

will not impose any indirect transactional costs on small businesses but will increase the fess paid by Centralized Embalming Facilities, many of which are small businesses.

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: 497.103, 497.385 FS.

LAW IMPLEMENTED: 497.385 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: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-24.040 Licensure of Centralized Embalming Facilities.

(1) No change.

(2) Centralized embalming facilities shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 \$250 together with an annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the initial license will be issued.

(3) Centralized embalming facilities shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of \$255 ~~one hundred dollars (\$100)~~ for each year for which the license will be issued.

(4) through (5) No change.

Specific Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History--New 7-14-99, Formerly 61G8-24.040, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

Table with 2 columns: RULE NOS. and RULE TITLES. Lists rules 11N-1.002 through 11N-1.006 with their respective titles.

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 1, January 9, 2009 issue of the Florida Administrative Weekly has been withdrawn.

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

Cost Management and Control

Table with 2 columns: RULE NOS. and RULE TITLES. Lists rules 59B-9.010 through 59B-9.017 with their respective titles.

- 59B-9.018 Ambulatory Patient Data Format – Data Elements, Codes and Standards
- 59B-9.022 Penalties for Ambulatory Patient Data Reporting Deficiencies
- 59B-9.023 Ambulatory Patient Data Release
- 59B-9.030 Purpose of Ambulatory and Emergency Department Patient Data Reporting
- 59B-9.031 Definitions
- 59B-9.032 Ambulatory and Emergency Department Data Reporting and Audit Procedures
- 59B-9.033 Schedule for Submission of Ambulatory and Emergency Department Patient Data and Extensions
- 59B-9.034 Reporting Instructions
- 59B-9.035 Certification, Audits, and Resubmission Procedures
- 59B-9.036 Penalties for Ambulatory Patient Data Reporting and Deficiencies
- 59B-9.037 Header Record
- 59B-9.038 Ambulatory Data Elements, Codes and Standards
- 59B-9.039 Public Records

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 53, December 31, 2008 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

- | | |
|------------|---|
| RULE NOS.: | RULE TITLES: |
| 59C-1.008 | Certificate of Need Application Procedures |
| 59C-1.010 | Certificate of Need Application Review Procedures |
| 59C-1.012 | Administrative Hearing Procedures |
| 59C-1.013 | Monitoring Procedures |
| 59C-1.030 | Criteria Used in Evaluation of Applications |

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. 34, No. 48, November 26, 2008 issue of the Florida Administrative Weekly.

59C-1.008 Certificate of Need Application Procedures.

(1) Letters of Intent and applications subject to comparative review shall be accepted in two batching cycles annually each for hospital beds and facilities and for other beds and programs, as specified in paragraph (g) of this subsection. The category “hospital beds and facilities” includes proposals for new hospital facilities, replacement hospital facilities if

being replaced more than a mile away, acute care beds pursuant to Section 408.036(1)(g), F.S., the establishment of new neonatal level II and level III programs unless otherwise exempt pursuant to Section 408.036(3)(~~l~~)(~~k~~), F.S., and comprehensive medical rehabilitation beds unless otherwise exempt pursuant to Section 408.036(3)(j)(~~+~~), F.S., and except as provided in Section 408.037(2), F.S., for a general hospital. Unless otherwise directed by Section 408.037(2), F.S., general hospital applications shall conform to the schedules in this rule and will use all the usual application and financial forms described below as applicable. The category “other beds and programs” includes proposals for pediatric open heart surgery, pediatric cardiac catheterization, specialty burn units, organ transplantation, community nursing home projects, hospice programs, hospice inpatient facilities, and intermediate care facilities for the developmentally disabled.

(a) No change.

(b) The contents of the letter of intent shall be consistent with paragraph 408.039(2)(c), F.S., and must be a written communication with an original signature. The applicant is solely responsible for the content and clarity of the letter of intent. The agency shall not assume any facts not clearly stated. Applications should be submitted with one copy printed and any duplicates in electronic media format (DVD).

(c) 1. through 4. No change.

5. Location refers to the health planning subdistricts adopted in Chapter 59C-2, F.A.C., in each program rule under this chapter, or the service districts. The applicant must indicate the subdistrict by name or number. ~~Nursing home~~ Applicants, must also give the name of the county where the proposed project will be located, as provided in Chapter 59C-2, F.A.C.

(d) through (e) No change.

(f) Certificate of Need Application Submission. An application for a certificate of need shall be submitted on AHCA Form CON-1, July 2000~~8~~, which includes a Cover Page, Schedules A or A-Trn, B or B-Trn, C, D, D-1, 1 or 1-Trn, 2, 3, 4, 5, 6, 6A, 7, 7A, 7B, 8, 8A, 9, 10, 11-Trn, and 12, which are incorporated by reference herein. General Hospitals shall submit applications which include Schedules 11, A(H), B(H), C, D(H) in addition to a Cover Page. A paper copy of Form CON-1 or a copy on electronic media and the Schedules may be obtained from:

Agency for Health Care Administration,
 Certificate of Need
 2727 Mahan Drive, Mail Stop 28 Building 1
 Tallahassee, FL 32308.

An electronic version of Form CON-1 and the Schedules are also available at http://ahca.myflorida.com/MCHO/CON_FA/Application/index.shtml ~~www.fdhc.state.fl.us~~.

1. The application must be actually received by the agency by 5:00 p.m. local time on or before the application due date.

2. Applications for projects which exceed the proposed number of beds contained in the letter of intent shall not be deemed complete for review by the agency and shall be withdrawn from further review.

3. Applications may propose a lesser number of beds than that contained in the letter of intent.

~~4. Applications for a certificate of need for a general hospital must address criteria contained in subsection 408.035(2), F.S., and be submitted on AHCA Form CON-1, July 2008 Application for General Hospital Certificate of Need.~~

(g) Applications Subject to Comparative Review-Batching Cycles. In order that applications pertaining to similar types of services or facilities affecting the same service district or subdistrict may be considered in relation to each other for purposes of comparative review, letters of intent and applications shall be received by the agency no later than dates prescribed in the following schedule:

<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2007</u>	
Summary Need Projections Published in F.A.W.	1-26-07
Letter of Intent Deadline	2-12-07
Application Deadline	3-14-07
Completeness Review Deadline	3-21-07
Application Omissions Deadline	4-18-07
Agency Initial Decision Deadline	6-15-07

<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2007</u>	
Summary Need Projections Published in F.A.W.	7-27-07
Letter of Intent Deadline	8-13-07
Application Deadline	9-12-07
Completeness Review Deadline	9-19-07
Application Omissions Deadline	10-17-07
Agency Initial Decision Deadline	12-14-07

<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2008</u>	
Summary Need Projections Published in F.A.W.	1-25-08
Letter of Intent Deadline	2-11-08
Application Deadline	3-12-08
Completeness Review Deadline	3-19-08
Application Omissions Deadline	4-16-08
Agency Initial Decision Deadline	6-13-08

<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2008</u>	
Summary Need Projections Published in F.A.W.	7-25-08
Letter of Intent Deadline	8-11-08
Application Deadline	9-10-08

<u>Completeness Review Deadline</u>	9-17-08
<u>Application Omissions Deadline</u>	10-15-08
<u>Agency Initial Decision Deadline</u>	12-12-08

<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2009</u>	
Summary Need Projections Published in F.A.W.	1-23-09
Letter of Intent Deadline	2-09-09
Application Deadline	3-11-09
Completeness Review Deadline	3-128-09
Application Omissions Deadline	4-15-09
Agency Initial Decision Deadline	6-12-09

<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2009</u>	
Summary Need Projections Published in F.A.W.	7-24-09
Letter of Intent Deadline	8-10-09
Application Deadline	9-09-09
Completeness Review Deadline	9-16-09
Application Omissions Deadline	10-14-09
Agency Initial Decision Deadline	12-110-09

<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2010</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>1-22-10</u>
<u>Letter of Intent Deadline</u>	<u>2-08-10</u>
<u>Application Deadline</u>	<u>3-10-10</u>
<u>Completeness Review Deadline</u>	<u>3-17-10</u>
<u>Application Omissions Deadline</u>	<u>4-14-10</u>
<u>Agency Initial Decision Deadline</u>	<u>6-11-10</u>

<u>Hospital Beds and Facilities</u>	
<u>2nd Batching Cycle – 2010</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>7-23-10</u>
<u>Letter of Intent Deadline</u>	<u>8-09-10</u>
<u>Application Deadline</u>	<u>9-08-10</u>
<u>Completeness Review Deadline</u>	<u>9-15-10</u>
<u>Application Omissions Deadline</u>	<u>10-13-10</u>
<u>Agency Initial Decision Deadline</u>	<u>12-10-10</u>

<u>Hospital Beds and Facilities</u>	
<u>1st Batching Cycle – 2011</u>	
<u>Summary Need Projections Published in F.A.W.</u>	<u>1-21-11</u>
<u>Letter of Intent Deadline</u>	<u>2-07-11</u>
<u>Application Deadline</u>	<u>3-09-11</u>
<u>Completeness Review Deadline</u>	<u>3-16-11</u>
<u>Application Omissions Deadline</u>	<u>4-13-11</u>
<u>Agency Initial Decision Deadline</u>	<u>6-10-11</u>

<u>Hospital Beds and Facilities</u>		Completeness Review Deadline	5-27-09
<u>2nd Batching Cycle – 2011</u>		Application Omissions Deadline	6-24-09
<u>Summary Need Projections Published in F.A.W.</u>	<u>7-22-11</u>	Agency Initial Decision Deadline	8-21-09
<u>Letter of Intent Deadline</u>	<u>8-08-11</u>	<u>Other Beds and Programs</u>	
<u>Application Deadline</u>	<u>9-07-11</u>	<u>2nd Batching Cycle – 2009</u>	
<u>Completeness Review Deadline</u>	<u>9-14-11</u>	<u>Summary Need Projections Published in F.A.W.</u>	10-02-09
<u>Application Omissions Deadline</u>	<u>10-12-11</u>	<u>Letter of Intent Deadline</u>	10-19-09
<u>Agency Initial Decision Deadline</u>	<u>12-09-11</u>	<u>Application Deadline</u>	11-18-09
<u>Other Beds and Programs</u>		<u>Completeness Review Deadline</u>	11-25-09
<u>1st Batching Cycle – 2007</u>		<u>Application Omissions Deadline</u>	12-23-09
<u>Summary Need Projections Published in F.A.W.</u>	4-06-07	<u>Agency Initial Decision Deadline</u>	2-19-10
<u>Letter of Intent Deadline</u>	4-23-07	<u>Other Beds and Programs</u>	
<u>Application Deadline</u>	5-23-07	<u>1st Batching Cycle – 2010</u>	
<u>Completeness Review Deadline</u>	5-30-07	<u>Summary Need Projections Published in F.A.W.</u>	4-02-10
<u>Application Omissions Deadline</u>	6-27-07	<u>Letter of Intent Deadline</u>	4-19-10
<u>Agency Initial Decision Deadline</u>	8-24-07	<u>Application Deadline</u>	5-19-10
<u>Other Beds and Programs</u>		<u>Completeness Review Deadline</u>	5-26-10
<u>2nd Batching Cycle – 2007</u>		<u>Application Omissions Deadline</u>	6-23-10
<u>Summary Need Projections Published in F.A.W.</u>	10-05-07	<u>Agency Initial Decision Deadline</u>	8-20-10
<u>Letter of Intent Deadline</u>	10-22-07	<u>Other Beds and Programs</u>	
<u>Application Deadline</u>	11-21-07	<u>2nd Batching Cycle – 2010</u>	
<u>Completeness Review Deadline</u>	11-28-07	<u>Summary Need Projections Published in F.A.W.</u>	10-01-10
<u>Application Omissions Deadline</u>	12-26-07	<u>Letter of Intent Deadline</u>	10-18-10
<u>Agency Initial Decision Deadline</u>	2-22-08	<u>Application Deadline</u>	11-17-10
<u>Other Beds and Programs</u>		<u>Completeness Review Deadline</u>	11-24-10
<u>1st Batching Cycle – 2008</u>		<u>Application Omissions Deadline</u>	12-22-10
<u>Summary Need Projections Published in F.A.W.</u>	4-04-08	<u>Agency Initial Decision Deadline</u>	2-18-11
<u>Letter of Intent Deadline</u>	4-21-08	<u>Other Beds and Programs</u>	
<u>Application Deadline</u>	5-21-08	<u>1st Batching Cycle – 2011</u>	
<u>Completeness Review Deadline</u>	5-28-08	<u>Summary Need Projections Published in F.A.W.</u>	4-01-11
<u>Application Omissions Deadline</u>	6-25-08	<u>Letter of Intent Deadline</u>	4-18-11
<u>Agency Initial Decision Deadline</u>	8-22-08	<u>Application Deadline</u>	5-18-11
<u>Other Beds and Programs</u>		<u>Completeness Review Deadline</u>	5-25-11
<u>2nd Batching Cycle – 2008</u>		<u>Application Omissions Deadline</u>	6-22-11
<u>Summary Need Projections Published in F.A.W.</u>	10-03-08	<u>Agency Initial Decision Deadline</u>	8-19-11
<u>Letter of Intent Deadline</u>	10-20-08	<u>Other Beds and Programs</u>	
<u>Application Deadline</u>	11-19-08	<u>2nd Batching Cycle – 2011</u>	
<u>Completeness Review Deadline</u>	11-26-08	<u>Summary Need Projections Published in F.A.W.</u>	09-30-11
<u>Application Omissions Deadline</u>	12-24-08	<u>Letter of Intent Deadline</u>	10-17-11
<u>Agency Initial Decision Deadline</u>	2-20-09	<u>Application Deadline</u>	11-16-11
<u>Other Beds and Programs</u>		<u>Completeness Review Deadline</u>	11-23-11
<u>1st Batching Cycle – 2009</u>		<u>Application Omissions Deadline</u>	12-21-11
<u>Summary Need Projections Published in F.A.W.</u>	4-03-09	<u>Agency Initial Decision Deadline</u>	2-17-12
<u>Letter of Intent Deadline</u>	4-20-09		
<u>Application Deadline</u>	5-20-09		

(h) through (3) No change.

(4) Certificate of Need Application Contents. An application for a certificate of need shall contain the following items:

(a) All requirements set forth in Sections 408.037(1) and (2) and (3), F.S.;

(b) The correct application fee;

(c) With respect to paragraph 408.037(1)(c), F.S., which requires an audited financial statement of the applicant the following provisions apply:

1. The audited financial statement of the applicant must be for the most current fiscal year. If the most recent fiscal year ended within 120 days prior to the application filing deadline and the audited financial statements are not yet available, then the prior fiscal year will be considered the most recent.

2. Existing health care facilities must provide audited financial statements for the two most recent consecutive fiscal years in accordance with subparagraph 1. above.

3. Only audited financial statements of the applicant will be accepted. Audited financial statements of any part of the applicant, including but not limited to subsidiaries, divisions, specific facilities or cost centers, will not qualify as an audit of the applicant. Nor shall the audited financial statements of the applicant's parent corporation qualify as an audit of the applicant.

(d) To comply with Section 408.037(1)(b)1., F.S., which requires a listing of all capital projects, the applicant shall provide the total approximate amount of anticipated expenditures for capital projects which meet the definition in subsection 59C-1.002(7), F.A.C., at the time of initial application submission, or state that there are none. An itemized list or grouping of capital projects is not required, although an applicant may choose to itemize or group its capital projects. The applicant shall also indicate the actual or proposed financial commitment to those projects, and include an assessment of the impact of those projects on the applicant's ability to provide the proposed project; and

(e) Responses to applicable questions contained in the application forms.

(5) Identifiable Portions. If an applicant would like to be considered for an award of an identifiable portion of the project, the application, at the time of submission, must include responses to the applicable questions on the identifiable portion. The agency may make a partial award only if the applicant included responses to the applicable questions in the application.

Specific Authority 408.034(6), 408.15(8) FS. Law Implemented 408.033, 408.037, 408.038, 408.039 FS. History--New 1-1-77 Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 4-1-82, 7-29-82, 9-6-84 Formerly 10-5.08, Amended 11-24-86, 3-2-87, 6-11-87, 11-17-87, 3-23-88, 5-30-90, 12-20-90, 1-31-91, 9-9-91, 5-12-92, 7-1-92, 8-10-92. Formerly 10-5.008, Amended 4-19-93, 6-23-94, 10-12-94, 10-18-95, 2-12-96, 7-18-96, 9-16-96, 11-4-97, 7-21-98, 12-12-00, 4-2-01, 1-10-02, 6-26-03, 12-13-04, 9-28-05,_____.

59C-1.010 Certificate of Need Application Review Procedures.

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

(d) An application for a general hospital must meet the requirements of Sections 408.035(2) and 408.037(2), F.S.

(3) through (5)(d) No change.

(e) Sections 408.039(3)(c) and (d) and (5)(c), F.S., impose strict guidelines for who may challenge an application by a general hospital; when that challenge must be filed; the subjects which may be challenged and the timing of any response by the applicant. Participation in any subsequent hearing is precluded by those who do not challenge timely. Challenges must be received within 21 days of the Omissions Submission Deadline for each Batching Cycle as published in Rule 59C-1.008, F.A.C.

(6) through (7) No change.

Specific Authority 408.034(6)(~~5~~), 408.15(8) FS. Law Implemented 408.033(1), 408.035(2), 408.036(2), 408.037(2), 408.039(3)(4)(~~5~~)(~~6~~) FS. History--New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, 3-31-82, 12-23-82, Formerly 10-5.10, Amended 11-24-86, 11-17-87, 3-23-88, 8-28-88, 1-31-91, 7-1-92, 7-14-92, Formerly 10-5.010, Amended 10-8-97, 12-12-00, 4-2-01, 6-23-05,_____.

59C-1.012 Administrative Hearing Procedures.

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

(e) For an application for a new construction or establishment of a general hospital, administrative hearings shall commence within 6 months after the administrative law judge has been assigned, and a continuance may not be granted absent a finding of extraordinary circumstances by the administrative law judge. Financial information which describes the applicant's ability to complete the project will be submitted at this point in the process and will be submitted on forms supplied by the Agency for Health Care Administration.

(f) The party appealing a final order that grants a general hospital certificate of need shall post a \$1 million bond as directed in Section 408.039(6)(d), F.S. The bond must be made payable to the Agency for Health Care Administration, Bureau of Health Facilities Regulation, Office of Certificate of Need and must reference the CON number being appealed, the DOAH number if available, and the date the CON was filed. The bond needs to be sent to:

AHCA Office of Certificate of Need
2727 Mahan Drive, MS #28
Tallahassee, Florida 32308

1. The appealing party must be clearly identified in the title of the Bond.

2. Without the necessary information in subparagraphs 59C-1.012(2)(f)2., a. and b., F.A.C., the appeal will not be accepted.

Specific Authority 408.15(8) FS. Law Implemented 408.039(5), ~~408.039(6), 120.536(1), 120.54~~ ~~420.57, 420.59~~ FS. History—New 1-1-77, Amended 9-1-78, 6-5-79, 10-23-79, 4-25-80, Formerly 10-5.12, Amended 11-24-86, 11-17-87, Formerly 10-5.012, Amended 12-14-92, _____.

59C-1.013 Monitoring Procedures.

(1) through (2) No change.

~~(3) Documentation. The following is a listing of all reports required for monitoring compliance with this rule and Rule 59C-1.018, F.A.C.~~

~~(a) Final Cost Report. The certificate of need holder shall file a Final Cost Report AHCA Form CON-3, Revised July 1997, incorporated by reference herein. A copy of Form CON-3 may be obtained from: Agency for Health Care Administration, Certificate of Need Office, Fort Knox Executive Center, 2727 Mahan Drive, Building 3, Tallahassee, FL 32308. The Final Cost Report must be received by the agency within 90 calendar days of submission of the Architect's Certificate of Final Payment, or upon commencement of the health services, whichever is applicable.~~

~~(b) Architect's Certificate of Final Payment. The certificate of need holder shall provide the agency, in writing, a completed and fully executed architect's certification of final payment, AIA Documents G702 and G703, May 83 incorporated by reference herein, or a suitable substitute. A substitute is suitable if it contains the following items:~~

~~1. A certification by the contractor or the architect of final payment which contains the original construction cost, any cost for change orders, and the total expenditures made or requested;~~

~~2. A certification by the architect that the project is complete and final payment has been made; and~~

~~3. An itemized sheet for direct construction costs which breaks down the expenditures by description of work.~~

~~The report must be received by the agency no later than 30 calendar days following the completion of construction as defined in the owner and contractor agreement, and final approval of the project by the agency.~~

~~(3)(4) Reporting Requirements Subsequent to Licensure or Commencement of Services. All holders of a certificate of need that was issued predicated upon conditions expressed on the face of the certificate of need shall provide annual compliance reports to the agency. The reporting period shall be January 1 through December 31 of each year. The holder of a certificate of need who began operation after January 1 will report from the date operation began through December 31. The compliance report shall be submitted no later than April 1 of the subsequent year.~~

(a) The compliance report will contain information necessary for an assessment of compliance with conditions on the certificate of need, utilizing measures, such as a percentage

of patient days, that are consistent with the stated condition. The following information shall be provided in the holder's annual compliance report:

1. The time period covered by the measures;

2. The measure for assessing compliance with each of the conditions identified and described on the face of the certificate of need;

3. The way in which the conditions were evaluated by applying the measures;

4. The data sources used to generate information about the conditions that were measured;

5. The person and position responsible for supplying the compliance report;

6. Any other information necessary for the agency to determine compliance with conditions; and,

7. If applicable, the reason or reasons, with supporting data, why the certificate of need holder was unable to meet the conditions set forth on the face of the certificate of need.

(b) A change in the licensee for a facility or service does not affect the obligation for that facility or service to continue to meet conditions imposed on a certificate of need and to provide annual condition compliance reports.

(c) Conditions imposed on a certificate of need may be modified consistent with Rule 59C-1.019, F.A.C.

~~(4)(5) Violation of Certificate of Need Conditions. Health care providers found by the agency to be in noncompliance with conditions set forth in their certificate of need shall be fined as defined in Rule 59C-1.021, F.A.C.~~

Specific Authority 408.034~~(6)(5)~~, 408.15(8) FS Law Implemented 408.040(1), (2), ~~(3)~~ FS. History—New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 3-31-82, Formerly 10-5.13, Amended 11-24-86, 7-25-89, Formerly 10-5.013, Amended 10-18-95, 11-4-97, 12-12-00, _____.

59C-1.030 Criteria Used in the Evaluation of Applications.

In addition to criteria set forth in Section 408.035, Florida Statutes, the following criteria are used in the review of an application.

(1) For general hospitals as defined in Section 395.002, F.S., the criteria for evaluation includes the need, availability and ability of the applicant to provide the proposed care and eliminates quality of care, access, competition and provision of services to the indigent as criteria and is as itemized in Sections 408.035(2) and 408.037(2), F.S. General Provisions (Reserved)

(2) through (3) No change.

Specific Authority 408.15(8), 408.034(3), ~~(6)(5)~~ FS. Law Implemented 408.035 FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(a), (b), Formerly 10-5.030, Amended _____.

AGENCY FOR HEALTH CARE ADMINISTRATION
Hospital and Nursing Home Reporting Systems and Other Provisions Relating to Hospitals

RULE NOS.:	RULE TITLES:
59E-7.011	Definitions
59E-7.012	Inpatient Data Reporting and Audit Procedures
59E-7.013	Penalties for Hospital Inpatient Discharge Data Reporting Discrepancies
59E-7.014	Inpatient Data Format – Data Elements, Codes and Standards
59E-7.015	Public Records
59E-7.016	General Provisions
59E-7.020	Purpose of Inpatient Data Reporting
59E-7.021	Definitions
59E-7.022	Inpatient Data Reporting and Audit Procedures
59E-7.023	Schedule for Submission of Inpatient Data and Extensions
59E-7.024	Reporting Instructions
59E-7.025	Certification, Audits and Resubmission Procedures
59E-7.026	Penalties for Hospital Inpatient Discharge Data Reporting Discrepancies
59E-7.027	Header Record
59E-7.028	Inpatient Data Elements, Codes and Standards
59E-7.029	Public Records
59E-7.030	General Provisions
59E-7.201	Submission of Comprehensive Inpatient Rehabilitation Hospital Patient Data
59E-7.202	Schedule for Submission of Patient Data and Extensions
59E-7.203	Reporting Instructions
59E-7.204	Certification Procedures
59E-7.205	Patient Data Format – Data Elements and Codes
59E-7.206	Patient Data Format – Record Layout
59E-7.207	Data Standards
59E-7.208	Notice of Potential Future Additional Data Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 53, December 31, 2008 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION
Medicaid

RULE NO.:	RULE TITLE:
59G-4.251	Florida Medicaid Prescribed Drugs Reimbursement Methodology

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule development in Vol. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly. Please note corrected year in the date published for the Rule Development workshop:

TIME AND DATE: 10:00 a.m. Friday, March 13, 2009

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE NO.:	RULE TITLE:
61G2-2.006	Reinstate Null & Void Licenses

NOTICE OF CHANGE

Notice is hereby given that the following correction has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1, FS, published in Vol. 33, No. 47, of the November 21, 2007, issue of the Florida Administrative Weekly. The change is in response to concerns by the Joint Administrative Procedures Committee in letters dated December 28, 2007, January 23, 2008, April 10, 2008, and July 29, 2008.

The rule will read as follows:

61G2-2.006 Reinstate Null & Void Licenses.

(1) Void auctioneer or auction business licenses resulting from a failure to timely renew are not reactivated; however, the Board has discretion to reinstate such licenses if it determines that the provisions of Section 455.271(6)(b), F.S., were met.

(2) In order to request that the Board exercise its discretion, the holder of a void license must file a properly completed DBPR form entitled: Application for Reinstatement of a Null and Void License, dated November 2008. Form copies are available from the Board office at 1940 N. Monroe Street, Tallahassee, Florida 32399 or on the Web at www.MyFlorida.com/dbpr, scroll down and select Board of Auctioneers, choose FORMS from the left column, and choose the correct Application Package.

(3) The application must be accompanied by a non-refundable Application fee of \$150.00, a renewal fee of \$150.00 for each renewal period when the applicant failed to renew his or her license which fee shall not exceed \$300.00, and an unlicensed activity fee plus a recovery fund fee of \$105.00 for each renewal period missed which fee shall not exceed \$210.00.

(4) The application will be set for a hearing before the Board at its next regularly scheduled Board meeting, if the agenda for that Board meeting has not been sent to the printer. If the agenda has already been sent to the printer, the application will be set for the following regularly scheduled Board meeting.

(5) One continuance shall be granted upon written request for good cause shown.

(6) Applicants may be represented by counsel when the Board considers the application. Such representation shall be at the applicant's expense. All rights attendant to Section 120.542, F.S., attach.

(7) Applicants shall present proof of completion of all CE which would have been required had their license never gone void due to failure to renew.

(8) Determinations on the application shall be by Final Orders, with appellate rights to the appropriate District Court of Appeal.

Specific Authority 455.271(6)(b) FS. Law Implemented 455.271(6)(b) FS. History—New _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, P. O. Box 5377, Tallahassee, Florida 32314-5377

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 NOS.:	RULE TITLES:
62-4.050	Procedures to Obtain Permits and Other Authorizations; Applications
62-4.053	Annual Operating License Fees for Public Water Systems

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. 35, No. 2, January 16, 2009 issue of the Florida Administrative Weekly.

62-4.050 Procedures to Obtain Permits and Other Authorizations; Applications.

(1) through (3) No change.

(4) Processing fees are as follows:

(a) through (d) No change.

(e) Wetland Resource Management (Dredge and Fill) Permits. This paragraph pertains to projects that have been grandfathered according to Sections 373.414(11) (1994 Supp.),

(12)(a) (1994 Supp.), (13), (14), (15) or (16), F.S., and projects, or portions thereof, located in the Northwest Florida Water Management District.

1. through 2. No change.

3. Mitigation Banks.

a. through d. No change.

e. Major modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; construction or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:

(I) Affecting one of the above components \$1,340

(II) Affecting two of the above components \$2,680

(III) Affecting three of the above components \$4,020

4. Modifications:

a. Major modifications of Standard Form and Short Form Permits, as determined by Rule 62-312.100, F.A.C., and mitigation banks under Chapter 62-342, F.A.C., that increase the project area or involve four or more of the components listed in sub-subparagraph 62-4.050(4)(e)3.e., F.A.C., other than for Class I solid waste disposal facilities or as otherwise specified above;

Same fee as for a new application for the activity

b. Minor modifications of Standard Form and Short Form Permits, including mitigation banks, where the modification will not require substantial technical evaluation by the Department, will not lead to substantially different environmental impacts or will lessen the impacts of the original permit, and as further determined by Rule 62-312.100, F.A.C., other than for Class I solid waste disposal facilities or as otherwise specified above:

(I) through (VI) No change.

5. through 9. No change.

(f) Mangrove Alteration and Trimming.

1. through 7. No change.

8. Variance under Section ~~403.9333~~ 403.9334, F.S. \$170

(g) No change.

(h) Environmental Resource Permits. For individual, conceptual approval or standard general permit applications under Part IV of Chapter 373, F.S., that involve a combination of the fee categories listed in subparagraphs 1. and 2. below, the highest fee in these subparagraphs that applies to the project in question shall be the correct application fee.

1. No change.

2. Standard Permits and Standard General Permits (those systems below the thresholds listed in subparagraph 1. above):

a. through b. No change.

c. For a system serving a project with a total land area of less than 1 acre or more, with the following additional activities:

(I) through (III) No change.

d. No change.

3. Mitigation Banks

a. through d. No change.

e. Major modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; construction or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:

(I) Affecting one of the above components \$1,340

(II) Affecting two of the above components \$2,680

(III) Affecting three of the above components \$4,020

4. through 5. No change.

6. Variances:

a. Under Section 373.414(17), F.S.

(I) From the prohibition of work in Class II Waters, approved for shellfish harvesting \$170 \$100

(II) No change.

b. No change.

7. Modifications:

a. Major modifications of Individual (including Conceptual Approval) and Standard General Permits, as defined in paragraph 62-343.100(1)(b), F.A.C., and mitigation bank permits under Chapter 62-342, F.A.C., that increase the project area or involve four or more of the components listed in 62-4.050(4)(h)3.e., F.A.C., other than for Class I solid waste disposal facilities or as otherwise specified above;

Same fee as for a new application for the activity

b. Minor modifications of Individual (including Conceptual Approval) and Standard General Permits, and mitigation bank permits, where the modification will not require substantial technical evaluation by the Department, will not lead to substantially different environmental impacts or will lessen the impacts of the original permit, and as further defined in paragraph 62-343.100(1)(a), F.A.C., other than for Class I solid waste disposal facilities:

(I) through (VI) No change.

8. No change.

(i) ~~Petitions for Formal~~ Determinations of the Landward Extent of Wetlands and Other Surface Waters:

1. Petitions for Formal Determinations

~~a.1.~~ Petition application fees shall be based on the acreage of the entire property for which the petition is filed, according to the following schedule:

a. through f. renumber (I) through (VI) No change.

~~b.2.~~ No change.

2. Requests for Informal Determinations \$100

(n) Drinking Water (Public Water Supply) Permits.

1. Construction permit for each Category I through III treatment plant, as defined in Rule 62-699.310, F.A.C., ~~with treatment other than disinfection only.~~

a. through e. No change.

2. Construction permit for each Category IV treatment plant, as defined in Rule 62-699.310, F.A.C., ~~with treatment other than disinfection only.~~

a. through f. No change.

3. Construction permit for each Category V treatment plant, as defined in Rule 62-699.310, F.A.C., ~~Disinfection only.~~

a. through e. No change.

4. through 8. No change.

(o) through (y) No change.

(z) The fees in paragraphs (e) through (i) and (n) shall be increased March 1, 2013, and at subsequent 5-year intervals, to adjust the fees for inflation bring the fees up-to-date using the percentage change in the annual CPI average rate for each year of the five-year interval. The annual CPI average rate shall be calculated by averaging the previous five years of Consumer Price Index figures for the "CPI-U, U.S. City Average, All Items" established by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi/), computed as provided in the BLS publication "Handbook of Methods," Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf). The Department shall use the percentage change in the Consumer Price Index from March 2008 to December 2012 for the 2013 fee calculations and the percentage change in the rates from March to December for subsequent five-year periods. The Department shall round any increased fees to the next highest whole ten dollar increment. In the event of deflation during the 5-year interval, the Department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations.

(5) through (8) No change.

62-4.053 Annual Operating License Fees for Public Water Systems.

(1) Scope and Intent. As authorized in Section 403.087(6), F.S., this rule implements annual regulatory program and surveillance fees (operating license fees) for public drinking water systems. These fees effect the legislative intent that the Department's costs for administering the Florida Safe Drinking Water Act be borne by regulated parties. As such, the annual operating license fees are applicable only to public water systems subject to regulation under Chapters 62-550, 62-555 and 62-560, F.A.C., ~~pursuant to Section 403.0885, F.S.~~

(2) through (8) No change.

Specific Authority 403.061, 403.861(7), 403.861(8) FS. Law Implemented 403.087(6), ~~403.0885~~ FS. History--New _____.

STATEMENT OF ESTIMATED REGULATORY COST: Based on receipt of a lower cost regulatory alternative, the Department has amended its SERC, which is available from the contact person.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED CHANGE IS: Jim Stoutamire, Florida Department of Environmental Protection, Division of Water Resource Management, 2600 Blair Stone Road – MS 3500, Tallahassee, FL. 32399-2400, telephone (850)245-8490, or e-mail: Jim.Stoutamire@dep.state.fl.us. Further information and updates on development of this rule also may be obtained from the Department’s Internet site at: www.dep.state.fl.us/water/wetlands/erp/rules/rulestat.htm. (OGC #08-1684)

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-113.200
 RULE TITLE: Delegation of Authority by Secretary
 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. 34, No. 38, September 19, 2008 issue of the Florida Administrative Weekly.

62-113.200 Delegation of Authority by Secretary.

The Secretary, as head of the Department, has delegated authority as follows:

(1) through (11) No change.

(12)(a) No change.

1. through 7. No change.

8. Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, and South Florida Water Management District (Districts), ~~and Broward County~~: in conformance with the language of Section 18 of Chapter 2008-150, Laws of Florida, which mandates that the Department initiate rulemaking to adopt new and increased fees under Part IV of Chapter 373, F.S., the Districts ~~and Broward County~~ are delegated the following authorities: (1) to charge, upon the effective date of this rule, the minimum fees as set forth in Sections 373.109(1)(b) and (d), F.S.; (2) to adopt rules to increase these minimum fees ~~and set forth in Section 373.109(1)(b) through (d), F.S.~~; (3) ~~to adopt rules to increase each application fee authorized under Part IV of Chapter 373, F.S., in accordance with paragraph 62-4.050(4)(z), F.A.C., to such that each fee reflects, at a minimum, any upward adjustments in the Consumer Price Index compiled by the United States Department of Labor, or similar inflation indicator, since the original fee was established or most recently revised; and (3) at subsequent 5-year intervals starting March 1, 2013, to adopt rules to adjust the fees for inflation in accordance with paragraph 62-4.050(4)(z), F.A.C.~~ (4) ~~to establish by rule any inflation index to be used for this purpose; and (5) to review the fees authorized under Part IV of Chapter 373, F.S., at least once every five years and adjust the fees upward as necessary to reflect changes based on its adopted inflation index.~~

(b) No change.

(13) through (16) No change.

CONTACT: Jim Stoutamire, Florida Department of Environmental Protection, Division of Water Resource Management, 2600 Blair Stone Road, MS 3500, Tallahassee, FL 32399-2400, telephone (850)245-8490, or e-mail: Jim.Stoutamire@dep.state.fl.us. Further information and updates on development of this rule also may be obtained from the Department’s Internet site at: www.dep.state.fl.us/water/wetlands/erp/rules/rulestat.htm. (OGC #08-1687).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-346.071
 RULE TITLE: Fees
 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. 35, No. 2, January 16, 2009 issue of the Florida Administrative Weekly.

62-346.071 Fees.

(1) through (5) No change.

(6) The fees in subsection (1) shall be increased on March 1, 2013, and at subsequent 5-year intervals, to adjust the fees for inflation ~~bring the fees up to date~~ using the percentage change in the annual CPI average rate for each year of the five-year interval. The annual CPI average rate shall be calculated by averaging the previous five years of Consumer Price Index figures for the “CPI-U, U.S. City Average, All Items” established by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi/), computed as provided in the BLS publication “Handbook of Methods,” Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf). ~~The Department shall use the percentage change in the Consumer Price Index from March 2008 to December 2012 for the 2013 fee calculations and the percentage change in the rates from March to December for subsequent five-year periods.~~ The Department shall round any increased fees to the next highest whole ten dollar increment. In the event of deflation during the 5-year interval, the Department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations.

STATEMENT OF ESTIMATED REGULATORY COST: Based on receipt of a lower cost regulatory alternative, the Department has amended its SERC, which is available from the contact person.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED CHANGE IS: Jim Stoutamire, Florida Department of Environmental Protection, Division of Water Resource Management, 2600 Blair Stone Road, MS 3500, Tallahassee, FL 32399-2400, telephone (850)245-8490, or e-mail: Jim.Stoutamire@dep.state.fl.us. Further information

and updates on development of this rule also may be obtained from the Department’s Internet site at: www.dep.state.fl.us/water/wetlands/erp/rules/rulestat.htm. (OGC # 08-1684).

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-12.003
RULE TITLE: Applications for Licensure
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. 39, of the September 28, 2007 issue of the Florida Administrative Weekly. The changes were approved by the Board on February 7, 2009 to address concerns raised by the Joint Administrative Procedure Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) Applications for licensure by examination must include a completed application form and appropriate fee as set forth in Section 459.0055, F.S., and subsection 64B15-10.001(1), F.A.C. The instructions and application form, DH-MQA 1029, (Rev. 6/08), ~~6/00, effective 9-26-00~~, entitled “~~Section H: Application For Form Initial Licensure Application~~” is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256 office. Such application and fee shall expire one year from the date on which the application is initially received by the Board. After a period of one year a new application and fee must be submitted.

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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.204
RULE TITLE: Licensure by Endorsement
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. 34, No. 36, September 5, 2008 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) All applications for licensure by endorsement shall be made on board approved form DOH/MQA/PH100 (Rev.01/2009), The instructions and application form, entitled Florida Pharmacist Licensure by Endorsement Application and Instructions, which is hereby incorporated by reference, can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way,

Bin #C04, Tallahassee, Florida 32399-3254, and shall be accompanied with a non-refundable endorsement application fee and initial license fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

2. Subsection (2) shall now read as follows:

(2) The applicant must submit satisfactory proof that one of the following requirements has been met:

(a) Two (2) years of active practice, as defined in Section 465.0075(1)(c), F.S., within the immediately preceding five (5) years. If the applicant meets the requirements of this section, proof of completion of 30 hours of Florida Board of Pharmacy, ACPE, or other state board of pharmacy approved continuing education obtained in the two years immediately preceding application, must be submitted.

(b) Successful completion of an internship meeting the requirements of Section 456.007(1)(c), F.S., within the immediately preceding two (2) years.

3. Subsection (3) shall now read as follows:

(3) The applicant must submit satisfactory proof of completion of the following:

A course of no less than two (2) hours on medication errors covering the subjects set forth in Rule 64B16-26.103, F.A.C. The course shall be completed no earlier than 12 months prior to application.

4. Subsection (8) shall now read as follows:

(8) Applicants deemed qualified for licensure by endorsement shall be required to complete the Multistate Pharmacy Jurisprudence Examination – Florida Version. Passing scores on this examination may be used upon reapplication only if the examination was completed within three (3) years of the reapplication.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.600
RULE TITLE: Tripartite Continuing Education Committee
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. 21, May 25, 2007 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The rule shall now read as follows:

64B16-26.600 Tripartite Continuing Education Committee.

(1) The Tripartite Continuing Education Committee will be composed of equal representation from the Board of Pharmacy, each College or School of Pharmacy in the State, and practicing pharmacists within the State. The members of the Committee shall be selected by the Board of Pharmacy and serve for a period of two years. The chairman of the Committee shall be selected by the Chair of the Board.

(2) The Tripartite Continuing Education Committee shall perform the following duties pursuant to Rule 64B16-26.601, F.A.C.:

(a) Review continuing education providers and make recommendations to the Board;

(b) Approve continuing education course or program for approved providers or individuals that are non-approved providers for the following:

1. General
2. Initial Consultant Pharmacist Certification
3. Consultant Recertification;
4. Nuclear Recertification;
5. Medication Errors;
6. HIV/AIDS;
7. Laboratory Tests;
8. Laws and Rules;
9. Quality Related Events.

(3) The Tripartite Continuing Education Committee shall perform auditing and monitoring activities pursuant to Rule 64B16-26.601, F.A.C. The Tripartite Committee shall perform an audit on each approved continuing education provider 90 days prior to the end of the biennium. The approved provider shall submit the following information for one program of the provider's choosing and one program selected by the Board:

- (a) Title, date and location of the program;
- (b) Program Number;
- (c) Any Co-sponsors;
- (d) Total number of pharmacists attending;
- (e) Rosters of attendees with appropriate license numbers;
- (f) Brochures of program announcement;
- (g) CV's of each speaker;
- (h) Handouts, Copy of CE Credit statement, educational materials distributed as part of the program; and
- (i) Summary report of program evaluations.

(4) The Committee shall hold meetings as may be convened at the call of the Chairman of the Committee.

Specific Authority 465.005, 465.009(5) FS. Law Implemented 465.009 FS. History--New 10-18-79, Amended 7-29-81, Formerly 21S-13.01, 21S-13.001, 21S-26.600, 61F10-26.600, 59X-26.600, Amended 10-15-01, 3-10-05,_____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.601
 RULE TITLE: Standards for Approval of Courses and Providers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 21, May 25, 2007 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. Substantial changes were made to the language of the rule.

The rule shall now read as follows:

64B16-26.601 Standards for Approval of Continuing Education Courses and Providers.

(1) Providers seeking board approval shall meet each of the following:

(a) Complete the approved application form DOH/MQA/PH109, (Rev. 02/09), entitled Board of Pharmacy Provider Approval application, which is incorporated by reference, and which can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, and submit a fee of \$150.00.

(b) There shall be a visible, continuous, and identifiable authority charged with the administration of continuing education programs. The person or persons in whom the administrative function is vested shall be qualified by virtue of background, education, training and/or experience.

(c) All continuing education offerings conducted by the provider shall meet the standards outlined in subsection (3).

(d) Submit licensee continuing education course completion credits in the electronic continuing education tracking system in accordance with Section 456.025(7), F.S.

(2) Individuals seeking approval of a single course or program shall meet each of the following:

(a) Complete the application DOH/MQA/PH112, (Rev. 02/09), entitled Individual Request for Approval of Continuing Education, which is incorporated by reference, and which may be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254.

(b) All continuing education offerings under this section shall meet the standards outlined in subsection (3).

(c) All continuing education offerings shall be submitted to the Tripartite Committee for review and approval at least 45 days in advance of the program or course.

(3) Each continuing education offering shall contain a detailed outline of the content and shall build upon Standards of Practice and a basic course or courses offered in the curricula of accredited colleges or schools of pharmacy. Continuing education may consist of post-baccalaureate degree programs offered by accredited colleges or schools of pharmacy, post-graduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, or other such committee-approved educational methods. All offerings shall meet the following standards:

(a) Education Content Development.

1. Continuing education offerings shall involve advance planning that includes a statement of measurable educational goals and behavioral objectives.

2. Continuing education offerings shall be designed to reflect the educational needs of the pharmacist and build on the standards of practice and courses in the curricula of accredited colleges or schools of pharmacy.

3. Each continuing education offering shall be designed to explore one subject or a group of closely related subjects or standards.

(b) Methods of Delivery.

1. The method of delivery of a course shall be determined by giving appropriate consideration to such factors as educational content, objectives, and composition of the audience.

2. The method of delivery shall encourage active participation and involvement on the part of the pharmacist.

(c) Program Faculty Qualifications.

1. The program faculty for a particular continuing education offering shall be competent in the subject matter and qualified by experience.

2. An appropriate number of program faculty for each activity shall be utilized.

3. There shall be adequate personnel to assist with administrative matters and personnel with competencies outside content areas in cases where the method of delivery requires technical or other special expertise.

(d) Facilities.

1. The facilities to be utilized shall be appropriate and adequate to the content, method of delivery, size of the audience and promote the attainment of the objectives of the offering.

(e) Evaluation.

1. The provider shall make provision for evaluation of the participants' attainment of the stated learner objectives through in-process activities that provide a measurable demonstration of the learner's achievement(s).

2. The provider shall develop and employ an evaluation mechanism for the purpose of allowing the participant to assess his/her achievement of personal objectives.

3. The provider shall develop and employ an evaluation mechanism that shall assess the effectiveness of the learning experiences, instructional methods, facilities, and resources used for the offering.

(f) Contact Hour Criteria.

1. The number of contact hours or Continuing Education Units (CEU) shall be determined by the provider in advance of the offering subject to approval by the committee and awarded upon the successful completion of the entire planned education experience.

2. Providers shall adhere to a uniform quantitative system of measurement for continuing education credit based on the contact hour which is defined as 50-60 minutes of participation or its equivalent and the CEU which is defined as 10 contact hours in an organized continuing pharmacy education activity under responsible sponsorship, capable direction and qualified instruction.

(g) Record Keeping.

1. Records of single course offerings shall be maintained by the provider for inspection by the Board. The records shall be adequate to serve the needs of the participants and to permit the Board to monitor for adherence to the standards for continuing education offerings as outlined in the rules.

2. An individual certificate of attendance specifying title of offering, provider number, date of offering, and number of contact hours earned shall be furnished to each participant by the provider.

3. Records shall be maintained by the provider for a minimum of four (4) years from the date of the approval of the program.

(4) All programs issued an Accreditation Council for Pharmacy Education (ACPE) Universal Program number from an ACPE approved provider may be deemed approved by this Board for general continuing education hours for pharmacists.

(5) Approved providers shall pay a renewal fee of \$150 which shall run concurrent with the pharmacist licensure renewal period.

Specific Authority 465.005, 465.009 FS. Law Implemented 456.025(7), 465.009 FS. History--New 10-17-79, Amended 7-29-81, Formerly 21S-13.02, 21S-13.002, Amended 1-10-93, Formerly 21S-26.601, 61F10-26.601, 59X-26.601, Amended 1-29-03,

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 690-138.005
RULE TITLE: Examination of Insurers

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. 34, No. 40, October 3, 2008 issue of the Florida Administrative Weekly.

69O-138.005(4)

(4) Section 624.316(2)(e), Florida Statutes, allows the Office to conduct examinations of an insurer by contracting for ~~with the consent of the insurer utilizing~~ the services of an independent Certified Public Accountant, an actuary, ~~or~~ a reinsurance specialist, an investment specialist, information technology specialist, or any combination of these individuals, as the particular circumstances of the examination require. An examination performed pursuant to this subsection must meet the requirements of subsection (1).

(a) ~~For purposes of this subsection, An~~ an actuary meeting the criteria established in Rule 69O-138.043 or 69O-170.031, F.A.C., will qualify to conduct an examination under this subsection.

(b)1. ~~A~~ ~~For purposes of this subsection,~~ a reinsurance specialist shall be qualified to conduct an examination under this subsection if that contractor ~~person~~ can demonstrate competency by education and experience to perform such an examination. Competency by education and experience shall be demonstrated if any one of the following is true:

a. An individual qualifies as an actuary pursuant to either Rule 69O-138.043 or 69O-170.031, F.A.C., and has at least one year's experience with the kind of reinsurance which will be the subject of the examination.

b. An individual has a bachelor's degree from an accredited college or university and four years of professional experience in insurance/reinsurance accounting or in reinsurance transactions. A master's degree from an accredited college or university in accounting, insurance, or risk management can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

c. An individual is in good standing with the Society of Financial Examiners and is certified by that organization to be eligible to hold the title of Certified Financial Examiner.

2. In selecting a person as a reinsurance specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed. This consideration shall include the individual's experience with the kind of insurance which is the subject of the examination; knowledge of accounting principles, practices and procedures; ability to prepare financial statements to reflect the reinsurance transactions; ability to provide professional and technical assistance; understanding of risk transfer as defined in the NAIC Examiners Handbook and the NAIC Accounting Practices and Procedures and Annual Statement Instruction Manuals, as adopted in Rule 69O-137.001, F.A.C.; and the ability to

evaluate claims experience, both reported and incurred but not reported, relevant to the type of insurance which is the subject of the examination.

(c)1. An investment specialist shall be qualified to conduct an examination under this subsection if that contractor can demonstrate competency by education and experience to perform such an examination in that capacity. Competency by education and experience shall be demonstrated if any one of the following is true:

a. An individual has a bachelor's degree from an accredited college or university and four years of professional experience in the capacity for which the contractor is to perform. A master's degree from an accredited college or university in accounting, or finance can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

b. An individual is in good standing with the Society of Financial Examiners and is certified by that organization to be eligible to hold the title of Certified Financial Examiner.

2. In selecting a person as an investment specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed.

~~(e) Regardless of education or experience, no independent certified public accountant, or actuary, or reinsurance specialist shall be qualified to conduct examinations under this subsection if such person:~~

~~1. Has been found guilty of, or has pleaded guilty or nolo contendere to, any felony or crime punishable by imprisonment of one year or more under the law of the United States or any state thereof or under the law of any other country, which involves moral turpitude, without regard to whether a judgement of conviction has been entered by the court having jurisdiction in such case; or~~

~~2. Has been found to have violated the insurance laws of this state with respect to any previous reports submitted to this Office; or~~

~~3. Has failed to detect or disclose material information in previous reports filed with this Office or other state officials having jurisdiction or regulatory authority in insurance matters or another state; or~~

~~4. Has performed any work for a regulated entity who has had delinquency proceedings initiated against it within three years after said work was performed without adequate explanation to the Office of how such work was not related to the cause of the delinquency proceedings; or~~

~~5. Is prohibited under Section 624.310, Florida Statutes, from engaging in insurance related activities in this state.~~

(d)1. An information technology specialist shall be qualified to conduct an examination under this subsection if that contractor can demonstrate competency by education and experience to perform such an examination in that capacity.

Competency by education and experience shall be demonstrated if the individual has a bachelor's degree from an accredited college or university and four years of professional experience in the capacity for which the contractor is to perform. A master's degree from an accredited college or university in information technology or a similar field can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

2. In selecting a person as an information technology specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed.

(d) The agreement of the insurer to perform an examination under this subsection is not required if the Office reasonably suspects criminal misconduct on the part of the insurer.

(e) The firm selected by the office to perform the examination shall have no conflicts of interest that might affect its ability to independently perform its responsibilities on the examination.

(e)1. In the event that the Office and the insurer agree to conduct an examination utilizing the services of an independent Certified Public Accountant, an actuary, or a reinsurance specialist, or any combination of these, the Office shall submit a list of three firms in each of the specialties required by the particular circumstances of the examination to be performed (the term "firm" shall also include individuals) acceptable to the Office, from which the insurer shall select the firm or firms to conduct the examination.

2. The acceptability of a firm to the Office shall be determined based on consideration of the firm's professional competence, objectivity, and cost.

3. Consent of the insurer shall be demonstrated by written confirmation from an officer of that insurer which indicates agreement that an examination be performed by the firm, and acknowledgement that the firm is acceptable to the insurer.

4. All payments for an examination under this subsection shall be made directly to the firm in accordance with the rates and terms agreed to by the Office, the insurer, and the firm performing the examination.

(f) The rates charged to the insurer being examined under the contract shall be consistent with rates charged by other firms in a similar profession and shall be comparable with the rates charged for comparable examinations. The rates and terms shall be set forth in the contract.

(f) In the event that the examination is conducted without the consent of the insurer, pursuant to Section 624.316(2)(c), Florida Statutes, the insurer must pay all reasonable charges of the examining firm if the examination finds impairment, insolvency (as that term is defined in Section 631.011, Florida Statutes), or criminal misconduct on the part of the insurer. In the event that the examination is conducted without the consent

of the insurer and no impairment, insolvency, or criminal misconduct is found, then all reasonable charges of the examining firm shall be borne by the Office.

(g) Contractors may submit a curriculum vitae detailing their experience and qualifying credentials to the Office, as well as a proposed hourly rate for services to be performed. The acceptability of a contractor to the Office shall be determined based on consideration of the firm's professional competence, objectivity, and that the rates charged are consistent with rates charged by other firms in a similar profession, as referenced in subsection (4), above, providing comparable services, so as to protect the examined insurer from being overcharged for the examination. Once a contractor has been accepted by the Office, they will be placed on a list of eligible examination contractors.

(h) In selecting contractors to conduct a specific examination, the Office shall consider the contractor's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed. This consideration shall include the contractor's experience with the kind of insurance which is the subject of the examination.

(i) After a contractor has been selected for a specific examination the Office shall enter into a contract with the contractor, detailing the scope of work for the engagement. The contract shall include a provision that the contractor has no conflict of interest that might affect its ability to independently perform its responsibilities. The contractor shall submit all requests for payment to the Office in the manner prescribed by the contract.

(j) All requests for reimbursement of travel expenses are to be made on Form DFS-C1-500 (Rev. 07/08). This form is incorporated by reference and adopted by this rule for this purpose. It is available at <http://www.flor.com/DFS-C1-500.xls>.

(k) Upon receipt and review of the contractor's request for payment, the Office will invoice the insurer being examined and the insurer shall make payment to the Office pursuant to Sections 624.316(2)(e)3. and 624.320(2), Florida Statutes.

(l) Upon receipt of the payment from the insurer being examined, the Office will make payment to the contractor in accordance with the rates and terms set out in the completed Form OIR-A1-1976, Professional Services Agreement for Non Employee Examination.

(m) Forms OIR-A1-1976, Professional Services Agreement for Non Employee Examination (12-08); OIR-A1-1977, Scope of Services Addendum to Professional Services Agreement for Non Employee Examination (12-08); and OIR-A1-1978, Amendment to Scope of Services Addendum (12-08), are incorporated by reference and adopted herein as the contracts by which the contractors are retained. All forms referenced in this rule are available for viewing at the Officer's homepage at www.flor.com.

(5) Section 624.316(2)(f)1., Florida Statutes, requires the examination of a domestic insurer once each year for any domestic insurer that has continuously held a Certificate of Authority for less than 3 years. For purposes of an examination under this subsection, the 3 years shall constitute the time period from the date the Certificate of Authority is granted through the following 3 full calendar years in which the insurer has been licensed. The examination must cover the preceding fiscal year or the time period since the last examination. ~~An insurer may not be required to pay more than \$25,000 to cover the costs of any one examination under this subsection, nor may an independent certified public accountant's audited report be substituted for the required examination.~~

~~(6) Section 624.320, Florida Statutes, requires each insurer examined by the Office, pursuant to Section 624.316, Florida Statutes, to pay the Office for the expenses of that examination, subject to the cap imposed by Section 624.316(2)(f)1.e., Florida Statutes.~~

~~(7) Pursuant to Section 624.316(2)(f)2., Florida Statutes, the Office may extend the examination period to a maximum of once every 5 years. If an insurer petitions the Office, prior to November 1 of the year preceding the year in which the examination is due, to extend an examination from a 3 year time period to 5 years, the Office will grant such an extension if the insurer affirmatively demonstrates the following: that the insurer has continuously held a Certificate of Authority without a change in ownership subject to Section 624.4245 or 628.461, Florida Statutes, for more than 15 years, and has demonstrated sufficient compliance, pursuant to Section 624.316(2)(f)3., Florida Statutes, for each of the years since the last examination. Petitions shall be directed to Property and Casualty Financial Oversight or Life and Health Financial Oversight, as appropriate for that insurer. An extension granted as a result of a petition to the Office will be effective for that examination period only and will have no effect on the schedule of subsequent examinations. Extensions granted shall not be construed as a waiver of the Office's authority under Section 624.316, Florida Statutes, to conduct specific target examinations as often as the Office determines is reasonable under the facts and circumstances of a particular insurer's situation.~~

Specific Authority 624.308(1), 624.316(2) FS. Law Implemented 624.307(1), 624.316, 624.3161, 624.320, 624.321(1), 624.424 FS. History--New 6-9-93, Amended 11-23-94, 4-4-99, Formerly 4-138.005, Amended _____.

The remainder of the rule reads as previously published.

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."

DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER09-6
RULE TITLE: Instant Game Number 1006, \$250,000 SPIN

SUMMARY: This emergency rule describes Instant Game Number 1006, "\$250,000 SPIN," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER09-6 Instant Game Number 1006, \$250,000 SPIN.

(1) Name of Game. Instant Game Number 1006, "\$250,000 SPIN."

(2) Price. \$250,000 SPIN lottery tickets sell for \$5.00 per ticket.

(3) \$250,000 SPIN lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning \$250,000 SPIN lottery ticket, the ticket must meet the applicable requirements of Rule 53ER08-89, F.A.C.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30

(5) The "WHEEL NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30