

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker’s Compensation

RULE NO.: RULE TITLE:
69L-9.015 Drug Testing Criteria

PURPOSE AND EFFECT: The purpose of this rulemaking is to repeal Rule 69L-9.015, F.A.C. The Joint Administrative Procedures Committee has informed the Department that it lacks the required rulemaking authority to maintain the rule. Repealing the rule complies with the findings of Committee.

SUMMARY: Rule 69L-9.015, F.A.C., “Drug Test Criteria, will be repealed, as the statutory rulemaking authority no longer exists. Rulemaking authority for the rule, formerly available to the Department’s Division of Workers’ Compensation, was transferred to the Agency for Health Care Administration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: No SERC has been 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: 440.09(7), 440.101, 440.102(10) FS.

LAW IMPLEMENTED: 440.09(7), 440.101, 440.102, 627.0915 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: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers’ Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, (850)413-1708 or Pamela.Macon@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-9.015 Drug Testing Criteria.

Rulemaking Specific Authority 440.09(7), 440.101, 440.102(10) FS. Law Implemented 440.09(7), 440.101, 440.102, 627.0915 FS. History–New 4-30-96, Formerly 38F-9.015, 4L-9.015, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers’ Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2011

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-2.0040 Sanitation Standards in K-12 Private Schools

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. 15, April 15, 2011 issue of the Florida Administrative Weekly.

Paragraphs (3)(a), (4)(a), (5)(c), (d), Subparagraph (6)(b)3., Subsections (7), (8), (9), and Paragraph (14)(b) are amended to read:

6A-2.0040 Sanitation Standards in K-12 Private Schools.

This rule prescribes minimum requirements and standards of sanitation and safety for K-12 private schools, as defined in Section 1002.01, Florida Statutes, located within the state regardless of the nature of the school, its ownership or organization. ~~If a requirement in this rule conflicts with a specific requirement in the Florida Building Code adopted under Chapter 9N-1, F.A.C., or the Florida Fire Prevention Code under Chapter 69A-60, F.A.C., then that code shall prevail.~~

(3) Building Construction and Maintenance.

(a) Upon request, K-12 private schools shall provide proof of any required permitting for sSchool construction and remodeling shall pursuant to Section 553.79, Florida Statutes conform to construction requirements of the Florida Building Code and the requirements of the local building authority. School buildings shall be maintained so that they are vermin-proofed.

(4) Lighting Standards.

(a) ~~Illumination in~~ All instructional spaces shall be capable of providing a minimum illumination of forty (40) foot-candles at normal task level.

(5)(c) Heat producing appliances and systems shall be maintained in a proper working condition installed in accordance with requirements of the local building and fire authority.

(d) Ventilation and air conditioning. All occupied rooms and other rooms where odors or contaminants are generated shall be vented to the outside. Ventilation rates shall be maintained as designed ~~comply with those specified in the local building code.~~

(6)(b)3. Individual towels, preferably paper shall be used. Use of common or public towels is prohibited. Hot-air hand drying devices may be used in lieu of, or in addition to, individual towels.

(7) Water Supply.

(a) ~~The water supply for the school must be from a source that is licensed or permitted pursuant to the Florida Safe Drinking Water Act or Section 381.0062, Florida Statutes, as applicable shall be operated and maintained in compliance with Chapters 62-550 and 62-555 or Chapter 64E-8, F.A.C.~~

(b) Drinking fountains of an approved, sanitary slant jet type shall be provided in a ratio not less than 1 per 100 occupants ~~the ratio specified in the local building code.~~ In no case shall fountains be located in any toilet room.

(8) Sewage Disposal. Sewage disposal systems shall be installed, operated and maintained in a manner that does not create a sanitary nuisance, as that term is defined in Chapter 386, F.S. shall be disposed of in accordance with Chapter 62-600 or 64E-6, F.A.C., whichever is applicable. ~~Sewage treatment and disposal systems at schools shall be maintained in compliance with the applicable chapter.~~

(9) Solid Waste. Garbage, trash, and rubbish shall be collected, stored, and disposed of at a frequency and in a manner that prevents a sanitary nuisance. Wet garbage shall be collected and stored in impermeable, leak proof, fly tight containers pending disposal. Outdoor waste containers must be easily cleanable and serviceable. Waste containers and the storage area shall be cleaned at frequent intervals to prevent odors and breeding places for vermin. Waste water from the cleaning of garbage containers shall be disposed of as sewage. ~~Removal and disposal of garbage shall comply with Chapter 62-701, F.A.C.~~

(14)(b) Dormitories and residential school facilities, located on the premises of a school, shall not be part of the routine inspection of the school facility. Dormitories and residential school facilities shall be inspected on a complaint basis.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NOS.:	RULE TITLES:
15C-18.004	EFS Agent Participation Requirements
15C-18.006	Electronic Filing System Requirements; Disclosure to Customer

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 32, August 12, 2011 issue of the Florida Administrative Weekly.

The following is added at the end of the SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: This rule in not expected to require legislative rule ratification

under Section 120.541(3), Florida Statutes (or any other statute) before becoming effective for the following reasons: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), Florida Statutes, and 2) based on past experiences with electronic filing system requirements and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), Florida Statutes.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.403
 RULE TITLE: Random Drug Testing of Employees

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.

To comply with the requirements of Chapter 2011-225, Laws of Florida, the Summary of Statement of Estimated Regulatory Costs is amended to include a description of information expressly relied upon in determining that the rule is not expected to require legislative ratification. The amended statement reads as follows:

The agency has determined that this rule will not have an adverse impact on small business and is not likely to directly or indirectly increase regulatory costs by more than \$200,000 within one year of taking effect. A SERC has not been prepared by the agency. Based on information provided by the Bureau of Research and Data Analysis and the Office of Human Resource Management indicating that the rule will not have an adverse affect on the private sector or small business and will not require a significant amount of additional training, the rule is not expected to require legislative ratification. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-9.002
 RULE TITLE: Physician Survey Procedures

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 35, September 2, 2011 issue of the Florida Administrative Weekly.

STATEMENT ON RATIFICATION: This rule is not expected to require legislative ratification under Section 120.541(3), F.S. The rule text and the changes to the form incorporated by reference were considered in making this determination.

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.010
 RULE TITLE: Citations

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. 30, July 29, 2011 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the Joint Administrative Procedures Committee in a letter dated August 5, 2011. The change is as follows:

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST SHALL READ AS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an adverse impact on small business, nor will the proposed rule likely increase directly or indirectly regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years after implementation of the rule. Therefore, it has been determined that the rule does not meet the threshold for ratification by the Legislature. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

64B18-14.010 Citations.
 (1) through (3) No change.

VIOLATIONS

- (a) No change.
- 1. No change.
- 2. No change.
- 3. No change.
- 4. Failure to attend during the first biennium or within twelve (12) months of initial licensure one full day of a meeting of the Board of Podiatric Medicine at which disciplinary hearings are conducted. Guidelines outlined in Rule 64B18-17.005.
- (b) through (l) No change.
- ~~(m) 381.0261, F.S., referencing patients bill of rights.~~
- ~~(Section 456.077(2), F.S.)~~
- (4) through (5) No change.
- ~~(6)~~

PENALTY

\$500 fine and required attendance of one full day of board meeting

Rulemaking Specific Authority 456.072, 456.077, 461.005 FS. Law Implemented 456.057, 456.062, 456.072, 456.077, 461.012, 461.013(7) FS. History–New 1-19-92, Formerly 21T-14.010, 61F12-14.010, Amended 3-26-95, 2-25-96, 6-17-97, Formerly 59Z-14.010, Amended 11-23-00, 8-13-02, 7-26-04, 6-14-06, 10-11-06, 10-7-07, 6-8-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Board of Podiatric Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32314-3256

DEPARTMENT OF HEALTH

Prescription Drug Monitoring Program

RULE NO.: 64K-1.002
 RULE TITLE: American Society for Automation in Pharmacy Standards and Formats

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 30, July 29, 2011 issue of the Florida Administrative Weekly.

The correct title of the rule is: American Society for Automation in Pharmacy Standards and Formats.

Statement on Ratification: This rule is not expected to require legislative ratification under Section 120.541(3), F.S. Current practices and standards were considered in making this determination.

The person to be contacted regarding the above notice is Rebecca Piston, Program Manager, 4052 Bald Cypress Way, Bin #C16, Tallahassee, Florida 32399-3250, (850)245-4797 or Rebecca_Poston@doh.state.fl.us.

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker’s Compensation

RULE NO.: 69L-7.020
 RULE TITLE: Florida Workers’ Compensation Health Care Provider Reimbursement Manual

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. 24, June 17, 2011 issue of the Florida Administrative Weekly.

These changes are being made in response to comments received as part of the record for the public hearing held on Wednesday, July 13, 2011, and to add clarity to the rule. This notice also includes technical changes that have been made to the proposed rule. Changes made to the text of the incorporated reimbursement manual can be reviewed on the Department of Financial Services, Division of Workers’ Compensation webpage: <http://www.myfloridacfo.com/WC/draft-rules.html>.

To comply with the requirements of Chapter 2011-255, Laws of Florida, the Summary of Statement of Estimated Regulatory Costs is amended to read as follows: The Department has determined that the proposed rule will directly or indirectly increase regulatory costs, including transactional costs, in excess of \$1million in the aggregate within 5 years after the implementation of the rule. Accordingly, the Department has determined that the proposed rule will require legislative ratification.

Text of proposed rule with changes:

69L-7.020 Florida Workers' Compensation Health Care Provider Reimbursement Manual.

(1) The Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2011~~0~~ Edition, is adopted by reference as part of this rule. The manual contains the Maximum Reimbursement Allowances determined by the Three-Member Panel, pursuant to Section 440.13(12), F.S., and establishes reimbursement policies, guidelines, codes and maximum reimbursement allowances for services and supplies provided by health care providers. Also, the manual includes reimbursement policies and payment methodologies for pharmacists and medical suppliers.

(2) The CPT[®] 2010 Current Procedural Terminology Professional Edition, Copyright 201~~0~~9, American Medical Association; the Current Dental Terminology, CDT-2009/2010, Copyright 2008, American Dental Association; and in part for D codes and for injectable J codes, and for other medical services and supply codes, the "HCPCS Level II, A resourceful compilation of HCPCS codes Healthcare Common Procedure Coding System, Medicare's National Level II Codes, HCPCS 2010", ~~American Medical Association~~, Copyright 2009, Ingenix Publishing Group, are adopted by reference as part of this rule. When a health care provider performs a procedure or service which is not listed in the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2011~~0~~ Edition incorporated above, the provider must use a code contained in the CPT[®]-2010, CDT-2009/2010 or HCPCS Level II as specified in this section.

(3) The Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2011~~0~~ Edition incorporated above, is available for inspection during normal business hours at the Florida Department of Financial Services, Document Processing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0311, or via the Department's web site at: <http://www.myfloridacfo.com/wc/provider/reimbursement-manuals.html>. 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 within 21 days of this notice.

The remainder of the rule reads as previously published.

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

RULE NO.:	RULE TITLE:
69L-7.100	Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASCs)

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. 24, June 17, 2011 issue of the Florida Administrative Weekly.

These changes are being made in response to comments received as part of the record for the public hearing held on Wednesday, July 13, 2011, and to add clarity to the rule. This notice also includes technical changes that have been made to the proposed rule. Changes made to the text of the incorporated reimbursement manual can be reviewed on the Department of Financial Services, Division of Workers' Compensation webpage: <http://www.myfloridacfo.com/WC/draft-rules.html>.

To comply with the requirements of Chapter 2011-255, Laws of Florida, the Summary of Statement of Estimated Regulatory Costs is amended to read as follows: The Department has determined that the proposed rule will not have an adverse impact on small business or likely increase, directly or indirectly, regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC that has been prepared by the Department is summarized as follows: The proposed rule is not likely to; 1) directly or indirectly have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; 2) directly or indirectly have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or 3) directly or indirectly increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. In addition, the proposed rule does not impose additional costs on the Department; nor does it impose any additional costs on any state or local government entity. Accordingly, the Department has determined that the proposed rule will not require legislative ratification.

Text of proposed rule with changes:

69L-7.100	Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASCs).
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(1) The Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers, 2011~~0~~ Edition, (ASC Reimbursement Manual) is incorporated by reference as part of

this rule. The ASC Reimbursement Manual contains the Maximum Reimbursement Allowances determined by the Three-Member Panel, pursuant to Section 440.13(12), F.S., and establishes reimbursement policies, guidelines, codes and maximum reimbursement allowances (MRAs) for services provided to an injured worker in connection with a surgical procedure performed in an Ambulatory Surgical Center.

(2) The ASC Reimbursement Manual refers to a number of procedure codes and modifiers that are consistent with the Current Procedural Terminology (CPT®), developed and published by the American Medical Association. When a service or procedure is performed that does not have a code listed in the ASC Reimbursement Manual, the Ambulatory Surgical Center shall refer to the Current Procedural Terminology (CPT®), 2010 Copyright 2010, American Medical Association, which is hereby incorporated by reference as part of this rule. In addition, the rule incorporates the 2010 ICD-9-CM Professional for Hospitals, Volumes 1, 2 and 3, International Classification of Diseases, 9th Revision, Clinical Modification, Copyright 2009, Ingenix, Inc. (~~American Medical Association~~); the Physician ICD-9-CM 2010, Volumes 1 & 2, International Classification of Diseases, 9th Revision, Clinical Modification, Copyright 2009, Ingenix, Inc. (~~American Medical Association~~).

(3) The Current Dental Terminology (CDT-2009/2010), Copyright 2008, American Dental Association, and the HCPCS Level II, A resourceful compilation of HCPCS codes ~~Healthcare Common Procedure Coding System, Medicare's National Level II Codes, HCPCS 2010, Twenty-second Edition~~, Copyright 2009, Ingenix Publishing Group, are incorporated by reference as part of this rule, for dental D codes, injectable J codes, and other medical services or supply codes as specified in the ASC Reimbursement Manual.

(4) No change.

The remainder of the rule reads as previously published.

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER11-45
 RULE TITLE: Fan-Tastic College Football Promotion

SUMMARY: The Department of the Lottery will conduct the Fan-Tastic College Football Promotion between August 29, 2011, and November 30, 2011, in which special college football prizes will be awarded.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER11-45 Fan-Tastic College Football Promotion.

(1) Beginning Monday, August 29, 2011, through Wednesday, November 30, 2011, the Florida Lottery will conduct the Fan-Tastic College Football Promotion. Players who purchase a single \$10.00 or more FLORIDA LOTTO™ ticket at a Florida Lottery (or “Lottery”) retailer location will receive a voucher with a unique serial number that can be entered in a drawing in one (1) of eight (8) participating college team’s “fan experiences” on the Florida Lottery’s website for a chance to win college football prizes. The fan experience drawings are: the Canes® Fan Experience; the Gators® Fan Experience; the Seminoles® Fan Experience; the Bulls™ Fan Experience; the Knights™ Fan Experience; the Panthers™ Fan Experience; the Owls® Fan Experience; and the Rattlers™ Fan Experience.

(2) To enter a voucher serial number in a fan experience drawing, players must enter on the Lottery’s website at www.flalottery.com. On the home page of the Lottery’s website, players can click on the Fan-Tastic College Football Promotion banner(s) and follow the directions. Players can also access the Lottery’s website to enter a voucher serial number via a link located on each of the following eight (8) colleges’ athletics websites:

College	Website	Fan Experience
University of Miami	www.hurricanesports.cstv.com	Canes Fan Experience
University of Florida	www.gatorzone.com	Gators Fan Experience
Florida State University	www.seminoles.com	Seminoles Fan Experience
University of Central Florida	www.ucfathletics.cstv.com	Knights Fan Experience
University of South Florida	www.goustbulls.com	Bulls Fan Experience
Florida International University	www.ftusports.com	Panthers Fan Experience
Florida Atlantic University	www.fausports.com	Owls Fan Experience
Florida A&M University	www.famuathletics.com	Rattlers Fan Experience

(3) The voucher serial number is located at the bottom on the front of the voucher. Qualifying FLORIDA LOTTO ticket purchases will produce vouchers from the beginning of the promotion period until close of game for FLORIDA LOTTO at 10:40 p.m. on November 30, 2011. A player will be able to enter his or her voucher serial numbers beginning at the top of the hour after the FLORIDA LOTTO ticket is purchased. A player entering a voucher serial number prior to the top of the hour after purchase will be directed to return at a later time to enter his or her voucher serial number in the drawing. FLORIDA LOTTO tickets cannot be used for entry in the drawings. The odds of winning are dependent upon the number of entries received. The winning voucher must be presented in order to claim a prize in the Fan-Tastic College Football Promotion. Vouchers should not be mailed to the Lottery unless players are contacted by the Florida Lottery and