the machine recount, the following additional procedures shall be used:

1. The election parameters shall be changed so that only overvoted and undervoted ballots for one recounted race will be sorted.

2. All ballots previously sorted pursuant to subparagraph (2)(a)2. ~~(5)(b)2.~~ shall be put back through the tabulating equipment to sort the ballots for the first manually recounted race.

3. If there is another race to be manually recounted, following the first manual recount, the sorted ballots from the first manually recounted race will be combined with the other sorted ballots.

4. The election parameters shall be changed to sort the overvoted and undervoted ballots for the next manually recounted race.

5. All previously sorted ballots shall be put back through the tabulating equipment to sort the ballots for the next manually recounted race.

6. The canvassing board shall make an identifying mark or notation on each sorted ballot, in an area that does not interfere with the counting of the ballot, to indicate that the ballot was a manually recounted ballot for a particular race.

(t) If ballots were not sorted during the machine recount, the following procedures shall be used:

1. The election parameters shall be changed so that overvotes and undervotes in the first manually recounted race are identified and sorted for manual review.

2. Following the manual recount, if there is another race to be recounted, the sorted ballots from the first manual recount must be placed back in with the other ballots. The election parameters shall be changed to identify and sort ballots for the next manually recounted race.

3. The canvassing board shall make an identifying mark or notation on each sorted ballot, in an area that does not interfere with the counting of the ballot, to indicate that the ballot was a manually recounted ballot for a particular race.

(4) Touchscreen Ballot Manual Recount.

Pursuant to Section 102.166, F.S., the purpose of the review of overvotes and undervotes in a manual recount is for the county canvassing board to determine whether such review of an overvoted or undervoted ballot cast by a voter in the recounted race or issue reveals a “clear indication on the ballot that the voter has made a definite choice.”

(a) The following standards apply in a manual recount of overvotes and undervotes as provided specifically by Section 102.166, F.S., on a touchscreen voting system, to determine whether there is a clear indication on the ballot image report that the voter has made a definite choice:

1. A clear indication on the ballot that the voter made a definite choice not to cast an overvote shall be determined by the presence on the ballot image of a selection in the race or issue or of an indication of an undervote in the manner proscribed by subparagraph 2. Touchscreen voting systems do not permit a voter to cast an overvote; therefore, the canvassing board shall accept the machine recount as conclusive that there are no overvotes in the manually recounted race or issue.

2. The clear indication that the voter has made a definite choice to undervote shall be determined by the presence of the marking, or the absence of any marking, that the manufacturer of the certified voting system indicates shall be present or absent to signify an undervote. The following represents the manufacturer indicated markings of an undervote for each respective certified voting system:

a. ES&S iVotronic touchscreen voting system. A clear indication that the voter made a definite choice to undervote shall be determined by the word “undervote” on the ballot image for the affected race or issue, as illustrated in Form DS-DE 72, eff. 10/04, hereby incorporated herein by reference and available from the Division of Elections, and as may be amended.

b. Sequoia touchscreen voting system. A clear indication that the voter made a definite choice to undervote shall be determined by the absence on the ballot image of any numeric codes designated for the candidates or choices for the affected race or issue, or by the presence on the ballot image of less than the maximum number of numeric codes that may be present for any affected race in which the voter is permitted to select more than one candidate, each as illustrated in Form DS-DE 72, eff. 10/04, hereby incorporated herein by reference and available from the Division of Elections, and as may be amended.

c. Diebold touchscreen voting system. A clear indication that the voter made a definite choice to undervote shall be determined by the absence of an “X” within the brackets ([]) located next to the candidates or choices for the affected race or issue, or by the presence on the ballot image of Xs within the brackets located next to the candidates for the affected race which total a number less than the number of candidates for which the voter is permitted to cast a vote, each as illustrated in Form DS-DE 72, eff. 10/04, hereby incorporated herein by reference and available from the Division of Elections, and as may be amended.

3. If a voter marks fewer candidates than there are positions to be elected for those offices, the votes for all of those marked candidates shall count. For example, if the voter is allowed to vote for 5 candidates in a special district election (“Vote for 5”) and the voter marks 2 candidates, the votes for those two marked candidates shall count.

(b) The following procedures apply to manual recounts of undervotes on touchscreen voting systems involving all county, multi-county, federal or statewide offices or issues required by law to be recounted:

1. The county canvassing board shall order the printing of one (1) official copy of the ballot image report from each touchscreen voting machine that has recorded undervotes for the affected race or issue. If the certified system does not permit the printing of a ballot image report by touchscreen voting machine, then the canvassing board shall order the printing of the ballot image report for each precinct and early voting site that has recorded undervotes for the affected race or issue. The ballot image report for each certified voting system shall be substantially in the form provided in Form DS-DE 72, eff. 10/04, hereby incorporated herein by reference and available from the Division of Elections, and as may be amended. If the certified voting system is capable of electronic sorting and identifying of undervotes, the canvassing board must order the printing of the ballot image report using such capabilities. The county supervisor of elections shall maintain a custody log for each ballot image report and otherwise assure that the ballot image report remains secure and free of tampering at all times.

2. The ballot image report shall be examined by the counting teams for the race or issue being recounted to identify and highlight ballot images containing undervotes for the affected race or issue and to determine if there is a clear indication on the ballot image containing the undervote that the voter made a definite choice. A certified voting system that includes a means for electronically sorting and identifying undervotes must be used to identify and highlight ballot images with undervotes in place of the counting team process.

3. If an objection is made by a representative (designated pursuant to paragraphs (f)-(i) of subsection (3) of this Rule) to a decision of the counting team, an attachment shall be made to the ballot image report that contains the names of the members of the counting team, the counting team's initial determination, the reasoning behind the objection, and the name and representative capacity of the person making the objection. An objection must be based solely on departures from the procedures outlined in this rule for determining the clear indication on the ballot that the voter has made a definite choice to undervote.

4. All objections pursuant to this subsection must be resolved by the county canvassing board. If the canvassing board determines that the counting team departed from the procedures outlined in this rule for determining the clear indication on the ballot that the voter has made a definite choice to undervote, then the canvassing board shall correct such departure by applying the applicable standard.

5. The counting teams shall maintain a running tally of the number of undervotes totaled per touchscreen voting machine in each precinct. After a review of ballot image reports containing undervotes from the voting machine or the precinct, the counting team shall tabulate the total number of undervotes for such precinct. The counting teams shall compare the total number of undervotes manually recounted for each precinct to the total number of undervotes reported by the voting system in the complete canvass report for each precinct.

6. If the comparison of the undervotes in the manual recount matches the total number of undervotes reported for such precinct in the complete canvass report, then the counting team shall certify the results of the machine recount to the canvassing board. If there is a discrepancy between the number of undervotes in the manual recount and the machine recount, then the counting teams shall re-tabulate the number of undervotes for such precinct up to two additional times to resolve such discrepancy. If, after re-tabulating the number of undervotes for each such precinct, the discrepancy remains, then the county canvassing board shall investigate and resolve the discrepancy with respect only to such precinct. In resolving the discrepancy, the canvassing board shall review the records produced by the voting system and may request the verification of the tabulation software as provided in Section 102.141(5)(b), F.S., and conduct any necessary diagnostic examinations; provided, however, that in no event shall the

county canvassing board order or conduct any diagnostic examination that may result in the clearing of any vote totals or in any way affecting the memory of machine.

7. All three (3) members of the county canvassing board must be present for any determination or decision made pursuant to this subsection and the determination or decision must be by majority vote.

8. The following provisions of this rule also apply to manual recounts of touchscreen voting systems:

a. If the manual recount is ordered by the Elections Canvassing Commission, the Division of Elections shall notify the candidates and chairmen of the state executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of a ballot issue, that a manual recount has been ordered. The candidates or chairmen are responsible for contacting the supervisor of elections in each county involved in the manual recount to find out when and where the recount will be conducted and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

b. If the manual recount is ordered by the county canvassing board, the supervisor of elections shall notify the candidates and chairmen of the county executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of a ballot issue, that a recount has been ordered and shall provide information regarding the time and the place of the manual recount and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

c. In addition, each county canvassing board shall provide public notice of the time and place of the manual recount immediately after determining the need for a manual recount pursuant to Section 102.166, F.S. The notice shall be in either a newspaper of general circulation in the county or posted in at least four conspicuous locations in the county. Because of the time constraints in conducting the manual recount, the canvassing board shall also contact media outlets in the community so that the public is made aware of the recount as soon as possible. The manual recount shall begin as soon as practicable in order for the recount to be concluded in time for the certification of results to be submitted pursuant to Section 102.112, F.S.

d. The manual recount shall be conducted in a room large enough to accommodate the necessary number of counting teams, the canvassing board members and representatives of each candidate, political party or political committee entitled to have representatives. Members of the public and the press (observers) shall be allowed to observe the recount from a separate area designated by the county canvassing board, which area may be outside of the actual recount area but which will allow the observers to view the activities. In addition to

the sworn law enforcement officer guarding the ballots, there shall be a sworn law enforcement officer to keep order in and around the recount area.

e. The county canvassing board shall determine the number of undervotes to be manually recounted. If the recount involves candidates or issues on a statewide or multicounty basis, each county canvassing board shall notify the Elections Canvassing Commission of the number of undervotes in the county for the affected race. Any candidate whose ultimate success or failure in the race could be adversely or favorably impacted by the manual recount, presuming recount results most favorable and least favorable to the candidate, shall be entitled to representatives at the recount as provided in sub-subparagraph f.

f. Each candidate entitled to representatives as outlined in sub-subparagraph e. is entitled to a number of representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If the race being recounted is a partisan race, each political party with candidates entitled to representatives is entitled to one representative. Each candidate or political party entitled to representatives must provide a list of the names of each representative designated.

g. In order to be entitled to representatives at the manual recount, a political committee supporting or opposing a ballot issue which is being recounted must have provided in its statement of organization, on file before the election, that the committee is specifically supporting or opposing the issue in question. If more than one committee is registered as supporting or opposing the issue, each side shall be entitled to one representative per counting team plus one for the county canvassing board, regardless of the number of committees supporting or opposing the ballot issue. The county canvassing board shall notify each committee chairman of the number of representatives it is entitled to have present at the recount, which shall be determined by taking the total number of representatives allowed and dividing it by the number of registered committees on that side of the issue. The committee chairman must provide a list of the names of each representative designated.

h. In the case of a manual recount regarding the retention of a judicial candidate, the judicial candidate is entitled to representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If there are political committees organized to oppose the retention of such judicial candidate, those committees are entitled to representatives pursuant to sub-subparagraph g.

i. Representatives and observers must not interfere with or disturb the recount in any way. If the conduct of the representatives or observers impedes the recount process, the recount will stop until the situation is corrected. If the disturbance continues, upon majority vote of the county

canvassing board, the persons causing the disturbance shall be removed from the premises by the law enforcement officer charged with maintaining order at the recount.

j. Prior to the beginning of the manual recount, the county canvassing board, the members of the counting teams and the representatives entitled to be present, shall jointly review the rules and statutes governing recount procedures and what constitutes a clear indication that the voter has made a definite choice.

k. The activities of the county canvassing board in making determinations of ballots to be counted shall be recorded by either audio or audio/video tape. In addition, minutes of the manual recount shall be made and approved by the canvassing board. All tapes and minutes shall be made available to the public within 2 weeks of the time the canvassing board certifies the results of the election.

~~(7) When a manual recount is ordered and touchscreen ballots are used, no manual recount of undervotes and overvotes cast on a touchscreen system shall be conducted since these machines do not allow a voter to cast an overvote and since a review of undervotes cannot result in a determination of voter intent as required by Section 102.166(5), F.S. In this case, the results of the machine recount conducted pursuant to paragraph (5)(c) shall be the official totals for the touchscreen ballots.~~

~~(8) Following a manual recount, the county canvassing board shall examine the ballots that were not allocated to any candidate or issue choice to determine if revisions to the voter intent rule are necessary and shall so notify the Division of Elections.~~

Specific Authority 102.166 FS. Law Implemented 102.166 FS. History--New 5-30-02, Amended 4-13-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Maria Matthews, Assistant General Counsel, Division of Elections, Department of State

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dawn Roberts, Director, Division of Elections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 21, 2005

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Course Requirements – Grades 6-12 Basic 6A-1.09412
and Adult Secondary Programs

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt course descriptions for intensive reading courses in middle and high school grades to include suggested time allocations and instructional activities, as well as alignment to

instruction grounded in scientifically based-reading research. The effect is the inclusion of course descriptions to provide intensive reading courses in middle and high school grades.

SUMMARY: This rule is amended to adopt course descriptions for intensive reading courses in middle and high school grades.

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 the notice.

SPECIFIC AUTHORITY: 1001.03(1), 1011.62(1)(r) FS.

LAW IMPLEMENTED: 1001.42(7), 1003.42, 1011.62(1)(r) FS.

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

TIME AND DATE: 8:30 a.m., June 21, 2005

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Laura Openshaw, Director, Just Read, Florida!, 325 West Gaines Street, Tallahassee, Florida, (850)245-0503

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09412 Course Requirements – Grades 6-12 Basic and Adult Secondary Programs.

A course description directs district personnel by providing the essential content and course requirements for each course in grades 6-12 contained in the “Course Code Directory and Instructional Personnel Assignments” adopted by Rule 6A-1.09441, FAC. Course requirements approved by the State Board of Education are contained in the publication “2001-2002 Florida Course Descriptions for Grades 6-12/Adult, Basic Education” and “2005 Florida Course Descriptions for Grades 6-12/Adult, Basic Education” which are hereby incorporated by reference and made a part of this rule. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description. Copies of approved course descriptions may be obtained from the Division of Public Schools and Community Education, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 1001.03(1), 1011.62(1)(r) 229.565 FS. Law Implemented 1001.42(7), 1003.42, 1011.62(1)(r) 229.565, 229.592, 230.23(7), 233.165 FS. History—New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-16-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Laura Openshaw, Director, Just Read, Florida!

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Commissioner of Education John L. Winn

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2005

DATE NOTICE OF PROPOSED DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Educational Facilities
 RULE NO.: 6A-2.0010

PURPOSE AND EFFECT: This rule is amended to ensure consistency with class size reduction requirements pursuant to Section 1 of Article IX of the State Constitution as amended November 2002 limiting the maximum number of students assigned to a teacher in core-curricula classrooms to 18 in grades PK-3, 22 in grades 4-8, and 25 in grades 9-12. The effect will be a rule which is consistent with law.

SUMMARY: Volume I, State Requirements for Educational Facilities (SREF) 1999 is amended and the 2005 Addendum to State Requirements for Educational Facilities adopted to reflect necessary changes due to changes in governing law. Specifically: Section 2.1 Educational Facilities Finance, requires financial data for construction costs and other financial reports to be submitted to the Office of Educational Facilities; Section 4.3 Documents and Submittals, requires construction and inspection document submittals to the Office of Educational Facilities for projects of \$200,000 or more by school districts and community colleges; Section 6.1, Size of Space and Occupant Design Criteria Table A, changes the per student square footage allocation for determining educational facilities classroom sizes per occupant in core-curricula classrooms and the size of some related spaces to implement the constitutional class size mandate.

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 the notice.

SPECIFIC AUTHORITY: Section 1(a) Article IX, State Constitution, 1001.02(1), 1013.02(2), 1013.37 FS.

LAW IMPLEMENTED: Section 1(a) Article IX, State Constitution, 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 1001.02, 1001.42(9), 1001.453, 1011.09, 1011.74, 1301.01, 1013.03, 1013.31, 1013.35, 1013.37, 1013.371, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 FS.

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

TIME AND DATE: 8:30 a.m., June 21, 2005

PLACE: 325 West Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Spessard Boatright, Director, Office of Educational Facilities, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0010 Educational Facilities.

Commissioner of Education requirements adopted pursuant to Chapter 120, Florida Statutes, to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter 1013 235, Florida Statutes, are contained in the Department of Education publication titled "State Requirements for Educational Facilities, 1999 Volume I-Process, ~~and~~ Volume II-Building Code, and 2005 Addendum to State Requirements for Educational Facilities" which are ~~is~~ hereby incorporated by reference and made a part of this rule. All educational and ancillary facilities constructed by a school board or community college board shall comply with the State Uniform Building Code for Public Educational Facilities Construction (UBC). The UBC shall supersede any other code adopted by a board, or any other building code or ordinance, for the construction of educational and ancillary facilities and plants whether at the local, county, or state level rule. After January 1, 2001, the UBC will be merged into the Florida Building Code.

(1) In addition to "State Requirements for Educational Facilities, 1999 Volumes I, ~~and~~ II, and 2005 Addendum to State Requirements for Educational Facilities" all, or the specific portions cited, of the following building codes are hereby incorporated by reference and made a part of this rule. If there should be conflicting requirements between these codes and "State Requirements for Educational Facilities, 1999 Volumes I, ~~and~~ II, and 2005 Addendum to State Requirements for Educational Facilities" the more, or most stringent requirement shall apply.

(a) ACI 318-95, American Concrete Institute, "Building Code Requirements for Structural Concrete and Commentary" 1995, and ACI 530-92, Building Code Requirements for Masonry Structures.

(b) AHERA. Asbestos Hazard Emergency Response Act, 40 CFR, Part 763, as revised July 1, 1995.

(c) AISC. American Institute of Steel Construction Allowable Stress Design(Manual of Steel Construction), Ninth Edition, adopted by SBC.

(d) AISI. American Iron and Steel Institute, Specifications for the Design of Cold-Formed Steel Structure Members August 1986 Edition with December 1989 Addendum.

(e) ANSI. American National Standards Institute. References to ANSI standards shall be the 1995 edition.

(f) ASCE. American Society of Civil Engineers. References to ASCE 7-98 standards shall be the edition listed in the "State Requirements for Educational Facilities, 1999."

(g) ASHRAE. American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(h) ASTM. American Society for Testing Materials. References to ASTM standards shall be the edition listed in the 1997 edition of the ASTM standards.

(i) DCA. Department of Community Affairs.

1. Florida Americans With Disability Implementation Act, 1993 and the Florida Accessibility Code for Building Construction, October 1997 as adopted by the State Board of Building Codes and Standards which has become the Florida Building Commission.

2. Florida Energy Efficiency Code for Building Construction (FEEC), 1998 Revisions to the 1997 Edition, as adopted by the State Board of Building Codes and Standards under Rule 9B-3.047, F.A.C.

(j) DOT – AASHTO, American Association of State Highway and Transportation Officials "Standard Specifications for Highway Bridges (1990 English Edition; 1994 Metric Edition) as modified by Florida DOT Structures Design Guidelines for Load and Resistance Factor Design" Revised January 1, 1999, as incorporated by reference in Chapter 14, F.A.C.

(k) FEMA. Federal Emergency Management Agency. Rules and Regulations 44 CFR, Parts 59 and 60, revised as of October 1, 1995, for flood plain criteria governing insurability of facilities constructed in flood plain.

(l) NEC. National Electrical Code, 1999 (NFPA 70).

(m) NFPA. National Fire Protection Association, 1997, NFPA 101, and other NFPA codes as applicable. Exceptions are NFPA 101 Sections 10-2.27 and 10-7.2.27 "Exit Passageways" and where NFPA codes are exceeded by these State Requirements.

(n) OSHA. Occupational Safety and Health Administration, U.S. Department of Labor, 29 CFR as Revised July 1, 1995.

(o) SBC. Standard Building Code, 1997 as adopted by the Department of Community Affairs, except as may be superseded by these State Requirements.

(p) SGC. Standard Gas Code, 1997.

(q) SMC. Standard Mechanical Code, 1997.

(r) SPC. Standard Plumbing Code, 1994 with 1995/96 Revisions.

(s) TMS. The Masonry Society Standards, 1992; TMS 602-92, TMS 402-92.

(2) Copies of the publication "State Requirements for Educational Facilities, 1999 Volumes I, ~~and~~ II, and 2005 Addendum to State Requirements for Educational Facilities" are available from the Office of Educational Facilities, Florida Department of Education, Room 1054, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400, at a cost to be determined by the Commissioner, but which shall not exceed actual cost. Copies of the codes listed in subsection (1) of this rule are available from the publisher whose location and address are available from Educational Facilities. These codes are readily available to the public upon request at the cost established by the publisher.

Specific Authority Section 1(a) Article IX, State Constitution, Sections 1001.02(1), 1013.02(2), 1013.37 Section AXHS9(a), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239.229, 240.327(1) FS. Law Implemented Section 1(a) Article IX, State Constitution, Sections 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 1001.02, 1001.42(9), 1001.453, 1011.09, 1011.74, 1301.01, 1013.03, 1013.31, 1013.35, 1013.37, 1013.371, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 Section AXHS9(a), State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.33(12)(j), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e), (f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 442.019, 442.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.025 FS. History—New 10-30-94, Amended 4-28-97, Formerly 6A-2.0111, Amended 1-5-00, Formerly 6-2.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Spessard Boatright, Director, Office of Educational Facilities
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda Champion, Assistant Deputy Commissioner for Finance and Operations, Department of Education
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2005

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
Cost Management and Control**

RULE TITLE: Bone Marrow Transplantation
PURPOSE AND EFFECT: The Agency proposes an amendment to bone marrow transplantation procedures. The proposed revisions would reflect recommendations of the Bone Marrow Transplantation Panel based on review of current research findings, as required by Section 627.4236(3)(e), Florida Statutes.
SUMMARY: The proposed changes are based on the recommendations of the Bone Marrow Transplant Panel from their November 11, 2004 meeting.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.
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: 627.4236 FS.
LAW IMPLEMENTED: 627.4236 FS.
IF REQUESTED 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: 2:00 p.m. – 3:00 p.m., June 13, 2005
PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room 3218, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dennis Halfhill, Agency for Health Care Administration, Bureau of the Chief Medical Officer, 2727 Mahan Drive, Building 3, Mail Stop 1, Tallahassee, Florida 32308, (850)921-5505

THE FULL TEXT OF THE PROPOSED RULE IS:

59B-12.001 Bone Marrow Transplantation.

(1) Upon the recommendation of the Bone Marrow Transplant Panel, each of the following procedures is considered accepted within the appropriate oncological specialty and not experimental for the purposes of Section 627.4236, F.S. Bone marrow transplant refers collectively to hematopoietic stem cell transplantation using stem cells that are collected from peripheral blood and cord blood as well as bone marrow. As used in this rule, the term "appropriate oncological specialty" means that where a particular kind of tumor or disease is usually treated by a subspecialty group within the general discipline of oncology, those who practice within that subspecialty have had specific input into the decision making process:

- (a) Autologous bone marrow transplant for acute myelogenous leukemia (stem cells collected in remission);
- (b) Allogeneic bone marrow transplant for acute myelogenous leukemia (~~family related donor with 5/6 or 6/6 match~~);
- (c) Autologous bone marrow transplant for acute lymphoblastic leukemia (stem cells collected in remission);
- (d) Allogeneic bone marrow transplant for acute lymphoblastic (~~family related donor with 5/6 or 6/6 match~~);
- (e) Allogeneic bone marrow transplant for chronic myelogenous leukemia (~~family related donor with 5/6 or 6/6 match~~);
- (f) Autologous bone marrow transplant for Hodgkin's disease;
- (g) Autologous bone marrow transplant for Non-Hodgkin's lymphoma, ~~except low grade (small lymphocytic, follicular small cleaved cell, follicular mixed cell types~~;

(h) ~~Allogeneic bone marrow transplant for Non-Hodgkin's lymphoma, except low grade (small lymphocytic, follicular small cleaved cell, follicular mixed cell types (family related donor with 5/6 or 6/6 match);~~

(i) Autologous bone marrow transplant for Ewing's sarcoma, chemotherapy sensitive after first relapse;

(j) Autologous bone marrow transplant for Neuroblastoma;

~~(k) Autologous bone marrow transplant for breast carcinoma, stage II (8 or more nodes positive);~~

~~(l) Autologous bone marrow transplant for breast carcinoma, stage IIIa and IIIb;~~

~~(k)(m) Autologous bone marrow transplant for germ cell tumor, after failure of first therapy but not progressing on salvage therapy;~~

~~(l)(n) Autologous bone marrow transplant for multiple myeloma, (including double bone marrow transplant) and primary amyloidosis;~~

~~(m)(o) Allogeneic bone marrow transplant for myelodysplastic syndrome (family related donor with 5/6 or 6/6 match);~~

~~(n)(p) Autologous bone marrow transplant for PNET (including medulloblastoma and pinealoblastoma), chemotherapy sensitive after first relapse;~~

~~(o)(q) Autologous bone marrow for medulloblastoma and other PNET tumors, metastatic, at diagnosis;~~

(p) Allogenic bone marrow transplant for chronic lymphoblastic leukemia.

(2) Each of the following procedures is considered accepted within the appropriate oncological specialty and not experimental for the purposes of Section 627.4236, F.S., provided that the bone marrow transplantation procedure is performed in the context of a well-designed and conducted Phase II or Phase III clinical treatment trial as described in paragraph (3).

~~(a) Autologous bone marrow transplant for Non-Hodgkin's lymphoma, low grade (small lymphocytic follicular small cleaved cell, follicular mixed cell types);~~

~~(b) Allogeneic bone marrow transplant for Non-Hodgkin's lymphoma, low grade (small lymphocytic, follicular small cleaved cell, follicular mixed cell types) (family related donor with 5/6 or 6/6 match);~~

~~(a)(e) Autologous bone marrow transplant for chronic, myelogenous leukemia;~~

~~(b)(d) Autologous bone marrow transplant for chronic lymphoblastic leukemia;~~

~~(e) Allogeneic bone marrow transplant for chronic lymphoblastic leukemia (family related donor with 5/6 or 6/6 match);~~

~~(f) Allogeneic bone marrow transplant for Hodgkin's disease (family related donor with 5/6 or 6/6 match);~~

~~(c)(g) Autologous bone marrow transplant for plasma cell dyscrasias other than multiple myeloma (e.g. Waldenstrom's, amyloid);~~

~~(d)(h) Allogeneic bone marrow transplant for multiple myeloma and other plasma cell dyscrasias (e.g. Waldenstrom's, amyloid) (family related donor with 5/6 or 6/6 match);~~

~~(e)(i) Autologous bone marrow transplant for breast carcinoma, stage II, with four to seven nodes positive;~~

~~(j) Autologous bone marrow transplant for breast carcinoma, stage IV, except progressive (25 percent or greater increase in the size of measurable disease) despite therapy;~~

~~(k) Autologous bone marrow transplant for high grade astrocytoma, glioblastome multiforme, pediatric;~~

~~(f)(t) Autologous bone marrow transplant for Ewing's sarcoma, localized, greater than eight cm or metastatic at presentation;~~

~~(m) Autologous bone marrow transplant for small cell lung cancer, limited extent, in complete response;~~

~~(n) Autologous bone marrow transplant for ovarian carcinoma (epithelial), stage III and IV, chemosensitive relapse and consolidation of first response;~~

~~(g)(e) Autologous bone marrow transplant for soft tissue sarcoma (other than rhabdomyosarcoma), pediatric, after failure of first therapy;~~

~~(h)(p) Autologous bone marrow transplant for Wilms' tumor, at relapse;~~

~~(i)(q) Autologous bone marrow transplant for germ cell tumor, high risk, at diagnosis;~~

~~(r) Alternate donor Allogeneic bone marrow transplant for any of the indications in subsections (1) and (2) (unrelated donor, cord blood donor, or family related donor other than 5/6 or 6/6 match);~~

(j) Allogeneic bone marrow transplant for renal cell carcinoma;

(k) Multiple autologous bone marrow transplants for pediatric solid tumors;

(l) Allogeneic bone marrow transplant for Hodgkin's disease;

(m) Autologous bone marrow transplant for metastatic malignant melanoma.

(3) A well-designed and conducted clinical treatment trial is one which includes an IRB-approved written protocol. At a minimum, such protocol shall have specific criteria for evaluating the effect of treatment with defined endpoints that are precise, meaningful, and reliable and which allow valid conclusions to be drawn about therapeutic efficacy and safety. Protocols should include an adequate statistical section describing the method of randomization and stratification, if any, expected outcome parameters relating to response rates, time to progression, survival times and other relevant

information. Such clinical treatment trials shall be consistent with protocols reviewed and approved by the National Cancer Institute for scientific merit.

(4) It should be noted that there are non-malignant (not oncological) diseases that are genetic disorders, or that result in bone marrow failure or lead to immunodeficiency syndromes for which bone marrow transplantation may be appropriate. While these non-malignant diseases are not described in the preceding lists, there are generally accepted and appropriate indications for bone marrow transplantation in these cases. In addition, there are malignant diseases that are uncommon in their occurrence that also are not detailed in the above lists for which the appropriateness of bone marrow transplantation may be determined on a case by case basis.

Specific Authority 627.4236 FS. Law Implemented 627.4236 FS. History—New 11-9-95, Formerly 10D-127.001, Amended 9-26-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dennis Halfhill
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary, Agency for Health Care Administration
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 25, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Projects Subject to Review
PURPOSE AND EFFECT: The agency is proposing to amend the rule that outlines the projects subject to certificate of need (CON) batch and expedited review. The rule incorporates statutory changes to these two types of CON reviews, clarifies who may submit an application for expedited CON review and clarifies what the 30-mile radius is for a nursing home with an inactive license.

SUMMARY: The proposed amendment specifies the types of projects subject to comparative review and the types of projects subject to expedited review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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: 408.034(6), 408.15(8) FS.
LAW IMPLEMENTED: 408.033, 408.035, 408.036(1),(2), 408.037, 408.038, 408.039 FS

IF REQUESTED 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: 2:00 p.m. (EST), June 21, 2005
PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, MS 28, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.004 Projects Subject to Review.

(1) Projects Subject to a Comparative Review. Unless subject to expedited review under subsection 408.036(2), F.S., and subsection (2) of this rule, or exempted under subsection 408.036(3), F.S., and Rule 59C-1.005, F.A.C., the following projects are subject to comparative review and the batching cycle procedures specified in Rule 59C-1.008, F.A.C., and will be reviewed in accordance with procedures set forth in subsection 59C-1.010(3), F.A.C.:

(a) The addition of beds in community nursing homes or intermediate care facilities for the developmentally disabled (ICF/DD) by new construction or alteration, unless exempt pursuant to paragraph 408.036(3)(s), F.S.

(b) The new construction or establishment of additional health care facilities, including a replacement health care facility when the proposed project site is not located on the same site or within one mile of as the existing health care facility, if the number of beds in each licensed bed category will not increase and unless exempt pursuant to paragraph 408.036(1)(p), F.S.

(c) The conversion from one type of health care facility to another, including the conversion from a general hospital, a long-term care hospital or a specialty hospital provided the conversion to a specialty hospital is not subject to Section 395.003(9), F.S.

(d) An increase in the total licensed bed capacity for comprehensive rehabilitation unless exempt under paragraph 408.036(3)(i), F.S. of a health care facility.

(e) The establishment of a hospice or hospice inpatient facility.

(f) The establishment of inpatient tertiary health services by a health care facility, or a substantial change in such services.

(g) An increase in the number of beds for acute care in a hospital that is located in a low-growth county as defined in paragraph 408.036(1)(g), F.S. specialty burn units, neonatal

~~intensive care units, comprehensive rehabilitation, mental health services, hospital-based distinct part skilled nursing units, nursing home care, or at a long term care hospital.~~

~~(h) The establishment of tertiary health services.~~

(2) Projects Subject to Expedited Review. Unless reviewable under Section 408.036(1), F.S. above or exempted under subsection 408.036(3), F.S., the following projects are subject to expedited review, and will be reviewed in accordance with procedures set forth in subsection 59C-1.010(4), F.A.C.:

(a) Sheltered nursing home beds.

~~(b) Replacement of a health care facility at a site different from the existing facility, provided the site is located in the same district and within a 1 mile radius of the existing facility.~~

~~(c) Research, education and training programs.~~

~~(d) Shared services contracts or projects.~~

(b)(e) Transfer of a certificate of need except that when an existing hospital is acquired by a purchaser, all certificates of need issued to the hospital which are not yet operational shall be acquired by the purchaser, without need for a transfer.

~~(f) Conversion of hospital beds licensed for mental health services, a distinct part skilled nursing unit, or general acute care, as described in s. 408.036(2)(f), F.S.~~

(c) Replacement of a nursing home within the same district, if the proposed project site is located within a geographic area that contains at least 65 percent of the facility's current residents and is within a 30-mile radius of the replaced nursing home.

1. In the case of a nursing home with an inactive license, the facility shall address the 65 percent requirement through an identification of where its former residents resided.

2. The nursing home license holder is the only entity that may submit the application to replace the nursing home, pursuant to paragraph 59C-1.008(1)(h), F.A.C.

(d) Relocation of a portion of the nursing home's licensed beds to a licensed facility within the same district, if the relocation is within a 30-mile radius of the existing facility and the total number of nursing home beds in the district does not increase.

1. Applications submitted under this paragraph must be submitted by the licensed nursing home proposing to add the beds. Notarized letter from the facility from which the beds are being relocated must be submitted certifying that beds will be delicensed should the CON be awarded to the applicant.

2. The relocation of beds under this paragraph shall be limited to a portion of beds such that the occupancy rate of the remaining licensed beds of the facility from which beds are being relocated does not exceed 94 percent.

Specific Authority ~~408.034(6)(5), 408.15(8) FS.~~ Law Implemented ~~408.033, 408.035, 408.036(1)(2), 408.037, 408.038, 408.039 FS.~~ History--New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, Formerly 10-5.04, Amended 11-24-86, 11-17-87, 1-31-91, 1-1-92, Formerly 10-5.004, Amended 9-9-92, 1-9-95, 11-4-97, 12-12-00, 11-12-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rommel Bain, Health Services and Facilities Consultant
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Nursing Facility Beds
 RULE NO.: 59C-1.036

PURPOSE AND EFFECT: The agency is proposing to amend Rule 59C-1.036, F.A.C., which sets forth Certificate of Need review criteria for skilled nursing facility beds. Section 4 of Chapter 2004-383, Laws of Florida, revised Section 408.034(5), F.S., necessitating amendment of the rule.

SUMMARY: The rule is being amended to reflect changes to Section 408.034(5), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.034(3),(5), 408.036(1)(a) FS.

IF REQUESTED 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: 2:00 p.m. (EST), June 22, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, MS 28, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.036 Nursing Facility Beds.

(1) through (3) No change.

(4)(a) No change.

(b) Summary of Need Formula. The need formula for nursing facility beds seeking licensure under Chapter 400, F.S., links the projected subdistrict need to a projected increase in the district need for beds licensed under Chapter 400, F.S. The district increase is based on the expected increase in the district population age 65 to 74 and age 75 and over, with the age

group 75 and over given 6 times more weight in projecting the population increase. The projected district bed need total is then allocated to its subdistricts consistent with the current subdistrict distribution of the total. The result for a given subdistrict is adjusted to reflect the current subdistrict occupancy of beds licensed under Chapter 400, F.S., and a desired standard of ~~94~~ percent occupancy. This subdistrict total of allocated beds is then reduced by the current number of Chapter 400, F.S., beds in the subdistrict that are licensed or approved, resulting in the net need for additional nursing facility beds to be licensed under Chapter 400, F.S. The rule also provides that if current occupancy of beds licensed under Chapter 400, F.S., is less than 85 percent, the net need in the subdistrict is zero regardless of whether the formula otherwise would show a net need.

(c)1. through 3. No change.

4. $SA = A \times (LBD/LB) \times (OR/.~~94~~)$

where:

SA is the subdistrict allocation of nursing facility beds to be licensed under Chapter 400, F.S., at the planning horizon.

LBD is the number of nursing facility beds licensed under Chapter 400, F.S., in the subdistrict as of January 1, for fixed bed need pools published between January 1 and June 30, or as of July 1 for fixed bed need pools published between July 1 and December 31.

OR is the average 6 month occupancy rate for nursing facility beds licensed in the subdistrict under Chapter 400, F.S. For fixed bed need pools published between January 1 and June 30, occupancy rates shall be based upon patient days in nursing facilities licensed under Chapter 400, F.S., for the 6 month period from July 1 through December 31 of the previous year; for fixed bed need pools published between July 1 and December 31, occupancy rates shall be based upon patient days in nursing facilities licensed under Chapter 400, F.S., for the 6 month period from January 1 through June 30 of the year the fixed bed need pool is published.

~~.94~~ equals the desired average 6 month occupancy rate for nursing facility beds licensed under Chapter 400, F.S., in the subdistrict.

5. No change.

(d) through (f) No change.

(5) No change.

Specific Authority 408.15(8), 408.034(~~6~~)(~~5~~) FS. Law Implemented 408.034(3), (~~5~~), 408.036(1)(~~a~~)(~~g~~) FS. History--New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(k), Amended 8-9-92, Formerly 10-5.036, Amended 10-6-92, 8-24-93, 6-11-98, 4-7-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rommel Bain, Health Services and Facilities Consultant

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2005

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Forms
RULE NO.: 61B-15.0012

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to change the form entitled "Notice of Condominium Recording Information" to reflect the amendment to Rule 61B-17.001, F.A.C., which requires developers who have recorded a declaration of condominium but not filed it with the division to file a copy of the recorded condominium documents.

SUMMARY: As required by Sections 718.104(2) and 718.403(8), Florida Statutes, condominium developers must file condominium documents and amendments with the division within 120 days of recording. Developers must file condominium documents with the division prior to offering condominium units for sale or lease in accordance with Section 718.502, Florida Statutes. Those developers who create condominiums and record the condominium documents but do not offer units for sale or lease, must file the recorded documents with the division so that the division can ensure compliance with Chapter 718 and collect the statutory annual fees under Section 718.501(2), Florida Statutes. If the developer later offers units for sale in the ordinary course of business, the developer must comply with the filing and review requirements under Sections 718.403, 718.502, 718.503 and 718.504, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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: 718.501(1)(f), 718.502(1)(c) FS.

LAW IMPLEMENTED: 718.104(2), 718.403(8), 718.501(2), 718.502, 718.503, 718.504 FS.

IF REQUESTED 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: 9:00 a.m., June 13, 2005

PLACE: Warren Building Meeting Room #B03, 201 W. Bloxham Street, Tallahassee, Florida

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO SHARON A. ELZIE, SENIOR MANAGEMENT ANALYST II, DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS AND MOBILE HOMES, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399-1030, WITHIN 21 DAYS OF THIS NOTICE. WRITTEN COMMENTS RECEIVED AFTER THE HEARING MAY NOT BE CONSIDERED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-15.0012 Forms.

(1) The forms prescribed for use by the division for submission of filings and documents are the following:

(a) through (b) No change.

(c) Notice of Condominium Recording Information, BPR Form CO 6000-1, incorporated herein by reference and effective 12-23-02;

(d) through (2) No change.

Specific Authority 718.501(1)(f), 718.502(1)(c), 718.621 FS. Law Implemented 718.403, 718.502, 718.503, 718.504, 718.618(8) FS. History--New 12-23-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glenn, Chief of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 18, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Developer, Filing
RULE NO.: 61B-17.001

PURPOSE AND EFFECT: The purpose of the proposed rule is to require developers who have recorded a declaration of condominium but not filed it with the division to file a copy of the recorded condominium documents.

SUMMARY: As required by Sections 718.104(2) and 718.403(8), Florida Statutes, condominium developers must file condominium documents and amendments with the division within 120 days of recording. Developers must file condominium documents with the division prior to offering condominium units for sale or lease in accordance with Section 718.502, Florida Statutes. Those developers who create condominiums and record the condominium documents but do not offer units for sale or lease, must file the recorded documents with the division so that the division can ensure compliance with Chapter 718, Florida Statutes, and collect the statutory annual fees under Section 718.501(2), Florida Statutes. If the developer later offers units for sale in the ordinary course of business, the developer must comply with the filing and review requirements under Sections 718.403, 718.502, 718.503 and 718.504, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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: 718.501(1)(f), 718.502(1)(c) FS.

LAW IMPLEMENTED: 718.104(2), 718.403(8), 718.501(2), 718.502, 718.503, 718.504 FS.

IF REQUESTED 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: 9:00 a.m., June 13, 2005

PLACE: Warren Building, Meeting Room #B03, 201 W. Bloxham Street, Tallahassee, Florida

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO SHARON A. ELZIE, SENIOR MANAGEMENT ANALYST II, DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS AND MOBILE HOMES, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399-1030, WITHIN 21 DAYS OF THIS NOTICE. WRITTEN COMMENTS RECEIVED AFTER THE HEARING MAY NOT BE CONSIDERED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-17.001 Developer, Filing.

(1)(a) Except in the case of a reservation program, a developer of a residential condominium shall file with the Division one copy of each document required by Sections 718.502(5), 718.503, and 718.504, Florida Statutes. The filing shall occur ~~at the time the condominium is created pursuant to Section 718.104, Florida Statutes, or~~ prior to any offering of a condominium unit to the public, ~~whichever occurs first~~. The developer shall submit with the filing a Developer/Condominium Filing Statement, DBPR Form CO 6000-2, referenced in Rule 61B-15.0012, F.A.C. When each subsequent phase is filed, the developer shall submit DBPR Form CO 6000-3, Filing Statement for Subsequent Phases, as referenced in Rule 61B-15.0012, F.A.C.

(b) through (2) No change.

(3) Upon recording the declaration of condominium pursuant to Section 718.104(2), Florida Statutes, or amendments adding phases pursuant to Section 718.403, Florida Statutes, the developer shall file the recording information with the Division within 120 working days on DBPR Form CO 6000-1, NOTICE OF CONDOMINIUM RECORDING INFORMATION, as referenced in Rule 61B-15.0012, F.A.C. If the recorded documents have not already been filed, reviewed, and approved by the Division in accordance with subsection (1) of this rule and sections 718.502(5), 718.503, and 718.504, Florida Statutes, prior to recording, then a complete copy of the recorded documents must be submitted with DBPR Form CO 6000-1, NOTICE OF CONDOMINIUM RECORDING INFORMATION. If the recorded documents have been previously filed, reviewed, and approved by the Division, then only the form need be filed.

(5) through (6) No change.

Specific Authority 718.501(1)(f), 718.502(1)(c) FS. Law Implemented 718.103(14), 718.104, 718.403, 718.502, 718.504(20) FS. History—New 11-15-77, Amended 7-22-80, 7-6-81, 8-31-83, 10-1-85, Formerly 7D-17.01, Amended 1-27-87, 7-10-88, Formerly 7D-17.001, Amended 2-22-94, 2-20-97, 4-14-99, 1-26-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glenn, Chief of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 18, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: Permitted Medications for Horses

RULE NO.: 61D-6.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to amend the Division’s rules regarding the race day administration of Salix to racehorses.

SUMMARY: This proposed rule addresses race day administration of Salix to racing horses. Specifically, the Division is amending rules regarding the following:

1. The time that a horse that is shipped in from another track or training facility, or other location, will be required to be in a permitholder’s receiving barn, and
2. Changes to the procedure by which reports of administration will be received and processed by the Division.

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

Any person who wishes to provide information regarding the statement of estimated 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: 120.80(4)(a), 550.0251(3), 550.2415(8),(9),(13),(16) FS.

LAW IMPLEMENTED: 120.80(4)(a), 550.0251, 550.2415 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: 9:00 a.m. – 12:00 Noon, June 16, 2005

PLACE: North Broward Regional Service Center, 1400 West Commercial Blvd., Room 195, Ft. Lauderdale, Florida 33309

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 5 calendar days before the hearing by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech

impaired, please contact the agency using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-6.008 Permitted Medications for Horses.

(1) through (2)(c)1. No change.

2. Second violation in a 12-month period \$1,000.00 fine and suspension of any division license up to 30 days;

3. through (3)(a) No change.

1. A "bleeder" shall be defined as a horse which demonstrates evidence of pulmonary hemorrhage within 3.0 hours of exercise as evidenced by fulminant bilateral epistaxis where endoscopic examination is not warranted, or by intratracheal evidence of pulmonary hemorrhage ascertained through endoscopic examination, either of which must be witnessed and certified in writing by a Florida licensed veterinarian ~~who is employed solely by a permit holder conducting pari-mutuel wagering in the State of Florida (the track veterinarian), or employed by the Division of Pari-Mutuel Wagering (the division veterinarian), or when the episode of exercise induced pulmonary hemorrhage cannot be witnessed by an official veterinarian, certification may be by two Florida practicing and licensed veterinarians, one of whom shall have no current employment affiliation with the owner of the animal being tested and who has no direct pecuniary interest in the racing animal being witnessed and certified.~~ Such certification shall be submitted to the division's Salix Ceoordinator on BPR Form BPR 15-020, Bleeder's Certificate, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code. Out-of-state horses racing in Florida must be witnessed in Florida as outlined above or must have been certified by the state/commission or association/track veterinarian from the previous state. Certification, in writing from the accredited College of Veterinary Medicine, will also be accepted if the horse has received a comprehensive cardio-pulmonary examination at an accredited College of Veterinary Medicine and as a result thereof is diagnosed with exercise induced pulmonary hemorrhage either viewed endoscopically after a treadmill exercise or via tracheal wash cytology and therefore found to require medication with furosemide in order to successfully compete.

2. Any horse on furosemide to be entered in a pari-mutuel racing event in the State of Florida shall not require re-certification if the horse has been certified as a "bleeder" and approved for the administration of furosemide by a racing jurisdiction utilizing certification procedures which are approved by the director of the Division of Pari-Mutuel Wagering in Florida. Documentation of certification from approved racing jurisdictions must be evidenced by an official letter signed by a track veterinarian or division/State Veterinarian stating that a horse has exhibited exercise induced pulmonary hemorrhage and as a result of such bleeding was determined to require the administration of furosemide prior to participation in pari-mutuel racing events.

3. A horse which has not exhibited external bleeding may be placed on the Furosemide List after the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interest to race with furosemide and so notify the State Veterinarian.

~~4.3.~~ It shall be the trainer's responsibility to provide the required documentation of certification to the Salix Ceoordinator prior to entry of any horse ~~entered~~ to race on furosemide in a pari-mutuel event in the State of Florida. When the trainer cannot provide written documentation within 48 hours prior to the scheduled post time for the race, the trainer of the horse in question may personally attest in writing that the horse meets all eligibility requirements for the use of furosemide and request that the stewards waive the requirement for receipt of written documentation prior to racing the horse on furosemide. All requests for waiver must be submitted on BPR Form BPR 15-033, Salix Certification Waiver, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code. The stewards then may allow the horse to race on furosemide and grant the trainer a reasonable period of time, not to exceed 10 days, to produce the necessary written documentation as required in paragraph (a) above.

~~5.4.~~ All purses, stakes, awards, or other prizes or compensation to be granted as a result of the subject horse's performance in the pari-mutuel event shall be withheld until such time as the trainer who attested to the horse's eligibility to race on furosemide has provided the required documentation. If the trainer fails to provide adequate documentation of the horse's eligibility, the subject horse will be disqualified and the trainer who represented the horse's eligibility to race on furosemide shall be suspended up to 10 days and fined \$500. Any purses, stakes, awards or other prize or compensation will be redistributed in accordance with the disqualification.

(b) When a horse exhibits a bleeding incident and goes on the Veterinarian's List, the horse is suspended beginning the first day after a bleeding incident is observed ~~it is placed on the list.~~ Horses placed on the Veterinarian's List for bleeding must remain suspended according to the following schedule:

1. ~~The first bleeding incident time after workout (exercise) or race in any racing jurisdiction – 14 days suspension from racing;~~

2. ~~A second bleeding incident within a 365-day period of a previous bleeding incident time after a race if racing without Salix in any racing jurisdiction – 30 14 days suspension from racing;~~

3. ~~Second time after a race if racing with Salix in any racing jurisdiction – 30 days suspension;~~

3.4. ~~A third bleeding incident within a 365-day period from two previous bleeding incidents time after a race in any racing jurisdiction – 180 days suspension from racing 6 months suspension; and~~

4.5. ~~A fourth bleeding incident within a 365-day period from three previous bleeding incidents time after a race in any racing jurisdiction – barred from racing in Florida.~~

The above schedule of suspensions commences the day immediately following a bleeding incident.

(c) Horses will be eligible to race on the day immediately following the completion of the suspension period. The owner or trainer of any horse placed on the ~~V~~veterinarian's ~~L~~List as a result of exercise induced pulmonary hemorrhage (bleeding) may elect to place the animal on Florida's official Furosemide (Salix) List. The official Furosemide List shall be maintained by the Salix ~~C~~Coordinator and shall be the official list of horses approved for racing with furosemide in Florida. Horses placed on the official Furosemide List must have furosemide administered on race day, at a dosage of 0.3 – 1.0 mg/kg (150 mg – 500 mg), administered intravenously (I.V.) no closer than 4 hours prior to the officially scheduled post time of the race for which the horse is entered. The furosemide must be administered by a veterinarian currently licensed pursuant to Chapters 474 and 550, Florida Statutes. Every race day administration of furosemide must be reported by the attending veterinarian to the division on BPR Form BPR 15-005, Veterinarian Report of Race-Day Salix Administration, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code. BPR Form 15-005, Veterinarian Report of Race-Day Salix Administration, shall be delivered by the trainer or the trainer's designee to the Salix Coordinator/State Veterinarian at least two hours prior to the scheduled post-time of the horse's race. Failure to comply with this subsection shall result in the horse being scratched from the race in which it is entered.

(d) Horses racing on furosemide which ship in to run from centers, ~~or other pari-mutuel facilities, or other locations,~~ must be in the receiving barn no later than four hours prior to the post time of their officially scheduled race and have the furosemide (Salix) tag, BPR Form BPR 15-005 firmly attached to their halter. Any violation of this rule shall result in the trainer of the horse being subject to the following penalties:

1. First violation in a 12-month period – ~~\$300.00~~ \$100.00 fine;

2. Second violation in a 12 month period – ~~\$400.00~~ \$200.00 fine and the horse shall be scratched prior to the race;

3. Third violation in a 12-month period – ~~\$500.00~~ \$350.00 fine, suspension of license for 10 days, and the horse shall be scratched prior to the race;

4. Fourth or subsequent violation in a 12-month period – \$500.00 fine, suspension of license for 30 days, and the horse shall be scratched prior to the race. Horse scratched from race entered.

(e) Track security officers at the gate(s) through which horses arrive from other locations shall maintain a log depicting the horse's name, time of arrival, scheduled race number and post time. In the event that a horse arrives less than four hours prior to the scheduled post time for its race, the security officer shall notify the Stewards and Racing Secretary of the late arrival.

~~(f)~~(e) Horses placed on the official Furosemide List must remain on that list unless a trainer requests to remove a horse after consultation with and upon the advice of the horse's attending veterinarian. This request to discontinue use of furosemide must be submitted with a written verification from the bleeder horse's attending veterinarian to the Salix ~~C~~Coordinator no later than 48 hours prior to racing the horse without furosemide. Such requests shall be submitted on BPR Form BPR 15-025, Request To Discontinue Salix, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code. Once a horse has been removed from the official Furosemide List, it shall not be placed back on the list until it exhibits exercise induced pulmonary hemorrhage in accordance with paragraphs (3)(a), (b) and (c) of this rule.

~~(g)~~(f) Horses are ineligible for furosemide/Salix use if they:

1. Have not been verified as exhibiting bleeding by exercise induced pulmonary hemorrhage certification or have not been certified by the attending veterinarian that the use of furosemide/Salix is in the best interest of the horse.

2. through 3. No change.

~~(h)~~(g) Certified bleeders that run in jurisdictions that do not allow the use of furosemide/Salix shall be allowed to run on furosemide/Salix upon returning to Florida without re-qualifying. Trainers shall notify the Salix ~~C~~Coordinator of the status of these horses prior to entry.

~~(i)~~(h) Certified bleeders that run in jurisdictions that allow furosemide/Salix usage, but do not run on furosemide/Salix, will be considered as bleeders "off Salix" and do not have to ~~must~~ re-qualify to run on furosemide/Salix in Florida.

~~(j)~~(i) Re-qualifying for a Bleeder's Certificate for furosemide/Salix means that the horses must exhibit subsequent exercise induced pulmonary hemorrhage in accordance with paragraphs (3)(a), (b) and (c) ~~above to again become eligible for use of furosemide/Salix.~~

(k)(+) The trainer of any horse to be entered in a race in a pari-mutuel event in the State of Florida shall report any previous or current incidents of exercise induced pulmonary hemorrhage and any previous or current use of furosemide/Salix to the track veterinarian, division veterinarian, and Salix Ceoordinator prior to entry.

(l) Documentation which validates that a horse has been previously permitted to race with furosemide includes, but is not limited to, the National Daily Racing Form, the North American Pari-Mutuel Regulators Horse Database, databases of individual racing jurisdictions, and daily racing program of individual racetracks.

(4) through (b) No change.

(5) The detection of caffeine at a urinary concentration less than 200 ~~nanograms~~ ~~nanograms~~ per milliliter and/or its metabolites, theophylline and theobromine at a urinary concentration less than 400 ~~nanograms~~ ~~nanograms~~ per milliliter shall not be reported by the racing laboratory to the division as a violation of Section 550.2415, Florida Statutes.

(6) Sulfa drug(s) is/are permitted to be administered to a race horse providing:

(a) The race horse is under the care of a veterinarian currently licensed pursuant to Chapters 474 and 550, Florida Statutes; and

(b) The sulfa drug(s) is/are prescribed by a veterinarian currently licensed pursuant to Chapters 474 and 550, Florida Statutes; and

(c) The sulfa drug(s) is/are not administered within 24 hours prior to the officially scheduled post time of the race.

(7) All prescription medication, regardless of method of administration, shall be safeguarded under lock and key when not being actively administered.

Specific Authority 120.80(4)(a), 550.0251(3), 550.2415(8),(9),(13),(16) FS. Law Implemented 120.80(4)(a), 550.0251, 550.2415 FS. History—New 10-20-96, Amended 1-5-98, 6-6-00, 5-14-02, 6-6-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David J. Roberts, Director, Division of Pari-Mutuel Wagering

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Experience Requirements
PURPOSE AND EFFECT: The citation to the law establishing the experience requirements will be updated.

RULE NO.: 61G1-13.001

SUMMARY: The Board proposes to correct the citation to the law establishing the experience requirements from Section 6, Chapter 79-273, Laws of Florida to Section 481.211, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 481.211, 481.2055 FS.

LAW IMPLEMENTED: 481.209(2)(b), 481.211 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-13.001 Experience Requirements.

(1) The diversified program of architectural experience required in Section 481.211, Florida Statutes ~~Section 6, Chapter 79-273, Laws of Florida~~, shall include training and experience under the direct supervision of an architect in the following areas of practice:

(a) through (2) No change.

Specific Authority 481.211, 481.2055 FS. Law Implemented 481.209(2)(b), 481.211 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-13.01, Amended 12-10-86, 1-3-93, Formerly 21B-13.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Examination Designated
PURPOSE AND EFFECT: The Board proposes to amend this rule to delete paragraphs (2)(a),(b).

RULE NO.: 61G1-20.001

SUMMARY: Paragraphs (2)(a),(b) will be deleted from the rule.

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

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

SPECIFIC AUTHORITY: 455.217 FS.

LAW IMPLEMENTED: 455.217(1)(b), 481.209 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-20.001 Examination Designated.

(1) No change.

~~(2) All applicants (except applicants for licensure by endorsement) shall be required to take and pass one of the following:~~

~~(a) A professional interior design examination which shall consist of six parts:~~

PART	NAME OF EXAM	FORM OF EXAM
1-	Building and Barrier Free Codes	Multiple Choice
2-	Identification and Application	Multiple Choice
3-	Practicum: Programming	Client Interview and Graphic
4-	Practicum: Three Dimensional	Graphic
5-	Practicum: Scenario	Graphic
6-	Problem Solving	Multiple Choice

~~(b) National Council for Architectural Registration Boards (NCARB).~~

Specific Authority 455.217 FS. Law Implemented 455.217 (1)(b), 481.209 FS. History—New 7-4-90, Formerly 21B-20.001, Amended 5-30-95, 5-4-97, 3-8-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2005

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.:

Medical Records of Physicians Relocating or Terminating Practice; Retention, Disposition, Time Limitations 64B8-10.002

PURPOSE AND EFFECT: The proposed rule amendment is intended to require medical records to be retained for a period of 7 years.

SUMMARY: The proposed rule amendment requires medical records to be retained for a period of 7 years.

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

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

SPECIFIC AUTHORITY: 456.058, 458.309 FS.

LAW IMPLEMENTED: 456.058 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-10.002 Medical Records of Physicians Relocating or Terminating Practice; Retention, Disposition, Time Limitations.

(1) through (2) No change.

(3) A licensed physician shall keep adequate written medical records, as required by Section 458.331(1)(m), Florida Statutes, for a period of at least seven ~~five~~ years from the last patient contact.

(4) No change.

Specific Authority 456.058, 458.309 FS. Law Implemented 456.058 FS. History—New 7-3-89, Formerly 21M-26.002, Amended 11-4-93, 1-17-94, Formerly 61F6-26.002, Amended 1-26-97, Formerly 59R-10.002, Amended 3-7-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Rules Committee, Board of Medicine
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Board of Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: October 1, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: April 22, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Application for Licensure Fee	64B10-11.001
Mandatory HIV/AIDS and Prevention of Medical Errors Education For Initial Licensure and Renewal	64B10-11.0011
Examination for Licensure	64B10-11.002
Reexamination	64B10-11.003
College Training in Health Administration	64B10-11.007
Provisional License	64B10-11.011
Temporary License	64B10-11.013

PURPOSE AND EFFECT: The Board proposes to update the existing language in Rule 64B10-11.001, F.A.C. The Board proposes the new Rule 64B10-11.0011, F.A.C., which substantially contains the provisions of Subsection (2) of 64B10-11.001, F.A.C. The Board proposes the amendment to Rule 64B10-11.002, F.A.C., to clarify that the examination focuses on the practice of nursing home administrators. The Board proposes the amendment to Rule 64B10-11.003, F.A.C., to reduce the time applicants are allowed to pass both parts of the Nursing Home Administrators Examination. The Board proposes the amendment to Rule 64B10-11.007, F.A.C., to simplify the requirements of providing official transcripts. The Board proposes the amendment to Rule 64B10-11.011, F.A.C., to delete the provision that no part of a fee for a provisional license shall be returned. The proposed rule amendment also eliminates a requirement that the applicant has management experience in a facility with 60 or more licensed beds. Rule 64B10-11.013, F.A.C., no longer requires ratification by the board to determine eligibility for temporary license.

SUMMARY: The proposed rule amendment of 64B10-11.001, F.A.C., is to update the application form, provide that the Board of Nursing Home Administrators receives the application, provide for a telephone number and address for receiving, the application by mail. Subsection (2) in its entirety is deleted and these provisions are in newly created 64B10-11.001, F.A.C. Rule 64B10-11.0011, F.A.C., requires applicants to successfully complete a 3 hour course on HIV/AIDS and a 2 hour course on the prevention of medical errors. These requirements were previously contained in subsection 64B10-11.001(2), F.A.C. The proposed amendment to Rule 64B10-11.002, F.A.C., deletes “the operation of nursing home” and substitutes “practice of nursing home

administrators.” The proposed amendment to Rule 64B10-11.003, F.A.C., provides that applicants will have one year, instead of two years, to pass both parts of the Nursing Home Administrators Examination. The proposed amendment to Rule 64B10-11.007, F.A.C., provides that applicants must provide official transcripts and eliminates the unnecessary description of what the transcripts must show. The proposed amendment to Rule 64B10-11.011, F.A.C., deletes subsection (3), and it eliminates the requirement of having experience in a facility with 60 or more licensed beds. Rule 64B10-11.013, F.A.C., deletes ratification by the board when determining the eligibility for temporary license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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: 456.017, 456.033(7), 456.035, 468.1685(1),(5),(7),(8), 468.1695(1),(2), 468.1735 FS.

LAW IMPLEMENTED: 456.033(6), 456.035, 468.1685(2), 468.1695(1), 456.017, 456.017(2), 468.1735, 468.1705(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B10-11.001 Application for Licensure Fee Examination.

(1) Any person desiring to be licensed as a nursing home administrator shall apply to the Board of Nursing Home Administrators ~~Department of Health~~. The application shall be made on form DH-MQA-NHA002 (revised 9/04 ~~12/03~~), hereby adopted and incorporated by reference, and can be obtained from the Board of Nursing Home Administrators website or the Division of Medical Quality Assurance Call Center by calling (850)488-0595, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399 3254.

~~(2) As a condition of initial licensure, each applicant shall successfully complete:~~

~~(a) A Board approved course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS). To receive Board approval, courses on HIV/AIDS shall consist of at least 3 hours of classroom instruction, which shall be approved by the Department of Health Medical Quality Assurance Division, or which meet the requirements of subsection 64B10-15.001(8), F.A.C.; and~~

~~(b) A two (2) hour course on the prevention of medical errors, as required by Section 456.013(7), F.S. The course shall be Board approved and must contain the following components: root cause; analysis; error reduction and prevention; and patient safety.~~

Specific Authority 456.033(7), 468.1685(1),(2), 468.1695(1) FS. Law Implemented 456.033(6), 468.1685(2), 468.1695(1) FS. History–New 12-26-79, Formerly 21Z-11.01, Amended 1-18-87, 10-2-88, 3-5-89, 3-15-90, 12-3-90, 11-2-92, Formerly 21Z-11.001, 61G12-11.001, Amended 12-4-95, 9-4-96, 7-21-97, Formerly 59T-11.001, Amended 5-15-00, 1-7-04, _____.

64B10-11.0011 Mandatory HIV/AIDS and Prevention of Medical Errors Education for Initial Licensure and Renewal.

As a condition of initial licensure, each applicant shall successfully complete:

(1) A board approved course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS). To receive board approval, courses on HIV/AIDS shall consist of at least 3 hours of classroom instruction, which shall be approved by any board within the Department of Health’s Medical Quality Assurance, or which meet the requirements of subsection 64B10-15.001(8), F.A.C.; and

(2) A board approved two hour course on the prevention of medical errors, which must contain the following components: root cause analysis; error reduction; prevention and patient safety.

Specific Authority 456.033(7) FS. Law Implemented 456.033(6) FS. History–New _____.

64B10-11.002 Examination for Licensure.

(1) No change.

(2) In addition to the national examination referenced in (1) above, each applicant for licensure shall also be required to take an examination on the laws and regulations of the State of Florida which govern the practice of nursing home administrators the operation of nursing homes.

Specific Authority 456.017, 468.1685(1), 468.1695(1) FS. Law Implemented 456.017, 468.1695(1) FS. History–New 12-26-79, Amended 3-1-82, 7-29-82, Formerly 21Z-11.02, Amended 1-18-87, 6-2-87, 12-3-90, Formerly 21Z-11.002, 61G12-11.002, Amended 7-16-95, Formerly 59T-11.002, Amended 5-15-00, 11-6-02, _____.

64B10-11.003 Reexamination.

(1) An applicant must pass both parts of the Nursing Home Administrators Examination (NAB) within one two years of the date of application for licensure. If the applicant fails to pass both-parts within the stated one two year period, the applicant must reapply and meet current licensing requirements.

(2) No change.

Specific Authority 456.017(2), 468.1685(1) FS. Law Implemented 456.017(2) FS. History–New 12-26-79, Amended 3-1-82, 6-14-82, Formerly 21Z-11.03, Amended 3-5-89, 8-19-92, Formerly 21Z-11.003, 61G12-11.003, Amended 6-2-96, Formerly 59T-11.003, Amended 5-15-00, 11-6-02, _____.

64B10-11.007 College Training in Health Administration.

(1) No change.

(2) Persons seeking to qualify pursuant to subsection (1) shall provide ~~in addition to official transcripts an organized statement of the courses which the applicant asserts quality under subsection (1) including the full course title; a course description from the catalogue of those courses of which the title does not clearly indicate the course content; and the number of credit hours assigned to each course.~~

Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History–New 12-26-79, Amended 3-24-81, 7-31-83, Formerly 21Z-11.07, Amended 4-22-87, 10-2-88, Formerly 21Z-11.007, 61G12-11.007, Amended 10-17-94, 7-21-97, Formerly 59T-11.007, Amended _____.

64B10-11.011 Provisional License.

(1) through (2) No change.

~~(3) No part of the fee shall be returned.~~

~~(3)(4) No change.~~

~~(4)(5) An application for a provisional license shall not be granted unless the applicant can demonstrate that he or she possesses a minimum of six (6) months management experience within a skilled nursing facility, hospital, hospice, assisted living facility, or a geriatric residential treatment program.~~

~~(5)(6) No change.~~

Specific Authority 468.1685(1), 468.1735 FS. Law Implemented 468.1735 FS. History–New 12-6-79, Amended 8-17-81, Formerly 21Z-11.11, Amended 4-22-87, Formerly 21Z-11.011, 61G12-11.011, Amended 7-21-97, Formerly 59T-11.011, Amended 10-30-00, _____.

64B10-11.013 Temporary License.

The determination of eligibility for temporary licensure shall be made by a committee appointed by the Chairman, ~~and shall be ratified by the Board at its next meeting.~~

Specific Authority 468.1685(1)(2) FS. Law Implemented 468.1705(4) FS. History–New 4-22-87, Amended 12-3-90, Formerly 21Z-11.013, 61G12-11.013, 59T-11.013, Amended 10-12-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Collection and Payment of Fees	64B10-12.001
Application for Licensure	64B10-12.002
Payment for Duplicating Licenses, Certificates and Permits	64B10-12.0021
Active Renewal Fee	64B10-12.005
Examination Fee	64B10-12.006
Provisional License Application Fee	64B10-12.0071
Endorsement Fee	64B10-12.008
Initial Licensure Fee	64B10-12.009
Inactive Status	64B10-12.010
Temporary License Fees	64B10-12.011
Preceptor Certification and Recertification Fee	64B10-12.012
Unlicensed Activity Fee	64B10-12.015
Delinquency Fee	64B10-12.016
Continuing Education Provider Initial and Renewal Fee	64B10-12.017
Special Assessment Fee	64B10-12.018

PURPOSE AND EFFECT: The Board proposes deletion of Rule 64B10-12.001, F.A.C., because fees are no longer paid to the Department of Health. The Board proposes the amendments to Rule 64B10-12.002, F.A.C., to increase the fees for initial license applications and to add that the fees are non-refundable. The Board proposes the amendment to Rule 64B10-12.005, F.A.C., by adding the word “active” before the word renewal, and decreases the fee from \$255 to \$250. The Board proposes new Rule 64B10-12.006, F.A.C., to provide an examination fee for an applicant by examination. The Board proposes to delete Rule 64B10-12.0071, F.A.C., because the provisional license application fee will now be covered by Rule 64B10-12.002, F.A.C. The Board proposes to delete Rule 64B10-12.008, F.A.C., because the licensure by endorsement fee will now be covered by Rule 64B10-12.002, F.A.C. The Board proposes the amendments to Rule 64B10-12.009, F.A.C., to increase fees for initial licensure by examination or endorsement. The Board proposes the amendments to Rule 64B10-12.010, F.A.C., to reduce the fees to \$250.00 for the following: (a) application fee for inactive status; (b) fee for renewal of an inactive license; and (c) fee for reactivation of an in active license. The Board proposes the amendments to Rule 64B10-12.011, F.A.C., to reduce the application fee for a temporary license to \$200.00. Amendments to Rule 64B10-12.011, F.A.C., also provide for a new licensure fee of \$150.00 for a temporary license. The Board proposes the amendments to Rule 64B10-12.012, F.A.C., to eliminate the language “for 3 years certification.” Amendments to Rule 64B10-12.012, F.A.C., also provide that the renewal of the nursing home administrators license also constitutes renewal of the preceptor license. The Board proposes the amendments to Rule 64B10-12.015, F.A.C., to eliminate the language of “per biennium” and substitute the words “each subsequent” renewal. The Board proposes the amendments to Rule

64B10-12.016, F.A.C., to reduce the delinquency fee to \$250.00 and to eliminate unnecessary words. The Board proposes new Rule 64B10-12.017, F.A.C., to require application and approval of continuing education providers as well as a fee of \$250.00 for an initial license and at each renewal. Rule 64B10-12.018, F.A.C., promulgates a new rule for a special assessment fee.

SUMMARY: The proposed deletion of Rule 64B10-12.001, F.A.C., is consistent with the current practice of paying fees to the Board. The proposed amendments to Rule 64B10-12.002, F.A.C., are to increase the initial application fee to \$250.00, and provide for a new preceptor application fee of \$50.00. The application fees are non-refundable. Subsections (2) and (3) of Rule 64B10-12.0021, F.A.C., are deleted and the provisions of these subsections are added in the remaining language. The proposed amendment to Rule 64B10-12.005 is to clarify that the renewal of an active nursing home administrator license is \$250. This proposed new Rule 64B10-12.006, F.A.C., provides for a \$250 fee for processing the application of an applicant by examination. The proposed deletion of Rule 64B10-12.0071, F.A.C., eliminates these provisions because the application fee for a provisional license is now in Rule 64B10-12.002, F.A.C. The proposed Rule 64B10-12.008, F.A.C., deletion is because the licensure by endorsement fee is now in Rule 64B10-12.002, F.A.C. Rule 64B10-12.009, F.A.C., increases the initial licensure fee to \$250.00 for both examination or endorsement. The current fees under Rule 64B10-12.010, F.A.C., are \$250.00 each. Amendments to Rule 64B10-12.010, F.A.C., will reduce other fees to \$250.00 each. Amendments to Rule 64B10-12.011, F.A.C., reduces the application fee for a temporary license from \$250.00 to \$200.00. Amendments to Rule 64B10-12.011, F.A.C., also provides for a licensure fee of \$150.00 for a temporary license. The Board proposes the amendments to eliminate the language “for 3 years certification.” The rule amendments also provide that the renewal of the nursing home administrators license also constitutes renewal of the preceptor license. The amendments to Rule 64B10-12.012, F.A.C., eliminates the 3 year certification so that it is now linked to the renewal of the administrator’s license. If the administrator license is renewed, the preceptor certificate is renewed. The amendments to Rule 64B10-12.015, F.A.C., delete the language “if engaging in nursing home administration as being unnecessary. The \$5 fee for unlicensed activity is now required on each subsequent renewal instead of “per biennium.” Amendments to Rule 64B10-12.016, F.A.C., reduce the delinquency fee from \$255.00 to \$250.00 and eliminate two unnecessary words. Rule 64B10-12.017, F.A.C., requires approval of continuing education providers or programs and a fee of \$250.00 for an initial license and for each renewal. The board proposes Rule 64B10-12.018, F.A.C., to implement a special assessment fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2),(5), 456.025(2),(7), 468.1735, 468.1705(1), 456.065, 456.036 FS.

LAW IMPLEMENTED: 468.1685(1),(5), 456.025(2),(3),(7), 468.1695(3), 468.1715, 468.1705(1),(4), 456.065, 456.036 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B10-12.001 Collection and Payment of Fees.

Specific Authority 468.1685(1) FS. Law Implemented 468.1685(1) FS. History—New 12-26-79, Formerly 21Z-12.01, 21Z-12.001, 61G12-12.001, 59T-12.001, Repealed _____.

64B10-12.002 Application for Licensure.

(1) The nonrefundable application fee for initial licensure/endorsement and provisional licensure shall be \$250 each (~~one hundred fifty five dollars \$155.00~~)

(2) The nonrefundable application fee for preceptor is \$50.

Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(3) FS. History—New 12-26-79, Formerly 21Z-12.02, Amended 1-22-90, Formerly 21Z-12.002, 61G12-12.002, 59T-12.002, Amended 11-4-02, _____.

64B10-12.0021 Payment for Duplicating Licenses, Certificates, and Permits.

(1) The fee for issuance of a duplicate license, wall certificate or permit is \$25.00.

(2) ~~Licenses licensed prior to July 1, 1998 may obtain wall certificate by submitting their request to the Board along with a \$25.00 fee.~~

(3) ~~The fee for issuance of a duplicate wall certificate is \$25.00.~~

Specific Authority 456.025(2),(7), 468.1685(1) FS. Law Implemented 456.025(2),(7) FS. History—New 12-30-90, Formerly 21Z-12.0021, 61G12-12.0021, Amended 5-26-97, Formerly 59T-12.0021, Amended 5-15-00, _____.

64B10-12.005 Active Renewal Fee.

The fee for active ~~biennial~~ renewal of a nursing home administrator's license is \$250 ~~shall be two hundred fifty five dollars (\$255).~~

Specific Authority 468.1685(1) FS. Law Implemented 468.1715 FS. History—New 12-26-79, Amended 7-3-84, Formerly 21Z-12.05, Amended 1-22-90, Formerly 21Z-12.005, 61G12-12.005, 59T-12.005, Amended 2-26-02, _____.

64B10-12.006 Examination Fee.

The fee for processing the application of an applicant by examination is \$250. This fee is in addition to the fee charged by the NAB.

Specific Authority 468.1695(2) FS. Law Implemented 468.1695(2) FS. History—New _____.

64B10-12.0071 Provisional License Application Fee.

Specific Authority 468.1685(1) 468.1735 FS. Law Implemented 468.1735 FS. History—New 6-14-82, Formerly 21Z-12.071, Amended 1-22-90, Formerly 21Z-12.0071, 61G12-12.0071, Amended 2-13-95, Formerly 59T-12.0071, Repealed _____.

64B10-12.008 Endorsement Fee.

Specific Authority 468.1685(1), 468.1715(1) FS. Law Implemented 468.1715(1) FS. History—New 12-26-79, Amended 6-14-82, Formerly 21Z-12.08, Amended 1-22-90, Formerly 21Z-12.008, 61G12-12.008, 59T-12.008, Repealed _____.

64B10-12.009 Initial Licensure Fee.

The initial licensure fee for a nursing home administrator's license whether by examination or endorsement shall be \$250 two hundred (~~\$200.00~~). The license shall be valid until the end of the current biennium, except that an initial license issued during the renewal period shall be valid for the next biennium. The initial licensure fee shall be submitted with application fee and unlicensed fee upon application for licensure. An applicant not eligible for licensure may receive a refund of the initial licensure fee.

Specific Authority 456.025, 468.1685(1) FS. Law Implemented 456.025 FS. History—New 6-14-82, Formerly 21Z-12.09, 21Z-12.009, 61G12-12.009, Amended 2-13-95, Formerly 59T-12.009, Amended 2-26-02, _____.

64B10-12.010 Inactive Status.

(1) The application fee for inactive status is \$250.00 ~~shall be two hundred fifty five dollars (\$255.00).~~

(2) The fee for renewal of an inactive license is \$250.00 ~~shall be two hundred fifty five dollars (\$255.00).~~

(3) The fee for reactivation of an inactive license is \$250.00 ~~shall be two hundred fifty five dollars (\$255.00).~~

Specific Authority 468.1685(1) 468.1725(2) FS. Law Implemented 468.1725 FS. History—New 2-24-87, Amended 4-8-90, Formerly 21Z-12.010, 61G12-12.010, 59T-12.010, Amended 2-26-02, _____.

64B10-12.011 Temporary License Fees.

(1) The application fee for a temporary license is \$200.00 ~~shall be two hundred fifty (\$250.00).~~

(2) The licensure fee for a temporary license is \$150.

Specific Authority 468.1685(1) FS. Law Implemented 468.1705 (4) FS. History—New 2-24-87, Amended 1-22-90, Formerly 21Z-12.011, 61G12-12.011, 59T-12.011, Amended _____.

64B10-12.012 Preceptor Certification and Recertification Fee.

(1) The preceptor initial certification fee shall be \$50.00 ~~for 3 years certification~~ and shall be remitted at the time of application for initial certification, to be included with the initial application fee contained in Rule 64B10-12.002, F.A.C.

(2) The biennial renewal of license shall constitute renewal of the preceptor certification. The preceptor recertification fee shall be \$25.00 and shall be remitted at the time of application for recertification.

Specific Authority 468.1685(1) FS. Law Implemented 468.1695(5) FS. History—New 1-22-90, Formerly 21Z-12.012, 61G12-12.012, 59T-12.012, Amended _____.

64B10-12.015 Unlicensed Activity Unauthorized Practice Fee.

As provided in subsection 456.065, Florida Statutes, the fee for enforcement of the laws prohibiting unauthorized practice of ~~engaging in nursing home administration~~ shall be \$5.00 ~~per biennium~~ for initial licensure and each subsequent renewal, in addition to any other fees associated with licensure.

Specific Authority 468.1685(1) FS. Law Implemented 456.065 FS. History—New 10-26-93, Formerly 61G12-12.015, Amended 5-26-97, Formerly 59T-12.015, Amended _____.

64B10-12.016 Delinquency Fee.

A licensee who is delinquent shall pay a fee of two hundred fifty ~~five~~ dollars (\$250.00) (\$255.00) for reinstatement of the ~~delinquent~~ license.

Specified Authority 456.036 FS. Law Implemented 456.036 FS. History—New 2-22-96, Formerly 59T-12.016, Amended 2-26-02, _____.

64B10-12.017 Continuing Education Provider Initial and Renewal Fee.

In addition to meeting the requirements set forth for approval of continuing education programs, providers or sponsors shall remit \$250 for initial licensure and upon each renewal.

Specific Authority 456.033, 468.1685(1), 468.1715 FS. Law Implemented 456.013(6), 456.033, 468.1715(3), 468.1725 FS. History—New _____.

64B10-12.018 Special Assessment Fee.

(1) In an effort to eliminate the current cash deficit of the Board of Nursing Home Administrators, each active status licensee and each inactive status licensee shall pay a special one time assessment fee of two hundred dollars (\$200.00). The fee must be paid to and received by the Department no later than October 31, 2005.

(2) Failure to comply with this rule and pay the required fee shall constitute a citation violation as set forth in Section 456.077, F.S.

Specific Authority 456.025(5), 468.1685(1) FS. Law Implemented 456.025(5) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES: RULE NOS.:

Inactive Status and Renewal of 64B10-13.200
Inactive License 64B10-13.300

Reactivation of Inactive License 64B10-13.300

PURPOSE AND EFFECT: The Board proposes the amendments to Rule 64B10-13.200, F.A.C., to provide that an inactive licensee may change to an active status at any time as long as the licensee meets the continuing education requirements and pays active status fees for the period of the inactive license and pays other appropriate fees. A licensee who has been inactive for more than 4 years and who has not practiced in another jurisdiction for at least 2 of the 4 years must also appear before the Board and establish the ability to practice as a nursing home administrator. The Board proposes to delete Rule 64B10-13.300, F.A.C., because all of the initial requirements for activating an inactive license will be contained in Rule 64B10-13.200, F.A.C.

SUMMARY: The amendments to Rule 64B10-13.200, F.A.C., impose more requirements for those inactive licensees wanting to reactivate their licenses. Besides paying the appropriate fees, a licensee may have to demonstrate to the Board that the licensee has the ability to practice with enough skill to protect the public. The essential elements of Rule 64B10-13.300, F.A.C., are now contained in a slightly, longer version of Rule 64B10-13.200 and Rule 64B10-13.300, F.A.C., is deleted in its entirety.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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

SPECIFIC AUTHORITY: 468.1725 FS.

LAW IMPLEMENTED: 468.1725 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B10-13.200 Inactive Status and Renewal of Inactive License.

(1) Any licensee may elect at the time of ~~biennial~~ license renewal to place the license on inactive status by marking "inactive" on the renewal form or in any manner prescribed by the Department and remitting the ~~application~~ fee required by subsection 64B10-12.010(1), F.A.C.

(2) An inactive status licensee may change to active status at any time provided the licensee meets the continuing education requirements, pays the active status fees for each biennium during which the license was inactive, pays the reactivation fee, and if the request to change the licensure status is made at any time other than at the beginning of a licensure cycle, pays the additional change of status fee. Inactive licenses must be renewed biennially during the renewal period prescribed by the Department by payment of the inactive renewal fee required by subsection 64B10-12.010(2), F.A.C. At least ninety (90) days prior to the end of the renewal period, the Department shall send renewal notices to the last address of record of all inactive licensees. Failure to receive any notification does not relieve the licensee of the renewal requirements or waive the inactive receipt expiration date. If an inactive renewal fee is postmarked after the deadline, a delinquency fee as set forth in Rule 64B10-12.016, F.A.C., must be paid before the inactive receipt will be issued.

(3) Any licensee whose license has been inactive for more than two consecutive biennial licensure cycles and who has not practiced for two out of the previous four years in another jurisdiction shall be required to show compliance with subsection (2) and shall be required to appear before the board and establish the ability to practice with the care, skill and safety sufficient to protect the health, safety and welfare of the public.

Specific Authority 468.1725 FS. Law Implemented 468.1725 FS. History--New 3-5-96, Formerly 59T-13.200, Amended _____.

64B10-13.300 Reactivate of Inactive License.

Specific Authority 456.036, 468.1685(1), 468.1725(2) FS. Law Implemented 456.036, 468.1725 FS. History--New 3-5-96, Formerly 59T-13.300, Amended 5-15-00, 2-13-01, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: Mediation
PURPOSE AND EFFECT: The Board proposes to promulgate Rule 64B10-14.007, F.A.C., to provide for mediation as an acceptable means of resolving violations that are economic in nature and can be remedied by the licensee.

RULE NO.:
64B10-14.007

SUMMARY: Rule 64B10-14.007, F.A.C., provides mediation for three minor violations that do not pose a danger to the public health, safety and welfare.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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

SPECIFIC AUTHORITY: 456.073(3), 468.1685(1) FS.

LAW IMPLEMENTED: 456.073(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-14.007 Mediation.

The Board finds that mediation is an acceptable resolution of the following violations that are economic in nature or can be remedied by the licensee:

(1) Failure to respond to a continuing education audit.

(2) Failure to timely pay any assessed administrative fine or costs.

(3) Failure to renew a license within 6 months of the renewal deadline.

Specific Authority 456.073(3), 468.1685(1) FS. Law Implemented 456.073(3) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES: Criteria for Approved Continuing Education Approved Providers Initial Licensure Requirements
PURPOSE AND EFFECT: The Board proposes the amendments to Rule 64B10-15.002, F.A.C., to clarify the eligibility for continuing education credits and eliminate many

RULE NOS.:
64B10-15.002
64B10-15.0021
64B10-15.003

of the licensee's duties to document proof of program content and attendance. The Board proposes the amendments to Rule 64B10-15.0021, F.A.C., to require prior approval of continuing education programs or courses and provide what must be provided with an application. The rule amendments also raise the initial application fee to \$250.00 for providers and raises the biennial renewal fee to \$250.00. The Board proposes new Rule 64B10-15.003, F.A.C., to exempt new licensees from continuing education requirements during the first renewal period, except for the hours required for medical errors and HIV/AIDS.

SUMMARY: The proposed amendments to Rule 64B10-15.002, F.A.C., delete subsection (2) and (3) in their entirety. The provisions of subsection (3) have been transferred to another rule (64B10-11.0011). The proposed amendments to Rule 64B10-15.0021, F.A.C., delete Subsection (3), (6) and (8) and substitute more concise provisions for the subsections. The application fee is raised from \$100.00 to \$250.00 and the biennial renewal fee is raised from \$50.00 to \$250.00. Rule 64B10-15.003, F.A.C., proposes to exempt new licensees from having to comply with the continuing education requirements, except for the medical errors and HIV/AIDS courses required by Rule 64B10-11.0011, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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

SPECIFIC AUTHORITY: 456.033, 468.1685, 468.1685(1), 468.1715, 468.1715(3), 468.1725 FS.

LAW IMPLEMENTED: 456.013, 456.013(6), 456.033, 468.1715, 468.1685(5), 468.1715(3), 468.1725 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B10-15.002 Criteria for Approved Continuing Education.

(1) To be eligible for credit toward the licensee's continuing education requirement, a course shall be designed to enhance the learning and promote the continued development of knowledge and skills of the individual licensee's professional practice.

~~(2)(1) Continuing education will be approved for credit if it is in one of the six (6) Domains of Practice as defined in Rule 64B10-16.005, F.A.C. the method of presentation is effective in meeting the purpose of this chapter and the instructor is well qualified in his particular field by training and experience. Subject matter shall be directly related to the duties and responsibilities of a nursing home administrator. Program objectives should describe expected learner outcome in behavioral terms, can be evaluated, are attainable and are relevant to the profession of nursing home administrators. Attendance of individuals at all portions of the program must be documented by the provider. Contents of the program must be in one or more of the following Domains of Practice:~~

~~(a) through (f) No change.~~

~~(3) Continuing education credit may be granted on an hour-for-hour basis for successful completion of an approved preceptor training program.~~

~~(3)(4) Fifteen hours of continuing education credit shall be granted for each college credit course in the domains of practice successfully completed during the biennium. The college transcript shall be accepted as proof of attendance.~~

~~(4)(5) Administrator certification or re-certification by American College of Health Care Administrators may be accepted as satisfying the total continuing education requirement for license renewal for the biennium in which certification is completed. Verification of certification shall be accepted as proof of attendance.~~

~~(5)(6) To satisfy the requirements of this rule, attendance in the programs or courses of continuing education include personal presence at a live presentation or video conferencing offering, except a maximum of 10 hours credit may be obtained in any biennium through correspondence courses, home study courses, tape and/or video cassette courses or internet courses in the domains of practice provided the course requires passing a test to be graded by the provider and the passing score is verified by the provider of the course. Video cassette courses shall not exceed 5 hours per subject and must be in one of the domains of practice listed in paragraphs 64B10-15.002(1)(a) through (f), F.A.C. A validation form shall be signed by the vendor and the licensee verifying the specific domains of practice covered in the video cassette course and total viewing time. Such verification/validation shall clearly indicate the course is a "correspondence course," "home study course," "tape or video cassette course" or "internet course" and that the licensee passed the course in order to be accepted as proof of attendance.~~

~~(6)(9) The Board shall disapprove any or all credit if the Board determines the program fails to meet the requirements of subsection 64B10-15.002(1), F.A.C.~~

~~(7)(10) The Board shall not accept credit for continuing education programs of less than 1 contact hour. Attendance credit in fractions of an hour shall not be granted.~~

Specific Authority 468.1685(1), 468.1725(3) FS. Law Implemented 456.013, 468.1715, 468.1725 FS. History—New 12-11-80, Amended 2-20-83, Formerly 21Z-15.02, Amended 6-22-87, 2-26-89, 12-6-89, 11-11-92, Formerly 21Z-15.002, 61G12-15.002, 59T-15.002, Amended 10-12-97, 12-2-02, 8-11-03, 8-9-04,_____.

64B10-15.0021 Approved Providers.

(1) ~~To become a continuing education provider, the applicant shall submit an application for approval at least 120 days prior to presenting continuing education programs or courses. Continuing education provider status shall be approved by the Board prior to presenting continuing education programs or courses.~~ Continuing education programs or courses offered prior to obtaining approved provider status shall not be granted continuing education credit.

(2) The Board ~~accepts~~ approves those courses approved as continuing education for nursing home administrators by the National Continuing Education Review Service of the National Association of Boards of Examiners of Nursing Home Administrators, Inc., when attendance is properly certified by the program provider.

(3) The applicant seeking approval status shall submit to the board the following:

- (a) Course outline;
- (b) Learning objectives;
- (c) Domain(s) of Practice;
- (d) Sample evaluation form;
- (e) Method of presentation;
- (f) Curriculum vitae of the course speakers or instructors; and
- (g) Agenda.

~~Those seeking approved provider status shall submit to the Board a sample continuing education program along with an outline of the content of the program or course on Form DOH/NHA/019 (9/20/99), entitled "Florida Board of Nursing Home Administrator Approval As A Provider Of Continuing Education Application," which is hereby incorporated by reference, effective November 15, 1999, a copy of which may be obtained from the Board office upon request. Said outline must provide the following information:~~

- (a) Date and location of the initial course offering;
- (b) Course learning objectives;
- (c) The applicable Domain(s) of Practice covered by the course or program;
- (d) Number of continuing education hours that will be earned;
- (e) Sample program evaluation form;
- (f) Method of presentation;
- (g) Sample certificate of attendance;
- (h) Explanation of how the provider intends to maintain a roster of course attendees;
- (i) Curriculum vitae of the course speakers or instructors; and

~~(j) Agenda for the program or course given to the participants.~~

(4) Those applying for approved provider status shall pay an initial approval fee of ~~\$250~~ \$100.00. A provider seeking to renew approved provider status, shall pay a biennial renewal fee of ~~\$250~~ \$50.00.

(5) All approved providers shall ~~provide~~ furnish to each licensee attending a course a certificate of attendance.

(6) ~~The approved continuing education provider shall be granted authority to give continuing education courses without additional board approval. During the applicable biennium, an approved provider may offer additional programs or courses different than the one initially approved by the board if an outline is submitted in advance and approved by the Board before its use or presentation. The outline shall be submitted to the Board office no less than 45 days before the proposed date of the course and shall contain an agenda, the course learning objectives, the applicable Domains of Practice covered by the course or program, the number of continuing education hours that will be earned, a sample program evaluation form, the method of presentation and the curriculum vitae of the course or program speakers or instructors. This additional course or program outline may be submitted through electronic format to the Board.~~

(7) No change.

(8) ~~The board may conduct audits for cause and randomly during renewal of the continuing education programs. The Board shall periodically monitor and review at random or upon the filing of a complaint, all continuing education programs and shall rescind the provider status or reject individual programs offered by a provider if the provider disseminates any false or misleading information in connection with the continuing education programs, fails to conform to rules of the Board, or if the provider or its faculty member(s) are found to be in violation of any of the provisions of Chapter 468, Part II or 456, F.S.~~

Specific Authority 468.1685, 468.1725 FS. Law Implemented 456.1685(5), 468.1715, 468.1725 FS. History—New 2-20-83, Amended 7-31-84, Formerly 21Z-15.021, Amended 3-5-89, 3-15-90, Formerly 21Z-15.0021, 61G12-15.0021, 59T-15.0021, Amended 11-15-99, 8-9-04,_____.

64B10-15.003 Initial Licensure Requirements.

~~For the first renewal period after licensure, the licensee is exempt from continuing education requirements of Rule 64B10-15.001, F.A.C., except for the hours mandated for medical errors and HIV/AIDS.~~

Specific Authority 456.033, 468.1685(1), 468.1715, 468.1725 FS. Law Implemented 456.013(6), 456.033, 468.1715(3), 468.1725 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
General Information	64B10-16.001
Preceptor	64B10-16.002
Facility at Which Training Takes Place	64B10-16.003
Out-of-State Administrator-In Training Programs	64B10-16.007

PURPOSE AND EFFECT: The Board proposes to update the existing language of Rule 64B10-16.001, F.A.C. The Board proposes the amendments to Rule 64B10-16.002, F.A.C. to reduce the preceptor’s time to attend the six-hour training seminar. The Board proposes Rule 64B10-16.003, F.A.C., to eliminate the approval process for the nursing home facility where the training will take place. The Board also proposes to update the language to show that the facility is currently licensed by the Agency for Health Care Administration. The Board proposes Rule 64B10-16.007, F.A.C., to eliminate two references to “complete” because the words are unnecessary in the context of the sentence.

SUMMARY: The proposed rule changes in paragraph 4 of Rule 64B10-16.001, F.A.C., reflect the statutory change to part II of Chapter 468, F.S. The proposed amendments to Rule 64B10-16.002, F.A.C., would require preceptors to attend the required six-hour training seminar immediately preceding the application, instead of three years. The application shall include each nursing home that will hold the seminar. Rule 64B10-16.003, F.A.C., would no longer require an Administrator in Training to use separate application for each facility where training takes place. The state agency licensing nursing home facilities is the Agency for Health Care Administration. With respect to Rule 64B10-16.007, F.A.C., the first sentence now has three “completed” words in it and the version would eliminate the last two references to the “completed” program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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: 468.1685(1), 468.1695(2) FS.

LAW IMPLEMENTED: 468.1695(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.001 General Information.

(1) An Administrator-in-Training is a supervised internship during which the Administrator-in-Training (the AIT) works under the ~~guidance and~~ supervision of a preceptor, a licensed administrator meeting the qualifications ~~set~~ in Rule 64B10-16.002, F.A.C.

(2) An applicant for the AIT program must meet those qualifications established by Section 468.1695, F.S., ~~which are in effect~~ at the time of application, and pay the application fee specified in Rule 64B10-12.013, F.A.C.

(3) No change.

(4) The training must be under the full-time supervision of the preceptor. A preceptor shall supervise only one AIT or intern at any given time; however, if the facility has a minimum of 120 beds and an assistant administrator duly licensed under Chapter 468, Part II, F.S., the preceptor may then supervise a maximum of two AITs or interns, or a combination thereof.

(5) through (13) No change.

Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History–New 9-24-81, Formerly 21Z-16.01, Amended 12-18-88, 1-22-90, 11-11-92, Formerly 21Z-16.001, Amended 8-29-93, Formerly 61G12-16.001, Amended 6-2-96, Formerly 59T-16.001, Amended 10-12-97, _____.

64B10-16.002 Preceptor.

(1) The Board will approve persons to act as preceptors in AIT programs based on the completion of application and an oral interview. The approval shall be effective indefinitely, so long as the preceptor maintains an active license to practice nursing home administration in this state. ~~However, the Board shall disapprove a preceptor for a training program who has failed to remain in compliance with these requirements.~~

(2) Each person desiring to be a preceptor must submit a completed an application with the appropriate fees, showing:

~~(a) His name and address.~~

~~(b) That he is an actively licensed nursing home administrator in Florida,~~

~~(c) That he has been a licensed and practicing nursing home administrator in any jurisdiction for the last three years, and that no disciplinary action has been taken against him,~~

~~(d) The states and dates of issuance of all his professional license, including those as a nursing home administrator.~~

~~(e) The Nursing home facility at which the applicant has been in direct management control, and that the facilities have had a continuous operating history free from significant deficiencies.~~

~~(3) The preceptor applicant must show that his education, experience, and knowledge qualify him to supervise the training of an AIT. The preceptor applicant must attend a six-hour preceptor training seminar approved by the Board as set forth in Rule 64B10-16.0025, F.A.C., within one ~~the three~~ years immediately preceding the application.~~

(4) Each application for approval of an administrator in training program shall include an application for approval of each nursing home facility at which the training will take place.

~~(5)(4) Preceptor shall not supervise the training of a member of his immediate family.~~

~~(6)(5) A preceptor must be in direct management control of the facility or facilities at which the training is to take place.~~

~~(7)(6) A member of the Board may conduct the oral interview and report to the Board.~~

~~(7) A person desiring to be a preceptor must apply and qualify under the terms of this rule, notwithstanding an approval under previous rules.~~

Specific Authority 468.1685(1), 468.1695(4) FS. Law Implemented 468.1695 FS. History—New 9-24-81, Formerly 21Z-16.02, Amended 12-18-88, 11-11-92, Formerly 21Z-16.002, Amended 2-28-94, Formerly 61G12-16.002, Amended 2-22-96, 10-20-96, Formerly 59T-16.002, Amended 10-12-97, _____.

64B10-16.003 Facility at Which Training Takes Place.

~~(1) Each application for approval of a training program shall include an application for approval of each nursing home facility at which the training will take place.~~

~~(1)(2) The Administrator in Training application form will request general information about the nursing home facility which will include its address, the names, employment dates, work hours, and the license numbers of registered or licensed professionals which head the various departments, and the bed capacities in each classification under the terms of subsections 10D-29.032(15), (36) and (39), F.A.C. (as effective 7-24-81).~~

~~(2)(3) The application must include a copy of the latest survey report and any plans for correction. The survey report must show that the facility is currently licensed by the Agency for Health Care Administration ~~Department of Health~~ as a nursing home facility under the terms of Chapter 400, F.S., and has no serious operating deficiencies.~~

~~(3)(4) The nursing home facility must have a capacity of at least 60 beds.~~

Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History—New 9-24-81, Formerly 21Z-16.03, 21Z-16.003, 61G12-16.003, 59T-12-16.003, Amended 5-15-00, _____.

64B10-16.007 Out-of-State Administrator-In-Training Programs.

If an applicant has completed an AIT program outside of Florida, the Board will review the AIT program ~~completed~~ and determine whether the ~~completed~~ program fulfills the requirements of a Florida AIT program. The applicant is

required to provide documentation to the Board concerning the out-of-state AIT program, the facility where the program was completed and the qualifications and training of the preceptor.

Specific Authority 468.1685(1)(2), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History—New 7-21-97, Formerly 59T-16.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: _____ RULE NO.:

On-Site Control 64B10-17.001

PURPOSE AND EFFECT: The Board proposes this new rule, Rule 64B10-17.001, F.A.C., regarding the administrator's level of control of the facility. Rule 64B10-17.001, F.A.C., also provides that an administrator shall be the administrator for only one facility, unless good cause is shown and Board approval is obtained.

SUMMARY: A nursing home administrator can be the administrator of only one facility unless good cause is shown and Board approval is given. The administrator must be on the location of the facility that is being administered.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

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

SPECIFIED AUTHORITY: 468.1685(2), (5) FS.

LAW IMPLEMENTED: 468.1695(2)FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA,4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-17.001 On-Site Control.

The Board of Nursing Home Administrators interprets the standards of the Board requirement of Sections 468.1685(2) and (5), Florida Statutes, with regard to the Nursing Home

Administrator’s level of control of the facility, the number of facilities for which an administrator can be employed by or both. The standards of the Board are:

(1) A Nursing Home Administrator for any applicable facility shall be the administrator for only one facility. An administrator cannot work in the capacity of a nursing home administrator for multiple facilities unless Board approval is first obtained and good cause is shown.

(2) A Nursing home Administrator must be onsite of the facility for which he or she is employed and cannot administer from a location different from the facility from which he or she is employed.

Specific Authority 468.1685(2),(5) FS. Law Implemented 468.1695(2) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2005

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

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: PROVIDER APPROVAL AND RENEWAL PROCEDURES RULE NO.: 64B32-6.005

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

SUMMARY: The proposed rule amendment removes inappropriate language and replaces this with updated language.

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

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

SPECIFIC AUTHORITY: 456.025(4), 468.361(3) FS.

LAW IMPLEMENTED: 456.025(7), 468.361(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-6.005 Provider Approval and Renewal Procedures.

(1) through (8) No change.

(9) The provider seeking approval for home study courses also shall understand and agree:

(a) No change.

(b) Each home study course submitted for the Board’s review shall not exceed 12 ~~four~~ contact hours in length as defined in Rule 64B32-6.002, Florida Administrative Code; ~~with reference to the reading ability of the average licensee reviewing the material and responding to the questions asked.~~

(c) through (10) No change.

Specific Authority 456.025(4), 468.361(3) FS. Law Implemented 456.025(7), 468.361(3) FS. History—New 4-24-96, Amended 5-7-97, Formerly 59R-75.0041, Amended 4-23-98, 6-9-99, Formerly 64B8-75.0041, Amended 7-4-02, 10-22-03. _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 8, 2005

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE TITLE: ADMINISTRATIVE DEFINITIONS RULE NO.: 65A-1.203

PURPOSE AND EFFECT: The proposed rule amendment will provide for the use of a paper or electronic/web-based application form to apply for public assistance. It will also clarify definitions related to eligibility for public assistance.

SUMMARY: The proposed rule amendment provides for the use of a paper or electronic/web-based application form to apply for public assistance. Additionally, it clarifies definitions related to the eligibility process.

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: 409.919, 414.45 FS.

LAW IMPLEMENTED: 409.903, 409.904, 410.033, 414.095, 414.28, 414.295, 414.31, 414.095 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: 10:30 a.m., June 17, 2005

PLACE: 1317 Winewood Boulevard, Building 3, Room 439, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Lange, Chief of Policy, Economic Self-Sufficiency, 1317 Winewood Boulevard, Building 3, Room 450, Tallahassee, Florida 32399-0700, (850)921-0253

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.203 Administrative Definitions.

Except as otherwise provided within, the following definitions apply to this chapter.

(1) No change.

(2) Economic Self-Sufficiency (ESS): The entity within the department responsible for public assistance eligibility determination. Request for Assistance (RFA), CF-ES Form 2066: A one page form used by interested persons to initiate a determination of their potential eligibility for public assistance. This form serves as the initial document to enter an individual(s) into the Florida On Line Recipient Integrated Data Access (FLORIDA) system. The date the department receives the signed and dated RFA, except as otherwise specified in the program specific sections, establishes the date from which future benefits are determined provided the applicant is a member of the standard filing unit (SFU) or is an authorized/designated representative and completes the interview process.

(3) Application: A specific paper, or electronic/web-based written request on a the designated agency media forms, CF-ES Form 2066, ACCESS Florida Application, May 05, incorporated by reference, or Uniform Resource Locator (URL), www.myflorida.com/accessflorida, which has been dated and signed by the applicant or authorized/designated representative that his eligibility for public assistance be determined. The designated agency form is the CF-ES Form 2067 Application for Public Assistance or Common Application Form and Eligibility Questionnaire, CF-ES 2327, Feb 2004, incorporated by reference in Administrative Rule 65A-1.205.

(4) ~~Application for Public Assistance, CF-ES 2067 (Common Application Form (CAF) or CF-ES 2327: The document which contains the data collected by the case manager or public assistance specialist during interview with the individual applying for public assistance benefits or with the individual's authorized or designated representative. The applicant is required to comply with interview requirements and sign the document before any benefits are provided.~~

~~(4)(5) Date of Application: The date on which a signed, CF-ES 2066, or electronic/web-based application is received in the Department's Economic Self-Sufficiency offices. Applications may be submitted by hand delivery, regular mail, facsimile, or electronically. If a site receives an application electronically or by facsimile after normal business hours, the~~

first business day following the receipt will be the application date the applicant signs the CAF or CF-ES 2327. If the person is the primary information person (PIP), the RFA signature date is the date of application.

(6) through (13) renumbered (5) through (12) No change.

(13) Florida Online Recipient Integrated Data Access (FLORIDA): The computer system used by ESS to assist in eligibility determination and benefit issuance.

(14) Temporary Cash Assistance (TCA): Cash assistance payments authorized under the federal Temporary Assistance for Needy Families program and Chapter 414, Florida Statutes.

(15) Setting Approved by the Department: For the purpose of determining TCA eligibility for a minor child, the term "in a setting approved by the department", means a department-approved, adult-supervised supportive living arrangement for an unwed minor child caring for their dependent child(ren) in accordance with paragraph 65A-4.208(2)(a), F.A.C.

Specific Authority 409.919, 414.45 FS. Law Implemented 409.903, 409.904, 410.033, 414.095, 414.28, 414.295, 414.31, 414.095 FS. History--New 4-9-92, Amended 11-22-93, Formerly 10C-1.203, Amended 11-30-98, 9-12-04,

NAME OF PERSON ORIGINATING PROPOSED RULE:

Lonna Cichon, Government Operations Consultant II

NAME OF SUPERVISOR OR PERSON WHO APPROVED

PROPOSED RULE: Kim Shaver, Director, Economic Self-Sufficiency

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: May 11, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: March 18, 2005

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE TITLE:

Forms for Client Notice and Contact

RULE NO.:

65A-1.400

PURPOSE AND EFFECT: Rule 65A-1.400, F.A.C., has been the rule for incorporating by reference those client notice and contact forms used in more than one program. This rule action changes the rule to one that incorporates by reference all Economic Self-Sufficiency (ESS) program forms used for client notice and contact that impact an applicant's or recipient's ability to obtain or retain eligibility for public assistance. Procedures for verifying information make better use of computerized data sharing and actual source contacts. This has resulted in the elimination of mandated use of specified verification forms. Therefore, the forms have been deleted from the rule.

SUMMARY: The proposed rule amendment changes the rule to one that incorporates by reference all ESS program forms used for client notice and contact that impact an applicant's or recipient's ability to obtain or retain eligibility for public

assistance. A number of contact and notice forms are being newly incorporated by reference or have been amended for clarity and ease of use, as appropriate. Other forms are being deleted because they do not impact on the individual's ability to obtain or retain eligibility or because their use is no longer mandated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost was not prepared for this proposed rule amendment.

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: 409.919, 409.953, 414.45 FS.

LAW IMPLEMENTED: 409.903, 409.904, 410.033, 414.065, 414.075, 414.085, 414.095, 414.105, 414.115, 414.122, 414.125, 414.13, 414.16, 414.21, 414.28, 414.31 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: 10:30 a.m., June 17, 2005

PLACE: 1317 Winewood Boulevard, Building 3, Room 439, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Lange, Chief, Program Policy, Economic Self-Sufficiency, 1317 Winewood Boulevard, Building 3, Room 450, Tallahassee, Florida 32399-0700, (850)921-0253

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 65A-1.400 follows. See Florida Administrative Code for present text.)

65A-1.400 Forms for Client Notice and Contact.

The following forms are used for Public Assistance Programs to provide applicants and recipients with required notice of the agency's and client's rights and responsibilities and other necessary program information. These forms are hereby incorporated by reference.

(1) Forms that apply to two or more public assistance programs are:

- (a) CF-ES Form 1007, Sep 01 Office of Appeal Hearings Hearing Request
- (b) CF-ES Form 2064, May 04 Rights and Responsibilities
- (c) CF-ES Form 2066, May 05 ACCESS Florida Application or Uniform Resource Locator (URL), www.myflorida.com/accessflorida

- (d) CF-ES Form 2304, Sep 02 Public Assistance Consent to Release Information
- (e) CF-ES Form 2305, Sep 02 Relative Caregiver Program Request for Eligibility Consideration
- (f) CF-ES Form 2332, Mar 05 Appointment Notice for Face-to-Face Interview
- (g) CF-ES Form 2333, Mar 05 Eligibility Redetermination Letter
- (h) CF-ES Form 2334, Mar 05 Request for Information
- (i) CF-ES Form 2335, Mar 05 Request for Information for Elderly and Disabled Individuals
- (j) CF-ES Form 2336, Apr 05 Interim Contact Letter
- (k) CF-ES Form 2514, Jul 03 Authorization to Release Medical Information
- (l) CF-ES Form 2640, May 05 Temporary Cash Assistance (TCA) Medicaid/Food Stamp Program Child Support Cooperation Notice
- (m) CF-ES Form 2641, May 05 Claim Notice – Good Cause for Refusal to Cooperate
- (n) CF-ES Form 2672, Sep 02 Real Property Agreement
- (o) CF-ES Form 3052A, May 05 Change Report Form
- (p) CF-ES Form 3103, Sep 02 Authorized Benefit Representative for Electronic Benefit Transfer
- (2) The Food Stamp Program only forms are:
 - (a) CF-ES Form 2095, May 05 Food Stamp Work Registration Notice
 - (b) CF-ES Form 2331, Jan 05 Food Stamp Application for SSI Applicants
 - (c) CF-ES Form 3010, Sep 02 Authorized Representative Designation
- (3) The Medicaid only forms are:
 - (a) CF-ES Form 990, Sep 02 Designation of Beneficiary

- (b) CF-ES Form 1056, Feb 03 Florida KidCare Application
- (c) CF-ES Form 2039, Apr 03 Medical Assistance Referral
- (d) CF-ES Form 2059ES, Sep 02 Consent of Disclosure Statement
- (e) CF-ES Form 2099, Jul 02 Medicaid Application for Breast and Cervical Cancer KidCare Program Medicaid Eligibility Review
- (f) CF-ES Form 2277, Feb 03 KidCare Program Medicaid Eligibility Review
- (g) CF-ES Form 2293, May 03 Child in Care Medicaid Application
- (h) CF-ES Form 2514, Jul 03 Authorization to Release Medical Information
- (i) CF-ES Form 2613, Sep 02 Financial Information Release
- (j) CF-ES Form 2635, Sep 02 Protective Payee Agreement
- (k) CF-ES Form 2700, Apr 04 Health Insurance Application for Pregnant Women
- (l) CF-ES Form 2701, Feb 03 Request for Length of Treatment Information
- (m) CF-ES Form 2930, May 05 Screening for Expedited Medicaid Appointment
- (n) CF-ES Form 2935, Jan 04 Silver Saver (Application)

- (5) The Temporary Cash Assistance only forms are:
- (a) CF-ES Form 2082, Feb 03 Hardship Extension Review
- (b) CF-ES Form 2094, May 03 Statement of Need for Care
- (c) CF-ES Form 2097, Aug 03 Communication and Work Activity Referral
- (d) CF-ES Form 2299, Feb 03 Substance Abuse and Mental Health (SAMH) Treatment Verification Form
- (e) CF-ES Form 2601, Feb 03 Temporary Cash Assistance Program Refugee Assistance Program
- (f) CF-ES Form 4192, May 05 Notice of Work Penalty

The edition date on some forms is listed with a notation that the edition replaces a previous edition that may still be used. This notation is to indicate that the new edition of the form does not implement a policy change and that supplies of the previous edition of a specific form may be exhausted prior to the use of the new edition.

(2) Single copies of each form being incorporated by reference in this rule may be obtained without cost from the ESS office that serves your area or by written request to the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 450, Tallahassee, Florida 32399-0700, or by using the department's Internet site on My Florida.com or its web-based application Uniform Resource Locator (URL) address, www.myflorida.com/accessflorida.

Specific Authority 409.919, 409.953, 410.033, 414.45 FS. Law Implemented 400.903, 409.904, 410.033, 414.065, 414.075, 414.085, 414.095, 414.105, 414.115, 414.122, 414.125, 414.13, 414.16, 414.21, 414.28, 414.31 FS. History—New 4-9-92, Amended 7-1-93, 8-3-94, Formerly 10C-1.400, Amended 12-29-98, 3-18-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lonna Cichon, Government Operations Consultant II
 NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE: Kim Shaver, Director, Economic Self-Sufficiency
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2005

- are:
- (4) The Overpayment and Benefit Recovery only forms
 - (a) CF-ES Form 3057, Feb 03 Information Concerning Administrative Disqualification Hearings
 - (b) CF-ES Form 3400, Feb 03 Request for Additional Information
 - (c) CF-ES Form 3410, Aug 01 Waiver of Disqualification Hearing
 - (d) CF-ES Form 3410A, Feb 03 Waiver of Disqualification Hearing
 - (e) CF-ES Form 3414, Aug 99 Disqualification Consent Agreement

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

RULE TITLE: Conditional Release of Stop Work Order and Periodic Payment Agreement

RULE NO.: 69L-6.025

PURPOSE AND EFFECT: The purpose and effect is to amend existing Rule 69L-6.025, F.A.C., which sets forth procedures for the Division of Workers' Compensation to conditionally release an employer from a stop-work order upon a finding that the employer has complied with the coverage requirements of Chapter 440, Florida Statutes, and has agreed to remit periodic payments of the penalty pursuant to a payment agreement schedule.

SUMMARY: The proposed amendment will allow employers that have been assessed a penalty greater than \$1000 up to sixty months to pay the remaining penalty regardless of the amount of the remaining penalty.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 440.107(9), 440.591 FS.

LAW IMPLEMENTED: 440.107(7)(a) 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: 9:00 a.m., June 14, 2005

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 IS: Andrew Sabolic, 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 FULL TEXT OF THE PROPOSED RULE IS:

69L-6.025 Conditional Release of Stop Work Order and Periodic Payment Agreement.

(1) The requirements for issuance of an Order of Conditional Release From Stop Work Order as provided for in Section 440.107, F.S., are:

(a) The employer has come into compliance with the coverage requirements of Chapter 440, F.S. Compliance with the coverage requirements of Chapter 440, F.S. includes

demonstration by the employer that it is no longer failing to secure the payment of compensation within the meaning of Section 440.107, F.S.

(b) The employer and the Department have executed a Payment Agreement Schedule for Periodic Payment of Penalty, Form Number DFS-F4-1600 (rev. 7/04).

(c) The employer agrees to file probationary periodic reports with the Department for a time period that does not exceed 2 years that demonstrate the employer's continued compliance with Chapter 440, F.S. The probationary periodic reports shall be filed as a section of each monthly payment installment invoice pursuant to the Payment Agreement Schedule for Periodic Payment of Penalty.

(2) The terms and conditions of a Payment Agreement Schedule for Periodic Payment of Penalty shall be:

(a) The employer shall make a down payment on the total assessed penalty amount to the Department that is the greater of \$1000.00 or at least 10% of the total assessed penalty amount. The amount constituting the total assessed penalty amount, less the down payment, shall be referred to as the "remaining penalty".

(b) Each monthly payment installment is due on the first day of the month in which it is due, and the employer is in violation of the Payment Agreement Schedule for Periodic Payment of Penalty if the full monthly payment installment is not received by the Department by the last day of the month in which the payment installment is due;

~~1. An employer whose remaining penalty is less than \$13,500, shall pay the remaining penalty in up to sixty twelve consecutive monthly installments.~~

~~2. An employer whose remaining penalty is \$13,500 or greater shall pay the remaining penalty in twenty four consecutive monthly installments.~~

~~3.~~ The employer may at any time pre-pay the installments of the remaining penalty, which have not become due.

~~4.~~ The first monthly payment installment shall be due on the first day of the second month following the month of issuance of the Conditional Release From Stop Work Order, Form Number DFS-F4-1602 (rev. 6/04), and each subsequent payment installment shall be due on the first day of each consecutive month.

(c) Monthly payment installments shall only be remitted to the Department's address designated in the Payment Agreement Schedule for Periodic Payment of Penalty.

(d) Monthly payment installments shall be in the form of a cashier's check or money order only, made payable to the DFS-Workers' Compensation Administration Trust Fund.

(e) If the employer is a corporation, only an officer of the corporation may execute the Payment Agreement Schedule For Periodic Payment of Penalty on behalf of the employer.

(f) If the employer is a business entity other than a corporation, any principal of the business entity may execute the Payment Agreement Schedule For Periodic Payment of Penalty on behalf of the employer.

(g) Failure by the employer to meet or violation of any term or condition of the Payment Agreement Schedule For Periodic Payment of Penalty shall constitute a default by the employer.

(3) The Payment Agreement Schedule For Periodic Payment of Penalty becomes effective when it is executed on behalf of the employer and by the Department. Upon execution of the Payment Agreement Schedule For Periodic Payment of Penalty, the Department will provide the employer with a Monthly Payment Installment Invoice, Form Number DFS-F4-1601 (rev. 8/04), which shall be submitted with each monthly payment installment. Each Monthly Payment Installment Invoice contains a probationary reporting section that shall be completed by the employer.

(4) If an employer defaults under any of its obligations under the Payment Agreement Schedule For Periodic Payment of Penalty, the Stop Work Order to which the penalty applies shall be immediately reinstated and the entire unpaid balance of the remaining penalty shall immediately become due and payable.

(5) The Department hereby adopts and incorporates the following forms by reference. Copies of the forms can be obtained from the Division of Workers' Compensation's Bureau of Compliance, 200 East Gaines Street, Tallahassee, Florida 32399-4228, or from any field office identified in Rule 69L-6.009, F.A.C.

(a)	DFS-F4-1600	Payment Agreement Schedule For Periodic Payment of Penalty	rev. 7/04
(b)	DFS-F4-1601	Monthly Payment Installment Invoice	rev. 8/04
(c)	DFS-F4-1602	Order of Conditional Release From Stop-Work Order	rev. 6/04

Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.107(7)(a) FS. History—New 4-6-05, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dan Sumner, Deputy Director of Workers' Compensation, Division of Workers' Compensation, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tanner Holloman, Director of Workers' Compensation, Division of Workers' Compensation, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER NO.: 5E-14
RULE CHAPTER TITLE: Entomology and Pest Control Regulations

RULE NO.: 5E-14.106
RULE TITLE: Use of Pesticides – Labels, Limitations, Precautions

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), F.S., published in Vol. 31, No. 10, March 11, 2005, issue of Florida Administrative Weekly.

WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:

5E-14.106 Use of Pesticides – Labels, Limitations, Precautions.

(6) Pesticides used for treatment for the prevention of subterranean termites for new construction shall be applied in the specific amounts, concentration, and treatment areas designated by the label.

(7) Each pesticide used for the primary preventive treatment of new construction for the prevention of subterranean termites ~~The pesticide~~, in its original formulation, shall be mixed at the treatment site immediately prior to application.

(8) For each pesticide used for preventive treatment for new construction, a copy of the label of the registered pesticide being used shall be carried in the vehicle from which the application is performed. The licensee shall maintain records for 3 years of each treatment for the prevention of subterranean termites for new construction indicating the date of treatment, address of property treated, total square footage of structure treated, pesticide used, percent concentration of mixture applied and total volume applied as well as maintaining records of all termiticides purchased obtained, or available for its use; the total amount of the area treated; and the total number of sites treated using this and any other method of treatment for the prevention of subterranean termites.

(9) When a pesticide registered as a preventive treatment for new construction has been applied as a preventive treatment for a structure in accordance with subsection 5E-14.106(6), F.A.C., or will be applied prior to completion of