

~~(2) No peninsular cooter (Chrysemys floridana peninsularis), Florida red-bellied turtle (Chrysemys nelsoni), Florida snapping turtle (Chelydra oseeola), or Florida soft-shelled turtle (Trionyx ferox) having a carapace length less than eight inches may be taken or sold.~~

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

~~(4)(5)~~ Commercial gear specifications and restrictions:

(a) Haul seines:

1. through 4. No change.

5. Closed areas:

a. Haul seines shall not be used or operated in Pelican Bay; in Fisheating Creek Bay north and west of a line from the weather beacon approximately one mile east of the north end of Observation Shoal (designated R "2" on National Oceanic and Atmospheric Administration, National Ocean Survey chart #11428, edition 16) to the westernmost point of Horse Island; that area north and west of a line from the white navigation light at latitude 27 degrees 5 minutes north, longitude 80 degrees 47 minutes west (designated FL 4 sec. 27 ft. 5M on National Oceanic and Atmospheric Administration, National Ocean Survey chart #11428, edition 16) to Henry Creek Lock; that area south of a line connecting the northernmost point of Kreamer Island to the northernmost point of Ritta Island; or in any rim canal, river mouth, channel, within that area shoreward of the boundary delineated by the commercial fishing boundary buoys, or within one statute mile of any rooted, emergent aquatic vegetation. Latitude and longitude coordinates shall be established to further describe boundary lines as defined in this section. Latitude and longitude coordinates so established shall be incorporated in the permit issued pursuant to subsection (3) of this section 68A-23.012(4), F.A.C.

b. through (d) No change.

(6) through (8) renumbered (5) through (7) No change.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3635, 379.377 FS. History--New 8-1-79, Amended 11-8-79, 5-19-80, 6-22-80, 6-15-81, 6-21-82, 12-14-82, 7-1-84, 7-1-85, 9-19-85, Formerly 39-23.12, Amended 6-1-86, 2-21-88, 4-4-91, 4-15-92, 7-1-97, 7-1-98, Formerly 39-23.012, Amended _____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 22, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.:

RULE TITLE:

9B-13.0071

Cost Effectiveness of Amendments to Energy Code

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. 19, May 15, 2009 issue of the Florida Administrative Weekly.

Change to reference document consisting of amendments to clarify how the cost effective test should be conducted by providing for specific methods and formulas; amendment relating to Internal Rate of Return (IRR) for commercial applications; and editorial corrections as appropriate. The reference document as amended is available on the Florida Building Commission's website at www.floridabuilding.org.

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."

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NO.:

RULE TITLE:

18-21.021

Applications for Aquacultural Activities

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. 12, March 27, 2009 and Notice of Change published in Vol. 35, No. 24, June 19, 2009 issue of the Florida Administrative Weekly.

18-21.021 Applications for Aquacultural Activities.

(1)(s) All leases are renewable, modifiable, and assignable, subject to Board approval and compliance with the terms of subparagraph 18-21.008(1)(b)3., F.A.C. Requests to renew leases shall be made on the Application Affidavit to Renew an Aquaculture Lease (DACS 15127, Rev. ~~06/09~~ 02/09). Applications to sublease shall be made on the Application for Sublease of Sovereignty Submerged Land Aquaculture Lease (DACS 15114, Rev. 02/09). Applications for transferring leases shall be made on Assignment and Assumption of Lease (DACS 15113, Rev. 02/09). The applications listed in this paragraph are hereby adopted and incorporated by reference and may be obtained on the Internet at <http://www.floridaaquaculture.com> or by writing to the Division of Aquaculture, 1203 Governor’s Square Boulevard, Fifth Floor, Tallahassee, Florida 32301.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.020
 RULE TITLE: Payment Methodology for Inpatient Hospital Services

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 15, April 17, 2009 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.030
 RULE TITLE: Payment Methodology for Outpatient Hospital Services

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 15, April 17, 2009 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.090
 RULE TITLE: Payment Methodology for County Health Departments

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 15, April 17, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE NO.: 61G18-30.001
 RULE TITLE: Disciplinary Guidelines

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. 3, of the January 23, 2009, 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:

61G18-30.001 Disciplinary Guidelines.

(1) When the Board finds an applicant or licensee whom it regulates under Chapter 474, F.S., has committed any of the acts set forth in Section 474.213(1), F.S., which are felonies of the third degree as well as violations of the Practice act, it shall issue a final order imposing appropriate penalties, using the following disciplinary guidelines.

(a) Practicing veterinary medicine in this State unless a person holds an active license to practice veterinary medicine pursuant to Chapter 474, F.S.

In the case of an applicant, the usual action of the Board shall be to request the Department issue a Cease and Desist Order, which will remain in effect until licensure is granted, plus an administrative fine ~~from~~ ~~of~~ three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) and, upon eligibility for licensure, imposition of up to a one (1) year probationary period.

In the case of a non-licensed veterinarian practicing veterinary medicine in the State of Florida the Board shall request that the Department issue a Cease and Desist Order and an administrative fine ~~from~~ ~~of~~ three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) plus one (1) year's probation if the subject should become licensed in the State of Florida.

In the case of a non-veterinarian practicing veterinary medicine in the State of Florida the Board shall request that the Department issue a Cease and Desist Order and impose an administrative fine ~~from~~ ~~of~~ three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) for each count.

In the case of an applicant, the usual action of the Board shall be to request that the Department issue a Cease and Desist Order, which shall remain in effect until licensure is granted, and an administrative fine of ~~a~~ one thousand dollars (\$1,000.00) and, upon issuance of a license, imposition of ~~a~~ one (1) year probationary period.

The usual action of the Board shall be to request that the Department issue a Cease and Desist Order, and an administrative fine of five thousand dollars (\$5,000.00) and, upon issuance of licensure, imposition of ~~a~~ one (1) year probationary period.

In the case of an applicant, the usual action of the Board shall be denial of licensure. The usual action of the Board in the case of a licensee for a first offense shall be to impose a penalty of an administrative fine of three thousand dollars (\$3,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of an administrative fine of five thousand dollars (\$5,000.00) ~~administrative fine~~ and revocation of any license obtained based on false or forged evidence.

In the case of an applicant, the usual action shall be denial of licensure and to request the Department issue a Cease and Desist Order. The usual action of the Board in the case of a licensee shall be to impose revocation if the subject's license has been suspended and an administrative fine of five thousand dollars (\$5,000.00).

(b) Using the name or title "veterinarian" when the person has not been licensed pursuant to Chapter 474, F.S.

(c) Presenting as one's own license the license of another.

(d) Giving false or forged evidence to the Board, or a member thereof, for the purpose of obtaining a license.

(e) Using or attempting to use a veterinarian's license which has been suspended or revoked.

(f) Knowingly employing unlicensed persons in the practice of veterinary medicine.

The usual action of the Board shall be to impose a penalty of up to one (1) year probation and a ~~an administrative fine of three thousand dollars (\$3,000.00) administrative fine.~~ For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year suspension, followed by up to two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00).

(g) Knowingly concealing information relative to a violation of Chapter 474, F.S.

The usual action of the Board shall be to impose a penalty of six (6) months probation and an administrative fine of one thousand dollars (\$1,000.00) ~~administrative fine.~~ For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year probation and an administrative fine of three thousand dollars (\$3,000.00).

(h) Obtaining or attempting to obtain a license by fraud.

Revocation or denial of licensure plus an administrative fine of five thousand dollars (\$5,000.00).

(i) Selling or offering to sell a diploma conferring a degree in veterinary medicine or a license to practice veterinary medicine in this state.

An administrative fine of five thousand dollars (\$5,000.00) and revocation.

(j) Leading the public to believe that the person is licensed as a veterinarian or is engaged in the licensed practice of veterinary medicine without a valid active license.

In the case of an applicant, the usual action of the Board shall be to request the Department issue a Cease and Desist Order, which will remain in effect until licensure is granted, plus an administrative fine of two thousand dollars (\$2,000.00) and, upon eligibility for licensure, imposition of ~~a one (1) year probationary period.~~

In the case of a non-licensed veterinarian the Board shall request that the Department issue a Cease and Desist Order and an administrative fine of two thousand dollars (\$2,000.00) plus one (1) year's probation if the subject should become licensed in the State of Florida.

In the case of a non-veterinarian the Board shall request that the Department issue a Cease and Desist Order and an administrative fine of two thousand dollars (\$2,000.00) for each count.

(k) Knowingly operating a veterinary establishment or premises without a valid premise permit.

The usual action of the Board shall be an administrative fine of two thousand dollars (\$2,000.00). The Board shall also require that a premise permit be obtained or request the Department to issue a Cease and Desist Order.

(2) When the Board finds an applicant, licensee, or permittee whom it regulates under Chapter 474, F.S., has committed any of the acts set forth in Section 474.214(1), F.S., it shall issue a Final Order imposing appropriate penalties which are set forth in Section 474.214(2), F.S., using the following disciplinary guidelines:

(a) Attempting to procure, or procuring, a license to practice veterinary medicine or a permit to own and operate a veterinary establishment, by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board.

(b) Having a license to practice veterinary medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of an adjudication, of a crime in any jurisdiction which directly relates to the practice of veterinary medicine or the ability to practice veterinary medicine.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed veterinarian.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

In the case of an applicant, the usual action of the Board shall be denial of licensure or permit. The usual action of the Board in the case of a licensee or permittee shall be to impose a penalty of revocation and an administrative fine from a three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) administrative fine.

The usual action of the Board will be a penalty generally concurrent with that of the other jurisdiction with the addition of appropriate safeguards as determined by the Board.

In the case of an applicant, the usual action of the Board shall be denial of licensure. The usual action of the Board in the case of a licensee or permittee shall be to impose a penalty ranging from an administrative fine of a two thousand dollars (\$2,000.00) and up to one (1) year probation to an administrative fine of five thousand dollars (\$5,000.00) and revocation. For a second offense, the usual action of the Board shall be to impose a penalty ranging from an administrative fine of five thousand dollars (\$5,000.00) and up to two (2) years suspension followed by up to two (2) years probation to an administrative fine of five thousand dollars (\$5,000.00) to revocation. ~~administrative fine and suspension followed by probation up to revocation.~~

The usual action of the Board shall be to impose a penalty of a one (1) year suspension followed by one (1) year probation for a period of one (1) year and an administrative fine from a three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) per count or violation. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of a two (2) year suspension followed by two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00) to revocation.

In the case of violations, which are not resolved by the Board's rule concerning minor violations, the usual action of the Board shall be to impose an administrative fine of one thousand dollars (\$1,000.00). administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of two (2) years probation and an administrative fine of two thousand dollars (\$2,000.00) for each count.

(f) Violating a statute or administrative rule regulating practice under this chapter or Chapter 455, F.S., or a lawful disciplinary order or subpoena of the Board or the Department.

The usual action of the Board shall be to impose a penalty ranging from a reprimand and an administrative fine of two thousand dollars (\$2,000.00) of one year probation and a administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose up to two (2) years suspension followed by two (2) years probation an administrative fine of five thousand dollars (\$5,000.00).

In the case of a subpoena or disciplinary order, the usual action shall be to impose a penalty ranging from up to two (2) years suspension followed by up to two (2) years probation period of and an administrative fine of four thousand dollars (\$4,000.00) administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty ranging from up to three (3) years suspension followed by up to three (3) years probation to revocation and an administrative fine of five thousand dollars (\$5,000.00).

(g) Practicing with a revoked, suspended, or inactive license.

The usual action of the Board shall be to impose a penalty consistent with paragraph (1)(a) above. In the case of a licensed veterinarian being found late in payment of renewal fees, the veterinarian shall have thirty days from receipt of official notice from the Department of Business and Professional Regulation to become current in payment of fees to the Department and pay an administrative fine of five hundred dollars (\$500.00). If the delinquent veterinarian does not respond to the Department within the above mentioned thirty days, the Board shall request that the Department issue a Cease and Desist Order, which shall remain in effect until license renewal fees and an administrative fine of one thousand dollars (\$1,000.00) are paid.

The usual action of the Board shall be to impose a penalty of suspension until such time as the licensee demonstrates rehabilitation followed by probation under such terms and conditions as set by the Board. If the individual is an applicant, the usual action shall be to deny the application.

The usual action of the Board shall be to impose a penalty of suspension or denial of licensure until there is a legal restoration of the licensee's competency to be followed by probation under such terms and conditions as set by the Board.

(h) Being unable to practice veterinary medicine with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition.

(i) Judicial determination of mental incompetency.

The usual action of the Board shall be to impose a penalty of an administrative fine of three ~~a two~~ thousand dollars (\$3,000.00) and one (1) year probation.

For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of an administrative fine of five thousand dollars (\$5,000.00) and up to two (2) years administrative fine to be followed by probation.

(j) Knowingly maintaining a professional connection or association with any person who is in violation of the provisions of Chapter 474, F.S., or the rules of the Board.

(k) Paying or receiving kickbacks, rebates, bonuses, or other remuneration for receiving a patient or client or for referring a patient or client to another provider of veterinary services or goods.

The usual action of the Board for those violations not disposed of by the Board's rule concerning minor violations shall be to impose a penalty of a one (1) year probation and an administrative fine of one thousand dollars (\$1,000.00) administrative fine for each count. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of two (2) years probation and an administrative fine of two thousand dollars (\$2,000.00) for each count.

In construing this rule, the Board shall deem that a referral to an entity with which the veterinarian has a contractual relationship, for the sale of non-veterinary, non-medical pet food or pet supplies, does not constitute a kickback, so long as the client is aware of the relationship.

(l) Performing or prescribing unnecessary or unauthorized treatment.

The usual action of the Board shall be to impose a penalty ranging from a reprimand to a one (1) year probationary and an administrative fine up to period with a two thousand dollars (\$2,000.00). administrative fine For a second or subsequent offense, the usual action of the Board shall be to impose a penalty ranging from a reprimand to two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00).

(m) Engaging in fraud in the collection of fees from consumers or any person, agency, or organization paying fees to practitioners.

The usual action of the Board shall be to impose a penalty of up to two (2) years a suspension followed by one (1) year probation for a period of one (1) year and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose two (2) years suspension followed by two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00).

(n) Attempting to restrict competition in the field of veterinary medicine other than for the protection of the public.

The usual action of the Board shall be to impose a penalty of one (1) year probation for a period of one (1) year and an administrative fine of two thousand dollars (\$2,000.00) For a second or subsequent offense, administrative fine and revocation of the veterinarian's license to practice in the State of Florida if this violation is repeated

(o) Fraud, deceit, negligence, incompetency, or misconduct in the practice of veterinary medicine.

The usual action of the Board shall be to impose a penalty ranging from one (1) year probation for a period of one (1) year and an administrative fine from two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00). For a second or subsequent offense, an administrative fine of five thousand dollars (\$5,000.00) and to revocation of the veterinarian's license to practice in the State of Florida.

(p) Being convicted of a charge of cruelty to animals.

The usual action of the Board shall be to impose a penalty ranging from up to two (2) years of suspension followed by up to two (2) years probation for a period of one (1) year and an administrative fine of four thousand dollars (\$4,000.00) administrative fine. For a second or subsequent offense, an administrative fine of five thousand dollars (\$5,000.00) and revocation.

- (q) Permitting or allowing another to use a veterinarian's license for the purpose of treating or offering to treat sick, injured, or afflicted animals. The usual action of the Board shall be to impose a penalty of ~~a~~ up to one (1) year suspension followed by up to one (1) year probation and an administrative fine of a three thousand dollars (\$3,000.00).
For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to two (2) years suspension followed by up to two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00) administrative fine followed by probation for a period of one (1) year.
- (r) Being guilty of incompetence or negligence by failing to practice veterinary medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent veterinarian as being acceptable under similar conditions and circumstances. The usual action of the Board shall be to impose a penalty of one (1) year probation for a period of one (1) year and an administrative fine from a two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00) administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year suspension followed by two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00)
- (s) Willfully making any misrepresentations in connection with the inspection of food for human consumption. The usual action of the Board shall be to impose a penalty of up to one (1) year a suspension followed by one (1) year probation for a period of one (1) year and an administrative fine of four thousand dollars (\$4,000.00) administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to two (2) years suspension followed by two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00).
- (t) Fraudulently issuing or using any false health certificate, vaccination certificate, test chart, or other blank form used in the practice of veterinary medicine relating to the presence or absence of animal diseases or transporting animals or issuing any false certificate relating to the sale of products of animal origin for human consumption. The usual action of the Board shall be to impose a penalty of ranging from up to one (1) year a suspension followed by one (1) year probation for a period of up to one year to an administrative fine of three thousand dollars (\$3,000.00) and revocation administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of an administrative fine of five thousand dollars (\$5,000.00) and revocation.
- (u) Engaging in fraud or dishonesty in applying, treating, or reporting on tuberculin, diagnostic, or other biological tests. The usual action of the Board shall be to impose a penalty of ranging from up to one (1) year a suspension for a period of up to one (1) year followed by one (1) year probation for to revocation a period of one (1) year and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00) administrative fine. For a second or subsequent offense, the usual action of the Board shall be to impose an administrative fine of five thousand dollars (\$5,000.00) and revocation.
- (v) Failing to keep the equipment and premises of the business establishment in a clean and sanitary condition or having a premise permit suspended or revoked pursuant to Section 474.215, F.S. The usual action of the Board shall be to suspend the premise permit until compliance with requirements followed by up to one (1) year probation and an administrative fine from impose a penalty of a one thousand dollars (\$1,000.00) to five

(w) Practicing veterinary medicine at a location for which a valid premise permit has not been issued when required under Section 474.215, F.S.

(x) Refusing to permit the Department to inspect the business premises of the licensee during regular business hours.

(y) Using the privilege of ordering, prescribing, or making available medicinal drugs or drugs defined in Chapter 465, F.S., or controlled substances as defined in Chapter 893, F.S., for use other than for the specific treatment of animal patients for which there is a documented veterinarian/client/patient relationship. Pursuant thereto, the veterinarian shall:

1. Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and the caring of the animal and has recent contact with the animal or has made medically appropriate and timely visits to the premises where the animal is kept.
2. Be available to provide for follow up care and treatment in case of adverse reactions or failure of the regimen of therapy.

thousand dollars (\$5,000.00).

For a second or subsequent offense, the usual action of the Board shall be to suspend the premise permit until compliance with requirements followed by up to three (3) years probation to revocation and an administrative fine of five thousand dollars (\$5,000.00).
~~administrative fine and restriction against the premises being reopened until the requirements are met.~~

The usual action of the Board shall be to impose an administrative fine of ~~a~~ one thousand dollars (\$1,000.00) ~~penalty~~ ~~administrative fine~~ and to require remedial education. The Board shall also require that a premise permit be obtained or the Department shall be requested to issue a Cease and Desist Order. For a second or subsequent offense, the usual action of the Board shall be to impose an administrative fine of three thousand dollars (\$3,000.00).

The usual action of the Board shall be to impose a penalty of an administrative fine of two thousand dollars (\$2,000.00) ~~administrative fine~~, unless circumstances legally justify such action by the veterinarian and/or request that the Department issue a Cease and Desist Order.
For a second or subsequent offense, the usual action of the Board shall be to impose an administrative fine of five thousand dollars (\$5,000.00).

For violations involving medicinal drugs or drugs defined in Chapter 465 F.S., the usual action of the Board shall be to impose a penalty ranging from a reprimand up to one (1) year suspension followed by one (1) year probation ~~for a period of one (1) year~~ and an administrative fine from two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00) ~~administrative fine~~. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to two (2) years suspension followed by two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00). For violations involving controlled substances as defined in Ch. 893, F.S., the usual action of the Board shall be to impose a penalty two (2) year ~~of~~ suspension to revocation ~~or revocation~~ and an administrative fine of four thousand dollar (\$4,000.00) ~~administrative fine~~. For a second or subsequent offense, the usual action of the Board shall be to impose an administrative fine of five thousand dollars (\$5,000.00) and revocation.

3. Maintain records which document patient visits, diagnosis, treatment, and other relevant information required under this Chapter. The documented patient/client/veterinarian relationship cited in Section 474.214, F.S. is herein defined as a veterinarian's record of a client's animal which documents that the veterinarian has seen the animal in a professional capacity within a period of 12 months or less.

(z) Providing, prescribing, ordering, or making available for human use medicinal drugs or drugs as defined in Chapter 465, F.S., controlled substances as defined in Chapter 893, F.S., or any material, chemical, or substance used exclusively for animal treatment.

(aa) Failing to report to the Department any person the licensee knows to be in violation of Chapter 474, F.S., or the rules of the Board or Department.

(bb) Violating any of the requirements of Chapter 499, F.S., the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 seq., the Comprehensive Drug Abuse Prevention and Control Act of 197, more commonly known as the Federal Drug Abuse Act; or Chapter 893, F.S.

(cc) Failing to provide adequate radiation safeguards.

(dd) Failing to perform any statutory or legal obligation placed upon a licensee.

For violations involving medicinal drugs or drugs defined in Chapter 465, F.S. the usual action of the Board shall be to impose a penalty of ~~a~~ up to two (2) years suspension for a period of followed by two (2) ~~one (1)~~ years probation and an administrative fine from two thousand dollars (\$2,000.00) administrative fine to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of three (3) years suspension followed by three (3) years probation up to an administrative fine of five thousand dollars (\$5,000.00) and revocation. For violations involving controlled substances as defined in Chapter 893, F.S. the usual penalty will be revocation and an administrative fine up to five thousand dollars (\$5,000.00).

The usual action of the Board shall be issuance of a reprimand and an administrative fine of ~~five hundred dollars (\$500.00).~~ up to one thousand dollars (\$1,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year probation and an administrative fine up to three thousand dollars (\$3,000.00).

The usual action of the Board shall be to impose a penalty of up to two (2) years probation for a period of one year and an administrative fine ~~from~~ of two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be up to two (2) years suspension followed by three (3) years probation and an administrative fine of five thousand dollars (\$5,000.00).

The usual action of the Board shall be issuance of a reprimand plus the violator must pay cost of investigation and provide proof of compliance with the rule.

The usual action of the Board shall be a penalty ranging from the issuance of a reprimand; and an administrative fine of one thousand dollars (\$1,000.00) up to revocation and an administrative fine of up to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of a reprimand to revocation and an administrative fine of five thousand dollars (\$5,000.00).

(ee) Failing to keep contemporaneously written medical records as required by rule of the Board.

The usual action of the Board shall be issuance of a reprimand ~~plus six (6) months~~ and up to one (1) year probation, and an administrative fine of up to two thousand dollars (\$2,000.00). For a second or subsequent offense, the usual action of the Board shall be a penalty of two (2) years probation and an administrative fine of five thousand dollars (\$5,000.00), ~~one thousand five hundred dollars (\$1,500.00) and investigative costs.~~

(ff) Prescribing or dispensing legend drug as defined in Chapter 465, F.S., including any controlled substance, inappropriately or in excessive or inappropriate quantities.

The usual action of the Board shall be to impose a penalty of ~~an administrative fine from a two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00) administrative fine~~ and up to two (2) years probation ~~two (2) for a period of up to one years.~~ For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year suspension (1) followed by three (3) years probation and an administrative fine of five thousand dollars (\$5,000.00).

(gg) Practicing or offering to practice beyond the scope permitted by law.

The usual action of the Board shall be issuance of a reprimand up to one (1) year ~~plus six (6) months~~ probation, and an administrative a fine ~~from~~ of one thousand dollars (\$1,000.00) to three thousand dollars (\$3,000.00) and investigative costs. For a second or subsequent offense, the usual action of the Board shall be two (2) years probation and an administrative fine of up to five thousand dollars (\$5,000.00).

(hh) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or license to perform them.

The usual action of the Board shall be to impose a penalty of ~~an administrative fine from a one thousand five hundred dollars (\$1,500.00) to three thousand dollars (\$3,000.00) and administrative fine plus six (6) months~~ up to one (1) year probation and investigative costs. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to one (1) year suspension followed by up to two (2) years probation to revocation and an administrative fine of five thousand dollars (\$5,000.00).

(ii) Presigning blank prescription forms.

The usual action of the Board shall be to impose a penalty ranging from up to one (1) year suspension of the veterinarian's license followed by up to one (1) year probation to revocation and ~~for a period of up to one (1) year~~ an administrative fine of up to two thousand dollars (\$2,000.00) and ~~probation for one year plus~~ investigative costs. For a second or subsequent offense, the usual action of the Board shall be to impose a penalty ranging from up to two (2) years suspension followed by up to two (2) years probation to revocation and an administrative fine up to five thousand dollars (\$5,000.00).

(jj) Failing to report to the Board within 30 days, in writing, any action set forth in paragraph (b) that has been taken against the practitioner's

The usual action of the Board shall be the issuance of a reprimand and an administrative fine ~~from~~ of one thousand dollars (\$1,000.00); ~~to three thousand~~

license to practice veterinary medicine by any jurisdiction, including any agency or subdivision thereof.

(kk) Aiding or assisting another person in violating any provision of this chapter or any rule adopted pursuant thereto.

(ll) Failing to respond within sixty (60) days after receipt of a request to provide satisfactory proof of having satisfactory proof of having participated in approved continuing education programs.

(mm) Failing to maintain accurate records or reports as required by this chapter or by federal or state laws or rules pertaining to the storing, labeling, selling, dispensing, prescribing, and administering of controlled substances.

(nn) Failing to report a change of address to the Board within sixty (60) days thereof.

(oo) Failure of the responsible veterinarian or permittee to report a change of premises ownership or responsible veterinarian within sixty (60) days thereof.

(pp) Failing to give the owner of a patient, before dispensing any drug, a written prescription when requested.

dollars (\$3,000.00). For a second or subsequent offense, the usual action of the Board shall be the issuance of a reprimand and an administrative fine of five thousand dollars (\$5,000.00).

The usual action of the Board shall be to impose a penalty of from one (1) to three (3) years probation and an administrative fine from one thousand dollars (\$1,000.00) to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to two (2) years suspension followed by up to three (3) years probation to revocation and an administrative fine of up to five thousand dollars (\$5,000.00).

The usual action of the Board shall be suspension until the Board receives acceptable response to the request ~~plus~~ and an administrative fine from one thousand dollars (\$1,000.00) to five thousand dollars (\$5,000.00) ~~of five hundred (\$500.00) and investigative costs.~~ For a second or subsequent offense, the usual action of the Board shall be suspension until the Board receives an acceptable response to the request and an administrative fine of five thousand dollars (\$5,000.00).

The usual action of the Board shall be an administrative fine from one thousand five hundred dollars (\$1,500.00) to five thousand dollars (\$5,000.00) and up to two (2) years probation. For a second or subsequent offense, the usual action of the Board shall be up to three (3) years probation and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00).

The usual action of the Board shall be an administrative fine of one thousand dollars (\$1,000.00). ~~five hundred dollars (\$500.00).~~ For a second or subsequent offense, the usual action of the Board shall be an administrative fine of three thousand dollars (\$3,000.00).

The usual action of the Board shall be an administrative fine of one thousand dollars (\$1,000.00) ~~five hundred dollars (\$500.00).~~ For a second or subsequent offense, the usual action of the Board shall be an administrative fine of three thousand dollars (\$3,000.00).

The usual action of the Board shall be an administrative fine of ~~two one~~ thousand dollars (\$2,000.00). For a second or subsequent offense, the usual action of the Board shall be an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00).

(3) When the Board finds an applicant, licensee, or permittee whom it regulates under Chapter 474, F.S., has committed any of the acts set forth in Section 455.227(1), F.S., it will issue a Final Order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

(a) Misleading, deceptive, untrue, or fraudulent representations in the practice of veterinary medicine.

The usual action of the Board will be to impose a penalty ranging from up one (1) year suspension followed by one (1) year probation and a an administrative fine of up to two thousand dollars (\$2,000.00) administrative fine to revocation and an administrative fine of up to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be a penalty of up to two (2) years suspension followed by up to two (2) years probation to revocation and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00).

(b) Intentionally violating any rule adopted by the Board or the Department.

The usual action of the Board will be to impose a penalty ranging from the issuance of a reprimand and an administrative fine of from a two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00) to revocation and an administrative fine of up to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be a penalty ranging from up to one (1) year probation to revocation and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00).

(c) Being convicted of a felony which relates to the practice of veterinary medicine.

The usual action of the Board will be revocation and an administrative fine of up to five thousand dollars (\$5,000.00).

(d) Being adjudicated mentally incompetent.

The usual action of the Board will be consistent with paragraph (2)(j) above.

(e) The license has been obtained by fraud or material misrepresentation of a material fact.

The usual action of the Board will be revocation of the license and an administrative fine of up to five four thousand dollars (\$5,000.00) (\$4,000.00).

(f) Use of a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules promulgated pursuant to Section 501.122(2), F.S., governing the registration of such devices with the Department of Health and Rehabilitation.

The usual action of the Board will be an administrative fine of up to three one thousand dollars (\$3,000.00). For a second or subsequent offense, the usual action of the Board shall be an administrative fine of five thousand dollars (\$5,000.00).

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complain with the Department against another licensee.

The usual action of the Board will be to impose a penalty ranging from the issuance of a reprimand up to two (2) years suspension followed by up to two (2) years probation and an administrative fine from of two thousand dollars (\$2,000.00) to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty of up to three (3) years suspension followed by up to three (3) years probation to revocation and an administrative fine from three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00).

(h) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(i) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(4) through (7) No change.

Specific Authority 455.2273(1), 474.206 FS. Law Implemented 455.2273, 455.2281, 474.213, 474.214 FS. History—New 12-8-86, Amended 5-27-91, Formerly 21X-30.001, Amended 8-18-94, 5-13-96, 2-18-01, 7-20-03, 7-30-06,_____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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 Massage Therapy

RULE NO.: 64B7-25.001
 RULE TITLE: Examination Requirements
 NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 48, of the November 30, 2007 and Notice of Change published in Vol. 34, No. 19, of the May 9, 2008, issue of the Florida Administrative Weekly. The change is in response to the hearing held on July 25, 2008. The change is as follows:

(2) The Board approves the following examinations: National Certification Board for Therapeutic Massage and Bodywork Examination until May 1, 2009. The Board approves the Massage and Bodywork Licensing Examination

The usual action of the Board will be to impose a penalty ranging from up to two (2) years suspension followed by up to two (2) years ~~one (1) year~~ probation and ~~payment of an~~ administrative fine of up to three thousand dollars (\$3,000.00) to revocation and an administrative fine of up to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be to impose a penalty ranging from up to three (3) years suspension followed by three (3) years probation to revocation and an administrative fine of five thousand dollars (\$5,000.00).

The usual action of the Board will be up to two (2) years suspension followed by up to two (2) years probation and an administrative fine from ~~of~~ three thousand dollars (\$3,000.00) to five thousand dollars (\$5,000.00). For a second or subsequent offense, the usual action of the Board shall be up to three (3) years suspension followed by up to three (3) years probation to revocation and an administrative fine of five thousand dollars (\$5,000.00).

~~administered by the Federation of State Massage Therapy Boards as of August 1, 2008. Only those examination results obtained during periods of Board approval will be accepted for licensure by examination.~~

(a) National Certification Board for Therapeutic Massage and Bodywork Examination;

(b) National Certification Examination for Therapeutic Massage;

(c) National Exam for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork;

(d) The Massage and Bodywork Licensing Examination administered by the Federation of State Massage Therapy Boards.

Rulemaking Specific Authority 456.013(7), 456.017(1)(c), 456.034, 480.035(7), 480.041(2), 480.042(1) FS. Law Implemented 456.013(7), 456.017(1)(c), 456.034, 480.041, 480.042 FS. History—New 11-27-79, Amended 9-2-80, 10-9-85, Formerly 21L-25.01, Amended 12-22-92, 3-24-93, 5-20-93, Formerly 21L-25.001, Amended 8-12-93, 6-28-94, 8-18-96, Formerly 61G11-25.001, Amended 5-20-98, 7-30-02, 3-31-08,_____.

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

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-6.001
 RULE TITLE: Continuing Education Requirement

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 16, April 24, 2009 issue of the Florida Administrative Weekly.

Although the rule notice stated that a Statement of Estimated Regulatory Costs (SERC) had been prepared and was available, the notice did not summarize the SERC. The following is a Summary of the Statement of Estimated Regulatory Costs:

1. The only costs to be incurred are rule making costs.
2. No transactional costs are expected to be incurred by applicants or other entities by the proposed modifications.
3. The proposed change may affect providers who offer the BLS course; however, there are other health care professionals that take the Basic Life Support course and use it as continuing education.
4. The Board has decided that competency in delivery of respiratory care services is enhanced by continuous updating of knowledge skill.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Substance Abuse Program

RULE NO.: 65D-31.003
 RULE TITLE: Managing Entity Qualifications
 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. 14, April 10, 2009 issue of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

- 65D-31.003 Managing Entity Qualifications.
- (1) through (4) No change.
 - (5) Board members must be representative residents of the geographic area in which the managing entity operates.

Rulemaking Authority 394.9082 (10) FS. Law Implemented 394.9082 FS. History—New_____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Substance Abuse Program

RULE NO.: 65D-31.004
 RULE TITLE: Functions of Managing Entities

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. 14, April 10, 2009 issue of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

65D-31.004 Functions of Managing Entities.

(1) System of care development and management.
Managing entities must:

(a) Require ~~must ensure that~~ substance abuse and mental health services within their respective geographic areas to be coordinated and developed into an integrated network of assessable services which are ~~and is~~ responsive to the needs of persons in need of service and their families.

(b) Require ~~must ensure~~ substance abuse and mental health services to be ~~are~~ responsive to the needs of the community and community stakeholders including the courts, community agencies, law enforcement, child welfare agencies and others who are reliant on mental health and substance abuse services as essential to their success.

(c) Require the ~~must ensure~~ application of evidence-based practices by network providers through contracting requirements, program development and design, and the provision of training, technical assistance, and quality improvement activities.

(d) Develop effective and formal mechanisms for care management, continuity of care, least restrictive placement, and service coordination.

(e) through (2) (a) No change.

(b) The managing entity is required to contract only with agencies which ~~when contracting with providers are to ensure that agencies~~ are qualified and capable of providing quality client services. The managing entity will develop policies, procedures, and practices that require ~~assure that~~ network providers to comply ~~are complying~~ with applicable laws, rules, regulations, and contract requirements.

(c) The managing entity must require that, within available resources, ~~ensure that, within available resources,~~ a comprehensive system of care is available within their respective geographic area which ~~that~~ is accessible, co-occurring competent, and consists of a range of services that is responsive to the needs of persons receiving services and is responsive to the needs of the community.

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

(f) Achieving efficiencies by the consolidation of provider operational functions. Examples include, but are not limited to, including, but not limited to, data collection and analysis, administrative efficiencies, and group purchasing.

(g) Reinvesting funds gained by efficiencies into the system of care after achieving departmentally approved reserves and necessary infrastructure development.

(4)(a) through (c) 2. a. No change.

b. The Department will establish plan requirements and timeframes for the submission of the annual business or operational plan.

c. through e. No change.

(5) Data Collection, Analysis, and Reporting.

(a) The Department, in collaboration with the managing entities shall design and implement a comprehensive behavioral health management information system to meet the minimum reporting requirements at the federal, state and local levels as follows. Each managing entity shall develop and maintain a database system, including data from agencies under contract with the managing entity. At the minimum, the managing entity's database system shall provide information needed not only by the managing entity to address the management and clinical care needs of the local provider networks, but also by the department to meet the state and federal data reporting requirements. The Department shall collaborate with managing entities to develop business requirements, which managing entities will use to extract data required at the state and federal levels from their local database systems and to submit these data electronically into the Department's central database system. Requirements will increase system access to users and ensure timely and accurate information. The Department shall use the central database system to provide non-confidential data accessible to all stakeholders, including managing entities, for planning, monitoring, evaluation, and research purposes.

(a) through (d) renumbered (b) through (e) No change.

(6) Continuous Quality Improvement.

(a) The managing entity will establish a clearly delineated continuous quality improvement program that provides for the meaningful involvement of managing entity personnel, provider organizations, consumers, and stakeholders. The program will:

(a)1. through 4. No change.

5. Require ~~insure that there are~~ mechanisms that identify performance issues, conduct analysis of performance issues, develop appropriate interventions, and measure the effects of those interventions.

6. Review the results of quality assurance reviews, external monitoring, critical incidents, consumer complaints and grievances, and take steps to initiate improvement, including appropriate corrective actions and sanctions.

7. through 8. No change.

(b) 5. No change.

(7)(a) No change.

(b) The managing entity must require ~~will ensure~~ that all participating agencies have ~~has~~ a peer review process in place.

(c) through (10) No change.

Rulemaking Authority 394.9082(10) FS. Law Implemented 394.9082 FS. History--New_____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Substance Abuse Program

RULE NO.:
65D-31.005

RULE TITLE:
Managing Entity Policies Requiring
Departmental Approval

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. 14, April 10, 2009 issue of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

65D-31.005 Managing Entity Policies Requiring Departmental Approval.

(1) The managing entity is responsible for ~~will ensure~~ provider compliance with all applicable Federal and state statutes, rules, and Departmental procedures. Managing entities will submit critical policies and procedures to the Department for review and approval. At a minimum, the policies addressing the following will be submitted to the Department for approval:

(a) through (f) No change.

(g) Incident Reporting. The managing entity will notify the Department in a timely manner, actively investigate incidents, and provide resolution.

(h) through (r) No change.

Rulemaking Authority 394.9082(10) FS. Law Implemented 394.9082 FS. History--New_____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.:
69K-12.002

RULE TITLE:
Procedure for Licensing a Monument
Establishment

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. 24, June 19, 2009 issue of the Florida Administrative Weekly.

The changes are as follows:

(1) Each person desiring to obtain a license as a monument establishment shall apply to the department by submitting the following:

(b) A non-refundable application ~~initial license~~ fee of \$450 ~~200~~ which shall be the fee for the biennial licensing period beginning October 1 of each odd numbered year or any part thereof.

THE PERSON TO BE CONTACTED REGARDING THESE CHANGES IS: Kaye Howerton, Executive Director, Board of Speech Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.:	RULE TITLE:
12CER09-01	Adjustments for Section 179 Expense and Special 50% Bonus Depreciation

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2009-18, Laws of Florida, authorizes the Department of Revenue to promulgate an emergency rule, and to renew such rule, to implement the provisions of this law. The law provides that conditions necessary for an emergency rule and its renewal have been met. The additions for bonus depreciation and Internal Revenue Code section 179 expense contained in Sections 220.13(1)(a)14., and 15., F.S., are retroactively repealed as of January 1, 2008. Taxpayers are required to file amended Florida corporate income tax returns to report any differences in taxable income as a result of this law change. This emergency rule establishes procedures for reporting the additions and claiming the subtractions required by Section 220.13(1)(e), F.S., and provides procedures for filing amended Florida corporate income tax returns for the 2007 and 2008 tax years.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule, and the renewal of such rule, to implement Chapter 2009-18, Laws of Florida, and determined that all conditions necessary for this emergency rule have been met. The law requires taxpayers to amend their Florida corporate income tax returns for the 2007 and 2008 tax years. This emergency rule establishes procedures for reporting additions and claiming the subtractions required by Section 220.13(1)(e), F.S., so that taxpayers may timely file the required amended returns.

SUMMARY: Emergency Rule 12CER09-01, (Adjustments for Section 179 Expense and Special 50% Bonus Depreciation), provides procedures for taxpayers subject to the adjustments contained in Section 220.13(1)(e), F.S., for I.R.C. section 179 expense in excess of \$128,000 and special 50% bonus depreciation under I.R.C. section 168(k). This emergency rule: (1) provides the additions that taxpayers are required to add back to the amount of the federal deduction claimed under I.R.C. section 179 that exceeds \$128,000; (2) provides the subtractions that are available in each of seven tax years

beginning with the year an addition is made under Section 220.13(1)(e), F.S.; (3) requires taxpayers to maintain a schedule reflecting all adjustments made under Section 220.13(1)(e), F.S.; (4) provides that these adjustments do not affect the basis of the property; (5) requires taxpayers who filed their Florida corporate income tax returns and reported additions to tax for bonus depreciation as provided in Emergency Rule 12CER08-31, to amend their Florida tax return; (6) provides that penalty and interest will be compromised or waived when the differences between additions and subtractions result in additional tax due when an amended Florida corporate income tax return is filed; (7) provides when the subtractions under Section 220.13(1)(e), F.S., are not to be included in a taxpayer's Florida corporate income tax return; and (8) provides when the deductions allowed under I.R.C. section 179 and for special 50% bonus depreciation are not required to be included in a taxpayer's Florida corporate income tax return.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Gary Moreland, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4831

THE FULL TEXT OF THE EMERGENCY RULE IS:

12CER09-01 Adjustments for Section 179 Expense and Special 50% Bonus Depreciation.

(1) Scope. This rule only applies to taxpayers subject to the adjustments contained in Section 220.13(1)(e), F.S., for I.R.C. section 179 expense in excess of \$128,000 and special 50% bonus depreciation under I.R.C. section 168(k).

(2) Additions Required:

(a) For tax years that begin in 2008, taxpayers are required to add back the amount of the federal deduction claimed under section 179 of the Internal Revenue Code ("I.R.C."), which exceeds \$128,000. All amounts in excess of \$128,000 are required to be added back, including amounts carried over from previous tax years under I.R.C. section 179(b)(3)(B). The increased overall investment limitation contained in I.R.C. section 179(b)(2) is the same for Florida as it is for federal income tax purposes.

(b) Taxpayers are required to add back the amount of the federal deduction claimed as special 50% bonus depreciation under I.R.C. section 168(k) for assets placed in service between December 31, 2007 and January 1, 2009.

(3) Subtractions Allowed:

(a) In each of the seven tax years commencing with the year the addition is made under Section 220.13(1)(e), F.S., taxpayers may subtract one-seventh of the amount of excess I.R.C. section 179 expense and one-seventh of the amount of special 50% bonus depreciation that is added back under Section 220.13(1)(e), F.S.