

65B-38.027 Rules of Procedures for Hearings.

Rulemaking Authority 393.067(7) FS. Law Implemented 393.125 FS. History--New 12-1-78, Amended 7-7-81, Formerly 10D-38.27, Amended 9-3-89, 12-7-92, Formerly 10D-38.027, Repealed

65B-38.028 Life Safety and Fire Protection.

Rulemaking Authority 393.067(7) FS. Law Implemented 393.067(7) FS. History--New 12-1-78, Amended 7-7-81, Formerly 10D-38.28, Amended 9-3-89, 12-7-92, Formerly 10D-38.028, Repealed

65B-38.030 Construction and Physical Environment Standards.

Rulemaking Authority 393.067(7) FS. Law Implemented 393.067(7), 553, Part V FS. History--New 12-1-78, Amended 7-7-81, 9-20-82, Formerly 10D-38.30, Amended 9-3-89, 12-7-92, Formerly 10D-38.030, Repealed

65B-38.032 Severability.

Rulemaking Authority 393.067(7) FS. Law Implemented 393.067 FS. History--New 12-1-78, Amended 7-7-81, Formerly 10D-38.32, 10D-38.032, Repealed

65B-38.033 Developmental Services Institutions and Developmental Services Funded Community Residential Facilities.

Rulemaking Authority 393.067(7), 393.501(1) FS. Law Implemented 393.067(7), 393.067(19) FS. History--New 12-7-92, Formerly 10D-38.033, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Gregory D. Venz, Assistant General Counsel  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David E. Wilkins, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2011

Section III  
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.226  
RULE TITLE: Youthful Offender Program Participation

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 11, March 16, 2012 issue of the Florida Administrative Weekly. The following language was inadvertently omitted after the first sentence of subsection (5)(a): Form DC6-188 is hereby incorporated by reference.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: 61A-10.083  
RULE TITLE: Application for Retail Dealer Permit, Cigarette and Tobacco Products

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 8, February 24, 2012 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.: 62-344.300, 62-344.500, 62-344.550, 62-344.600  
RULE TITLES: Procedures for Requesting Delegation, Criteria for Review, Delegations to Entities Identified in Section 373.441(1)(g), F.S., Procedures for Identifying and Reconciling Duplicative Permitting and Incorporation of Stricter Local Standards

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. 38, No. 1, January 6, 2012 issue of the Florida Administrative Weekly.

- 62-344.300 Procedures for Requesting Delegation.  
(1) through (12) No change.
- (13) In the event a delegation under this chapter is not approved or denied within one year after being initiated, the local government seeking the delegation may petition the Governor and Cabinet for review of the request for delegation. Section 373.441(2), F.S., provides for Governor and Cabinet reversal of decisions of the Department. The date the local government submits its petition for delegation to the Department shall be considered the date the delegation was initiated. ~~The Governor and Cabinet may reverse the decision of the Department and may provide any necessary conditions to allow the delegation of authority to occur.~~
  - (a) through (c) No change.
  - (d) The petition shall include the following:
    - 1. No change.
    - 2. The mailing address, e-mail address, telephone number, and facsimile number of the primary contact person in the local government;
    - 3. through 6. No change.
  - (14) through (17) No change.
- 62-344.500 Criteria for Review.  
(1) through (3) No change.
- (4) The Department shall not delegate the environmental resource permit program for the following.

(a) through (i) No change.

(5) Notwithstanding the provisions of subsection ~~62-344.500(4)~~ ~~62-344.500(5)~~, F.A.C., the Department may delegate to a local government the responsibility and authority to perform formal determinations of wetlands and surface waters; perform compliance inspections and monitoring for activities subject to regulation under Part IV of Chapter 373, F.S.; and enforce orders and rules, including environmental resource permits issued or adopted by the Department or District pursuant to the authority of Part IV of Chapter 373, F.S.

(6) No change.

62-344.550 Delegations to Entities Identified in Section 373.441(1)(g), F.S.

A county having a population of 75,000 or fewer, or a municipality or local pollution control program serving a population of 50,000 or fewer may request limiting the scope of delegation to the following:

(1) Reviewing, taking agency action, and performing compliance and enforcement on narrowly-targeted types of activities, such as stormwater management systems that fall below specified size, location, or volume thresholds;

(2) Performing monitoring, compliance or enforcement of activities regulated under Part IV of Chapter 373, F.S., on behalf of the Department or District; or

(3) Performing formal determinations of wetlands and surface waters in accordance with the rules adopted under Section 373.421, F.S.

Rulemaking Authority 373.441(1) FS. Law Implemented 373.441 FS. History—New \_\_\_\_\_.

62-344.600 Procedures for Identifying and Reconciling Duplicative Permitting and Incorporating Stricter Local Standards.

If the Department determines to delegate all or a portion of the environmental resource permit program to a local government, the following procedures shall be followed to identify and reconcile duplicative permitting and incorporate stricter local standards.

(1) through (2) No change.

(3) The local government shall act on the delegated application or notice under Part IV of Chapter 373, F.S., and its stricter standards within the time frames requiring agency action under Section 120.60 Chapter 120, F.S., and Part IV of Chapter 373, F.S., ~~and the rules adopted thereunder, as applicable.~~

(4) A local government that receives delegation of all or a portion of the environmental resource permit program shall not require an applicant to obtain a corresponding separate local permit for those activities during the period the delegation is in effect, ~~except~~ when any of the following exist:

(a) A decision on the local permit cannot be made within the timeframes requiring ~~required~~ agency action on ~~for issuance or denial of~~ the delegated environmental resource permit application or notice under Section 120.60 Chapter 120, F.S., and Part IV of Chapter 373, F.S.;

(b) through (c) No change.

CONTACT: Mary VanTassel, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, telephone (850)245-8486, facsimile (850)245-8499 or e-mail [Mary.VanTassel@dep.state.fl.us](mailto:Mary.VanTassel@dep.state.fl.us). (OGC No. 10-2686)

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: 64B-1.005  
 RULE TITLE: Special Testing Accommodations

**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. 52, December 30, 2011 issue of the Florida Administrative Weekly.

64B-1.005 Special Testing Accommodations.

(1) through (2) No change.

(3)(a) Candidates requesting special testing accommodation due to a disability shall file a request for special testing accommodation no later than sixty (60) days prior to the first day of the examination for which special testing accommodation is requested on form DH-MQA 4000, 2/2011 6/08, Application For Candidates Requesting Special Testing Accommodations ~~Accommodation~~ in Accordance with the Americans with Disabilities Act, for which special testing accommodation is requested. Form DH-MQA 4000, 2/2011 6/08, is hereby incorporated by reference, and can be obtained at \_\_\_\_\_ and on the Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~<http://www.doh.state.fl.us/mqa/exam/spectest.htm>~~ or from the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination ~~Testing~~ Services, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290. If a candidate becomes disabled after the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(b) In addition to form DH-MQA 4000, 2/2011 6/08, the candidate shall provide the department with documentation of his or her ~~their~~ disability completed by a practitioner licensed pursuant to Chapter 490, (Psychology), Chapter 458 (Medical Practice), Chapter 459 (Osteopathy), Chapter 461 (Podiatry), Chapter 463 (Optometry), Chapter 468, Part I

(Speech-Language Pathology & Audiology), or Chapter 460 (Chiropractic Medicine), Florida Statutes, or by a comparable practitioner licensed in another jurisdiction in the United States. Such documentation shall be sufficient to allow an independent reviewer to evaluate the diagnosed condition(s) and shall include:

1. through 4. No change.

(4) through (6) No change.

(7) Candidates who have previously received special testing accommodations for an examination in accordance with the Americans with Disabilities Act and need accommodations for another examination or for a retake of the same examination must submit their request to the department no later than (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1191, 2/2011 3/09, Reapplication for Candidates Requesting Special Testing Accommodations in Accordance with the Americans with Disabilities Act. Form DH-MQA 1191, 2/2011 3/09, is hereby incorporated by reference, and can be obtained at \_\_\_\_\_ and on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> <http://www.doh.state.fl.us/mqa/exam/speectest.htm> or from Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290. Candidates must file form DH-MQA 1191, 2/2011 3/09, each time accommodations are needed.

(8) Candidates requesting special testing accommodation due to a religious belief shall submit their request to the department no later than sixty (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 4001, 2/2011 6/08, Application For Special Testing Accommodations Due to a Religious Conflict. Form DH-MQA 4001, 2/2011 6/08, is hereby incorporated by reference, and can be obtained at \_\_\_\_\_ and on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> <http://www.doh.state.fl.us/mqa/exam/speectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290. If the sixty-day forty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(9) Candidates requesting the use of a translation dictionary due to English as a second language shall submit their request to the department no later than forty (40) days

from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1192, 2/2011 3/09, Application For Use of a Translation Dictionary Due to English as a Second Language. Form DH-MQA 1192, 2/2011 3/09, is hereby incorporated by reference, and can be obtained on the Examination Testing Services website at <http://doh.state.fl.us/mqa/Exam/index.htm> <http://www.doh.state.fl.us/mqa/exam/speectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Examination Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the forty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination. Translation Dictionaries due to English as a second language are only available where approved by the applicable board and testing vendor policy.

(10) No change.

In addition, Form DH-MQA 1192, 2/2011, has been amended so that the form title matches the rule text and an inconsistency with the 40 day deadline as provided in (9) of the rule text is removed.

## DEPARTMENT OF HEALTH

### Board of Nursing

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

#### NOTICE OF PUBLIC HEARING

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

DATE AND TIME: Friday, May 11, 2012, 10:00 a.m. or as soon thereafter as possible, until business is concluded

PLACE: The Westin Ft. Lauderdale, 400 Corporate Drive, Fort Lauderdale, FL 33334

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](mailto: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**

**Board of Nursing**

RULE NO.:                    RULE TITLE:  
 64B9-15.007                Approval of New Certified Nursing  
    Assistant Training Programs

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 15, April 13, 2012 issue of the Florida Administrative Weekly.

The following language was inadvertently omitted from the Notice of Proposed Rulemaking. The notice should have contained the following language: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

The above change does not substantively affect the rule.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:                    RULE TITLES:  
 64E-28.001                Scope of Chapter Rules  
 64E-28.002                Definitions  
 64E-28.003                Licensure Requirements for a Tattoo  
    Artist  
 64E-28.004                Licensure Renewal Requirement for  
    a Tattoo Artist  
 64E-28.005                Registration Requirements for a  
    Guest Tattoo Artist  
 64E-28.007                Licensure Requirements for a  
    Permanent Tattoo Establishment  
 64E-28.008                Licensure Requirements for a  
    Temporary Tattoo Establishment  
 64E-28.009                Operational Requirements for a  
    Tattoo Establishment  
 64E-28.010                Operational Requirements for a  
    Temporary Tattoo Establishment  
 64E-28.011                Standards of Practice for a Tattoo  
    Artist or Guest Tattoo Artist  
 64E-28.012                Forms  
 64E-28.013                Fee Schedule

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 4, January 27, 2012 issue of the Florida Administrative Weekly.

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: This proposed rulemaking will not have an adverse impact or effect regulatory costs in excess of \$1 million within five years as established in Section 120.541(2)(a)1.2. and 3., F.S.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:                    RULE TITLES:  
 64E-28.001                Scope of Chapter Rules  
 64E-28.002                Definitions  
 64E-28.003                Licensure Requirements for a Tattoo  
    Artist  
 64E-28.004                Registration Requirements for a  
    Guest Tattoo Artist.  
 64E-28.005                Licensure Requirements for a Tattoo  
    Establishment.  
 64E-28.007                Operational Requirements for a  
    Tattoo Establishment.  
 64E-28.008                Operational Requirements for a  
    Temporary Tattoo Establishment.  
 64E-28.009                Standards of Practice for a Tattoo  
    Artist or Guest Tattoo Artist.  
 64E-28.010                Fee Schedule.

**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. 38, No. 4, January 27, 2012 issue of the Florida Administrative Weekly.

64E-28.001 Scope of Chapter Rules.

(1) These rules provide minimum standards relating to tattoo artists and tattoo establishments, including licensure and registration requirements, operational requirements, standards of practice, and a fee schedule.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00787, 381.00791 FS. History—New \_\_\_\_\_.

64E-28.002 Definitions.

(1) through (5) No change.

(6) Department – The Department of Health and its representative county health departments.

(7)(6) Disinfect – The use of a product registered with the United States Environmental Protection Agency (USEPA) as a tuberculocidal disinfectant which results in the reduction in the number of disease-causing organisms on objects or surfaces, thereby rendering them safe for handling and use.

(8) Equipment – All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a tattoo establishment.

(9)(7) Fixed – Incapable of being moved.

(10) Government-issued photo identification – A document issued by a state, federal, or foreign government containing the photo of the person it is identifying.

(11)(8) Inactive license – A tattoo establishment or artist license which has not been renewed before by October 1.

(12) Instruments – Hand pieces and other tools that may come in contact with a customer's body or be exposed to body fluids during tattooing procedures.

(13)(9) Minor – An individual who is less than eighteen (18) years of age.

(14)(10) Person – Any individual, partnership, corporation, association, or public body.

(15)(11) Registered business name – The name, as registered with the Department of State, under which a tattoo establishment operates.

(16)(12) Registered agent for service of process – A person, as registered with the Department of State, authorized by a tattoo establishment to receive legal notices for the establishment.

(17)(13) Single-use – means products or items that are intended for one-time, one-person use and are disposed of after use on each customer, such as cotton swabs or balls, gauze pads, tissues or paper products, sanitary coverings, razors, instruments that pierce the skin, and protective gloves.

(18)(14) Spore strip – A device used to monitor the sterilization process in a steam autoclave to ensure destruction of *Geobacillus stearothermophilus* spores.

(19)(15) Sterilization – The use of a steam autoclave to destroy all forms of microbial life, including spores.

(20)(16) Tattoo artist – A tattoo artist as defined in section 381.00771, F.S., including an artist who performs cosmetic tattooing.

(21)(17) Unobstructed access – A situation where an artist can wash their hands and return to the tattooing area without recontaminating their hands by handling an object such as a door knob.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00789 FS. History–New \_\_\_\_\_.

#### 64E-28.003 Licensure Requirements for a Tattoo Artist.

(1) An applicant A tattoo artist seeking initial licensure as a tattoo artist shall:

(a) Submit a completed application for licenser to the department on form DH 4147, 5/12, Application for Tattoo Artist License, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives, or from the internet at tap://www.myfloridaeh.com/community/Tattoo/index.html. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.010 64E-28.011, F.A.C., and the following documentation is attached:

1. No change.

2. A copy of the certificate of training proving completion of Proof of having completed a department approved course on blood-borne pathogens and communicable diseases with having achieved a minimum score of seventy per cent (70%) 70 percent on the course examination.

(b) No change.

(2) A tattoo artist's license is valid for one year, October 1 to September 30 of the following year, throughout the state of Florida.

(3) No change.

(a) Annually, submit a completed application for license renewal on Form DH 4147 before by October 1.

1. No change.

2. A license which has not been renewed on or before September 30 by October 1 shall be deemed inactive on this day. If this day falls on a weekend or holiday, a tattoo artist license must be renewed on or before the first working day after September 30 October 1.

(b) No change.

(4) No change.

Rulemaking Specific Authority 381.00789 FS. Law Implemented 381.00771, 381.00775, 381.00779, 381.00781 FS. History–New \_\_\_\_\_.

#### 64E-28.004 Registration Requirements for a Guest Tattoo Artist.

(1) A guest tattoo artist seeking registration by the department shall:

(a) Submit, at least fourteen (14) days prior to practicing tattooing in any licensed tattoo establishment or licensed temporary tattoo establishment, a completed application for registration to the department on Form DH 4150, 5/12, Application for Guest Tattoo Artist Registration, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives, or from the internet at http://www.myfloridaeh.com/community/Tattoo/index.html.

An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.010 64E-28.011, and the following documentation is attached:

1.(a) A copy of a government issued photo identification confirming the applicant is at least 18 years of age.

2.(b) A copy Proof of an active license, registration, or certification in another jurisdiction.

3.(c) A copy of the certificate of training providing completion of Proof of having completed a course on blood-borne pathogens and communicable diseases, which meets the requirements specified in subsection (b), with having achieved a score of at least seventy per cent (70%) on the course examination covering the materials in the course in that

jurisdiction, provided the course requirements, as determined by the department, comparable to or exceed those in 381.00775(2)(b)4 and 5., F.S., and Rule 64E-28.006, F.A.C.

~~(b)(2) Should the department determine that the education course and examination requirements in another jurisdiction do not meet or exceed those in Section 381.00775(2)(b), F.S. and Rule 64E-28.006, F.A.C., the applicant must submit proof of successful completion of Complete a department approved education course on blood-borne pathogens and communicable diseases with and proof of having achieved a minimum score of at least seventy per cent (70%) on the course an examination covering the materials in the course.~~

1. Completion of the educational course mentioned in paragraph (b), shall not be required when a tattoo artist has completed a blood-borne pathogens and communicable diseases course as a requirement for license, registration, or certification in a jurisdiction outside of the state and, as determined by department, the course requirements met or exceeded those prescribed in Section 381.00775(2)(b)4 and 5., F.S., and Rule 64E-28.006, F.A.C.

2. A tattoo artist may submit a course curriculum to the department and request the department conduct a review for determination of the requirements specified in paragraph 1. Requests for curriculum review shall be submitted prior to submission of a completed application for registration of a guest artist.

~~(2)(3) A guest tattoo artist's registration license is valid for up to fourteen (14) consecutive days, throughout the State of Florida.~~

~~(3)(4) A guest tattoo artist shall not perform tattooing without an active guest tattoo artist registration.~~

~~(4)(5) A guest tattoo artist registration shall not be transferrable from one person to another.~~

Rulemaking Authority 381.00789 FS. Law Implemented 381.00775 FS. History--New \_\_\_\_\_.

64E-28.005 Licensure Requirements for a Tattoo Establishment.

(1) No change.

(a) Prior to performing tattooing, Requires a completed application shall be submitted to the county health department on form DH 4151, 5/12, Application for Tattoo Establishment Licensure, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the establishment is physically located, or from the internet at <http://www.myfloridaeh.com/community/Tattoo/index.html> prior to performing tattooing. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in section 64E-28.0101.

(b) No change.

(c) A license which has not been renewed on or before September 30 by October 1 shall be deemed inactive ~~on this day~~. If this day falls on a weekend or holiday, a tattoo artist license must be renewed on or before the first working day after September 30 ~~October 1~~.

(2) No change.

(a) A Requires a completed application to shall be submitted to the county health department on form DH 4151 at least thirty (30) days prior to performing tattooing. An application shall be considered complete if all of the information requested on the form is provided, along with the fee specified in Rule 64E-28.010 ~~64E-28.011~~, F.A.C.

(b) A license for a temporary tattoo establishment is valid for up to fourteen (14) consecutive days in conjunction with a convention or similar event for which the license is issued.

(3) through (4) No change.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00777 FS. History--New \_\_\_\_\_.

64E-28.007 Operational Requirements for a Tattoo Establishment.

(1) Tattoo establishments shall have walls, a floor, and a ceiling. Floors and walls located in the tattooing area, ~~and~~ the area where items are cleaned and sterilized, and in the restrooms shall be constructed of non-absorbent, easily cleanable materials. The entire establishment shall be maintained in clean condition and good repair.

(2) through (3) No change.

(4) Except for first aid purposes, Eating and drinking, except for the purpose of administering first aid, and smoking are prohibited in areas where tattooing is performed or where instruments and supplies are cleaned and stored.

(5) through (15) No change.

(16) No change.

(a) Individually packaged, pre-sterilized, single-use items shall be sterilized with ethylene gas or gamma rays and shall be labeled with the expiration date by the manufacturer.

(b) If a package containing pre-sterilized, single-use items has been compromised, the contents shall be discarded.

(17) No change.

~~(a) Individually packaged, pre-sterilized, single-use items shall be sterilized with ethylene gas and shall be labeled with the expiration date by the manufacturer.~~

~~(b) If a package containing pre-sterilized, single-use items has been compromised, the contents shall be discarded.~~

~~(18)(e) All packages of sterile items shall be stored in a clean, dry, covered container or in a clean, dry cabinet until just prior to use.~~

(19)(18) Work chairs, tables, stands, cabinets, and counter tops shall have a smooth, non-porous, easily cleanable surface, and shall be cleaned and disinfected after each customer.

~~(20)(19)~~ If any liquid product is not in its original container, the container into which the product has been placed shall be labeled with the name of the product.

~~(21)(20)~~ Each tattoo establishment shall maintain the following records:

(a) through (d) No change.

(e) Personnel records of each tattoo artist who works in the establishment. The record shall contain the tattoo artist's name, ~~address, date of birth, a copy of a government issued photo identification,~~ and the license number issued by the department. Personnel records shall be maintained for at least 2 years after an artist's employment ends.

~~(22)(21)~~ A tattoo establishment shall allow the department to conduct, at a minimum, annual inspections for the purpose of ~~ensuring assisting the establishment in achieving~~ compliance with Sections 381.00771-381.00791, F.S., and these rules. ~~Results of each inspection shall be recorded on DH Form 4153, 5/12, Tattoo Establishment Inspection Report, herein incorporated by reference and which can be obtained from the environmental health section of the county health department having jurisdiction.~~

~~(23)(22)~~ Biomedical waste shall be managed in accordance with section 381.0098, F.S., and Chapter 64E-16, F.A.C. Regular solid waste shall be collected, stored and disposed of in a manner and at a frequency that ~~does not~~ create a sanitary nuisance, as defined in Chapter 386, F.S.

~~(23)~~ Tattoo establishments, currently operating on the effective date of this chapter, which are not in full compliance with the handsink and cleaning sink requirements on the effective date of this chapter shall have six months from the effective date of this chapter to comply with the requirements.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00779 FS. History--New \_\_\_\_\_.

64E-28.008 Operational Requirements for a Temporary Tattoo Establishment.

(1) through (3) No change.

(4) A temporary establishment shall allow the department to conduct, at minimum, an initial inspection prior to and, if deemed necessary, during the convention or similar event for the purpose of ensuring compliance with sections 381.00771-381.00791, F.S., and these rules. Results of each inspection shall be recorded on DH Form 4153, 5/12, Tattoo Establishment Inspection Report.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00779 FS. History--New \_\_\_\_\_.

64E-28.009 Standards of Practice for a Tattoo Artist or Guest Tattoo Artist.

(1) No change.

(a) through (b) No change.

~~(c)~~ Copy of the identification used to verify customer is at least eighteen (18) years of age.

~~(c)(d)~~ Description and location of tattoo on the customer's body.

~~(d)(e)~~ Signature of the customer.

~~(e)(f)~~ Signature of the artist.

(2) No change.

(3) If tattooing a minor who is sixteen (16) or seventeen (17) years of age, a tattoo artist shall ~~obtain the following documents in addition to the requirements of subsection (1):~~

(a) Inspect copies of a government-issued photo identification for both the minor and for the parent or legal guardian of the minor. If the photo identification for the minor does not show a birth date, a copy of the minor's birth certificate shall be provided.

(b) Obtain a signed and notarized consent by the minor's parent or legal guardian on form DH 4146, 5/12, Written Notarized Consent For Tattooing of a Minor Child, Age 16 through 17 Years Old, which is incorporated herein by reference and which can be obtained from the environmental health section of the county health department, which has jurisdiction for the tattooing program in the county where the tattoo artist lives or the tattoo establishment is physically located, or from the internet at <http://www.myfloridaeh.com/community/Tattoo/index.html>.

~~(c)~~ Complete the requirements of subsection (1).

(4) through (7) No change.

(8) No change.

(a) Use aseptic techniques, including barrier covers on instruments and equipment that may come into contact with the tattoo artist or the customer during the tattoo procedure. Should an artist choose to not use a barrier cover on the tattoo machine, they must disinfect the machine upon completion of the tattoo procedure.

(b) through (g) No change.

(9) through (10) No change.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00779 FS. History--New \_\_\_\_\_.

64E 28.010 Forms.

~~(1) DH Form 4147, 03/12, Application for Tattoo Artist License.~~

~~(2) DH Form 4150, 03/12, Application for Guest Tattoo Artist Registration.~~

~~(3) DH Form 4151, 03/12, Application for Tattoo Establishment License.~~

~~(4) DH Form 4146, 03/12, Consent Form for Minor.~~

~~(5) DH Form 4154, 03/12, Tattoo Establishment Stop Use Order~~

Rulemaking Authority 381.00789 FS. Law Implemented 381.00789, 381.00775(3)(a), 381.00777(2), 381.00775(4), 381.00787(2)(d) FS. History--New \_\_\_\_\_.

Rule 64E-28.011 renumbered 65E-28.010:

64E-28.010 Fee Schedule.

(1) through (6) No change.

Rulemaking Authority 381.00789 FS. Law Implemented 381.00781 FS. History--New \_\_\_\_\_.

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## Section IV Emergency Rules

**NONE**

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

### WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (SFWMD) hereby gives notice of issuance of an Order Granting Variance under Section 120.542(2), Florida Statutes (Order 2012-042-DAO-WU), April 2, 2012, to the Okeechobee Utility Authority (OUA), whose service area covers Okeechobee and Glades Counties. The Petition for Variance (Application 110902-1) was received by the SFWMD on September 2, 2011. Notice of receipt of the Petition was published in the Florida Administrative Weekly, Vol. 37, No. 37, September 16, 2011. The particular criterion from which the variance is sought is found at Rules 40E-2.091 and 40E-2.301, F.A.C., and Section 3.2.1.G(4) of the Basis of Review for Water Use Permit Applications within the South Florida Water Management District. This criterion states that allocations of water from the Lake Okeechobee Waterbody for public water supply uses in excess of the project's base condition water use are incompatible with the supply source. The order sets forth the basis of the SFWMD decision to grant the variance, as follows: 1) the variance is necessary to prevent a substantial economic hardship on OUA customers who reside in an area that has been designated a Rural Economic Development Initiative Rural Area of Critical Economic Concern community; and 2) the purpose of the underlying rule has been achieved by other means.

A copy of the Order can be obtained by contacting the Regulation Division during the normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, 3301 Gun Club Road, West Palm Beach, FL 33406, (561)682-6911, by e-mail: [permits@sfwmd.gov](mailto:permits@sfwmd.gov) or by accessing the District's website ([www.sfwmd.gov](http://www.sfwmd.gov)) using the Application/Permit Search on the ePermitting page.

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### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that on April 16, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Mayo Stabile North. Petitioner seeks an emergency variance of the requirements of ASME A17.1, Section 2.2.2.5, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires a sump pump in the hoistway which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-118).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on April 11, 2012, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for a Routine Variance for paragraph 61C-1.004(2)(a), subsections 61C-4.010(6), (7), Florida Administrative Code and Section 6-402.11, 2001 FDA Food Code from Al Fresco located in Winter Garden, Florida. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom on the same level be provided for use by customers and employees. They are requesting to utilize bathrooms located on a different level.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, email: [Lydia.Gonzalez@dbpr.state.fl.us](mailto:Lydia.Gonzalez@dbpr.state.fl.us).

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on April 6, 2012, the Division issued an order. The Final Order was in response to a Petition for emergency Variance from Royal Homestead Condominiums, filed March 12, 2012, and advertised in Vol. 38, No. 12, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.7.1 ASME A18.1, 2008 edition, as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires a platform lift not exceed 14 feet because the Petitioner has