

SUMMARY: The rule amendment will update the rule title; delete unnecessary language and add reference to Rule 64B10-12.017, F.A.C., to the rule; and add new language regarding requirements for licensees seeking approval status of a continuing education program.

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

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

SPECIFIC AUTHORITY: 468.1685, 468.1725 FS.

LAW IMPLEMENTED: 456.1685(5), 468.1715, 468.1725 FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-15.0021 Approved Providers.

(1) No change.

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

(a) through (g) No change.

(h) Evidence that the fee specified in Rule 64B10-12.017, F.A.C., has been paid by the provider or sponsor.

~~(3) Those applying for provider status shall pay an initial fee of \$250.00. A provider seeking to renew approved provider status, shall pay a biennial renewal fee of \$250.00.~~

(4) through (6) renumbered (3) through (5) No change.

(6) The licensee seeking approval status of a continuing education program shall submit to the Board the following information:

(a) Compliance with the criteria or course contact specified in subsections (2)(a)-(h) above and date and time of each course; or

(b) Submission of the course number if the program previously has been approved by the National Association of Boards of Examiners of Long Term Care Administrators (NAB).

Specific Authority 468.1685, 468.1725 FS. Law Implemented 456.1685(5), 468.1715, 468.1725 FS. History—New 2-20-83, Amended 7-31-84, Formerly 21Z-15.021, Amended 3-5-89, 3-15-90, Formerly 21Z-15.0021, 61G12-15.0021, 59T-15.0021, Amended 11-15-99, 8-9-04, 3-14-06, \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 21, 2007

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

#### 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."

#### DEPARTMENT OF MANAGEMENT SERVICES

##### Personnel Management System

RULE NOS.:	RULE TITLES:
60L-35.001	Scope and Purpose
60L-35.002	Definitions
60L-35.003	Minimum Requirements
60L-35.004	Career Service
60L-35.005	Selected Exempt Service
60L-35.006	Senior Management Service
60L-35.007	Transitional Provision

##### 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. 27, July 6, 2007 issue of the Florida Administrative Weekly.

##### PERFORMANCE EVALUATION MANAGEMENT SYSTEM

60L-35.001 Scope and Purpose.

This chapter sets forth the rules governing the Performance ~~Evaluation Management~~ System, which is the method basis for reviewing and evaluating the job performance of employees in the state's Career Service, Selected Exempt Service, and Senior Management Service. The Performance ~~Evaluation Management~~ System enables employees to receive feedback concerning performance of assigned duties and responsibilities. It informs them of their strengths and areas of needed improvement in job performance, identifies current and future training needs, and provides documentation for awarding discretionary merit increases, and lump sum bonuses in accordance with Section 110.1245(2), Florida Statutes.

Specific Authority 110.1055, 110.224(3), 110.403, 110.605 FS. Law Implemented 110.1245(2)(b)5., 110.224, 110.403(1)(b), 110.605(1)(b) FS. History—New \_\_\_\_\_.

60L-35.002 Definitions.

For the purpose of administering this chapter, the following definitions shall apply:

(1) Agency Designated Evaluation Date – The date selected by an agency which begins the 60-day period within which all annual evaluations shall be conducted.

(2) Evaluation Period – The period of time covered by the performance plan, not to exceed one year.

(3) Overall Rating – ~~The average of the individual ratings for each performance expectation reviewed that shall indicate the employee's level of performance for the evaluation period, which is derived as follows: In calculating this average, all digits four or more places to the right of the decimal shall be dropped.~~

(a) Calculate the average of all of the individually-rated expectations. In calculating this average, all digits three or more places to the right of the decimal shall be dropped. No rounding shall be used in this calculation.

(b) Locate the numeric range in which the calculated average falls on the below chart and assign the corresponding overall rating.

OVERALL RATING SCALE

<u>NUMERIC RANGE</u>	<u>OVERALL RATING</u>
<u>4.75 and above</u>	<u>Outstanding</u>
<u>4.00 – 4.74</u>	<u>Commendable</u>
<u>3.00 – 3.99</u>	<u>Satisfactory</u>
<u>2.75 – 2.99</u>	<u>Needs Improvement</u>
<u>2.74 and below</u>	<u>Unsatisfactory</u>

(4) Performance Evaluation – An oral and written assessment of an employee's performance of assigned duties and responsibilities as reflected in the employee's performance expectations and documented on a performance evaluation form.

(5) Performance Expectation – A statement that describes satisfactory performance of an essential specific duty or responsibility as listed in the position description or satisfactory demonstration of an attribute or value that the agency deems necessary for the accomplishment of its and the core missions of the agency. For purposes of this rule, an essential duty or responsibility is a duty or responsibility the successful performance of which is critical to fulfilling the requirements of the position.

(6) Performance Plan – An oral and written notification prepared by the rater in conjunction with the employee that identifies the performance expectations by which the employee will be evaluated at the end of the designated evaluation period.

(7) Rater – The employee's current immediate supervisor or a designated managerial employee who has knowledge of the employee's duties, responsibilities and job performance.

Specific Authority 110.1055, 110.224(3), 110.403, 110.605 FS. Law Implemented 110.1245(2)(b)5, 110.224, 110.403(1)(b), 110.605(1)(b) FS. History–New \_\_\_\_\_.

60L-35.003 Minimum Requirements.

(1) The rater shall conduct a performance planning session with the employee to identify the performance expectations by which an employee shall be evaluated and to review the performance expectations and rating scale. The rater shall also provide an opportunity for employee feedback regarding what is expected of the employee in the position. A performance plan shall be signed by the rater and the employee, indicating that the performance expectations have been discussed. A copy of the signed performance plan shall be made available to the employee. In the event an employee refuses to sign the performance plan, the rater shall make a signed and dated notation on the plan that the employee refused to sign.

(2) The rater shall manage performance by:

(a) Conducting written and oral performance evaluations of his/her employees at least annually. Such evaluations must be completed within sixty (60) calendar days following the agency designated evaluation date.

(b) Providing employees with coaching and meaningful feedback regarding job performance throughout the evaluation period.

(c) Informing the employee orally and in writing throughout the evaluation period, of performance deficiencies and or areas where corrective action to be taken, in order to facilitate the employee's progress toward meeting performance expectations improvement is needed.

(d) Meeting in person with the employee, when practicable, for performance planning and performance evaluation.

(3) At a minimum, a written performance evaluation shall include:

(a) A rating of the employee's job performance during the evaluation period for each performance expectation identified in the performance plan. Each ~~The~~ performance expectations shall be measured using the following scale.

INDIVIDUAL PERFORMANCE EXPECTATIONS MANAGEMENT  
SYSTEM RATING SCALE

RATING	NUMERIC SCALE	DEFINITION AND EXAMPLES
Exceptional	5	Employee consistently exceeds the performance expectation(+) of the position. For example: The employee requires little or no supervision from management in accomplishing his/her tasks and seeks opportunities to enhance the organization. The employee possesses highly advanced job knowledge. The employee is relied upon to solve complex problems and applies creativity and innovative approaches in formulating solutions.
Above Expectations	4	Employee consistently meets and often exceeds the performance expectation(+) of the position. For example: The employee requires minimal supervision from management in accomplishing his/her tasks. The employee possesses a thorough knowledge of the job, and often solves or assists in solving complex problems.
Meets Expectations	3	Employee consistently meets and may occasionally exceed the performance expectation(+) of the position. For example: The employee requires moderate supervision from management in accomplishing his/her tasks. The employee possesses sufficient knowledge and/or initiative to execute his/her duties and responsibilities.
Below Expectations	2	Employee exhibits inconsistent job performance, but has the capacity to improve to meet the performance expectation(+) of the position. For example: At times the employee requires close supervision where he/she should be operating on his/her own. The employee sometimes lacks the initiative, and/or job knowledge to execute his/her duties and responsibilities.
Unacceptable	1	Employee consistently fails to meet the designated performance expectation(+). For example: The employee requires close supervision and his/her work requires continual correction. The employee's job knowledge is insufficient to meet daily requirements.
N	None given	No longer applicable or unable to determine.

(b) Comments relating to the employee's job performance for each performance expectation ratings of "Exceptional" and "Above Expectations".

(c) Comments relating to the employee's job performance for each performance expectation rating of "Below Expectations" and "Unacceptable", as well as prescribed developmental activities and corrective action(s) for areas where improvement is required.

(d) The ~~an~~ overall rating of the employee's job performance during the evaluation period, which shall not be adjusted or affected by the ratings of any other employees being rated.

(e) At the agency's discretion, performance plans and evaluations may be reviewed by a higher level authority and comments may be provided. However, cCompleted performance plans and evaluations shall not be changed by a higher level authority.

(4) Employees with an overall rating of either "Below Expectations" or "Unacceptable" shall be considered to have not met their performance expectations for the position during that evaluation period.

(5) Other than probationary employees addressed in paragraph 60L-35.004(3), F.A.C., eEmployees who do not receive a performance evaluation within sixty (60) calendar days following the agency designated evaluation date shall be considered to have met their performance expectations as documented on their performance plan, and will receive a rating of "Meets Expectations" for each performance expectation and an for the overall rating of "Satisfactory".

(6) A description of training and educational opportunities for the employee may be included as part of the performance planning/evaluation process. Training opportunities may include those available under Sections 110.1099 and 110.235, FS.

(7) The performance evaluation shall be signed by the rater and the employee. The signature of the employee shall indicate only that the employee's job performance has been discussed with the employee and does not imply that the employee agrees or disagrees with the rater's assessment of his/her performance. The employee may attach written comments to the performance evaluation form in response to the evaluation. In the event an employee refuses to sign the performance evaluation, the rater shall make a signed and dated notation on the evaluation that the employee refused to sign.

(8) A performance evaluation is considered to be complete when it has been discussed with the employee and the employee has signed or refused to sign the evaluation. The evaluation shall then be included in the employee's personnel file, and a copy shall be made available to the employee.

(9) Agencies may develop additional internal performance evaluation policies that comply with this performance ~~evaluation management~~ rule. These policies may include:

(a) Provisions for conducting performance evaluations more frequently than designated in the rule.

(b) Instructions regarding when supervisors should take documented corrective action needed to improve an employee's performance level, and when to take further action in accordance with Rule 60L-36.005, F.A.C.

(10) An agency may use forms developed by the Department of Management Services or forms developed by their agency to evaluate and document their employee's performance.

Specific Authority 110.1055, 110.224(3), ~~110.403, 110.605~~ FS. Law Implemented 110.1245(2)(b), 110.224, ~~110.403(1)(b), 110.605(1)(b)~~ FS. History–New \_\_\_\_\_.

#### 60L-35.004 Career Service.

(1) Agencies shall comply with this performance ~~evaluation management~~ rule when reviewing and evaluating the performance of Career Service employees.

(2) Upon original appointment, promotion, demotion, or reassignment to a position with different job duties or responsibilities, and at the beginning of each evaluation period, the rater shall conduct a performance planning session with the employee.

(3) Career Service employees in probationary status shall have a performance evaluation completed on or before ~~within thirty (30) calendar days prior to~~ the end of the probationary period provided that, if the probationary period is extended pursuant to agency policy, the extension shall be noted on the evaluation form and the employee shall have another performance evaluation completed on or before ~~within thirty (30) calendar days prior to~~ the end of the extended probationary period. Failure to evaluate the probationary employee on or before the end of the probationary period will result in the employee successfully completing their probationary period.

Specific Authority 110.1055, 110.224(3) FS. Law Implemented 110.1245(2)(b), 110.224 FS. History–New \_\_\_\_\_.

#### 60L-35.005 Selected Exempt Service.

(1) Agencies shall comply with this performance ~~evaluation management~~ rule when reviewing and evaluating the performance of Selected Exempt Service employees covered by collective bargaining agreements.

(a) Upon original appointment and at the beginning of each evaluation period, the rater shall conduct a performance planning session with the employee.

(b) Agencies may also incorporate any elements that the agency head deems appropriate for evaluating performance in relationship to the requirements of the position filled by the employee, so long as such elements do not conflict with this rule.

(2) In accordance with Section 110.605(1)(b), Florida Statutes, ~~a~~ Agencies shall develop their own respective performance ~~evaluation management~~ system for reviewing and evaluating the performance of all other Selected Exempt Service employees. ~~Such agency performance management system shall incorporate performance expectations that, at a minimum, address the following:~~

~~(a) The efficiency, productivity and effectiveness of the individual employee; and~~

~~(b) The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction, if applicable.~~

~~(3) An agency head may propose for Department approval an alternative performance management system for Selected Exempt Service employees. Provided, however, that performance plans developed for Selected Exempt Service employees who are covered by a collective bargaining agreement shall incorporate performance expectations that, at a minimum, address the following:~~

~~(a) The efficiency, productivity and effectiveness of the individual employee; and~~

~~(b) The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction if applicable.~~

Specific Authority 110.1055, 110.605(1) FS. Law Implemented 110.1245(2)(b), 110.605(1)(b) FS. History–New \_\_\_\_\_.

#### 60L-35.006 Senior Management Service.

(1) Agencies shall comply with this performance ~~evaluation management~~ rule when reviewing and evaluating the performance of Senior Management Service employees.

(a) Upon original appointment and at the beginning of each evaluation period, the rater shall conduct a performance planning session with the employee.

(b) The performance plan of Senior Management Service employees shall incorporate performance expectations that, at a minimum, address the following:

1. The efficiency, productivity and effectiveness of the individual employee; and

2. The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction.

(c) Agencies may also incorporate any elements that the agency head deems appropriate for evaluating performance in relationship to the requirements of the position filled by the employee, so long as such elements do not conflict with this rule.

(2) An agency head may propose for Department approval an alternative performance evaluation management system for Senior Management Service employees. Such agency systems shall incorporate, at a minimum, performance expectations that address the following:

(a) The efficiency, productivity and effectiveness of the individual employee; and

(b) The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction.

Specific Authority 110.1055, ~~110.1099(5), 110.201, 110.224(3), 110.403, 110.605~~ FS. Law Implemented 110.1245(2)(b)5., ~~110.403(1)(b), 110.224, 110.227~~ FS. History—New \_\_\_\_\_.

60L-35.007 Transitional Provision.

To allow adequate time for agencies to adapt their operational procedures for carrying out the provisions of this rule chapter, agencies have until July 1, 2008 to implement this rule.

Specific Authority 110.1055, 110.201, 110.224(3), 110.403, 110.605 FS. Law Implemented 110.1245(2)(b)5., 110.224, 110.227, 110.403(1)(b), 110.605(1)(b) FS. History—New \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-20.006 RULE TITLE: Educational Requirements

**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. 32, No. 30, July 28, 2006 issue of the Florida Administrative Weekly.

This change was made to address a concern expressed by the Joint Administrative Procedure Committee.

When changed, Subsection (2)(a) shall now read as follows:

(2) A non-EAC/ABET accredited engineering degree program (hereinafter "engineering program") which seeks approval pursuant to Section 471.013(1)(a), Florida Statutes, shall submit the following to the Board:

(a) A completed application form "Request for Evaluation" [FBPE/007 (11-07)] and self-study report (which may be obtained from the Board by writing to: Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32304) and self-study report;

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301.

**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 HEALTH**

**Board of Nursing**

RULE NO.: 64B9-15.009 RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 30, July 27, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-27.700 RULE TITLE: Definition of Compounding

**NOTICE OF PUBLIC HEARING**

The Board of Pharmacy announces a hearing regarding the above rule, as noticed in Vol. 30, No. 50, December 10, 2004 Florida Administrative Weekly.

DATE AND TIME: Tuesday, February 5, 2008, 1:00 p.m., or as soon thereafter as can be heard.

PLACE: Tampa Airport Marriott, Tampa International Airport, Tampa, Florida 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss proposed text of the rule.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least five days before the workshop/meeting by contacting: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NO.: 64E-15.010 RULE TITLE: Permits and Fees

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 50, December 14, 2007 issue of the Florida Administrative Weekly.

Relating to Rule 64E-15.010 Permits and Fees. The previously published Notice of Proposed Rulemaking omitted language to offer a hearing if requested. The correct language reads:

IF REQUESTED IN WRITING WITHIN 21 DAYS 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: February 4, 2008, 9:00 a.m.

PLACE: 4042 Bald Cypress Way, Conference Room 301, Tallahassee, FL 32399

**DEPARTMENT OF FINANCIAL SERVICES****Division of State Fire Marshal**

RULE NO.:	RULE TITLE:
69A-64.005	Adjustments to Reflect Consumer Price Index

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Notice is hereby given that the hearing (if requested) on the above referenced rules (published in the January 4, 2008 issue of the Florida Administrative Weekly) has been changed to:

DATE AND TIME: Thursday, January 31, 2008, 10:00 a.m.

PLACE: The Atrium Building, Third Floor Conference Room, 325 John Knox Road, Tallahassee, Florida

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## Section IV Emergency Rules

**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:
59GER07-5	Developmental Disabilities Residential Habilitation Services in a Licensed Facility Provider Rate Table

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** This rule establishes the rates paid developmental disabilities waiver services providers of residential habilitation services for clients of the Agency for Persons with Disabilities.

The Agency for Persons with Disabilities faces a severe and growing budget deficit that creates an immediate danger to the public health, safety, or welfare. The Agency for Persons with Disabilities determined that there was an emergency as defined in Rule 120.54, F.S., that supported adoption of an Emergency Rule.

Adoption of the emergency rule is necessary to assure appropriated dollars are available for the provision of basic services to persons with developmental disabilities, one of Florida's most vulnerable communities. The emergency rule is necessary to conserve legislatively appropriated dollars necessary for the protection of the public health, safety and welfare.

The Agency for Persons with Disabilities (APD) administers the State of Florida's Medicaid waiver programs for persons with developmental disabilities and establishes the rates for residential habilitation services. The Agency for Health Care Administration (AHCA) is designated as the "single state agency" for Medicaid with legislatively delegated authority to adopt the rates for residential habilitation services as administrative rules.

The individuals served are people diagnosed with mental retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome that manifest before the age of 18. They often suffer from complex medical problems as well. Many require assistance with eating, supervision during waking hours, enteral nutrition, and multiple medications. The Agency for Persons with Disabilities' (APD) Medicaid waiver programs serve over 30,000 developmentally disabled persons. The Developmental Disabilities Home and Community Based Services Medicaid waiver has a waiting list of over 15,000 developmentally disabled persons who seek services that cannot be provided as the result of APD's severe budget deficit.

No one will be removed from the Developmental Disabilities Home and Community Based Services Medicaid waiver program as a result of the Emergency Rule. Instead, effective January 1, 2008, the Emergency Rule will immediately reduce the rates paid to providers of residential habilitation services by an average of approximately 3% from the rates that were in effect until November 30, 2007. APD determined that this rate reduction will combine with the effect of other actions to reduce the projected deficit enough to permit continued funding of services. The rate reduction is a critical component of a total deficit reduction of approximately 31 million dollars. APD's other actions in response to the legislature's mandate to reduce the deficit include imposing a 180 hours per month limit on personal care services for adult clients, and eliminating therapeutic massage, homemaker, chore, non-residential support services, and psychological assessment services. The combined savings from those actions are projected to reduce the deficit by \$24.6 million dollars.

Without the savings achieved by the immediate implementation of these residential habilitation rate reductions required by the Florida Legislature, the Agency for Persons