

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation, E-mail Sandra.dupont@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-207.003 Forms Incorporated by Reference.

(1) The following forms are hereby adopted and incorporated into this rule chapter by reference:

(a) Form OIR-C1-144, Service of Process Consent And Agreement, (REV. 06/2004);

(b) Form OIR-C1-448, Statement of Acquisition, Merger or Consolidation of a Specialty Insurer, (REV. 01/07);

(c) Form OIR-C1-903, Invoice for Non-U.S. Citizens With No Social Security Number, (REV. 12/05);

(d) Form OIR-C1-905, Instructions for Furnishing Background Investigative Reports, (REV. 10/05);

(e) Form OIR-C1-938, Fingerprint Card and Payment Instructions, (REV. 12/05);

(f) Form OIR-C1-1298, Management Information Form, (REV. 10/05); and

(g) Form OIR-C1-1423, Biographical Affidavit, (January 27, 2005).

(2) All of the above referenced forms are available and may be printed from the Office's website: <http://www.floir.com>.

(3) All forms submitted by a licensee for approval shall be submitted electronically to <https://iportal.fldfs.com>.

Specific Authority 624.308(1), 626.8991, 626.9925, 628.535, 634.021, 634.302, 634.402 FS. Law Implemented 624.307(1), 626.8805, 626.9912, 626.99175, 627.829, 628.4615, 634.031, 634.061, 634.303, 634.304, 634.3073, 634.407, 642.021, 651.021 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jovita Ashton, Director, Specialty Product Administration, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 13, 2006

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-1.003
RULE TITLE: Labels or Tags

NOTICE OF PUBLIC HEARING

The Florida Department of Agriculture and Consumer Services announces a hearing regarding the above rule, as noticed in Vol. 33, No. 9, March 2, 2007 Florida Administrative Weekly.

DATE AND TIME: May 25, 2007; 9:30 a.m.

PLACE: Florida Department of Agriculture and Consumer Services, Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

GENERAL SUBJECT MATTER TO BE CONSIDERED: Establish labeling criteria for fertilizer products distributed in Florida.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-1.003
RULE TITLE: Labels or Tags

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 9, March 2, 2007 issue of the Florida Administrative Weekly.

5E-1.003 Labels or Tags.

(1) LABEL REQUIREMENTS FOR ALL FERTILIZER PRODUCTS.

(a) Labels setting forth the information specified in this section shall be attached to or accompany any fertilizer distributed in the state. For packaged products, this information shall either (1) Appear on the front or back of the package, (2) occupy at least one-third (1/3) of a side of the package, or (3) be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this information in printed form shall accompany delivery and five analysis tags attached to the delivery ticket shall be supplied to the purchaser at time of delivery. The following information is required on labels for all fertilizer products.

1. Brand name

2. The grade (Provided that the grade shall not be required when no primary nutrients are claimed)

3. Guaranteed analysis, in the following format:

~~4. Guaranteed analysis in the following format:~~

Total Nitrogen (N).....%
 ___ percent Nitrate Nitrogen
 ___ percent Ammoniacal Nitrogen
 ___ percent Other Water Soluble Nitrogen
 ___ percent Urea Nitrogen
 ___ percent Water Insoluble Nitrogen
 Available Phosphorus (P₂O₅).....%
 Soluble Potassium (K₂O).....%
 Secondary and Micro Plant Nutrients
 (list all claimed or advertised).....%
 Derived From:

~~4.5.~~ Name and address of licensee.

~~5.6.~~ The net weight (The term “Bulk” shall suffice for bulk products).

(b) The nitrogen breakdown shall be equal to the total nitrogen guarantee. When urea is present it may be guaranteed as other water soluble nitrogen, water soluble nitrogen, or urea nitrogen at the option of the licensee. When urea formaldehyde is present, not more than 40 percent of the total nitrogen from this source may be claimed as other water soluble nitrogen, water soluble nitrogen, or urea nitrogen at the option of the licensee. When the term “organic” is used in the label, labeling, or advertisement of any fertilizer, the water insoluble nitrogen must not be less than 60% of the total guaranteed nitrogen so designated.

(e) Only those materials which actually constitute sources of primary, ~~and~~ secondary and micro plant nutrients shall be shown on the application for registration and the label under the statement “Derived from: _____”. Commercial, registered or copyrighted brand or trade names shall not be permitted in guarantees or listing of source materials and only in the product name or advertising claims of fertilizer produced by or for the firm holding or licensing the rights to such a name.

(g) Guarantees for secondary or micro plant nutrients except chelated forms of secondary or micro plant nutrients shall be as follows:

1. Magnesium (Mg) shall be expressed as “~~Total~~ Magnesium” if derived from insoluble compounds; “Soluble Magnesium” or “Water Soluble Magnesium” if derived from magnesium sulfate or other soluble compounds”; or both if derived from combinations of soluble and insoluble sources.

2. No change.

3. Manganese (Mn) shall be expressed as “~~Total~~ Manganese” if derived from insoluble compounds. “Soluble Manganese” or “Water Soluble Manganese” if derived from manganese sulfate, manganese nitrate, manganese chloride or other soluble compounds; or both ~~Total and Soluble or Water Soluble~~ if derived from combinations of soluble and insoluble sources.

4. Iron (Fe) shall be expressed as “~~Total~~ Iron” if derived from insoluble compounds. “Soluble Iron” or “Water Soluble Iron” derived from iron sulfate, iron nitrate, iron chloride or other soluble compounds; or both ~~Total and Soluble or Water Soluble~~ if derived from combinations of soluble and insoluble sources.

5. Zinc (Zn) shall be expressed as “~~Total~~ Zinc” if derived from insoluble compounds. “Soluble Zinc” or “Water Soluble Zinc” derived from zinc sulfate, zinc nitrate, zinc chloride or other soluble compounds; or both ~~Total and Soluble or Water Soluble~~ if derived from combinations of soluble and insoluble sources.

6. Copper (Cu) shall be expressed as “~~Total~~ Copper” if derived from insoluble compounds. “Soluble Copper” or “Water Soluble Copper” derived from copper sulfate, copper nitrate, copper chloride or other soluble compounds; or both ~~Total and Soluble or Water Soluble~~ if derived from combinations of soluble and insoluble sources.

7. Boron (B) shall be guaranteed as to soluble boron, expressed as “boron”.

~~6. Magnesium (Mg) shall be expressed as “Soluble Magnesium” or “Water Soluble Magnesium” if derived from magnesium sulfate or other soluble compounds”; “Total Magnesium” if derived from other compounds; or both if derived from combinations of soluble and insoluble sources.~~

(2) FERTILIZER LABEL REQUIREMENTS FOR URBAN TURF, SPORTS TURF OR LAWNS.

(b) Fertilizer products labeled for use on sports turf, urban turf or lawns shall be no phosphate or low phosphate and have labeling that meets the restrictions set forth for the application of nitrogen.

1. No phosphate fertilizers ~~Fertilizers labeled as no~~ shall not contain more than 0.5% of available phosphate expressed as P₂O₅. The “grade” shall indicate a zero guarantee.

2. Fertilizers labeled as Low phosphate fertilizers shall have use directions that do not exceed an application rate of 0.25 lbs. P₂O₅/1,000ft² per application and not to exceed 0.50 lbs P₂O₅/1,000ft² per year.

3. Fertilizers labeled as or formulated for use as a starter fertilizers shall have use directions that do not exceed an application rate of 1.0 lb of P₂O₅/ 1,000 ft² and that subsequent applications shall be made with products meeting the definition of Low or No Phosphate fertilizers. The term” Starter Fertilizer” shall be part of the brand name.

~~4. Fertilizers labeled as urban turf or lawn fertilizer shall have use directions with a maximum application rate of 0.7 pounds of readily available nitrogen per 1,000 ft² per single application. For urban turf or lawn fertilizers containing sources of slowly available nitrogen, the maximum single application rate is 1.5 of nitrogen per 1,000 ft², provided that~~

~~the rate of readily available nitrogen does not exceed 0.7 pounds per 1,000 ft². The maximum annual loading of nitrogen is 5 pounds per 1,000 ft², regardless of the nitrogen source.~~

4. Fertilizers labeled as urban turf or lawn fertilizer shall have directions for use consistent with the recommendations in the following table:

Fertilization Guidelines for Established Turfgrass Lawns in Three Regions of Florida

Species	Nitrogen recommendations (lbs N / 1,000 ft ² / year)*		
	North	Central	South
Bahiagrass	2-3	2-4	2-4
Bermudagrass	3-5	4-6	5-7
Centipedegrass	1-2	2-3	2-3
St. Augustinegrass	2-4	2-5	4-6
Zoysiagrass	3-5	3-6	4-6

*Homeowner preferences for lawn quality and maintenance will vary, so we recommend a range of fertility rates for each grass species and location. Also, effects within a localized region (for instance, shade, drought, soil conditions and irrigation) will require using a range of fertility rates. These recommendations assume that grass clippings are recycled.

North Florida in this example is considered to be anything north of Ocala. Central Florida is defined as anything south of Ocala to a line extending from Vero Beach to Tampa. South Florida includes the remaining southern portion of the state.

5. Phosphorous shall not be applied at a rate greater than 0.25 lbs. P₂O₅/1,000 ft² per application not to exceed 0.50 lbs. P₂O₅/1,000 ft² per year unless an annual soil sample representative of the site shows the need for higher application rate.

6. Nitrogen shall not be applied at rate greater than 0.5 lbs. of soluble N/1,000 sq. ft. application not to exceed the total annual nitrogen recommendations in Fertilization Guidelines for Established Turfgrass Lawns in Three Regions of Florida per year unless an annual tissue test at the site of application shows a nitrogen deficiency.

7. The following language shall appear conspicuously on bags of fertilizer sold at retail: "Do not apply near water, storm drains or drainage ditches. Do not apply if heavy rain is expected. Apply this product only to your lawn/garden, and sweep any product that lands on the driveway, sidewalk, or street, back onto your lawn/garden."

(c) Specialty fertilizers labeled for use on urban turf or lawns shall have directions for use that include:

1. ~~A maximum~~ Application rate for phosphorus shall not ~~to~~ exceed 0.25 lbs. P₂O₅/1,000 ft² per application and not ~~to~~ exceed 0.50 lbs. P₂O₅/1,000 ft² per year.

2. ~~A maximum~~ Application rate for nitrogen shall not ~~to~~ exceed 0.5 lbs. of soluble N/1,000 sq. ft. application not to exceed the total annual Fertilization Guidelines for Established Turfgrass Lawns in Three Regions of Florida 1 lb per 1,000 ft² pursuant to subparagraph (b)4.

(d) Fertilizers labeled for use on sports turf at golf courses, parks and athletic fields shall:

1. Have directions for use not to exceed rates recommended in the document titled SL 191 "Recommendations for N, P, K, and Mg for Golf Course and Athletic Field Fertilization. Based on Mehlich I Extractant", dated ~~March 2007~~ ~~October 2006~~ which is hereby adopted and incorporated by reference into this rule. Copies may be obtained from the Soil and Water Science Department, Florida Cooperative Extensive Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL 32611 or the following website: <http://edis.ifas.ufl.edu/SS404>

(f) Existing Stock – Licensees are permitted to sell or distribute products that do not meet the label requirements of the rule for one and one half years ~~year~~ after the effective date of the rule. Products at the retail level on or after the effective date of the rule are permitted to be offered for sale.

(4) SLOW OR CONTROLLED RELEASE NUTRIENTS, STABILIZED NITROGEN AND ENHANCED EFFICIENCY FERTILIZERS.

(a) Definitions.

(1) Slow or controlled release fertilizer means a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a referenced "rapidly available nutrient fertilizer" such as ammonium nitrate or urea, ammonium phosphate or potassium chloride.

(2) Stabilized Nitrogen Fertilizer means a fertilizer to which a nitrogen stabilizer has been added.

(3) Nitrogen stabilizer means a substance added to a fertilizer which extends the time the nitrogen component of the fertilizer remains in the soil in the urea or ammoniacal form. Urease inhibitors and nitrification inhibitors are nitrogen stabilizers.

(4) Urease Inhibitor means a substance which inhibits hydrolytic action on urea by the urease enzyme. When applied to soils the effect of the urease inhibitor is less urea nitrogen lost by ammonia volatilization.

(5) N-(n-butyl) thiophosphoric triamide (NBPT) means a compound that is the normal butyl derivative of thiophosphoric triamide and is a urease inhibitor (CAS No. 94317-64-3).

(6) Nitrification Inhibitor means a substance that inhibits the biological oxidation of ammoniacal nitrogen to nitrate nitrogen.

(7) Cyanamide means a commercial product consisting principally of calcium cyanamide (CaNCN). It is a nitrification inhibitor.

(8) Dicyandiamide means a water soluble organic compound of formula C₂H₄N₄ which contains at least sixty-five percent 65% nitrogen. It is a source of slowly available nitrogen. It is a nitrification inhibitor.

(9) Ammonium Thiosulfate means a commercial product composed principally of (NH₄)₂S₂O₃. It is a nitrification inhibitor.

(10) Enhanced Efficiency Fertilizer means a fertilizer product with characteristics that minimize the potential of nutrient losses to the environment, as compared to a “reference soluble” product.

(b)(a) When one or more slow or controlled release, stabilized nitrogen or enhanced efficiency fertilizers nutrients are claimed or advertised, the guarantees for such nutrients shall be shown as a footnote following the listing of source materials and shall be expressed as percent of actual nutrient.

(c)(b) Listing of source materials providing slow or controlled release characteristics by controlling the water solubility of a naturally soluble material (as by coating or occlusion) shall constitute a claim of controlled release nutrient, and a guarantee for such nutrient shall be required.

(d)(e) Listing of source materials in which availability of nitrogen is controlled through slow hydrolysis of water soluble organic nitrogen compounds shall constitute a claim of slow or controlled release nutrient and a guarantee for such nutrient shall be required. The reference for such availability shall be the enzymatic hydrolysis of urea.

(e)(d) No guarantee, claim or advertisement shall be made or required when a slow or controlled release, stabilized nitrogen or enhanced efficiency nutrient is less than 15 percent of the total guarantee for that nutrient.

(7) REGISTRATION OF SPECIALTY FERTILIZER PRODUCTS. All specialty fertilizers to be sold within the state must be registered with the Bureau of Compliance Monitoring prior to any sale. Each product will be registered by filing the properly completed appropriate form with the Bureau. Only one form will be submitted for each product. Specialty fertilizer packaged, marketed, and distributed for home and garden use and packaged in quantities of forty-nine pounds or less (Specialty Fertilizer) will be registered upon the filing of properly completed Application for Specialty Fertilizer Registration (Fertilizer Form DACS-13220, Rev. 5/03), which is hereby incorporated by reference. Copies may be obtained from the Division of Agricultural Environmental Services, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-1650.

(8) LICENSEE.

(a) Any person whose name is on a fertilizer label and who guarantees the fertilizer must obtain a license prior to distribution of that fertilizer to a non-licensee.

(b) A license will be granted upon receipt of a properly executed Application for Fertilizer License (Fertilizer Form DACS-13222, Rev. 5/03), which is hereby incorporated by reference. Copies may be obtained from the Division of Agricultural Environmental Services, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-1650.

DEPARTMENT OF EDUCATION

State Board of Education

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

NOTICE OF CHANGE IN MEETING LOCATION

The location for the May 15, 2007, State Board of Education meeting has been changed to the Grand Bohemian, 325 South Orange Avenue, Orlando, Florida.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-4.0081	Florida School Leaders Certification
6A-4.0082	Specialization Requirements for Certification in Educational Leadership – Administrative Class
6A-4.0083	School Principal – Administrative Class
6A-4.0243	Specialization Requirements for Certification in Foreign Language (Grades K-12) – Academic Class
6A-4.0084	Professional School Principal – Administrative Class

NOTICE OF CHANGE IN MEETING LOCATION

The location for the May 15, 2007, State Board of Education meeting has been changed to the Grand Bohemian, 325 South Orange Avenue, Orlando, Florida.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-5.081 Approval of School Leadership Programs

NOTICE OF CHANGE IN MEETING LOCATION

The location for the May 15, 2007, State Board of Education meeting has been changed to the Grand Bohemian, 325 South Orange Avenue, Orlando, Florida.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-14.030	Instruction and Awards in Community Colleges
6A-14.0716	Community College Budgets
6A-14.072	Financial Records and Reports
6A-14.080	Dr. Philip Benjamin Matching Program for Community Colleges

NOTICE OF CHANGE IN MEETING LOCATION

The location for the May 15, 2007, State Board of Education meeting has been changed to the Grand Bohemian, 325 South Orange Avenue, Orlando, Florida.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:	RULE TITLE:
59G-6.010	Payment Methodology for Nursing Home Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 13, March 30, 2007 issue of the Florida Administrative Weekly.

The Title XIX Long-Term Care Reimbursement Plan, Version XXXI, has been amended as follows:

1. Section IV: paragraph (B) has been amended to reflect the fact that the reimbursement classes are contained in both paragraphs V.A.2 and V.A.3.
2. Section IV: paragraph (N) has been amended to reflect the deletion of subsection (b)(2) and the year 2002 from the reference to 42 CFR 447.272 in order for the complete 42 CFR 447.272 citation to be used as reference and not just one specific subsection of one particular year. The quotation marks have been removed from this paragraph because we will no longer paraphrase from 42 CFR 447.272. Finally, the phrase "by category" has been added to this paragraph to clarify that the long-term care facilities currently participating in the upper payment limit program in all the categories specified by 42 CFR 447.272 are in compliance with 42 CFR 447.272.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE NO.:	RULE TITLE:
61G3-16.005	Endorsement

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 14, April 6, 2007 issue of the Florida Administrative Weekly.

The NAME OF PERSON ORIGINATING THE PROPOSED RULE and NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE should read Barbers' Board instead of Board of Dentistry.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Barbers' Board, 1940 N. Monroe Street, Tallahassee, Florida 32399-0790

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:	RULE TITLE:
62-304.615	Manatee River Basin TMDLs

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 31, No. 11, March 18, 2005 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF JUVENILE JUSTICE

Detention Services

RULE NOS.:	RULE TITLES:
63G-2.004	Staffing and Operations
63G-2.0045	Intake and Orientation
63G-2.005	Security
63G-2.006	Treatment, Training and Education of Youth
63G-2.011	Medical Treatment, Health and Comfort

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 4, January 26, 2007 issue of the Florida Administrative Weekly.

- 63G-2.004 Staffing and Operations.
- (1) through (7) No change.

Specific Authority ~~985.601(9)(b)~~ ~~985.404(10)(b)~~ FS. Law Implemented ~~985.601(9)(b)1.~~ ~~985.404(10)(b)1.~~ FS. History--New 10-10-06, Amended _____.

63G-2,0045 Intake and Orientation.

(1) Admissions:

(a) The superintendent shall ensure officers are trained in the admission process including the review and completion of required paperwork and the sequence of required actions.

(b) The admission process shall address the following:

1. Review of required paperwork from law enforcement and screening staff prior to initiating the admission process.

a. Youth presented at the detention center for admission shall have been medically screened prior to their arrival at detention. No youth presented to be securely detained shall be accepted for detention if they are in need of emergency medical care, require mental health crisis intervention or are under the influence of any intoxicant.

b. If a youth in crisis is mistakenly accepted for admission into secure detention, the on-duty supervisor shall make the necessary arrangements for the youth to see the facility's medical or mental health staff or shall ensure the youth is transported to a hospital emergency room.

2. Inactive files shall be reviewed, if available, to obtain useful information.

3. The youth shall be electronically searched, frisk searched, and strip searched by an officer of the same sex as the youth.

4. The youth shall be allowed to place a telephone call at the facility's expense and the call shall be documented on all applicable forms. The youth shall not be allowed to telephone the victim(s) unless it is a relative who is a victim of domestic violence and the admission officer verifies that the victim is willing to talk with the youth.

5. If the admission process is completed two hours or more before the serving of the next scheduled meal, the youth shall be offered something to eat.

6. Completion of the Juvenile Justice Information System (JJIS) Admission Wizard. The Admission Wizard is a computer-based form containing all elements required for an admission. The Admission Wizard (DJJ/DCF Form 1, 2-05) is incorporated, and is available from the Assistant Secretary for Detention at 2737 Centerview Drive, Suite 309, Tallahassee, Florida 32399-3100.

7. The youth shall be screened to identify medical, mental health, and substance abuse needs. Any indication requiring services shall be documented, and appropriate referrals and services provided. The detention facility shall use an alert system within JJIS to identify youth with special needs. Current prescription medications shall be documented in the JJIS alert system. Staff shall give special attention to observing youth in the alert system to ensure their special needs are met.

8. Completion of the Screening for Vulnerability to Victimization and Sexually Aggressive behavior (VSAB 12-26-06) instrument prior to a youth's room assignment. This

instrument is incorporated, and is available from the Assistant Secretary for Detention at 2737 Centerview Drive, Suite 309, Tallahassee, Florida 32399-3100.

a. The administration of the VSAB instrument is designed to obtain information to ensure a youth's potential for victimization or predatory risk is identified consistent with the goals of the Federal Prison Rape Elimination Act (PREA) of 2003.

b. The VSAB instrument shall be administered to youth in a private and confidential manner.

c. The completion of the VSAB instrument shall include the obtaining of collateral information from the youth's file and the youth's legal guardian.

d. The results of the youth's screening in the VSAB instrument shall be used in making room assignments to ensure vulnerable youth are not assigned a roommate believed to pose a risk.

9. Medical screening of youth at the time of admission requires the completion of the Medical and Mental Health Screening form within the JJIS Admission Wizard.

10. A photograph of the youth shall be taken and maintained in the youth's file.

(2) Property:

(a) The detention superintendent shall ensure a drop safe for the initial storage of youths' valuables shall be under video surveillance.

(b) The detention superintendent shall ensure that all locations for the storage of youth property are secure.

(c) The detention superintendent shall ensure that staff will not receive or have personal use of any youth property or money, unclaimed or otherwise.

(d) The detention superintendent or designee shall notify the Office of the Inspector General's Central Communications Center and file a serious reporting incident when a youth's personal property is alleged to have been stolen from the facility by a DJJ/contracted staff member, intern or volunteer.

(e) In the presence of each detained youth, the booking officer shall inventory all personal property in the youth's possession and record each item surrendered into the Juvenile Justice Information System using the Property Receipt Report (11-20-06). This form is incorporated, and is available from the Assistant Secretary for Detention at 2737 Centerview Drive, Suite 309, Tallahassee, Florida 32399-3100.

(f) All money and personal items of value shall be verified and secured in a clear tamper-proof property bag. The description of these items on the Property ~~Receipt~~ Receipt Report shall include that the item described is "in the safe."

(g) Information on the clear tamper-proof property bag shall include, at a minimum, the date, the youth's name, the youth's DJJID #, a listing of the items in the bag, the youth's signature, and the signature of the person who placed the items in the property bag and sealed it.

(h) In the event a youth refuses to sign the Property Receipt Report, the booking officer shall notify a supervisor and that supervisor shall document the youth's refusal on the form.

(i) After the youth has signed the Property Receipt Report and the clear tamper-proof property bag, the bag shall be placed in the drop safe. This action shall be recorded in the drop safe bound logbook to include the date, time, youth's name, youth's DJJID #, printed name of the officer who secured the property and the officer's initials.

(j) The booking officer shall have the youth sign a Letter of Acknowledgement in which the youth acknowledges and understands that unclaimed personal property is deemed abandoned and subject to disposal. Unclaimed personal property is property in the possession of the facility for more than 30 days after the legal guardian has been notified to either retrieve, or make arrangements to retrieve, the property. This notification is sent to the legal guardian if property is not taken by the youth at the time of their release or retrieved by the legal guardian within 7 calendar days of youth being committed to high or maximum risk.

(k) Other personal property, including the youth's clothing, shall be placed in an assigned locker/bag as documented on the Property Receipt Form. This form is then placed in the youth's active file.

(l) Upon the youth's release from detention and retrieval of personal property, the releasing officer, the youth, and the youth's legal guardian shall review and sign the Property Receipt Report and account for all of the youth's personal property.

(m) A copy of the signed Property Receipt Report which acknowledges the return of youth's personal property shall be placed in the youth's file.

(n) A photograph of the youth shall be taken and maintained in the youth's file.

(3) Orientation:

(a) The admission officer shall orient all youth by clearly communicating to the youth the rules of the center and expectations of behavior.

(b) Youth shall be advised, both verbally and in writing, of facility rules and regulations, grievance procedures, mental health and substance abuse services available, how they may access the Abuse Registry, expectations for behavior and related consequences, and youth rights, during an orientation process completed by an officer.

(c) Orientation shall occur within 24 hours of a youth being admitted into the facility and documented accordingly.

(4) Classification:

(a) Youth admitted to the detention center shall be classified to provide the highest level of safety and security.

(b) The detention superintendent shall ensure the classification process is implemented by juvenile detention officers.

(c) Youth shall be reclassified if changes in behavior or status are observed.

(d) Officers shall ensure classification factors include, but are not limited to, a youth's sex, age, physical characteristics, developmental disabilities, physical disabilities ~~handicaps~~, mental illness, criminal history, level of aggressiveness and/or a history of sexual offenses.

(e) Youth classified as suicide risks shall be placed on constant sight and sound supervision.

(5) through (6) No change.

(7) Documentation:

(a) All activities, incidents, and information relative to safety and security in the facility shall be documented.

(b) Written documentation includes a range of logbooks, reports, forms, and communications.

(c) All documents represent official records and are legal documents. Failure to document required information, falsification of information, or failure to properly retain written documents may result in disciplinary action up to and including dismissal as appropriate pursuant to subsection 60L-36.005(3), F.A.C.

(d) Reports related to facility operations fall into two categories: internal and external reports.

1. Internal reports refer to reports that are utilized regularly by officers and other facility staff in the day-to-day operation of the facility and are reviewed per facility operating procedures. Reports are retained per state retention guidelines. Internal reports include, but are not limited to, the following:

- a. Shift reports
- b. Incident reports
- c. Confinement reports
- d. Documentation of physical interventions to control behavior.

2. External reports refer to reports that are forwarded from the facility to sources required by the legislature, the department or other governmental agencies. External reports include, but are not limited to:

- a. Reporting of incidents to the Central Communications Center. The Central Communications Center (CCC) is an office staffed 24 hours per day every day with employees whose responsibilities include receiving information from staff concerning incidents occurring in department facilities and programs that involve staff, youth, providers, visitors or parents/guardians. CCC staff disseminate and track information and document actions taken.
- b. National School Lunch meal reports.
- c. Reports to the Florida Abuse Hotline, pursuant to Chapter 39, F.S.

Specific Authority 985.601(9)(b), ~~985.404(10)(b)~~ FS. Law Implemented 985.601(9)(b)1, ~~985.404(10)(b)1~~. FS. History—New _____.

63G-2.005 Security.

(1) through (5) No change.

(6) Supervision of Youth:

(a) The primary function of the juvenile detention officers is to provide supervision, control, and custody of youth.

(b) Officers shall know the exact number and location of all youth assigned to them at all times.

(c) Census counts of youth shall be taken and documented, at a minimum:

1. At the beginning and end of each shift;:-

2. Prior to and following routine movement;:-

3. Following any evacuation of the facility due to emergency or fire drill;:- and

4. Randomly, at least once, on each shift.

(d) When youth are noncompliant or present a danger to self or others, staff shall intervene using approved PAR techniques and if necessary, the application of mechanical restraints.

(e) Officers are responsible for the care of youth at all times. At no time shall another youth be allowed to exercise control over or provide discipline or care of any type to another youth.

(f) Superintendents or designated supervisors shall tour the youth living areas more than once each shift.

(7) through (10) No change.

Specific Authority 985.601(9)(b) ~~985.404(10)(b)~~ FS. Law Implemented 985.601(9)(b)1. ~~985.404(10)(b)1.~~ FS. History--New 10-10-06, Amended _____.

63G-2.006 Treatment, Training and Education of Youth.

(1) through (8) No change.

(9) Telephone Usage:

(a) The superintendent or designee shall develop procedures governing telephone usage.

(b) The following subparagraphs outline the minimal procedural requirements.

1. Youth shall have access to use a telephone for 15 minutes a week.

2. This time may not be restricted as a consequence for non-compliant behavior; however, use of the phone may be postponed or rescheduled due to any safety or security concerns.

3. This time may be extended as outlined in the facility's behavior management system.

4. All telephone calls and attempted calls shall be documented on the youth's Telephone Log. These logs shall be placed in the youth's file upon release from detention.

5. Youth may not contact victims (with the exception of the victims of domestic violence as outlined in Rule 63G-2.004, F.A.C.) or co-defendants.

6. Telephone conversations shall be terminated if they are disruptive, or otherwise impact safety or security.

7. Youth shall have reasonable access to a telephone to contact their legal counsel, child welfare officer, ~~and/or their juvenile probation officer,~~ or Abuse Registry. These telephone calls are not counted as part of the allocated 15 minutes of calls as referenced herein.

8. Youth who are unable to make contact with their parents or legal guardians because they will not accept collect calls, shall be allowed one free call to them per week. This call will be included in their 15 minute per week allotment.

(10) No change.

(11) Grievances:

(a) Youth may file a grievance should they feel their rights have been violated or they have been treated unfairly.

1. Officers shall attempt to resolve any dispute or issue that could lead to the filing of a grievance prior to the actual filing of a grievance. Officers utilizing effective communication skills may resolve many disputes and issues that a youth may have prior to the initiation of the grievance process.

2. Any grievance involving life safety will be called into the Central Communications Center and brought to the attention of the Superintendent for immediate resolution.

~~2. If youth have been afforded the same protections and rights as the general population, they may not file a grievance.~~

3. Any denial of a youth's request to grieve shall be documented.

4. The superintendent or designee shall review the supervisor's logbook to determine any patterns of abuse or misuse related to youths' opportunities to grieve.

(b) Grievances do not replace the responsibility of reporting abuse. If the grievance is an allegation of abuse, it must be reported to the Florida Abuse Hotline, pursuant to Chapter 39, F.S., and the Central Communications Center, and shall be handled pursuant to such guidelines and no longer as a grievance.

(c) The grievance process is as follows:

1. The supervising officer(s) will issue both a Grievance Form and a pencil to any youth who wishes to file a grievance. An officer not involved in the grievance will assist any youth who is visibly angry or not in control in completing the grievance form and filing the grievance. The Grievance Form (6-06) is incorporated by reference, and is available from the Assistant Secretary for Detention, 2737 Centerview Drive, Ste. 309, Tallahassee, Florida 32399-3100.

2. Paper and pencil shall not be issued to any youth who is visibly angry or out of control.

3. The completed Grievance Form shall be forwarded within two hours to the on-duty supervisor.

4. The on-duty supervisor shall document his/her findings on the Grievance Form and will advise the youth of what actions, if any, may be taken.

5. Any action that may involve disciplinary proceedings against an officer shall not be reported to the youth.

6. If possible, the youth should be informed of the on-duty supervisor’s findings by the end of the shift. Should there be circumstances that would not allow that, the youth will be informed within 24 hours. Youth will be advised of their right to obtain a copy of the grievance either through a parent/legal guardian or upon release from detention.

7. The youth may agree or disagree with the supervisor’s findings/actions, and will sign in the designated area on the form so indicating.

8. The supervisor shall forward the Grievance Form to the superintendent or designee upon completion.

9. The superintendent or designee shall review all completed Grievance Forms within 72 hours of receipt excluding weekends and holidays, and shall take whatever corrective actions deemed necessary. The superintendent’s decision is final.

10. A separate file shall be maintained of all grievances. Grievances shall be maintained chronologically by month for one year.

Specific Authority 985.601(9)(b), ~~985.404(10)(b)~~ FS. Law Implemented 985.601(9)(b)2, ~~985.404(10)(b)2~~ FS. History—New 10-10-06, Amended.

63G-2.011 Medical Treatment, Health and Comfort.
(1) through (3) No change.

Specific Authority 985.601(9)(b), ~~985.404(10)(b)~~ FS. Law Implemented 985.601(9)(b)7, ~~985.404(10)(b)7~~ FS. History—New 10-10-06, Amended.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.712
RULE TITLE: SSI-Related Medicaid Resource Eligibility Criteria

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 8, February 23, 2007 issue of the Florida Administrative Weekly.

STATEMENT OF ESTIMATED REGULATORY COST: AARP, Inc., submitted a proposal for lower cost regulatory alternative to the proposed rule above on March 16, 2007 at the rule hearing. AARP believes the proposed amendments “tremendously increase the administrative burden and cost in the processing of applications, yet not appreciably further the objectives of the DRA in reducing Medicaid expenditures through curtailment of transfers”. The proposals include changing some of the policies and procedures of the amendments.

The Department did not prepare a statement of estimated regulatory costs for the Notice of Proposed Rule 65A-1.712, F.A.C., as the proposed rule does not impose any regulatory costs to the Department, the affected individuals or the general public. Rule 65A-1.712, F.A.C., implements mandatory federal Medicaid policies used to determine if an individual is eligible for Medicaid long-term care services.

Medicaid is a medical public assistance program for indigent individuals and paid by the taxpayers of the state. Application is voluntary and individuals are never required to apply for Medicaid coverage. Individuals that do apply must present documentation or verification to the Department to show the value of their resources, so DCF staff can determine if the individual’s resources fall within the federal resource standards to qualify for the program.

The proposed rule implements the Deficit Reduction Act of 2005 (signed by President Bush on February 8, 2006) which provides new regulations regarding the assets of individuals applying for or receiving Medicaid long-term care services. The rule does not change existing administrative requirement for applicants and recipients to verify their resources. It changes only how the Department must consider certain resources (that is, do we count them, not count them or impose a period of ineligibility) when determining if someone can qualify for Medicaid long-term care services.

The proposed rule does not change DCF’s responsibility to apply all federal and state policies when determining if individuals qualify for Medicaid before authorizing benefits. There are no changes in the responsibilities of the staff or the applicants. The Department does not impose any regulatory fees to apply for Medicaid. The process remains the same; only the policy as to what resources are considered and how they are considered has changed. The applicant applies for help and provides the facts of their situation, including their resources as well as income. The Department’s eligibility staff must evaluate each application to see that the individual meets all eligibility criteria according to federal and state Medicaid policies before approving benefits.

There are no regulatory costs imposed by the Department. There are no regulatory costs incurred by the Department. The process and operation remains the same for the applicants, recipients and the Department.

Description of impacted individuals: Individuals in need of long-term care services are disabled and aged individuals with serious health problems who apply for and/or receive Medicaid nursing home care, Medicaid home & community based waiver programs (alternatives to nursing home care) or Medicaid hospice services. The Department does not capture information regarding transfers of resources when no penalty period is imposed or information regarding resource provisions in DRA, so no data is available. Not all applicants transfer

resources to become Medicaid eligible and in fact, less than 1% of applicants last year reported resources that resulted in a period of ineligibility.

Estimate of cost to agency, state or local government to implement or enforce: No increased cost.

Estimate of transactional costs: None.

Estimate on small businesses, small counties and small cities: None.

The Department considers the proposal for lower cost regulatory alternative invalid, as there are no regulatory costs associated with implementation of these federally mandated Medicaid provisions. The process for determining Medicaid eligibility remains the same. Applicants must provide information about their financial situation. The Department must evaluate the facts and determine who is eligible for Medicaid long-term care services. The Department has implemented many new operational practices to simplify and modernize the process to apply for and receive public assistance in Florida. The new simplified procedures will apply to implementation of the DRA provisions as they apply to existing policies and procedures. The Department continues to work toward improving the eligibility process so it is not unnecessarily burdensome to our clients as well as our staff.

IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 22, 2007, 3:00 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Whitford, Economic Self-Sufficiency Services, Phone (850)410-3479

THE FULL TEXT OF THE PROPOSED RULE CHANGES:

65A-1.712 SSI-Related Medicaid Resource Eligibility Criteria

(1) No change.

(a) through (e) No change.

(f) For a Home and Community Based Waiver Services (HCBS) Program an individual cannot have countable resources that exceed \$2,000. If the individual's income falls within the MEDS-AD Demonstration Waiver limit, the individual can have resources up to \$5,000.

(2) No change.

(3) Transfer of Resources and Income. According to 42 U.S.C. § 1396p(c), if an individual, the spouse, or their legal representative, disposes of resources or income for less than fair market value on or after the look back date, the department must presume that the disposal of resources or income was to become Medicaid eligible and impose a period of ineligibility for nursing facility care services, institutional hospice or

HCBS waiver services. The department will mail a notice to individuals who report a transfer for less than fair market value without fair compensation (Form CF-ES 2264, Feb 2007 ~~PDF 04/2002~~, Notice of Determination of Assets (Or Income) Resource/Income Transfer and Form CF-ES 2264A, Feb 2007, ~~Rebuttal/Hardship Request~~; incorporated herein by reference), advising of the opportunity to rebut the presumption and of the opportunity to request and support a claim of undue hardship per subparagraph (c)5. below. If the department determines the individual is eligible for Medicaid on all other factors of eligibility except the transfer, the individual will be approved for general Medicaid services (not long-term care services) and advised of their penalty period (Form 2358, Feb 2007, Medicaid Transfer Disposition Notice, incorporated herein by reference). The look back period is 36 months prior to the date of application, except in the case of a trust treated as a transfer in which case the look back period is 60 months prior to the date of application.

(a) The department follows the policy for transfer of assets mandated by 42 U.S.C. §§ 1396p and ~~1396r-5 1396r~~. Transfer policies apply to the transfer of income and resources.

(b) No change.

1. No change.

2. A purchase of an annuity (and other transactions that change the course of an annuity payment or treatment of income or principal) made after (effective date) will be considered a transfer of assets for less than fair market value without fair compensation unless the annuity meets all of the following criteria for applicants at the time of approval and recipients at the time of annual review: (a) the state is named as the primary beneficiary (or secondary as appropriate pursuant to subparagraph (b)1. above); (b) the annuity is irrevocable and non-assignable; (c) the annuity pays principal and interest in equal amounts during the term of the annuity, with no balloon or deferred payments; and (d) the annuity is actuarially sound based on standards published by the Office of the Chief Actuary of the Social Security Administration called the Period of Life Table as set forth in Rule 65A-1.716, F.A.C. (Life Expectancy Tables). Annuities purchased for the community spouse after (effective date) must name the state as primary (or secondary) beneficiary pursuant to subparagraph (b)1. above and must be actuarially sound based on the community spouse's age and the life expectancy tables.

3. No change.

(c) No change.

1. through 4. No change.

5. A transfer penalty shall not be imposed if the department determines that the denial of eligibility due to transferred resources or income would work an undue hardship on the individual. Undue hardship exists when imposing a period of ineligibility would deprive an individual of food, clothing, shelter or medical care such that their life or health would be endangered. All efforts to access the resources or

income must be exhausted before this exception applies. The facility in which the institutionalized individual is residing may request an undue hardship waiver on behalf of the individual with ~~their consent~~ or the consent of the individual or their designated personal representative.

- (d) No change.
- 1. through 3. No change.

4. A life estate interest purchased in another individual's home after (effective date) is considered a transfer of assets for less than fair market value without fair compensation. If the individual has not lived in the home for at least one year, the full amount of the purchase price paid for the life estate will be considered an uncompensated transfer without considering the value of the life estate. If the individual has resided in the home for at least one continuous year, the value of the life estate will be considered compensation and will be calculated by multiplying the current market value of the property at the time of the purchase by the life estate factor that corresponds to the individual's age at the time of the purchase. The life estate tables are incorporated by reference from the Social Security Administration's online Program Operations Manual System (SI 01140.120) as found in Appendix A-17 of the Department's online manual located at www.dcf.state.fl.us/ess/. Brief absences from the life estate property ~~such as due to~~ stays in a rehabilitation facility or vacations may not disrupt the client's residency in the home. ~~The but the~~ facts of each absence will be evaluated to determine if the home continued to be the individual's principal place of residence such as whether the person's mail was delivered and received there or whether they paid the property taxes.

- (e) through (f) No change.
- (g) No change except for the final sentence in this paragraph which will be revised as follows: Once the penalty period is imposed, it will continue although the individual may no longer meet all factors of eligibility and may no longer qualify for Medicaid long-term non-institutional care benefits.
- (4) No change.
- (5)(a)1. through 3. No change.

4. The department will mail a notice to individuals whose home equity interest exceeds \$500,000 (Form CF-ES 2354, Feb 2007, Notice of Excess Home Equity Interest Greater Than \$500,000 and Form CF-ES-2354A, Feb 2007, Request for Waiver of Home Equity Limit, incorporated herein by reference), advising of the opportunity to have the home equity interest policy waived.

(b) An individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that after (effective date), regardless of whether a refund is actually received, if the individual has the ability to use the entrance fee or the contract indicates the entrance fee may be used for care when the individual's income and assets are insufficient to pay for their care; the individual is eligible for a

refund of any remaining entrance fee upon death or termination of the contract; and the entrance fee does not confer an ownership interest in the retirement community.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History--New 10-8-97, Amended 1-27-99, 4-1-03, 9-28-04, 8-10-06(1), 8-10-06(2), 8-10-06(3),_____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

RULE NO.: 69L-7.100
 RULE TITLE: Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASCs)

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 3, January 19, 2007 issue of the Florida Administrative Weekly.

This change is being made to address concerns expressed at the public hearing, and is supported by the record of the public hearing. The change consists of the addition of a definition for "Surgical Implant", which shall appear as item number 13 of "Appendix B: Definitions" of the proposed 2006 Edition of the Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers, and reads as follows:

13. Surgical Implant means, for the purpose of determining reimbursement according to this manual, any single-use item that is surgically inserted and deemed to be medically necessary by an authorized physician and which the physician does not specify to be removed in less than six weeks such as bone, cartilage, tendon or other anatomical material obtained from a source other than the patient; plates; screws; pins; internal fixators; joint replacements; anchors; permanent neurostimulators; and pain pumps. Any single-use item that is surgically inserted into the body, to be removed in less than six weeks, or any single-use item connected for the purpose of giving effect or function to an item that is inserted into the body during a surgical procedure such as ports, single-use temporary pain pumps external fixators and temporary neurostimulators shall be considered associated disposable instrumentation. Associated disposable instrumentation does not include catheters removed prior to discharge, sutures, surgical staples, and drainage catheters.

The remainder of the reads as previously published.