

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@flor.com  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

## Section II Proposed Rules

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

### DEPARTMENT OF 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

#### Division of Administration

RULE NOS.:	RULE TITLES:
63F-10.001	Purpose and Scope
63F-10.002	Definitions
63F-10.003	Requests for Youth Information
63F-10.004	Release of Records by Department
63F-10.005	Record Sharing Agreements with Other Government Agencies
63F-10.006	Confidentiality of Records Released by the Department

**PURPOSE AND EFFECT:** The rule chapter establishes the process by which the department may make available records in its custody regarding children, and by which the media may have access to youth in department programs.

**SUMMARY:** The rule chapter addresses the manner in which requests for youth information are received and processed, and the conditions under which various types of youth records are provided to requesting youth, law enforcement, criminal justice agencies, and others authorized to obtain the information. Access to youth records by the media, and direct access to youth in department programs, is also addressed.

**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:** 985.04, 985.64 FS.

**LAW IMPLEMENTED:** 984.06, 985.04 FS.

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

**DATE AND TIME:** Thursday, December 2, 2010, 10:00 a.m.

**PLACE:** DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

**THE FULL TEXT OF THE PROPOSED RULES IS:**

63F-10.001 Purpose and Scope.

This rule establishes the process by which the department may make available records in the custody of the department regarding children. Access of the media to youth records and to youth in department programs is also addressed.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

63F-10.002 Definitions.

(1) Active Records: files and records that have not been stored or archived.

(2) Actual Cost of Duplication: the cost of the material and supplies used to duplicate the record, but does not include the labor cost or overhead cost associated with such duplication.

(3) Department Record: records in the custody of the department or one of its contracted delinquency service or program providers.

(4) Duplication Fee: the fee that may be charged for the duplication of the records. The fee shall be 15 cents per copy for duplicated copies no larger than 14" X 8.5". For copies larger than 14" X 8.5", the fee shall be the actual cost of duplicating the requested material. If applicable, this fee shall also include the cost of mailing or shipping the requested material.

(5) Exempt Record: a record in the custody of the department or its contract provider, which is exempt from public inspection and examination pursuant to Florida Statutes.

(6) Exemption: the statutory basis by which the department, or its designees, claim that a record or information contained in that record is exempt from public inspection and examination.

(7) Fee Guidelines: the guidelines that apply to fees charged for records. These guidelines include the following:

(a) The hourly salary rate of the department employees who copy and review information pursuant to requests for records shall be assessed, and the cost charged.

(b) Mailing costs, if the documents are mailed to the requesting party, shall be assessed and charged to the requestor.

(c) City, county, state, or federal government agencies and elected or appointed government officials will be provided, free of charge, one complete copy of any department record. Copies of confidential records will be provided only to those individuals or agencies as specified by law or this rule.

(8) Inactive Records: files and records that have been stored or archived.

(9) Information Technology Resources: data processing hardware, software and services, communications, supplies, personnel, facility resources, maintenance and training.

(10) Payment of Fees: monies that must be collected prior to the delivery of the requested material. Fees must be paid by cashiers check, money order, or personal check and made payable to the Florida Department of Juvenile Justice (FDJJ). If the request is for records in the possession of a contract provider, the contract provider may process the request after review and approval of the Public Information Officer, and then collect fees consistent with this chapter.

(11) Public Information Officer: the department employee responsible for receiving and forwarding any and all record requests to the appropriate office for processing and for maintaining a record of how, when, and by whom the request was answered.

(12) Public Record: all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(13) Record Custodian: the person who has supervision and control over a document or record, or has legal responsibility for its care, keeping or guardianship.

(14) Records Custodian Liaison: the department staff assigned by each office to coordinate the processing of records requests with the Records Management Liaison Officer.

(15) Records Management Liaison Officer: staff member in the Bureau of General Services that serves as the point of contact between the department and the Bureau of Archives and Records Management at the Department of State and is responsible for developing and revising department retention schedules and for conducting records management training.

(16) Records in the Custody of the Department Regarding Youth: all documents, papers, letters, tapes, photographs, films, sound recordings or other materials of any physical form that primarily contain information about a youth in the care or custody, or under the supervision of the department or for

whom a referral to the department has been made. Records in the custody of the department regarding youth are not public records as defined in Chapter 119, F.S. Such records include:

(a) Records regarding the youth's identity and personal information, delinquent history, current charges, adjudicatory hearings, dispositions, physical location, and other similar information.

(b) Records regarding any evaluations, medical tests, mental health assessments, educational assessments or other tests, evaluations or assessments, or the results thereof, performed for the purpose of assisting the courts and the department to determine appropriate disposition or treatment for the youth.

(c) Records regarding any treatment, therapy, educational, health records, mental health records, progress reports or disciplinary reports from commitment facilities.

(d) Records regarding substance abuse assessment and treatment.

(e) Records regarding examination and treatment for a sexually transmissible disease.

(17) Redaction: the process by which information that is confidential and exempt from public disclosure is removed from department records. The Department may charge for the redaction of records in an amount not to exceed \$0.35 per page. In lieu of charging for each page redacted, the Department may charge a Special Service Charge as defined in subsection (19).

(18) Subpoena Duces Tecum: a court process, initiated by a party in litigation, compelling production of certain specific documents and other items in the possession of the person or agency being subpoenaed.

(19) Special Service Charge: a charge that may be added to the fee for duplicating the requested material for extensive use of clerical or supervisory labor or extensive information technology resources. A special service charge for extensive assistance by department staff may not be assessed unless the department staff spent at least 15 minutes in retrieving, copying and refiling the requested material.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

#### 63F-10.003 Requests for Youth Information.

(1) All requests for records in the custody of the department regarding children shall be submitted to the public information officer. A record of the information requested, the person requesting the information, and the information that was provided shall be kept by the public information officer.

(2) Requests by the media to access juvenile programs or to obtain juvenile records shall be forwarded to the Office of Communications for preparation and presentation to the General Counsel's Office for review, whereupon it will be forwarded to the relevant Assistant Secretary, who will then forward it to the Chief of Staff and Deputy Secretary. The final decision on all such requests rests with the Secretary.

(a) Records pertaining to youth shall only be released under subsection 63F-10.004(5), F.A.C.

(b) Requests by the media for direct access to juvenile programs will be considered, ensuring that the confidentiality rights of all juveniles are protected, the integrity and security of programs are not compromised, and the safety of visitors, youth, and staff are not endangered.

1. To be considered, requests must be submitted with the following documentation:

a. A completed "News Agency Release Form." The News Agency Release Form (OC-1 April 2010) is incorporated by reference and available at: [http://www.djj.state.fl.us/opengov/documents/media\\_access\\_news\\_agency\\_release\\_form\\_attach1.pdf](http://www.djj.state.fl.us/opengov/documents/media_access_news_agency_release_form_attach1.pdf).

b. A completed "Consent to Release Information" reflecting consent by the youth if 18 years of age or older, and the parent or guardian of youth under 18. The Consent to Release Information (OC-2 April 2010) is incorporated by reference and available at: [http://www.djj.state.fl.us/opengov/documents/Consent to Release.pdf](http://www.djj.state.fl.us/opengov/documents/Consent_to_Release.pdf).

2. When considering these requests, the Secretary will address the following:

a. Age of the youth(s);

b. Restrictiveness level of the facility;

c. Possibility that non-consenting youths' confidentiality will be compromised;

d. Impact on treatment; and

e. Staff disruption.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

63F-10.004 Release of Records by Department.

(1) Pursuant to Section 985.04(7), F.S., records in the custody of the department regarding children are not open to inspection by the public. Such documents are exempt from the provisions of Chapter 119, F.S. Records as defined in paragraph 63F-10.002(16)(a), F.A.C., including those requested pursuant to a subpoena duces tecum, may be provided only to:

(a) Other employees of the department who have a need therefore in order to perform their official duties,

(b) The youth,

(c) The Department of Corrections,

(d) Law enforcement agencies pursuant to interagency agreement,

(e) The district school superintendent pursuant to interagency agreement,

(f) The parent(s) or legal guardian of the youth,

(g) An attorney representing the youth if the attorney has a notarized release for the records from the parent or legal guardian if the youth is under the age of 18, or from the youth if he is 18 years of age or older.

(h) To any party upon order of a court of competent jurisdiction,

(i) To corrections agencies or juvenile justice agencies of other states.

(2) Records as defined in paragraphs 63F-10.002(16)(b) and (c), F.A.C., may be provided to:

(a) Other employees of the department who have a need therefore in order to perform their official duties.

(b) The youth, if 18 years of age or older or with a signed release from a parent or legal guardian.

(c) The parent(s) or legal guardian of a youth if the youth is under the age of 18 or with a signed release from the youth if the youth is 18 years of age or older.

(d) An attorney representing the youth with a notarized release from the parent or legal guardian if the youth is under the age of 18 or with a notarized release from the youth if the youth is 18 years of age or older.

(e) Any person or agency participating in the assessment or treatment of the youth.

(f) To any person upon order of a court of competent jurisdiction.

(3) Records as defined in paragraphs 63F-10.002(16)(d) and (e), F.A.C., may be provided to the youth, or pursuant to the provisions of Chapters 384 and 397, F.S.

(4) Records in the custody of the department regarding children who are or have been determined to be dependent or who are alleged to be dependent, or are under the care, custody or supervision of the Department of Children and Families may be released to personnel of the Department of Children and Families who have need for such information. The department shall enter into an agreement with the Department of Children and Families to allow for the sharing of such information between the two agencies. The agreement shall include means of keeping such shared information confidential.

(5) Records in the custody of the department regarding children may be released to the public upon the authorization of the Secretary. The Secretary may release such records only if it is determined that:

(a) the youth poses a current threat to the public safety of the community and releasing the information would help protect the public;

(b) information regarding the youth has been released to the public through other sources and it is determined by the department that it would benefit the public to verify or correct information that has already been released, or

(c) The DJJ Institutional Review Board (IRB) has approved research, a Privacy and Security Agreement has been signed, the researcher has passed a background screening, and the information is required for the approved research.

(6) Subpoenas duces tecum for youth records must be served on the department's headquarters office located at 2737 Centerview Road, Tallahassee, Florida 32399-3100. Any

records subpoena erroneously served at another DJJ office or facility or that of a contract provider shall be immediately forwarded to Public Information Office. Any other requests for youth records involving litigation, including discovery requests, shall also be forwarded to the Public Information Officer, who will consult with the department's Office of General Counsel as to how to respond.

(7) If approved for release, copies will be provided upon receipt of payment of fees as provided in subsection (8) of this rule.

(8) If the information being requested requires duplication, the Public Information Officer or, if the custodian is a contract provider, the contract provider in consultation with the Public Information Officer shall notify the requestor using the "Records Request Charges" Form of the fees to be charged in accordance with the department's fee guidelines, which includes actual cost of duplication as well as cost of redaction or any special service charges. The Youth Records Request Invoice form (OGC-1, October 2010) is incorporated by reference and is available at: <http://www.djj.state.fl.us/Communications/index.html>.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

63F-10.005 Record Sharing Agreements with Other Government Agencies.

The department may enter into agreements with other government agencies regarding providing the other agencies with records in the custody of the department regarding children. Such agreements shall explain the need of the requesting agency for the records. The agreements shall provide that the records may only be used for the purpose for which they were requested and remain confidential.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

63F-10.006 Confidentiality of Records Released by the Department.

Records regarding children that are released by the department shall only be used for the purpose for which they were requested. Such records remain confidential and are not subject to public inspection.

Rulemaking Authority 985.04, 985.64 FS. Law Implemented 984.06, 985.04 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Elisa Watson, Public Information Officer  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 30, 2010

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: 64B-7.003  
RULE TITLE: Counterfeit-Resistant Prescription Blanks

PURPOSE AND EFFECT: This rule will implement new provisions in the law regarding pain-management clinic controlled substance prescriptions.

SUMMARY: Considering that physicians who write scripts to prescribe controlled substances at pain-management clinics must use counterfeit-resistant prescription blanks, this rule specifies the security features that a counterfeit-resistant prescription must include for compliance with the statute.

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. The Statement of Estimated Regulatory Costs provides the number of clinics with physicians likely to be affected by the rule, indicates that only enforcement costs may impact the agency, but there will be no impact on state or local revenues. It indicates that there will be some transactional costs for those physicians not already complying relating to the high quality of the paper and the number of prescriptions written. The rule is anticipated to have a minor impact on small business, but no impact on small counties and cities, and no alternatives have been proposed.

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, 458.3265(4), 459.0137(4) FS.

LAW IMPLEMENTED: 458.3265, 459.0137, 893.065 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, Division of Medical Quality Assurance, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-7.003 Counterfeit-Resistant Prescription Blanks.

(1) A physician who prescribes on the premises of a registered pain-management clinic must use a counterfeit-resistant prescription blank when writing a hard copy prescription for a controlled substance listed in Section 893.03, F.S.

(2) The counterfeit-resistant prescription blank must contain the following security features:

(a) The background color must be blue or green and resist reproduction;

(b) The blank must be printed on watermarked paper;

(c) The blank must resist erasures and alterations and;

(d) The word "void" or "illegal" must appear on any photocopy or other reproduction of the blank. This language shall not obstruct or render illegible any portion of the drug name, quantity or directions for use.

(3) The counterfeit-resistant prescription blank must contain the following information:

(a) The preprinted name of the prescribing physician and the address of the clinic;

(b) A space for the prescribing physician's federal Drug Enforcement Administration registration number for controlled substances.

(4) The counterfeit-resistant prescription blank is not transferable and shall not be used by any person other than the prescribing physician.

(5) Within 24 hours following the theft or loss of a prescription blank or the discovery of a breach with regard to the prescribing of controlled substances, the physician must notify the department in writing at e-mail address MOA.Medicine@doh.state.fl.us or by letter to Department of Health, Pain Clinic Registration Program, 4052 Bald Cypress Way, Bin #C03, Tallahassee, FL 32399-3253.

Rulemaking Authority 456.004, 458.3265(4), 459.0137(4) FS. Law Implemented 458.3265, 459.0137, 893.065 FS. History--New \_\_\_\_\_.

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: October 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE NO.: 64B1-8.001                      RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes to review the rule to delete unnecessary language and to add new language for clarification of the definition for sterilization.

SUMMARY: The rule amendment will delete unnecessary language and to add new language for clarification of the definition for sterilization.

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: 457.104, 457.1085 FS.

LAW IMPLEMENTED: 457.1085 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: Anthony Jusevitch, Executive Director, Board of Acupuncture/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-8.001 Definitions.

(1) Needles: solid filiform instruments used in the practice of acupuncture. This includes, but is not limited to, dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets. Pursuant to Chapter 457.1085, F.S., all acupuncture needles that are to be used on a patient must be sterile and disposable, and each needle may be used only once.

(2) Sterilization: kills all microbial life, including all bacterial spores, for instruments which enter tissue. Sterilization is accomplished by subjecting clean items to steam under pressure (autoclaving), or to dry heat the use of procedures which destroy all microbial life, including viruses, thereby creating sterility. In acupuncture this technique is used for all instruments which pierce the skin including, but not limited to, filiform needles and plum blossom needles or those instruments that may come into contact with instruments that pierce the skin including, but not limited to, storage strays, forceps and guide tubes for needles.

Rulemaking Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085 FS. History--New 5-6-87, Amended 12-23-87, 6-7-89, Formerly 21AA-8.001, 61F1-8.001, 59M-8.001, Amended 2-26-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Acupuncture

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE NO.: 64B1-8.002                      RULE TITLE: Monitoring Sterilization and Infection Control

PURPOSE AND EFFECT: The Board proposes to review the rule to delete unnecessary language and to add new language to clarify procedures for sterilization of acupuncture needles and other equipment.

SUMMARY: The rule amendment will delete unnecessary language and to add new language for clarification of the procedures for sterilization.

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: 457.104, 457.1085 FS.

LAW IMPLEMENTED: 457.1085 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: Anthony Jusevitch, Executive Director, Board of Acupuncture/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-8.002 Monitoring Sterilization and Infection Control.

(1) Sterilization of ~~acupuncture needles and other equipment other than acupuncture needles, when the equipment has penetrated tissue or has been exposed to blood,~~ shall be accomplished by proper autoclaving according to the instructions of the manufacturer of the autoclave.

(2)(a) A sterilization indicator shall be used with each autoclaving to monitor the sterilization procedure.

(b) Strips must indicate both exposure to steam and 250° F.

~~(3) Non-sterilized acupuncture needles shall be sterilized prior to use:~~

~~(3)(4)~~ All sterilized items must be stored and handled in a manner which maintains sterility.

~~(4)(5)~~ Each acupuncture office utilizing autoclave sterilization techniques shall post the sterilization procedures and shall maintain documentation of all autoclave service.

~~(5)(6)~~ It shall be the responsibility of the Acupuncturist to insure that personnel responsible for performing sterilization procedures pursuant to this rule shall be adequately trained.

~~(6)(7)~~ The procedures and equipment used for sterilization must have their efficacy tested periodically. Adequacy of steam under pressure (e.g., autoclave) must have its efficacy verified by appropriate biological monitoring at least once every 40 hours (2400 minutes) of use or at least once every thirty days, whichever comes first.

Rulemaking Specific Authority 457.104, 457.1085 FS. Law Implemented 457.1085 FS. History—New 5-6-87, Amended 12-23-87, 6-7-89, 11-13-89, Formerly 21AA-8.002, 61F1-8.002, Amended 2-22-96, Formerly 59M-8.002, Amended 2-26-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-8.018 RULE TITLE: Voluntary Relinquishment of License

PURPOSE AND EFFECT: The proposed rule amendment is intended to clarify the criteria with regard to voluntary relinquishment of licenses.

SUMMARY: The proposed rule amendment clarifies that restrictions or obligations upon a licensee by a licensing board shall be considered as disciplinary action upon the license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments 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: 458.309, 120.53 FS.

LAW IMPLEMENTED: 458.331 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, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.018 Voluntary Relinquishment of License.

(1) If a licensee wishes to voluntarily relinquish a license at a time when no investigation has been initiated against the licensee, no investigation against the licensee is anticipated, and no disciplinary action is pending, and the licensee is not under any current restrictions or obligations by the Board of this state or any other jurisdiction, then the licensee’s request for voluntary relinquishment may be acted upon by staff without further action by the Board. In such a case, the voluntary relinquishment shall not be considered action against the license as that term is used in Section 458.331(1)(b), F.S.

(2) No change.

Rulemaking Specific Authority 458.309, 120.53 FS. Law Implemented 458.331 FS. History—New 2-21-93, Formerly 21M-20.018, 61F6-20.018, 59R-8.018, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rules Committee, Board of Medicine

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

### Family Safety and Preservation Program

RULE NO.: RULE TITLE:

65C-14.010 General Sanitation and Safety

PURPOSE AND EFFECT: Chapter 2010-161, Laws of Florida, signed into law by the Governor on June 1 and effective July 1, 2010, eliminated the Department of Health's regulatory authority over food hygiene and sanitation in licensed child caring agencies otherwise regulated by the Department of Children and Families under section 409.175, Florida Statutes, and Chapter 65C-14, Florida Administrative Code. The effect of Chapter 2010-161, Laws of Florida, is that there are currently no administrative rules providing minimum standards for certain food storage, preparation, and service and other sanitation activities in licensed child caring agencies. This has created an immediate serious threat to the health and safety of children served in these facilities. This situation makes it necessary for the Department of Children and Families (DCF) to add language to Chapter 65C-14, Florida Administrative Code, to provide standards to be used by the Department of Health (DOH) when inspecting child-caring agencies on behalf of the Department pursuant to Section 409.175(6)(e), Florida Statutes.

SUMMARY: This provides standards to be used by the Department of Health (DOH) when inspecting child-caring agencies on behalf of the Department pursuant to Section 409.175(6)(e), Florida Statutes. Rule 65C-14.010, F.A.C. provides the regulatory basis for continued inspections of food hygiene and sanitation to ensure client safety in licensed child caring agencies.

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: December 8, 2010, 1:00 p.m. – 4:00 p.m.

PLACE: 1317 Winewood Blvd., Building 4, Tallahassee, FL 32399

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: Jane McElroy, 1317 Winewood Blvd., Building 1, Room 302B, Tallahassee, FL 32399-1300, phone: (850)921-2917, jane\_mcelroy@dcf.state.fl.us. 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: Stacey Cleveland, Statewide Licensing Specialist, 1317 Winewood Boulevard, Tallahassee, Florida 32399, phone: (850)921-8833, Email: Stacey\_Cleveland@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-14.010 General Sanitation and Safety.

(1) Prior to the issuance of a license or to relicensing, the facility shall be inspected by a representative of the department, the county health unit, and the local fire department, or persons trained by the office of the State Fire Marshall in fire prevention and safety in accordance with state or local ordinances and codes. Written approval of health and sanitary conditions and fire prevention and protection measures must be on file. The following measures shall be used to inspect the health and sanitation standards in residential child caring agencies with a capacity of up to 12 clients;

(a) Food shall be clean, wholesome, and free from spoilage and safe for human consumption.

(b) Home canned food shall not be used.

(c) Food shall be protected from dust, flies, rodents, and other vermin, unclean equipment and utensils, unnecessary handling, cough/sneezes, flooding by sewage, overhead leakage and all other sources of contamination at all times during storage, food preparation, transportation both on and off premises, and service. The kitchen shall be kept clean and in good repair, this includes the equipment and utensils.

(d) Potentially hazardous foods must be kept at safe temperatures, 41 degrees Fahrenheit or below or 140 degrees Fahrenheit or above, except during necessary period of preparation and service. Potentially hazardous food shall not have been out of temperature for more than 4 cumulative hours during the course of thawing, preparation, service and cooling.

(e) At least one sink with hot and cold potable water under pressure shall be provided in the food preparation area.

(f) Refrigeration units and hot food storage units 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.

(g) Food containers shall be labeled with their contents and dated. The contents shall be identified.

(h) Water temperature shall not exceed 120 degrees Fahrenheit to avoid scalding. Adequate hot water shall be provided at a minimum of 100 degrees Fahrenheit.

(i) Agencies not served by a municipal water supply shall test the water before licensure and then annually. The test results must be submitted to the local county health department in writing by the testing laboratory. Testing can be obtained through the local county health department or a certified independent laboratory. Test results must be negative for bacteriological contamination as determined by the local county health department. 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.

(j) A facility not on a municipal sewage system and having an on site treatment and disposal system or septic tank, shall meet standards in Chapter 64E-6, F.A.C., and Section 381.0065, F.S.

(k) Effective measures shall be utilized to minimize the presence of rodents, flies, cockroaches and other vectors and vermin on the premises. The primary means of pest control shall be the use of pest control agents in compliance with Section 482.132, F.S.

(l) There shall be at least one functioning toilet, washbasin, and tub or shower for every six children.

(m)(2) Laundry facilities shall be located in an area separate from areas occupied by children. If children are allowed to participate in the laundering of their personal items, space for sorting, drying, and ironing shall be made available. If children are using the laundry facilities they shall be supervised by a staff member.

~~(3) Swimming pools shall meet the requirements of Chapter 514, F.S.~~

(n)(4) The facility shall have telephones, centrally located and readily available for staff use in each living unit of the facility. Emergency numbers such as the fire department, police, hospital, physician, poison control center, and ambulance shall be posted by each telephone. In lieu of this requirement wilderness camps and short-term wilderness programs shall have a system in place that provides for an immediate response in case of an emergency. The system must include the ability to immediately notify appropriate agency staff, police, fire department, physician, poison control center, ambulance or other emergency services that may be needed.

(o)(5) If firearms are present in the facility, the program director shall be required to sign the Acknowledgement of Firearms Safety Requirements form, CF-FSP 5343, March 2010, which is hereby incorporated by reference and available online at [www.dcf.state.fl.us/publications/](http://www.dcf.state.fl.us/publications/). A copy of the form is also available upon request by contacting the Office of Family Safety at 1317 Winewood Boulevard, Tallahassee, Florida 32399.

(p)(6) Poisons and toxic substances shall be prominently and distinctly marked, labeled as to contents, kept stored under lock and key, and used in a manner as not to contaminate food or constitute a hazard to children.

(2) Pursuant to Section 409.175, F.S., the following measures shall be used to inspect the health and sanitation standards in a residential child caring agency with a capacity more than 12 clients:

(a) Kitchen.

1. The floor surfaces in kitchens, all the rooms and areas in which food is stored or prepared and in which utensils are washed or stored, shall be of smooth, nonabsorbent material and constructed so they can be easily cleaned and shall be kept clean and in good repair.

2. The walls and shelving of all food preparation areas, food storage areas and utensil washing areas shall have smooth, easily cleanable surfaces. Walls shall be washable up to the highest level reached by splash or spray.

3. Hot and cold running water under pressure shall be easily accessible where food is prepared and where utensils are washed.

4. A residential use dishwasher shall be provided for ware washing.

(b) Food Supplies. Food received or used in a residential child caring agency shall be from sources approved or considered satisfactory in accordance with Rule 64E-11.003, F.A.C. It shall be prepared, processed, handled, packaged, transported and stored in a sanitary manner so as to be protected from contamination and spoilage.

(c) Food Protection.

1. Food, while being transported, stored or prepared at a residential child caring agency, shall be protected from dust, flies, rodents or other vermin, toxic materials, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding by sewage, overhead leakage and all other sources of contamination.

2. Different types of raw animal products such as beef, fish, lamb, pork or poultry shall be separated during storage and processing by use of different containers, partitions, shelves, or by cleaning and sanitizing the equipment between product use.

3. Raw food products shall be physically separated from ready-to-eat food products during display or storage by storing the raw products below ready-to-eat food products or using other approved methods.



4. Perishable food shall be stored at such temperatures as will protect against spoilage. All potentially hazardous food shall be kept at safe temperatures, 41 degrees Fahrenheit or below and 140 degrees Fahrenheit or above, except during necessary periods of preparation and service.

5. Potentially hazardous foods which are to be served without further cooking, such as ham salad, chicken salad, egg salad, shrimp salad, lobster salad, tuna salad, potato salad and other mixed foods containing potentially hazardous ingredients or dressings shall be prepared from chilled products with a minimum of manual contact. The surfaces of containers and the utensils used for preparation and subsequent storage shall have been effectively cleaned and sanitized immediately prior to use. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 41 degrees Fahrenheit or below. The cooling period shall not exceed four hours. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing one or more of the following methods based on the type of food being cooled:

- a. Placing the food in shallow pans;
- b. Separating the food into smaller or thinner portions;
- c. Using rapid cooling equipment;
- d. Stirring the food in a container placed in an ice water bath;
- e. Using containers that facilitate heat transfer;
- f. Adding ice as an ingredient; or
- g. Other effective methods approved by the department.

6. Frozen potentially hazardous food shall be thawed:

- a. In refrigerated units at a temperature not to exceed 41 degrees Fahrenheit; or
- b. Under cold potable running water with sufficient water velocity to agitate and float off loosened food particles into the overflow and:

(I) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F; or

(II) For a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above 41°F for more than 4 hours including the time the food is exposed to the running water and the time needed for preparation for cooking; or

- c. In a microwave oven; or
- d. As part of the conventional cooking process.

7. Raw, unprocessed fruits and vegetables shall be thoroughly washed in potable water to remove any existing contaminants before being cut, combined with other ingredients, cooked, or served.

8. Comminuted meat (such as hamburger) products shall be thoroughly cooked to heat all parts of the meat to a minimum temperature of 155 degrees Fahrenheit for at least 15 seconds.

9. Stuffings, poultry, stuffed meats and stuffed poultry shall be heated throughout to a minimum temperature of 165 degrees Fahrenheit for at least 15 seconds.

10. Raw animal products such as eggs, fish, lamb, pork or beef, except roast beef, and foods containing these raw ingredients, shall be cooked to an internal temperature of 145 degrees Fahrenheit or above for at least 15 seconds. Fresh, frozen, or canned fruits and vegetables that are cooked for hot holding shall be cooked to a minimum temperature of 140 degrees Fahrenheit.

11. Microwave Cooking. Raw animal food cooked in a microwave oven shall be:

a. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

b. Covered to retain surface moisture;

c. Heated to a temperature of at least 165°F throughout all parts of the food; and

d. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

12. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross contamination. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to a minimum of 165 degrees Fahrenheit for 15 seconds throughout all parts of the food before being served or before being placed in a hot food storage equipment. Remaining un-sliced portions of roast beef and corned beef that are cooked as specified in subsection 8. shall be reheated for hot holding using the requirements of subsection 8. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant, shall be heated to a temperature of a least 140 degrees Fahrenheit. Precooked, pre-packaged food from approved sources shall be exempt from this rapid reheating requirement when the food is initially removed from the original package, prepared for service, and not cooked for hot holding. Steam tables, bainmaries, warmers and similar hot food holding equipment are prohibited for the rapid reheating of potentially hazardous foods.

13. Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll serving containers. Solid cuts of meat shall be protected by being covered in storage. Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by fire safety rules. The storage of food in toilet rooms, locker rooms, dressing rooms, garbage rooms, or vestibules is prohibited. Unless its identity is unmistakable, bulk food such as cooking

oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross contamination from food requiring washing or cooking. Packaged food shall not be stored in contact with water or undrained ice. Food shall be stored a minimum of 6 inches above the floor, on clean shelves, racks, dollies or other clean surfaces in such a manner as to be protected from splash and other contamination provided that:

a. Metal pressurized beverage containers and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; or

b. Racks and dollies used for food storage are easily movable.

14. Potentially hazardous food, date marking requirements.

a. Refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than 24 hours in a facility shall be clearly marked with the date of preparation.

b. When ready to eat, potentially hazardous food is to be subsequently frozen, in addition to the date of preparation, the food shall comply with the following:

(I) Prior to the food being placed into the freezer, the container must be clearly marked to indicate the date of freezing; and

(II) The container must be clearly marked to indicate that the food shall be consumed within 24 hours of thawing.

(III) When the food is removed from the freezer, the container must be clearly marked to indicate the date of thawing.

15. Ready-to-eat, potentially hazardous food, disposition. Refrigerated, ready-to-eat, potentially hazardous food, shall be discarded if not served within 7 calendar days from the date of preparation, excluding the time that the product is frozen.

16. All food shall be served in such a manner as to minimize contamination as follows:

a. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by staff or provided to residents who serve themselves.

b. Food within containers such as bins of sugar or flour, with the dispensing utensil handle extended out of the food; must be clean and dry.

17. Ice obtained from outside the residential child caring agency shall be from an approved source and shall be handled, transported and stored in a sanitary manner.

18. Food while being transported between residential child caring agencies or while being transported from a residential child caring agency to another location shall be in covered containers or otherwise wrapped or packaged to ensure protection from contamination. Potentially hazardous foods

shall be kept at safe temperatures during all periods of transportation and delivery. Food utensils shall be completely wrapped or packaged to protect them from contamination.

19. No poisonous or toxic materials shall be present in residential child caring agencies except those used for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

a. Containers of poisonous or toxic materials shall be prominently and distinctly labeled for easy identification of contents.

b. Poisonous or toxic materials shall be stored separate from food, food equipment, utensils, or single-service articles.

c. The use of sanitizers, cleaning compounds or other compounds intended for use on food-contact surfaces shall not leave a toxic residue on such surfaces or constitute a hazard to employees or consumers.

d. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in any way that constitutes a hazard to staff or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

e. First-aid supplies and personal medications shall be stored in a way which prevents their contaminating food or food-contact surfaces.

f. Sanitizers, detergents, or other cleaning compounds shall be stored separately from insecticides, rodenticides and other poisonous or toxic materials using methods such as different storage cabinets or separate areas of a room.

(3) The following measures shall be used to inspect recreational areas in all residential child caring agencies.

(a) The recreational area shall be safe and free from hazardous conditions. Recreational equipment shall have no jagged or sharp projections or other hazardous construction, and shall be maintained in a structurally sound condition.

(b) Outdoor recreational areas shall be well drained and kept free of litter and trash.

(c) If swimming pools, spas, hot tubs or open water hazards are located on the property of a community based residential facility, the facility shall provide direct supervision by an adult employee when in use or when the area is occupied by minors and other residents that cannot swim. The individual responsible for supervision during water activities or near water hazards must have successfully completed the community water safety course specified in paragraph (b) below.

1. A wading or kiddie pool is not allowed.

2. All community based residential facilities with swimming pools, spas, or open water hazards must have a person on staff who has completed a community water safety course administered by the American Red Cross or the YMCA.

3. A community based residential facility with a pool or spa has a barrier on all sides at least four feet high. 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. Hot tubs and spas shall be required to have a safety cover that is locked when not in use.

4. Water safety devices shall be provided for residential pools. A shepherd's hook shall be provided securely attached to a one piece pole not less than 16 feet in length, and at least one 18 inch diameter lifesaving ring with sufficient rope attached to reach all parts of the pool from the pool deck. Safety equipment shall be mounted in a conspicuous place and be readily available for use.

Rulemaking Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 7-1-87, Formerly 10M-9.019, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Alan Abramowitz, Family Safety Director  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2010

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

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**State Boxing Commission**

RULE NOS.:	RULE TITLES:
61K1-1.003	Licenses, Permits; Requirement, Procedure and Period, Fee
61K1-1.004	Weight Classes; Weigh-In; Pre-Match Physical of Participant and Referee
61K1-1.005	Promoter and Matchmaker; Licensing and Bond; Duties and Conduct

**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. 30, July 30, 2010 issue of the Florida Administrative Weekly.

These changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee in a letter dated August 27, 2010. The changes are as follows: 61K1-1.003(2)(b)3, shall read as:

The promoter or matchmaker shall be required to provide the proposed fight card not later than 7 calendar days prior to the proposed date of the program. The promoter or matchmaker shall utilize Form BPR-0009-456, entitled "Proposed Fight Card" (1/10), and Form BPR-0009-480 entitled "Pro Debut Information Sheet" (1/10), incorporated herein by reference. The forms can be obtained from the Florida State Boxing Commission, 1940 North Monroe Street, Tallahassee, Florida 32399-1016, or at the Commission's website at: <http://www.myfloridalicense.com/dbpr/pro/sbc/index.html>. Once a promoter has identified a licensed matchmaker for a specific program of matches, any proposed matches submitted by the promoter will be deemed to be received from the matchmaker. The promoter or matchmaker will be allowed to propose additional matches until 12 noon on the day prior to the scheduled program of matches. After such time, matches may only be proposed if records can be verified to the satisfaction of the executive director and prior to the conclusion of the weigh-in. At the conclusion of the weigh-in no further matches may be proposed or approved. The executive director shall review the proposed fight card and, if he determines that all the proposed matches meet the requirements of Chapter 548, F.S., and the rules set forth herein, he shall approve the proposed fight card or match(es). If the executive director determines that the proposed fight card or match(es) is not in compliance with Chapter 548, F.S., or the rules set forth herein, the executive director shall not approve the proposed fight card and shall immediately advise the promoter or matchmaker that the proposed fight card has been disapproved and the reasons for the disapproval. Approvals and disapprovals may be communicated for individual matches comprising the proposed fight card.

61K1-1.004(2)(f), shall read as:

~~The participant shall be required to complete the first part of a participant information form which shall be provided by the commission. The participant shall utilize Form BPR-0009-455, entitled "Participant Information and Medical Sheet" (1/10), incorporated herein by reference and effective June 21, 2004.~~ This form can be obtained from the Florida State Boxing Commission, 1940 North Monroe Street, Tallahassee, Florida 32399-1016. The participant shall also complete the first part of submit a completed Form BPR-0009-665, entitled "Dilated Ophthalmological Exam" (1/10), incorporated herein by reference. This form can be obtained from the Florida State Boxing Commission, 1940 North Monroe Street, Tallahassee, Florida 32399-1016, or at the Commission's website at: <http://www.myfloridalicense.com/dbpr/pro/sbc/index.html>. Both of these forms must be completed by an examining physician certifying that the participant is able to engage in a match