

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

<p>RULE NOS.: 14-85.024 14-85.025</p>	<p>RULE TITLES: Permit Renewal Denial, Revocation, Suspension, or Cancellation of Permit</p>
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PURPOSE AND EFFECT: Quarterly payments and an extension in payment due date are being added to assist businesses upon a 20% or more annual fee increase.

SUMMARY: These amendments will offer alternate payment options for Logo Signs upon an increase in fees, and include provisions for the non-payment of quarterly installment fees.

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

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

RULEMAKING AUTHORITY: 334.044, 479.261 FS.

LAW IMPLEMENTED: 334.044, 479.261 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: March 25, 2010, 2:00 p.m. – 4:00 p.m.

PLACE: Haydon Burns Building, Department of Transportation, Suwannee Room, 605 Suwannee St., Tallahassee, FL 32399-0458

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-85.024 Permit Renewal.

(1) Each year, a dated renewal billing shall be sent to current permittees specifying the permit fee amount, due date, Interstate and interchange location, number of panels, and name ~~on~~ of the business logo.

(2) Permit renewal payments must be received by the Program Administrator no later than 5:00 p.m. on December 1 of each year. In any year in which the average annual fee increases by more than 20% and upon request by the permittee, the Department shall extend the due date for (thirty) 30 days.

(3) In any year in which the average annual fee increases by more than 20% and upon request by the permittee, the Department shall accept payments on an installment basis. Installments shall be paid in accordance with the following provisions:

(a) No more than four (4) quarterly installments of equal amount shall be authorized.

(b) The first installment payment shall be paid no later than 5:00 p.m. on the due date established in accordance with subsection (2).

(c) Payment for each subsequent quarter shall be paid at least thirty (30) days prior to the beginning of that quarter.

(d) Failure to submit each quarterly payment by the required date will result in the revocation of the permit pursuant to subsection 14-85.025(2), F.A.C.

~~(4)(3)~~ It is the responsibility of the permit holder to keep the Program Administrator informed of all any address changes, ownership changes, contact changes, and billing address changes, as well as and any other changes occurring after impacting notification or participation eligibility that have occurred since the last renewal period, which may impact the permittee's notification of their participation eligibility.

~~(4) If the Program Administrator has not received the permit fee(s) by 5:00 p.m. Eastern Standard time on December 1, the Department shall revoke the logo permit.~~

Rulemaking Authority 334.044(2), 479.261(1) FS. Law Implemented 479.261(3), 479.261(4) FS. History–New 12-15-09, Amended.

14-85.025 Denial, Revocation, Suspension, or Cancellation of Permit.

(1) No change.

(2) Revocation. A business's permit to participate in the logo sign program shall be revoked if:

(a) The business no longer meets the eligibility requirements as outlined in this rule chapter, ~~and~~ has not been granted a suspension pursuant to subsection (3) below, or the Program Administrator has not received the permit fees by 5:00 p.m. on December 1, unless the Department has extended the payment due date pursuant to subsections 14-85.024(2) and (3), F.A.C if permit fees are not received by the Program Administrator by 5:00 p.m. Eastern Standard time on December 1.

- (b) No change.
- (3) through (5) No change.

Rulemaking Authority 334.044(2), 479.261(1) FS. Law Implemented 479.261(3), 479.261(4) FS. History–New 12-15-09, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
John L. Garner, Director, Office of Right of Way
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-404.107 Use of Force with Mentally Disordered Inmates

PURPOSE AND EFFECT: The purpose and effect is to repeal Rule 33-404.107.

SUMMARY: Rule 33-404.107, F.A.C., is being repealed, as the language of the rule is duplicative of language in proposed Rule 33-602.210, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.35, 945.49 FS.

LAW IMPLEMENTED: 944.09, 944.35, 945.49 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-404.107 Use of Force with Mentally Disordered Inmates.

Rulemaking Specific Authority 944.09, 944.35, 945.49 FS. Law Implemented 944.09, 944.35, 945.49 FS. History–New 5-27-97, Formerly 33-40.007, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dean Aufderheide, Mental Health Services Director
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 23, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
59G-4.040 Chiropractic Services

PURPOSE AND EFFECT: The proposed amendment to Rule 59G-4.040, F.A.C., incorporates by reference into rule the revised Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2010. The amendment to Rule 59G-4.040, F.A.C., will permit the Agency to implement revisions to the Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January 2010.

SUMMARY: Rule 59G-4.040, F.A.C., is being amended to implement changes to the handbook that include additional definitions; language that is intended to improve the quality and integrity of services, specifically services provided to infants and young children; additional clarification regarding place of service to mirror that of optometric services; additional policy clarification; and additional clarification regarding mobile units.

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

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.9081 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, March 31, 2010, 11:00 a.m. – 11:30 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308-5407

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 48 hours before the workshop/meeting by contacting: Kathryn Stephens at the Bureau of Medicaid Services, (850)412-4235. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn R. Stephens, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4235, e-mail: stepheka@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.040 Chiropractic Services.

(1) No change.

(2) All chiropractic services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Chiropractic Services Coverage and Limitations Handbook, January ~~2010~~ ~~2004~~, updated January 2005, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal at <http://www.mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent at (800)289-7799 and selecting Option 7.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.9081 FS. History—New 6-1-89, Amended 7-1-91, 12-31-91, 3-17-92, 4-21-92, 11-9-92, 7-5-93, 1-19-94, Formerly 10C-7.066, Amended 10-10-94, 5-25-95, 1-9-96, 10-21-97, 5-24-99, 4-23-00, 7-5-01, 2-20-03, 8-5-03, 8-3-04, 8-18-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-13.083
 RULE TITLE: Developmental Disabilities Waiver Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-13.083, F.A.C., is to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver

Services Coverage and Limitations Handbook, May 2010. The effect of the amendment will be to reduce paperwork requirements for providers.

SUMMARY: The amendment updates the Developmental Disabilities Waiver Services Coverage and Limitations Handbook, which is incorporated by reference. The handbook revisions include a comprehensive review of each service and the addition of tier waiver details.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this rule will have an impact on small business. A SERC has been prepared by the Agency.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.912 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, March 31, 2010, 2:00 p.m. – 4:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308-5407

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Pam Kyllonen at the Bureau of Medicaid Services, (850)412-4261. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Kyllonen, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4261, e-mail: kyllonep@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.083 Developmental Disabilities Waiver Services.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, May 2010 ~~2007~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the

Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center at 1(800)289-7799 and selecting Option 7.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.912 FS. History-New 12-3-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Kyllonen

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: 61E13-2.012
RULE TITLE: Determination of Disputed Issues of Material Fact; Formal or Informal Hearings

PURPOSE AND EFFECT: The Board proposes the repeal of Rule 61E13-2.012, F.A.C.

SUMMARY: This rule, which set forth certain parameters for hearings conducted by the Division of Administrative Hearings, is being repealed as unnecessary.

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

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

RULEMAKING AUTHORITY: 310.151(1)(c) FS.

LAW IMPLEMENTED: 120.57, 310.151 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Pilotage Rate Review Board, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, FL 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61E13-2.012 Determination of Disputed Issues of Material Fact; Formal or Informal Hearings.

~~Since the determination of the actual rate of pilotage to be imposed at any port is a quasi legislative act, the resolution of any disputed issue of material fact by a hearing officer assigned by the Division of Administrative Hearings shall not result in a recommendation from the hearing officer as to the appropriate rate to be imposed at any port area in question. The hearing officer's recommendation shall only extend to resolving disputed issues of material fact which result from a party's disputing the underlying facts upon which the Board has suggested intended rates for the port area in question. (See Rule 61E13-2.010, F.A.C.).~~

Rulemaking Specific Authority 310.151(1)(c) FS. Law Implemented 120.57, 310.151 FS. History-New 8-8-95, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pilotage Rate Review Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pilotage Rate Review Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-4.001
RULE TITLE: Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify education requirements.

SUMMARY: Education requirements will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas O'Bryant, Jr., Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.001 Education.
(1) through (2) No change.

(3) Satisfactory course completion is demonstrated by achieving a grade of 75% or higher on a Board approved end-of-course examination. The provider shall develop at least two forms of the end-of-course examinations and submit them for approval with a detailed course syllabus, detailed timeline and two copies of the course material. The answer key must be unique for each form of the examination and reference the page numbers containing the information on which each question and correct answer is based. At least 70% of the questions on each examination form shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific fact, patterns, methods, terms, rules, dates, formulas, names or other information that should be committed to memory. A provider offering prescribed courses must maintain a sufficient bank of questions to assure examination validity. A course that is more than 30 hours shall contain at least 100 items. A course that is 30 hours or less shall contain a minimum of 50 items. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. No examination shall contain more than 20% duplication of questions. The examination shall comply with the Item Writing Guidelines as of January 29, 2004, incorporated herein by reference. ~~Approval of satisfactory course completion shall not be issued to any student having absences in excess of 10% of the classroom hours.~~

(4) through (5) No change.

(6) Credit towards the classroom hour requirement may also be satisfied by teaching appraisal courses. Registered trainee appraisers may not satisfy any requirement of this rule with any course they have instructed. The appraisal courses must cover substantially the same subject matter as the Board prescribed courses. ~~Credit shall be awarded on an hour-for-hour basis.~~ Credit shall only be granted on a one time basis for teaching a particular appraisal course and shall be limited to fifty percent (50%) of the classroom hour requirement per renewal cycle. The Board may request supportive documentation to ascertain course content and to verify the date(s), time, place and hours taught.

Rulemaking Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617 FS. History—New 10-15-91, Formerly 21VV-4.001, Amended 1-9-94, 3-10-98, 9-6-98, 10-10-99, 5-25-04, 5-15-05, 1-17-06, 2-6-07, 12-6-07, 3-24-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-4.007
RULE TITLE: Renewal of Inactive Registrations, Licenses and Certifications

PURPOSE AND EFFECT: The Board proposes the rule amendment to include references to additional rules concerning requirements for licensees with an expired license who wish to become registered or certified as an appraiser.

SUMMARY: References to additional rules concerning requirements for licensees with an expired license who wish to become registered or certified as an appraiser will be added to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 475.614, 475.619 FS.

LAW IMPLEMENTED: 475.618, 475.619 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas O'Bryant, Jr., Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.007 Renewal of Inactive Registrations, Licenses and Certifications.

(1) through (7) No change.

(8) Any registration, license or certification which exceeds 4 years in the inactive status shall automatically expire and the person must meet all the requirements of Sections 475.615, 475.616 and 475.617, F.S., and Rules 61J1-2.001, 61J1-3.001, 61J1-4.001 or 61J1-4.002, 61J1-5.001, ~~and~~ 61J1-6.001, 61J1-10.001, 61J1-10.002, 61J1-10.003, and 61J1-10.004, F.A.C., in order to be registered or certified again as an appraiser.

Rulemaking Specific Authority 475.614, 475.619 FS. Law Implemented 475.618, 475.619 FS. History—New 8-8-93, Amended 2-16-04, 3-1-06, 8-29-06, 12-4-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

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

Division of Medical Quality Assurance

RULE NO.: 64B-4.003
RULE TITLE: Office Surgery Registration Requirements, Fees

PURPOSE AND EFFECT: To update, reorganize, and add questions to the registration applications in accordance with legislation passed during the 2009 Session.

SUMMARY: The rule is being amended to incorporate by reference updated forms as revised in January 2010.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The agency has determined that this rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.004, 458.309(3), 459.005(2) FS.

LAW IMPLEMENTED: 458.309(3), 456.0635, 459.005(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-4.003 Office Surgery Registration Requirements, Fees.

(1) Registration Requirements.

(a) Every office performing surgery as defined in Sections 458.309(3) and 459.005(2), F.S., must register and maintain a valid registration with the Department of Health. To register,

an office must submit Form #DH-MQA 1031, Application for Office Surgery Registration Application for medical physicians or Form #DH-MQA 1071, Application for Office Surgery Registration Application for osteopathic physicians to the Department. Form #DH-MQA 1031, effective January 2010 February 2006 and Form #DH-MQA 1071, effective January 2010 February 2006, are hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C01, Tallahassee, FL 32399 or at http://www.doh.state.fl.us/mqa/.

(b) Each office shall be registered in accordance with Rule 64B8-9.0091, F.A.C., Requirements for Physician Office Registration: Inspection or Accreditation for medical physicians or Rule 64B15-14.0076, F.A.C., Requirement for Osteopathic Physician Office Registration: Inspection or Accreditation for osteopathic physicians.

(2) No change.

Rulemaking Specific Authority 456.004, 458.309(3), 459.005(2) FS. Law Implemented 456.0635, 458.309(3), 459.005(2) FS. History--New 7-12-04, Amended 5-16-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry McPherson

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28, 2009

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-5.0011
RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the definitions concerning clinical laboratory personnel.

SUMMARY: Definitions will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 483.805, 483.823 FS.

LAW IMPLEMENTED: 483.823 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.0011 Definitions.

(1) through (19) No change.

(20) “BOC” means ASCP Board of Certification.

(20) through (32) renumbered (21) through (33) No change.

(34) “MLS” means Medical Laboratory Scientist.

(33) through (35) renumbered (35) through (37) No change.

(36) “NCA” means The National Credentialing Agency.

(37) through (48) renumbered (38) through (49) No change.

Rulemaking Specific Authority 483.805, 483.823 FS. Law Implemented 483.823 FS. History–New 6-29-06, Amended 12-16-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-15.001
RULE TITLE: Continuing Education for Licensure Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the rule language to clarify continuing education for licensure renewal.

SUMMARY: The rule amendment will modify the rule language to clarify continuing education for licensure renewal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 456.033, 468.1685(1), 468.1715(3), 468.1725 FS.

LAW IMPLEMENTED: 456.013(6), 456.033, 468.1715(3), 468.1725 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-15.001 Continuing Education for Licensure Renewal.

(1) through (5) No change.

(6) Three hours of continuing education may be obtained by the any of the following:

(a) No change.

(b) Serve as a volunteer expert witness for the department in a disciplinary case; or-

(c) No change.

Rulemaking Specific Authority 456.033, 468.1685(1), 468.1715(3), 468.1725 FS. Law Implemented 456.013(6), 456.033, 468.1715(3), 468.1725 FS. History–New 12-11-80, Amended 2-20-83, 5-2-84, Formerly 21Z-15.01, Amended 12-31-86, 2-26-89, 11-19-91, Formerly 21Z-15.001, 61G12-15.001, Amended 9-4-96, 10-20-96, 7-21-97, Formerly 59T-15.001, Amended 5-15-00, 11-4-02, 5-7-06, 4-8-07, 10-24-07,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.012
RULE TITLE: Application Forms

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the application forms.

SUMMARY: The rule amendment will modify the application forms

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that although it estimates receipt of approximately 2,523 licensure application over the next five years, small businesses would not be affected by this rule. However, a SERC was prepared for review.

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

RULEMAKING AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.005, 490.006(1)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.012 Application Forms.

(1) All applicants for licensure pursuant to Chapter 490, F.S., shall complete and submit form DH-MQA 1187, (Revised 01/10 9/09), "Application for Psychologist Licensure," which is incorporated herein by reference and which be obtained from the Board office or on the Board's website at <http://www.doh.state.fl.us/mqa/psychology>.

(2) through (4) No change.

Rulemaking Authority 490.004(4) FS. Law Implemented 490.005, 490.006(1)(b) FS. History--New 6-25-02, Amended 5-24-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-12.002 RULE TITLE: Application and Examination Fee for Licensure by Examination; Review Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the examination review fee.

SUMMARY: The rule amendment will modify the examination review fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that although it estimates receipt of approximately

2,523 licensure application over the next five years, small businesses would not be affected by this rule. However, a SERC was prepared for review.

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

RULEMAKING AUTHORITY: 456.013(2), 490.004(4), 490.005(1)(a) FS.

LAW IMPLEMENTED: 456.013(2), 456.017, 490.005(1)(a), FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.002 Application and Examination Fee for Licensure by Examination; Review Fee.

(1) The application fee for licensure by examination is ~~\$375.00~~ ~~\$500.00~~.

(2) through (5) No change.

Rulemaking Authority 456.013(2), 490.004(4), 490.005(1)(a) FS. Law Implemented 456.013(2), 456.017, 490.005(1)(a) FS. History--New 2-22-82, Amended 7-2-84, Formerly 21U-12.02, Amended 11-21-88, 8-12-90, 1-16-92, Formerly 21U-12.002, Amended 10-12-93, 6-14-94, Formerly 61F13-12.002, Amended 1-7-96, 6-26-97, Formerly 59AA-12.002, Amended 12-3-98, 6-28-00, 8-8-01, 2-12-04, 10-31-05, 1-28-07, 2-18-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-12.004 RULE TITLE: Application Fee for Licensure by Endorsement

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the licensure by endorsement application fee.

SUMMARY: The rule amendment will modify the licensure by endorsement application fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that although it estimates receipt of approximately 2,523 licensure application over the next five years, small businesses would not be affected by this rule. However, a SERC was prepared for review.

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

RULEMAKING AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.006(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.004 Application Fee for Licensure by Endorsement.

The application fee for a psychology license by endorsement is \$375.00 ~~\$500.00~~.

Rulemaking Specific Authority 490.004(4), FS. Law Implemented 490.006(1) FS. History--New 2-22-82, Amended 5-12-82, Formerly 21U-12.04, Amended 8-12-90, Formerly 21U-12.004, Amended 6-14-94, Formerly 61F13-12.004, Amended 1-7-96, Formerly 59AA-12.004, Amended 6-28-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-12.0041
 RULE TITLE: Initial Fee for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the fee for initial licensure.

SUMMARY: The rule amendment will modify the fee for initial licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that although it estimates receipt of approximately

2,523 licensure application over the next five years, small businesses would not be affected by this rule. However, a SERC was prepared for review.

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

RULEMAKING AUTHORITY: 456.013(2), 490.004(4) FS.

LAW IMPLEMENTED: 456.013(2), 490.005(1)(a), 490.006(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.0041 Initial Fee for Licensure.

The initial fee for licensure is \$300.00 ~~\$400.00~~.

Rulemaking Specific Authority 456.013(2), 490.004(4) FS. Law Implemented 456.013(2), 490.005(1)(a), 490.006(1) FS. History--New 7-7-86, Amended 6-1-89, 1-16-92, Formerly 21U-12.0041, Amended 6-14-94, Formerly 61F13-12.0041, Amended 1-7-96, Formerly 59AA-12.0041, Amended 1-25-00, 8-8-01, 4-16-02, 1-2-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NO.: 65C-13.030
 RULE TITLE: Standards for Licensed Out-of-Home Caregivers

PURPOSE AND EFFECT: Currently, Chapter 65C-13, Florida Administrative Code, does not have measurement standards for food holding temperatures, vermin control, water supply, garbage and rubbish disposal or sewage. Due to the lack of standards to define satisfactory in the above-mentioned areas, Department of Health will immediately cease to inspect these areas in family foster homes. The intent of this rule revision is to create the necessary verbiage that will appropriately reflect standards for the inspection of these vital areas and ensure the continued safety and well-being of the children served by

Department of Children and Families. This rule revision will allow the Department of Health to create a form, specifically for the inspection of family foster homes; the inspection form will include all areas of health and safety previously mentioned in this statement.

SUMMARY: The new rule provides standards for the measurement of food holding temperatures, vermin control, water supply, sewage, and garbage.

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

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

RULEMAKING AUTHORITY: 409.175 FS.

LAW IMPLEMENTED: 409.175 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, March 30, 2010, 1:00 p.m.

PLACE: Department of Children and Families, 1317 Winewood Boulevard, Building 4, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stacey Cleveland, Family Safety Program Office, 1317 Winewood Boulevard, Building 1, Room 301T, Tallahassee, Florida 32399. Phone: (850)921-8833 Email: Stacey_Cleveland@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-13.030 Standards for Licensed Out-of-Home Caregivers.

(1) General Requirements.

(a) Generally, there should be no more than five children in a licensed home, including the family's own children.

(b) There shall be no more than two children under the age of two years in a home, including the licensed out-of-home caregiver's children.

(c) Therapeutic foster homes are limited to the placement of two children.

(d) Serving as a licensed out-of-home caregiver is a privilege and public trust. Applicants do not have an inherent right to a license as an out-of-home caregiver.

(e) Each licensed out-of-home caregiver applicant shall sign a Bilateral Service Agreement as defined in subsection 65C-30.001(11), F.A.C. The agreement shall be reviewed, and discussed with a licensing counselor prior to initial licensure and again at each re-licensure. The document must be signed by a representative from the supervising agency and the potential or licensed out-of-home caregiver.

(2) Utilization of Foster Home.

(a) Placement of a child in a home licensed by the Agency for Persons with Disabilities shall be approved by the Agency for Persons with Disabilities prior to placement. A home licensed by the Agency for Persons with Disabilities may be utilized for placement of children eligible for both programs without obtaining a separate license if the child is receiving Supplemental Security Income (SSI).

(b) Licensed Out-of-Home Caregivers Wishing To Offer Child Care.

1. Licensed out-of-home caregivers that have contracted with a lead agency are authorized by Section 409.1671(5)(b), F.S., to provide child care as a Licensed Family Day Care Home, as defined in Section 402.302(7), F.S., if they choose to do so and meet the requirements for licensing. A dually licensed foster home cannot provide care for more than five children, including biological, foster, and adopted children. Therapeutic or Medical Foster Homes can not be dually licensed.

2. All licensing standards and requirements for family foster homes and family day care homes shall be met and maintained.

3. Licensed out-of-home caregivers shall limit their operation as a Family Day Care Home as follows:

a. Hours of operation shall only occur between 6:00 a.m. and 7:00 p.m.;

b. Based on the premise that the foster care maintenance assistance is for the care of a foster child for a twenty-four hour period and includes the provision of daily supervision for the foster child, the out-of-home caregiver shall not be paid both the foster care board rate and child care subsidy for the same child;

c. A foster home providing child care under this section shall be inspected a minimum of twice per year, once by daycare licensing staff and once by the supervising agency's licensing specialist. The inspection is to assess the impact of the child care operation on the fostering experience;

d. Where foster homes are also licensed as a Family Day Care Home, the department shall make every effort to coordinate inspections with a licensing counselor from the child-care licensing program; and

e. Complaint investigations shall be conducted in conjunction with a representative from child care licensing.

(3) Emergency Shelter Family Foster Homes.

(a) Emergency shelter care providers shall have the ability to receive and supervise children twenty-four hours per day.

(b) Emergency shelter care providers shall maintain a shelter log for the child that documents the child's name, date of birth, and prescribed medications; the name of the child's services worker; and the dates the child entered and exited provider's care.

(c) A family foster home may designate a certain number of beds for the purpose of shelter care as well as foster care.

(d) Emergency shelter parents shall familiarize each child with the evacuation plan.

(4) Personal Standards.

(a) A licensed out-of-home caregiver shall be a stable, responsible, and mature individual who is at least twenty-one years of age.

(b) At least one licensed out-of-home caregiver in the home shall be able to read, write and speak English and be able to effectively communicate with both any children placed in the home and with the supervising agency.

(c) A licensed out-of-home caregiver shall not operate the home as an adult boarding or rooming home or an adult daycare facility.

(d) The licensed out-of-home caregiver shall obtain written approval from the supervising agency prior to conducting any childcare or business in the home.

(e) A licensed out-of-home caregiver shall have a stable income sufficient to make timely payment for current shelter, food, utility costs, and other debts without relying on board payments unless the licensed out-of-home caregiver enters into an agreement with a lead agency to provide specialized care. Applicants shall have a source of income independent of child support or alimony.

(f) Childcare. Childcare for children in the custody of the department shall be with a licensed or registered child care provider. The cost of child care shall be assumed by the licensed out-of-home caregiver to the extent that subsidized child care is unavailable.

(g) Health History. A licensed out-of-home caregiver and any household members shall provide written statements from a physician regarding their general health, and whether they have any specific illness, disability, alcohol or other drug dependence, infectious diseases and other relevant health conditions that could threaten the safety of children in the home upon request by the department or supervising agency.

(h) Screening. Screening of licensed out-of-home caregivers and other household members shall meet the screening requirements set forth in Rule 65C-13.023, F.A.C.

(5) Physical Environment.

(a) The home shall be inspected by a representative of the environmental health office of the local public health department and receive a satisfactory inspection result for water supply, food holding temperature, plumbing, vermin and vector control, sewage, and garbage and rubbish disposal, prior to initial licensing and annually prior to re-licensing.

1. Water Supply. When water is accessible to those in care, the water temperature shall not exceed 120 degrees Fahrenheit to avoid scalding. Adequate hot water shall be provided at a minimum of 100 degrees Fahrenheit.

a. Routine Testing. Licensed out-of-home caregivers not served by a municipal water supply shall test the water and submit bacteriological water test results to the local county health department.

(I) Before license approval.

(II) At least every 12 months.

(III) Upon relocation.

(IV) Before having the well placed in service after construction, repair, or modification, or

(V) After an emergency situation, such as a flood, that may introduce contaminants to the system.

b. Test results must be negative for bacteriological contamination.

c. Positive test results require the facility to use potable water from a source approved by law for the purpose of drinking, cooking, and oral contact, until test results are negative. In addition, wells that test positive shall be disinfected, flushed, and tested for bacterial contamination.

d. Laboratory test results must be submitted to the local county health department, in writing, by the testing laboratory.

e. Testing can be obtained through the local county health department or a certified independent laboratory.

2. Food Holding Temperature. Food storage equipment shall be provided to keep all potentially hazardous foods at safe temperatures, 41 degrees Fahrenheit or below or 140 degrees Fahrenheit or above. Refrigeration units used for the storage of potentially hazardous foods shall be provided with a numerically scaled indicating thermometer accurate to plus or minus 3 degrees Fahrenheit. The thermometer shall be located in the warmest or coldest part of the units as may be applicable and of such type and so situated that the temperature can be easily and readily observed by the licensed out-of-home caregiver and any inspector.

3. Vector Control.

a. Effective control measures shall be utilized to minimize the presence of rodents, flies, cockroaches, and other vectors and vermin on the premises.

b. The creation, maintenance, or causing of any condition capable of causing vectors and vermin will not be permitted. The home shall be effectively maintained rodent-proof and rodent free. All outside openings shall be effectively sealed or screened with 16 mesh screening or equivalent, to prevent entry of insects, rodents, or other vectors and vermin.

4. Sewage. Any home not on a municipal sewage system and having an onsite sewage treatment and disposal system or septic tank, shall meet applicable standards in Chapter 64E-6 of the Florida Administrative Code.

5. Garbage and Rubbish Disposal. All garbage, trash, and rubbish from the kitchen area shall be collected daily and placed in garbage receptacles. Garbage or trash containing diapers or any odor-causing agent shall also be collected daily and placed in garbage receptacles. Garbage or trash consisting only of paper items must be collected weekly and placed in garbage receptacles. Garbage shall be removed from garbage receptacles frequently enough to prevent a sanitary nuisance, as defined in Chapter 386, F.S. Wet garbage shall be collected and stored in impermeable, leak proof, fly tight containers

pending disposal. All containers, storage areas and surrounding premises shall be kept clean and free of vectors and vermin.

(b) Family foster homes located in counties designated by the Department of Community Affairs Florida Radon Protection Map Categories as “intermediate” or “Elevated Radon Potential” areas shall be tested to determine the level of indoor radon as required in Section 404.056, F.S. Radon levels shall be at a level which does not affect the safety and well-being of children in the homes. Re-testing of licensed family foster homes for radon gas shall take place as required in Section 404.056, F.S.

(c) Outdoor Area.

1. The exterior of the home and premises shall be free from objects, materials, and conditions which constitute a danger to children. All garbage and trash shall be covered and removed regularly. There shall not be large, potentially dangerous items stored in the safe outdoor play area such as old refrigerators, stacks of lumber and unregistered vehicles or boats.

2. The home shall have a safe outdoor play area on the property or within reasonable walking distance. All outdoor play equipment shall be kept in good repair. If the home is located on a busy street, there shall be a safety plan for supervision.

(d) Water Safety and Supervision.

1. Children shall be supervised visually at all times when they are in close proximity to any body of water. Access to swimming pools and bodies of water shall be restricted when supervision is not available, and children shall never be left to swim alone.

2. Children who are placed in family foster homes which are adjacent to any body of water or that have swimming pools shall be instructed in water safety as appropriate for their age.

3. Wading pools shall be set up and maintained according to the manufacturer’s instructions. Wading pools shall be emptied and stored when not in use and shall be filled with clean water before each use.

(e) Swimming Pools.

1. Swimming pools shall have a barrier on all sides at least four feet high. The barrier shall consist of a house plus a fence on the remaining three sides or a four-sided fence.

2. All access through the barrier shall have one of the following safety features: alarm, key lock, self-locking doors, bolt lock, or other lock that is not accessible to children.

3. When the swimming pool is not in use all entry points shall be locked.

4. Above ground pools with steps or ladders shall have them secured, locked, or removed when the pool is not in use.

5. If the pool cannot be emptied after each use, the pool shall have a working pump and filtering system.

6. Hot tubs and spas shall be required to have a safety cover that is locked when not in use.

7. Swimming pools shall be equipped with one of the following life saving devices: ring buoy; rescue tube; flotation device with a rope; or a shepherd’s hook of sufficient length to cover the area.

(f) Interior Environment.

1. The home shall have sufficient space and furnishings and be accessible to all members of the family.

2. Each child shall be provided with adequate storage space for personal belongings and a designated space for hanging clothes in or near the bedroom occupied by the child.

3. Bath and toilet facilities shall be clean and in good working order with a door for privacy.

4. The door of each bathroom shall have a lock that may be opened from the outside in an emergency.

5. The home shall be clean and free of hazards to the health and physical well-being of the family.

~~6. The home shall have a continuous supply of clean drinking water tested and approved by the local health department if the source of water is not from a municipal water supply. If the water is not approved, the licensed out-of-home caregiver shall agree to use bottled water for cooking and drinking until a satisfactory water report is obtained.~~

~~7. The home shall have an adequate supply of hot water. Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~6.8.~~ Each foster home shall have a working telephone in the home and accessible at all times. Emergency telephone numbers shall be posted by the telephone. Licensed out-of-home caregivers shall immediately notify the supervising agency if their telephone number changes.

~~7.9.~~ All toys and equipment shall be in safe condition and kept clean and sanitary.

~~8.10.~~ All rooms used by children shall be at a comfortable temperature. Rooms shall be dry and well ventilated.

~~9.11.~~ All doors and windows used for ventilation shall be screened.

~~10.12.~~ Rooms used by children shall be clean and well lit for activities such as homework, board games, and other educational or recreational opportunities.

~~11.13.~~ When children are present, rooms shall be free of tobacco smoke.

(g) Sleeping Arrangements.

1. Bedrooms shall have adequate space for the number of children sleeping in the room. A minimum of forty square feet per child is required. Homes that are licensed prior to the promulgation of this rule shall be exempt from this requirement.

2. An adult shall be within hearing distance and accessible to the rooms where children under six years of age are sleeping.

3. Each child shall be provided with a clean, comfortable, permanent bed and mattress of his or her own. The bed shall be of sufficient size to comfortably accommodate the child.

4. Infants shall have their own crib, which shall be maintained in good and safe condition and have a clean and comfortable mattress that fits snugly in the crib frame. Cribs shall not be placed close to windows with curtains or cords in which the child might become entangled.

5. Bunk beds shall be safe and sturdy. Bunk beds shall be equipped with safety rails on the upper tier for a child under the age of ten or for any child whose physical, mental, or emotional condition indicates the need for such protection. Beds shall not be bunked higher than two tiers.

6. A licensed out-of-home caregiver shall provide each foster child with clean linens. A foster child shall not be required to sleep on linens soiled by urine or excrement. Waterproof mattress covers should be provided for all beds and cribs of children experiencing enuresis or encopresis. Plastic garbage bags must not be used as mattress covers.

7. Children of any age shall not sleep on a living room sofa, cot, or foldaway bed except in extenuating circumstances.

8. The entry to the foster child's bedroom shall not be located to require the foster child to pass through another bedroom or bathroom in order to enter his or her bedroom.

9. Children may never share a bed with an adult, regardless of age.

10. Children may not share a bed.

11. Children over 36 months of age may not share a bedroom with a child of the opposite sex.

12. Children over the age of twelve months shall not share a bedroom with an adult. The only exception to this would be if one of the children sharing a bedroom reaches his or her eighteenth birthday and the out-of-home caregiver and the supervising agency approve this sleeping arrangement. This exception applies only to the circumstances described above and not to any new placements in the home.

13. Infants twelve months of age or younger may share a bedroom with an adult provided the infant sleeps in his or her own crib.

14. Children over the age of twelve months may share a bedroom with an adult when it is deemed medically necessary. A doctor's note shall be placed in the licensing file of the department and the supervising agency.

(h) Foster Home Safety.

1. The licensed out-of-home caregiver shall make every effort to identify and immediately correct any hazard to the safety of foster children while in the home or while being transported.

2. All poisonous chemicals shall be in a locked location. Hooks, child safety latches, and other baby proof devices do not qualify as locked storage for poisonous chemicals. Cleaning materials shall be made inaccessible to children.

3. Each foster family home shall have a first aid kit available and accessible to all caregivers.

4. All medications shall be stored in a location that is locked and inaccessible to children. Hooks, child safety latches and other baby proof devices do not qualify as locked storage for medications.

5. Alcoholic beverages shall be stored in a location out of reach to children.

6. Dangerous weapons shall be secured in a location inaccessible to children. Storage of guns shall comply with the requirements in Section 790.174, F.S. Weapons and ammunition shall be locked and stored separately and in a place inaccessible to children.

7. Animals requiring vaccinations shall be current in all vaccinations. All animals shall be well cared for and maintained. The foster family home shall have a secure method to restrict children's access to potentially dangerous animals.

(i) Fire Safety.

1. The home shall be safe from fire hazards. All combustible items shall be stored away from sources of heat. Exits, stairways and hallways shall be free of obstacles that would hamper an emergency evacuation. The home shall have at least two exits. All doors with locks shall be capable of being opened from the inside.

2. All equipment such as heating and cooling units, washers, dryers, refrigeration systems, stoves, and hoods shall be properly installed, vented and maintained.

3. Each bedroom shall have two means of exit in case of emergency. Bedrooms above ground level must have a means of escape that will allow for safe exit. If the home is equipped with burglar bars, the caregiver shall demonstrate that the burglar bars can be released to allow exit. A key placed near a window does not qualify as an approved emergency release method. Age appropriate training on opening of the burglar bars shall be provided to each child upon placement.

4. The licensed out-of-home caregiver shall have an evacuation plan posted in a conspicuous place in the home. The plan shall specifically provide for the safe exit of children who are incapable of understanding the plan or participating in drills. This plan should be shared with all children as appropriate to their age and level of understanding upon placement in the home.

5. Fire drills shall be conducted a minimum of two times a year. The licensed out-of-home caregiver shall maintain a log of fire drills conducted, including the date, beginning and ending time, specific location, and participants' names.

6. Each floor in the home shall have a fully charged, unexpired 2A10BC fire extinguisher. One of the fire extinguishers shall be adjacent to the kitchen. There shall also be at least one operating smoke alarm on each floor. There shall be a smoke alarm in each bedroom area.

7. The home shall not be heated by un-vented gas fired space heaters or oil heaters unless they are equipped with an oxygen depletion sensor and the home has a carbon monoxide alarm. All gas-fired devices shall be equipped with an automatic pilot gas shut-off control. All electrical wiring shall meet required building codes.

8. All fireplaces, space heaters, steam radiators, and hot surfaces shall be shielded against accidental contact. Access by children under six years of age shall be restricted by a barrier.

9. Extension cords shall not extend from one room to another with the exception of situations involving emergency loss of power due to a natural or manmade disaster. Multiple electric outlet adapters shall not be used for more than two extensions at one time.

10. Volatile materials shall not be stored where water heaters are located or near other sources of heat. Attic space shall not be used for the storage of volatile materials.

(j) Transportation Safety.

1. The licensed out-of-home caregiver shall have transportation available twenty-four hours a day. All vehicles used to transport children shall be in safe condition, in compliance with applicable motor vehicle laws of the state, and equipped with seat belts and approved car seats for children as required under Section 316.613(1)(a), F.S. Vehicles shall be smoke-free when foster children are being transported. The licensed out-of-home caregiver shall have the ability to safely transport the number of children in his or her care.

2. The licensed out-of-home caregiver shall have all vehicles insured. The licensed out-of-home caregiver shall not allow foster children to be transported by any person not possessing a valid driver's license or auto insurance.

3. The licensed out-of-home caregiver shall not have driving violations less than five years old on file with the Department of Motor Vehicles, which relate to driving under the influence of alcohol or drugs. A copy of the licensed out-of-home caregiver's driving record shall be provided to the licensing authority at the time of initial licensure and at each re-licensure.

4. The licensed out-of-home caregiver shall not transport foster children in vehicles such as truck beds, motorcycles, or any other high-risk method of transportation. The licensed out-of-home caregiver shall not transport children on his or her lap.

(k) Disaster Plans.

1. Each licensed out-of-home caregiver shall make a written plan for evacuation in the event of a natural or man made disaster. The plan shall be kept up to date.

2. The plan shall include where the family intends to go and information as to how the family may be reached and must be shared with the supervising agency.

Rulemaking Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 4-6-08, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Stacey Cleveland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Don Winstead, Deputy Secretary, on behalf of George H. Sheldon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 29, 2010, Vol. 36, No. 4

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-2.011 RULE TITLE: Library Grant Programs
NOTICE OF WITHDRAWAL

Notice is hereby given that the proposed notice of change, as noticed in Vol. 36, No. 6, February 12, 2010 issue of the Florida Administrative Weekly was inadvertently submitted and is being withdrawn. This notice of change will be republished at a later date.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Florida Highway Patrol

RULE NO.: 15B-2.013 RULE TITLE: Approved Speed Measuring Devices
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly has been withdrawn.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.: 40D-2.091 RULE TITLES: Publications Incorporated by Reference
40D-2.321 Duration of Permits
40D-2.322 Population and Impact Analysis and Verification of 10-year Requirements