

Section III
Notices of Changes, Corrections and
Withdrawals

BDEPARTMENT OF TRANSPORTATION

RULE NO.: RULE TITLE:
14-90.0041 Medical Examinations for Bus
 Transit System Drivers

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. 36, No. 22, June 4, 2010 issue of the Florida Administrative Weekly.

In response of comments from the Joint Administrative Procedures Committee and in order to clarify the requirements for medical examination certificates, changes to the language of Rule 14-90.0041 have been made. The proposed language is shown below.

(3)(c) Upon completion of the medical examination, the examiner shall complete, sign, and date the medical examination certificate and provide a copy to the driver’s employer. If the transit agency decides to adopt qualification standards other than those listed in Department form 725-030-11, the adopted standard’s medical examination certificate or a signed letter from the medical examiner attesting to the completion of a medical examination shall be given to the transit agency in lieu of the Department’s medical examination certificate. The adopted standards medical certification or letter must provide all of the information required on the Department’s medical examination certificate.

(4) Bus transit systems shall have on file ~~proof of a medical examination, i.e.,~~ a completed and signed medical examination certificate ~~report~~ or a signed letter from the medical examiner attesting to the completion of a medical examination for each bus driver, dated within the past 24 months. ~~Medical examination reports certificates of employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.~~

(a) Medical examination certificates or a signed letter from the medical examiner attesting to the completion of a medical examination of the employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.

(b) Bus Transit Systems shall not allow a driver to operate a transit bus without having on file a completed medical examination certificate or a signed letter from the medical examiner attesting to the completion of a medical examination dated within the past 24 months.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
59G-4.070 Durable Medical Equipment and
 Medical Supplies

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. 36, No. 22, June 4, 2010 issue of the Florida Administrative Weekly.

The amendment to Rule 59G-4.070, F.A.C., Durable Medical Equipment and Supplies, incorporates by reference in rule the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2010. The following changes have been made to the handbook.

Page 1-8, HME Providers Exempt from Licensure. The paragraph is changed to read: Providers exempt from holding a current, standard HME license are those operated by the federal government, nursing homes, assisted living facilities, home health agencies, hospices, intermediate care facilities, hospitals and ambulatory surgical centers, pharmacies, manufacturers, or wholesale distributors when not selling directly to consumers, and licensed health care practitioners who utilize HME in the course of their practice, but do not sell or rent HME to their patients.

Page 1-10, Requirements for Medical Oxygen Providers and Retailers. The third paragraph is changed to read: Oxygen providers must have a licensed certified respiratory therapist (CRT), registered respiratory therapist (RRT), registered nurse (RN), or respiratory care practitioner (RCP) under contract or on staff to provide management and consumer instruction, at the provider’s physical DME business location or in the recipient’s home.

Page 1-24, Solicitation. The paragraph is changed to read: Providers are not permitted to knowingly solicit, offer, pay, or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under the Medicaid program, or in return for obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be

made, in whole or in part, under the Medicaid program. A person who violates this subsection commits a felony as reference in Section 400.93, F.S.

Page 2-17, Prior Authorization (PA) Process. The first paragraph is changed to read: Except for the items specified below, PA requests for durable medical equipment must be submitted to the Medicaid fiscal agent on a Florida Medicaid Authorization Request, PA01, 07/08. The Florida Medicaid Authorization Request, PA01, is incorporated by reference in Rule 59G-4.001, F.A.C. After initial processing, the Medicaid fiscal agent forwards the PA request packets to the appropriate office for review.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-1.004
 RULE TITLE: General Sanitation and Safety Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 18, May 7, 2010 issue of the Florida Administrative Weekly.

61C-1.004 General Sanitation and Safety Requirements.

The following general requirements and standards shall be met by all public lodging establishments and public food service establishments.

(1) Water, plumbing and waste.

(a) Except as specifically provided in these rules, standards for water, plumbing and waste shall be governed by Chapter 5, Food Code, as adopted by reference in rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, F.S.

~~(a) The water supply shall meet the standards provided in Chapters 64E-8, 62-550 and 62-555, F.A.C., where applicable.~~

~~(b) Bottled and packaged potable water shall be transported and obtained in accordance with the requirements of Title 21, Code of Federal Regulation, Parts 129 and 165, as adopted by the Department of Agriculture and Consumer Services in Rule 5K 4.002, F.A.C.~~

(b)(e) Steam used in contact with food or food-contact surfaces shall be governed by Chapter 3, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and free from any materials or additives except as allowed by Chapter 7, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. other than those specified in Title 21, Code of Federal Regulations 173.310.

(d) Sewage shall be disposed of in a public sewage system or other approved sewage system in accordance with the provisions of Chapter 64E-6 or 62-601, F.A.C., whichever is applicable. Grease interceptors shall be designed and installed in accordance with provisions of Chapter 64E-6, F.A.C., or the local building authority having jurisdiction.

~~(e) All garbage and rubbish shall be removed from the establishment premises with sufficient frequency to prevent nuisance conditions and shall be disposed of in accordance with provisions of Chapter 62-701, F.A.C.~~

(2) Public and employee bathrooms.

(a) Each public lodging establishment and public food service establishment shall provide a minimum of one conveniently located bathroom facility for its employees and customers in accordance with provisions of these rules, ~~the Florida Building Code,~~ and as approved by the local building authority having jurisdiction. Public bathroom facilities shall be located so that customers are not required or allowed to pass through food preparation, storage, or warewashing areas to access the public bathroom facility. Bathroom fixtures shall be of readily cleanable sanitary design. Bathroom facilities shall be kept clean, in good repair and free from objectionable odors. Bathroom facilities shall provide at least 20 foot candles of light. The walls, ceilings and floors of all bathroom facilities shall be kept in good condition. Toilet paper shall be provided in each bathroom facility.

(b) through (e) No change.

(3) Vermin Control – Effective control measures shall be taken to protect against the entrance into the establishment, and the breeding or presence on the premises of rodents, flies, roaches and other vermin. All buildings shall be effectively rodent-proofed, free of rodents and maintained in a rodent-proof and rodent-free condition. All windows used for ventilation must be screened, except when effective means of vermin control are used. Screening material shall not be less than 16 mesh to the inch or equivalent, tight-fitting and free of breaks. Pesticides Insecticides or rodenticides, when used, shall be used in compliance with Chapter 7, Food Code, as adopted by reference in Rule 61C-1.001 5E-14, F.A.C.

(4) through (6) No change.

(7) Fire safety.

~~(a) All fire safety, protection and prevention equipment must be installed, approved, maintained and used in accordance with the Florida Fire Prevention Code as approved by the local fire authority.~~

~~(a)(b)~~ Carbon dioxide and helium tanks shall be adequately secured so as to preclude any danger to safety.

~~(b)(e)~~ Specialized Smoke Detectors – Specialized smoke detectors for the deaf and hearing-impaired shall be made available upon request by guests in transient public lodging establishments without charge. Failure of the operator to

inform any employee charged with registering guests of the location of such detector constitutes failure to make such detectors available.

(8) through (9) No change.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE NO.:	RULE TITLE:
61G7-5.005	Deficiency in Tangible Accounting and Accounting Net Worth; Guaranty Form Acceptable to Board; Sufficient Evidence of Guarantor’s Adequate Resources

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 17, April 30, 2010 issue of the Florida Administrative Weekly.

These corrections is being made in response to comments received from the Joint

Administrative Procedures Committee on June 9, 2010. The corrections are as follows:

This is an amended summary of the Statement of Estimated Regulatory Costs (SERC).

Currently there are 298 licensed controlling persons, and 406 licensed employee leasing companies in the State of Florida. The amended rule will apply to all employee leasing companies using a guaranty to offset any deficiency in tangible accounting net worth or working capital. The board has never asked the Employee Leasing Companies to provide an audited financial statement, or asked the new guaranty to replace the previously filed guaranty. The rule amendment would require employee leasing companies to provide proof that a guaranty is in place and valid until any deficiency is corrected or replaced by way of an audited financial statement or a new guaranty filed with the board. There may be a financial impact on the companies that make this request in the form of the cost of an audited financial statement.

PURPOSE AND EFFECT: To amend the rule adding the Department’s web address where the form may be obtained, and to make the guarantor financially responsible until the deficiency has been corrected or until a new guarantor has filed an acceptable guaranty with the Board to replace the original guaranty.

These corrections do not affect the substance of the rule as it appeared in the Florida Administrative Weekly.

These corrections do not affect the substance of the rule as it appeared in the Florida Administrative Weekly.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.:	RULE TITLES:
61H1-20.003	Client
61H1-20.004	Enterprise
61H1-20.0051	Assembled Financial Statements
61H1-20.0052	Offer to Perform or Perform Services Involving Assembled Financial Statements
61H1-20.0053	Standards for Assembled Financial Statements
61H1-20.007	Generally Accepted Accounting Principles
61H1-20.008	Generally Accepted Auditing Standards
61H1-20.009	Standards for Accounting and Review Services
61H1-20.0092	Government Auditing Standards
61H1-20.0093	Rules of the Auditor General
61H1-20.0095	Standards for Consulting Services
61H1-20.0096	Services for Tax Practice
61H1-20.0097	Standards for Personal Financial Planning
61H1-20.0099	Standards for Attestation Engagements
61H1-20.010	Engagement
61H1-20.013	Employee
61H1-20.016	Non-CPA Shareholders, Partners, and Members

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 33, August 21, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.:	RULE TITLE:
61H1-20.0094	Standards for Accountants Services on Prospective Financial Statements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 43, October 30, 2009 issue of the Florida Administrative Weekly has been withdrawn.

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 JUVENILE JUSTICE

Probation

RULE NO.: RULE TITLE
63D-8.001 Definitions

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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-8.001 Definitions.

For the purpose of Chapters 63D-9 through 63D-12 F.A.C., the following terms are defined as follows:

(1) through (18) No change.

~~(20)(19)~~ Probation Medical and Mental Health Clearance Form – The form used to screen for mental health, substance abuse and medical problems when law enforcement delivers a youth to the department upon apprehension. The purpose of the form is to comply with statutory requirements for diverting youth to the proper community resource if they require urgent treatment or intervention upon arrest. The form (HS 051, July 2010 January 2008) is incorporated, and is accessible electronically at: http://www.djj.state.fl.us/forms/health_services.

(21) through (24) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.03, 985.135, 985.14, 985.145, 985.24, 985.245, 985.433, 985.435, 985.46, 985.601 FS. History–New_____.

DEPARTMENT OF JUVENILE JUSTICE

Probation

RULE NOS.: RULE TITLES:
63D-9.001 Purpose and Scope
63D-9.003 Intake Services
63D-9.004 Risk and Needs Assessment
63D-9.006 Comprehensive Evaluation

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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-9.001 Purpose and Scope.

This rule establishes uniform procedures for conducting and documenting detention screening, intake, risk and needs assessments, comprehensive assessments, and comprehensive evaluations of youth to allow the department to provide the most appropriate services in the least intrusive manner.

(1) While the needs, strengths and history of the individual youth will determine the how, what, when and where of assessment, the process typically tracks the following sequence:

(a) Detention Screening is completed following the arrest and delivery of the youth to the department. The critical component of detention screening is the Detention Risk Assessment Instrument (DRAI). The DRAI is used to determine if a youth meets detention criteria and to determine whether a youth should be placed in secure, non-secure, or home detention care prior to a detention hearing. The DRAI (DJJ 2049, July 2010 March 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. When a youth is delivered to the department for detention screening, the screener shall also look into the risk of suicidal behaviors. This screening is initiated through a process which includes administration of the Positive Achievement Change Tool (PACT) the primary assessment instrument used by the JPO to determine the youth’s risk to re-offend and identify criminogenic needs that require intervention and administration of the Suicide Risk Screening Instrument (SRSI) a form that documents the standardized questions asked by trained, designated staff upon a youth’s intake into the juvenile justice system, and upon admission to a detention center, to identify suicide risk factors and the need for referral for assessment of suicide risk as well as a review of any other documentation of suicide risk factors that are available at the time of screening. The PACT (PACT 1.1, September 10, 2007) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. The SRSI (MHSA 002, July 2010 August 2007) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, Florida 32399-3100.

(b) through (d) No change.

(2) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.03, 985.135, 985.14, 985.145, 985.24, 985.245, 985.433, 985.435, 985.46, 985.601 FS. History–New_____.

63D-9.003 Intake Services.

(1) through (4) No change.

(5) As with complainant and victim information, the information gathered during the initial conference is part of the youth’s assessment of risk and needs and is used in developing the State Attorney Recommendation (SAR) and Pre-Disposition Report (PDR), if ordered.

(a) The SAR is a report detailing the department’s recommendation and justification as to how the state attorney should proceed with case. The three primary options in making the recommendation to the state attorney are non-judicial handling, judicial handling, or handling as an adult.

(b) The SAR shall address the following: attitude of youth, cooperation of parent(s)/guardian(s), ability of parent(s)/guardian(s) to control youth, attitudes of complainant and victim, information related to youth's involvement or association with a criminal street gang, and any available information on mental and substance abuse needs. The SAR (DJJ/PACT Form 3, July 2010 ~~October 2006~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(c) The JPO shall submit the SAR within statutorily mandated timeframes.

(6) The PDR is a multidisciplinary assessment that reports the youth's priority needs, recommendations as to a classification of risk for the youth in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the youth's needs with the minimum program security that reasonably ensures public safety. The PDR (DJJ/IS Form 5 8, July 2010 ~~April 2008~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(a) The PDR shall include an intervention plan that recommends the most appropriate placement to meet the youth's needs at the minimum restrictiveness level that reasonably ensures public safety and the youth's accountability.

(b) While the JPO has the final responsibility for making recommendations, the youth and parent(s)/guardian(s) shall be given an opportunity to be involved in the development of sanctions and intervention plans.

(c) If the PDR includes a recommendation for residential commitment, the recommendation must be the result of a pre-staffing between the JPO and JPOS, and a commitment conference with the Commitment Manager.

(d) The JPO shall submit the PDR within statutorily mandated timeframes.

(e) The JPO shall complete a Post-Disposition Report, which, like the predisposition report, indicates what the child's risks and priority needs are, but is only completed if residential commitment has been ordered by the court without a predisposition report ever having been ordered. In order to ensure appropriate placement and services, the Post-Disposition Report shall be completed within 14 working days following the disposition. The Post-Disposition Report (DJJ/IS Form 5 8, July 2010 ~~April 2008~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(7) The department is required to complete an Adult Sentencing Summary for youth being tried as an adult. This is a written summary regarding a youth's history with the

Department of Juvenile Justice, which is used when the court is deciding whether a youth should be sentenced to the adult or juvenile justice system. This document provides detailed information relevant to the youth's current status and history with the department, programs and services provided or arranged by the department, family situation, any known special mental health or substance needs, and a recommendation as to whether the youth should be sentenced to the adult or juvenile justice system. The Adult Sentencing Summary (DJJ/IS Form 29, July 2010 ~~February 2009~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145, 985.43, 985.565, 985.43, 985.435, 985.46, FS. History—New_____.

63D-9.004 Risk and Needs Assessment.

(1) The JPO shall conduct a risk and needs assessment on all youth charged with a criminal or delinquent offense using the Positive Achievement Change Tool (PACT). The PACT is completed while screening a youth for detention eligibility or during the initial intake conference.

(2) The JPO administering the PACT shall use the results to determine whether a referral for further assessment or immediate intervention shall be made. The JPO shall refer youth directly to the designated assessment provider(s) for the comprehensive assessment using the PACT Mental Health and Substance Abuse Screening Report and Referral Form. The PACT Mental Health and Substance Abuse Screening Report and Referral Form (DJJ/PACTFRM 1, July 2010 ~~4/2006~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Dr., Suite 1300, Tallahassee, FL 32399-3100.

(a) through (b) No change.

(3) When the PACT results or other information obtained at intake/admission indicates possible suicide risk, the youth shall be referred for an assessment of suicide risk to be conducted within 24 hours or immediately if the youth is in crisis. Assessment of Suicide Risk Form (MHSA 004, July 2010 ~~August 2006~~) must be utilized when the assessment of suicide risk is conducted in a DJJ facility or program. If the youth is released to the custody of the parent or legal guardian, the parent/legal guardian must be provided the form entitled Suicide Risk Screening Parent/Guardian Notification (MHSA 003, July 2010 ~~August 2006~~). These forms are incorporated, and are available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, Florida 32399-3100.

(4) No change.

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145 FS. History—New_____.

63D-9.006 Comprehensive Evaluation.

(1) No change.

(2) The JPO shall forward the signed authorization and referral packet to the provider that is responsible for completing the comprehensive evaluation. The referral packet shall include the following items:

(a) through (h) No change.

(i) Latest PDR (if available), and

(j) A signed Authority for Evaluation and Treatment (AET), which is the document that, when signed by a parent or guardian, gives the department the authority to assume responsibility for the provision of necessary and appropriate physical and mental health care to a youth in the department's physical custody. The AET (HS 002, July 2010 ~~May 2007~~) is incorporated into this rule and is accessible electronically at http://www.djj.state.fl.us/forms/health_services_forms_index.html.

(3) through (6) No change.

Rulemaking Authority 985.14, 985.145,985.64 FS. Law Implemented 985.14, 985.145, 985.18, 985.185 FS. History–New_____.

DEPARTMENT OF JUVENILE JUSTICE

Probation

RULE NOS.:	RULE TITLES:
63D-10.002	Diversion Services
63D-10.003	Community Supervision Services
63D-10.004	Violations of Supervision
63D-10.005	Residential Case Management and Transitional Planning
63D-10.006	Termination of Supervision

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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-10.002 Diversion Services.

(1) Diversion services are non-judicial alternatives used to keep youth who have committed a delinquent act from being handled through the traditional juvenile justice system. These services are intended to intervene at an early stage of delinquency, prevent subsequent offenses during and after participation in the programs, and provide an array of services to juvenile offenders. Referrals are determined based upon the youth's current offense, delinquency history, and Positive Achievement Change Tool (PACT) results. The PACT is the primary assessment instrument used to determine the youth's risk to re-offend, and to identify criminogenic needs, which are those critical factors identified during the assessment process that have been statistically proven to predict future criminal behaviors that require intervention. The PACT (PACT 1.1, September 10, 2007) is incorporated, and is available from the

Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(2) through (9) No change.

Rulemaking Authority 985.14, 985.435, 985.64 FS. Law Implemented 985.12, 985.145, 985.155, 985.16, 985.601(3)(a) FS. History–New_____.

63D-10.003 Community Supervision Services.

(1) These rules address the supervision of youth in the community, to include youth on probation, conditional release (CR), and post-commitment probation (PCP). The Youth-Empowered Success (YES) Plan is the document developed by the youth, parent(s)/guardian(s), and JPO to plan for the completion of court-ordered sanctions and address criminogenic needs. The Youth-Empowered Success (YES) Plan (DJJ/PACT Form 4, July 2010 ~~October 2006~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 105, Tallahassee, FL.

(2) through (8) No change.

Rulemaking Authority 985.14, 985.435, 985.64 FS. Law Implemented 985.14, 985.435, 985.46, FS. History–New_____.

63D-10.004 Violations of Supervision.

(1) through (2) No change.

(3) In the case of a new law violation, the JPO shall file an Affidavit/Petition for Violation of Probation for any violation that results in the filing of a delinquency petition. All applicable technical violations shall be included in the affidavit. The JPO is not precluded from filing an affidavit based on the new law violation prior to the state attorney's decision to file a petition. The Affidavit/Petition for Violation of Probation (DJJ/IS Form 10, July 2010 ~~April 2008~~) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(4) No change.

(5) Absconding occurs when a supervised youth goes in a clandestine manner out of the jurisdiction of the court in order to avoid the legal process, or when the youth hides, conceals, or absents himself or herself with the intent to avoid the legal process. Mere absence or not appearing for appointments is not absconding, but may constitute a technical violation of supervision. In order for the youth to meet the criteria for absconding, the JPO shall have cause to believe that the youth is deliberately avoiding supervision, or has removed himself or herself from the home or community. A youth reported by parent(s)/guardian(s) to have run away is considered an absconder.

(a) At the point the JPO considers the youth to have absconded, the JPO shall document all efforts to locate the youth.

(b) Within one working day of determining that the youth has absconded, the JPO shall complete and file with the court an Affidavit for An Order to Take Into Custody, and an Affidavit/Petition for Violation of Probation. The Affidavit for Order to Take Into Custody (DJJ/IS Form 15, July 2010 February 2009) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

Rulemaking Authority 985.14, 985.64 FS. Law Implemented 985.14, 985.435, 985.439, 985.601 FS. History—New_____.

63D-10.005 Residential Case Management and Transitional Planning.

(1) through (4) No change.

(5) If the department concurs with the proposed release date, the JPO shall notify the committing judge of the program's intent to release and a plan for aftercare supervision using the Request for Release Letter. The Request for Release Letter (DJJ/IS Form 13, July 2010 May 2009) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. The letter, along with a copy of the program's release Performance Summary, shall be delivered to the judge within three working days of receipt of the PRN. The Performance Summary is a written document used by staff of residential facilities to inform the youth, committing court, JPO, parent or guardian, and other pertinent parties of the youth's performance in the program, including status of and progress toward performance plan goals, academic status, behavior and adjustment to the program, significant incidents (positive and negative), and justification for a request for release, discharge or transfer, if applicable. A Performance Summary can be in the form of a Release Summary, Discharge Summary, or Transfer Summary. The Performance Summary form is incorporated by subsection 63E-7.002(58), F.A.C., and is accessible as set forth therein. ~~(RS 007, September 2006) is incorporated and is accessible electronically at <http://www.djj.state.fl.us/forms/residential-rule63E-forms.html>.~~ Copies of the letter shall be provided to the parent(s)/guardian(s), commitment program, and JPO. The JPO shall return the completed PRN to the commitment program within five working days of receipt of the form.

(6) No change.

(7) In accordance with Chapter 394 F.S., the JPO shall notify the DCF Sexually Violent Predator Program Multidisciplinary Team of the anticipated release of any youth who has been convicted of a sexually violent offense using the approved form. The Sexually Violent Predator Program Multidisciplinary Team Notification Letter (DJJ/BCS Form 24,

July 2010 September 2006) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. A copy of the written notice shall also be forwarded to the state attorney in the circuit where the youth was adjudicated. Notification to the multidisciplinary team and the state attorney shall take place 180 calendar days prior to the anticipated release of persons age 18 and older from a commitment program and who have been convicted of the sexually violent offenses defined in statute. The transition process for sex offenders who meet the statutory criteria for involuntary civil commitment shall commence 210 calendar days prior to the youth's anticipated release from the commitment program if the program is a maximum or high-risk program or otherwise one with a length of stay of more than 180 calendar days.

(8) The residential commitment program shall not release any youth subject to the provisions of Chapter 394 F.S. until the DCF multidisciplinary team has determined eligibility and the state attorney's office has decided whether or not to file a petition. If it is determined that the youth will not be involuntarily committed to DCF, then the JPO shall notify the program using the Notification of the Decision to Not Involuntarily Commit to DCF form, which is the documentation required in order to release a Sexually Violent Predator (SVP) eligible youth from residential commitment. The form (~~DJJ/BCS Form 25, July 2010 February 2005~~) is incorporated and is accessible electronically at http://www.djj.state.fl.us/forms/health_services_forms_index.html.

(9) through (10) No change.

Rulemaking Authority 985.435, 985.46, 985.64 FS. Law Implemented 985.14, 985.435, 985.46, FS. History—New_____.

63D-10.006 Termination of Supervision.

(1) through (2) No change.

(3) If the youth is on probation or PCP, the Progress Report form will be used to request termination, and shall include the status of all court-ordered sanctions completed by the youth. The Progress Report Form (DJJ/IS Form 12, July 2010 December 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. If the youth is on CR, the JPO will follow the procedure described in subsections 63D-10.005(4)-(5), F.A.C., wherein the JPO will complete all documents required of residential commitment facilities.

(4) through (7) No change.

Rulemaking Authority 985.14, 985.64 FS. Law Implemented 985.14, 985.435, 985.601 FS. History—New_____.

DEPARTMENT OF JUVENILE JUSTICE

Probation

RULE NO.: RULE TITLE:
 63D-11.004 Admission of Youth
 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-11.004 Admission of Youth.

(1) Each youth shall receive an initial medical and mental health clearance using the Probation Medical and Mental Health Clearance Form. The Juvenile Probation Officer (JPO) shall evaluate the condition of each youth prior to being accepted into the JAC for detention screening. The clearance process shall help ensure an appropriate response when law enforcement delivers a youth for screening who appears to be physically impaired due to drugs, alcohol, injury, or illness. The Probation Medical and Mental Health Clearance Form (HS 051, July 2010 ~~January 2008~~) is incorporated, and is available from the Office of Health Services at 2737 Centerview Drive, Suite 2426, Tallahassee, FL 32399-3100. Requirements governing the use of the form are detailed in rule 63D-8.001, F.A.C.

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

Rulemaking Authority 985.64 FS. Law Implemented 985.135 FS. History—New_____.

DEPARTMENT OF JUVENILE JUSTICE

Probation

RULE NO.: RULE TITLE:
 63D-12.003 Service Delivery
 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-12.003 Service Delivery.

- (1) through (4) No change.
- (5) Mental Health and Substance Abuse Treatment Services. Mental health and substance abuse treatment services shall be provided in accordance with the following provisions:

(a) through (c) No change.

(d) Suicide Prevention Services. Youth who demonstrate suicide risk factors shall be referred for assessment of suicide risk or emergency mental health services if the youth is in crisis. Assessment of Suicide Risk Form (MHSA 004, July 2010 ~~August 2006~~) must be utilized when the assessment of suicide risk is conducted in a DJJ facility or program. If the youth is released to the custody of the parent or legal guardian, the parent/legal guardian must be provided the form entitled Suicide Risk Screening

Parent/Guardian Notification (MHSA 003, July 2010 ~~August 2006~~). These forms are incorporated, and are available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, Florida 32399-3100.

(e) through (g) No change.

Rulemaking Authority 985.435, 985.601, 985.64 FS. Law Implemented 985.03, 985.433, 985.435, 985.601 FS. History—New_____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NOS.: 64B8-9.0131 64B8-9.0132	RULE TITLES: Standards of Practice for Physicians Practicing in Pain Management Clinics Requirement for Pain Management Clinic Registration; Inspection or Accreditation
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CORRECTED NOTICE OF ADDITIONAL PUBLIC HEARING

The Board of Medicine hereby gives notice of a correction to the additional public hearing notice on Rules 64B8-9.0131 and 9.0132 which published in Vol. 36, No. 27, of the July 9, 2010, issue of the Florida Administrative Weekly (FAW). The notice published in the July 9th FAW referenced the date of the hearing as Saturday, August 8th. The corrected date for the additional public hearing is Saturday, August 7, 2010, at 8:00 a.m., at the Renaissance Orlando, 5445 Forbes Place, Orlando, FL 32812.

The rule was originally published in Vol. 36, No. 16, of the April 23, 2010, issue of the Florida Administrative Weekly. The Board held a public hearing on these rules on June 4, 2010, in Fort Lauderdale, Florida. The Board will consider the recommendations from the Boards of Medicine and Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee which is scheduled to meet on July 24, 2010.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.204	RULE TITLE: Licensure by Endorsement
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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. 41, October 16, 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:

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

(1) All applications for licensure by endorsement shall be made on board approved form DOH/MQA 100 effective June 2010, Pharmacist Licensure by Endorsement Application and Instructions (U.S. and territories), which is hereby incorporated by reference, can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850)488-0595 to request a form or download the form from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee and initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

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

(3) Completion of a Board approved course not less than 2 hours on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. For applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the study of root-cause analysis, error reduction and prevention, and patient safety as evidenced by a letter attesting to subject matter covered from an official of the university where the course was taken.

3. Section 456.033, F.S. will be removed from the Rulemaking Authority and Law Implemented.

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

Division of Environmental Health

RULE NO.:	RULE TITLE:
64E-19.002	Definitions
64E-19.004	Requirements for Premises
64E-19.006	Piercing Procedures
64E-19.007	Other Operations

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 27, July 9, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF FINANCIAL SERVICES

Financial Services Commission

RULE NOS.:	RULE TITLES:
69M-236.001	Purpose
69M-236.002	Definitions
69M-236.003	Methodology
69M-236.004	Limitations and Exclusions
69M-236.005	Data Sources

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. 47, November 25, 2009 issue of the Florida Administrative Weekly.

69M-236.001 Purpose.

The purpose of the rules is to establish procedures to be used by the Office of the Insurance Consumer Advocate in preparing an annual report card to grade personal residential property insurers on their complaint history and the timeliness of paying claims for each personal residential property insurer. The grades will be restricted to each personal residential property insurer's complaints and paid claims involving homeowners, mobile home owners, dwelling, tenants, condominium unit owners, cooperative unit owners, or similar personal residential property insurance policies. This rule does not apply to eligible surplus lines insurers or to insurers that do not write any homeowners, mobile home owners, dwelling, tenants, condominium unit owners, cooperative unit owners, or similar personal residential property insurance.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History--New_____.

69M-236.002 Definitions.

(1) "Complaint" means any written communication, or oral communication subsequently converted to a written form, received by the Division that expresses dissatisfaction with a specific personal residential property insurer and requires the Division of Consumer Services to contact the personal residential property insurer in order to address the dissatisfaction expressed in the communication subject to regulation under Florida's insurance laws. Communications received by the Division that are determined by the Division to be an inquiry that do not require contact with a particular insurer do not constitute a complaint. An oral communication which is subsequently converted to a written form meets the definition of a complaint for this purpose.

(2) through (3) No change.

(4) "Qualifying Premium" means the total personal residential direct written premium for the Experience Period. "Personal residential property insurer" means an insurer that writes personal residential property insurance such as homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, cooperative unit owner's and similar policies and includes an insurer that, in addition to

~~writing personal residential property insurance policies, also writes commercial residential property insurance policies such as condominium association, cooperative association, apartment building and similar policies.~~

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History—New_____.

69M-236.003 Methodology.

All language in proposed subsections (1) through (5) has been deleted and will be replaced by the following subsections (1) through (6):

(1) The complaint grade for each insurer will be based on its average complaint ratio determined as follows: the average of the calendar year ratios of the insurer's market share of personal residential policy-related complaints compared to its market share of personal residential average in-force policies.

(2) Each insurer will receive a complaint grade in accordance with the following:

(a) A grade of A if the average compliant ratio is less than 50%;

(b) A grade of B if the average complaint ratio is between 51% and 85%;

(c) A grade of C if the average complaint ratio is between 86% and 115%;

(d) A grade of D if the average complaint ratio is between 116% and 149%;

(e) A grade of E if the average complaint ratio is greater than 150%.

(3) Each insurer's grade for timeliness of claim payment will be determined based upon the proximity of each insurer's average number of months to pay homeowners claims to the median number of months to pay homeowners claims of all personal residential property insurers. The calculation will be done for each calendar-accident year and then averaged for all calendar-accident years.

(4) Each insurer will receive a timeliness of claim payment letter grade based on the following:

(a) A grade of A if the insurer's average number of months to pay claims is more than one month less than the industry median;

(b) A grade of B if the insurer's average number of months to pay claims is between one and one half of a month less than the industry median;

(c) A grade of C if the insurer's average number of months to pay claims is within one half of a month of the industry median;

(d) A grade of D if the insurer's average number of months to pay claims is between one half of a month and one month more than the industry median; and

(e) A grade of E if the insurer's average number of months to pay claims is more than one month greater than the industry median.

(5) Each insurer is assigned an overall grade for the five year experience period based upon a weighted average determined as follows:

(a) 50% weight to complaints grade; and

(b) 50% weight to claims payment timeliness grade.

(6) If an insurer's overall grade falls between two grades, it will receive the higher grade.

~~(7)(6) To provide appropriate incentives for the second and subsequent years' annual Insurer Report Cards, each insurer will be graded on absolute scales developed from the 2004 through 2009 calendar years' complaints history and 2004 through 2009 calendar-accident years' paid claims experience the first annual Insurer Report Card experience period. Absolute grading scales will reflect higher expected complaint ratios in hurricane years.~~

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History—New_____.

69M-236.004 Limitations and Exclusions.

~~(1) Complaints are classified as loss related, premium related and valid based upon an objective evaluation of the reason and disposition descriptions given to each complaint. Complaints will be evaluated on or after based on the reason and disposition descriptions in the complaint files as April 1 of the year following the experience period that is being graded.~~

~~(2) No change.~~

~~(3) Open complaint files or complaints for which the complaint disposition description is missing are treated as invalid complaints, except for complaints for which the reason description is judged to describe a valid complaint.~~

~~(4) Missing complaint reason descriptions are treated as premium related complaints.~~

~~(3)(5) All flood complaints are excluded.~~

(4) The maximum complaint ratio in any one calendar year for any insurer will be limited to 350%.

~~(5)(6) Claims are assumed to be paid on average in the middle of the calendar year in which they close.~~

~~(6)(7) For calendar-accident years in which a company had fewer than 50 paid claims as of the end of the latest calendar year, such claims are assumed to have been paid in the industry median number of months for payment by all personal residential property insurers.~~

~~(7)(8) Insurers with less than \$30 million in qualifying direct written personal residential premium are included in the grading process but are given grades in this state during the experience period, excluding the latest year, are graded on each of the four factors but are given an overall grade of "I" for "insufficient complaint history" due to a lack of actuarial credibility."~~

~~(8)(9) Insurers with less than 5 years of experience are only graded for those years for which they had experience.~~

~~(9)(10)~~ Insurers with less than \$100,000 in direct written personal residential premium in the latest calendar year will not be graded.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History—New_____.

69M-236.005 Data Sources.

The insurer report card will be based on data obtained from the following sources:

(1) Complaint data from the Division of Consumer Services, Florida Department of Financial Services;

(2) Paid ~~homeowners~~ claim data from the Statutory Annual Statements, Schedule P, Part 5A, Section 1, filed by insurers with the Office of Insurance Regulation; and

(3) In-force policy and direct written premium data from the Quarterly Summary Reports (QSR) of the Florida Office of Insurance Regulation.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History—New_____.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-137.002
 RULE TITLE: Annual Audited Financial Reports
 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

Notice is hereby given that in the original notice of change published on July 16, 2010 in FAW the following changes were inadvertently omitted:

In 69O-137.002(14)(g), Note A will now read as follows: “The Office has authority afforded by Section 624.4085, F.S., to require the entity’s board to enact improvements to the independence of the Audit committee membership if the insurer is in a Risk Based Capital action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.”

69O-137.002(17)(a) will now read as follows: “Upon written application of any insurer, the Office shall grant an exemption from compliance with any and all provisions of this rule ~~the filing of an annual audited financial report received by the Office by March 1 of the year following the calendar year to which the application applies~~ if the Office finds, upon review of the application, that compliance with this regulation would constitute an undue financial or organizational hardship upon the insurer ~~the insurer is under an order of receivership, conservatorship, rehabilitation, or is in another delinquency proceeding by the public insurance supervising official of any state, and the insurer has been granted an exemption from~~

~~filing an annual audited financial report by its state of domicile. An exemption shall be granted for one year only. Exemptions for future years require additional applications.”~~

The remainder of the rule reads as previously published and changed by the July 16, 2010 Notice of Change.

**Section IV
 Emergency Rules**

DEPARTMENT OF REVENUE

RULE NO.: 12ER10-04
 RULE TITLE: Florida Tax Credit Scholarship Program

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 20, Chapter 2010-24, L.O.F., authorizes the Department of Revenue to promulgate an emergency rule to administer the provisions of the Florida Tax Credit Scholarship Program. This law authorizes the Department, and all conditions are deemed met, to adopt an emergency rule. To comply with the effective dates of this Program, the Department must adopt an emergency rule so that eligible taxpayers can apply under the Program for an allocation of the tax credit cap established in the law for the 2010-2011 state fiscal year. This emergency rule establishes the Department’s administration of the Florida Tax Credit Scholarship Program. Procedures governing the approval of tax credit allocations and rescindments, the claiming of allocated tax credits on a tax return, and the approval for carryforward tax credits to a subsequent tax year are included in this emergency rule.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized in Section 20, Chapter 2010-24, L.O.F., the promulgation of an emergency rule by the Department of Revenue to administer the provisions of Chapter 2010-24, L.O.F. This law expands the tax credits against corporate income tax and insurance premium tax previously established in Sections 220.187 and 624.51055, F.S., to establish the Florida Tax Credit Scholarship Program. Beginning July 1, 2010, taxpayers are allowed to apply for a credit allocation for contributions made to a nonprofit scholarship funding organization to receive a tax credit against excise taxes on liquor, wine, and malt beverages administered by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation. Beginning January 1, 2011, certain taxpayers are allowed to apply for a credit allocation to be taken as a tax credit against sales and use tax, and taxpayers who pay the tax on oil and gas production in Florida are allowed to apply for a credit allocation to be taken as a tax credit. This emergency rule establishes the procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax