

SUBJECT AREA TO BE ADDRESSED: Adoption of revised forms relative to the securities industry; deletion of approved forms; adoption of newly created forms; deletion of the revision dates to the forms where redundant to other sections.

SPECIFIC AUTHORITY: 517.03, 517.12 FS.

LAW IMPLEMENTED: 120.53, 120.60, 517.051, 517.081, 517.082, 517.12, 517.1201, 517.1205, 517.161 FS.

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

TIME AND DATE: 10:00 a.m., September 19, 2005

PLACE: 101 East Gaines Street, Room 547, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pamela P. Epting, Bureau Chief, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

impaired, please contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (Voice) or 1(800)955-8771

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria I. Matthews, Assistant General Counsel, Office of the General Counsel, Tallahassee, Florida 32399-0379, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.026 Alternative Procedure for Voting by Absentee Ballot.

Specific Authority 101.015 FS. Law Implemented 101.657 FS. History—New 9-20-00, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dawn K. Roberts, Director, Division of Elections

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sarah Jane Bradshaw, Assistant Director, Division of Elections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2005, by David E. Mann, Assistant Secretary of State

## Section II Proposed Rules

### DEPARTMENT OF STATE

#### Division of Elections

RULE TITLE: Alternative Procedure for Voting by Absentee Ballot

RULE NO.: 1S-2.026

PURPOSE AND EFFECT: Rule 1S-2.026, F.A.C., will be repealed to reflect updates to the Florida Election Code which has rendered this rule obsolete. The alternative procedure for voting by absentee ballot in person has been replaced by provisions for early voting as set forth in Chapter 2004-252, Laws of Florida.

SUMMARY: Repeal of obsolete rule relating to alternative voting procedure.

SPECIFIC AUTHORITY: 101.015 FS.

LAW IMPLEMENTED: 101.657 FS.

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

TIME AND DATE: 10:30 a.m., Monday, September 26, 2005

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Please contact the Department of State no later than September 14, 2005, if you will be need special accommodations to participate in this workshop. Contact Nancy Whitfield, 1(850)245-6536. If you're hearing or speech

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Office of Agricultural Water Policy

RULE CHAPTER TITLE: Best Management Practices for Florida Vegetable and Agronomic Crops

RULE CHAPTER NO.: 5M-8

RULE TITLES: Purpose Approved BMPS Presumption of Compliance Notice of Intent to Implement Record Keeping

RULE NOS.: 5M-8.001 5M-8.002 5M-8.003 5M-8.004 5M-8.005

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUMMARY: The rule establishes a procedure for submitting a "Notice of Intent to Implement," that, when filed with the Florida Department of Agriculture and Consumer Services (FDACS), and implemented, provides a presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices. Once filed with FDACS, the Notice of Intent shall enable the applicant to apply for assistance with implementation as identified in Section 403.067(7)(c)2., F.S. This rule also provides that records maintained by the applicant confirming implementation of non-regulatory and incentive-based programs are subject to inspection.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 403.067(7)(c)2. FS.

LAW IMPLEMENTED: 403.067(7)(c)2. 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: 1:00 p.m., September 26, 2005

PLACE: Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy Conference Room, 1203 Governor's Square Blvd., Suite 200, Tallahassee, FL 32301

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Bureau of Personnel Management, Department of Agriculture and Consumer Services, (850)488-1806, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)488-6249, Fax (850)921-2153

THE FULL TEXT OF THE PROPOSED RULES IS:

5M-8.001 Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History-New \_\_\_\_\_.

5M-8.002 Approved BMPS.

The document titled *Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (Edition 2005)* is hereby incorporated and adopted by reference in this rule for participating vegetable and agronomic crop growers statewide. Copies of the document may be obtained from the local county University of Florida Cooperative Extension Service office or from the Florida Department of Agriculture and Consumer Services (FDACS), Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History-New \_\_\_\_\_.

5M-8.003 Presumption of Compliance.

In order to obtain the presumption of compliance with applicable state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices the applicant must:

(1) Conduct a comprehensive assessment of the subject properties using the Decision Tree Flowchart and associated appendices incorporated in the document titled *Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (Edition 2005)*.

(2) Submit a Notice of Intent to Implement as outlined in Rule 5M-8.004, F.A.C.

(3) Implement all applicable BMPs in accordance with the timeline identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement.

(4) Maintain documentation to verify the implementation and maintenance of the identified BMPs.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History-New \_\_\_\_\_.

5M-8.004 Notice of Intent to Implement.

A Notice of Intent to Implement the BMPs identified in the document titled *Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (Edition 2005)* shall be submitted to the FDACS, Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301.

(1) Such notice shall identify practices the applicant will implement. The notice shall also include: the name of the property owner; the location of the property; the property tax ID number; a timeline for implementation; the acreage on which each practice will be implemented; the name and contact information of an authorized representative; and the signature of the owner, lease holder, or an authorized agent.

(2) Once filed, the Notice of Intent to Implement shall enable the applicant to apply for assistance with implementation as identified in Section 403.067(7)(b)b., F.S.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History-New \_\_\_\_\_.

5M-8.005 Record Keeping.

All participants must preserve sufficient documentation to confirm implementation of the practices identified in the Notice of Intent to Implement. All documentation is subject to inspection.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chuck Aller, Director, Office of Agricultural Water Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

**DEPARTMENT OF TRANSPORTATION  
Florida Seaport Transportation and Economic Development Council**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Small County Dredging Grant Program	14B-2
RULE TITLES:	RULE NOS.:
Definitions	14B-2.001
Port Project Funding Application Procedures and Requirements	14B-2.002
Measuring Economic Benefits	14B-2.003
Determination of Funding; Project Review Group/Agency Review	14B-2.004
Project Review Group Procedures	14B-2.005
Eligible Port Funding Requirements	14B-2.006
Reporting Requirements	14B-2.007

PURPOSE AND EFFECT: To implement the provisions of Section 311.115, F.S., by creating an administrative process to review and approve or disapprove applications for dredging grants.

SUMMARY: This rule implements the provisions of Section 311.115, F.S., by providing procedural and applicant requirements to seek and receive state funding for dredging projects located in small counties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No regulatory costs on any parties are estimated with this proposed rule.

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

SPECIFIC AUTHORITY: 311.115 FS.

LAW IMPLEMENTED: 311.115 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michael L. Rubin, Assistant Secretary, Florida Seaport Transportation and Economic Development Council, 502 East Jefferson Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

14B-2.001 Definitions.

(1) "Council" means the Florida Seaport Transportation and Economic Development Council as defined in Section 311.09(1), F.S.

(2) "Dredging Project" means a project to dredge or deepen channels, turning basins, or harbors.

(3) "Eligible Costs" means costs that may be incurred and paid by program funds. Eligible costs include: dredging and dredging machinery costs, design and engineering, permitting costs, environmental mitigation, and other infrastructure costs associated with the dredging project. Costs associated with preparation of the application or administration of the project are not eligible costs.

(4) "Eligible Port" means a port authority, as defined in Section 315.02(2), F.S., in a county having a population of less than 300,000 according to the last official census that complies with the permitting requirements in Part IV of Chapter 373, F.S., and the local financial management and reporting provisions of Part III of Chapter 218, F.S.

(5) "Matching Funds" means those funds provided by the eligible port from any source other than the Florida Department of Transportation which shall, at a minimum, be an amount equal to the program funds allocated to the eligible port for a dredging project.

(6) "Program Funds" means those funds appropriated specifically for small county dredging projects in the annual appropriations bill passed by the Legislature and approved by the Governor.

(7) "Project Review Group" means the review group designated by the Council to review, approve and allocate program funds to applications. Such group must include one voting representative from the Department of Transportation, one voting representative from the Department of Community Affairs, one voting representative from the Governor's Office of Tourism, Trade and Economic Development, and two voting seaport representatives from the Council. Seaport representatives on the group for purposes of this program may not include representatives from eligible ports.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History—New

14B-2.002 Port Project Funding Application Procedures and Requirements.

(1) An application shall be accepted only from an eligible port. The eligible port shall apply for the grant by electronically submitting to the Council an application entitled "Small County Seaport Dredging Project Application", Form FSTED-2, hereby incorporated by reference, effective August, 2005. Applications shall be submitted by the authorized representative of such port.

(2) Applications must be submitted to the Council during the time period designated by the Project Review Group pursuant to Rule 14B-2.005, F.A.C., of these rules. Application forms are available via the following website: [www.flaports.org](http://www.flaports.org), or by contacting the Florida Ports Council at their offices at 502 East Jefferson Street, Tallahassee, Florida 32301 – (850)222-8028.

(3) The applicant must provide information in application format so that it may be determined whether the proposed dredging project is eligible for funding pursuant to Section 311.115, F.S.

(4) The application must be accompanied by a drawing or map which depicts the dredging project in relation to the port and the local community, clearly identifying the dredging project location.

(5) The application must be accompanied by any requisite dredging, dredge material disposal site, and/or other environmental permit approvals from the U.S. Corp of Engineers and/or the Florida Department of Environmental Protection that clearly state that the dredging project can be undertaken.

(6) The applicant must be accompanied by an economic analysis so that it may be determined whether the project provides an economic benefit.

(7) The Project Review Group will have fifteen (15) days from the application submission deadline to examine the application and notify the applicant of any apparent errors or omissions and to request any needed additional information. The applicant shall then have fifteen (15) days from receipt of the request to provide the additional information. The application shall not be considered to be properly completed if the additional information is not provided.

(8) The project information required to be submitted by the applicant port is contained in the application Form FSTED-2, consisting of the following parts

(a) Part A – Summary Page. Incorporated herein by reference is a copy of Part A., the cover sheet summary of the Council’s application containing the summary information: name of applicant, authorized representative, project name, project number, amount requested/fiscal year, and summary of project approval history.

(b) Part B – Project Description and Means of Financing. Incorporated herein by reference is a copy of Part B which requires a detailed description of the project, and method and amount of matching funds provided by the applicant for the project.

(c) Part C – Permit Information. Incorporated herein by reference is Part C which requires information from the applicant port about applicable permits for the dredging project.

(d) Part D – Economic Benefit Analysis. Incorporated herein by reference is Part D which requires economic benefit information related to the project so that the Office of Tourism, Trade, and Economic Development may determine whether the project provides an economic benefit.

(e) Eligible ports must provide the information required by Parts A through D in order to be reviewed by the Project Review Group pursuant to Rule 14B-2.004, F.A.C. Applications missing requisite information will be deemed incomplete and ineligible for funding.

(9) All forms and form instructions are incorporated herein by reference and are available by writing to the address provided in subsection (2) above.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History–New

#### 14B-2.003 Measuring Economic Benefits.

Each eligible and complete application shall be reviewed to determine the economic benefit of the dredging project measured by the potential for the proposed project to increase or maintain cargo flow, domestic and international commerce, port revenues, and the number of jobs for the port’s local community.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History–New

#### 14B-2.004 Determination of Funding: Project Review Group/Agency Review.

(1) The Project Review Group, or staff designated by the Group to review applications, shall review and determine whether each application is complete and eligible for program funds within one hundred twenty (120) days of the application deadline. After such determination, complete and eligible applications shall be submitted to the Secretary of Transportation, the Office of Tourism, Trade, and Economic Development, and the Secretary of Community Affairs for their review pursuant to this subsection.

(2) Upon receipt of the applications and appropriate project information, the Department of Transportation, Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development shall review the projects to determine whether there are any conflicts with state transportation and/or growth management plans, local approved local government comprehensive plans of the units of local government in which the port is located, or with any pertinent port master plan. The Office of Tourism, Trade, and Economic Development shall review the projects to evaluate the economic benefit of each project based upon the information required by Rule 14B-2.003, F.A.C., and, in so doing, may conduct any appropriate investigation to determine the accuracy of the information. Within forty-five (45) days from receipt of the applications, the Department of Transportation, Department of Community Affairs, and Office of Tourism, Trade and Economic Development shall notify the Project Review Group whether the projects are eligible for funding or ineligible due to a conflict or lack of economic benefit. Should additional information be requested from one or more applicants to evaluate conflicts or economic benefit, the time limit for the review and notice to the Project Review Group shall be extended fifteen (15) days following receipt of the requested information.

(3) The Project Review Group shall review the findings of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, and the Department of

Transportation, and cast a vote to approve or disapprove funding for projects found eligible and not in conflict by the above agencies. Projects found to be in conflict pursuant to subsections (2), (3), and/or lacking an economic benefit pursuant to subsection (4) shall not be eligible for program funds. If enough appropriated funds are available to provide program funds to all eligible projects, the Project Review Group may recommend funding for all projects found eligible and not in conflict pursuant to this rule section. If an adequate amount of appropriated funds are not available, the Project Review Group may recommend a pro-rata share for all eligible and not in conflict projects, or the Project Review Group may prioritize appropriated funds to those projects providing the greatest economic benefit.

(4) The Project Review Group shall submit to the Department of Transportation a list of approved projects for funding. Additionally, the Project Review Group may submit to the department a list of unfunded or partially funded eligible projects that could receive additional program funds if such funds were made available in the next fiscal year.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History—New

14B-2.005 Project Review Group Procedures.

(1) A majority vote of the voting Council members present is sufficient to approve funding for a specific port dredging project and is sufficient for the Council to allocate funding for all approved projects. A majority vote of the voting Project Review Group members present is also sufficient to disapprove funding for a specific port dredging project.

(2) Contingent upon the available appropriated funds, the Project Review Group shall publish in the Florida Administrative Weekly the period for submitting applications for program funds. The publication in the Florida Administrative Weekly, must occur at least one (1) month prior to the application submission period. The application submission period must be for a period of not less than sixty (60) days. The Project Review Group may provide for more than one (1) application submission period in a fiscal year.

(3) Applicants whose dredging projects are not recommended for funding in any given year may reapply for subsequent funding consideration by the Project Review Group.

(4) The Project Review Group may elect to provide an administrative staff, by contract or otherwise, to provide services to the Project Review Group on matters relating to the program.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History—New

14B-2.006 Eligible Port Funding Requirements.

(1) The Department of Transportation shall subject any project that receives funds pursuant to this section to a final audit. The Department may adopt rules and perform such other

acts as are necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.

(2) Funds received by eligible ports shall be expended on eligible costs only. If program funds are not expended on eligible costs, then the port shall immediately reimburse the program for the portion of the ineligible expenditures.

(3) Eligible ports awarded program funds shall enter into a written Joint Participation Agreement (JPA) with the Department of Transportation. The Department of Transportation will reimburse the eligible port an amount equal to 50 percent of eligible costs incurred on an approved project. This reimbursement will be made upon receipt of an invoice showing total eligible costs incurred to date, less the port's 50 percent share, less reimbursements received to date. These reimbursements will be made in compliance with the payment requirements set forth in Section 215.422, F.S. The final reimbursement to the port will be released upon the satisfactory completion of a final audit conducted by the Florida Department of Transportation.

(4) Eligible ports awarded program funds shall pay an administrative fee to the Council for the administration of the small county dredging program. The Council shall vote on and set such fee at a properly noticed public hearing of the Council.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History—New

14B-2.007 Reporting Requirements.

The eligible port shall enter into the Department of Transportation's Joint Participation Agreement, as prescribed by the Department pursuant to Section 339.137, F.S., which sets forth the duties and obligations of the parties thereto regarding the expenditure and receipt of funds prior to any expenditure of state funds. The recipient port also shall provide a signed letter stating that the port accepts total responsibility and ownership of the dredging project.

Specific Authority 311.115 FS. Law Implemented 311.115 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael L. Rubin  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Nancy J. Leikauf  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 19, 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."

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Notification of Release Procedures  
 RULE NO.: 33-107.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate a rule that reiterates statutory requirements.

SUMMARY: The rule addressing notifications of inmate releases is being repealed as it provides only internal management memoranda and repetition of statutory language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 944.605, 944.606, 960.001 FS.

LAW IMPLEMENTED: 944.09, 944.605, 944.606, 960.001 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-107.101 Notification of Release Procedures.

Specific Authority 944.09, 944.605, 944.606, 960.001 FS. Law Implemented 944.09, 944.605, 944.606, 960.001 FS. History—New 9-23-85, Formerly 33-20.02, Amended 3-27-90, 2-17-93, 8-10-97, Formerly 33-20.002, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Trisha Redd, Chief, Bureau of Policy Development

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tina Hayes, Assistant Secretary of Research, Planning and Support Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 2005

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Rules of Prohibited Conduct and Penalties for Infractions  
 RULE NO.: 33-601.314

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to add additional disciplinary charges for gang-related activities.

SUMMARY: The proposed rule provides specific disciplinary charges for gang activities and possession of gang related paraphernalia.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.14, 944.279, 944.28 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions.

The following table shows established maximum penalties for the indicated offenses. As used in the table, “DC” means the maximum number of days of disciplinary confinement that may be imposed and “GT” means the maximum number of days of gain time that may be taken. Any portion of either penalty may be applied.

Maximum  
Disciplinary  
Actions

SECTION 1 through SECTION 2 – No change.

SECTION 3 – CONTRABAND – ANY ARTICLE NOT SOLD IN THE CANTEEN, OR ISSUED BY THE INSTITUTION, OR FOR WHICH YOU DO NOT HAVE A SPECIFIC PERMIT AUTHORIZED BY THE INSTITUTION WHERE PRESENTLY HOUSED

3-1 through 3-14 No change.

3-15 Possession of gang related paraphernalia or related material, gang symbols, logos, gang colors, drawings, hand signs, or gang related documents 30 DC + 30 GT

SECTION 4 through SECTION 8 – No change.

SECTION 9 – MISCELLANEOUS INFRACTIONS

9-1 through 9-35 No change.

9-36 Gang related activities, including recruitment, organizing, display of symbols, groups, or group photos, promotion or participation 30 DC + 60 GT

SECTION 10 through SECTION 11 – No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.14, 944.279, 944.28 FS. History--New 3-12-84, Amended 1-10-85, Formerly 33-22.12, Amended 12-30-86, 9-7-89, 11-22-90, 6-2-94, 10-1-95, 3-24-97, 7-9-98, 8-13-98, Formerly 33-22.012, Amended 9-30-99, 6-7-00, 4-18-02, 10-10-04, 1-9-05, 4-17-05, 6-5-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Franchatta Barber, Deputy Assistant Secretary – Programs  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: George Sapp, Assistant Secretary of Institutions  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2005

**WATER MANAGEMENT DISTRICTS**

**St. Johns River Water Management District**

RULE TITLES:	RULE NOS.:
Implementation	40C-2.031
General Permit by Rule	40C-2.042
Exemptions	40C-2.051
Publications Incorporated by Reference	40C-2.101
Limiting Conditions	40C-2.381
Forms and Instructions	40C-2.900

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: (1) amend the General Consumptive Use Permit by Rule regulating small irrigation uses below consumptive use permit thresholds in subsection 40C-2.041(1), F.A.C., to allow for no more than two days per week for landscape irrigation and to add clarifying revisions; (2) clarify that certain permitted consumptive uses are subject to the limitations in subsections 40C-2.042(1) and (2), F.A.C.; (3) repeal two exemptions and convert them to a new general permit by rule; (4) amend the limiting conditions rule to clarify that the permit conditions adopted by rule are also applicable to General Permits by Rule; (5) authorize local governments to enforce subsection 40C-2.042(2), F.A.C., upon adoption of an ordinance; (6) adopt a new standard general permit application form for small landscape irrigation uses to irrigate three days per week; and (7) revise the Applicant’s Handbook: Consumptive Uses of Water, to reflect related changes.

SUMMARY: Amendments to General Permit by Rule and related consumptive use rules regarding regulation of landscape irrigation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

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

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

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

TIME AND DATE: 1:00 p.m. following the regularly scheduled Regulatory/Governing Board Meeting, October 11, 2005

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

If a person decides to appeal any decision with respect to any matter considered at the above listed public hearing, such person may need to ensure that a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is to be based.

Anyone requiring special accommodations to participate in this meeting is requested to advise the District at least 5 work days before the meeting by contacting: Ann Freeman, (386)329-4101 or (386)329-4450 (TDD).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-2.031 Implementation.

(1) through (3) No change.

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

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

40C-2.042 General Permit by Rule.

A general consumptive use permit by rule is hereby established for ~~landscape, golf course, recreation, agriculture and nursery irrigation, and for aquaculture, ornamental and aerating fountains, and all other types of uses.~~ This section shall apply to ~~all~~ consumptive uses of water listed below that which do not meet or exceed any an individual permitting threshold under subsection 40C-2.041(1), F.A.C., except as provided in subsection (8). However, this section shall not apply to

domestic uses of water by individuals, i.e., water used for the household purposes of drinking, bathing, cooking or sanitation. Persons using or proposing to use water in a manner not authorized under this section, must ~~obtain~~ apply for a general permit pursuant to Chapters 40C-2, 40C-20, or 40C-22, F.A.C., or a modification of their individual permit pursuant to this chapter.

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

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

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

(c) No change.

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

(e) through (l) No change.

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

(n) Discharge of water from a water-to-air air conditioning unit or other water dependent cooling system is not limited by this permit.

(2)(a) The Board hereby grants a general permit to each person located within the District to use, withdraw or divert water for landscape irrigation, provided the irrigation does not occur more than two days per week and does not occur between the hours of 10:00 a.m. and 4:00 p.m. daily. An irrigator may select the two irrigation days unless a local government adopts an ordinance identifying the specific two days irrigation is allowed pursuant to subsection (b). Additionally, any person who irrigates landscape with an automatic lawn sprinkler system installed after May, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred. For the purpose of this rule, "landscape

irrigation" means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, cemeteries, public, commercial, and industrial establishments, and public medians and rights of way. For the purpose of this rule, "landscape irrigation" does not include golf course greens, tees, fairways, primary roughs, and vegetation associated with intensive recreational areas such as, but not limited to, playgrounds, football, baseball and soccer fields. Landscape irrigation shall be subject to the following exceptions:

1. Irrigation using a micro-irrigation system is allowed anytime.

2. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.

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

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

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

6. Discharge of water from a water-to-air air conditioning unit or other water dependent cooling system is not limited by this permit.

7. The use of water from a reclaimed water system is allowed anytime provided that appropriate visible signs are placed on the property sufficient to inform enforcement personnel of such use. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

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

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

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

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



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

(c) Local governments with a jurisdiction divided between the St. Johns River Water Management District and another water management district may propose an alternative schedule of days, from subsection (b) above, when necessary for the local government to achieve a uniform schedule within its jurisdiction. The local government shall submit its proposed alternative schedule for this District's review and approval prior to introducing the ordinance for adoption.

(d) At least thirty (30) days prior to the adoption of an ordinance to enforce paragraph (2)(a), the local government shall provide a copy of the proposed ordinance to the District.

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

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

(a) through (c) No change.

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

(7) The Board hereby grants a General Permit to each person located within the District to withdraw or divert water for uses other than those identified in subsections (1)-(6) provided the amount is limited to only that necessary for efficient utilization.

(8) The Board hereby grants a general permit to each person located within the District to withdraw groundwater from a well solely to irrigate a total of one acre or less of landscape on contiguous property, provided the withdrawal does not meet or exceed any thresholds of paragraphs 40C-2.041(1)(a)-(c), F.A.C. This permit is subject to all the requirements in paragraph (2)(a) and the exceptions in subparagraphs (2)(a)1.-8.

Specific Authority 373.044, 373.113, ~~373.118~~, 373.171 FS. Law Implemented 373.103, 373.171, 373.216, 373.219, 373.223, 373.250, ~~373.609~~ FS. History--New 7-23-91, Amended 1-7-99, \_\_\_\_\_.

40C-2.051 Exemptions.

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

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

(2) through (5) No change.

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

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

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

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

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, and the "Water Conservation Public Supply" requirements in Appendix I of the document entitled "Applicant's Handbook, Consumptive Uses of Water", ~~4-10-02~~. The purpose of the document is to provide information regarding the policy, procedure, criteria, and conditions ~~that which~~ pertain to the District's administration of the consumptive use permitting program.

(2) No change.

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

40C-2.381 Limiting Conditions.

(1) No change.

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

1. through 8. No change.

(b) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented ~~373.216~~, 373.219(1) FS. History--New 1-1-83, Amended 5-31-84, Formerly 40C-2.381, 40C-2.0381, Amended 8-1-89, 7-23-91, \_\_\_\_\_.

40C-2.900 Forms and Instructions.

(1) Individual and Standard General Consumptive Use Permit Application, form number 40C-2-1082-1, effective 1-7-99, is hereby incorporated by reference.

(2) Standard General Consumptive Use Permit For Landscape Irrigation Three Days Per Week, form number 40C-2-1082-2 effective (effective date), is hereby incorporated by reference.

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

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.116, 373.118, 373.219, 373.229 FS. History—New 5-30-90, Amended 7-21-91, 7-23-91, 1-20-93, 2-15-95, 4-25-96, 10-2-96, 1-7-99, \_\_\_\_\_.

## APPLICANT'S HANDBOOK SECTION

### 2.0 Definitions

(a) through (p) No change.

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

(r) through (mm) No change.

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

(a) through (e) No change.

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

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

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

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

(a) through (b) No change.

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

(d) through (l) No change.

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

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

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

(u) through (w) No change.

### 10.3 Reasonable-beneficial Use Criteria

Based upon the statutory guidance and the delineation of factors found in State Water Policy, the Governing Board has determined that the following criteria must be met in order for a use to be considered reasonable-beneficial:

(a) through (d) No change.

(e) All available water conservation measures including those in subsection 40C-2.042(1) or (2), F.A.C., as applicable must be implemented unless the applicant demonstrates that implementation is not economically, environmentally or technologically feasible. Satisfaction of this criterion may be demonstrated by implementation of an approved water conservation plan as required in section 12.0 of Applicant's Handbook: Consumptive Uses of Water. Appendix I provides an outline of water conservation measures which the applicant may undertake to meet this requirement. Individual provisions in Appendix I are not requirements per se, and do not exclude alternative conservation measures the applicant may wish to propose to the District.

(f) through (k) No change.

### 12.2.5 Water Conservation Plan

All permit applicants for a public supply-type water use who satisfy the following water conservation requirements at the time of permit application are deemed to meet the criterion in 10.3(3):

(a) through (d) No change.

(e) A customer and employee water conservation education program which includes all of the elements listed below as nos. 1 through 10 ~~9~~ must be implemented. The frequency and extent to which each of the elements must be implemented will depend upon the size of the applicant's utility, the financial means of the applicant, the degree to which excess water use is identified as a problem, the particular types of uses which are identified as responsible for the excess water use, and any other relevant factors. Implementation of these may be achieved through collaboration with other entities, including the District.

1. through 9. No change.

10. Provide water conservation information to customers regarding landscape irrigation, including the requirements contained within Rule 40C-2.042, F.A.C.

### 17.0 General Conditions by Type of Use

#### 17.1 Public Supply-Type Uses

The following general conditions are generally applied to permits for public supply-type uses:

(a) through (d) No change.

(e) Landscape irrigation is prohibited between the hours of 10:00 a.m. and 4:00 p.m., and shall not occur more than two days per week except as follows:

1. No change.

2. The use of reclaimed water for irrigation is allowed anytime, provided appropriate visible signs are placed on the property sufficient to inform ~~the general public and District~~ enforcement personnel of such use. Such signs must be in accordance with local restrictions.

3. Irrigation of, ~~or in preparation for planting,~~ new landscape is allowed any time of day or any day for the initial one 30 days and every other day for the next 30 days for a total of one 60 day period provided that the irrigation is limited to the minimum amount necessary for such landscape plant establishment.

4. through 5. No change.

(f) No change.

17.2 and 17.3 No change.

17.4 Agricultural Uses

The following conditions are generally applied to individual permits for agricultural-type uses:

(a) No change.

(b) Irrigation of agricultural crops is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:

1. Irrigation using a micro-irrigation system is allowed anytime.

2. The use of reclaimed water for irrigation is allowed anytime provided appropriate visible signs are placed on the property sufficient to inform ~~the general public and District~~ enforcement personnel of such use. Such signs must be in accordance with local restrictions.

3. No change.

4. Irrigation of, ~~or in preparation for planting,~~ new ~~agricultural crops~~ is allowed any time of day for one 30 day period following planting of agricultural crops, provided that the irrigation is limited to the minimum amount necessary for crop or plant establishment.

5. through 11. No change.

(c) No change.

17.5 Nursery Use

The following conditions are generally applied to individual permits for nursery-type uses:

(a) Irrigation of nursery plants is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:

1. No change.

2. The use of reclaimed water for irrigation is allowed anytime, provided appropriate visible signs are placed on the property sufficient to inform ~~the general public and District~~ enforcement personnel of such use. Such signs must be in accordance with local restrictions.

3. No change.

4. Irrigation of, ~~or in preparation for planting,~~ new nursery ~~stock,~~ is allowed any time of day for one 30 day period following planting of nursery stock provided that the irrigation is limited to the minimum amount necessary for plant establishment.

5. through 9. No change.

(b) Irrigation sites using reclaimed water must include signs designed and located to sufficiently inform ~~the general public and District~~ enforcement personnel of such use. Such signs must be in accordance with local restrictions.

(c) No change.

17.6 No change.

17.7 Golf Course/Recreation Use

The following conditions are generally applied to individual permits for golf course-type uses and recreation-type uses:

(a) Golf course and recreational irrigation is prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as follows:

1. No change.

2. Facilities using reclaimed water for irrigation may do so ~~at~~ anytime provided appropriate visible signs are placed on the property sufficient to inform ~~enforcement the general public and District~~ personnel of such use. Such signs must be in accordance with local restrictions.

3. through 8. No change.

(b) No change.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alfred Canepa, Assistant Department Director, Department of Resource Management, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4382, Suncom 860-4382

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE TITLE: Responsible Supervising Control Over Architectural Practice Outside of the Architect's Office

RULE NO.:

61G1-23.015

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify what documentation of work must be maintained by the architect in order to demonstrate responsible supervising control over the architectural practice outside of the architect's office.

SUMMARY: Documentation of responsible supervising control over the architectural practice outside of the architect's office is classified.

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: 481.2055 FS.

LAW IMPLEMENTED: 481.221(4), 481.223, 481.225 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:

61G1-23.015 Responsible Supervising Control Over Architectural Practice Outside of the Architect’s Office.

An architect may seal and sign any documents, instruments of service, specifications, reports or other work which requires the seal and signature of a registered architect prepared outside of the architect’s office, so long as all of the procedures set forth below are met. This Rule (61G1-23.015, F.A.C.) does not address the procedures required of an architect in sealing and signing work which falls within the definition of “interior design” as that term is defined in Section 481.203(8), F.S.

(1) The architect accepts professional responsibility for all architectural design activities of a project performed outside of the architect’s office throughout design development and the production of all documents and instruments of service. The architect shall prepare and maintain as evidence of the architect’s continuing effort in such work: to include written calculations, correspondence, time records, check prints, telephone logs, site visit logs or research done for the project and shall provide such evidence to state or local authorities upon their request.

(2) The architect maintains written documentation that the architect has directly personally supervised the preparation of all documents and instruments of service, reviewed all project data, directly personally inspected the project site and entered into an written agreement with the persons preparing the documents accepting professional responsibility for such work.

(3) The architect makes certain, if the work which the architect intends to seal and sign has been prepared by another person outside the architect’s office, that whenever such final work is submitted to a client, building owner or building user, the architect is present during such submissions in order to respond to questions from the client, owner or user. ~~The architect shall maintain written minutes of such a submission meeting.~~

~~(4) Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervising control over, nor detailed professional knowledge of, the content of such submissions throughout their preparation. If an architect fails to maintain written documentation of the items set forth in subsections (1)-(3) above, when such are applicable, then the architect shall be considered to be in violation of Section 481.221(4) and (5), F.S., and the architect shall be subject to disciplinary penalties as provided in paragraph 61G1-12.004(2)(c), F.A.C., “Plan Stamping.”~~

Specific Authority 481.2055 FS. Law Implemented 481.221(4), (5), 481.223, 481.225 FS. History—New 11-21-94, 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: July 26, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 19, 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 TITLES:	RULE NOS.:
Disciplinary Guidelines	64B8-31.010
Mediation	64B8-31.011

PURPOSE AND EFFECT: The proposed rules address disciplinary guidelines for anesthesiologist assistants and those violations which are appropriate for mediation.

SUMMARY: The proposed Rule 64B8-31.010, F.A.C., sets forth the penalties for violation of the practice act with regard to anesthesiologist assistants. The proposed Rule 64B8-31.011, F.A.C., sets forth those violations which the Board deems appropriate for mediation.

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: 456.078, 456.079, 458.309, 458.331(4), 459.005, 459.023 FS.

LAW IMPLEMENTED: 456.072, 456.078, 456.079, 458.331(4), 458.3475, 459.005, 459.023 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-31.010 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon anesthesiologist assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of

penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon anesthesiologist assistant applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

RECOMMENDED PENALTIES

First Offense

Subsequent Offenses

(a) Attempting to obtain a license by bribery, fraud or through an error of the Department or the Board. (458.331(1)(a), F.S.) (456.072(1)(h), F.S.)

(a) From suspension of license to revocation, or certificate with ability to reapply, or denial of licensure.

(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.

(b) Action taken against license by another jurisdiction. (458.331(1)(b), F.S.) (456.072(1)(f), F.S.)

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension and or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5000.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice. (458.331(1)(c), F.S.); (456.072(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising. (458.331(1)(d), F.S.)

(e) Failure to report another licensee in violation. (458.331(1)(e), F.S.); (456.072(1)(i), F.S.)

(f) Aiding unlicensed practice. (458.331(1)(f), F.S.); (456.072(1)(j), F.S.)

(g) Failure to perform legal obligation. (458.331(1)(g), F.S.); (456.072(1)(k), F.S.)

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, and an administrative fine of \$1,000.00 to \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(e) From a letter of concern to probation and an administrative fine ranging from \$1,000.00 to \$2,500.00, or denial of licensure.

(f) From reprimand to suspension, followed by probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure and an administrative fine from \$1,000.00 to \$ 5,000.00.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, and an administrative fine of \$2,500.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$ 2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(e) From reprimand to suspension or denial of licensure, and an administrative fine from \$2,500.00 to \$ 5,000.00.

(f) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial and an administrative fine from \$2,500.00 to \$5,000.00.

1. Continuing medical education (CME) violations.  
(456.072(1)(e), F.S.);  
(456.072(1)(s), F.S.);  
(456.033(9), F.S.)

a. Failure to document required HIV/AIDS, or end of life care, or palliative health care.

b. Failure to document required domestic violence CME or substitute end-of-life care CME, or CME on the prevention of medical errors.

(h) Filing a false report or failing to file a report as required.  
(458.331(1)(h), F.S.);  
(456.072(1)(l), F.S.)

1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements.  
(458.331(1)(i), F.S.)

(j) Sexual Misconduct.  
(458.331(1)(j), F.S.);  
(458.329, F.S.);  
(456.072(1)(u), F.S.)

(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.  
(458.331(1)(k), F.S.);  
(456.072(1)(a), (m), F.S.)

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$250.00 to \$500.00.

b. An administrative fine ranging from \$250.00 to \$500.00.

(h) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(j) From probation to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(k) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$500.00 to \$1,000.00.

b. An administrative fine of \$500.00 to \$1,000.00.

(h) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(j) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(k) From probation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.

1. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(l) Improper solicitation of patients. (458.331(1)(l), F.S.)

(m) Failure to keep legible written medical records. (458.331(1)(m), F.S.)

1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(n) Exercising influence on patient for financial gain. (458.331(1)(n), F.S.); (456.072(1)(n), F.S.)

(o) Performing professional services not authorized by patient. (458.331(1)(p), F.S.)

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand to probation, or denial of licensure.

(m) From letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.000.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(l) From suspension to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

(m) From a reprimand to suspension followed by probation, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from probation to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.



<p><u>(p) Inability to practice medicine with skill and safety.</u>  <u>(458.331(1)(s), F.S.);</u>  <u>(456.072(1)(y), F.S.)</u></p>	<p><u>(p) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u></p>	<p><u>(p) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, and an administrative fine from \$2,500.00 to \$ 5,000.00.</u></p>
<p><u>(q)1. Malpractice: practicing below acceptable standard of care.</u>  <u>(458.331(1)(t), F.S.)</u></p>	<p><u>(q)1. From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(q)1. From reprimand to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>2. Gross Malpractice</u></p>	<p><u>2. From probation to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u></p>	<p><u>2. From suspension followed by probation to revocation or denial, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>3. Repeated Malpractice</u></p>	<p><u>3. From a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.000.</u></p>	<p><u>3. From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(r) Performing of experimental treatment without informed consent.</u>  <u>(458.331(1)(u), F.S.)</u></p>	<p><u>(r) From a letter of concern to suspension, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(r) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(s) Practicing beyond scope permitted.</u>  <u>(458.331(1)(v), F.S.);</u>  <u>(456.072(1)(o), F.S.)</u></p>	<p><u>(s) From a letter of concern to reprimand and probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(s) From probation to suspension or revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(t) Delegation of professional responsibilities to unqualified person.</u>  <u>(458.331(1)(w), F.S.);</u>  <u>(456.072(1)(p), F.S.)</u></p>	<p><u>(t) From reprimand to suspension, followed by probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(t) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(u)1. Violation of law, rule, or failure to comply with subpoena.</u>  <u>(458.331(1)(x), (nn), F.S.);</u>  <u>(456.072(1)(b), (q), (cc), F.S.)</u></p>	<p><u>(u)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(u)1. From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>

<u>2. Violation of an order of the Board.</u>	<u>2. From a letter of concern and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$5,000.00.</u>	<u>2. From a reprimand and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00 and probation.</u>
<u>(v) Conspiring to restrict another from lawfully advertising services. (458.331(1)(y), F.S.)</u>	<u>(v) From a letter of concern to a reprimand and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(v) From a reprimand and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00.</u>
<u>(w) Aiding an unlawful abortion. (458.331(1)(z), F.S.)</u>	<u>(w) From probation to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u>	<u>(w) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(x) Failure to adequately supervise assisting personnel. (458.331(1)(dd), F.S.)</u>	<u>(x) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(x) From probation to suspension followed by probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(y) Improper use of substances for muscle building or enhancement of athletic performance. (458.331(1)(ee), F.S.)</u>	<u>(y) From a reprimand to suspension, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u>	<u>(y) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(z) Use of amygdaline (laetrile). (458.331(1)(ff), F.S.)</u>	<u>(z) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(z) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(aa) Misrepresenting or concealing a material fact. (458.331(1)(gg), F.S.)</u>	<u>(aa) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.</u>	<u>(aa) From probation to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.</u>
<u>(bb) Improperly interfering with an investigation or a disciplinary proceeding. (458.331(1)(hh), F.S.); (456.072(1)(r), F.S.)</u>	<u>(bb) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(bb) From probation to revocation or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(cc) Failing to report any licensee who is in violation of law. (458.331(1)(ii), F.S.); (456.072(1)(i), F.S.)</u>	<u>(cc) From a letter of concern to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(cc) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(dd) Providing medical opinion without reasonable investigation. (458.331(1)(jj), F.S.)</u>	<u>(dd) From a letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(dd) From probation to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$ 5,000.00.</u>

<u>(ee) Theft or reproduction of an examination.</u> <u>(456.018, F.S.)</u>	<u>(ee) Suspension to revocation, or denial of licensure without an ability to reapply.</u>	<u>(ee) Revocation or denial of licensure without ability to reapply.</u>
<u>(ff) Using laser device or product without complying with rules adopted pursuant to s. 501.122(2), F.S.</u> <u>(456.072(1)(d), F.S.)</u>	<u>(ff) From a letter of concern to a reprimand and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(ff) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(gg) Having been found liable in a civil proceeding for filing a false complaint against another licensee.</u> <u>(456.072(1)(g), F.S.)</u>	<u>(gg) From probation to suspension or denial of licensure, and an administrative fine from \$1000.00 to \$2,500.00.</u>	<u>(gg) From suspension to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(hh) Failure to provide patients with information regarding their patient rights.</u> <u>(456.072(1)(t), F.S.);</u> <u>(458.331(1)(mm), F.S.)</u>	<u>(hh) From a letter of concern to probation and an administrative fine ranging from \$500.00 to \$2,500.00.</u>	<u>(hh) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(ii) Using accident information for solicitation purposes.</u> <u>(456.072(1)(x), F.S.)</u>	<u>(ii) From a reprimand to suspension and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(ii) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(jj) Testing positive on a preemployment or employee ordered drug screening.</u> <u>(456.072(1)(z), F.S.)</u>	<u>(jj) From a letter of concern to probation or a denial of licensure and an administrative fine ranging from \$500.00 to \$2,500.00.</u>	<u>(jj) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(kk) Performing health care services on the wrong patient, wrong site, wrong procedure.</u> <u>(456.072(1)(aa), F.S.)</u>	<u>(kk) From a reprimand to suspension and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(kk) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(ll) Leaving a foreign body in a patient.</u> <u>(456.072(1)(bb), F.S.)</u>	<u>(ll) From a letter of concern to probation and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(ll) From a reprimand to suspension and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>
<u>(mm) Intentionally submitting a personal injury protection claim, statement, or bill that has been "upcoded," or claim, statement, or bill for services not rendered.</u> <u>(456.072(1)(dd), (ee), F.S.)</u>	<u>(mm) From a reprimand to probation and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(mm) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(nn) Failing to report within 30 days action taken against one's license in another jurisdiction.</u> <u>(458.331(1)(kk), F.S.)</u>	<u>(nn) From a reprimand to suspension or a denial of licensure and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(nn) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>

(3) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

- (a) Exposure of patients or public to injury or potential injury, physical or otherwise; none, slight, severe, or death;
- (b) Legal status at the time of the offense; no restraints, or legal constraints;
- (c) The number of counts or separate offenses established;
- (d) The number of times the same offense or offenses have previously been committed by the licensee or applicant;
- (e) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
- (f) Pecuniary benefit or self-gain inuring to the applicant or licensee;
- (g) Any other relevant mitigating factors.

(4) The anesthesiologist assistant shall be disciplined by the Board when, after due notice and a hearing in accordance with the provisions of this rule, it shall find: that the anesthesiologist assistant has held himself out or permitted another to represent him as a licensed physician. If any person addresses the anesthesiologist assistant in a medical setting as "Doctor," the anesthesiologist assistant must immediately inform that person that the anesthesiologist assistant is not a doctor. Upon a finding by the Board of failure to immediately inform the person, the following penalty shall be imposed: a letter of concern, a reprimand, a 60-day suspension and/or a fine up to \$2,500.00; and for any subsequent offense, a fine up to \$5,000.00 and/or revocation of the certificate.

Specific Authority 456.079, 458.309, 458.331(4), 459.005, 459.023 FS. Law Implemented 456.072, 456.079, 458.331(4), 458.3475, 459.005, 459.023 FS. History--New \_\_\_\_\_.

64B8-31.011 Mediation.

(1) For purposes of Section 456.078, F.S., the Board designates as being appropriate for mediation, violations of the following provisions:

- (a) Failing to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint;
- (b) Negligently failing to file a report or record required by state or federal law;

(2) The above-outlined provisions shall qualify for mediation only when the violation can be remedied by the licensee, there is no allegation of intentional misconduct, no patient injury, and the allegations do not involve any "adverse incidents" as defined by Section 456.078(2), F.S.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anesthesiologist Assistant Committee

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2004

**DEPARTMENT OF HEALTH  
Board of Orthotists and Prosthetists**

RULE TITLE: Definitions  
RULE NO.: 64B14-3.001

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule to more specifically define the term "direct supervision" and to define the term "support personnel."

SUMMARY: The proposed rule amendment more specifically defines the term "direct supervision" and defines the term "support personnel."

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: 468.802 FS.

LAW IMPLEMENTED: 468.802, 468.803, 468.807, 468.808, 468.809 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-3.001 Definitions.

As used in this chapter, the following terms shall mean:

- (1) through (11) No change.
- (12) Direct Supervision means: supervision while the qualified supervisor is on the premises.

(a) The licensed orthotist, prosthetist, orthotist/prosthetist, or pedorthist will provide a physical evaluation of each patient's orthotic and or prosthetic needs and may delegate appropriate duties to support personnel. However, the licensed practitioner shall physically evaluate the effectiveness, appropriateness and fit of all devices within the scope of the licensed practitioner's licensure practice requirements, including those repaired devices in which the repairs affect the fit, physical structure or biomechanical function of the device, on every patient, prior to patient use of the device;

(b) For the purpose of replacement of worn or broken components which do not in any way alter the fit, physical structure or biomechanical functioning of the existing device, direct supervision of support personnel providing repairs to orthoses or prostheses means the aforementioned repair must be approved by the appropriately licensed practitioner prior to beginning of repairs. The responsible licensed practitioner must at all times be accessible by two way communication, enabling the supervisor to respond to questions relating to the repair.

(13) through (27) No change.

(28) Support Personnel – any person who is not licensed by the Board of Orthotists and Prosthetists to perform a given task, procedure or service.

~~(29)~~(28) Therapeutic – applying forces to the body to modify structural alignment, correct a deformity or alleviate pain.

Specific Authority 468.802 FS. Law Implemented 468.802, 468.803, 468.807, 468.808, 468.809 FS. History–New 10-21-99, Amended 2-19-04, 5-5-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 24, 2005

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Documentation of Eligibility for Licensure  
RULE NO.: 64B14-4.003  
PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule to clarify requirements for licensure.

SUMMARY: The proposed rule amendment updates the existing language in this rule to clarify requirements for licensure.

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: 468.802 FS.

LAW IMPLEMENTED: 456.013(1),(7), 468.803 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.003 Documentation of Eligibility for Licensure.

(1) No change.

(2) In order to establish eligibility for licensure as an orthotic fitter under Section 468.803(3)(c), F.S., the applicant must provide at a minimum:

(a) through (b) No change.

(c) Verification of Employment Form(s) demonstrating two years ~~supervised~~ ~~of~~ ~~experience~~ ~~in~~ ~~orthotics~~ ~~that~~ ~~meets~~ ~~the~~ ~~requirements~~ ~~of~~ ~~paragraph~~ ~~64B14-4.110(1)(b)~~ ~~F.A.C.~~ ~~as~~ ~~an~~ ~~orthotic~~ ~~fitter~~ ~~assistant~~ signed by the applicant’s qualified supervisor(s).

(d) No change.

(3) In order to establish eligibility for licensure as an orthotic fitter assistant under Section 468.803(3)(d), F.S., the applicant must provide at a minimum:

(a) through (c) No change.

(4) In order to establish eligibility for licensure as a pedorthist under Section 468.803(3)(e), F.S., the applicant must provide at a minimum:

(a) through (c) No change.

(5) No change.

Specific Authority 468.802 FS. Law Implemented 456.013(1),(7), 468.803 FS. History–New 12-10-98, Amended 11-11-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic  
RULE NO.: 64B14-4.110

PURPOSE AND EFFECT: The Board proposes to update the existing language to require persons who acquire their experience in Florida to be supervised by a Florida licensee, and clarify that this rule is not intended to authorize the aiding or assisting of the unlicensed practice of orthotics or prosthetics or to authorize practice beyond the scope of any individual’s license.

SUMMARY: The proposed rule amendment updates the existing language to require persons who acquire their experience in Florida to be supervised by a Florida licensee, and clarify that this rule is not intended to authorize the aiding or assisting of the unlicensed practice of orthotics or prosthetics or to authorize practice beyond the scope of any individual's license.

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: 468.802, 468.803 FS.

LAW IMPLEMENTED: 468.803 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.110 Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic.

(1) Requirements for Licensure as an Orthotic Fitter. The applicant must demonstrate:

(a) No change.

(b) Two years experience in orthotics as an orthotic fitter assistant under the direct supervision of a Florida licensed orthotist, licensed fitter, or an orthotist certified by ABC. Candidates licensed by the Board as an orthotic fitter assistant may earn the two years of experience under the direct supervision of a Florida licensed orthotic fitter. Experience in orthotics earned outside of Florida may also be earned under the direct supervision of an ABC certified orthotist. This paragraph shall not be construed to authorize any person to supervise, assist or engage in the unlicensed practice of orthotics, prosthetics or pedorthics. The education required by paragraph (1)(a) above shall be completed prior to earning the experience required by this sub-section, except that the required custom molded shoe course may be completed no less than one year prior to the end of the two year period of orthotics experience the applicant relies on to qualify for licensure. This paragraph shall not be construed to authorize any person licensed by the Board to practice beyond the scope of their license, unless supervised pursuant to the requirements of Chapter 468, Part XIV, F.S. and rules of the Board.

(2) through (3) No change.

Specific Authority 468.802, 468.803 FS. Law Implemented 468.803 FS. History—New 11-1-99, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Continuing Education Requirement

RULE NO.: 64B14-5.002

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule to add an additional authorized provider for obtaining registration as a competent health care provider.

SUMMARY: The proposed rule amendment updates the existing language in this rule to add an additional authorized provider for obtaining registration as a competent health care provider.

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: 468.802, 468.806 FS.

LAW IMPLEMENTED 456.013, 456.024, 468.806 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-5.002 Continuing Education Requirement.

(1) As a condition of license renewal or recertification, each licensee must complete approved continuing education.

(a) through (b) No change.

(c) For each biennium ending after May 31, 2001, each licensee's continuing education must include one hour of continuing education on cardiopulmonary resuscitation; one hour on infectious diseases including HIV/AIDS, two hours of continuing education relating to prevention of medical errors which shall include a study of root-cause analysis, error reduction and prevention, and patient safety and two hours on

Chapters 456, 468, Part XIV, F.S., and Rule Chapter 64B14, F.A.C. The two hour course relating to the prevention of medical errors shall count toward the total number of continuing education hours required and shall be a course approved by the Board. For the biennium beginning December 1, 2005, each licensee's continuing education must include one hour of infectious diseases including HIV/AIDS; two hours on Chapters 456, 468, Part XIV, F.S., and Rule Chapter 64B14, F.A.C.; an up to date registration showing competency as a Healthcare Provider by the American Heart Association, the American Safety and Health Institute or the American Red Cross; and two hours of continuing education relating to the prevention of medical errors, which shall include a study of root cause analysis, error reduction and prevention, and patient safety. The two hour medical errors course shall be a course approved by the Board and shall count toward the total number of continuing education hours required for the biennium.

(2) through (9) No change.

Specific Authority 468.802, 468.806 FS. Law Implemented 456.013, 456.024, 468.806 FS. History--New 7-1-98, Amended 5-18-00, 7-18-02, 11-11-02, 2-15-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Standards of Practice  
RULE NO.: 64B14-7.001

PURPOSE AND EFFECT: The Board proposes to amend the existing language in this rule to include failure to appropriately delegate to unlicensed personnel as practicing below the standards of practice.

SUMMARY: The proposed rule amendment amends the existing language in this rule to include failure to appropriately delegate to unlicensed personnel as practicing below the standards of practice.

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: 468.802 FS.

LAW IMPLEMENTED: 456.063(1), 456.072(1)(o),(u), 468.802 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-7.001 Standards of Practice.

(1) through (4) No change.

(5) It is below the standard of practice and prohibited under this section for any person licensed under this chapter to delegate or assign activities, tasks or procedures that fall within the scope of any practice defined in Section 468.80, F.S., to support personnel, without providing direct supervision for the performance of the activities, tasks or procedures.

Specific Authority 468.802 FS. Law Implemented 456.063(1), 456.072(1)(o),(u), 468.802 FS. History--New 7-1-98, Amended 10-24-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLES: Disciplinary Guidelines  
RULE NOS.: 64B15-7.010  
64B15-7.011

PURPOSE AND EFFECT: The proposed rules address disciplinary guidelines for anesthesiologist assistants and those violations which are appropriate for mediation.

SUMMARY: The proposed Rule 64B15-7.010, F.A.C., sets forth the penalties for violation of the practice act with regard to anesthesiologist assistants. The proposed Rule 64B15-7.011, F.A.C., sets forth those violations which the Board deems appropriate for mediation.

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: 456.078, 456.079, 459.005, 459.015(5), 459.023 FS.

LAW IMPLEMENTED: 456.072, 456.078, 456.079, 459.015(5), 459.023 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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULES IS:

64B15-7.010 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon anesthesiologist assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the

violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon anesthesiologist assistant applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

RECOMMENDED PENALTIES

First Offense

Subsequent Offenses

(a) Attempting to obtain a license by bribery, fraud or through an error of the Department or the Board. (459.015(1)(a), F.S.); (456.072(1)(h), F.S.)

(a) From suspension of license to revocation, or certificate with ability to reapply, or denial of licensure.

(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.

(b) Action taken against license by another jurisdiction. (459.015(1)(b), F.S.) (456.072(1)(f), F.S.)

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension and or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5000.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.



2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice. (459.015(1)(c), F.S.) (456.072(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising. (459.015(1)(d), F.S.)

(e) Failure to report another licensee in violation. (459.015(1)(e), F.S.); (456.072(1)(i), F.S.)

(f) Aiding unlicensed practice. (459.015(1)(f), F.S.); (456.072(1)(j), F.S.)

(g) Failure to perform legal obligation. (459.015(1)(g), F.S.); (456.072(1)(k), F.S.)

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, and an administrative fine of \$1,000.00 to \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(e) From a letter of concern to probation and an administrative fine ranging from \$1,000.00 to \$2,500.00, or denial of licensure.

(f) From reprimand to suspension, followed by probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure and an administrative fine from \$1,000.00 to \$ 5,000.00.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, and an administrative fine of \$2,500.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(e) From reprimand to suspension or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

(f) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial and an administrative fine from \$2,500.00 to \$5,000.00.

1. Continuing medical education (CME) violations.  
(456.072(1)(e), F.S.);  
(456.072(1)(s), F.S.);  
(456.033(9), F.S.)

a. Failure to document required HIV/AIDS, or end of life care, or palliative health care.

b. Failure to document required domestic violence CME or substitute end-of-life care CME, or CME on the prevention of medical errors.

(h) Filing a false report or failing to file a report as required.  
(459.015(1)(i), F.S.);  
(456.072(1)(l), F.S.)

1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements.  
(459.015(1)(j), F.S.)

(j) Sexual Misconduct.  
(459.015(1)(l), F.S.);  
(450.0141, F.S.);  
(456.072(1)(u), F.S.)

(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.  
(459.015(1)(m), F.S.);  
(456.072(1)(a), (m), F.S.)

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$250.00 to \$500.00.

b. An administrative fine ranging from \$250.00 to \$500.00.

(h) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(j) From probation to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(k) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$500.00 to \$1,000.00.

b. An administrative fine of \$500.00 to \$1,000.00.

(h) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(j) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(k) From probation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.

1. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(l) Improper solicitation of patients. (459.015(1)(n), F.S.)

(m) Failure to keep legible written medical records. (459.015(1)(o), F.S.)

1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(n) Exercising influence on patient for financial gain. (459.015(1)(q), F.S.); (456.072(1)(n), F.S.)

(o) Performing professional services not authorized by patient. (459.015(1)(s), F.S.)

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand to probation, or denial of licensure.

(m) From letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.000.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(l) From suspension to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

(m) From a reprimand to suspension followed by probation, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.

1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from probation to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

<p><u>(p) Inability to practice medicine with skill and safety.</u> <u>(459.015(1)(w), F.S.);</u> <u>(456.072(1)(y), F.S.)</u></p>	<p><u>(p) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u></p>	<p><u>(p) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, and an administrative fine from \$2,500.00 to \$ 5,000.00.</u></p>
<p><u>(q)1. Malpractice: practicing below acceptable standard of care.</u> <u>(459.015(1)(x), F.S.)</u></p>	<p><u>(q)1. From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(q)1. From reprimand to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>2. Gross Malpractice</u></p>	<p><u>2. From probation to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u></p>	<p><u>2. From suspension followed by probation to revocation or denial, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>3. Repeated Malpractice</u></p>	<p><u>3. From a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.000.</u></p>	<p><u>3. From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(r) Performing of experimental treatment without informed consent.</u> <u>(459.015(1)(y), F.S.)</u></p>	<p><u>(r) From a letter of concern to suspension, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(r) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(s) Practicing beyond scope permitted.</u> <u>(459.015(1)(z), F.S.);</u> <u>(456.072(1)(o), F.S.)</u></p>	<p><u>(s) From a letter of concern to reprimand and probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(s) From probation to suspension or revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(t) Delegation of professional responsibilities to unqualified person.</u> <u>(459.015(1)(aa), F.S.);</u> <u>(456.072(1)(p), F.S.)</u></p>	<p><u>(t) From reprimand to suspension, followed by probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(t) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>
<p><u>(u)1. Violation of law, rule, or failure to comply with subpoena.</u> <u>(459.015(1)(bb), (pp), F.S.);</u> <u>(456.072(1)(b), (q), (cc), F.S.)</u></p>	<p><u>(u)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u></p>	<p><u>(u)1. From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u></p>

<u>2. Violation of an order of the Board.</u>	<u>2. From a letter of concern and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$5,000.00.</u>	<u>2. From a reprimand and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00 and probation.</u>
<u>(v) Conspiring to restrict another from lawfully advertising services. (459.015(1)(cc), F.S.)</u>	<u>(v) From a letter of concern to a reprimand and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(v) From a reprimand and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00.</u>
<u>(w) Aiding an unlawful abortion. (459.015(1)(dd), F.S.)</u>	<u>(w) From probation to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u>	<u>(w) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(x) Failure to adequately supervise assisting personnel. (459.015(1)(hh), F.S.)</u>	<u>(x) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(x) From probation to suspension followed by probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(y) Improper use of substances for muscle building or enhancement of athletic performance. (459.015(1)(ii), F.S.)</u>	<u>(y) From a reprimand to suspension, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u>	<u>(y) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(z) Use of amygdaline (laetrile). (458.331(1)(ff), F.S.)</u>	<u>(z) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(z) From suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(aa) Misrepresenting or concealing a material fact. (459.015(1)(jj), F.S.)</u>	<u>(aa) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.</u>	<u>(aa) From probation to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.</u>
<u>(bb) Improperly interfering with an investigation or a disciplinary proceeding. (459.015(1)(kk), F.S.); (456.072(1)(r), F.S.)</u>	<u>(bb) From a reprimand to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(bb) From probation to revocation or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(cc) Failing to report any licensee who is in violation of law. (459.015(1)(ll), F.S.); (456.072(1)(i), F.S.)</u>	<u>(cc) From a letter of concern to probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(cc) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</u>
<u>(dd) Providing medical opinion without reasonable investigation. (459.015(1)(mm), F.S.)</u>	<u>(dd) From a letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(dd) From probation to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$ 5,000.00.</u>

<u>(ee) Theft or reproduction of an examination.</u> <u>(456.018, F.S.)</u>	<u>(ee) Suspension to revocation, or denial of licensure without an ability to reapply.</u>	<u>(ee) Revocation or denial of licensure without ability to reapply.</u>
<u>(ff) Using laser device or product without complying with rules adopted pursuant to Section 501.122(2), F.S.</u> <u>(456.072(1)(d), F.S.)</u>	<u>(ff) From a letter of concern to a reprimand and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(ff) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(gg) Having been found liable in a civil proceeding for filing a false complaint against another licensee.</u> <u>(456.072(1)(g), F.S.)</u>	<u>(gg) From probation to suspension or denial of licensure, and an administrative fine from \$1000.00 to \$2,500.00.</u>	<u>(gg) From suspension to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(hh) Failure to provide patients with information regarding their patient rights.</u> <u>(456.072(1)(t), F.S.);</u> <u>(459.015(1)(oo), F.S.)</u>	<u>(hh) From a letter of concern to probation and an administrative fine ranging from \$ 500.00 to \$2,500.00.</u>	<u>(hh) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(ii) Using accident information for solicitation purposes.</u> <u>(456.072(1)(x), F.S.)</u>	<u>(ii) From a reprimand to suspension and an administrative fine ranging from \$1,000.00 to \$2,500.00.</u>	<u>(ii) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(jj) Testing positive on a preemployment or employee ordered drug screening.</u> <u>(456.072(1)(z), F.S.)</u>	<u>(jj) From a letter of concern to probation or a denial of licensure and an administrative fine ranging from \$500.00 to \$2,500.00.</u>	<u>(jj) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(kk) Performing health care services on the wrong patient, wrong site, wrong procedure.</u> <u>(456.072(1)(aa), F.S.)</u>	<u>(kk) From a reprimand to suspension and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(kk) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(ll) Leaving a foreign body in a patient.</u> <u>(456.072(1)(bb), F.S.)</u>	<u>(ll) From a letter of concern to probation and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(ll) From a reprimand to suspension and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>
<u>(mm) Intentionally submitting a personal injury protection claim, statement, or bill that has been "upcoded," or claim, statement, or bill for services not rendered.</u> <u>(456.072(1)(dd),(ee), F.S.)</u>	<u>(mm) From a reprimand to probation and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(mm) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>
<u>(nn) Failing to report within 30 days action taken against one's license in another jurisdiction.</u> <u>(456.072(1)(w), F.S.)</u>	<u>(nn) From a reprimand to suspension or a denial of licensure and an administrative fine ranging from \$1000.00 to \$2,500.00.</u>	<u>(nn) From probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.</u>

(3) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

- (a) Exposure of patients or public to injury or potential injury, physical or otherwise; none, slight, severe, or death;
- (b) Legal status at the time of the offense; no restraints, or legal constraints;
- (c) The number of counts or separate offenses established;
- (d) The number of times the same offense or offenses have previously been committed by the licensee or applicant;
- (e) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
- (f) Pecuniary benefit or self-gain inuring to the applicant or licensee;
- (g) Any other relevant mitigating factors.

(4) The anesthesiologist assistant shall be disciplined by the Board when, after due notice and a hearing in accordance with the provisions of this rule, it shall find: that the anesthesiologist assistant has held himself out or permitted another to represent him as a licensed physician. If any person addresses the anesthesiologist assistant in a medical setting as "Doctor," the anesthesiologist assistant must immediately inform that person that the anesthesiologist assistant is not a doctor. Upon a finding by the Board of failure to immediately inform the person, the following penalty shall be imposed: a letter of concern, a reprimand, a 60-day suspension and/or a fine up to \$2,500.00; and for any subsequent offense, a fine up to \$5,000.00 and/or revocation of the certificate.

Specific Authority 456.079, 459.005, 459.015(5), 459.023 FS. Law Implemented 456.072, 456.079, 459.015(5), 459.023 FS. History—New

64B15-7.011 Mediation.

(1) For purposes of Subsection 456.078, F.S., the Board designates as being appropriate for mediation, violations of the following provisions:

- (a) Failing to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint;
- (b) Negligently failing to file a report or record required by state or federal law;

(2) The above-outlined provisions shall qualify for mediation only when the violation can be remedied by the licensee, there is no allegation of intentional misconduct, no patient injury, and the allegations do not involve any "adverse incidents" as defined by Section 456.078(2), F.S.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anesthesiologist Assistant Committee

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF HEALTH  
Board of Osteopathic Medicine**

RULE TITLE: Inactive Status License  
RULE NO.: 64B15-12.007

PURPOSE AND EFFECT: The proposed rule amendment is intended to address the criteria for reactivation of an inactive license.

SUMMARY: The proposed rule amendments set for the criteria for reactivation of an inactive license.

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: 456.036 FS.

LAW IMPLEMENTED: 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 RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.007 Inactive Status License.

(1) No change.

(2) An inactive status licensee may change to active status at any time provided the licensee meets the continuing education requirements of Rule 64B15-13.001, F.A.C. Inactive status licensees choosing active status at the time of renewal must pay the active status renewal fee and the reactivation fee. Inactive status licensees choosing active status at any other time than at the time of license renewal shall pay the difference between the inactive status renewal fee and the active status renewal fee, the reactivation fee and the fee to change licensure status. However, a licensee whose license has been in inactive status for more than two consecutive biennial licensure cycles and who has not been practicing medicine on a full-time basis in another jurisdiction during such period of time, shall be required to appear before the board before the license can be placed into active status. The board at the time of the appearance shall impose upon the licensee reasonable

conditions necessary to insure that the licensee can practice with the care and skill sufficient to protect the health, safety and welfare to the public. For purposes of this rule, "full-time basis" shall be defined as working as a physician for over 20 hours per week.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History--New 11-28-94, Amended 3-28-95, Formerly 59W-12.007, Amended 12-30-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2005

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

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Continuing Education for Biennial Renewal      RULE NO.: 64B15-13.001

PURPOSE AND EFFECT: The proposed rule amendment is intended to address risk management credit for attendance at Board meetings.

SUMMARY: The proposed rule amendment clarifies the risk management credit which may be obtained at attendance at a Board meeting.

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: 459.005, 459.008(4) FS.

LAW IMPLEMENTED: 456.013(5),(6),(7), 459.008, 459.008(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 RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.001 Continuing Education for Biennial Renewal.

(1) through (2) No change.

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

(d) The one hour of Risk Management may be fulfilled by attending at least three (3) hours of ~~disciplinary hearings~~ at a regular meeting of the Board of Osteopathic Medicine in compliance with the following:

1. through 4. No change.

(e) No change.

(4) through (8) No change.

Specific Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5),(6),(7), 459.008, 459.008(4) FS. History--New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02, 5-10-04, 7-27-04, 2-9-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2005

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

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Standard of Care for Office Surgery      RULE NO.: 64B15-14.007

PURPOSE AND EFFECT: The proposed rule amendment is intended to clarify the revised requirements with regard to medications to be stocked on the crash cart in office surgery settings.

SUMMARY: The proposed rule amendments set forth the revised list of medications required to be stocked on the crash cart in office surgery settings.

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: 459.005(1), 459.015(1)(z), 459.026 FS.

LAW IMPLEMENTED: 459.015(1)(g),(x),(z),(aa), 459.026 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256



THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.007 Standard of Care for Office Surgery.  
 NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

- (1) through (3) No change.
- (4) Level II Office Surgery.
  - (a) No change.
  - (b) Standards for Level II Office Surgery.
    - 1. through 2. No change.
    - 3. Equipment and Supplies Required.
      - a. Full and current crash cart at the location the anesthetizing is being carried out. The crash cart must include, at a minimum, the following resuscitative medications:
        - I. Adenosine 6 mg/2 ml x3 ~~Adrenalin (epinephrine) 1:10,000 dilution; 10ml~~
        - II. Albuterol Inhaler ~~Adrenalin (epinephrine) 1:1000 dilution; 1ml~~
        - III. Amiodarone 150 mg x2IV
        - IV.~~III.~~ Atropine 0.4 mg/ml; 3 ml ~~0.1mg/ml; 5ml~~
        - IV. ~~Benadryl (diphenhydramine)~~
        - V. Calcium chloride 10%; 10ml
        - VI. Dextrose 50%; 50 ml
        - VII. Diphenhydramine 50 mg ~~Dilantin (phenytoin)~~
        - VIII. Dopamine 200 mg minimum
        - IX. Epinephrine 1:10,000 dilution; 10 ml ~~Heparin~~
        - X. Epinephrine 1:1000 dilution; 1ml x 3 ~~Isradrol (propranolol)~~
        - XI. Flumazenil 0.1 mg/ml; 5 ml x 2 ~~Isuprel~~
        - XII. Furosemide 40 mg ~~Lanoxin (digoxin)~~
        - XIII. Hydrocortisone or Methylprednisolone or Dexamethasone ~~Lasix (furosemide)~~
        - XIV. Lidocaine 100 mg ~~Xylocaine (lidocaine)~~
        - XV. Magnesium sulfate 1 gm x 2 ~~50%~~
        - XVI. Narcan (naloxone) 0.4 mg/ml; 3 ml
        - XVII. Propranolol 1 mg x 1 ~~Pronestyl (procainamide)~~
        - XVIII. Sodium bicarbonate 50mEq/50ml
        - XIX. Succinylcholine 1 vial ~~Solu-medrol (methylprednisolone)~~
        - XX. Vasopressin 20 units x 2XXI
        - XXI.~~XX.~~ Verapamil hydrochloride 5 mg x 2
        - XXI. ~~Romazicon~~
      - b. A Benzodiazepine must be stocked, but not on the crash cart.
      - c.~~b.~~ Suction devices, endotracheal tubes, laryngoscopes, etc.

- d.~~e.~~ Positive pressure ventilation device (e.g. Ambu) plus oxygen supply.
- e.~~d.~~ Double tourniquet for the Bier block procedure.
- f.~~e.~~ Monitors for blood pressure/EKG/Oxygen saturation.
- g.~~f.~~ Emergency intubation equipment.
- h.~~g.~~ Adequate operating room lighting.
- i.~~h.~~ Emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours.
  - j.~~i.~~ Appropriate sterilization equipment.
  - k.~~j.~~ IV solution and IV equipment.
- 4. No change.
- (5) through (6) No change.

Specific Authority 459.005(1), 459.015(1)(z), 459.026 FS. Law Implemented 459.015(1)(g),(x),(z),(aa), 459.026 FS. History--New 11-29-01, Amended 2-23-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2005

**DEPARTMENT OF HEALTH  
 Board of Osteopathic Medicine**

RULE TITLE: Probationary Conditions and Definitions  
 RULE NO.: 64B15-19.005  
 PURPOSE AND EFFECT: The proposed rule amendment is intended to address supervisors or monitors of physicians on probation.  
 SUMMARY: The proposed rule amendment provides that an physician licensed under Chapter 458, F.S., may supervise an osteopathic physician on probation when there is no physician licensed under Chapter 459, F.S., to supervise.  
 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: 459.005 FS.  
 LAW IMPLEMENTED: 459.015(2)(g) FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.005 Probationary Conditions and Definitions.

(1) through (2) No change.

(3) Provisions governing all supervised or monitored physicians.

(a) through (c) No change.

(d) The supervisor/monitor must be a licensee under Chapter 459, F.S., in good standing and without restriction or limitation on his license. However, when no physician licensed under Chapter 459, F.S., is available to supervise/monitor a licensee, the Board shall approve a physician licensed under Chapter 458, F.S., provided that said licensee is willing to serve as a supervisor/monitor. In addition, the Board may reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his or her license to practice osteopathic medicine in this or any other jurisdiction. The supervisor/monitor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board. The Board may also reject any proposed supervisor/monitor for good cause shown.

(4) No change.

Specific Authority 459.005 FS. Law Implemented 459.015(2)(g) FS. History--New 4-18-89, Formerly 21R-19.005, 61F9-19.005, Amended 9-5-94, Formerly 59W-19.005, Amended 11-27-97, 10-20-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Osteopathic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Board of Osteopathic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: August 19, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: July 8, 2005

**Section III**  
**Notices of Changes, Corrections and**  
**Withdrawals**

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:

1S-2.031

RULE TITLE:

Recount Procedures

**NOTICE OF CHANGE**

Notice is hereby given that proposed Rule 1S-2.031, published in the FAW, Page 1835, Vol. 31, No. 20, on May 20, 2005, has been changed to reflect comments received from JAPC and the public during the hearing held on June 13, 2005. The summary of the major changes made to the proposed rule text is as follows:

(1) In subsection (1)(d) of the Rule, the word "recounts" is changed to "recount" to correct a grammatical error.

(2) In subsection (4), paragraphs (a) and (b), all references to Form DS-DE 72 is changed to "Form DS-DE 72 (Rev. \_\_\_/\_\_\_), entitled 'Samples of Ballot Image Reports for the following certified voting systems: ES& S iVotronic Touchscreen Voting System; Sequoia Touchscreen Voting System; and Diebold Touchscreen Voting System.'" Additionally, the phrase "and as may be amended" in each reference to the form throughout the rule is removed.

(3) Subsection (2)(b)1. is revised to include a procedure for testing the accuracy of the printed vote total before a touchscreen ballot machine recount is done. Therefore, the following new language is added: The county canvassing board shall test the accuracy of the printed vote totals from each precinct and early voting site by comparing the total number of votes for the affected race or races with the total number of voters who signed in to vote at each precinct and early voting site. If an error is detected, the cause therefore shall be ascertained and corrected. The corrected printed vote totals shall then be used as set forth in paragraph 2.

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

**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."

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:

40D-1.659

RULE TITLE:

Forms and Instructions

**NOTICE OF CHANGE**

Notice is hereby given in accordance with subparagraph 120.54(3)(d)1., F.S., that the following changes have been made to the proposed Rule 40D-1.659, F.A.C. published in Vol. 31, No. 23, June 10, 2005, issue of the Florida Administrative Weekly:

The following changes are made in response to comments from the Joint Administrative Procedures Committee.

In addition to the statutory authority cited in the Statements of Purpose and Effect and of Facts and Circumstances Justifying Rule, the proposed rule amendment is required by subsections 62-531.300(1) and (2), F.A.C., which addresses continuing education requirements for water well contractor licensure, and subsections 62-531.330(2),(3) and (4), F.A.C., concerning continuing education requirements for license renewal.