

in Florida in an out of state residential treatment program which is not an approved Medicaid provider in the state where the child is being placed.

(3) Placement of children and youth in therapeutic out of home settings with general revenue funds is dependent on the availability of funds.

Rulemaking Specific Authority 394.4781(3) FS. Law Implemented 394.4781(3), (4) FS. History–New 3-1-84, Formerly 10E-10.18, Amended 4-8-96, Formerly 10E-10.018, Amended _____.

65E-10.019 Cost Sharing.

Rulemaking Specific Authority 394.4781(3)(c) FS. Law Implemented 394.4781(3)(c), (4), 409.2561 FS. History–New 3-1-84, Formerly 10E-10.19, 10E-10.019, Repealed _____.

65E-10.021 Standards for Residential Treatment Programs Serving Emotionally Disturbed Children and Adolescents.

Rulemaking Specific Authority 394.4781(3), (4) FS. Law Implemented 394.4781(3) FS. History–New 3-1-84, Formerly 10E-10.21, Amended 4-8-96, Formerly 10E-10.021, Amended 9-14-98, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kimberley E. Brown, Department of Children and Families, Mental Health Program, 1317 Winewood Blvd., Building 6, Room 296, Tallahassee, Florida 32399

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Wilkins, Secretary Department of Children and Families

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: RULE TITLE:
5J-8.003 Registration

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. 47, November 24, 2010 issue of the Florida Administrative Weekly.

5J-8.003 Registration.

Any person who intends to open or operate as a dance studio shall, prior to offering dance studio services, register with the Department using DACS Form 10700, Dance Studio

Registration Package, ~~07/11 7-01-10~~, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Dance Studios, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500; or accessed online at ~~the following link:~~ <http://www.flrules.org/Gateway/reference> ~~<http://www.doacs.state.fl.us/onestop/forms/10700.pdf>~~. The registrant shall submit the registration fee to the Department at the time of registration for each dance studio location. The registration fee shall be non-refundable. The registrant shall submit with ~~form~~ DACS Form 10700, ~~07/11 7-01-10~~, a copy of each contract offered to the public relating to the sale of dance studio services.

Rulemaking Authority 501.143(12), FS. Law Implemented 501.143(3), (4), (5), FS. History–New 3-22-93, Amended 6-23-94, 5-24-95, 2-11-98, 9-14-03, _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:	RULE TITLES:
12B-4.003	Public Use Forms
12B-4.060	Tax on Transfers of Ownership Interest in Legal Entities

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. 39, September 30, 2011 issue of the Florida Administrative Weekly.

Subparagraph 1. of paragraph (b) of subsection (1) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that subparagraph will read:

1. “Conduit entity” means a legal entity, or its successor entity, to which real property is transferred without full consideration by a grantor who owns a direct or indirect interest in the entity.

Subsection (3) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that subsection will read:

(3) The tax is based on the consideration paid or given for the ownership interest in the conduit entity, which includes the amount of any mortgage attached to real property that was transferred to the conduit entity. If the conduit entity owns assets other than the real property referred to in subsection (2), tax is calculated by multiplying the consideration for the interest in the conduit entity by the tax rate and then multiplying the result by a fraction, the numerator of which is the value of the real property referred to in subsection (2) and the denominator of which is the value of all assets owned by the conduit entity.

Paragraph (d) of subsection (9) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that paragraph will read:

(d) Example 4: On July 2, 2009, Pam and Mike transferred Walton County, Florida real property (the real property), which they owned equally, to a corporation. The corporation was owned equally by Mike and a limited liability company (LLC) owned by Pam alone. No documentary stamp tax was paid on the document that transferred the real property to the corporation. On July 10, 2009, Pam sold her interest in the LLC (thereby selling her indirect ownership interest in the corporation) for \$45,000. The corporation owned assets in addition to the real property transferred to it on July 2, 2009. The value of the real property was \$85,000, and the real property made up 95% of the value of all assets owned by the corporation. The only asset owned by the LLC was its interest in the corporation. Tax of \$299.25 (450 x \$.70 x 95%) was due on the transfer of Pam’s ownership interest, since tax was not paid on the full consideration for the real property when it was transferred to the corporation.

Paragraph (f) of subsection (9) of Rule 12B-4.060, F.A.C., has been changed so that, when adopted, that paragraph will read:

(f) Example 6: On July 2, 2009, Sue transferred Polk County, Florida real property (the real property), owned by her alone, to a limited liability company (LLC) she owned alone. The real property was encumbered by a mortgage at the time of the transfer. The mortgage balance at the time of the transfer was \$75,000, which was an amount less than the property’s fair market value. Documentary stamp tax of \$525 was due and paid on the document that transferred the real property to the LLC based on the mortgage balance of \$75,000. The LLC owned no assets other than the real property. On July 31, 2009, Sue sold her interest in the LLC for \$110,000. Tax of \$770 was due on the transfer of Sue’s ownership interest in the LLC based on consideration of \$110,000.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.130 RULE TITLE: Home Health Services

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.

The following revisions were made to the Notice of Proposed Rule.

59G-4.130 Home Health Services.

(1) No change.

(2) All home health agency providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Home Health Services Coverage and Limitations Handbook, December 2011 ~~September 2011~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated in Rule 59G-4.001, F.A.C. Both handbooks are available from the

Medicaid fiscal agent’s Web site at www.mymedicaid-florida.com. Select Public Information for Providers, then Provider Support, and then Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Medicaid fiscal agent at 1(800)289-7799 and selecting Option 7.

(3) No change.

(4) The following appendices forms that are included in the Florida Medicaid Home Health Services Coverage and Limitations Handbook and are incorporated by reference: Appendix B, Home Health Certification and Plan of Care, Form CMS-485(C-3)(02-94) (Formerly HCFA-485), December 2011 in Appendix B, one page; and in Appendix C, the Authorization for Private Duty Nursing Provided by a Parent or Legal Guardian, AHCA-Med Serv Form 046, July 2008, ~~one page;~~ Appendix D, Guidelines for Evaluating Family Support and Care Supplements, December 2011; Appendix E, Physician Visit Documentation Form AHCA-Med Serv Form 5000-3502, October 2010; Appendix F, Parent or Legal Guardian Medical Limitations AHCA-Med Serv Form 5000-3501, October 2010; Appendix G, Parent or Legal Guardian Work Schedule AHCA- Med Serv Form 5000-3503, December 2011; Appendix H, Parent or Legal Guardian Statement of Work Schedule AHCA-Med Serv Form 5000-3504, December 2011; Appendix I, Parent or Legal Guardian School Schedule AHCA-Med Serv Form 5000-3505, December 2011; Appendix J, Medicaid Instructions for Personal Care Services Plan of Care and Form AHCA-Med Serv Form 5000-3506, December 2011; Appendix K, Medicaid Physician’s Written Prescription for Home Health Services AHCA-Med Serv Form 5000-3525, December 2011; Appendix L, Review Criteria for Private Duty Nursing Services, December 2011; and Appendix M, Medicaid Review Criteria for Personal Care Services, December 2011. ~~The Both~~ forms are available by photocopying them from the handbook.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.907, 409.908, 409.9081, 409.912, 409.913 FS. History—New 1-1-77, Amended 4-1-78, 9-28-78, 1-24-79, 7-17-83, Formerly 10C-7.44, Amended 6-1-88, 4-9-89, 1-1-90, 5-26-93, Formerly 10C-7.044, Amended 3-14-95, 12-27-95, 5-7-96, 2-9-98, 5-30-00, 11-24-03, 10-30-07, 12-29-08, _____.

The following revisions have been made to the Florida Medicaid Home Health Services Coverage and Limitations Handbook, December 2011.

Home Health Services Coverage and limitations Handbook Table of Contents

Appendices are changed to read:

Appendix A: Home Health Services Fee Schedule.....A-1

Appendix B: Medicaid Instructions for CMS

Form 485–Plan of Care.....B-1

Appendix C: Authorization for Private Duty

Nursing Provided by a Parent or Legal Guardian..... C-1

Appendix D: Guidelines for Evaluating Family

Support and Care Supplements..... D-1
 Appendix E: Physician Visit Documentation Form.....E-1
 Appendix F: Parent or Legal Guardian Medical Limitations Form..... F-1
 Appendix G: Parent or Legal Guardian Work Schedule Form..... G-1
 Appendix H: Parent or Legal Guardian Statement of Work Schedule Form..... H-1
 Appendix I: Parent or Legal Guardian School Schedule Form..... I-1
 Appendix J: Medicaid Instructions for Personal Care Services Plan of Care.....J-1
 Appendix K: Medicaid Physician’s Written Prescription for Home Health Services.....K-1
 Appendix L: Medicaid Review Criteria for Private Duty Nursing Services.....L-1
 Appendix M: Medicaid Review Criteria for Personal Care Services.....M-1
 Page 1-1 Footer is changed to December 2011
 Page 1-2 Footer is changed to December 2011
 Page 1-3 Purpose and Definitions
 The following is inserted:
 Babysitting: The act of providing custodial care, daycare, afterschool care, supervision, or similar childcare unrelated to the services that are documented to be medically necessary for the recipient.
 Page 1-3 Footer is changed to December 2011
 Page 1-4 Purpose and Definitions
 The following is inserted:
 Instrumental Activities of Daily Living
 Instrumental activities of daily living (IADLs) are tasks which enable a recipient to function independently in the community.
 Page 1-4 Quality Improvement Organization (QIO)
 Paragraph is changed to read: The vendor contracted with the Agency for Health Care Administration to monitor the appropriateness, effectiveness, and quality of care provided to Medicaid recipients. The vendor performs prior authorizations of services based on medical necessity determinations.
 Page 1-4 Footer is changed to December 2011
 Page 1-5 Purpose and Definitions
 Caregiver
 Paragraph is changed to read: An individual such as a parent, foster parent, head of household or family member who attends to the needs of a child or dependent adult. This individual generally provides care without compensation.
 Page 1-5 Provider Qualifications
 Home Health Agency Provider Qualifications
 Second to last paragraph is changed to read: Home health agencies receiving accreditation and deemed status by JCAHO or CHAP or ACHC are responsible for providing accreditation documentation to HQA.

Page 1-5 Footer is changed to December 2011
 Page 1-6 Provider Qualifications
 Independent Personal Care Provider Qualifications
 Last paragraph inserted to read: Independent personal care group providers must meet the home health licensure exemption requirements defined in 400.464, Florida Statutes in order to be reimbursed for personal care services provided to Medicaid recipients.
 Page 1-6 Footer is changed to December 2011
 Page 1-7 Footer is changed to December 2011
 Page 1-8 Footer is changed to December 2011
 Page 1-9 Who May Provide Home Health Services
 Qualified Home Health Agency Staff
 Paragraph is changed to read: Home health services are provided by qualified health care professionals. The home health agency must ensure that all staff (employed or contracted) who provide home health services are qualified and licensed.
 Page 1-9 Subcontracting category and corresponding paragraph are deleted.
 Page 1-9 Footer is changed to December 2011
 Page 1-10 Who May Provide Home Health Services
 Skill Level of Staff
 Paragraph is changed to read: The home health services provider must provide staff with the skill level designated or appropriate for each medically necessary covered home health service prescribed in the physician order and approved plan of care. Skill level designation must be reflective of the standards outlined in the Nurse Practice Act. See Florida Statutes Chapter 464. Requests for a skill level higher than the less costly alternative must justify the need.
 Page 1-10 Footer is changed to December 2011.
 Page 1-11 Footer is changed to December 2011
 Page 2-1 Overview
 In This Chapter
 Page numbers change as follows:
 Covered, Limited and Excluded Services 2-11
 Licensed Nurse and Home Health Aide Services 2-15
 Personal Care Services 2-24
 Durable Medical Equipment and Therapy Services 2-29
 Required Documentation 2-30
 Prior Authorizations for Home Health Services 2-32
 Prior Authorization for Medically-Needy Recipients 2-38
 Page 2-1 Requirements to Receive Services: Introduction.
 Paragraph one is changed to read: Medicaid reimburses home health services provided to an eligible Medicaid recipient when it is medically necessary to provide those services in his place of residence or other authorized setting.
 Paragraph two is inserted to read: Medicaid does not reimburse for home health services when the service duplicates another provider’s service under the Medicaid program or other state or

local program or if a comparable home and community-based service is provided to the recipient at the same time on the same day.

Page 2-1 Footer date is changed to December 2011

Page 2-2 Requirements to Receive Services

New section and corresponding paragraphs are inserted as follows:

Early, Periodic, Screening, Diagnosis and Treatment (EPSDT)
EPSDT is a federal requirement that the state Medicaid agency cover diagnostic services, treatment, and other measures described in 42 USC 1396d(a) for Medicaid recipients under 21 years of age if the service is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified through a screening examination.

The fact that the recipient is under 21 years of age does **NOT** eliminate the requirement for prior authorization through the Quality Improvement Organization (QIO).

Page 2-2 Footer date is changed to December 2011

Page 2-3 Footer date is changed to December 2011

Page 2-4 Footer date is changed to December 2011

Page 2-5 Footer date is changed to December 2011

Page 2-7 Plan of Care Requirements

Description

Paragraph one is changed to read: A plan of care (POC) is an individualized written program for a recipient that is developed by health care providers including the attending physician. The POC is designed to meet the medical, health and rehabilitative needs of the recipient. The POC must identify the medical need for home health care, appropriate interventions, and expected health outcomes.

Required Plan of Care Document

Paragraph four is changed to read: Note: See Appendix J for a copy of the Personal Care Services Plan of Care form, AHCA-Med Serv Form 5000- 3506, December 2011.

Paragraph five is changed to read: AHCA-Med Serv Form 5000-3506, December 2011 is available by photocopying it from Appendix J. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Page 2-7 Footer date is changed to December 2011

Page 2-8 Plan of Care Requirements

Plan of Care Components

Bullet nine is changed to read:

- Approval by the attending physician as evidenced by his signature.

Page 2-8 Footer date is changed to December 2011

Page 2-9 Footer date is changed to December 2011

Page 2-10 Footer date is changed to December 2011

Page 2-11 Plan of Care Requirements

Compliance Review

Paragraph two is inserted to read: During such reviews, AHCA or its designee will request from the provider copies of certain records.

Page 2-11 Footer date is changed to December 2011

Page 2-12 Footer date is changed to December 2011

Page 2-13 Covered, Limited and Excluded Services Exclusions

Paragraph one is changed to read: Listed below are examples of services that are not reimbursable under the Medicaid home health services program:

Bullet eleven is changed to read:

- Transportation services (except when necessary to protect the health and safety of the recipient and no other transportation service is available).

Page 2-13 Footer date is changed to December 2011

Page 2-14 Footer date is changed to December 2011

Page 2-15 Footer date is changed to December 2011

Page 2-16 Footer date is changed to December 2011

Page 2-17 Footer date is changed to December 2011

Page 2-18 Footer date is changed to December 2011

Page 2-19 Private Duty Nursing Services

Following the term "Services" INSERT: (For recipients under age 21 years old)

Private Duty Nursing Definition

Paragraph is changed to read: Private duty nursing services are medically-necessary skilled nursing services that may be provided to recipients under age 21 years old in their home or other authorized settings to support the care required by their complex medical condition.

Page 2-19 Footer date is changed to December 2011

Page 2-20 Private Duty Nursing Services

Parental Responsibility

Paragraph one is changed to read: Private duty nursing services are authorized to supplement care provided by parents and caregivers. Parents and caregivers must participate in providing care to the fullest extent possible. Training must be offered to parents and caregivers by the home health services provider to enable them to provide care that they can safely render without jeopardizing the health or safety of the recipient. The home health services provider must document the methods used to train a parent or caregiver in the medical record.

Paragraph two is changed to read: Medicaid may reimburse private duty nursing services rendered to a recipient whose parent or caregiver is not available or able to care for him. Supporting documentation must accompany the prior authorization request in order to substantiate a parent or caregiver's inability to participate in the care of the recipient (i.e., work or school schedules and medical documentation*). If a parent or caregiver is unable to provide a work schedule, a statement attesting to the work schedule must be presented to the QIO when requesting authorization.

Paragraph three is changed to read: Medicaid does not reimburse private duty nursing services provided primarily for the convenience of the child, the parents or the caregiver.

Paragraph four is changed to read: Medicaid does not reimburse private duty nursing for respite care. Examples are parent or caregiver recreation, socialization, and volunteer activities, or periodic relief to attend to personal matters unrelated to the medically necessary care of the recipient.

Paragraph five is changed to read: Note: See Appendix F, G, H, and I for copies of the Parent or Legal guardian medical limitations, work, and school schedule forms, AHCA-Med Serv Forms 5000: 3501, October 2010; 3503, December 2011; 3504, December 2011; and 3505, December 2011. The forms are available by photocopying them from Appendix F, G, H, and I. They are incorporated by reference in Rule 59G-4.130, F.A.C.

Page 2-20 Footer date is changed to December 2011

Page 2-21 Private Duty Nursing Services

Private Duty Nursing Provided by a Parent or Legal Guardian

Paragraph six is changed to read: Medicaid may authorize additional hours for the parent or legal guardian to sleep if the child's medical condition requires an awake caregiver to provide continuous or frequent intervention or medically-necessary observation during the night. See Appendix D, Guideline for Evaluating Family Support and Care Supplements, December 2011.

Note is changed to read: See Appendix C for a copy of the Authorization for Private Duty Nursing Provider by a Parent or Legal Guardian, AHCA-Med Serv Form 046, July 2008. The form is available by photocopying it from Appendix C. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Page 2-21 Footer date is changed to December 2011

Page 2-22 Private Duty Nursing Services

PPEC Services

Paragraph two is inserted to read: Medicaid may reimburse private duty nursing services for a period of 30 calendar days in order for PPEC services to become established.

Paragraph three is inserted to read: If additional time is needed, the provider, recipient, or physician can request a reconsideration. Information or documentation must be submitted to justify the additional time.

Paragraph four is changed to read: The QIO will evaluate whether the child's needs can be met by a PPEC center in consultation with the child's physician and parent or legal guardian. After the review for PPEC services, private duty nursing may be provided as a wraparound alternative for an individual needing additional services when PPEC is not available.

Page 2-22 Footer date is changed to December 2011

Page 2-23

Private Duty Nursing Services

The section titled "Authorization Process" is changed to read: "Prior Authorization Process"

Paragraph one is changed to read: Private duty nursing services will be prior authorized by the Medicaid QIO if the services are determined to be medically necessary. The request for the authorization must be submitted prior to the delivery of services.

The section titled "Prior Authorization" is entirely deleted.

Page 2-23 Footer date is changed to December 2011

Page 2-24

Footer date is changed to December 2011

Page 2-25 Personal care Services

Following the term "Services" INSERT: (For recipients under age 21 years old)

Personal Care Services Definition

Paragraph one is changed to read: Personal care services provide medically necessary assistance with activities of daily living (ADL) and age appropriate instrumental activities of daily living (IADL) that enable the recipient to accomplish tasks that they would normally be able to do for themselves if they did not have a medical condition or disability.

Who Can Receive Personal Care Services

First bullet is changed to read:

- Have a medical condition or disability that substantially limits their ability to perform their ADLs or IADLs; and

Page 2-25 Footer date is changed to December 2011

Page 2-26 Personal Care Services

Personal Care Services Requirements

Insert fifth bullet to read:

- Supervised by the recipient if the services are provided by a non-home health agency and the recipient is a legal adult between the ages of 18 and 21 years of age with no legal guardian;

Parental Responsibility

First paragraph is changed to read: Personal care services are authorized to supplement care provided by parents, and caregivers. Parents and caregivers must participate in providing care to the fullest extent possible. Training must be offered by the home health service provider to parents and caregivers to enable them to provide care they can safely render without jeopardizing the health or safety of the recipient. The home health services provider must document the methods used to train a parent or caregiver in the medical record.

Third paragraph is changed to read: Note: See Appendix F, G, H, and I for copies of the Parent or Legal guardian medical limitations, work, and school schedule forms, AHCA-Med Serv Forms 5000: 3501, October 2010; 3503, December 2011; 3504, December 2011; and 3505, December 2011. The forms are available by photocopying them from Appendix F, G, H, and I. They are incorporated by reference in Rule 59G-4.130, F.A.C.

Page 2-26 Footer is date is changed to December 2011

Page 2-27 Personal Care Services

Prior Authorization

First paragraph is inserted to read: Personal Care services will be prior authorized by the Medicaid QIO if the services are determined to be medically necessary. The request for the authorization must be submitted prior to the delivery of services.

Second paragraph is changed to read: Initial requests for personal care services will be authorized for up to 60 days to allow for reassessment of the recipient's condition.

Third paragraph is inserted to read: Personal care services will be decreased over time as parents and caregivers are taught skills to care for their child and become capable of safely providing the care or if the child's condition improves.

Page 2-27 Footer date is changed to December 2011

Page 2-28 Personal Care Services

Reimbursable Personal Care Services

First paragraph and bullets are changed to read:

Medicaid reimburses for the following personal care services when they are medically necessary.

ADLS include:

- Eating (oral feedings and fluid intake);
- Bathing;
- Dressing;
- Toileting;
- Transferring; and
- Maintaining continence (examples include taking care of a catheter or colostomy bag or changing a disposable incontinence product when the recipient is unable to control his bowel or bladder functions).

IADLs (when necessary for the recipient to function independently) include:

- Personal hygiene;
- Light housework;
- Laundry;
- Meal preparation;
- Transportation;
- Grocery shopping;
- Using the telephone to take care of essential tasks (examples include paying bills and setting up medical appointments);
- Medication management; and
- Money management.

Last paragraph is inserted to read: Medically necessary personal care services may be authorized when a recipient has a documented cognitive impairment which prevents him from knowing when or how to carry out the personal care task. Assistance may be in the form of hands on assistance (actually performing the task for the person) or cuing, along with supervision to ensure the recipient performs the personal care task properly. Additional supporting documentation may be required to substantiate the functional limitations associated with the cognitive impairment.

Page 2-28 Footer date is changed to December 2011

Page 2-30 Durable Medical Equipment and Therapy Services

Footer date is changed to December 2011

Page 2-31

Footer date is changed to December 2011

Page 2-32

Footer date is changed to December 2011

Page 2-33

Prior Authorization for Home Health Services

General Requirements

Third bullet is changed to read: For initial service requests, it is recommended that the home health services provider submit the request to the QIO at least ten business days prior to the start of care.

Fourth bullet is inserted to read: For subsequent authorization requests (continued stay requests), the home health services provider must submit the request to the QIO at least ten business days prior to the new certification period.

Footer date is changed to December 2011

Page 2-35 Prior Authorization for Home Health Services

Requesting Prior Authorization

Second paragraph changed to read:

At a minimum, each prior authorization request must include all of the following:

- Recipient's name, address, date of birth, and Medicaid ID number;
- Home health agency or independent personal care provider's Medicaid provider number, name and address;
- Procedure code(s), with modifier(s) if applicable, matching the services reflected in the plan of care;
- Units of service requested;
- Summary of the recipient's current health status, including diagnosis(es);
- Planned dates and times of service;
- Ordering provider's Medicaid provider number, National Provider Identifier, or Florida Medical License number, name, and address;
- The nursing assessment (for services provided by a licensed home health agency);
- A copy of the active plan of care signed by the attending physician; and
- Patient condition summaries that substantiates medical necessity and the need for requested services, such as a hospital discharge summary (if services are being requested as a result of a hospitalization), physician or nurse progress notes, or history and physical;
- A copy of the documentation that demonstrates that the recipient has been examined or received medical consultation by the ordering or attending physician at least 30 days before initiating services and every 180 days thereafter Note: See Appendix E for a copy of the Physician Visit Documentation Form, AHCA-Med Serv Form 5000-3502, October 2010. The form is available by

photocopying it from Appendix E. It is incorporated by reference in Rule 59G-4.130, F.A.C.;

- A copy of the current physician’s order. Note: See Appendix K for a copy of the Medicaid Physician’s Written Prescription For Home Health Services Form, AHCA-Med Serv Form 5000-3525, December 2011. The form is available by photocopying it from Appendix K. It is incorporated by reference in Rule 59G-4.130, F.A.C.
- For private duty nursing and personal care services, the following supportive documentation must be furnished regarding the caregiver’s availability and ability to provide care, as applicable:
- Medical information validating limitations in providing care Note: See Appendix F for a copy of the Parent or Legal Guardian Medical Limitations Form, AHCA-Med Serve Form 5000-3501, October 2010. The form is available by photocopying it from Appendix F. It is incorporated by reference in Rule 59G-4.130, F.A.C.;
- Work schedules Note: See Appendix G and H for a copy of the Parent or Legal Guardian Work Schedule Forms, AHCA-Med Serv Forms 5000: 3503, December 2011 and 3504, December 2011. These forms are available by photocopying them from Appendix G and H. They are incorporated by reference in Rule 59G-4.130, F.A.C.; and
- School schedules Note: See Appendix I for a copy of the Parent or Legal Guardian School Schedule Form, AHCA-Med Serv Form 5000-3505, December 2011. The form is available by photocopying it from Appendix I. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Page 2-35 Footer date is changed to December 2011

Page 2-36 Prior Authorization for Home Health Services

Bullet is inserted to read:

- The QIO may request a copy of the assessment developed by the Florida Department of Health, Children’s Medical Services (CMS) when private duty nursing services are requested for children who are enrolled in the CMS Network.

Review Criteria

First paragraph is changed to read: The QIO may use a national standardized set of criteria, or other set of criteria*, approved by the AHCA, as a guide to establish medical necessity for prior authorization of home health services at the first review nurse level.

Fourth paragraph is changed to read: Note: See Appendix D for a copy of the Guidelines for Evaluating Family Support and Care Supplements, December 2011. The guideline is available by photocopying it from Appendix D. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Fifth paragraph is changed to read: Note: See Appendix L for a copy of the Review Criteria for Private Duty Nursing Services, December 2011. The criteria are available by photocopying it from Appendix L. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Sixth paragraph is changed to read: Note: See Appendix M for a copy of the Review Criteria for Personal Care Services, December 2011. The criteria are available by photocopying it from Appendix M. It is incorporated by reference in Rule 59G-4.130, F.A.C.

Approval Process

Second paragraph is changed to read: Prior authorization requests for home health services that appear to deviate from treatment norms, established standards of care, or utilization norms may be subject to a more intensified review by the QIO prior to rendering a determination. This may include a telephonic or face-to-face contact with the Medicaid recipient in his place of residence, interviews with the ordering physician, and a review of the recipient’s medical record.

Page 2-36 Footer is date is changed to December 2011

Page 2-37 Prior Authorization for Home Health Services

Reconsideration Review

First paragraph is changed to read: If a denial determination is rendered, the provider, recipient, or physician may request reconsideration. If reconsideration is requested, additional information must be submitted to the QIO to facilitate the approval process.

Second paragraph is changed to read: A reconsideration review of the denial decision must be requested via the Medicaid QIO Internet system within five business days of the date of the final denial or modified approval determination.

Page 2-37 Footer date is changed to December 2011

Page 2-38

Footer date is changed to December 2011

Page 2-39

Footer date is changed to December 2011

Page 3-1

Footer date is changed to December 2011

Page 3-2

Footer date is changed to December 2011

Page 3.3

Footer date is changed to December 2011

Page 3-4

Footer date is changed to December 2011

Page 3-5

Footer date is changed to December 2011

Appendix A: Footer date is changed to December 2011

Appendix B: Medicaid Instructions for CMS Form 485-Plan of Care

The footer now reads December 2011

Appendix C: Authorization for Private Duty Nursing Provided by a Parent or legal Guardian

The footer on the form now reads: AHCA-Med Serv Form 046, July 2008

Appendix D: Guidelines for Evaluating Family Support and Care Supplements

Insert the following requirements:

Activity Affecting Parental Availability

- Caring for Other Dependents. Approval Guidelines: The QIO may approve up to 2 hours per day if there are other minor dependents in the home under the age of 18. The QIO will also take into consideration any special needs that the other children may have and the availability of other caretakers in the home.
- Ancillary tasks critical to the health and well-being of the child receiving private duty nursing services. Tasks may include grocery shopping picking up medications, laundry, and light housekeeping to maintain a safe environment for the child. Approval Guidelines: Up to 4 hours per week. The QIO will consider the availability of other caregivers in the home who can assist with these tasks.

The footer now reads: December 2011

Appendix E: Physician Visit Documentation Form

The footer now reads: AHCA-Med Serv Form 5000-3502, October 2010

Appendix F: Parent or Legal Guardian Medical Limitations

The footer now reads: AHCA-Med Serv Form 5000-3501, October 2010

Appendix G: Parent or Legal guardian Work Schedule

The following statement is inserted in bold letters.

Any person who makes, presents or submits a document that is false or fraudulent is subject to a reduction or termination of Medicaid services.

The footer now reads: AHCA-Med Serv Form 5000-3503, December 2011

Appendix H: Parent or Legal Guardian Statement of Work Schedule

The following statement is inserted in bold letters.

My signature below certifies that I am self-employed and that the schedule above is true and accurate. I understand that any person who makes, presents, or submits documentation that is false or fraudulent is subject to a reduction or termination of Medicaid services.

The footer now reads: AHCA-Med Serv Form 5000-3504, December 2011

Appendix I

The footer now reads: AHCA-Med Serv Form 5000-3505, December 2011

Appendix J: Medicaid Instructions for the Personal Care Services Plan of Care

Physician Certification

First paragraph is changed to read: Enter the name of the attending physician that prescribed the services. The plan of care must be signed and dated by the attending physician prior to submission of a prior authorization request.

Personal Care Services Plan of Care: Service Information

Item 33 is changed to read: Discharge Plan

The footer now reads: AHCA-Med Serv Form 5000-3506, December 2011

Appendix K: Medicaid Physician’s Written Prescription for Home Health Services

The footer reads: AHCA-Med Serv Form 5000-3525, December 2011

Appendix L: Medicaid Review Criteria for Private Duty Nursing Services

The footer reads: December 2011

Appendix M: Medicaid Review Criteria for Personal Care Services

The footer reads: December 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.:	RULE TITLE:
61C-5.001	Standards Adopted; Exclusions; and Conflicts

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 43, October 28, 2011 issue of the Florida Administrative Weekly.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-17.011	General
62-17.031	Prohibitions, Exceptions, and Applicability
62-17.081	Supplementary Information - Cost Responsibility, Determination of Completeness of Application
62-17.093	Preliminary Statements of Issues
62-17.137	Proprietary Interest in State-Owned Lands
62-17.143	Recommended Orders, Exceptions
62-17.221	Revocation or Suspension of Certification
62-17.231	Supplemental Applications
62-17.510	General
62-17.610	Proprietary Interest in State-owned Lands

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 47, November 23, 2011 issue of the Florida Administrative Weekly.

The SUMMARY OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION section of this rule notice should have included the following language:

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Pursuant to the Department’s review under Executive Order 11-01 repealing this unnecessary rule will not have an adverse impact or impose a regulatory cost.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-807.100	Purpose
62-807.300	Prohibitions and Applicability
62-807.310	Public Service Commission’s Determination of Need
62-807.420	Application Distribution, Schedule
62-807.430	Notice of Application Filing
62-807.440	Determination of Sufficiency, Withdrawal
62-807.450	Preliminary Statement of Issues
62-807.480	Agency Reports
62-807.490	Arrangement for Certification Hearing Locations, Notice
62-807.500	Analysis by the Department; Conditions
62-807.520	Reminder Notice
62-807.540	Certification Hearing - Subject Matter, Procedure, Participants
62-807.590	Corridor, Notice of Certified Corridor
62-807.630	Review, Enforcement
62-807.640	Revocation or Suspension of Certification

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 47, November 23, 2011 issue of the Florida Administrative Weekly.

The SUMMARY OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION section of this rule notice should have included the following language:

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Pursuant to the Department’s review under Executive Order 11-01 repealing this unnecessary rule will not have an adverse impact or impose a regulatory cost.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NOS.:	RULE TITLES:
64B5-2.0125	Examination Security
64B5-2.0126	Conduct at Examination Site
64B5-2.0155	Time Requirements for Application, Disposition of Untimely or Incomplete Applications and Associated Fees
64B5-2.016	Evaluation of Credentials

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 48, December 2, 2011 issue of the Florida Administrative Weekly.

The correction is as follows:

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 2, 2011

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:	RULE TITLE:
64B5-2.0142	Application for Health Access Dental License

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. 29, July 23, 2010 issue of the Florida Administrative Weekly.

The change is due to a change in the revision date. The change is as follows:

64B5-2.0142 line 2 shall read as: "...application shall be made on the Application for Health Access Dental License form #DH-MQA 1154 (Rev. 08/11)"

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:	RULE TITLE:
64B5-14.003	Training, Education, Certification, and Requirements for Issuance of Permits

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. 28, July 15, 2011 issue of the Florida Administrative Weekly.

The change is in response to concerns stated by the Joint Administration Procedures Committee in a letter dated July 22, 2011.

Subsection (1)(a)1., shall be reworded to read as follows:

(1)(a)1. Has completed a minimum of one year residency program accredited by the Commission on Dental Accreditation in dental anesthesiology or has completed an oral and maxillofacial surgical residency program accredited by the Commission on Dental Accreditation beyond the undergraduate dental school level; or

2. through 5. No change.

(b) through (f) No change.

(2) through (4) No change.

Rulemaking Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, 5-31-00, 6-7-01, 11-4-03, 6-23-04, 6-11-07, _____.

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-8.005
 RULE TITLE: Unprofessional Conduct

NOTICE OF PUBLIC HEARING

The Board of Nursing announces a hearing regarding the above proposed rule, as noticed in Vol. 37, No. 40, October 7, 2011 Florida Administrative Weekly.

DATE AND TIME: 8:30 a.m. or as soon thereafter as possible, on Friday, February 3, 2012, until business is concluded

PLACE: Ft. Lauderdale Sheraton Airport Hotel, 1825 Griffin Road, Dania, FL 33004

GENERAL SUBJECT MATTER TO BE CONSIDERED: Unprofessional Conduct

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: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399 or by emailing a request to the Board Office at MQA_Nursing@doh.state.fl.us, or by calling (850)245-4125. 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

Vital Statistics

RULE NOS.:	RULE TITLES:
64V-1.0032	Birth Certificate Amendments by Paternity Establishment/Disestablishment; Judicial and Administrative Process
64V-1.004	Change of Paternity; Evidence Required
64V-1.006	Birth Registration; Evidence Required for Births Occurring Outside of a Facility
64V-1.0131	Certifications of Vital Records; Information Required for Release; Applicant Identification Requirements
64V-1.020	Marriage Reporting
64V-1.021	Dissolution of Marriage Reporting

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 36, September 9, 2011 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE NOS.:	RULE TITLES:
65E-26.001	Applicability
65E-26.002	Enrollment and Eligibility 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. 50, December 17, 2010 issue of the Florida Administrative Weekly.

65E-26.001 Applicability.

No change.

Rulemaking Authority 394.674(4) FS. Law Implemented 394.674 FS. History—New _____.

65E-26.002 Enrollment and Eligibility Requirements.

(1) through (2) No change.

(3) Each service provider under contract with the Department of Children and Families (DCF) to provide substance abuse and/or mental health services must establish written policies and procedures describing the process for enrolling eligible persons into the department’s priority populations, and for reporting enrollment data elements into the department’s database system. The enrollment data elements include the following: Contractor federal tax identification (ID); Department of Children and Family Services (DCF) contract number; provider federal tax identification (ID); provider site; client social security number;

client date of birth; client evaluation purpose; client evaluation date; program area; results from an evidence-based clinical assessment instrument; primary mental health (MH) diagnosis (ICD-9); primary substance abuse (SA) diagnosis (ICD-9); Baker Act status; commitment status; competency status; Marchman Act status; mental health prognosis status; health status; psychiatric disability income; annual family income; activities of daily living status; residential status; referral status; evidence of mental health problem; dependency/criminal status; children global assessment scale (CGAS) score; functional assessment rating score; indication of risk factor for emotional disturbance; history of intravenous use; primary substance abuse problem; secondary substance abuse problem; tertiary substance abuse problem; pregnancy status; number of dependents; family size; employment status; postpartum status; number of arrests; criminal justice involvement status; juvenile justice involvement status; prevention program involvement status; child welfare involvement status; drug court status; and veteran status.

(4) through (6) No change.

Rulemaking Authority 394.674(4) FS. Law Implemented 394.674 FS. History--New _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-4.001	Definitions for Behavior Analysis Certification and Services Rules.
65G-4.0011	Recognized Certification Organizations for Behavior Analysts and Assistant Behavior Analysts
65G-4.002	Service Delivery
65G-4.003	Certification as a Behavior Analyst.
65G-4.004	Certification as an Associate Behavior Analyst
65G-4.005	Renewal of Behavior Analysis Certification
65G-4.006	Approved Continuing Education.
65G-4.007	Behavior Analysis Certification Fees.
65G-4.008	Behavior Analysis Services Oversight System Organization.
65G-4.009	Design, Implementation and Monitoring of Behavior Analysis Services
65G-4.010	Behavior Analysis Services Approval

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. 43, October 29, 2010 issue of the Florida Administrative Weekly.

These changes are in response to comments received from the Joint Administrative Procedures Committee.

65G-4.001 Definitions for Behavioral Services: Practice and Procedure.

(1) through (4) No change.

(5) Certified Behavior Analyst – A behavior analyst certified by a certification body, including a Board Certified Behavior Analyst – Doctoral level, a Board Certified Behavior Analyst, a Board Certified Assistant Behavior Analyst and a Florida Certified Behavior Analyst.

(6) through (7) No change.

(8) Desensitization – A method for teaching an individual to exhibit calm or incompatible behavior during the gradual and systematic presentation of increasing levels of an aversive or feared stimulus resulting in the ability to tolerate the formerly feared stimulus ~~the gradual and systematic presentation of increasing levels of an aversive or feared stimulus or event and removal of it contingent upon calm behavior to teach a person to tolerate the stimulus or event.~~

(9) through (11) No change.

(12) Functional Communication Training (FCT) – a procedure in which a functional form of communication is taught and reinforcement is provided contingent upon communication, while withholding reinforcement ~~and withheld~~ for other behavior.

(13) Positive practice overcorrection – Activities that involve repeated performance of a desirable alternative behavior related to ~~an~~ targeted inappropriate behavior.

(14) through (16) No change.

(17) Response cost – A procedure in which a specified amount of available reinforcers are removed from the individual's ~~client's~~ reserve upon occurrence of a specified behavior.

(18) Restitutional overcorrection – Activities that involve correcting the effects of a specified behavior to a better condition than present prior to the occurrence of the specified behavior.

(19) through (20) No change.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History--New 9-23-96, Formerly 10F-4.023, 65B-4.023, Amended _____.

65G-4.0011 No change.

65G-4.002 Service Delivery.

(1) through (3) No change.

(4) Medicaid providers should be reminded that all contracts for programs and services provided to the Agency shall include any terms and requirements established in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook as required by ~~(incorporated by reference in~~ Rule 59G-13.083, F.A.C.) and Rules 65G-4.008, 65G-4.009, 65G-4.010, F.A.C.

Rulemaking Authority 393.13(4)(g)3., 393.501(1) FS. Law Implemented 393.13(4)(g)3., ~~393.17~~ FS. History–New 1-1-77, Formerly 10F-4.08, 10F-4.008, 65B-4.008.-.654, Amended.

65G-4.003 Certification as a Behavior Analyst.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.024, 65B-4.024, Repealed.

65G-4.004 Certification as an Associate Behavior Analyst.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.025, 65B-4.025, Repealed.

65G-4.005 Renewal of Behavior Analysis Certification.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.026, 65B-4.026, Repealed.

65G-4.006 Approved Continuing Education.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.027, 65B-4.028, Repealed.

65G-4.007 Behavior Analysis Certification Fees.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History–New 9-23-96, Formerly 10F-4.028, 65B-4.027, Repealed.

65G-4.008 Behavior Analysis Services Oversight System Organization.

(1) The Agency will establish and maintain a behavioral services program including a senior clinician, the Agency Senior Behavior Analyst (ASBA), to assume direction for standards of behavioral practice as provided in this Chapter, develop and manage systems of quality, utilization and cost containment for statewide behavioral practice. The ASBA holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the ASBA must be a certified behavior analyst with at least the education and experience established by the designated certification board. The behavioral services program will also include the support of at least one master's level board certified behavior analyst. The ASBA will direct:

- (a) No change.
- (b) Committees.

1. through 2. No change.

3. Behavior Analysis Practices Committee (BAPC) shall be established to meet at least annually with membership from Area and Developmental Disabilities Centers Behavior Analysts, the PRC, providers of behavior analysis and behavior assistant solo service providers and agency providers, as well as behavioral residential services providers to assure that common operational requirements established in Rules 65G-4.008, 65G-4.009, and 65G-4.010, F.A.C., are implemented consistently statewide, including the to address qualifications and processes for establishing individuals and agencies as behavior analysis providers, behavior analysis agencies and residential behavioral providers, establishing consensus standards for LRC operation, standards for behavioral assessment content and behavior analysis support plan program content, standards for graphic display of data, documentation, billing, as well as behavioral services practice and service sanctions to ensure service quality to meet the changing needs of service recipients and provider requirements.

(2) A statewide peer review committee (PRC) and local review committees (LRCs) shall be appointed by the Agency to provide oversight of behavior analysis services.

(a) through (b) No change.

(c) Local review committees may establish subcommittees within varied locations outside the area office or within large facilities, upon mutual agreement between an area office and a provider, or between a primary facility campus and remote locations, and operate under the rules governing local review committees. Subcommittees shall ensure that at least two participating members are certified behavior analysts who are not employed or contracted by the facility, and who have no interest in the behavior programs produced by it. Members whose programs are reviewed in the course of the LRC meeting must abstain from decisions regarding their programs. The LRC shall remain responsible for the decisions of the subcommittees.

1. through 6. No change.

~~7.2.~~ Each LRC will be chaired by an individual meeting the qualifications set forth in paragraph (2)(b) above who is either an employee of the Agency or under contract to provide this service. Under no circumstances may the chair participate in the LRC review of his or her own services, services provided by or to a family member, or related services.

(3) No change.

(4) Each area office, and each developmental disabilities center, hereafter referred to as “facility,” shall have a local review committee that shall oversee behavior analysis services provided to clients in their area or facility as specified in paragraphs (a)-(c), below:

(a) The committee shall review behavior analysis services programs as required in Rule 65G-4.010, F.A.C., ~~if warranted, and as necessary,~~ to ensure that behavioral programs are implemented as required and with the intended improvement in target behaviors.

1. No change.

2. Any person ~~The LRC chairperson~~ can request that a behavior analysis services plan be brought before the committee for its review to ensure compliance with Chapter 393, Florida Statutes, and Chapter 65G-4 or 65G-8, F.A.C., Providers should, and the also be aware of the requirements in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (~~incorporated by reference in Rule 59G-13.083, F.A.C.~~)

(b) No change.

(c) If reactive strategies (as that term is defined in Rule 65G-8.001(15)), F.A.C. continue without the implementation of required behavioral programs or behavior analysis services requiring review are not presented to the LRC or are not found to be in accordance with Florida law, the committee chairperson shall request that the Agency notify the behavior analyst, and when appropriate, the residential provider and behavior analyst's supervisor, of the services, orally at the time of review and in writing within ten days of review in the language of the provider or supervisor, and in English, of each area of non-compliance.

1. Absent emergency circumstances that threaten public health, safety or welfare, the provider shall have twenty (20) days within which to demonstrate compliance or present to the committee chairperson in writing evidence showing that the services being provided are in compliance with Florida Statutes and the Agency rules. The provider may present whatever evidence ~~the provider deems~~ appropriate to demonstrate that the provider is in compliance with Chapter 393, Florida Statutes, Chapter 65G-4 or 65G-8, F.A.C., and Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services Coverage and Limitations Handbook in (incorporated by reference in Rule 59G-13.083, F.A.C.)

2. If emergency circumstances exist for the recipient of behavioral services the committee chairperson may give instruction to the provider on in how to proceed with services or to cease and desist from continued behavior analysis services, with other recommendations for necessary safeguards and supports.

3. If, however, the committee determines that the behavior analyst, and when appropriate, the residential provider, is not in compliance with Chapter 393, Florida Statutes, or Chapter 65G-4 or Chapter 65G-8, F.A.C., ~~or the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.)~~, the committee chairperson shall report all facts and circumstances to the Agency in writing within five (5) days of

the provider's response and request a final decision be made by the Agency. Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services and Limitations Handbook in Rule 59G-13.083, F.A.C.

4. No change.

5. If modifications are not made within the time allotted in subparagraph 4. And the agency must take one of the actions in subparagraph 4., the agency shall consider whether any of the following occurred:

a. through j. No change

k. Repeated use of restricted measures for problem behavior as itemized in subsection 65G-8.006(9) 65G-4.010(1), F.A.C., or use of reactive strategies without an LRC approved behavior analysis services plan- as set forth in Rule 65G-8.006, F.A.C.

l. through v. No change.

~~w. Billing under behavior analysis for other activities that do not meet this service definition as described in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.)~~

~~w.x. Failure to comply with the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.); Rules 65G-4.008, 65G-4.009, 65G-4.010, F.A.C., or Chapter 393, F.S.~~

x. Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services and Limitations Handbook in Rule 59G-13.083, F.A.C.

6. Following a committee report set forth above, the Agency, after consideration of the factors set forth in subparagraph 5. above, may require additional supervision of the provider's services. The requirement for additional supervision may be a prerequisite for allowing the provider to continue to serve as an authorized behavior analysis services provider. Such required supervision shall include the following conditions:

a. No change.

b. Face-to-face meetings for up to two hours every two weeks or two hours per 40 hours of the provider's contact with clients. These meetings shall be between the provider and a board certified behavior analyst or a person licensed under Chapter 490 or 491, F.S., during which the supervisor directs and evaluates the behavior analysis services ~~provided by the provider;~~

c. through d. No change.

(5) No change.

Rulemaking Authority 393.125, 393.13(4)(g)3., 393.17 FS. Law Implemented 393.066, ~~393.125, 393.13, 393.17~~ FS. History--New 9-23-96, Formerly 10F-4.029, 65B-4.029, Amended _____.

65G-4.009 Design, Implementation and Monitoring of Behavior Analysis Services.

(1) through (8) No change.

(9) The provider shall take reasonable steps to ensure data collection for behaviors targeted for increase and decrease during the entire period services are in effect. Graphic displays of weekly data ~~for~~ ~~on~~ behaviors targeted for change shall be maintained and updated by the provider ~~at least weekly, unless the local review committee determines that a less stringent requirement is acceptable for individual cases.~~

(10) The LRC shall approve the provider's behavior analysis services plan and specify the requirements for reporting of findings and data to the committee for behavior analysis services approved by the committee.

(a) No change.

(b) The behavior analysis services plan shall include, either in text or by reference to appropriate documents:

1. through 11. No change.

12. Techniques for maintaining and generalizing behavioral improvements, as well as criteria for ~~which could include~~ the reduction and fading of behavioral services. These plans may be general initially, acquiring more specificity in revisions as the individual makes progress.

13. through 15. No change.

(c) No change.

Rulemaking Authority 393.13(4) FS. Law Implemented 393.13(4)(g)3., ~~393.17~~ FS. History—New 9-23-96, Formerly 10F-4.030, 65B-4.030, Amended _____.

65G-4.010 Behavior Analysis Services Approval.

(1) through (2) No change.

(3) Written plans describing behavior analysis services must be submitted to the LRC chairperson when:

(a) Behavior analysis services include restricted procedures such as:

1. The contingent delivery or removal of events to reduce the probability of occurrence of a problem behavior, including but not limited to: extinction or withholding of reinforcement for those behaviors referenced in paragraph 65G-4.010(3)(b), F.A.C., response blocking for more than 15 seconds, contingent exercise, restitutional overcorrection, positive practice overcorrection, time-out and response cost.

2. The removal of an aversive event contingent upon the display of a behavior targeted for increase, including but not limited to, Functional Communication Training using removal of demands or noise as a reinforcer, and desensitization programs.

3. Access to abundant amounts of an event or stimulus so that it loses potency as a reinforcer, and severely restricted access to an event or stimulus to increase its potency as a reinforcer,

4. Behavioral protective devices, as defined in subsection 65G-8.001(4), F.A.C., and electronic devices for monitoring and signaling.

5. Dietary manipulations.

(b) Behavior analysis services address behaviors that:

1. Have resulted in self-inflicted, detectable damage, or resulted in external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.

2. Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life-threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.

3. Have resulted in detectable damage, or external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.

4. Have resulted or are expected to result in major property damage or destruction.

5. Have resulted or are expected to result in arrest and confinement by law enforcement personnel.

6. Have resulted in the need or meet the characteristics for behavioral services in a Behavior Focused or Intensive Behavioral Residential Habilitation program.

7. Have resulted in the need for additional staffing or Behavior Assistant Services in one or more settings.

8. Have resulted in the repeated use of reactive strategies without a formal approved behavior plan.

(c) Behavioral programs or manuals implemented as group contingencies or behavior change systems, including behavioral program manuals, level systems and token economies, are implemented.

Rulemaking Authority 393.13(4)(g)3. FS. Law Implemented 393.13(4)(g)3., ~~393.17~~ FS. History—New 9-23-96, Formerly 10F-4.031, 65B-4.030, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:

RULE TITLES:

65G-4.011

Determination of Mental Retardation in Capital Felony Cases: Intelligence; Tests to be Administered

65G-4.012

Determination of Mental Retardation: Intelligence Tests to be Administered

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 43, October 29, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-157.003	Definition of Terms
69B-157.104	Policy Practices and Provisions
69B-157.105	Refund of Premium
69B-157.106	Required Disclosure Provisions
69B-157.107	Required Disclosure of Rating Practices to Consumers
69B-157.109	Prohibition Against Post-Claims Underwriting
69B-157.111	Reporting Requirements
69B-157.114	Filing Requirement – Out of State Groups
69B-157.118	Nonforfeiture Benefit Requirement
69B-157.120	Standard Format Outline of Coverage

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 42, October 21, 2011 issue of the Florida Administrative Weekly.

The following is added to the end of the SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule repeals will not require legislative ratification based on the following information. These rules are repealed since they are duplicative of their correspondingly numbered rules in Chapter 69O-157, F.A.C., which are administered by the Office of Insurance Regulation. Based upon the economic analysis conducted by the Department and past experiences with rules of this nature, there will be no adverse effect on small businesses, economic growth, private-sector job creation, employment or investment in excess of the threshold requiring legislative ratification. There will also be no increase in regulatory costs in excess of the threshold requiring legislative ratification.

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-166.021	Definitions
69B-166.024	Failure to Acknowledge Communications and Act Promptly as to Communications with Respect to Claims and to Implement Standards for the Prompt Investigation of Claims

NOTICE OF CORRECTION

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**Section IV
Emergency Rules**

NONE

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

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that on November 30, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., from Madison Police Department on behalf of one officer for the 2008 (7/1/2006 – 6/30/2008)