

(2) An application file for licensure is not complete unless and until it contains verification of a passing score from examination of the National Board of Podiatric Medical Examiners, including Part I, Part II, and the PMLexis Examination. Such verification must be received by the Board office directly from the provider of the National Board of Podiatric Medical Examiners examination.

Rulemaking Authority 461.005 FS. Law Implemented 456.017(1)(c), 461.006 FS. History—New 1-29-80, Amended 12-9-82, Formerly 2IT-11.01, Amended 10-14-86, 1-26-88, 6-20-88, 7-3-89, 6-24-92, Formerly 2IT-11.001, Amended 7-6-94, Formerly 61F12-11.001, Amended 1-1-96, 7-15-96, Formerly 59Z-11.001, Amended 9-3-98, 2-8-00, 4-22-08, 6-17-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 23, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 29, 2011

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LEGAL AFFAIRS
Division of Victim Services and Criminal Justice Programs
RULE NOS.: RULE TITLES:
2A-7.001 Definitions
2A-7.0021 Eligibility
2A-7.0022 Application Process

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 31, August 5, 2011 issue of the Florida Administrative Weekly.

The agency has determined that these rules are strictly for clarification of eligibility and documentation requirements and processes for victims of domestic violence and stalking, and will have no regulatory cost or impact on small businesses. Accordingly, they do not require ratification by the Legislature.

DEPARTMENT OF EDUCATION
State Board of Education

RULE NOS.: RULE TITLES:
6A-6.0902 Requirements for Identification,
 Eligibility Programmatic and
 Annual Assessments of English
 Language Learners
6A-6.09022 Extension of Services in English for
 Speakers of Other Languages
 Program

6A-6.0903 Requirements for Exiting English
 Language Learners from the
 English for Speakers of Other
 Languages Program

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. 37, No. 20, May 20, 2011 issue of the Florida Administrative Weekly.

Sub-subparagraph (2)(a)3.c. of Rule 6A-6.0902 is revised as follows:

c. Level of mastery of basic competencies or skills in English and heritage language according to ~~appropriate~~ local, state or national criterion referenced standards;

Paragraph (3)(d) of Rule 6A-6.0902 is revised as follows:

(d) Parents have the right to have their child immediately removed from a language instruction educational program and to decline to enroll the student in such a program or choose other instructional options, if available. For purposes of this subparagraph, a “language instruction educational program” means an instruction course in which an ELL is placed for the purpose of developing and attaining English proficiency and which may make instructional use of both English and a child’s ~~heritage~~ native language. Nothing herein shall alter the duty of the district to provide highly qualified, duly certified or endorsed ESOL instructors in accordance with Rule 6A-1.09441, F.A.C., and the Course Code Directory and Instructional Personnel Assignments that is incorporated by reference therein. If any parent or guardian of an ELL communicates a refusal to have his or her child enrolled in an ELL program, the District shall have the student’s principal or another representative of the school meet with the parent to:

1. Describe the range of programs and services that he child could receive if the parent does not refuse, including the methodology the District plans to employ to address the student’s educational needs and the training and qualifications of teachers and any others who would be employed in teaching the student;

2. Discuss the benefits their child is likely to gain by being enrolled in an ELL program and receiving ELL services;

3. Explain that, notwithstanding any past practice, the District shall not require students to be assigned to programs specifically designated for ELLs, or schools containing such programs, in order to receive ELL services.

Section (3) of Rule 6A-6.09022, is revised as follows:

(3) The ELL Committee shall review the student’s academic record holistically and shall consider the assessment results from the assessment administered under item (2) above and the following criteria to determine whether the student is English language proficient:

~~(a)~~ Extent and nature of prior educational or academic experience, social experience, and a student interview;

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.721
 RULE TITLE: Visiting Operations
 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. 37, No. 25, June 24, 2011 issue of the Florida Administrative Weekly.

33-601.721 Visiting Operations.
 (1) through (10) No change.

(11) Neither inmates nor visitors, including death row inmates and their visitors, shall be permitted to possess or use tobacco products as defined in Section 944.115(2)(d), F.S., during visitation.

(12)~~(11)~~ The effective date of this rule is October 1, 2011.

Rulemaking Specific Authority 944.09, ~~944.23~~ FS. Law Implemented 944.09, 944.115, 944.23, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-16-03, 7-17-07, _____.

Editorial Note: Formerly 33-601.708, F.A.C.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-550.200	Definitions for Public Water Systems
62-550.310	Primary Drinking Water Standards: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels
62-550.500	General Monitoring and Compliance Measurement Requirements for Contaminants and Disinfectant Residuals
62-550.514	Disinfectant Residuals and Disinfection Byproducts Monitoring Requirements
62-550.540	Monitoring of Consecutive Public Water Systems
62-550.550	Certified Laboratories and Analytical Methods for Public Water Systems
62-550.720	Recordkeeping
62-550.730	Reporting Requirements for Public Water Systems
62-550.821	Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors
62-550.822	Initial Distribution System Evaluations and Stage 2 Disinfection Byproducts Requirements
62-550.824	Consumer Confidence Reports

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 46, November 19, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-560.400	Scope of Drinking Water Public Notification Rules
62-560.410	Public Notification – Primary Standards

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 46, November 19, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.:	RULE TITLE:
64B-7.001	Pain Management Clinic Registration Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 38, September 24, 2010 issue of the Florida Administrative Weekly.

SECOND NOTICE OF CHANGE

(1) Every clinic location ~~that is advertising pain management services or employing a physician who is primarily treating pain by prescribing or dispensing controlled substance medications,~~ unless exempt under Sections 458.3265(1) or 459.0137(1), F.S., must register and maintain a valid registration with the Department. Every registered clinic location upon change of ownership must register and maintain a valid registration with the Department. To be eligible to register with the Department, the clinic must meet the statutory requirements, which include the requirement that the clinic be fully owned by a physician or group of physicians who are currently licensed pursuant to Chapter 458 or 459 or licensed as a health care clinic with the Agency for Health Care Administration pursuant to Part X of Chapter 400, F.S. ~~With regard to the surgical services exemption, interventional pain procedures of the type routinely billed using surgical codes are included in the term surgical services.~~

(2) The clinic’s designated physician must have a full, active, and unencumbered license, which includes:

(a) Having a clear, active license as a medical doctor or osteopathic physician under Chapter 458 or 459, F.S., that permits the physician to perform all duties authorized by holding a license without restriction.

(b) Having a license that is not designated as limited, restricted, retired, temporary, or training.

(c) Having a license with no restrictions on practice and no current disciplinary or other unsatisfied obligations imposed by the Board of Medicine, Board of Osteopathic Medicine, or the Department that limits or restricts the practice of medicine or osteopathic medicine, which includes suspension, probation, or any other restrictions on practice.

~~(3) Having considered the needs of small and rural clinic locations, the designated physician "shall practice at the clinic location," which means retaining documentation of being physically present and practicing medicine or osteopathic medicine at that location for no less than at least 33% of the hours per week that the clinic is open for business. For clinic locations with 3 or more physicians administering, prescribing, or dispensing controlled substance medications, including the designated physician, or for those clinic locations prescribing or dispensing more than half the maximum number of controlled substance prescriptions that the boards allow a clinic to issue over a 24 hour period, the designated physician must be present at least 67% of the hours per week that the clinic is open for business. When the designated physician is unable to practice at the clinic location as required by this subsection, prescribing or dispensing of controlled substance medications at the clinic must cease unless and until the name of another designated physician who meets the statutory requirements is received by the Department by mail, facsimile, or electronic mail, which may include the date of return of the former designated physician intending to resume the position if he or she is qualified to serve in that capacity and the absence from the clinic location is temporary.~~

~~(3)(4)~~ To register with the Department, the designated physician must submit Application for Pain Management Clinic Registration, Form #DH-MQA 1219, ~~7/11 10/10~~, incorporated herein by reference. This form can be obtained at www.[Dept. of State linked address] and from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C-01, Tallahassee, FL 32399 or on the Board of Medicine or Board of Osteopathic Medicine website, which can be accessed at: www.flhealthsource.com or at MQA_medicine@doh.state.fl.us. At this mail or electronic address, the clinic is responsible to provide notice to the Department of the departure of the designated physician and, within 10 days after termination, the identity of another designated physician for the clinic. At this mail or electronic address, the designated physician at a registered clinic also within 10 days of departure shall notify the board of the date of termination from employment, and each physician in the clinic shall notify the board within 10 calendar days of beginning or ending practice.

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: RULE TITLE:
64B-7.002 Disciplinary Guidelines

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 41, October 15, 2010 issue of the Florida Administrative Weekly.

64B-7.002 Disciplinary Guidelines.

(1) In imposing discipline on a pain-management clinic, it's owner, designated physician or other persons as particularly indicated in paragraphs (2)(a) through (ii), the department shall act in accordance with these disciplinary guidelines and shall impose a penalty within the range corresponding to the severity and repetition of the violations unless the department finds it necessary to deviate from the guidelines in accordance with this rule. Any and all offenses listed are sufficient grounds for the initial refusal of registration to an applicant. The department shall recover the costs of the investigation and prosecution of the case as well as imposing the appropriate penalty. In addition to any other penalty, if the violation includes proof of intentional fraud or fraudulent misrepresentation, the department shall impose a penalty of \$10,000 per count or offense. When the penalty is suspension, the period of suspension for the registration of the clinic shall not exceed one year.

(2) Violations and Range of Penalties:

(a) A clinic whose owner or designated physician has failed failing to comply with any requirement of Chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or Chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act. (Sections 458.3265(5)(a), 459.0137(5)(a), F.S.). First offense- a fine of up to \$5,000 per violation and six months probation to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 per violation and a minimum of one year suspension to revocation.

(b) An owner-operated clinic whose designated physician has knowingly and intentionally misrepresented misrepresenting actions taken to correct a violation. (Sections 458.3265(5)(c), 459.0137(5)(c), F.S.). First offense – a fine of up to \$5,000 and up to revocation. For a subsequent offense, a fine of \$5,000 and revocation. For a clinic not owner-operated, for a first offense a fine of up to \$5,000. For a subsequent offense, a fine of \$5,000.

(c) An owner or designated physician who has concurrently operated operating an unregistered pain-management clinic. (Sections 458.3265(5)(d), 459.0137(5)(d), F.S.). First offense – a fine of \$5,000 per day. For a subsequent offense, a fine of \$5,000 per day ~~and~~ revocation.

(d) An owner who has failed failing to apply to register a clinic that requires registration upon change of ownership and has operated operating the clinic under new ownership.

(Sections 458.3265(5)(e)(d), 459.0137(5)(e)(d), F.S.). First offense- a fine of up to \$5,000. For a subsequent offense, a fine of \$5,000 and one year suspension or revocation.

(e) ~~A clinic whose owner or designated physician has aided, assisted, procured, employed or advised aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice contrary to Chapter 458, 459, F.S., or the rules of the department or the appropriate board. (Section 456.072(1)(j), F.S.). First offense – a fine of \$5,000 and/or up to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 per violation and revocation.~~

~~(f) Knowingly prescribing or dispensing, or causing to be prescribed or dispensed, controlled substances in a nonregistered pain-management clinic that is required to be registered with the department. (Sections 458.327(2)(f), 459.013(2)(d), F.S.). First offense – a fine of up to \$5,000 per day. For a subsequent offense, a fine of up to \$5,000 per day and up to one year suspension or revocation.~~

~~(f)(g) A clinic whose owner or designated physician has registered registering a pain-management clinic through misrepresentation, fraud, or by making a false or fraudulent representation. (Section 456.072(2)(d), F.S.). A fine of \$10,000 per count or offense and up to one year suspension or revocation.~~

~~(g)(h) A clinic whose owner or designated physician has been being convicted of or pled guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit and diverted drugs, including a controlled substance listed in Schedule I, II, III, IV, or V of s. 893.03, in this state, any other state, or the United States. (Sections 458.3265(1)(e) and (f), 459.0137(1)(e) and (f), F.S.). Revocation unless more than ten years have passed since the conviction and the owner has received recognition from the Governor for providing extraordinary service to the state.~~

~~(i) Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonest, or deceit in any jurisdiction of the courts of the state, of any other state, or of the United States. (Sections 458.331(1)(oo)4., 459.015(1)(qq)4., F.S.). First offense, a fine of up to \$5,000 and up to one year suspension to revocation. For a subsequent offense, a fine of \$5,000 and one year of suspension or revocation.~~

~~(j) Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for any offense that would constitute a violation of Chapter 458 or Chapter 459, F.S. (Sections 458.331(1)(oo)5., 459.015(1)(qq)5., F.S.). First offense, a fine of up to \$5,000 and one year probation to revocation. For a subsequent offense, a fine of \$5,000 and from three months to one year suspension or revocation.~~

~~(h)(k) A clinic whose owner or designated physician has been being convicted of, or entered entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession. (Sections 456.072(1)(c), 458.331(1)(oo)6., 459.015(1)(qq)6., F.S.). First offense, a fine of up to \$5,000 and up to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 and revocation.~~

~~(i)(4) A clinic whose owner or designated physician has been being convicted of, or entered entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud. (Sections 456.072(1)(ll), 458.331(1)(oo)7., 459.015(1)(qq)7., F.S.). First offense, a fine of \$10,000 up to \$5,000 and up to one year suspension or revocation. For a subsequent offense, a fine of \$10,000 \$5,000 and revocation.~~

~~(j)(m) A clinic whose owner or designated physician has been being convicted of, or entered entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.). First offense, a fine of up to \$5,000 and one year suspension to revocation. For a subsequent offense, a fine of \$5,000 and revocation.~~

~~(n) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14) or s. 893.02 if the owner or holder of the registration knows or has reason to believe that the purported prescription is not based on a valid practitioner-patient relationship. (Sections 458.331(1)(oo)8., 459.015(1)(qq)8., F.S.). First offense, a fine of up to \$5,000 and from up to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 and revocation.~~

~~(k)(o) A clinic whose owner has failed failing to timely notify the department of the date that the designated physician dispensing practitioner has terminated from a pain-management clinic as required by Sections 458.3265(1)(c)(2) or 459.0137(1)(c)(2). (Sections 458.3265(5)(a) 458.331(1)(oo)9., 459.0137(5)(a) 459.015(1)(qq)9., F.S.). First offense, a fine of up to \$3,500 and from a reprimand to six months suspension. For a subsequent offense, a fine of up to \$5,000 and up to one year suspension or revocation.~~

~~(l)(p) A physician who has failed failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of other methods for prescribing within 24 hours as required by Section 458.3265(2) or 459.0137(2). (Sections 458.331(1)(pp), 459.015(1)(rr), F.S.). First offense, a fine of up to \$5,000 and from one year of~~

probation to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

(m)(q) A clinic whose owner or designated physician has promoted or advertised ~~promoting or advertising~~ through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in Chapter 893. (Sections 458.331(1)(qq), 459.015(1)(ss), F.S.). First offense, a fine of up to \$5,000 and a reprimand and six months to one year suspension. For a subsequent offense, a fine of up to \$5,000 and up to one year suspension or revocation.

(n)(r) A clinic whose owner or designated physician has made ~~making~~ misleading, deceptive, or fraudulent representations in or related to the practice. (Section 456.072(1)(a), F.S.) First offense, a fine of \$10,000 and from a reprimand to one year suspension. For a subsequent offense, a fine of \$10,000 and one year suspension or revocation.

(o)(s) A clinic whose owner or designated physician has intentionally ~~violated~~ ~~violating~~ any rule adopted by the board or the department as appropriate. (Section 456.072(1)(b), F.S.) First offense, a fine of up to \$5,000 and from one year probation up to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 and up to one year suspension or revocation.

(p)(t) A clinic whose owner or designated physician or clinic owner whose designated physician has experienced having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including denial, by the licensing authority of any jurisdiction for what would be a violation under Florida law. (Section 456.072(1)(f), F.S.) First offense, a fine of up to \$5,000 and up to one year suspension or revocation considering what the penalty would have been had the offense occurred in Florida. For a subsequent offense, a fine of up to \$5,000 and up to one year suspension or revocation considering what the penalty would have been had the subsequent offense occurred in Florida.

(q)(u) A clinic whose owner or designated physician or clinic owner whose designated physician has attempted ~~attempting~~ to obtain or ~~has obtained~~ ~~obtaining~~ the registration by bribery, by fraudulent misrepresentation, or through an error of the department or a board. (Section 456.072(1)(h), F.S.) First offense not involving fraudulent misrepresentation, a fine of up to \$5,000 and up to one year suspension or revocation. For a subsequent offense not involving fraudulent misrepresentation, a fine of up to \$5,000 and one year suspension or revocation. The fine portion of the penalty is \$10,000 for an offense involving fraudulent misrepresentation.

(r)(v) A clinic whose owner or designated physician has ~~failed~~ ~~failing~~ to report to the department any person known to be in violation of Chapter 456, 458 or 459, or the rules of the department or board. (Section 456.072(1)(i), F.S.) First

offense, a fine of up to \$3,000 and up to one year suspension. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

(s)(w) A clinic whose owner or designated physician has ~~failed~~ ~~failing~~ to perform any statutory or legal obligation (Section 456.072(1)(k), F.S.). First offense, from a fine of up to \$5,000 and/or from a three month to one year suspension. For a subsequent offense, a fine of up to \$5,000 and from one year probation to one year suspension or revocation.

(t)(x) A clinic whose designated physician on behalf of the registered clinic has made or filed a report known to be false, intentionally or negligently failed to file a report required by state or federal law, or willfully impeded or obstructed another from filing. Such reports or records shall include only those signed on behalf or in the capacity of a registered clinic ~~Filing a false report~~ (Section 456.072(1)(l), F.S.). First offense, a fine of up to \$5,000 and up to one year suspension. For a subsequent offense, a fine of \$5,000 and up to one year suspension or revocation. The fine portion of the penalty is \$10,000 for an offense involving a false or fraudulent representation.

(u)(y) A clinic whose owner or designated physician has made ~~making~~ deceptive, untrue, or fraudulent representations or ~~employed~~ ~~employing~~ a trick or scheme related to the operation of the business (Section 456.072(1)(m), F.S.). First offense, a fine of up to \$5,000 and/or probation to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 and revocation. The fine portion of the penalty is \$10,000 for an offense involving deceptive, untrue or fraudulent representation.

(v)(z) A clinic whose designated physician or practicing physician has exercised ~~exercising~~ influence on a patient or client for the purpose of financial gain of the clinic licensee or a third party. (Section 456.072(1)(n), F.S.). First offense, a fine of up to \$5,000 and from one year probation to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

(w)(aa) A clinic whose physician or other employee has practiced or offered ~~practicing or offering~~ to practice beyond the scope permitted by law or ~~has accepted and performed~~ ~~accepting and performing~~ professional responsibilities that the owner and/or designated physician know that the clinic employee is not competent to perform. (Section 456.072(1)(o), F.S.). First offense, a fine of up to \$5,000 and up to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and revocation.

(x)(bb) A clinic whose owner or designated physician or clinic owner whose designated physician has delegated or contracted ~~delegating or contracting~~ for the performance of professional responsibilities by a person when the owner or designated physician delegating or contracting for performance of the responsibilities knows, or has reason to know that the person is not qualified by training, experience, and

authorization to perform when required to perform them. (Section 456.072(1)(p), F.S.). First offense, a fine of up to \$5,000 and from one year probation to up to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

~~(y)(ee)~~ A clinic whose owner or designated physician has violated ~~violating~~ an order of the department or the appropriate board, or has failed ~~failing~~ to comply with subpoena of the department (Section 456.072(1)(q), F.S.). First offense, a fine of up to \$5,000 and from a reprimand to up to one year suspension. For a subsequent offense, a fine of \$5,000 and one year suspension or revocation.

~~(z)(dd)~~ A clinic whose owner or designated physician or clinic owner whose designated physician has ~~improperly interfered~~ ~~interfering~~ with an investigation, inspection, or disciplinary proceeding (Section 456.072(1)(r), F.S.). First offense, a fine of up to \$5,000 and up to one year suspension or revocation. For a subsequent offense, a fine of \$5,000 and revocation.

~~(aa)(ee)~~ A clinic whose practicing physician or other health care practitioner has failed ~~failing~~ to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing at the clinic (Section 456.072(1)(t), F.S.). First offense, a fine of up to \$2,500 and/or up to a three month suspension. For a subsequent offense, a fine of up to \$5,000 and up to one year of suspension of registration.

~~(bb)(ff)~~ A clinic whose designated physician and the designated physician who has failed ~~failing~~ to comply with Sections 381.026 and 381.0261, F.S., requirements to provide patients with information about patient rights and how to file a patient complaint (Section 456.072(1)(u), F.S.). First offense, a fine of up to \$3,500 and a reprimand up to a six month suspension. For a second offense, a fine of up to \$5,000 and from one year probation to up to one year suspension. For a subsequent offense, a fine of \$5,000 and one year suspension or revocation.

~~(cc)(gg)~~ A clinic whose owner or designated physician or clinic owner whose designated physician has failed ~~failing~~ to report to the department in writing within 30 days after having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (Section 456.072(1)(x), F.S.). First offense, a fine of up to \$2,500 and up to a six month suspension. For a subsequent offense, a fine of \$5,000 and one year suspension or revocation.

~~(dd)(hh)~~ A clinic whose owner or designated physician has violated ~~violating~~ any applicable provision of Chapter 456, Chapter 458, or Chapter 459, or the rules of these chapters (Section 456.072(1)(dd), F.S.). First offense, from a fine of up to \$5,000 and from six months probation to one year suspension. For a subsequent offense, a fine of up to \$5,000 and up to a one year suspension or revocation.

~~(ee)(ii)~~ A clinic whose designated physician or practicing physician has, with respect to making a personal injury protection claim as required by Section 627.736, F.S., intentionally submitted ~~submitting~~ a claim, statement, or bill that has been "upcoded" as defined in Section 627.732, F.S. (Section 456.072(1)(ee), F.S.). First offense, a fine of up to \$5,000 and from a reprimand up to one year suspension. For a subsequent offense, a fine of up to \$5,000 and up to one year suspension or revocation.

~~(ff)(jj)~~ A clinic whose designated physician or practicing physician has, with respect to making a personal injury protection claim as required by Section 627.736, F.S., intentionally submitted ~~submitting~~ a claim, statement, or bill for payment of services that were not rendered. (Section 456.072(1)(ff), F.S.). First offense, a fine of up to \$5,000 and from one year of probation to revocation. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

~~(gg)(kk)~~ A clinic whose designated physician or practicing physician has engaged ~~engaging~~ in a pattern of practice when prescribing drugs or controlled substances which demonstrates a lack of reasonable skill and safety to patients or a violation of Chapter 456, 458 or 459, F.S., or any applicable rules. (Section 456.072(1)(gg), F.S.). First offense, a fine of up to \$5,000 and up to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and one year suspension or revocation.

~~(hh)(ll)~~ A clinic or owner whose designated physician or practicing physician has failed ~~failing~~ to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement (Section 456.072(1)(jj), F.S.). First offense, from a minimum fine equal to the lesser of the amount owed to the state for an overpayment or up to \$5,000 and from 6 months probation to one year suspension or revocation. For a subsequent offense, a fine of up to \$5,000 and up to a one year suspension or revocation.

~~(ii)(mm)~~ A clinic whose designated physician or practicing physician has been ~~being~~ terminated from the state Medicaid program, any other state Medicaid program, or the federal Medicare program, unless eligibility has been restored. (Section 456.072(1)(kk), F.S.). First offense, from a fine of up to \$5,000 and from one year suspension to revocation. For a subsequent offense, a fine of \$5,000 and revocation.

(3) The range of disciplinary penalties which the department is authorized to impose includes those set forth in Sections 456.072, 458.3265(1) and (5), or 459.0137(1) and (5), F.S. In determining the appropriate disciplinary action to be imposed in each case, the department shall take into consideration the mitigating and aggravating factors described in Sections 458.3265(5) or 459.0137(5), F.S. The final order shall explain the mitigating or aggravating circumstances used to justify any deviation from the specified guidelines.

been prescribed or received controlled substances from multiple health care practitioners in a strength, amount, or at a frequency that may be contrary to law of concern to the patient or to any involved pharmacies and practitioners. When an alert is issued, the screen or report shall contain the phrase "ADVISORY ALERT" in distinguishing or colored font. The alert report shall be retained for a minimum of six months and until at least six months have passed during which time the patient has not been prescribed or received controlled substances in a strength, amount, or at a frequency that may be of concern to the patient or to any involved pharmacies and practitioners.

~~(3) An advisory report will only be provided to the practitioner, pharmacy, pharmacist, or patient upon request. When an alert report is created, a confidential alert notification will be e mailed to the referenced practitioner or pharmacy with instructions on how to request and access the alert report.~~

64K-1.003 Accessing Database.

(1) The following entities have direct access to the information contained in the Program ~~central~~ database:

(a) A ~~pharmacist pharmacy~~, prescriber, or dispenser if the information relates to a patient of that pharmacy, prescriber, or dispenser for purposes of reviewing the patient's controlled substance prescription history. Those entities who are authorized to prescribe or dispense controlled substances, Schedules II-IV, and are licensed in the State of Florida registered in the Program system, may access the database through the secure web portal to request and receive information electronically, or may submit a written request to the Program manager if information must be received by an alternate means.

(b) The Program manager and designated Program support staff acting at the direction of or as authorized by the Program manager for purposes of management of the Program database ~~and in furtherance of the Program.~~

(2) The following entities do not have direct access to the information in the database, but may request access from the Program manager or authorized staff:

(a) The Department or the health care regulatory boards in subparagraph 893.005(7)(c)1., F.S., when involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

(b) The Attorney General or designee for Medicaid Fraud cases involving prescribed controlled substances.

(c) A law enforcement agency during an active investigation regarding potential criminal activity, fraud, or theft relating to prescribed controlled substances.

(d) A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in Section s: 893.0551, F.S., who, for the purpose of verifying the accuracy of the database information, contacts the Prescription Drug Monitoring Program at 4052 Bald Cypress Way, Bin

#C-16, Tallahassee, FL 32399-3254 or by telephone at (850)245-4797 to request form DH 2143 "Patient Information Request," effective December, 2010, which is incorporated by reference and located at _____ submits a notarized request on a form authorized by the Program. To receive the requested information, the patient or other authorized person representative must make an appointment, appear in person at the Program office, and produce proof of representation if not the patient as well as a valid government issued identification, which includes a photograph photographic proof of identity.

(3) The Program manager or designated staff must ensure that the entity requesting access to information is permitted by law to receive access and must document steps taken ~~take every reasonable precaution~~ to verify the request as authentic.

64K-1.004 Management and Operation of Database.

(1) All entities that dispense controlled substances, Schedules II-IV, are required to report to the Program ~~central~~ database. These entities include:

(a) Any pharmacy with a permit issued under ~~Chapter Ch-~~ 465, F.S., that dispenses controlled substances, whether located in or out of the State of Florida, including mail order or Internet pharmacies.

(b) Any health care practitioner, practicing in Florida, who dispenses any controlled substances, Schedules II-IV, and who is licensed under Chapter 458, 459, 461, 462, or 466, F.S.

(c) Exemptions from reporting are as stated in Section s- 893.055(5), F.S.

~~(2) All entities that dispense controlled substances, Schedules II-IV, must register with the Program prior to submitting data.~~

~~(2)(3)~~ All dispensers will electronically submit report data to the Program's database as soon thereafter as possible, but not more than 7 ~~15~~ days after the controlled substance is dispensed to an individual according to a schedule developed and published by the Program. Extensions of the time within which a dispenser must report the dispensing of a controlled substance shall be granted for no more than 30 days upon request to the Program by any dispenser unable to submit data by electronic means for good cause if the dispenser provides evidence of having suffered a mechanical or electronic failure or cannot report for reasons beyond the control of the dispenser or if the ~~central~~ database is unable to receive submissions.

~~(3)(4)~~ Data not accepted by the database system due to a substantial number of errors or omissions shall be corrected and resubmitted to the database by the reporting dispenser within ten business ~~five~~ days of receiving written notice that the submitted data was unacceptable.

~~(4)(5)~~ Failure to report the dispensing of Schedules II-IV controlled substances will result in the Program filing a complaint with the Department for investigation ~~by the Department and a referral to law enforcement.~~

~~(5)(6)~~ All information from the database disseminated in any form by the Program to any entity is considered protected health information and the use of it is governed by any and all applicable federal and state laws. ~~Authorized entities receiving such information shall maintain the information for up to 24 months before purging it from the records or shall maintain it for longer than 24 months if advised that the information is pertinent to an ongoing disciplinary or law enforcement investigation or prosecution.~~

~~(6)(7)~~(a) A patient, health care provider, prescriber, or dispenser is authorized to submit to the Program an electronic request for the correction of erroneous information in the database. The request shall include:

1. A statement explaining in detail the basis for the requested correction;
2. The precise change requested;
3. Documentation establishing the error and the correct information;
4. The requester's name, address, telephone number, and license number if licensed as a health care provider in Florida.

(b) The Program manager or designated staff will review all requests to correct information in the database and will contact the entity that provided the data under review. If the reporter of the data concurs that the data should be corrected as requested, the reporter ~~Program~~ will make the correction. If the reporter does not agree, the reporter ~~correction~~ will not enter the correction ~~be entered~~. The entity or person requesting the correction will be notified of whether the correction has been made ~~the Program's determination~~.

64K-1.005 ~~Storage and Security of Information.~~

Breaches in database security discovered by the Program manager or designated staff must be reported to the Department and to law enforcement within one business day of discovery of the breach. System users who become aware of a breach in security must report the suspected breach to the Program manager or designated staff ~~Department~~ as soon as possible, but not ~~or~~ no later than one business day after its discovery.

64K-1.006 Program Evaluation ~~and Other.~~

Beginning in October 2011, the Department shall evaluate the Program to prepare a report to the Legislature and Governor by December 1 of each year using the performance measures specified in Section ~~s.~~ 893.055(8), F.S.

DEPARTMENT OF HEALTH

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: RULE TITLE:
69K-23.003 Renewal of direct disposer licenses

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 30, July 29, 2011 issue of the Florida Administrative Weekly has been withdrawn.

**Section IV
Emergency Rules**

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.:	RULE TITLE:
12DER11-16	Form for Use to Attempt to Establish Adverse Possession Without Color of Title

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2011-107 (Senate Bill 1142), Laws of Florida, authorized the Department of Revenue to adopt emergency rules that could remain in effect for 6 months and that could be renewed. This act further provides that all conditions imposed by Sections 120.536(1) and 120.54(4), Florida Statutes, (Section 1 of Chapter 2011-107) were deemed to be met.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the Department of Revenue to adopt emergency rules that implement the provisions of Chapter 2011-107 (Senate Bill 1142), Laws of Florida. The law provides that these emergency rules remain in effect for a period of 6 months and that they may be renewed. The form included here is based on the requirements of Chapter 2011-107 (Senate Bill 1142), Laws of Florida, as passed by the Legislature, and will amend the form based on the changes to Section 95.18, F.S. The Department of Revenue has taken action to inform interested parties about the form that is being amended to implement this amended law, and to give such parties an opportunity to review and comment. These interested parties include Property Appraisers and interested parties who have told the Department that they want to receive all information associated with property tax rulemaking.

SUMMARY: Section 1 of Chapter 2011-107, (Senate Bill 1142), Laws of Florida, authorized the Department of Revenue to adopt emergency rules that could remain in effect for 6 months and that could be renewed. The purpose of this emergency rule is provide a procedure and form for applicants who apply to claim adverse possession and property appraisers to implement the new requirements from the provisions of the amended Section 95.18, F.S. Form DR-452, Return of Real Property in Attempt to Establish Adverse Possession Without Color of Title, is amended to include the amended provisions of Section 95.18, F.S. and is posted to our website at: <http://dor.myflorida.com/dor/property/forms/#5>.