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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barry Baker, Chief, Division of Fire Standards and Training, (352)732-1433; Barry.Baker@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-62.005 Exemption from 29 Code of Federal Regulations, Section 1910.134(g)(4).

Rulemaking Specific Authority 633.01, 633.821(2) FS. Law Implemented 633.45(1)(a), 633.821(2) FS. History--New 9-15-02, Formerly 4A-62.005, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barry Baker

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2011

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.0361
RULE TITLE: Contractual Agreement With Nonpublic Schools and Residential Facilities

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. 2, January 14, 2011 issue of the Florida Administrative Weekly.

Paragraphs (2)(a), (c), (e), (f), (4)(j), and (7)(b), (c) and subsection (3) are amended to read:

6A-6.0361 Contractual Agreements Arrangements With Nonpublic Schools and Residential Facilities.

(2) Placement in a residential facility of a student with a disability by a public agency other than the school district.

(a) In accordance with subsection (3) of Section 1003.57, Florida Statutes, an exceptional student with a disability may be placed in a private residential care facility by the Department of Children and Families, Agency for Persons with Disabilities, or Agency for Health Care Administration. For the purposes of this subsection, "placement" means the funding or arrangement of funding by an agency for all or a part of the

cost for an exceptional student with a disability to reside in a private residential care facility and the placement crosses school district lines.

(e) Within ten business days after receiving the notification, the receiving school district must review the student's IEP to determine if it can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district, and notify the residential facility in writing of its decision to:

- 1. Provide educational instruction to the student;
2. Contract with another provider or facility to provide the educational instruction;
3. Contract with the private residential care facility in which the student has been placed to provide the educational instruction; or
4. Decline to provide or contract for educational instruction.

(d) If the receiving school district declines to provide or contract for the educational instruction, the school district of legal residence of the student shall provide or contract for the educational instruction to the student.

(e) The school district that provides the educational instruction shall report the student for funding purposes pursuant to Section 1011.62, Florida Statutes.

(c)(f) In accordance with subsection (3) of Rule 6A-6.0334, F.A.C., the sending school district shall take reasonable steps to promptly respond to the residential facility's request for transmittal of the student's educational records. If the student's placement in the residential care facility occurs while the notification and procedures regarding payment are pending, the student shall remain enrolled in the sending school district and the sending school district shall collaborate with the residential care facility to ensure that the student receives a free and appropriate public education, special education, and related services, including services comparable to those in the described in the current IEP, until the notification and procedures regarding payment are completed.

(3) Each school district is responsible for assuring the proposed program at the nonpublic school or community facility is appropriate to meet the educational needs of the exceptional student with a disability, or early intervention needs of the infant or toddler with a disability, placed through a contractual agreement. This subsection shall not be construed to limit the responsibility of agencies in the state other than the district school boards from providing or paying some or all of the cost of a free appropriate public education or early intervention services to be provided children with disabilities ages birth through twenty-one (21) years old.

(4)(j) The school district has determined that the nonpublic school or community facility is in compliance with the United States Department of Education Office for Civil Rights requirements with respect to nondiscrimination on matters

related to race, color, national origin under Title VI of the Civil Rights Act of 1964; disability under Title II of the Americans with Disabilities Act of 1990 and its implementing regulations, 28 C.F.R. Part 35, and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations, 34 C.F.R. Part 104; sex under Title IX of the Education Amendments of 1972; age under the Age Discrimination Act of 1975, or fair access to facilities under the Boy Scouts of America Equal Access Act (Section 9525 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001).

(7)(b) The student is regularly attending the program, and the length of the school day and minimum number of days are in compliance with Rule 6A-1.045111, F.A.C. Florida Statutes.

(c) The student is appropriately identified as an exceptional student with a disability by the school district, or the infant or toddler has been determined eligible as an infant or toddler with a disability by the Part C Early Steps Program, as required by Sections 1003.01(3)(a) and 1003.57(1)(b), Florida Statutes, and Rules 6A-6.03011 through 6A-6.03411, F.A.C., but does not include students who are gifted as defined under Rules 6A-6.03019 and 6A-6.030191, F.A.C. law, State Board Rules, and criteria and procedures adopted by the school district.

Rulemaking Authority 1001.02, ~~1001.42~~ FS. Law Implemented ~~1001.42~~, 1003.57(3), 1003.571, 1003.58, 1011.62 FS. History—New 6-17-74, Repromulgated 12-5-74, Amended 3-28-78, 8-8-78, 7-13-83, Formerly 6A-6.361, Amended 2-18-93, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                      RULE TITLE:  
6A-7.0710                      Instructional Materials Policies and Procedures

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 49, December 10, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.:                      RULE TITLE:  
12A-1.0615                      Hotel Rewards Points 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. 36, No. 40, October 8, 2010 issue of the Florida Administrative Weekly.

In response to public written comments received by the Department and made a part of the public hearing held February 8, 2011, subparagraph (3)(c)1. of proposed Rule 12A-1.0615, F.A.C. (Hotel Reward Points Programs), has been changed to replace “subsequent calendar year” in the last

sentence with “current calendar year,” and proposed subparagraph (d)1. of that rule has been changed to replace the initial “year” with the initial “twelve months,” so that when adopted, those subparagraphs will read:

(c) Calculation of Taxable Reimbursements for Periods Other than a Hotel’s Initial Year of Participation.

1. Each January, a hotel must determine the percentage to be applied to reimbursements received during the subsequent calendar year using the following calculation:

$$\frac{\text{Total Reimbursements Received in Prior Calendar Year} - \text{Total Contributions Paid in Prior Calendar Year}}{\text{Total Reimbursements Received in Prior Calendar Year}} = \text{Percentage to be Applied to Reimbursements Received in Current Calendar Year}$$

If the resulting percentage is zero or less, then no transient rental tax is due on reimbursements received in the current calendar year.

(d) Calculation of Taxable Reimbursements for a Hotel’s Initial Twelve Months of Participation in a Reward Points Program

1. At the end of a hotel’s initial twelve months of participation in a reward points program, the hotel must determine the percentage to be applied to reimbursements received during the initial twelve months of participation using the following calculation:

$$\frac{\text{Total Reimbursements Received During the Initial Twelve Months} - \text{Total Annual Contributions Paid During the Initial Twelve Months}}{\text{Total Reimbursements Received During the Initial Twelve Months}} = \text{Percentage to be Applied to Reimbursements Received in the Initial Twelve Months}$$

If the resulting percentage is zero or less, then no transient rental tax is due on reimbursements received in the initial twelve months of participation.

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**Division of Driver Licenses**

RULE NOS.:	RULE TITLES:
15A-10.001	Purpose
15A-10.002	Definitions
15A-10.003	Reciprocity
15A-10.004	Application for Licensure to Conduct a Driving Under the Influence Program
15A-10.005	Licensure: Requirements and Limitations
15A-10.006	Relinquishment of Licensure
15A-10.007	Review Board and Monitoring
15A-10.008	Organizational Structure
15A-10.009	Program Jurisdiction

- 15A-10.010 Operating Policies and Procedures Manual(s)
- 15A-10.011 Board of Directors or Advisory Committee
- 15A-10.012 Financial Audit
- 15A-10.013 Financial Procedures and Reporting Requirements
- 15A-10.014 Cost Standards and Allocations
- 15A-10.0141 Fees
- 15A-10.0142 Revenue Limitation
- 15A-10.015 Fee Waiver
- 15A-10.016 Ancillary Fees
- 15A-10.017 Personnel Policies and Procedures
- 15A-10.018 Client Files
- 15A-10.019 Client Transfers
- 15A-10.021 Student Conduct
- 15A-10.022 Personnel Certification
- 15A-10.0221 Clinical Supervision
- 15A-10.023 Education
- 15A-10.024 Level I Course
- 15A-10.025 Level II Course
- 15A-10.0251 Level I and Level II Combined Course
- 15A-10.026 Certificates of Completion and Student Status Report, HSMV Form 77057
- 15A-10.027 Client Evaluation
- 15A-10.028 Treatment Referral
- 15A-10.029 Special Supervision Services (SSS) and Statutory Eligibility
- 15A-10.030 SSS Application and Evaluation Process
- 15A-10.031 SSS Appeal Process
- 15A-10.032 SSS Case Management Plan
- 15A-10.033 SSS Military Leave
- 15A-10.034 SSS Frequency of Appointments
- 15A-10.035 SSS Missed Appointments
- 15A-10.036 SSS Violation of Restricted Licenses
- 15A-10.037 SSS Transfer Procedure
- 15A-10.038 SSS Fees
- 15A-10.039 SSS Referrals to Treatment
- 15A-10.040 Case Monitoring Services
- 15A-10.041 Denial, Suspension or Revocation of a DUI Program License or Personnel Certification
- 15A-10.042 Complaints
- 15A-10.043 Forms

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 48, December 3, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-2.091  
 RULE TITLE: Publications Incorporated by Reference

**NOTICE OF PUBLIC HEARING**

The Southwest Florida Water Management District announces a hearing regarding the above rule, as noticed in Vol. 36, No. 51, December 23, 2010, Florida Administrative Weekly.

DATE AND TIME: April 26, 2011, 9:00 a.m.

PLACE: Governing Board Room, Southwest Florida Water Management District Headquarters, 2379 Broad Street, Brooksville, FL 34604

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Board will be updated on the status of the amendments it approved on December 14, 2010 to Rule 40D-2.091, F.A.C. which are part of a rulemaking package involving amendments to Chapters 40D-1, 40D-2, 40D-8, and 40D-80 relating to the Dover/Plant City Frost/Freeze Management Strategy. A hearing has been scheduled pursuant to Section 120.54(3)(c), F.S., for the date, time and place described above. A copy of the agenda may be obtained by contacting Pamela A. Gifford, 2379 Broad Street, Brooksville, FL 34604, (352)796-7211, Ext. 4156.

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 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District (Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.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).

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-9.0131  
 RULE TITLE: Standards of Practice for Physicians Practicing in Pain Management Clinics

**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. 7, February 18, 2011 issue of the Florida Administrative Weekly.

The changes are in response to written comments submitted by the Joint Administrative Procedures Committee. When changed, subparagraph (2)(n)4. shall be reworded to read:

“4.a. Successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, family practice, internal medicine, orthopedics or psychiatry approved by the ACGME; or

b. Sub-specialty certification in hospice and palliative medicine or geriatric medicine recognized by ABMS;”

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

### Section IV Emergency Rules

**NONE**

### Section V Petitions and Dispositions Regarding Rule Variance or Waiver

**WATER MANAGMENT DISTRICTS**

The Suwannee River Water Management District (SRWMD) hereby gives notice:

This Order (11-0002) done and ordered on March 15, 2011, granted waiver under Section 120.542, F.S., to Bruce Rankin, 9859 N.W. 38th Terrace, Branford, FL 32008, for replace the existing home above the 100-year flood elevation further landward, in Gilchrist County, FL, located in Township 7 South, Range 14 East, Section 13. The petition for waiver was received by SRWMD on February 22, 2011. Notice of receipt of petition requesting waiver was published in F.A.W., Vol. 37, No. 9, on March 4, 2011. No public comment has been received. This Order provides a waiver from SRWMD criteria for subsection 40B-4.3030(9), F.A.C., as to the zero-rise certification requirement. SRWMD granted the waiver because the petitioners have demonstrated that the purpose of the statute underlying the rule will be met and that a substantial hardship would be created if the petitioners were required to comply with this rule.

A copy of the Order or additional information may be obtained by contacting: Robin Lamm, Business Resource Specialist, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida Only.

NOTICE IS HEREBY GIVEN that on March 18, 2011, the South Florida Water Management District (District), received a petition for waiver from John and Michele Newberry, Application No. 11-0201-1, for issuance of a Right of Way Occupancy Permit for utilization of Works or Lands of the

District for the proposed installation of a fence enclosure with 2-10' wide vehicular access gates encroaching 10' (to the top of the canal bank) within the south right of way of the Green Canal at the rear of 6221 Cedar Tree Lane; Section 20, Township 49, Range 26, Collier County. The petition seeks relief from paragraph 40E-6.221(2)(j), Fla. Admin. Code, which governs the placement of above-ground permanent and/or semi-permanent above-ground encroachments within 40' of the top of the canal bank within Works and Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juli Russell at (561)682-6268 or e-mail at jurussel@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Juli Russell, Office of Counsel.

NOTICE IS HEREBY GIVEN that on March 7, 2011, the South Florida Water Management District (District), received a petition for waiver from Florida Department of Transportation, Application No. 11-0307-2 for utilization of Works or Lands of the District known as the C-2 Canal, for installation of a concrete shared use path, safety railing, retaining wall, light poles, landscaping and bank stabilization/revetment within the south right of way of C-2, located between S. W. 70th Avenue and SR-5/US-1, Section 35, Township 54 South, Range 40 East, Miami-Dade County, FL. The petition seeks relief from paragraph 40E-6.221(2)(j) and subsections 40E-6.011(4) and (6), Florida Administrative Code, which governs placement of permanent and semi-permanent above-ground structures within 40' of top of canal bank and within designated 100' long equipment staging areas within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juli Russell at (561)682-6268 or e-mail: jurussel@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at: The South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Juli Russell, Office of Counsel.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN that the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: On March 15, 2011, the Division issued an order. The Final Order was in response to a Petition for Variance from Palazzo Di Oro, filed January 6, 2011, and advertised in Vol. 37, No. 3, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for