

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NO.: 64J-1.004 RULE TITLE: Medical Direction

PURPOSE AND EFFECT: To amend rules identified as not being authorized by statute. These revisions will bring Chapter 64J-1, F.A.C. into compliance with the provisions of Chapter 120.536, F.S. Amending paragraphs 64J-1.004(2)(b), (3)(c), (d), F.A.C

SUBJECT AREA TO BE ADDRESSED: The rule amends medical directors' qualifications and responsibilities.

RULEMAKING AUTHORITY: 381.0011, 395.405, 401.265, 401.272, 401.35, 499.05 FS.

LAW IMPLEMENTED: 401.23, 401.24, 401.25, 401.26, 401.265, 401.27, 401.281, 401.2915, 401.30, 401.34, 401.35, 401.41, 401.411, 499.005 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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 3 days before the workshop/meeting by contacting: Rebecca Cash at rebecca_cash@doh.state.fl.us or (850)245-4440, ext. 2725. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rebecca Cash at rebecca_cash@doh.state.fl.us or (850)245-4440, ext. 2725

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NO.: 64J-1.0201 RULE TITLE: EMS Instructor Qualifications

PURPOSE AND EFFECT: The purpose and effect is to reduce requirements placed on persons seeking to be Emergency Medical Services (EMS) program directors, lead instructors and adjunct instructors.

SUBJECT AREA TO BE ADDRESSED: EMS Instructor Qualifications.

RULEMAKING AUTHORITY: 401.27(2), 401.35(1)(b), 401.35(1)(h) FS.

LAW IMPLEMENTED: 401.27, 401.27(4)(a)1., 401.27(4)(a)2., 401.2701(1)(a)5.a. FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 1, 2012, 8:00 a.m. – 12:00 Noon

PLACE: Florida Department of Health, Bureau of Emergency Medical Service, Capital Circle Office Complex, 4025 Esplanade Way, 3rd Floor, Room 301, Tallahassee, Florida 32311, (850)245-4440, extension *2725. A conference call line will be available to those participants not able to attend the workshop. The conference number is: 1(888)808-6959, conference code: 1454440.

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 3 days before the workshop/meeting by contacting: Rebecca Cash at (850)245-4440, ext. 2725. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rebecca Cash at (850)245-4440, ext. 2725

**Section II
Proposed Rules**

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09981 RULE TITLE: Implementation of Florida's System of School Improvement and Accountability

PURPOSE AND EFFECT: The purpose and effect of the proposed rule change is to incorporate statutory changes into the calculation of the school grades formula for elementary, middle, high and combination schools. These changes include incorporating the FCAT 2.0 and End-of-Course Assessments as it relates to performance and learning gains calculations. In addition, changes are made to improve the school grades calculation methodology and conform rule language more closely to legislative intent. The changes also reorganize information to move current aspects of the school grade model out of the planned enhancement section into the sections that outline how the school grades system works.

SUMMARY: This rule describes the school grading process, lays out the data that is used in the process, how points for school grades are calculated, and requirements to receive an A, B, C, D, or F grade. This rule amendment is proposed to incorporate recent changes made to the statewide assessment program and recent legislative changes to Section 1008.34, F.S. These changes include, adding provisions outlining how new statewide assessments outlined in statute are used in the school grades model, incorporating the new components outlined in statute in the middle school model, and updating the high school model to include the new federal uniform

graduation rate. In addition, edits were made to conform rule language more closely to the legislative intent. These changes include, adding additional emphasis to reading, including students with disabilities and more English language learners (ELLs) in the performance components for reading and mathematics, and removing students performing satisfactorily from the component measuring learning gains of the lowest 25%. In addition, the changes reorganized the rule to present like information in the same sections of the rule and moved current practices out of the section on planned system enhancements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and; 2) based on past experiences with the school grade rule and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1008.34, 1008.341 FS.

LAW IMPLEMENTED: 1008.34, 1008.341 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: February 28, 2012, 9:00 a.m.

PLACE: Department of Education, Turlington Building, 325 West Gaines St., Suite 1703, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ed Croft, Bureau Chief, Accountability Reporting, Accountability, Research, and Measurement, 325 W. Gaines Street, Suite 1401, Tallahassee, Florida 32399, (850)245-0429

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09981 Implementation of Florida’s System of School Improvement and Accountability.

(1) Policy Guidance. Accountability for student learning is the key focus of Florida’s system of school improvement. Requirements of Results from the statewide assessment

program required by Section 1008.34, F.S., shall form the basis of Florida’s system of school improvement and accountability. Student achievement data from the Florida Comprehensive Assessment Test (FCAT), FCAT 2.0 and end-of-course (EOC) assessments in grades 3-10 shall be used to establish both performance proficiency levels and annual progress for individual students, schools, districts, and the state. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (5) of this rule, school rewards and recognition, and performance-based funding and shall be annually reported. Statewide assessments as required by Section 1008.22, F.S. The statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the Next Generation Sunshine State Standards appropriate for the student’s grade level and to inform parents of the educational progress of their public school children as specified by Section 1008.34(1), F.S. Each school is accountable for the performance of its entire student population. Student achievement data from the FCAT, FCAT 2.0, EOC assessments, and the Florida Alternate Assessment (FAA) shall be used to measure a school’s student performance for the subject areas of reading, mathematics, science, and writing. The FCAT, FCAT 2.0, and EOC assessment levels in the performance criteria in subsection (4) of this rule are those specified in Rule 6A-1.09422, F.A.C., for the year in which achievement data are used for accountability. The FAA performance levels for reading, mathematics, science, and writing are those specified in Rule 6A-1.09430, F.A.C.

(a) School Full Implementation of Accountability System in School Year 2001-2002 and thereafter. Beginning in school year 2001-2002, the school accountability system will include be considered to be fully implemented with the following accountability components elements.

1. Designation of School performance grades shall be based on a combination of:

a. Student achievement scores, based on FCAT 2.0 Reading in grades 3 through 10, and FCAT 2.0 Mathematics assessments in grades 3- through 8 +0; FCAT 2.0 Science in grades 5 and 8; and FCAT Writing assessment in grades 4, 8, and 10; statewide high school end-of-course (EOC) assessments in Algebra 1, Biology (beginning 2012-13), and Geometry (beginning 2012-13); and middle school statewide EOC assessment in Civics (beginning 2014-15). Statewide EOC assessment scores for students who pass statewide high school EOC assessments in middle school will be banked for inclusion in the high school performance measures addressed in this paragraph when these students enroll in grade 9. For school year 2011-12 only, the science component for high school will be based on FCAT science performance in 2010-11. Schools will receive the same number of points for the 2011-12

science component as they did in 2010-11 because achievement level standards will not have been set for the 2011-12 Biology EOC assessment.

b. Annual student learning gains as measured by FCAT 2.0 Reading and Mathematics (including Algebra 1 and Geometry EOC) assessments in applicable grades in grades three (3) through ten (10); and

c. Improvement of the FCAT 2.0 Reading and Mathematics (including Algebra 1 and Geometry EOC assessments) scores of students in the lowest twenty-five (25) percent of each grade, aggregated for each school, unless they are performing at or above satisfactory, defined as FCAT 2.0 and EOC assessment Achievement Levels 3, 4 and 5. Retained elementary and middle school students whose prior year assessment scores are at Achievement Level 1 or 2 will be included in this group.

d. For high schools, when data is available to meet the cell size requirements for the elements described in paragraph (4)(c) of this rule, the accountability system will also include graduation rates as measured by the federal uniform graduation rate, a five-year federal uniform rate, modified to include special diploma graduates, an at-risk graduation rate, participation and performance in accelerated mechanisms, and college readiness as measured by the SAT, ACT, CPT, and Postsecondary Education Readiness Test (P.E.R.T.)

2. School improvement ratings shall be based on the school's performance grade in the current year compared to the previous year. School improvement ratings shall not be used in the designation of school grades.

2.3 Schools receiving a school designated as Performance gGrade of "C" or above shall be required to demonstrate that adequate progress in reading and in mathematics, defined as annual learning gains in subparagraph (4)(a)2. paragraph (5)(b) of this rule, have has been made by the lowest twenty-five (25) percent of students in the school who scored at or below FCAT 2.0 Achievement Level 2, based on their previous year's FCAT 2.0 score. Beginning in 2012-13, learning gains of students who scored at or below level 2 on the statewide Algebra 1 EOC based on their previous years assessment will also be included in the calculation of adequate progress of the lowest twenty-five (25) percent in mathematics as defined in subparagraph (4)(a)2. of this rule. The minimum requirement for adequate progress is deemed to be met when at least fifty (50) percent of such students make learning gains as defined in subparagraph (4)(a)2. paragraph (5)(b) of this rule. If the percent of such students making learning gains is below fifty (50) percent in the current year, adequate progress can be met if:

a. Schools demonstrate a one (1) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is at least forty (40) percent in the current year; or

b. Schools demonstrate a five (5) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is below forty (40) percent in the current year.

If a school that would otherwise be assigned a school designated as Performance gGrade of "B" or "C" does not meet the fifty (50) percent learning gains target for make adequate progress of the lowest performing students, as defined above, in at least one (1) of two (2) consecutive years, or demonstrate adequate improvement in learning gains for the lowest performing students from the prior year to the current year as described above, the final school Performance gGrade designation shall be reduced by one (1) letter grade. No school shall receive a school be designated as Performance gGrade of "A" unless the adequate progress criteria criterion in reading and mathematics are is met in the current year each. Adequate progress for the lowest performing students is calculated separately for reading and mathematics. Schools must meet criteria in both subject areas to meet the overall requirement for adequate progress of the lowest performing students.

3. Reading Performance Threshold. Schools that would otherwise qualify for a school grade of "D" or higher must have at least twenty-five (25) percent of their students' scoring at or above Achievement Level 3 on FCAT 2.0 Reading. Schools that do not meet this requirement will receive a final school grade of "F".

4. To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety (90) percent of their eligible students to qualify for a School Performance gGrade of D, C, or B and at least ninety-five (95) percent to qualify for an A.

5. Adequate Progress Requirement for At-Risk Students for a High School Grade. A high school that would otherwise earn a grade of "A" must meet an additional requirement for adequate progress of at-risk students in order to be assigned a grade of "A" rather than one letter grade lower ("B"). For such schools, the federal uniform graduation rate for academically at-risk students, as described in sub-subparagraph (4)(c)1.a. of this rule, must meet one or more of the following criteria to satisfy this requirement:

a. Be no lower than sixty-five (65) percent; or

b. Show improvement of at least one (1) percentage point over the prior year's rate, if the current year rate is at least fifty-five (55) percent; or

c. Show improvement of at least five (5) percentage points over the prior year's rate, if the current year rate is below fifty-five (55) percent.

5. Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics.

6. Schools receiving a designated sSchool Performance gGrade of A and schools improving at least one (1) letter performance grade designation, or maintaining a school grade in the year after improving two (2) or more letter grades, shall be eligible for school recognition and awards

7. Schools receiving a designated sSchool Performance gGrade of A and schools improving at least two (2) letter performance grades shall be eligible for deregulated status and increased budget authority

(b) In an effort to promote the continuous improvement of each student and each school within the state every school year, accountability reports shall be reflective of the data available for each year.

~~(2) School Accountability for Student Performance. All schools shall be accountable for performance relative to the Student Performance Goal stated in Section 1008.345, F.S. Each school is accountable for the performance of its entire student population. Student achievement data from the FCAT shall be used to measure a school's student performance for the subject areas of reading, mathematics, and writing. The FCAT levels in the performance criteria in subsection (5) of this rule are those specified in Rule 6A-1.09422, F.A.C., for the year in which achievement data are used for accountability.~~

~~(2)(3) Reporting Student Achievement Data for School Accountability. Student achievement data shall be reported for all students in a school as specified by Section 1008.22, F.S. Each year reports of achievement data for all students shall be prepared for each school, the district, and the state. For the purpose of assigning school performance grades, each school's aggregate achievement data shall be based on:~~

~~(a) The reading and mathematics assessment (FCAT, FCAT 2.0, statewide EOC assessment, and FAA) scores of all students, except English language learners (ELLs) who have been in an English for Speakers of Other Languages (ESOL) program for up to one (1) year. Scores on the reading and mathematics FCAT, FCAT 2.0, and statewide EOC assessments, for students with disabilities and ELL students who have been in the ESOL program more than one (1) year, but not more than two (2) years, will be included as satisfactory if the student scored at level 3 or higher or made a learning gain as described in sub-subparagraphs (4)(a)2.a. through d. of this rule not counting in the calculation students from these groups who scored below level 3 and have no prior-year test scores. Achievement data for Science and Writing (and, when available, Civics and U.S. History) will be based on scores on the FCAT, FCAT 2.0 and statewide EOC assessments for The scores of all students enrolled in standard curriculum courses, including the scores of students who are speech impaired, gifted, hospital homebound, and ELLs Limited English Proficient (LEP) who have been in an English for Speakers of Other Languages (ESOL) program for more than two (2) years.~~

(b) All students, regardless of disability or ELL limited English proficiency classification, with valid FCAT 2.0 and EOC assessment scores in reading and mathematics math in both the current year and the previous year are included in sub-subparagraphs (4)(a)2.a. through d. and f. paragraphs (6)(d), (e), and (f) of this rule, regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to subparagraph (1)(a)4. of this rule, regarding the percent tested. ~~Beginning in 2009-10, Ceurrent~~ and prior-year reading and mathematics math scores for students with disabilities assessed on the FAA Florida Alternate Assessment shall be included in the determination of learning gains components addressed in sub-subparagraphs (4)(a)2.a. b. and (e), paragraphs (6)(d) and (e) of this rule.

(c) In addition, only the scores of those students who are enrolled in the second period and the third period full-time equivalent student membership survey as specified in Rule 6A-1.0451, F.A.C., shall be included.

~~(d) The Commissioner is authorized to designate a single school performance grade for schools that serve multiple levels: elementary and/or middle and/or high school grade levels.~~

~~(e) The accountability contact person, as specified in subsection (9) of this rule, is responsible for verifying that each school is appropriately classified by type before the issuance of school grades. School type is defined as the school level designation of a school, based on the grade levels served: elementary, middle, high, or a combination across levels.~~

~~(3)(4) School Performance Grades. The measure of school accountability shall be the school performance grade.~~

~~(a) The Commissioner is authorized to designate a school performance grade for each school that:~~

~~1.(a) Has at least thirty (30) eligible students with valid FCAT 2.0 assessment scores in reading in both the current and the previous years, and~~

~~2.(b) Has at least thirty (30) eligible students with valid FCAT 2.0 or EOC assessment scores in mathematics math in the current and previous years, if the school is an accountability school type other than a high school. High schools must have at least ten (ten) eligibles students with valid Algebra 1 EOC assessment scores and beginning in 2012-13, at least ten (10) eligible students with valid Geometry 1 EOC assessment scores in mathematics in the current and previous years in order to receive a school grade. Performance designations shall be made using sSchool Performance gGrades A, B, C, D, and F, as specified in Section 1008.34(2), F.S. School performance grades shall be based on the assessments and criteria as specified in subsection (4)(5) of this rule. The Commissioner is authorized to establish appropriate achievement level criteria in newly assessed grade levels for submission to the State Board for final approval.~~

~~(b) The Commissioner shall designate a single school performance grade for schools that serve multiple types.~~

(c) School type is defined as the school level designation of a school, based on the grade levels served: elementary, middle, high, or a combination across levels.

~~(4)(5)~~ Criteria for Designating School Performance Grades. School performance grades shall be based on a combination of the following three components, as specified in Section 1008.34(3), F.S.:

(a) Components that apply to all school types:

~~1.(a)~~ Student achievement scores, aggregated for each school, which indicate the percent of eligible students who score at or above FCAT Achievement Level 3 on FCAT 2.0 and statewide EOC assessments in reading, mathematics, and science, ~~and math~~ and the percent of students who score “4.0” or higher on the FCAT Writing assessment. These percentages will also include, for students with disabilities whose sole assessment results are FAA scores, students who score at FAA Performance Level 4 or higher.

Statewide EOC assessment scores used for the performance and learning gains measures in high schools grades will be scores for the assessments administered to students for the first-time. All other scores for students on the same assessment will be counted as retakes.

~~2.(b)~~ Annual learning gains in reading and mathematics, aggregated for each school, which indicate the percent of eligible students who have:

	Grade 3-4	Grade 4-5	Grade 5-6	Grade 6-7	Grade 7-8	Grade 8-9	Grade 9-10
Reading	230	166	133	110	92	77	77
Math	162	119	95	78	64	54	48

	Grade 3-4	Grade 4-5	Grade 5-6	Grade 6-7	Grade 7-8	Grade 8-9	Grade 9-10
Reading Level 1	12	10	9	8	7	6	8
Reading Level 2	11	9	8	7	6	5	7

	Grade 3-4	Grade 4-5	Grade 5-6	Grade 6-7	Grade 7-8
Mathematics Level 1	16	10	10	9	11
Mathematics Level 2	15	9	9	8	10

This method of determining gains is not applicable to students who are tested at a grade level more than one grade higher than in the previous year. However, these students may still demonstrate gains as indicated in sub-subparagraphs (4)(b)2.a. and b. of this rule. Students whose FCAT 2.0 Achievement Level declines from one (1) year to the next shall not be deemed to have made annual learning gains.

~~a.1-~~ Improved their FCAT 2.0 Achievement Level, statewide EOC Assessment Achievement Level, or FAA Florida Alternate Assessment Performance Level, as applicable, from one (1) year to the next, or

~~b.2-~~ Maintained their proficient Achievement Level that was at level 3 or above on the FCAT 2.0 or at level 4 or above on the FAA Florida Alternate Assessment, as applicable, from one (1) year to the next, or

~~c.3-~~ Remained within FCAT 2.0 Achievement Levels 1 or 2, but who demonstrated more than one (1) year’s growth on the FCAT 2.0 vertical developmental scale. This method of determining gains is not applicable to students who are tested in FCAT at the same grade level as in the previous year, at a lower grade level than in the previous year, or at a grade level more than one grade higher than in the previous year. However, these students may still demonstrate gains as indicated in subparagraphs (5)(b)1. and 2. of this rule. The Department of Education has identified the scores in the following table as representing one (1) year’s growth. For students who remained at FCAT 2.0 Achievement Level 1 or 2, the following tables provide the minimum increase in vertical scale scores required to make learning gains:

d. Learning gains for eligible students who have a statewide Algebra 1 EOC assessment score in the current year and a prior-year FCAT 2.0 Mathematics score are established if the student increases an Achievement Level, maintains an Achievement Level of 3, 4, or 5; or, for students remaining at Achievement Level 1 or 2, there is an increase in the student’s common scale score. The common scale score refers to a score that is assigned on both the EOC assessment and the prior-year FCAT 2.0, which allows for a comparison of scores. The same

process will be applied beginning in 2012-13 to the statewide Geometry EOC assessment scores for students with a prior-year statewide Algebra 1 EOC score, with a common scale established for the Algebra 1 and Geometry EOC assessments. Algebra 1 learning gains for high schools will be calculated for 9th grade students who took the Algebra 1 EOC and have a prior year FCAT 2.0 Mathematics score. Beginning in 2012-13, learning gains for Geometry will be calculated for students who took the Geometry EOC and have a prior year Algebra 1 EOC assessment score.

e. Learning gains for students with disabilities who have maintained the same FAA Performance Level below Performance Level 4 are established for students if their current-year score increases relative to their prior-year score by more than the statewide standard error of the difference of the two scores.

f. Additional weighting for students who move up one or more Achievement Levels to level 4 or level 5 on the FCAT 2.0 or statewide EOC assessment in the learning gains calculation.

i. Students who move up one or more Achievement Levels to level 4 will be counted at a weight of 1.1 in the numerator of the learning gains calculation.

ii. Students who move up one or more Achievement Levels to level 5 will be counted at a weight of 1.2 in the numerator of the learning gains calculation.

3.(e) Improvement of the lowest twenty-five (25) percent of students in reading and in mathematics in each grade, calculated separately for each subject, as defined in subparagraph (4)(a)2. paragraph (5)(b) of this rule, shall be aggregated for each school, unless the students so designated are performing satisfactory or above proficiency, defined as FCAT 2.0 and EOC assessment Achievement Levels 3, 4 and 5.

(b) Additional components that apply to middle schools:

1. As described in Section 1008.34, F.S., school grades for middle schools shall include a component measuring student participation in and performance on high school level EOC assessments, as described in subparagraphs (4)(b)2. and (4)(b)3. below.

2. Middle School Participation in High School EOC Assessments. Beginning in 2011-12, middle schools will receive credit for the percentage of eligible students who take one or more statewide high school EOC assessments. Eligible students comprise the following:

a. The count of 8th graders in the school year who scored at Achievement Level 3 or higher on their grade 7 FCAT 2.0 assessment in mathematics; and

b. The count of 6th and 7th grade students in the school year who took the EOC assessment(s) and were enrolled in the appropriate course or its equivalent; and

c. The count of other 8th graders in the school year who took the EOC assessment(s) and were enrolled in the appropriate course or its equivalent; and

3. Middle School Performance on High School EOC Assessments. Middle schools will receive credit for the percentage of eligible students described in subparagraph (4)(b)2. of this rule who take one (1) or more statewide high school EOC assessments and who score at level 3 or higher on these EOC assessments.

4. Beginning in 2012-13, middle school students for whom an Industry Certification outcome is reported will be included in both the numerator and denominator of the measure addressed in subparagraph (4)(b)2. of this rule and the performance of these students will be included in the measure addressed in subparagraph (4)(b)3. of this rule. Students for whom a passing outcome is reported will be included in the numerator of the performance measure.

5. Beginning in the 2014-15 school year, middle school grades shall include a component measuring student performance on the Civics EOC Assessment. This component will be based on student achievement scores, aggregated for each school, which indicate the percent of eligible 7th grade students who score at or above Achievement Level 3 on the Civics EOC Assessment.

6. The school grading measures and requirements described in subparagraph (4)(b)2.3, and 5 of this rule shall be applied to middle schools for which there are at least ten (10) students included in the denominator of each component. For middle schools in which there are fewer than ten (10) students in the denominator of any one of these components, the school grade shall be determined using the components described in paragraph (4)(a) of this rule and shall not include any of the components described in subparagraphs (4)(b)2., 3., and 5. of this rule.

(c) Additional components that apply to high schools:

1. Fifty (50) percent of school grades for high schools (schools that include grades 9 through 12 among grades taught) shall be based on the following components in addition to the components previously described in paragraph (4)(a) of this rule:

a. High school graduation rate. School grade points for the high school graduation rate will be based on a combination of two graduation rate calculations. The first graduation rate component shall be a four-year adjusted cohort rate using criteria for the federal uniform graduation rate defined in the Code of Federal Regulations at 34 C.F.R. § 200.19(b). The second graduation rate component shall be a five-year adjusted federal uniform cohort graduation rate. The five-year graduation rate will apply the same criteria as for the four-year graduation rate, with one exception: Students with disabilities who earn a special diploma will be counted as graduates in the five-year graduation rate component for Florida's high school grades.

b. High school graduation rate for academically at-risk students. For purposes of this component, students shall be identified as academically at-risk if they have scored at FCAT

2.0 Achievement Level 2 or lower on both the mathematics and reading subtests of the FCAT 2.0 in grade 8. The method of rate calculation and the criteria for inclusion in the numerator and denominator are the same as for the graduation rate components described in sub-subparagraph (4)(c)1.a. of this rule.

c. Participation in accelerated coursework, defined as Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, Advanced International Certificate of Education (AICE), and industry certification courses. Participation shall be calculated for the school year by dividing a weighted count of accelerated coursework participants in grades 9 through 12 (numerator) by the count of all full-year enrolled students enrolled in grades 11 and 12, not counting students with disabilities whose sole assessment scores are Florida Alternate Assessment (FAA) scores (denominator). For AP, IB, and AICE participation, a student shall be counted in the numerator if he or she has taken the applicable subject area examination (i.e., the AP, IB, or AICE subject area examination). For dual enrollment courses, a student must earn a grade in the course in order to be counted as a participant. For industry certification, a student must have taken an industry certification examination on the Industry Certification Funding List adopted in Rule 6A-6.0573, F.A.C., in order to be counted as a participant. Schools shall receive credit for accelerated coursework participants in grades 9 and 10 in the numerator of the calculation, and any students in grades 9 and 10 in the numerator will also be included in the denominator of the calculation. Weighting of counts for individual participants. For each student counted as a participant in accelerated coursework, the weighted count that is credited to the student is established at 1.0 for a student who has taken one course or examination in accelerated coursework and is increased incrementally by 0.1 for each additional course or examination taken. The weighted counts for all participants are summed to produce the numerator, described in sub-subparagraph (4)(c)1.c. of this rule.

d. Performance in accelerated coursework, defined as Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, Advanced International Certificate of Education (AICE), and industry certification courses. Performance shall be calculated for the school by dividing the weighted number of grade 9-12 students with successful completions in accelerated coursework (numerator) by the count of all students in grades 9 through 12 who took an accelerated course or subject area examination during the academic year. For AP, IB, and AICE successful completion is defined as earning a passing score and qualifying for credit for specific postsecondary course(s) as determined by the Articulation Coordinating Committee's Credit by Exam Equivalencies list, initially adopted November 14, 2011, with subsection revisions in 2010-2011, which is hereby incorporated by reference and may be obtained at <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf>. For dual

enrollment successful completion is defined as a passing grade of "C" or higher in a dual enrollment course for college credit. For industry certification successful completion is defined as passing an industry certification examination on the Industry Certification Funding List adopted in Rule 6A-6.0573, F.A.C. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. Those agreements can be accessed at http://www.fldoe.org/workforce/dwdframe/artic_frame.asp. Weighting of counts for students with successful completions. For each student identified as having successfully completed accelerated coursework, the weighted count that is assigned to the student is established at 1.0 for a student with one successful completion in accelerated coursework and is increased incrementally by 0.1 for each additional successful completion credited to the student. The weighted counts for all successful completers are summed to produce the numerator described in sub-subparagraph (4)(c)1.d. of this rule.

e. Postsecondary readiness. This measure consists of two separate components, one for reading and one for mathematics. For each subject area component, postsecondary readiness shall be calculated by dividing the count of on-time (within 4 years) high school graduates scoring "college ready" on the SAT, ACT, the Common Placement Test (CPT), or the Postsecondary Education Readiness Test (P.E.R.T.), at any time during their high school careers by the count of all on-time high school graduates in the federal uniform graduation rate. Readiness cutoff scores by subject area on the ACT, SAT, CPT, and P.E.R.T. are established in Rule 6A-10.0315, F.A.C. For students who have taken multiple tests among the ACT, SAT, CPT, and P.E.R.T., the student's highest score by subtest shall be used to determine postsecondary readiness for the applicable subject area component.

f. Student performance on the statewide U.S. History EOC. Beginning in school year 2013-14, student performance on the statewide U.S. History EOC assessment will be included in each high school's grade. Student achievement scores will be aggregated for each school, to indicate the percent of eligible students who score at or above Achievement Level 3 on the EOC assessment in history.

2. The school grading measures and requirements described in subparagraph (4)(c)1. of this rule, shall be applied to high schools for which there are at least ten (10) students included in the denominator of each component described in paragraph (4)(c) of this rule. For high schools in which there are fewer than ten (10) students in the denominator of any one of these components, the school grade shall be determined using the components described in paragraph (4)(a) of this rule and shall not include any of the components described in subparagraphs (4)(c)1. of this rule. However, for high schools in which there are fewer than ten (10) students in the denominator of the four-year high school graduation rate or the

five-year modified graduation rate for academically at-risk students component (sub-subparagraph (4)(c)1.b. of this rule), the grade point component defined in sub-subparagraph (5)(c)1.a. of this rule shall be substituted for the grade point component defined in sub-subparagraph (4)(c)1.b. of this rule.

(5)(6) Procedures for Calculating School Performance Grades. The overall school Performance gGrade of A, B, C, D or F for school years 2001-2002 and thereafter, as designated in Section 1008.34(2), F.S., shall be based on the sum of the following six (6) school grade component points described below elements:

(a) Points for all school types based on student performance and learning gains (800 points available).

1.(a) One (1) point for each percent of students who score at or above FCAT 2.0 Achievement Level 3 in reading and FAA Performance Level 4 or above in reading.

2.(b) One (1) point for each percent of students who score at or above FCAT Achievement Level 3 on FCAT 2.0 and statewide EOC assessments in mathematics and at or above Performance Level 4 on the FAA in mathematics. These results will include Algebra I EOC Assessment scores. Beginning in 2012-13, these results will include Geometry EOC Assessment scores.

3.(e) One (1) point for each percent of students who score "4.0" or higher on the FCAT Writing Assessment.

4. One (1) point for each percent of students who score at or above Achievement Level 3 on FCAT 2.0 and statewide EOC assessments in science. Beginning in 2012-13, these results will include scores on the Biology I EOC assessment.

5.(d) One (1) point for each percent of students who make annual learning gains in reading as defined in subparagraph (4)(a)2, paragraph (5)(b) of this rule;

6.(e) One (1) point for each percent of students who make annual learning gains in mathematics as defined in subparagraph (4)(a)2, paragraph (5)(b) of this rule; and

7.(f) One (1) point for each percent of students in the lowest twenty-five (25) percent in reading in the school as defined in subparagraph (4)(a)3, paragraph (5)(e) of this rule who make learning gains as defined in subparagraph (4)(a)2, paragraph (5)(b) of this rule.

8. One (1) point for each percent of students in the lowest twenty-five (25) percent in mathematics in the school as defined in subparagraph (4)(a)3. of this rule who make learning gains as defined in subparagraph (4)(a)2. of this rule.

The percent of students reflected in each of the six (6) school grade point elements defined in paragraphs (6)(a) through (f) of this rule shall be expressed to the nearest whole number. The corresponding points assigned for each grade point element shall also be expressed to the nearest whole number. In the event that a school does not have at least ten (10) eligible students tested in writing, the district average in writing as defined in subparagraph (5)(a)3, paragraph (6)(e) of this rule shall be substituted. In the event that a school does not have at

least ten (10) eligible students tested in science, the district average in science as defined in subparagraph (5)(a)4. of this rule shall be substituted. In the event that a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in reading or in mathematics as defined in subparagraph (4)(a)3, paragraph (5)(e) of this rule, the lowest performing thirty (30) students below satisfactory proficiency, defined as FCAT 2.0 Achievement Levels 1., and 2., and 3., shall be used. In the event there are still not thirty (30) qualified students in the lowest achieving group for reading, the grade point component element defined in subparagraph (5)(a)5, paragraph (6)(d) of this rule shall be substituted for the grade point component element defined in subparagraph (5)(a)7, paragraph (6)(f) of this rule. In the event there are still not thirty (30) qualified students in the lowest achieving group for mathematics, the grade point component defined in subparagraph (5)(a)6. of this rule shall be substituted for the grade point component defined in subparagraph (5)(a)8. of this rule.

(b) Points for middle schools in addition to the points described in paragraph (5)(a) of this rule (900 points available, 1000 points available, beginning in school year 2014-15).

1. Middle School Participation in High School EOC Assessments (50 points available): One point for each percent of students who participate in statewide high school EOC assessments, and beginning in 2012-13 industry certifications. Students taking more than one high school EOC assessment receive an extra weighting of 0.1 points in the numerator for each additional EOC assessment taken. Total points, including the extra weighting for additional assessments taken, will be summed before multiplying by a factor of 0.5.

2. Middle School Performance on High School EOC Assessments (50 points available): One point for each percent of students who score at level 3 or higher on statewide EOC assessments and industry certifications. Students scoring at level 3 or higher on more than one EOC assessment receive an extra weighting of 0.1 points in the numerator for each additional EOC assessment scored at level 3 or higher. Total points, including the extra weighting for additional EOC assessments with scores at level 3 or higher, will be summed before multiplying by a factor of 0.5.

3. Civics EOC performance (100 points beginning in 2014-15). Beginning in 2014-15, the total possible points for civics EOC performance is 100 points. Middle schools will receive one (1) point for each percent of students who score at or above Achievement Level 3 on the Civics EOC assessment.

(c) Points for high schools in addition to the points described in paragraph (5)(a) of this rule (800 points available).

1. Graduation Rate (200 points). The total possible points awarded for the combined graduation rate component is 200 points: 100 possible points awarded for the four-year federal uniform graduation rate and 100 points for the five-year modified federal uniform graduation rate. School grade points

for annual growth or decline as described in subparagraph (5)(c)7. of this rule will be applied to the points earned for the combined graduation rate component.

2. At-Risk Graduation Rate (100 points) The total possible points awarded for the at-risk graduation rate component is 100 points. For this component, 0.5 grade points shall be awarded for each percent of students counted as on-time graduates in the four-year graduation rate, and 0.5 grade points shall be awarded for each percent of students counted as graduates in the 5-year cohort in the modified five-year graduation rate. School grade points for annual growth or decline as described in subparagraph (5)(c)7. of this rule will be applied to the points earned for the combined graduation rate component for at-risk students.

3. Acceleration Participation (150 points, 100 points beginning in 2013-14) The total possible points awarded for this component is 150 points. One and one half (1.5) grade points shall be awarded for each percentage point produced by the weighted calculation of participation in accelerated coursework described in sub-subparagraph (4)(c)1.c. of this rule. Beginning in 2013-14, one (1) grade point shall be awarded for each percentage point produced by the weighted calculation of participation in accelerated coursework described in sub-subparagraph (4)(c)1.c. and of this rule, and the total possible points awarded for this component shall be 100 points.

4. Acceleration Performance (150 points, 100 points beginning in 2013-14) The total possible points awarded for this component is 150 points. One and one half (1.5) grade points shall be awarded for each percentage point produced by the weighted calculation of performance in accelerated coursework described in sub-subparagraph (4)(c)1.d. of this rule. Beginning in 2013-14, one (1) grade point shall be awarded for each percentage point produced by the weighted calculation of performance in accelerated coursework described in subparagraph (4)(c)1.d. of this rule, and the total possible points awarded for this component shall be 100 points.

5. College Readiness (200 points) The total possible points that may be awarded to a school for this component is 200 points, 100 points for reading and 100 points for mathematics. For each subject area component, reading, and mathematics, one (1) grade point is awarded for each percentage point outcome on the postsecondary readiness calculation.

6. U.S. History (100 points beginning in 2013-14). Beginning in 2013-14, the total points that may be awarded to a school for this component is 100 points. Schools will receive one (1) point for each percent of students scoring at or above achievement level 3 on the statewide U.S. History EOC assessment.

7. Annual growth or decline in the components described in sub-subparagraphs (4)(c)1.a. through f. of this rule. For each component described in sub-subparagraph (4)(c)1.a. through f.,

additional points are awarded based on the percentage point improvement over the prior year. Schools shall earn additional points for improved outcomes over the prior year according to the following measures, before weighting factors are applied:

i. Increase of zero (0) to 4 points = no additional points for annual growth.

ii. Increase of 5 to 9 points = 5 additional points for annual growth.

iii. Increase of 10 or more points = 10 additional points for growth.

Schools shall earn no more than ten (10) additional points on each component described in sub-subparagraphs (4)(c)1.a. through f. of this rule before weighting factors are applied. For each component described in sub-subparagraphs (4)(c)1.a. through f. of this rule, schools shall lose five (5) points before weighting factors are applied if performance declines by at least ten (10) percentage points over the prior year.

8. High schools will be eligible for ten (10) bonus points added to their total school grade points accumulated through the eight (8) components described in paragraph (4)(a) of this rule if at least half of the 11th and 12th grade students in the school retaking the grade 10 FCAT or FCAT 2.0 in reading and at least half of 11th and 12th grade students in the school retaking other statewide assessments required for graduation, meet the graduation requirement. At least fifty (50) percent of students retaking the grade 10 reading assessment and fifty (50) percent of the students retaking the grade 10 mathematics assessment and EOC assessments required for graduation, must meet the graduation requirement for a school to receive the ten (10) bonus points.

(d) The percent of students reflected in each of the school grade point components defined in paragraphs (4)(a) through (c) of this rule shall be expressed to the nearest whole number. The corresponding points assigned for each grade point component shall also be expressed to the nearest whole number.

(6)(7) School Performance Grading Scale. The school grading scale shall be determined separately for elementary schools, middle schools, high schools, and combination schools with graduating seniors.

(a) For elementary schools and combination schools serving grades up to grade 7, the School Performance Grade shall be based on the sum of the eight (8) six (6) grade point components elements as defined in paragraphs (5)(6)(a) through (f) of this rule and shall be sealed to reflect school performance, learning gains, and improvement of the lowest twenty-five (25) percent beginning with the 2001-2002 school year, as required by Section 1008.34(1), F.S. In addition to the requirements in subparagraph (1)(a)4, subsection (5) of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3., and the

requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing 25 percent of students, the following scale shall be applied:

1.(a) At least 525 440 school grade points shall be required for a School Performance Grade of A.

2.(b) At least 495 380 school grade points shall be required for a School Performance Grade of B.

3.(c) At least 435 320 school grade points shall be required for a School Performance Grade of C.

4.(d) At least 395 280 school grade points shall be required for a School Performance Grade of D.

5.(e) If an elementary school accumulates fewer than 395 280 school grade points, it shall be assigned a School Performance Grade of F.

(b) For middle schools and combination schools serving grades up to grade 8:

1. The school grade shall be based on the sum of the eight (8) grade point components as defined in paragraph (5)(a) of this rule and the middle-school grade point components in subparagraphs (5)(b)1. and 2. of this rule. In addition to the requirements in subparagraph (1)(a)4. of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3. and the requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing twenty-five (25) percent of students, the following scale shall be applied:

a. At least 590 school grade points shall be required for a school grade of A.

b. At least 560 school grade points shall be required for a school grade of B.

c. At least 490 school grade points shall be required for a school grade of C.

d. At least 445 school grade points shall be required for a school grade of D.

e. If a middle school accumulates fewer than 445 school grade points, it shall be assigned a school grade of F.

2. Beginning in the 2014-15 school year, for middle schools the school grade shall be based on the sum of the eight (8) grade point components as defined in paragraph (5)(a) of this rule and the middle-school grade point components in subparagraphs (5)(b)1. through 3. of this rule. In addition to the requirements in subparagraph (1)(a)4. of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3., and the requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing twenty-five (25) percent of students, the following scale shall be applied:

a. At least 655 school grade points shall be required for a school grade of A.

b. At least 620 school grade points shall be required for a school grade of B.

c. At least 545 school grade points shall be required for a school grade of C.

d. At least 495 school grade points shall be required for a school grade of D.

e. If a middle school accumulates fewer than 495 school grade points, it shall be assigned a school grade of F.

(c) For high schools, the school grade shall be based on the sum of the eight (8) grade point components as defined in paragraph (5)(a) and the components in paragraph (5)(c) of this rule. In addition to the requirements in subparagraph (1)(a)4. of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3., and the requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing twenty-five (25) percent of students, the following scale shall be applied:

1. At least 1,050 school grade points shall be required for a school grade of A.

2. At least 990 school grade points shall be required for a school grade of B.

3. At least 870 school grade points shall be required for a school grade of C.

4. At least 790 school grade points shall be required for a school grade of D.

5. If a high school accumulates fewer than 790 school grade points, it shall be assigned a school grade of F.

6. For school year 2011-12 only, an interim points-weighting adjustment will be applied to the grade point components defined in paragraph (5)(a) of this rule for high schools because of the absence of a science assessment at the high school level with set Achievement Levels in 2011-12. In 2011-12, high schools will be able to earn a maximum of 700 points for the grade point components defined in paragraph (5)(a) of this rule. The summed points earned by high schools for these grade point components will be multiplied by a factor of 1.143 to equate the points total for these grade point components to an 800-point scale in order to maintain a 50/50 balance between points earned on grade point components described in paragraph (5)(a) of this rule and the additional high school grade point components described in paragraph (5)(c) of this rule, as mandated by Section 1008.34, F.S.

7. Adjusted Weighting of Components for Combination High Schools' Grades. For schools in which grades 9 through 12 are taught in addition to other grades below grade 9, the school grade shall be based on a weighting of components defined in paragraph (5)(a) and other components, as described in paragraph (5)(c) of this rule, that are proportional to the number and level of non-high-school grades taught at the school at tested grade levels. Whereas the point totals for regular high schools (serving only grades 9 through 12) weight the components defined in paragraph (5)(a) at fifty (50) percent of the grade and the components described in paragraph (5)(c)

of this rule at fifty (50) percent of the grade, the following weightings for these components shall be applied to combination high schools:

a. A combination high school serving more than three (3) tested grade levels below grade 9 shall have a school grade point total that weights the components defined in paragraph (5)(a), as eighty (80) percent of the grade and the components described in paragraph (5)(c) of this rule as twenty (20) percent of the grade.

b. A combination high school serving three (3) or fewer tested grade levels below grade 9 shall have a school grade point total that weights the components defined in paragraph (5)(a), as seventy (70) percent of the grade and the components described in paragraph (5)(c) of this rule as thirty (30) percent of the grade.

(d) For combination schools in which middle grades and grades 9 through 12 are taught:

1. The school grade shall be based on the sum of the eight (8) grade point components as defined in paragraph (5)(a) of this rule, the additional middle school grade point components in subparagraphs (5)(b)1. and 2., and the high-school grade point components described in paragraph (5)(c) of this rule, resulting in a 1700-point grade scale. The school grade element for participation and performance in high school EOC assessments in middle schools, as addressed in subparagraphs (5)(b)1. and 2. of this rule, will be included with the elements addressed in paragraph (5)(c) of this rule when applying the weighting of points for combination schools described in subparagraph (6)(c)7. of this rule. In 2011-12, the interim grade point weighting factor for high schools, as described in subparagraph (6)(c)6. of this rule, will also be applied to combination schools serving high school grades. In addition to the requirements in subparagraph (1)(a)4. of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3., and the requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing twenty-five (25) percent of students, the following scale shall be applied:

a. At least 1,115 school grade points shall be required for a school grade of A.

b. At least 1,050 school grade points shall be required for a school grade of B.

c. At least 925 school grade points shall be required for a school grade of C.

d. At least 840 school grade points shall be required for a school grade of D.

e. If a combination high school accumulates fewer than 840 school grade points, it shall be assigned a school grade of F.

2. Beginning in the 2014-15 school year, for combination schools in which middle school grades and grades 9 through 12 are taught, the school grade shall be based on the sum of the eight (8) grade point components as defined in paragraph (5)(a)

of this rule, the additional middle school grade point components in subparagraphs (5)(b)1. through 3., and the additional high-school grade point components described in paragraph (5)(c) of this rule, resulting in an 1800-point grade scale. The school grade components for participation and performance in high school EOC assessments in middle schools, addressed in subparagraphs (5)(b)1. and 2. of this rule, will be included with the elements addressed in paragraph (5)(c) of this rule when applying the weighting of points for combination schools described in subparagraph (6)(c)7. of this rule. The school grade component for the Civics EOC Assessment, addressed in paragraph (5)(b) of this rule, will be included with the components addressed in paragraph (5)(a) of this rule when applying the weighting of points for combination schools described in subparagraph (6)(c)7. of this rule. In addition to the requirements in subparagraph (1)(a)4. of this rule for minimum percent of students tested, the requirement for reading performance in subparagraph (1)(a)3., and the requirements in subparagraph (1)(a)2. of this rule for adequate progress of the lowest performing twenty-five (25) percent of students, the following scale shall be applied:

a. At least 1,180 school grade points shall be required for a school grade of A.

b. At least 1,115 school grade points shall be required for a school grade of B.

c. At least 980 school grade points shall be required for a school grade of C.

d. At least 890 school grade points shall be required for a school grade of D.

e. If a combination high school accumulates fewer than 890 school grade points, it shall be assigned a school grade of F.

(7)(8) Planned System Enhancements. As indicated in this subsection, planned enhancements will occur in Florida's System of School Improvement and Accountability. The Commissioner of Education will periodically recommend additional changes to the system to the State Board of Education as necessary to ensure that continuous improvements are made in the educational programs of the state. Beginning with the 2011-12 school year and annually thereafter, the percentage of "A" and "B" school grades for the year shall be reviewed to determine whether to adjust the school grading scale upward for the following year's school grades. The first adjustment would occur no earlier than the 2012-13 school year. An adjustment will be made if the percentage of schools earning an "A" or "B" in the current year represents seventy-five (75) percent or more of all graded schools within a particular school type. There are four school types used for accountability: elementary, middle, high, and combination. The adjustment would reset the minimum required percentage of points for each passing grade (A, B, C, D) at the next highest percentage ending in the numeral 5 or 0 (zero), whichever is closest to the current percentage. Annual

reviews of the percentage of schools earning an “A” or “B” and adjustments to required points will be suspended when the following grade scale is achieved: 90 percent or more of the points for an “A”; 80 to 89 percent of the points for a “B”; 70 to 79 percent of the points for a “C”; and 60 to 69 percent of the points for a “D.”

~~(a) Science. For this category of achievement, schools will earn one (1) point for each percent of students who score at or above Achievement Level 3, proficient, as established by the State Board of Education. In the event that a school does not have at least ten (10) eligible students tested in science, the district average for percent proficient in science shall be substituted.~~

~~(b) Math lowest twenty-five (25) percent will be added as an additional category of performance beginning in 2006-07. For this category of achievement, schools will earn one (1) point for each percent of students in the lowest twenty-five (25) percent in mathematics in the school who make learning gains as defined in paragraph (5)(b) of this rule. Improvement of the lowest twenty-five (25) percent of students in mathematics in each grade, as defined in paragraph (5)(b) of this rule, shall be aggregated for each school, unless the students so designated are performing above proficiency, defined as FCAT Achievement Levels 4 and 5.~~

~~1. Schools designated as Performance Grade “C” or above shall be required to demonstrate that adequate progress in mathematics, defined as annual learning gains in paragraph (5)(b) of this rule, has been made by the lowest twenty-five (25) percent of students in the school who scored at or below FCAT Achievement Level 3, based on their previous year’s FCAT score. The minimum requirement for adequate progress is deemed to be met when at least fifty (50) percent of such students make learning gains as defined in paragraph (5)(b) of this rule. If the percent of such students making learning gains is below fifty (50) percent in the current year, adequate progress can be met if:~~

~~a. Schools demonstrate a one (1) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is at least forty (40) percent in the current year; or~~

~~b. Schools demonstrate a five (5) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is below forty (40) percent in the current year.~~

~~If a school otherwise designated as Performance Grade “B” or “C” does not meet the minimum requirement for adequate progress by having at least fifty (50) percent of its lowest performing students making learning gains in reading and in math in at least one (1) of two (2) consecutive years, or demonstrate improvement as defined in sub-subparagraphs (8)(b)1.a. and b. of this rule, the final Performance Grade~~

~~designation shall be reduced by one (1) letter grade. No school shall be designated as Performance Grade “A” unless the adequate progress criterion in mathematics is met each year.~~

~~2. In the event that a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in mathematics as defined in paragraph (8)(b) of this rule, the lowest performing thirty (30) students at or below proficiency, defined as FCAT Achievement Levels 1, 2, and 3, will be used. In the event there are still not thirty (30) qualified students in the lowest achieving group, the grade point element defined in paragraph (6)(e) of this rule shall be substituted for the grade point element defined in paragraph (8)(b) of this rule.~~

~~(e) School Performance Grading Scale. The School Performance Grade shall be based on the sum of the eight (8) grade point elements as defined in paragraphs (6)(a) through (f) and (8)(a) and (b) of this rule as required by Section 1008.34(1), F.S., and shall be scaled to reflect school performance, learning gains and improvement of the lowest twenty-five (25) percent beginning with the 2006-2007 school year. In addition to the requirements in subsection (5) of this rule for minimum percent of students tested, the following scale shall be applied:~~

~~1. At least 525 school grade points shall be required for a School Performance Grade of A.~~

~~2. At least 495 school grade points shall be required for a School Performance Grade of B.~~

~~3. At least 435 school grade points shall be required for a School Performance Grade of C.~~

~~4. At least 395 school grade points shall be required for a School Performance Grade of D.~~

~~5. If a school accumulates fewer than 395 school grade points, it shall be assigned a School Performance Grade of F.~~

~~(d) High schools will be eligible for ten (10) bonus points added to their total school grade points accumulated through the eight (8) components if at least half of the 11th and 12th grade students in the school retaking the grade 10 FCAT meet the graduation requirement. At least fifty (50) percent of students retaking the grade 10 reading and fifty (50) percent of the students retaking grade 10 math must meet the graduation requirement for a school to receive the ten (10) bonus points.~~

~~(e) School performance grades for high schools (schools that include grades 9 through 12 among grades taught) shall be evaluated on a revised scale beginning with school grading for the 2009-10 school year. Beginning in 2009-10, fifty (50) percent of the performance grade for high schools shall be based on the following components in addition to the components previously described in paragraphs (6)(a) through (f) and (8)(a) through (b) of this rule:~~

~~1. Four year high school graduation rate. For the 2009-10 and 2010-11 School Years, the graduation rate will be calculated using criteria for the modified No Child Left Behind (NCLB) graduation rate. The procedures used to calculate this rate can be found in the 2009-10 Guide to Calculations for~~

Florida's Public High School Graduation Rate, November 2010, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00249>) which is hereby incorporated by reference in this rule and may be obtained at <http://www.fldoe.org/eias/eiaspubs/word/gradgdc0910.doc>. The total possible points awarded for this component is 200 points.

2. Four year high school graduation rate for academically at risk students. For purposes of this component, students shall be identified as academically at risk if they have scored at FCAT Achievement Level 2 or lower on both the mathematics and reading subtests of the FCAT in grade 8. The cohort of academically at risk students is a sub population of the adjusted cohort for the graduation rate described in subparagraph (8)(e)(c)1. of this rule. The method of rate calculation and the criteria for inclusion in the numerator and denominator are the same as for the graduation rate described in subparagraph (8)(e)1. of this rule. For this component, one (1) grade points shall be awarded for each percent of students counted as on time graduates in the graduation rate. The total possible points awarded for this component is 100 points.

3. Participation in accelerated coursework, defined as Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, Advanced International Certificate of Education (AICE), and industry certification courses. Participation shall be calculated for the school year by dividing a weighted count of accelerated coursework participants in grades 9 through 12 (numerator) by the count of all students enrolled in grades 11 and 12 (denominator). For AP, IB, and AICE participation, a student shall be counted in the numerator if he or she has taken the applicable subject area examination (i.e., the AP, IB, or AICE subject area examination). For dual enrollment courses, a student must earn a grade in the course in order to be counted as a participant. For industry certification, a student must have taken an industry certification examination on the Industry Certification Funding List approved by the State Board of Education in Rule 6A-6.0573, F.A.C., in order to be counted as a participant. In 2009-10 and 2010-11, schools shall receive credit for accelerated coursework participants in grades 9 and 10 in the numerator of the calculation only if the participants successfully complete the acceleration as outlined in subparagraph (8)(e)4. of this rule. Beginning in 2011-12, schools shall receive credit for accelerated coursework participants in grades 9 and 10 in the numerator of the calculation.

a. Weighting of counts for individual participants. For each student counted as a participant in accelerated coursework, the weighted count that is credited to the student is established at 1.0 for a student who has taken one course/examination in accelerated coursework and is increased incrementally by 0.1 for each additional course/examination taken. The weighted counts for all participants are summed to produce the numerator described in subparagraph (8)(e)3. of this rule.

b. Grade points assigned. For this component, in 2009-10, two (2) grade points shall be awarded for each percentage point produced by the weighted calculation of participation in accelerated coursework described in subparagraph (8)(e)3. and sub-subparagraph (8)(e)3.a. of this rule. The total possible points awarded for this component is 200 points. In 2010-11, one and three quarters (1.75) grade points shall be awarded for each percentage point produced by the weighted calculation of participation in accelerated coursework described in subparagraph (8)(e)3. and sub-subparagraph (8)(e)3.a. of this rule. The total possible points awarded for this component shall be 175 points in 2010-11. Beginning in 2011-12, one and one half (1.5) grade points shall be awarded for each percentage point produced by the weighted calculation of participation in accelerated coursework described in subparagraph (8)(e)3. and sub-subparagraph (8)(e)3.a. of this rule. The total possible points awarded for this component shall be 150 points beginning in 2011-2012.

4. Performance in accelerated coursework, defined as Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, Advanced International Certificate of Education (AICE), and industry certification courses. In 2009-10 and 2010-11, performance shall be calculated for the school by dividing the weighted number of grade 9-12 students with successful completions in accelerated coursework (numerator) by the count of all students in grades 11 through 12 who took an accelerated course or subject area examination during the academic year and the count of all students in grades 9 and 10 who successfully completed accelerated coursework as outlined in subparagraph (8)(e)4. of this rule (denominator). Beginning in 2011-12, the denominator of the performance calculation shall include all students in grades 9 through 12 who took an accelerated course or subject area examination during the academic year. For AP, IB, and AICE successful completion is defined as earning a passing score and being awarded credit for specific postsecondary course(s) as determined by the 2009 Articulation Coordinating Committee's Credit by Exam Equivalencies list which is hereby incorporated by reference and may be obtained at <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf>. For dual enrollment successful completion is defined as a passing grade of "C" or higher in a dual enrollment course for college credit. For industry certification successful completion is defined as passing an industry certification examination on the State Board of Education approved industry certification funding list. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. Those agreements can be accessed at http://www.fldoe.org/workforce/dwdframe/artic_frame.asp.

a. Weighting of counts for students with successful completions. For each student identified as having successfully completed accelerated coursework, the weighted count that is assigned to the student is established at 1.0 for a student with

one successful completion in accelerated coursework and is increased incrementally by 0.1 for each additional successful completion credited to the student. The weighted counts for all successful completers are summed to produce the numerator described in subparagraph (8)(e)4. of this rule.

b. Grade points assigned. For this component, in 2009-10, one (1) grade point shall be awarded for each percentage point produced by the weighted calculation of performance in accelerated coursework described in subparagraph (8)(e)4. and sub-subparagraph (8)(e)4.a. of this rule. The total possible points awarded for this component is 100 points. In 2010-11, one and one quarter (1.25) grade points shall be awarded for each percentage point produced by the weighted calculation of performance in accelerated coursework described in subparagraph (8)(e)4. and sub-subparagraph (8)(e)4.a. of this rule. The total possible points awarded for this component shall be 125 points in 2010-11. Beginning in 2011-12, one and one half (1.5) grade points shall be awarded for each percentage point produced by the weighted calculation of performance in accelerated coursework described in subparagraph (8)(e)4. and sub-subparagraph (8)(e)4.a. of this rule. The total possible points awarded for this component shall be 150 points beginning in 2011-12.

5. Postsecondary readiness. This measure consists of two separate components, one for reading and one for mathematics. For each subject area component, postsecondary readiness shall be calculated by dividing the count of on-time high school graduates scoring "ready" on the SAT, ACT, and/or the Common Placement Test (CPT), at any time during their high school careers by the count of all on-time high school graduates who scored at Level 3 or higher on the grade 10 FCAT in the applicable subject. This measure shall be based on all on-time standard high school graduates beginning no later than 2011-12. Readiness cutoff scores by subject area on the ACT, SAT, and CPT, are established in Rule 6A-10.0315, F.A.C. For students who have taken multiple tests among the ACT, SAT, and CPT, the student's highest score by subtest shall be used to determine postsecondary readiness for the applicable subject area component. For each of the subject area components, one (1) grade point is awarded for each percentage point outcome of the postsecondary readiness calculation. The total possible points that may be awarded to a school for each component is 100 points.

6. Annual growth or decline in the components described in subparagraphs (8)(e)1. through 5. of this rule. For each component described in subparagraphs (8)(e)1. through 5., additional points are awarded based on the percentage point improvement over the prior year. Schools shall earn one additional point for each percentage point improved over the prior year.

Schools shall earn no more than twenty (20) additional points on each component described in subparagraphs (8)(e)1. through 5. of this rule. For each component described in

subparagraphs (8)(e)1. through 5. of this rule, schools shall lose five (5) points if performance declines by at least ten (10) percentage points over the prior year. Schools that show no improvement in results shall receive no additional points.

7. Adequate progress requirement for at risk students as criterion for a school grade of "A." A high school that would otherwise earn a grade of "A" based on earned grading points must meet an additional requirement for adequate progress of at risk students in order to be assigned a grade of "A" rather than one letter grade lower ("B"). For such schools, the graduation rate for academically at risk students, as described in subparagraph (8)(e)2. of this rule, must meet one or more of the following criteria to satisfy this requirement:

- a. Be no lower than seventy-five (75) percent; or
- b. Show improvement of at least one (1) percentage point over the prior year's rate, if the current year rate is at least sixty-five (65) percent; or
- e. Show improvement of at least five (5) percentage points over the prior year's rate, if the current year rate is below sixty five (65) percent.

8. The school grading measures and requirements described in subparagraphs (8)(e)1. through 7. of this rule, shall be applied to high schools for which there are at least ten (10) students included in the denominator of each component described in subparagraphs (8)(e)1. and 3. through 5. of this rule. For high schools in which there are fewer than ten (10) students in the denominator of any one of these components, the school grade shall be determined using the same FCAT-based components that are applied in determining the grades of schools serving grades 8 and lower, and shall not include any of the components described in subparagraphs (8)(e)1. through 7. of this rule. For high schools in which their are fewer than ten (10) students in the denominator of the four year high school graduation rate for academically at risk students component (subparagraph (8)(e)2.), the grade point component defined in subparagraph (8)(e)1. of this rule shall be substituted for the grade point component defined in subparagraph (8)(e)2. of this rule.

9. Grading scale for high schools. Beginning in 2009-10, the following school grading scale shall be applied to high schools:

- a. At least 1,050 school grade points shall be required for a School Performance Grade of A.
- b. At least 990 school grade points shall be required for a School Performance Grade of B.
- e. At least 870 school grade points shall be required for a School Performance Grade of C.
- d. At least 790 school grade points shall be required for a School Performance Grade of D.
- e. If a high school accumulates fewer than 790 school grade points, it shall be assigned a School Performance Grade of F.

~~10. Adjusted weighting of FCAT-based components and non-FCAT-based components for combination high schools' grades. For schools in which grades 9 through 12 are taught in addition to other grades below grade 9, the school grade shall be based on a weighting of FCAT-based components and non-FCAT-based components, as described in subparagraphs (8)(c)1. through 8. of this rule, that is proportional to the number and level of non-high school grades taught at the school at tested grade levels. Whereas the point totals for regular high schools (serving only grades 9 through 12) weight the FCAT-based components at fifty (50) percent of the grade and the non-FCAT-based components at fifty (50) percent of the grade, the following weightings for FCAT-based and non-FCAT-based components shall be applied to combination high schools:~~

~~a. A combination high school serving more than three (3) tested grade levels below grade 9 shall have a school grade point total that weights the FCAT-based components as eighty (80) percent of the grade and the non-FCAT based components as twenty (20) percent of the grade.~~

~~b. A combination high school serving three (3) or fewer tested grade levels below grade 9 shall have a school grade point total that weights the FCAT-based components as seventy (70) percent of the grade and the non-FCAT-based components as thirty (30) percent of the grade.~~

~~(8)(9) Accuracy and Representativeness of Performance Data. The Commissioner shall review all information submitted by school districts to represent the performance of schools receiving a school performance grade.~~

~~(a) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying that each school is appropriately classified by type, verifying student data indicators and eligibility for inclusion and exclusion in school grade calculations, and reconciling student test answer documents that do not match survey three membership records prior to the issuance of school grades. Student eligibility changes may include, but are not limited to, officially recorded test invalidations, Exceptional Student or ELL Limited English Proficient Student status changes made prior to testing, and school withdrawals made prior to testing. All changes in student eligibility for school grade calculations shall be made prior to the issuance of school grades and must be accompanied by written documentation deemed appropriate by the Department. Each school district shall be responsible for providing all related information to the Department within the time limits specified by the Commissioner.~~

~~(b) The Commissioner shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school. Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:~~

1. Less than ninety (90) percent of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed;

2. Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to an investigation or review as determined by the Department. The school's performance grade shall be designated incomplete (I) until the state, district, and/or local investigation(s) are complete. If, following the completion of investigations, data are determined to accurately represent the performance of the school, a school's performance grade reflecting the data shall be reported.

(c) After the initial issuance of school performance grades, the school district shall have at least thirty (30) days to review the data on which the school performance grade was based. If the school district determines that a different school performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, a request for a state review of the data can be submitted. Changes to the criteria or process described in paragraph (8)(9)(a) shall not be considered as part of this review and must be addressed as described therein. Appropriate documentation of all elements and data to be reviewed by the Department must be submitted within the time limits specified by the Commissioner. The Commissioner's determination of a school's performance grade shall be final.

~~(9)(10) Rewards and Recognition. Schools must have a designated school performance grade or school improvement rating for alternative schools to participate in the Florida School Recognition Program as authorized by Section 1008.36, F.S. Schools that receive designated a School Performance Grade of A, and schools that have improved at least one (1) letter performance grade from the previous school year, and schools that improved more than one school grade the previous year and maintained that grade in the current year are eligible for school recognition and financial awards. Schools with a school improvement rating of "Improving" or that increased their rating from the previous year are also eligible for awards.~~

~~(a) Schools designated School Performance Grade A and schools that have improved at least two (2) performance grades may be given deregulated status as specified in Sections 1003.63(5), (7), (8), (9), and (10), F.S. Districts shall develop guidelines for the implementation of this provision and shall provide deregulated status to eligible schools that request it. The school advisory council and principal of an eligible school seeking waivers from state statutes shall submit requests as specified in Sections 1003.63(7)(a) and (b), F.S. The school's deregulated status shall remain in effect as long as the school~~

abides by the provisions of Sections 1003.63(5), (7), (8), (9), and (10), F.S., or unless the school's performance grade declines.

~~(b) Schools designated School Performance Grade A and schools that have improved at least two (2) performance grades shall have greater authority over the allocation of the school's total budget. Local school boards shall adopt policies in accordance with Section 1001.42(17)(d), F.S., which grant schools greater authority over the allocation of the school's total budget, including, but not limited to, allocation of instructional staff and the acquisition of instructional materials, equipment, and technology. The school's total budget includes funds generated from the FEFP, state categoricals, lottery funds, grants, and local funds. The policies shall provide for approval of a school's written proposal as long as the proposal remains within the school's total budget, specifies the areas in which the school will have administrative and fiscal autonomy, specifies the areas in which the school will follow school district fiscal and administrative policies, and is consistent with the school's deregulated status.~~

Rulemaking Authority 1001.02, 1008.22, 1008.34, 1008.345 FS. Law Implemented 1008.22, 1008.34, 1008.345, 1008.36 FS. History--New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, 2-11-02, 12-23-03, 5-15-06, 6-19-08, 11-26-08, 11-12-09, 6-21-11,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 16, 2011

**DEPARTMENT OF LAW ENFORCEMENT
Criminal Justice Standards and Training Commission**

RULE NO.: 11B-18.008
RULE TITLE: Areas of Responsibility

PURPOSE AND EFFECT: Repeals the requirement for the Regional Training Council to submit a Five-Year Plan to the Commission because the report is obsolete and no longer required by the Commission.

SUMMARY: Repeals the requirement for the Regional Training Council to submit a Five-Year Plan to the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (2), 943.25(5) FS.

LAW IMPLEMENTED: 943.25 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-18.008 Areas of Responsibility.

With regard to the Criminal Justice Standards and Training Trust Fund Officer Training Monies, the following entities shall have responsibilities outlined in subsections (1)-(3) of this rule section.

(1) The responsibilities of the Regional Training Councils are to:

~~(a) Act as an extension of the administrative arm of the Criminal Justice Standards and Training Commission establishing regional training priorities that conform to the Criminal Justice Standards and Training Commission's Five-Year Plan.~~

~~(a)(b)~~ Determine the distribution of Officer Training Monies for allocation to the individual Commission-certified training schools in the respective training regions.

~~(b)(e)~~ Submit to Commission staff a list of the current voting membership of each Regional Training Council, including Regional Training Council officers (noting appointed fiscal agents) and forward any membership changes to Commission staff as they occur.

~~(c)(d)~~ Submit to Commission staff the minutes of each Regional Training Council meeting.

~~(d)(e)~~ Submit to Commission staff all required documents, budgets, and reports.

~~(e)(f)~~ Appoint a regional fiscal agent.

(2) through (3) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2), 943.25(5) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-1-81, 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.08, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

**DEPARTMENT OF LAW ENFORCEMENT
Criminal Justice Standards and Training Commission**

RULE NO.: 11B-20.001
RULE TITLE: Definitions and Minimum Requirements for General Certification of Instructors

PURPOSE AND EFFECT: To revise the Affidavit of Separation form CJSTC-61 to clarify the policy regarding internal or criminal Investigations and revises the Oath on form

CJSTC-61 to comply with Section 117.05(13)(a), F.S.; and allows training center designees to evaluate equivalent instructor training.

SUMMARY: Makes internal or criminal investigations policy clarifications; complies with Section 117.05(13)(a), F.S., regarding the Oath on form CJSTC-61 and revises training center designee's evaluation of equivalent instructor training.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), 943.14(3) FS.

LAW IMPLEMENTED: 943.12(3), (9), 943.14(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors.

(1) No change.

(2) Instructor applicants applying for instructor certification shall:

(a) through (c) No change.

(3) General Instructor Certification.

(a) Instructor applicants shall comply with the following requirements to obtain General Instructor Certification:

1. through 4. No change.

5. Instructor Separation or Change of Affiliation.

a. When an instructor requests a change of affiliation, the training center director, agency administrator, or designee shall complete an Affidavit of Separation, form CJSTC-61, revised December 16, 2010 ~~November 8, 2007~~, hereby incorporated by reference, and submit to Commission staff, or immediately transmit through the Commission's ATMS. Form CJSTC-61 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. A copy shall be maintained in the instructor's file.

b. No change.

(b) Equivalent Instructor Training.

1. Instructor applicants who request an exemption from the required instructor training shall be evaluated by the training center director or designee for completion of equivalent instructor training by documenting the instructor applicant's qualifications. Documentation shall include the instructor applicant's training in all of the following competencies, or the training center director or designee may authorize the instructor applicant to complete only those portions of the Florida General Instructor Techniques Course for which the instructor applicant is deficient:

a. through m. No change.

2. through 3. No change.

(c) No change.

(4) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(3), (9), 943.14(3) FS. History—New 7-21-82, Formerly 11B-20.01, Amended 10-26-88, 5-14-92, 12-8-92, 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.:

RULE TITLE:

11B-21.005

Criminal Justice Training School Requirements for Certification and Re-certification

PURPOSE AND EFFECT: To comply with statutory revisions to Section 943.17(1)(g), F.S., amended on 7/1/10, by repealing the requirement for a correctional probation basic recruit training applicant to pass the Correctional Probation Basic Abilities Test prior to entering the Florida Correctional Probation Basic Recruit Training Program.

SUMMARY: Repeals the Correctional Probation Basic Abilities Test.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (2) FS.
LAW IMPLEMENTED: 943.12(3), (7), 943.14, 943.17(1)(g) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.
PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-21.005 Criminal Justice Training School Requirements for Certification and Re-certification.

Training Schools certified by the Commission shall comply with the following requirements:

- (1) through (9) No change.
- (10) Basic Abilities Testing Requirements pursuant to Rule 11B-35.0011, F.A.C., and Section 943.17(1)(g), F.S. Effective January 1, 2002, training schools certified by the Commission that provide Commission-approved Basic Recruit Training Programs shall:

(a) Adopt a Commission-approved basic abilities test as an entry requirement into a Law Enforcement or Correctional Commission-approved Basic Recruit Training Program, and not enter into a contract with any testing provider for a period longer than the Commission’s testing cycle of three years. Correctional Probation Officers are exempt from taking the basic abilities test.

- (b) through (c) No change.
- (11) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14, 943.17(1)(g) FS. History—New 7-21-82, Formerly 11B-21.05, Amended 1-28-86, 8-30-89, 12-24-89, 6-3-91, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

**DEPARTMENT OF LAW ENFORCEMENT
Criminal Justice Standards and Training Commission**

RULE NOS.:	RULE TITLES:
11B-27.0011	Moral Character
11B-27.002	Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers
11B-27.00212	Maintenance of Officer Certification
11B-27.005	Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: Updates the moral character violations for an officer’s failure to maintain good moral character; grants additional equivalency of training exemptions in Commission rules and on the Equivalency of Training form CJSTC-76 and Equivalency of Training Proficiency Demonstration form CJSTC76A; adds language to the Affidavit of Separation form CJSTC-61 to require a written documentation of an officer/instructor’s internal or criminal investigation upon separation of employment and revises the Oath to comply with Section 117.05(13)(a), F.S.; revises the rules and the Firearms Law Enforcement Officer Qualification Standard form CJSTC-86B to allow an extension to complete the required bi-annual Firearms Qualification Standard due to chronic illness and revises the Oath on form CJSTC-86B to comply with Section 117.05(13)(a), F.S.; adds Section 901.36(1), F.S., to the penalty guidelines for the violation of “using a false name or false identification by a person arrested or lawfully detained”; adds as an aggravating circumstance, the revocation of an officer’s certification for cases where a respondent has been notified and failed to answer the Administrative Complaint or failed to respond to the

allegations of misconduct alleged by the Commission; and housekeeping revisions on the Affidavit of Separation Supplement form 61A.

SUMMARY: Updates moral character violations; complies with Section 943.131(2), F.S., to grant additional equivalency of training exemptions by amending Commission rules and CJSTC forms 76 and 76A; compliance with procedures regarding internal or criminal investigations; compliance with Florida Statutes regarding the Oath on forms CJSTC-61 and 86B; allows chronic illness excuse for an extension to complete the required bi-annual Firearms Qualification Standard; updates officer discipline penalty guidelines; and housekeeping revisions on the Affidavit of Separation Supplement form 61A.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.12, 943.12(3), 943.13, 943.13(11), (7), 943.133, 943.135, 943.139, 943.1395, 943.1395(3), (8), 943.1701, 943.1715, 943.1716, 943.253 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-27.0011 Moral Character.

(1) through (3) No change.

(4) For the purposes of the Criminal Justice Standards and Training Commission's implementation of any of the penalties specified in Section 943.1395(6) or (7), F.S., a certified officer's failure to maintain good moral character required by Section 943.13(7), F.S., is defined as:

(a) No change.

(b) Except as otherwise provided in Section 943.13(4), F.S., a plea of guilty or a verdict of guilty after a criminal trial for any of the following misdemeanor or criminal offenses, notwithstanding any suspension of sentence or withholding of adjudication, or the perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not:

1. Sections 316.193, 327.35, 365.16(1)(c),(d), 414.39, 741.31, 784.011, 784.03, 784.047, 784.048, 784.05, 784.046(15), 790.01, 790.10, 790.15, 790.27, 794.027, 796.07, 800.02, 800.03, 806.101, 806.13, 810.08, 810.14, 810.145, 812.014, 812.015, 812.14, 817.235, 817.49, 817.563, 817.565, 817.567, 817.61, 817.64, 827.04, 828.12, 831.30, 831.31(1)(b), 832.05, 837.012, 837.05, 837.055, 837.06, 839.13, 839.20, 843.02, 843.03, 843.06, 843.085, 847.011, 856.021, 870.01, 893.13, 893.147, 901.36, 914.22, 934.03, 944.35, 944.37, and 944.39, F.S.

2. through 3 No change.

(c) The perpetration by an officer of acts or conduct that constitute the following offenses:

1. through 2. No change.

3. Having an unprofessional relationship with an inmate, detainee, probationer or parolee, or community controllee. An unprofessional relationship is defined as:

a. through b. No change.

c. Engaging in a romantic association with an inmate, detainee, probationer, parolee, or community controllee. "Romantic association" is defined as the exchange of telephone calls, pictures, letters, greeting cards, or any other form of oral or written communication, which expresses

feelings or thoughts of affection or the desire to engage in a romantic relationship whether emotional or physical. This subsection shall not apply to an officer who is legally married to an inmate, detainee, probationer or parolee, or community controlee in the community, nor does it apply to any officer who has no knowledge, or reason to believe, that the person with whom the officer has engaged in a romantic association is an inmate, detainee, probationer or parolee, or community controlee.

4. through 13. No change.

(d) No change.

(5) A certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section by committing a violation involving perjury or false statement in a court proceeding, shall not include a statement which was recanted. If the violation involving perjury or false statement is alleged to have occurred in the performance of regularly required work duties or the course of an administrative or disciplinary investigation, a certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section shall not include a statement in which the officer making the statement conceded such statement to be false prior to the employing agency's conclusion of the internal affairs investigation in which the false statement related to a material fact final disciplinary determination as provided for in Section 112.532(4)(b), F.S. For purposes of this subsection, the employing agency's internal affairs investigation shall be deemed to be at a conclusion upon the investigator's execution of the statement required by Section 112.533(1)(a)2., F.S.

(6) through (7) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.13(7), 943.1395(7) FS. History—New 1-7-85, Formerly 11B-27.011, Amended 7-13-87, 10-25-88, 12-13-92, 9-5-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 4-11-04, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 4-16-09, 6-3-10, _____.

11B-27.002 Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers.

(1) through (2) No change.

(3) Employment requirements pursuant to Sections 943.13, F.S., shall be documented on an Agency New Hire Report, form CJSTC-207, revised November 8, 2007, hereby incorporated by reference. Form CJSTC-207 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(a) The files of newly hired officers are subject to an on-site inspection by Commission staff to ensure compliance with the requirements of Chapter 943, F.S., and Rule Chapter 11B-27, F.A.C. All documents collected in conjunction with the background investigation shall be available for review. The following documents shall be reviewed for completeness:

1. through 10. No change.

11. An Equivalency-of-Training, form CJSTC-76, revised December 16, 2010 ~~November 8, 2007~~, and an Equivalency-of-Training Proficiency Demonstration, form CJSTC-76A, revised December 16, 2010 ~~November 8, 2007~~, hereby incorporated by reference, for previous Florida and out-of-state, federal, or military officers, if the officer used this training option. Forms CJSTC-76 and CJSTC-76A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

12. through 14. No change.

15. An Affidavit of Separation, form CJSTC-61, December 16, 2010 ~~November 8, 2007~~, hereby incorporated by reference, and Affidavit of Separation Supplement, form CJSTC-61A, revised December 16, 2010 ~~November 8, 2007~~, hereby incorporated by reference, if the officer has separated employment with the agency. Forms CJSTC-61 and CJSTC-61A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(b) No change.

(4) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.13, 943.133, 943.139, 943.1395 FS. History—New 10-6-82, Amended 4-26-84, 1-7-85, Formerly 11B-27.02, Amended 9-3-87, 3-29-89, 5-14-92, 12-13-92, 9-5-93, 1-19-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, _____.

11B-27.00212 Maintenance of Officer Certification.

(1) through (13) No change.

(14) Law Enforcement Officer Firearms Qualification Standard. Beginning July 1, 2006, a law enforcement officer shall be required to qualify on the Commission's approved course of fire with the proficiency skills documented on the Law Enforcement Officer Firearms Qualification Standard, form CJSTC-86A, revised January 29, 2009, hereby incorporated by reference, and maintained in the officer's employment file. Form CJSTC-86A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(a) through (d) No change.

(e) In the event a certified law enforcement officer is injured in the line of duty or has a chronic illness and fails to meet this standard by June 30 of a reporting year, the agency administrator or designee shall complete the Injury or Illness Exemption for the Firearms Law Enforcement Officer Qualification Standard ~~Injury in the Line of Duty~~, form CJSTC-86B, created January 29, 2009, hereby incorporated by

reference and revised December 16, 2010. Form CJSTC-86B can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. The agency shall submit form CJSTC-86B and the supporting medical documentation to Commission staff prior to the June 30 deadline to ensure the officer's certificate does not become inactive on the reporting deadline for that two-year reporting cycle. An additional form CJSTC-86B shall be submitted for each subsequent reporting cycle.

(15) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12, 943.13(11), 943.135, 943.1395(3), 943.1701, 943.1715, 943.1716, 943.253 FS. History—New 11-5-02, Amended 12-3-03, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 4-16-09, 9-28-09, 6-3-10, _____.

Editorial Note: See 11B-27.0023, F.A.C.

11B-27.005 Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (4) No change.

(5) When the Commission finds that a certified officer has committed an act that violates Section 943.13(7), F.S., the Commission shall issue a final order imposing penalties within the ranges recommended in the following disciplinary guidelines:

(a) No change.

(b) For the perpetration by the officer of an act that would constitute any of the misdemeanor offenses, pursuant to paragraph 11B-27.0011(4)(b), F.A.C., but where there was not a violation of Section 943.13(4), F.S., the action of the Commission shall be to impose a penalty ranging from probation of certification to suspension of certification. Specific violations and penalties that shall be imposed, absent aggravating or mitigating circumstances, include the following:

	Violation	Recommended Range	Penalty
1. – 3.	No change.		
4.	False reports and statements (817.49, 837.012, 837.05(1), 837.055, 837.06, 901.36, 944.35, F.S.).	Prospective suspension to revocation	
5. – 15.	No change.		

(c) through (d) No change.

(6) The Commission shall be entitled to deviate from the disciplinary guidelines in this rule section, upon a showing of aggravating or mitigating circumstances by evidence presented to the Commission, if pursuant to Section 120.57(2), F.S., or to an Administrative Law Judge, if pursuant to Section 120.57(1),

F.S., prior to the imposition of a final penalty. The Commission shall base a deviation from the disciplinary guidelines upon a finding of one or more of the following:

(a) Aggravating circumstances:

1. through 12. No change.

13. The certified officer has not filed any answer to the Administrative Complaint or otherwise responded to the allegations of misconduct alleged by the Commission.

(b) No change.

(7) through (10) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.1395(8) FS. History—New 10-6-82, Amended 1-7-85, Formerly 11B-27.05, Amended 3-29-89, 12-13-92, 2-17-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 4-11-04, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-30.006	State Officer Certification Examination General Eligibility Requirements
11B-30.0062	State Officer Certification Examination Assignment and Retake Eligibility Requirements
11B-30.007	Application for the State Officer Certification Examination and Notification Process
11B-30.0071	Examination Accommodations for Applicants with Disabilities
11B-30.008	State Officer Certification Examination Site Administration
11B-30.009	Applicant Conduct at Test Site and Notice of Protection of Program Privileges
11B-30.011	Examination Scoring and Grade Notification
11B-30.012	Post Review of Examination Questions, Answers, Papers, Grades, and Grading Key

11B-30.013 Challenge to Examination Results;
Right of Hearing

PURPOSE AND EFFECT: Revises the Equivalency-of-Training form CJSTC-76 and rule to allow individuals, certified by another state, military, or the federal government, to receive additional equivalency of training exemptions until the individual completes the required high-liability training and passes the state examination and gains employment. To implement the new Computer-Based State Officer Certification Examination by: Adding rule language to allow the Paper and Pencil test to remain effective until the computer-based test is fully implemented; adding the Computer-Based State Officer Certification Examination name in Rule Chapter 11B-30, F.A.C.; repealing the Application for Officer Certification Examination form CJSTC-500, the Training School Certification Examination Supplies Request form CJSTC-514, and the Examination Admission Voucher form CJSTC-517; adding the accommodations for applicants with disabilities when applying to take the Computer-Based State Officer Certification Examination; adding the procedures for rescheduling examinations; and adding the new test site requirements; revising applicant conduct requirements for the new examination. To implement the new Florida CMS Correctional and related cross-over Basic Recruit Training Programs by updating the rule sections containing the State Officer Certification Examinations required to pass the Florida CMS Correctional Basic Recruit Training Program and related cross-over training programs.

SUMMARY: Grants additional equivalency of training exemptions; adds rule language and repeals examination forms to implement the new Computer-Based State Officer Certification Examination; adds rule language to allow the Paper and Pencil test to remain effective until the computer-based test is fully implemented; and to implement the new Florida CMS Correctional and related cross-over Basic Recruit Training Programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (17), 943.1397, 943.173(3) FS.

LAW IMPLEMENTED: 943.12(17), (10), 943.131(2), 943.1397, 943.1397(1), (3), 943.173 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-30.006 State Officer Certification Examination General Eligibility Requirements.

(1) No change.

(2) The following individuals are eligible to take the State Officer Certification Examination (SOCE) for the requested criminal justice discipline:

(a) No change.

(b) Inactive Florida law enforcement, correctional, and correctional probation officers, defined in Section 943.1395(3), F.S., who comply with paragraph 11B-27.00212(12)(a), F.A.C., and Rule 11B-35.009, F.A.C., shall pass the SOCE within one year of notification of approval of the Equivalency-of-Training, form CJSTC-76, revised December 16, 2010 ~~November 8, 2007~~, incorporated by reference. Form

CJSTC-76 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(c) No change.

~~(3) "Training school" shall mean those entities that are certified by the Criminal Justice Standards and Training Commission. Training schools may order officer certification examination applicant handbooks and an Application for Officer Certification Examination, form CJSTC-500, revised August 6, 2009, hereby incorporated by reference, by completing a Training School Certification Examination Supplies Request, form CJSTC-514, revised February 7, 2002, hereby incorporated by reference. Forms and CJSTC-514 may be obtained by writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Certification Examination Section, Post Office Box 1489, Tallahassee, FL 32302-1489, Attention: ADA Coordinator, or by calling (Voice) (850)410-8602, (TDD): (850)656-9597. The request form shall be submitted to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Attention: Certification Examination Section.~~

Remaking 943.03(4), 943.12(1) FS. Law Implemented 943.12(17), 943.131(2), 943.1397 FS. History—New 1-10-94, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10,_____.

11B-30.0062 State Officer Certification Examination Assignment and Retake Eligibility Requirements.

(1) Individuals who have successfully completed a Commission-approved Basic Recruit Training Program or are exempt from a Basic Recruit Training Program, pursuant to subsection 11B-30.006(2), F.A.C., shall be allowed to apply for and take the applicable Paper and Pencil or Computer-Based State Officer Certification Examination (SOCE) corresponding to the type of training, and specific to the discipline for which training was completed. Individuals completing a Basic Recruit Training Program shall pass the SOCE within four years of the beginning date of training pursuant to subsection 11B-27.002(4), F.A.C. Individuals exempt from a Basic Recruit Training Program shall pass the SOCE within one year of receiving the exemption pursuant to Section 943.131, F.S.

(a) through (d) No change.

(e) Individuals completing the following Florida CMS Correctional Basic Recruit Training Program(s), pursuant to subsection 11B-35.002(1), F.A.C., shall take the Florida CMS Correctional SOCE:

<u>Florida CMS Correctional Basic Recruit Training Programs</u>	<u>Program Number</u>	<u>Status: Retired (R) Effective (E)</u>
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<u>1. Florida CMS Correctional BRTTP</u>	<u>TBD</u>	<u>E-7/1/12</u>
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~~(f)(e)~~ Individuals completing the following Florida CMS Law Enforcement Basic Recruit Training Programs, pursuant to subsection 11B-35.002(1), F.A.C., shall take the Florida CMS Law Enforcement SOCE:

<u>Florida CMS Law Enforcement Basic Recruit Training Programs</u>	<u>Program Number</u>	<u>Status: Retired (R) Effective (E)</u>
<u>1. Florida CMS Law Enforcement BRTTP</u>	1177	E-4/1/08
<u>2. Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTTP</u>	1178	E-4/1/08
<u>3. Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTTP</u>	1179	E-4/1/08

~~(g)(f)~~ Individuals completing the following Florida Correctional Probation Basic Recruit Training Programs, pursuant to subsection 11B-35.002(1), F.A.C., shall complete the Florida Correctional Probation SOCE:

<u>Florida Correctional Probation Basic Recruit Training Programs</u>	<u>Program Number</u>	<u>Status: Retired (R) Effective (E)</u>
<u>1. Florida Correctional Probation BRTTP</u>	1176	E-9/1/07
<u>2. Correctional Officer Cross-Over Training to Florida Correctional Probation BRTTP</u>	1183	E-4/1/08
<u>3. Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTTP</u>	1184	E-4/1/08

(2) through (3) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17), 943.13(10), 943.1397 FS. History—New 7-29-01, Amended 11-5-02, 11-30-04, 6-9-08,_____.

11B-30.007 Application for the State Officer Certification Examination and Notification Process.

(1) Application to take the State Officer Certification Examination (SOCE) shall be made by submitting an on-line application electronically, via the internet, at <http://www4fdle.state.fl.us/examregister>. All on-line applications shall be accompanied by payment of the \$100 examination fee using a credit card or debit card:

~~(a) An Application for State Officer Certification Examination form CJSTC 500 to the Florida Department of Law Enforcement, Office of Finance and Accounting, Post Office Box 1489, Tallahassee, Florida 32302 1489. All applications shall be accompanied by a cashier's check, money order, or public agency instrument in the amount of \$100 made payable to the Criminal Justice Standards and Training Trust Fund; or~~

~~(b) An on-line application electronically, via the internet, at <http://www4.fdle.state.fl.us/examregister>. All on-line applications shall be accompanied by payment of the \$100 examination fee using a credit card or debit card.~~

~~(c) Applicants are prohibited from registering for more than one SOCE in the same discipline during a calendar month, in accordance with the published examination dates.~~

~~(2) Applications submitted to take the SOCE shall be received by the Florida Department of Law Enforcement by the established deadline date for the examination requested.~~

~~(3) Form CJSTC-500 and the established examination dates may be obtained from a training school or from the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Attention: Certification Examination Section, Post Office Box 1489, Tallahassee, Florida 32302-1489.~~

~~(4) The applicant shall be notified of the testing site, date, and time the SOCE will be administered, prior to the date of the examination.~~

~~(2)(5) If a mechanical fault, natural event, or other problem associated with the administration of the SOCE occurs, the applicant shall be permitted to reschedule the examination with the test site without submitting an additional application or examination fee to the Florida Department of Law Enforcement without further application or cost to the applicant. The applicant shall be notified when the SOCE is rescheduled, via the address provided on form CJSTC-500, within thirty working days of discovery that a problem exists with the administration of the SOCE. Re-scheduling of the SOCE shall not constitute a re-examination.~~

~~(6) An applicant who has been scheduled to take the SOCE and is unable to take the certification examination on the date scheduled, shall be given the opportunity to submit a request to reschedule the SOCE within sixty days of the missed examination date. Rescheduling shall be subject to all requirements for eligibility, pursuant to Rule 11B-30.006, F.A.C. An additional application fee shall not be charged. Rescheduling of the SOCE, pursuant to this rule section, does not constitute a re-examination, pursuant to Section 943.1397, F.S. The following conditions shall be documented in the applicant's request to reschedule the SOCE date:~~

~~(a) Military orders. An applicant shall provide a copy of military orders or a letter from his or her commanding officer advising that he or she was unavailable on the testing date; or~~

~~(b) Personal injury, illness, or physical impairment. An applicant shall provide a statement on official letterhead from the treating physician that provides a list and date(s) of treatment or confinement affirming that such injury, illness, or physical impairment made it impossible for the applicant to take the SOCE; or~~

~~(c) Death of an immediate family member. An applicant shall provide a copy of the death certificate or a statement on official letterhead from the funeral home responsible for the funeral arrangements; or~~

~~(d) Subpoena to appear in court. An applicant shall provide to Commission staff a copy of the subpoena substantiating the court date(s) for the applicant's appearance in court and the date the subpoena was issued.~~

~~(e) Traffic crash. An applicant involved in a vehicular crash while in route to the examination site shall provide Commission staff with a copy of the accident report issued by a law enforcement agency.~~

~~(f) Injury During Training. An applicant shall be permitted to reschedule an SOCE if the applicant is injured while in an academy and the injury prevents the applicant from completing the basic recruit training program prior to the scheduled SOCE examination date. The applicant's injury must occur as a result of participating in activities required in a basic recruit training program. Documentation of the applicant's injury and how the injury occurred shall be submitted to Commission staff on training school letterhead and signed by the training center director.~~

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17), 943.1397(3) FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 7-29-01, 11-5-02, 11-30-04, 3-21-07, 6-9-08, 9-28-09.

11B-30.0071 Examination Accommodations for Applicants with Disabilities.

(1) In compliance with the Americans with Disabilities Act (ADA) of 1990, the Department shall provide reasonable and appropriate accommodations to individuals with physical, mental, or specific learning disabilities to the extent such accommodations do not create an undue cost, administration restraints, security considerations, and availability of resources. Accommodations made will vary depending upon the nature and the severity of the disability. Each case shall be dealt with on an individual basis with the limits prescribed herein. Reference information and guidelines regarding the process for documenting disabilities are contained in the "Request for Test Accommodations for Examinees with Disabilities" document, which may be obtained via the following web address: <http://www.fdle.state.fl.us/cjst/exam/SpecialAccommodationsManual.pdf> or by writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Certification Examination Section, Post Office Box 1489, Tallahassee, FL 32302-1489, Attention: ADA Coordinator, or by calling (Voice) (850)410-8600, (TDD): (850)410-7948 656-9597.

(2) An applicant requesting special accommodations shall submit an Application for Individuals Requesting Special Test Accommodations, form CJSTC-502, revised November 8, 2007, hereby incorporated by reference, which shall be submitted forty-five calendar days prior to the requested

examination date for the Paper and Pencil State Officer Certification Examination (P&P-SOCE) date. For the Computer-Based State Officer Certification Examination (CB-SOCE), Commission staff shall notify the applicant of the approval or denial of accommodations within forty-five calendar days of receipt of form CJSTC-502. Form CJSTC-502 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. ~~The Application for Officer Certification Examination form CJSTC-500 shall be submitted according to the established deadline date for the requested SOCE.~~ The individual shall provide documentation of the disability by an appropriate professional, pursuant to paragraph (7)(e) of this rule section, when the disability and the requested accommodations are not obvious. Form CJSTC-502 ~~Forms CJSTC-500~~ and may be obtained by writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Certification Examination Section, Post Office Box 1489, Tallahassee, FL 32302-1489, Attention: ADA Coordinator, or by calling (Voice) (850)410-8602, (TDD): (850)410-7948 ~~656-9597~~.

(3) Accommodations to take the P&P-SOCE or CB-SOCE shall be provided for qualifying individuals pursuant to (2) of this rule section. All accommodations shall be directly linked to the amelioration of the identified functional limitations caused by the asserted disability and must be reasonable and effective. Permissible accommodations include:

(a) Flexible Time. Individuals requiring extra time to take the P&P-SOCE or CB-SOCE shall submit a recommendation of such from an appropriate professional, pursuant to paragraph (7)(e) of this rule section. Untimed certification examinations shall not be provided.

(b) Flexible Setting. Individual and small group settings for administration of the P&P-SOCE shall be made available to individuals when such a service is recommended by an appropriate professional, and the CB-SOCE flexible settings are subject to test site capabilities.

(c) Flexible Format. The test booklet may be produced in large print for the P&P-SOCE.

(d) Assistive Devices. Upon approval by Commission staff and based on documented need, the individual shall be allowed to use lights and magnifiers for the P&P-SOCE.

(4) Accommodations that are not permissible. A reader shall not be allowed for applicants taking the P&P-SOCE or CB-SOCE or Basic Abilities Test (BAT). These examinations utilize diagrams, tables, or statutory reference materials to measure an applicant's ability to apply these professional tools to solve problems and answer questions.

(5) No change.

(6) In no case shall any modifications authorized herein be interpreted or construed as an authorization to provide an individual with assistance in determining the answer to any test item. No accommodation or modification shall be made that adversely affects the integrity of the P&P-SOCE or CB-SOCE.

(7) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), 943.1397 FS. Law Implemented 943.12(17), 943.1397 FS. History--New 7-29-01, Amended 11-5-02, 11-30-04, 3-21-07, 6-9-08,_____.

11B-30.008 State Officer Certification Examination Site Administration.

(1) Administration of the Computer-Based State Officer Certification Examination (CB-SOCE) shall be limited to test sites authorized by the Commission and located within the State of Florida. To be eligible to administer the CB-SOCE, a test site must be:

(a) A test center exclusively dedicated to the administration of academic and/or professional certification or licensure examinations and operated or contracted by a Commission-approved criminal Justice training school or its parent organization; or

(b) A computer lab located at a Commission-approved criminal justice training school only when an affiliated test center does not exist or is located further than 50 miles from the training school.

~~(2)(1)~~ Examination administrators and proctors are responsible for maintaining secure and proper administration of the Paper and Pencil State Officer Certification Examination (P&P-SOCE). During the administration of the SOCE, applicants shall follow the instructions of the examination administrator and proctors, and shall only be permitted to ask questions of the examination administrator relating to the test administration instructions.

~~(3)(2)~~ An applicant who has been scheduled to take the P&P-SOCE shall arrive at the scheduled examination site on the designated date and time, and shall present valid photo identification. Each time an applicant takes the examination, the applicant shall present a valid driver's license, state identification card issued by the Florida Department of Highway and Safety Motor Vehicles, a valid military identification, or a State of Florida agency identification card. The identification shall contain the applicant's first and last name, which shall correspond with the name on the examination roster, the following documentation to the examination administrator:

~~(a) Valid photo identification. Each time an applicant applies to take the SOCE, the applicant shall present a valid driver's license, state identification card issued by the Florida Department of Highway Safety and Motor Vehicles, a valid military identification, or a state agency identification card.~~

The identification cards shall contain the applicant's first and last name, which shall correspond with the name on the SOCE roster.

(b) A record of completed training, if required, pursuant to Rule 11B 30.006, F.A.C. The record of completed training shall be in the form of a Commission approved Examination Admission Voucher, form CJSTC 517, revised November 8, 2007, hereby incorporated by reference. Form CJSTC 517 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(c) SOCE requirements for out of state, military, or federal officers or inactive Florida officers. Such officers, pursuant to paragraph 11B 27.00212(12)(a), and subsection 11B 35.009(6), F.A.C., who request to take the SOCE, shall submit to Commission staff, form CJSTC 517, as record of demonstration of proficiency in the required High Liability Basic Recruit Training Courses.

(3) An applicant shall not be admitted to the examination after the examination administrator closes the registration process. Re-scheduling of the SOCE, pursuant to this rule section, does not constitute a re-examination, pursuant to Section 943.1397, F.S. Individuals arriving late shall comply with Rule 11B 30.007, F.A.C., when rescheduling the SOCE.

(4) All examination booklets, answer sheets, and other SOCE papers and materials are the sole property of the Commission. An applicant shall not remove any of the SOCE booklets, answer sheets, or other SOCE papers or materials from the examination room, or retain or reproduce the materials in whole, or in part, by any means or method whatsoever.

Rulemaking Specific Authority 943.03(4), 943.12(1), (17) FS. Law Implemented 943.12(17), 943.131(2) FS. History—New 1-10-94, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-21-07, 6-9-08, _____.

11B-30.009 Applicant Conduct at Test Site and Notice of Protection of Program Privileges.

Any violation of the provisions of this subsection shall be documented in writing to the Program Director of the Criminal Justice Professionalism Program.

(1) The applicant shall not engage in conduct that subverts or attempts to subvert the Paper and Pencil or Computer-Based State Officer Certification Examination (SOCE) process. An applicant engaging in conduct intended to subvert the SOCE process shall be dismissed from the SOCE test administration. Conduct that subverts or attempts to subvert the SOCE process includes:

- (a) through (m) No change.
- (2) through (3) No change.

(4) The applicant shall not engage in conduct that violates the standards of the SOCE test Administration. An applicant has violated the standards of the SOCE test administration by:

(a) Failing to comply with the SOCE test administrator's instructions at the test site.

(b) Possession of anything other than the Commission approved Examination Administration Voucher form CJSTC 517, personal identification, and pencils at the test site for the P&P-SOCE SOCE test area. Possession of anything other than personal identification for the Computer-Based SOCE (CB-SOCE).

(5) through (6) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (17), 943.173(3) FS. Law Implemented 943.12(17), 943.13(7), 943.1397(1), (3), 943.173 FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, _____.

11B-30.011 Examination Scoring and Grade Notification.

Individuals who graduate from a Commission-approved Basic Recruit Training Program shall be required to achieve a passing score on the Paper and Pencil or Computer-Based State Officer Certification Examination (SOCE) with an overall scale score equal to or higher than the established cut-off score. For the Paper and Pencil State Officer Certification Examination (P&P-SOCE), Commission staff shall notify the applicant, within thirty days of the test date, on an Applicant State Officer Certification Examination Overall Test Results, form CJSTC-516, revised August 3, 2006, hereby incorporated by reference. Form CJSTC-516 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. The SOCE is an entry-level competency examination and therefore examination results are reported as "pass" or "fail" on form CJSTC-516. For the Computer-Based State Officer Certification Examination (CB-SOCE) the applicant shall be notified the examination results at the conclusion of the examination. To protect each examinee's privacy, only individuals who have taken the SOCE are permitted to obtain their personal numerical score. This score will be available only at a regularly scheduled monthly Examination Review Session held pursuant to subsection 11B 30.012(2), F.A.C.

Rulemaking Specific Authority 943.03(4), 943.12(1), (17) FS. Law Implemented 943.12(17), 943.1397(1) FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, _____.

11B-30.012 Post Review of Examination Questions, Answers, Papers, Grades, and Grading Key.

(1) Individuals who have failed the Paper and Pencil or Computer-Based State Officer Certification Examination (SOCE) shall have the right to review their missed examination items and corresponding grading key by submitting a State

Officer Certification Examination Grade Review Request, form CJSTC-510, revised November 8, 2007, hereby incorporated by reference, and shall be received by the Florida Department of Law Enforcement by the established deadline date for the Examination Review Session requested. Form CJSTC-510 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(2) through (5) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (17) FS. Law Implemented 943.12(17), 943.173 FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

11B-30.013 Challenge to Examination Results; Right of Hearing.

Should the Commission deny an individual’s Paper and Pencil or Computer-Based State Officer Certification Examination (SOCE) grade review challenge, the Commission shall notify the individual by submitting a statement denying the challenge. The statement shall specify the basis for the Commission’s denial and shall be forwarded to the individual. The individual shall be entitled to a hearing pursuant to the Administrative Procedures Act set forth in Chapter 120, F.S., and the Uniform Rules of Procedure, Rule Chapter 28, F.A.C.

Rulemaking Specific Authority 943.03(4), 943.12(1), (17) FS. Law Implemented 120, 943.12(17) FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NOS.:	RULE TITLES:
11B-35.001	General Training Programs; Requirements and Specifications
11B-35.0011	Requirements for Applicant Admission into a Law Enforcement, Correctional, and Correctional Probation Basic Recruit Training Program
11B-35.002	Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation
11B-35.007	Specialized Training Program

11B-35.009 Exemption from Basic Recruit Training

PURPOSE AND EFFECT: Repeals the obsolete Role-Play Practicum Check Sheet form CJSTC-3. Updates the Alcohol Testing Program course hours to agree with the course hours in Rule 11B-35.007, F.A.C. To implement the new Florida CMS Correctional and related cross-over training programs, and the CMS Correctional Auxiliary Basic Recruit Training Programs by adding the new Florida CMS Correctional and related cross-over training program, and the CMS Correctional Auxiliary Basic Recruit Training Programs effective July 1, 2012; adding rule language to continue the existing Correctional Basic Recruit Training Program and related cross-over programs until the new programs are implemented; adding the state officer certification examinations required for the new Programs; and repealing obsolete basic recruit training programs. To implement eLearning (on-line training) for Specialized Training Program Courses by: Defining the daily student attendance records and excused absence process for eLearning; defining competency-based instruction; adding competency-based instruction for specialized training program courses and specialized instructor training courses; defining eLearning instruction; specifying the specialized training program courses available for eLearning; defining officer training units for delivery of specialized training courses; listing the specialized training programs allowed for eLearning; listing the specialized instructor training courses and the breath test and agency inspector courses excluded from eLearning; requiring courses to be delivered using the Learning Management System; defines Learning Management System; and creating the eLearning Course Minimum Standards form CJSTC-18 to document eLearning. To comply with statutory revisions to Section 943.17(1)(g), F.S., amended on 7/1/10, which removes the requirement for a correctional probation basic recruit training applicant to pass the Correctional Probation Basic Abilities Test prior to entering the Florida Correctional Probation Basic Recruit Training Program. To comply with statutory revisions to section 943.131(2), F.S., amended on 7/1/10 by revising the Equivalency-of-Training form CJSTC-76 and rule to allow individuals, certified by another state, military, or the federal government, to receive additional equivalency of training exemptions until the individual completes the required high-liability training and passes the state examination and gains employment and repealing State Officer Certification Examination Admission Voucher form CJSTC-517, which is currently required, along with form CJSTC-76, to take the paper and pencil state examination.

SUMMARY: Repeals form CJSTC-3; implementation of the new Computer-Based State Officer Certification Examination; updates the Alcohol Testing Program course hours; implementation of the new Florida CMS Correctional and related cross-over training programs, and the CMS Correctional Auxiliary Basic Recruit Training Programs;

implementation of eLearning (on-line training) for Specialized Training Program Courses; removes repeals the Correctional Probation Basic Abilities Test; and allow individuals, certified by another state, military, or the federal government, to receive additional equivalency of training exemptions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (2), 943.17 FS.

LAW IMPLEMENTED: 943.12, 943.131(2), 943.17, 943.175, 943.25 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) through (5) No change.

(6) For the Florida CMS Law Enforcement Basic Recruit Training Program, Cross-Over Programs to Florida CMS Law Enforcement Basic Recruit Training Program, and CMS Law Enforcement Auxiliary Prerequisite Course effective April 1, 2008, the training center director shall:

(a) No change.

(b) Ensure that student role-play practicums are conducted, as required in the curriculum, and report the results on a Role Play Practicum Check Sheet, form CJSTC 3, revised October 30, 2008, hereby incorporated by reference. Form CJSTC 3 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism Program Forms.aspx>, or by contacting Commission staff at (850)410 8615. This form shall be completed by an instructor and maintained in the course file at the training school.

(7) through (8) No change.

(9) Student academic performance in courses.

(a) through (c) No change.

(d) Specialized Instructor Training Courses outlined in subsection 11B-35.007(3), F.A.C., and the following Specified Specialized Training Program Courses require an end-of-course examination:

	Course Number	Course Title	Course Hours
1. - 5. No change.			
6.	851	Breath Test Operator Course	<u>16</u> 6
7.	951	Breath Test Operator Renewal Course	<u>4</u> 6
8. - 13. No change.			

(e) No change.

(10) Implementation of the Florida CMS Correctional Law Enforcement and Florida Correctional Probation Basic Recruit Training Programs. The Commission is preparing a significant update to the Commission-approved Law Enforcement and Correctional Probation Basic Recruit Training Programs. This program ~~These programs~~ and courses are based on a statewide job-task analysis of the criminal justice disciplines and provides an enhanced learning environment.

(a) Each training school that offers a Florida CMS Correctional Basic Recruit Training Program shall deliver all course materials included in the training program. Delivery and

sequencing of the course materials shall comply with the requirements set forth in the Commission's approved Florida CMS Correctional Basic Recruit Training Curriculum.

~~(b)(a)~~ Finalization and field delivery of these course materials are necessary to evaluate the programs before certain course criteria can be established and final rules adopted. To accomplish these goals the Commission:

1. Authorizes implementation of the Florida CMS ~~Correctional Law Enforcement~~ Basic Recruit Training Program effective July 1, 2012 ~~April 1, 2008~~.

2. Authorizes implementation of the CMS Correctional Auxiliary Basic Recruit Training Program effective July 1, 2012.

~~2. Authorizes implementation of the Florida Correctional Probation Basic Recruit Training Program effective April 1, 2008.~~

~~3. Approves implementation of the updated Commission-approved high liability training courses for Defensive Tactics, Firearms, Vehicle Operations, and First Aid, to include updated curricula, student performance requirements, and student performance evaluation forms.~~

~~4. Approves the implementation of updated Commission-approved high liability instructor training courses for Defensive Tactics, Firearms, Vehicle Operations, and First Aid, to include updated curricula, instructor student performance requirements, and instructor student performance evaluation forms.~~

~~3.5.~~ Approves the continued delivery of the Traditional Correctional CMS Application Based Law Enforcement Basic Recruit Training Program. Notwithstanding subsection 11B-27.002(4), F.A.C., a basic recruit student enrolled in a Commission-approved Traditional Correctional CMS Application Based Law Enforcement Basic Recruit Training Program, with a beginning date prior to July 1, 2012 ~~April 1, 2008~~, shall be allowed to continue in that program until the student successfully completes, fails, or withdraws from the program.

~~4.6.~~ Approves continued delivery of the Correctional Auxiliary Traditional Correctional Probation Basic Recruit Training Program. Notwithstanding subsection 11B-27.002(4), F.A.C., a basic recruit student enrolled in a Commission-approved Correctional Auxiliary Officer Traditional Correctional Probation Basic Recruit Training Program with a beginning date prior to July 1, 2012 ~~September 1, 2007~~, shall be allowed to continue in the program until the student successfully completes, fails, or withdraws from the program.

~~(c)(b)~~ Florida CMS Correctional State Officer Certification Examination SOCE Law Enforcement SOCE. Notwithstanding, subsection 11B-27.002(4), F.A.C., a basic recruit student who successfully completes the Florida CMS

~~Correctional Law Enforcement~~ B RTP is eligible to apply for and take the Florida CMS Correctional Law Enforcement SOCE pursuant to Rule 11B-30.0062, F.A.C.

~~(e) Florida Correctional Probation SOCE. Notwithstanding, subsection 11B-27.002(4), F.A.C., a basic recruit student who successfully completes the Florida Correctional Probation B RTP is eligible to apply for and take the Florida Correctional Probation SOCE pursuant to Rule 11B-30.0062, F.A.C.~~

(d) Notwithstanding subsection 11B-27.002(4), F.A.C., a basic recruit student enrolled in one of the following Commission-approved Cross-Over Basic Recruit Training Programs with a beginning date prior to July 1, 2012 ~~April 1, 2008~~, shall be allowed to continue in the program until the student successfully completes, fails, or withdraws from the program.

1. Law Enforcement Officer Cross-Over Training to Traditional Correctional Basic Recruit Training Program, number 1181. ~~Cross-over from Traditional Correctional to CMS Application Based Law Enforcement Basic Recruit Training Program.~~

2. Correctional Probation Officer Cross-Over Training to Traditional Correctional Basic Recruit Training Program, number 1182. ~~Cross over from Traditional Correctional Probation to CMS Application Based Law Enforcement Basic Recruit Training Program.~~

3. Correctional Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program, number 1178. ~~Cross-over from CMS Application Based Law Enforcement to Traditional Correctional Probation Basic Recruit Training Program.~~

4. Correctional Officer Cross-Over Training to Florida Correctional Probation Basic Recruit Training Program, number 1183. ~~Cross-over from Traditional Correctional to Traditional Correctional Probation Basic Recruit Training Program.~~

(11) No change.

(12) Student attendance requirements for Commission-approved Basic Recruit Training Programs outlined in subsection 11B-35.002(1), F.A.C., Specialized Training Programs outlined in subsection 11B-35.007(1), F.A.C., and Advanced Training Program Courses outlined in paragraph 11B-35.006(1)(b), F.A.C.

(a) The training center director or designee shall maintain daily student attendance records or login records or electronic records of participation for each training course. A training school shall have a written copy of its attendance policy available for review by students and Commission staff.

(b) Each student shall attend or login and complete all sessions of a training course except for absences approved by the training center director or designee. Documentation specifying the reason for the excused absence or non-completion of login activity or non-completion of student

assignments shall be maintained in the course file at the training school. Students shall be responsible for class work missed during absences. The training center director or designee shall determine the content and quantity of makeup work. Documentation of the student's make-up work shall be signed by the training center director or designee and maintained in the student or course file at the training school.

(c) Competency-Based Instruction. The Commission approves competency-based instruction in the delivery of basic recruit training programs, specialized training program courses, and specialized instructor training courses as defined in subparagraph (12)(c)1. of this rule section.

1. through 3. No change.

(d) eLearning Instruction.

1. Training schools are permitted to use eLearning instruction for Commission-approved Specialized Training Program Courses.

2. eLearning Instruction is defined as a broad set of applications and processes that are facilitated and supported by information and communications technology (ICT) that includes, but are not limited to web-based learning, computer-based learning, virtual classrooms, digital media, internet learning, intranet learning, satellite broadcast, interactive TV, and CD-ROM.

3. Courses developed from Specialized Goals and Objectives and Specialized Training Program Courses shall receive full credit for the number of Officer Training Units (OTU) established for delivery of a course.

4. "Officer Training Unit" is defined as "the number of seat hours determined to deliver a course through classroom instruction."

(13) through (15) No change.

(16) Proof of course completion. A training school shall, within thirty days following the completion of a Commission-approved Basic Recruit, Advanced, or Specialized Training Program Course, provide to a student who has successfully completed the program, a certificate, which shall contain at a minimum, the name of the training school, the student's name, the dates of the program or course, the number of program or course contact hours, the title of the Basic Recruit, Advanced, or Specialized Training Program Course, and the current training center director's signature. Basic Recruit Training Completion Certificates shall contain the Curriculum Version Number for the course taught. In addition to a certificate, the training school shall provide to a student, who has successfully completed a Commission-approved Basic Recruit Training Program and will be required to pass the State Officer Certification Examination, ~~an Examination Admission Voucher, form CJSTC-517, revised November 8, 2007, hereby incorporated by reference. Form CJSTC-517 can be obtained at the~~

following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History--New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, _____.

11B-35.0011 Requirements for Applicant Admission into a Law Enforcement, Correctional, and Correctional Probation Basic Recruit Training Program.

(1) Basic Abilities Test. To comply with Section 943.17(1)(g), F.S., applicants who apply for entry into a Commission-approved Basic Recruit Training Program after January 1, 2002, shall obtain a passing score on a Commission-approved Basic Abilities Test (BAT) for the law enforcement ~~or~~ correctional, ~~or~~ correctional probation disciplines, prior to entering a program. The BAT shall be administered in the state of Florida.

(a) No change.

(b) BAT providers shall restrict access to the BAT to those applicants who produce valid photo identification pursuant to paragraph 11B-30.008(2)(a) F.A.C. Providers shall validate the name, date of birth, gender, and social security number of each applicant to ensure that the information given by the applicant is consistent with the applicant's driver license and social security record.

(c) through (i) No change.

(2) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.17 FS. History--New 7-29-01, Amended 11-5-02, 11-30-04, 3-21-07, 6-9-08, _____.

11B-35.002 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation.

(1) There are established by the Criminal Justice Standards and Training Commission, Basic Recruit Training Programs (BRTP) that provide the minimum required knowledge and proficiency skills necessary for officer employment and certification pursuant to Sections 943.10(1)-(3), F.S. Individuals who apply for employment as a Florida law enforcement, correctional, or correctional probation officer, shall successfully complete one of the following Commission-approved Basic Recruit Training Programs:

(a) No change.

(b) Correctional Discipline				
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective(E)
1.	502	Traditional Correctional B RTP	552	<u>R-6/30/12</u> E-4/1/08
2.	555	Traditional Law Enforcement Cross-Over to Traditional Correctional B RTP	156	R-3/31/06
3.	556	Traditional Correctional Probation Cross-Over to Traditional Correctional B RTP	256	R-3/31/08
4.	1155	CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional B RTP	199	R-3/31/08
5.	1181	Law Enforcement Officer Cross-Over Training to Traditional Correctional B RTP	199	<u>R-6/30/12</u> E-4/1/08
<u>6.</u>	<u>1192</u>	<u>Law Enforcement Officer Cross-Over Training to Florida CMS Correctional B RTP</u>	<u>TBA</u>	<u>E-7/1/12</u>
<u>7.</u>	1182	Correctional Probation Officer Cross-Over Training to Traditional Correctional B RTP	256	<u>R-6/30/12</u> E-4/1/08
<u>8.</u>	<u>1193</u>	<u>Correctional Probation Officer Cross-Over Training to Florida CMS Correctional B RTP</u>	<u>TBA</u>	<u>E-7/1/12</u>
<u>9.</u>	501	Correctional Auxiliary Officer B RTP	254	<u>R-6/30/12</u> E-1/1/97
<u>10.</u>	<u>1190</u>	<u>Florida CMS Correctional B RTP</u>	<u>TBA</u>	<u>E-7/1/12</u>

- (c) No change.
- (2) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History--New 12-13-92, Amended 1-10-94, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09.

11B-35.007 Specialized Training Program.

(1) The Commission’s Specialized Training Program may be used by training schools and consist of the following Commission-approved:

- (a) Specialized Goals and Objectives, pursuant to subsection (2) of this rule section;
- (b) Specialized Instructor Training Courses, pursuant to subsection (3) of this rule section; and
- (c) Specialized Training Program Courses, pursuant to subsection (4) of this rule section.

(2) Courses developed from the Specialized Goals and Objectives have been designed to use Commission-established categories, topics, and objectives that encompass subject matter pertinent to training within the criminal justice profession. Such courses shall be developed using a “menu” approach to fulfill local criminal justice agency training needs.

- (a) No change.
- (b) A training school shall adhere to the following procedures to develop courses from the Specialized Goals and Objectives:

	Course Number	Course Names	Course Hours
(a)-(m)	No change.		
<u>(n)</u>	<u>851</u>	<u>Breath Test Operator Course</u>	<u>16</u>

- 1. through 8. No change.
- 9. Establish the number of hours of instruction according to local agency needs. ~~A minimum of four hours of course instruction are required.~~ A training school shall determine the number of objectives needed for each block of course instruction. To provide further flexibility, a maximum of four hours of electives may be used for each forty hours of course instruction.

10. No change.

(3) Specialized Instructor Training Courses pursuant to paragraph (1)(b) of this rule section. ~~The following Specialized Instructor Training Courses are Courses~~ developed and approved by the Commission for instructor training and shall be delivered in their entirety by a training school for an individual to qualify to apply as a Commission-certified instructor. ~~Commission-approved Specialized Instructor Training Courses are:~~

(a) through (q) No change.

(4) Commission-approved Specialized Training Program Courses pursuant to paragraph (1)(d) of this rule section. ~~The following Commission-approved Specialized Training Program Courses are~~ developed and approved by the Commission ~~and that~~ have not been designated as Commission-approved Advanced Training Program Courses:

(e)	951	Breath Test Operator Renewal Course	4
(f)	850	Agency Inspector Course	24
(g)	950	Agency Inspector Renewal Course	6
(h)(i)	1134	Criminal Justice Officer Ethics Course	8
(j)(k)	1135	Crimes Against Children	24
(l)(m)	1136	Domestic Violence	8
(n)(o)	1137	Violent Crime Investigator Training Course	40
(p)(q)	808	CMS Field Training Officer Transition Course	8
(r)(s)	1140	Basic Incident Command System (ICS) Course	6
(t)(u)	1141	Intermediate Incident Command System (ICS) Course	21
(v)(w)	1142	Advanced Incident Command System (ICS) Course	16
(x)(y)	1149	CMS Special Populations Course	32
(z)(aa)	1150	CMS Problem-Solving Model: SECURE Specialized Training Course	6
(ab)(ac)	1160	Dart-Firing Stun Gun	8
(ad)(ae)	1185	Elder Abuse Investigations	4
			No Mandate

(5) Commission-approved Specialized Training Program Courses pursuant to paragraphs (1)(a) and (c) of this rule section. The following Commission-approved Specialized Training Program Courses are developed and approved by the Commission and have not been designated as Commission-approved Advanced Training Program Courses:

	Course Number	Course Names	Course Hours
(a)	851	Breath Test Operator Course	16
(b)	951	Breath Test Operator Renewal Course	4
(c)	850	Agency Inspector Course	24
(d)	950	Agency Inspector Renewal Course	6

(6)(5) Successfully completed Commission-approved Specialized Training Program Courses may be credited toward an officer’s mandatory retraining requirement pursuant to Rule 11B-27.00212, F.A.C. Documentation of such training shall be provided to students and shall include the name of the training school delivering the course, the course title or topics taught, course date(s), and course hours, or login records, or electronic records of participation.

(7)(6) Criminal Justice Standards and Training Trust Fund Officer Training Monies may be expended to conduct Commission-approved Specialized Training Program Courses pursuant to subsection (1) of this rule section. Officer Training Monies shall be expended pursuant to the requirements of Rule Chapter 11B-18, F.A.C.

(8) Criminal Justice Standards and Training Trust Fund Officer Training Monies may be expended to conduct eLearning instruction for Commission-approved Specialized Training Program Courses, pursuant to paragraph (1)(d) of this rule section, provided the courses are delivered using a learning management system, are instructor led, and the courses meet minimum standards. Officer Training monies shall be expended pursuant to the requirements of Rule Chapter 11B-18, F.A.C.

(a) “Learning Management System (LMS) is defined as a web-based software application for the administration, documentation, tracking, and reporting of training programs, classroom and on-line events, eLearning programs, and training content. The LMS shall facilitate:

1. Management of users, roles, courses, and instructors.
2. Manager approval.
3. Student messaging and notifications.
4. Assembly and delivery of learning resources utilizing the Shareable Content Object Reference Model (SCORM).
5. Navigation of course sequence.
6. Collaborative learning (e.g., application sharing, discussion threads).
7. On-line assessment.
8. Display of scores and transcripts.
9. Grading of coursework and roster processing.
10. Collection and preservation of student activity and performance data.
11. Web-based or blended course delivery (web-based and classroom combined) accessible via internet enabled computing and/or mobile platforms.

(b) Conformity with minimum standards shall be documented on the eLearning Course Minimum Standards, Form CJSTC-18, created December 16, 2010, hereby incorporated by reference, prior to delivery of the course and shall be maintained in the course file. An electronic copy of the corresponding course shall be maintained for a minimum of five years, and upon request shall be made available for review by Commission staff. Form CJSTC-18 and can be obtained at the following FDLE Internet address: <http://www.fdle.tate.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.175, 943.25 FS. History—New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, _____.

11B-35.009 Exemption from Basic Recruit Training.

(1) No change.

(2) An individual who applies for certification as a Florida officer shall qualify for exemption from completing a Commission-approved Basic Recruit Training Program if the applicant has:

(a) Successfully completed basic recruit training comparable in content to the Basic Recruit Training Program for the discipline for which the individual claims exemption or a previously completed Commission-approved Basic Recruit Training Program; and

(b) No change.

(3) For individuals who request an exemption from a Commission-approved Basic Recruit Training Program, the employing agency or Criminal Justice Selection Center shall:

(a) Verify that the applicant's law enforcement training is comparable to the Commission's Florida CMS Law Enforcement Basic Recruit Training Program for which the exemption is requested, and at a minimum reflects successful completion of training for the topics of Legal, Communications, Human Issues, Patrol, Criminal Investigations, Traffic Stops, Traffic Crash Investigations, Vehicle Operations, First Aid or equivalent, Firearms, and Defensive Tactics ~~Law Enforcement Constitutional Law and Legal Issues, Report Writing, Interpersonal Skills, Firearms, Defensive Tactics, First Aid or equivalent, Vehicle Operations, Law Enforcement Patrol, Criminal Investigations, Traffic Crash Investigations, Traffic Control and Stops, and Crisis Intervention.~~

(b) Verify that the applicant's correctional officer training is comparable to the Commission's Traditional Correctional Basic Recruit Training Program whenever an exemption is requested, and at a minimum reflects successful completion of training for the topics of Legal, Communications, Responding to Emergencies, Correctional Operations, Inmate Supervision, Intake and Release, Officer Safety, Defensive Tactics, First Aid or Equivalent, and Firearms ~~Correctional Legal Issues, Report Writing, Interpersonal Skills, Firearms, Defensive Tactics, First Aid or equivalent, and Correctional Operations.~~

(c) Verify that the applicant's correctional probation officer training is comparable to the Commission's Florida Correctional Probation Basic Recruit Training Program whenever an exemption is requested, and at a minimum reflects successful completion of training for the topics of Legal, Interpersonal Communication Skills, Caseload Management, Supervision, Investigations, Management Information Systems, Defensive Tactics, First Aid or equivalent, and Firearms ~~Correctional Probation Officer Legal Issues, Report Writing, Interpersonal Skills, Defensive Tactics, First Aid or equivalent, Probationer Supervision, Caseload Management, Information Systems Management, and Firearms Familiarization.~~

(d) through (e) No change.

(4) Inactive Florida officers who have been separated from employment for a period of four to eight years, may apply for exemption from re-taking the Basic Recruit Training Program for which the officer has been previously certified as a sworn officer. There shall be no more than an eight-year break in employment, which is measured from the separation date of the most recent qualifying employment to the time a complete application is submitted, for an exemption under this rule section. The employing agency or Criminal Justice Selection Center shall verify that the applicant has:

(a) No change.

(b) Been employed and certified as a criminal justice officer in Florida in the discipline for which reactivation or certification is requested.

(5) Documentation requirements for out-of-state, federal, and inactive Florida Officers. Upon verification of an individual's request for exemption of training, pursuant to this rule section, an employing agency or Criminal Justice Selection Center shall submit to Commission staff a completed Equivalency-of-Training, form CJSTC-76, revised December 16, 2010 ~~November 8, 2007~~, hereby incorporated by reference, for out-of-state, federal, and inactive Florida Officers. Form CJSTC-76 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. Supporting documentation verifying the individual's compliance with comparable basic recruit training and sworn criminal justice experience pursuant to this rule section shall be maintained on file by the employing agency or Criminal Justice Selection Center and submitted to Commission staff for review. The agency shall be notified of the approval or denial of the requested exemption of certification in writing within 30 working days. Any appeal of denial of exemption is governed by Section 120.57, F.S.

(6) High-Liability Basic Recruit Training proficiency skills requirements for out-of-state, federal, or inactive Florida officers. Prior to applying for certification, an out-of-state or federal officer, or inactive Florida officer, who is exempt from completing a Commission-approved Basic Recruit Training Program, pursuant to Section 943.131(2), F.S., shall demonstrate proficiency in the required High-Liability Basic Recruit Training Proficiency Skills of vehicle operations, firearms, defensive tactics, and first aid, pursuant to Rule 11B-35.0024, F.A.C., for the discipline for which certification is sought. Such officers shall achieve a passing score on the State Officer Certification Examination, pursuant to Rule 11B-30.0062, F.A.C., and paragraph 11B-30.008(2)(e), F.A.C. Demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills and passing the State Officer Certification Examination shall be completed within one year after notification of approval of the Equivalency-of-Training form CJSTC-76 receiving exemption.

Individuals who do not complete the required demonstration of proficiency in the High-Liability Basic Recruit Training Proficiency Skills and achieve a passing score on the State Officer Certification Examination within one year, are permitted to apply for another exemption from training, pursuant to Section 943.131(2), F.S., provided they meet the eligibility requirements outlined in Section 943.131(2), F.S. Upon demonstration of proficiency in the required High-Liability Basic Recruit Training Proficiency Skills, the training school shall complete an Equivalency-of-Training Proficiency Demonstration, form CJSTC-76A, revised ~~December 16, 2010~~ ~~November 8, 2007~~, hereby incorporated by reference, and provide a copy to the officer of ~~both~~ form CJSTC-76A ~~and the Commission approved Examination Admission Voucher form CJSTC-517.~~ Form CJSTC-76A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. The training center director or designee shall, within thirty days of course completion, electronically transmit a completed Training Report form CJSTC-67 through the Commission's ATMS, or submit an updated form CJSTC-67.

(7) Regardless of the number of exemptions from training an individual receives, the individual shall not take the State Officer Certification Examination more than three times without enrolling in and completing a Commission-approved Basic Recruit Training Program pursuant to Section 943.1397(2), F.S.

~~(8)~~(7) Individuals, who have qualified for an exemption from a Commission-approved Basic Recruit Training Program, pursuant to this rule section, shall become employed within four years from the beginning date of the required proficiency demonstration as entered on the Training Report form CJSTC-67.

~~(9)~~(8) Individuals applying for exemption from a Commission-approved Basic Recruit Training Program, outlined in this rule section, shall not engage in conduct that subverts or attempts to subvert the State Officer Examination process pursuant to Rule 11B-30.009, F.A.C.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.131(2) FS. History--New 1-2-97, Amended 7-7-99, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE NOS.:	RULE TITLES:
11C-4.005	Deceased Notification Submission
11C-4.0065	Orders of Executive Clemency; Disposition

PURPOSE AND EFFECT: To repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: Repeal of Rule 11C-4.005, F.A.C., is required as it is duplicative of Medical Examiner requirements to submit fingerprints of unknown deceased individuals to FDLE per Rule 11G-2.002, F.A.C. Repeal of Rule 11C-4.0065, F.A.C., is required as it is duplicative of final disposition reporting procedures outlined in Rule 11C-4.006, F.A.C., and obsolete.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment, i.e., repeal of rules.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.05(2)(d) FS.

LAW IMPLEMENTED: 406.145, 943.05, 943.051 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Jean Itzin at (850)410-7980 or jeanitzin@fdle.state.fl.us or write to Florida Department of Law Enforcement, Criminal Justice Information Services, Attention: Jean Itzin, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jean Itzin at (850)410-7980 or jeanitzin@fdle.state.fl.us, or write the Florida Department of Law Enforcement, Crime Information Bureau, P. O. Box 1489, Tallahassee, Florida 32302

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-4.005 Deceased Notification Submission.

~~The cognizant law enforcement agency shall submit a set of fingerprints on unknown deceased individuals to the Department for the purpose of positive identification.~~

Rulemaking Specific Authority 943.03(4), 943.05(2)(d) FS. Law Implemented 406.145, 943.05, 943.051 FS. History—New 6-24-76, Formerly 11C-4.05, Amended 7-7-99, Repealed.

11C-4.0065 Orders of Executive Clemency; Disposition.

~~Upon notice from an individual who has obtained any form of executive clemency by order of the Governor and the cabinet, such clemency shall be treated by the Department as a final disposition. It shall be the responsibility of the individual to forward to the Department a copy of the order together with a fingerprint card for assurance of positive identification.~~

Rulemaking Specific Authority 943.03(4), 943.05(2)(d) FS. Law Implemented 943.05, 943.051 FS. History—New 11-12-81, Formerly 11C-4.065, Amended 7-7-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE NOS.:	RULE TITLES:
11C-6.003	System Security and Public Access
11C-6.004	Procedures for Requesting Criminal History Records
11C-6.010	Retention of Applicant Fingerprints

PURPOSE AND EFFECT: Repeals Rule 11C-6.003, F.A.C.; adds certain repealed language to Rule 11C-6.004, F.A.C. Updates Rule 11C-6.010, F.A.C., to conform to recent legislative changes.

SUMMARY: Requests and procedures for criminal history record checks and retention of fingerprints are updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A

EFFECT ON THOSE OTHER RULES: N/A

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 is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S. and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the proposed amendments.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.05(2)(g), (h), 943.053, 943.0542, 943.056, 1012.32(3), 1012.465, 1012.56 FS.

LAW IMPLEMENTED: 119.07, 220.187(6)(b), 551.107(7)(c), 744.3135(4)(b), 943.053, 943.05(2)(g), (h), 943.0542, 943.056, 943.13(5), 985.644(5)(b), 1002.421(3)(a), 1012.32(3), 1012.465, 1012.56 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Martha Wright at (850)410-8113 or marthawright@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Information Services, Attention: Martha Wright, 2331 Phillips Road, Tallahassee,

Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Wright at (850)410-8113 or marthawright@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Information Services, Attention: Martha Wright, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-6.003 System Security and Public Access.

~~(1) In order for the Department to respond to requests for Florida criminal history information, the person or entity who wishes to review or secure such information shall provide to the Department the subject's full name, race, sex, and date of birth or approximate age. If available, the social security number, completed fingerprint card, and any other identifiers shall be provided.~~

~~(2) Not all criminal history records contained in or available through the record systems of the Florida Department of Law Enforcement are available to the public under the Florida Public Records Law, (e.g., records sealed or expunged by law, or derived from the Federal Bureau of Investigation criminal history record systems). Because federal and state privacy and security laws, rules and regulations preclude members of the public from personally making searches of the criminal history systems and records of the department, searches for criminal history records requested pursuant to Section 943.053, F.S., shall be conducted only by personnel of the department and those criminal justice agencies having access thereto through secure remote terminals for authorized purposes.~~

~~(3) Personnel conducting such searches shall insure that copies of records made available to the public contain no information deemed confidential or exempt from public disclosure by law.~~

~~(4) Whether the request for a record check is in writing or by the submission a completed fingerprint card, the document(s) will be returned with a notation affixed indicating the processing result along with a copy of any criminal history record associated with the record check subject.~~

~~(5) The public is advised that criminal history record checks conducted without the use of fingerprint identification procedures are unreliable. Moreover, the record provided may be inaccurate or incomplete due to the failure of an agency to make a report or because portions of the record are sealed, expunged, or are otherwise unavailable except to certain law enforcement or criminal justice agencies under state or federal law.~~

Rulemaking Specific Authority 943.03(4), 943.05(2)(d), 943.053 FS. Law Implemented 119.07, 943.053 FS. History-New 12-9-76, Formerly 11C-6.03, Amended 7-7-99, Repealed _____.

11C-6.004 Procedures for Requesting Criminal History Records.

(1) Requests for Florida criminal history records contained in the systems of the Florida Department of Law Enforcement are to be directed to the following address:

Florida Department of Law Enforcement
 Division of Criminal Justice Information Services
 User Services Bureau
 Post Office Box 1489
 Tallahassee, Florida 32302-1489

In order for the Department to respond to requests for Florida criminal history information, the person or entity who wishes to review or secure such information shall provide to the Department the subject's full name, race, sex, and date of birth or approximate age. If available, the social security number may be provided.

(2) No change.

(3) Fees.

(a) There shall be no charge for conducting record checks under paragraphs (2)(a) through (c).

(b) As provided in Section 943.053(3), F.S., a processing fee of \$24 shall be charged for each subject inquired upon under paragraphs (2)(d) through (f), except that a fee of \$8 shall be charged for each subject inquired upon for vendors of the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Elderly Affairs; a fee of \$15 shall be charged for each subject inquired upon pursuant to a state criminal history record check required by law to be performed by the Department of Agriculture and Consumer Services; a fee of \$18 shall be charged for each volunteer subject inquired upon under the National Child Protection Act of 1993, as amended; and no fee shall be charged for Florida criminal history information or wanted person information requested by the state offices of the Public Defender. ~~If the Executive Director of the Department determines that conducting the record check would be in the interest of law enforcement or criminal justice or that good cause otherwise exists, the prescribed fee may be waived or reduced, as provided in Section 943.053(3), F.S.~~

(c) No change.

(4) No change.

Rulemaking Authority 943.03(4), 943.053(3), 943.0542, 943.056 FS. Law Implemented 943.053(3), 943.0542, 943.056 FS. History-New 12-30-76, Amended 11-7-83, Formerly 11C-6.04, Amended 9-1-88, 4-1-93, 7-7-99, 8-22-00, 7-29-01, 12-3-03, 6-9-08, 6-3-10, _____.

11C-6.010 Retention of Applicant Fingerprints.

(1) Upon official written request from an agency executive director, secretary, or designee, or from a qualified entity under Section 943.052, subject to the conditions specified in Section 943.05(2)(g), F.S., or as otherwise required by law, (The Florida Department of Law Enforcement shall enter and retain in the Automated Fingerprint Identification System (AFIS) the

applicant fingerprints submitted for state and national criminal history checks by such agencies or entities having statutory authorization, as indicated in the Law Implemented section below, to participate in the Applicant Fingerprint Retention and Notification Program (AFRNP) for current and prospective employees, contractors, volunteers, and persons seeking to be licensed or certified.

(2) Such applicant fingerprints shall be submitted ~~on paper or in a~~ digitized for entry into AFIS, and shall be retained in the AFRNP database, in such a manner as to be distinct from the criminal history record database.

(3) Agencies or entities submitting applicant fingerprints upon request or as required by law in accordance with the authorizing statute, as indicated in the Law Implemented section below, shall notify individual applicants of the requirements of participation in the AFRNP.

(4) through (5) No change.

(6) The initial entry of an applicant's fingerprints into the AFRNP database must be accompanied by a state or a state and national criminal history records check. There is no additional fee for the first year of participation in the program. For each succeeding year, the \$6 per record annual fee will be charged.

(7) through (8) No change.

Rulemaking Authority 943.05(2)(g), (h), 1012.32(3), 1012.465, 1012.56 FS. Law Implemented 220.187(6)(b), 551.107(7)(c), 744.3135(4)(b), 943.13(5), 985.644(5)(b), 1002.421(3)(a), 1012.32(3), 1012.465, 1012.56 FS. History—New 11-30-04, Amended 6-9-08, 9-28-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Martha Wright
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE NOS.: RULE TITLES:
11G-1.001 Purpose, Definitions
11G-1.002 Associate Medical Examiners, Ethics
PURPOSE AND EFFECT: Updates rule language and statute references concerning the "purpose of the Medical Examiners Commission," revises the rule section title, and adds definitions to support revisions in Rule Chapters 11G-2 and 11G-5, F.A.C., makes housekeeping changes, and relocates existing rule language to a more appropriate rule paragraph.
SUMMARY: Updates, revises, and clarifies rules regarding the Medical Examiner's Commission and procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 406.04 FS.

LAW IMPLEMENTED: 406.02, 406.06, 406.17 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11G-1.001 Purpose, Definitions Structure, Purpose.

(1) The Medical Examiners Commission adopts rules pursuant to Section 406.04, F.S., to comply with the requirements of Chapter 406, Part I, F.S. Rule Chapter 11G, F.A.C., shall read in conjunction with Chapter 406, Part I, F.S. The Medical Examiners Commission is created within the Department of Law Enforcement (the Department). The Commission consists of nine persons appointed or selected as provided in Section 406.02(1), F.S.

(2) The following terms shall be deemed controlling for Rule Title 11G, F.A.C., and Chapter 406, Part I, F.S., unless otherwise defined in Chapter 406, Part I, F.S.:

(2) The Commission submits nominations to the Governor for appointment of a district medical examiner for each medical examiner district, as defined in this rule chapter, from nominees who are practicing physicians in pathology. In home rule counties which have established medical examiners under provisions of home rule charter, the medical examiner shall serve as the district medical examiner who would otherwise be appointed under this chapter.

(a) "Associate medical examiner" means associate medical examiner as defined in Section 406.06, F.S.

(b) "Autopsy" means autopsy as defined in Section 872.04(1), F.S.

(c) "Charge" of a dead body means administrative control over the location, transportation, and disposition of the body, and does not imply custody of the body.

(d) "Custody" of a dead body means physical possession of the body, and does not imply charge of the body.

(e) "District medical examiner" means district medical examiner as defined in Section 406.06, F.S.

(f) "Identification photograph" means a still image of the face, ear, tattoo, or other distinctive mark of a dead human body, taken for identification purposes only and that includes a medical examiner case number.

(g) "Legally authorized person" means legally authorized person as defined in Section 497.005(39), F.S.

(h) "Medical examiner" means a district medical examiner, associate medical examiner, or substitute medical examiner.

(i) "Medical Examiners Commission" means "Medical Examiners Commission" as defined in Section 406.06, F.S.

(j) "Photograph of an autopsy" does not include an identification photograph, a photomicrograph, or a photoradiograph.

(k) "Photomicrograph" means a still image of tissue depicting histologic detail, captured through a microscope.

(l) "Photoradiograph" means an image produced by the capture of radiation or other forms of non-visible energy, which depicts the structure of objects through which the radiation or energy has passed.

(m) "Substitute medical examiner" means a medical examiner appointed pursuant to Section 406.15, FS.

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.02, 406.06, 406.17 FS. History--New 10-18-81, Formerly 11G-1.01, Amended 7-6-99.

11G-1.002 District Medical Examiners, Associate Medical Examiners, Ethics.

(1) A District Medical Examiner (DME) is appointed for each Medical Examiner District by the Governor under the provisions of Section 406.06(1), F.S.

(2) A District Medical Examiner may appoint such Associate Medical Examiners as needed, to serve at the pleasure of the DME.

(1)(3) An appointment of an associate medical examiner Associate Medical Examiner expires with the expiration of the appointment of the district medical examiner who District Medical Examiner that appointed him or her.

(2)(4) The district medical examiner District Medical Examiner shall file with the Medical Examiners Commission written notice of the Commission office a copy of the letter of appointment, resignation, or removal of each associate medical examiner Associate Medical Examiner.

(3)(5) The district medical examiner District Medical Examiner shall supervise the work and work product of associate medical examiners Associate Medical Examiner on a regular basis as necessary to ensure insure consistency and quality.

(6) The term "medical examiner" as used in these rules means a District Medical Examiner or Associate Medical Examiner.

(4)(7) The medical examiners, their agents, servants and employees shall not be the agents, servants or employees of the Florida Department of Law Enforcement or the Medical Examiners Commission and shall not be entitled to any benefits granted employees of the Florida Department of Law Enforcement.

(a)(8) The Florida Department of Law Enforcement shall not be deemed to assume any liability for the acts, omissions to act or negligence of the medical examiners, their agents, servants and employees.

(b)(9) Medical examiners are subject to the provisions of the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, F.S. Medical examiners shall become familiar with the Code of Ethics and ensure that they are in compliance with the requirements stated therein.

(c) Medical examiners or their business entities are permitted to provide services if the terms and conditions of Section 112.313(12), F.S., (exemptions) are met.

(d)(10) A medical examiner Medical examiners shall not:
 1. (a) Obtain any rental space or equipment from a business or professional association in which the medical examiner or the he, his spouse or children of the medical examiner have has

a business interest unless the county he or she serves determines that any one of the exemptions cited in Section 112.313(12), F.S., applies.

~~2.(b)~~ Utilize a business or professional association in which the medical examiner or the he, his spouse or children of the medical examiner have ~~has~~ a business interest for any services, including but not limited to secretarial, laboratory, courier, and investigative, unless the county the medical examiner ~~he~~-serves determines that any one of the exemptions cited in Section 112.313(12), F.S., applies.

~~3.(e)~~ Participate in any way with the county in the determination of the bid specifications or the determination of the lowest or best bidder for the services, rental space or equipment if his or her business or professional association is to submit a bid proposal to provide these services, rental space or equipment.

~~4.(d)~~ ~~Allow~~ ~~May not allow~~ an organ or tissue procurement agency to provide employees or the salaries for any members of the medical ~~examiner's~~ ~~examiners~~ office.

~~(11) Medical examiners or their business entities may provide services if the terms and conditions of Section 112.313(12), F.S., (exemptions) are met.~~

~~Rulemaking Specific~~ Authority 406.04 FS. Law Implemented 112.313, 406.02, 406.06, 406.17 FS. History—New 10-18-81, Formerly 11G-1.02, Amended 4-11-88, 12-26-88, 8-28-91, 2-23-93, 8-22-00, 7-29-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE NOS.:	RULE TITLES:
11G-2.001	Preliminary Procedures
11G-2.002	Identification
11G-2.003	Investigation
11G-2.004	Physical Evidence, Body Parts, Specimens
11G-2.005	Records, Autopsy Report
11G-2.006	Practice Guidelines

PURPOSE AND EFFECT: Updates the procedures for taking charge of a body, recording the findings and conclusions of the death in the permanent records, relinquishing charge of a body, fetal deaths and remains, amends the procedures for deaths as a result of traffic accident, who to notify when a body is released, removes inaccurate rule language and statute references, and makes grammatical corrections. Updates the

procedures for identifying unidentified bodies, identifying fetal remains, clarifies existing rule language, and makes grammatical revisions. Updates the procedures for determining the cause and circumstances of a death, release of human remains, and performing autopsies. Clarifies that research during investigation of a death is prohibited; relocates text to another rule section, deletes unnecessary rule language, renames a rule paragraph to better describe the paragraph's contents, makes grammatical revisions, provide guidelines for the retention and destroying of organs, tissues, sections, or fluids. Makes grammatical corrections, adds additional information for official records that shall be maintained by the district medical examiner, and revises the information required for autopsy reports. Updates the Medical Examiners Commission's Practice Guidelines incorporated into Rule 11G-2.006, F.A.C., by reference.

SUMMARY: Revises procedures for notification of death, findings and conclusions of death, notification of legally authorized persons of a death, relinquish charge of a dead body, examination of dead body, investigation of death prior to the release of human remains; removal of obsolete rule language; statistical reports; clarification of current rule language; unidentified human remains; examinations required for deaths resulting from violence; revises rules for performing an autopsy; research guidelines; custody and surrender of dead bodies; autopsy report; and how to obtain a copy of the Practice Guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 406.04 FS.

LAW IMPLEMENTED: 406.11, 406.13, 406.145 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11G-2.001 Preliminary Procedures.

(1) When a death is reported to the medical examiner pursuant to Section 406.12, F.S., or the medical examiner learns or is notified of a death in his or her district the medical examiner shall: If a medical examiner becomes aware of a death within the district that may be a death which must be investigated under the terms of Section 406.11, F.S., the medical examiner shall make such inquiry as is necessary to see if jurisdiction exists for an investigation.

(a) Make inquiry to determine whether to examine, investigate, or autopsy pursuant to Section 406.11, F.S., and to determine whether to take charge of the body pursuant to Section 406.13, F.S.

(b) Record the findings and conclusions supporting the medical examiner's determination of cause of death in the permanent records of the medical examiner, in sufficient detail to allow a review of the circumstances, regardless of whether examination of the body or certification of the death by the medical examiner is required.

(c) Notify the person having custody of the body when the medical examiner has relinquished charge of a body not in the custody of the medical examiner.

(2) ~~If a medical examiner is notified of a death and the medical examiner determines that jurisdiction under Section 406.11, F.S., does not exist, the findings and conclusions supporting that determination shall be recorded in the permanent records of the medical examiner's office. The person having control of the body shall be notified of the determination.~~

(2)(3) ~~If a medical examiner makes an investigation solely pursuant to in order that human remains may be disposed of under the terms of Section 406.11(1)(c), F.S., the medical examiner shall relinquish charge of the body when the medical examiner has autopsied the body, or has determined the cause of death by inquiry, may give or deny permission for such disposal under one of the following conditions:~~

(a) ~~Not until the medical examiner has autopsied the body, or has determined the cause of death by inquiry, shall the medical examiner relinquish jurisdiction for cremation, anatomic dissection, or burial at sea. The medical examiner may, absent information to the contrary, rely on the information found on a signed death certificate as being true and accurate.~~

(b) ~~Excepting medical specimens, fetal remains or other dead human tissue for which a regular death certificate is not required, unidentified human remains shall not be cremated, donated for anatomic dissection, or buried at sea.~~

(c) ~~Fetal deaths for which cremation, anatomic dissection or burial at sea of the remains is intended must be referred to the medical examiner for investigation. For the purposes of this section, "fetal death" is defined by Section 382.002, F.S. The medical examiner shall keep an accurate record of each such investigation in such sufficient detail to allow a review of the circumstances.~~

(3)(4) ~~If a medical examiner becomes aware of a death, apparently from disease, he or she shall investigate it as a death from a disease constituting a threat to the public health, if:~~

(a) ~~The investigation is requested by an appropriate official of the Department of Health pursuant to Section 381.0011 or 381.0012, F.S., or~~

(b) ~~The medical examiner determines that additional information concerning the cause and mechanism of death, beyond that available in the decedent's medical history, is needed to protect the public health.~~

(4)(5) ~~If the medical examiner takes charge of a body pursuant to determines that jurisdiction for an investigation under Section 406.11(1)(a) or (b), F.S., he or she does exist, he shall;~~

(a) ~~Inform the person who has custody having control of the body that, pursuant to Section 406.12, F.S., that Sections 406.12 and 382.008, F.S., the body should not be embalmed or otherwise prepared for burial or disturbed until examined by the medical examiner;~~

(b) ~~Arrange for transportation of the body; and for examination of the scene of death or injury;~~

(c) ~~Notify the appropriate law enforcement official having jurisdiction over persons, criminal scenes or investigations, physical evidence, or records, pursuant to Section 406.14, F.S.;~~

(d) ~~Notify the Department of Motor Vehicles if the death is the result of a traffic accident, pursuant to Section 316.065(2), F.S., as necessary;~~

(d)(e) ~~Ensure that the legally authorized person next of kin is notified that the medical examiner examiner's office is investigating the death, when this can be done without hindering the legal purpose of the investigation and the identification and location of the legally authorized person next of kin is readily available. The contact with the legally authorized person next of kin, or the attempt to contact, shall be documented in the medical examiner's case file, whether such contact or attempt to contact is made by the medical examiner examiner's office or through other persons or agencies such as hospital personnel, law enforcement agencies, funeral homes or friends of the deceased;~~ and

~~(e)(f)~~ Promptly notify the legally authorized person ~~next of kin, authorized funeral home, or other representative~~ when the body can be released, provided the identification and location of the legally authorized person ~~next of kin or representative~~ is known.

~~(5)(6)~~ Section 406.05, F.S., provides for cooperative arrangements among the several districts and Section 406.08(2), F.S., provides for fee payment when an autopsy is performed on a body when the death occurred outside the district. When such a cooperative arrangement is for the purpose of transporting the body of a person who dies in one medical examiner district (hereafter, district of jurisdiction) to another for autopsy or examination (hereafter, district of examination):

(a) The physician performing the examination must have a statutory appointment as an associate medical examiner in the district of jurisdiction pursuant to ~~per~~ the provisions of Rule 11G-1.002, F.A.C.

(b) For each transfer of a body the medical examiner in the district of jurisdiction shall maintain in his or her files documentation of the agreement for the transfer; shall assign a case number from the district of jurisdiction; and shall maintain copies of any reports of examination or opinion by the appointed associate medical examiner, records of identification of the body, and records of the transfer and release of the body to the legally authorized person next of kin.

(c) The medical examiner of the district of examination shall maintain in his or her files documentation of the agreement for the transfer and shall include the case number of the district of jurisdiction on all signed reports.

~~(d) Statistics that are For Annual Workload reporting purposes for creation of the Annual Report per Section 406.02, F.S., statistics that are required to be sent to the Medical Examiners Commission staff shall be reported by the district of examination.~~

Rulemaking Specific Authority 406.04, 406.05, 406.08 FS. 406.02, 406.04, 406.05, 406.08, 406.11, 406.13 FS. History--New 10-18-81, Amended 7-10-85, Formerly 11G-2.01, 11G-2.01, 11-24-87, 10-14-96, 7-6-99, 6-9-08,_____.

11G-2.002 Identification.

(1) If necessary to make an identification, or prior to the burial of any unidentified body, the medical examiner shall: The body shall be identified as soon as possible. If necessary to make an identification, the medical examiner shall:

- (a) Photograph and record a detailed description of the body; clothing, and personal effects;
- (b) Obtain complete skeletal x-rays;
- (c) Create thorough dental charts and x-rays;
- (d) Retain samples for possible DNA profiling; and
- (e) Obtain a complete set of fingerprints, if possible, and these shall be forwarded to the Department by the medical examiner or through the investigating law enforcement agency.

(2) An identification photograph shall be taken of any body in the custody of the medical examiner. In all cases, a photograph of the face shall be taken.

~~(3) Unidentified remains of any person, in the custody of the medical examiner, that require a certificate of death pursuant to Section 382.008, F.S., shall not be cremated, donated for anatomic dissection, or buried at sea. The medical examiner shall retain unidentified remains and preserve them in accordance with the law.~~

~~(4) In the case of criminal homicide, the medical examiner shall take all actions necessary so that he can testify to the identity of the deceased.~~

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.11, 406.13, 406.145 FS. History--New 10-18-81, Formerly 11G-2.02, Amended 8-22-00, 3-21-07,_____.

11G-2.003 Investigation.

(1) A medical examiner shall investigate under the authority of Section 406.11, F.S., in order to determine the cause of death and such circumstances surrounding it as are necessary and in the public interest. Such an investigation shall consist of examinations or investigation as the medical examiner shall deem necessary, including but not limited to:

- (a) An examination of the scene of death or injury and physical evidence;
- (b) Questioning of relatives, witnesses, prior attending physicians, or law enforcement officers;
- (c) An examination of the deceased's medical records;
- (d) An examination or autopsy of the body, including the testing of specimens as provided in Rule 11G-2.004, F.A.C., and a complete or partial dissection;
- (e) Such photographs as needed to record the findings.

(2) Medical examiner autopsies performed pursuant to Section 406.11, F.S., shall be performed by pathologists or directly supervised residents in pathology. Performance shall require in situ examination of the tissues pertinent to determining the cause of death and the removal of viscera pertinent to the determination of the cause of death. Removal of other organs and tissues during the autopsy shall be under the direct supervision of the pathologist. Direct supervision requires the presence of the supervising pathologist in the autopsy room. ~~A medical examiner shall not sign a death certificate unless he or she has made such investigation as needed to assure the accuracy of the findings.~~

(3) A medical examiner shall not:

(a) Opine a cause or manner of death, an identification of a dead body, or a disease or injury unless he or she has made such investigations, examinations, autopsies, and laboratory examinations to render an informed opinion; or

(b) Release human remains from custody until he or she has made such autopsies and has retained such specimens and effects to opine a cause or manner of death, an identification of a dead body, or a disease or injury, or support a criminal investigation.

(4) Examination for alcohol and appropriate chemical and drug concentrations shall be done in any autopsy when the death has resulted from violence and has occurred within twelve hours of injury.

(5) Absent good cause, an autopsy shall be performed when:

(a) A reasonable suspicion exists that a death might be by criminal violence or by any violence sustained in prison, a penal institution, or police custody.

(b) A reasonable suspicion exists that the death is by accident, suicide or poison, unless:

1. The death is by poison and the deceased has survived in a hospital for a time sufficient to metabolize the poison, or

2. The death is by accident or suicide and the cause of death can be determined from a review of the circumstances, history, and available medical records.

(c) The death of a child is apparently natural and occurs suddenly while in apparent good health.

(d) The circumstances of death are unusual or suspicious by reason of the body being unidentified after investigation, charred, or completely or partially skeletonized.

~~(3) A complete autopsy shall be performed when the death:~~

~~(a) Is alleged or suspected to be by criminal violence;~~

~~(b) Occurred while in police custody;~~

~~(c) Occurred in any prison or penal institution;~~

~~(d) Appears to have been by gunshot wound;~~

~~(e) Is suspected to be as a result of poisoning;~~

~~(f) Is suspected to be as a result of Sudden Infant Death Syndrome;~~

~~(g) Appears to have been by suicide; or~~

~~(h) Whenever requested or directed by the State Attorney under law.~~

~~(4) An autopsy is generally needed to complete the investigation of deaths:~~

~~(a) Resulting from motor vehicle or aircraft accident;~~

~~(b) From a disease constituting a threat to the public health;~~

~~(c) By apparent drowning;~~

~~(d) In a state institution; or~~

~~(e) Otherwise by violence.~~

~~(5) This rule serves to require investigations and autopsies in certain circumstances, but does not limit a medical examiner in exercising the authority contained in Chapter 406, F.S.~~

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.11, 406.13 FS. History—New 10-18-81, Formerly 11G-2.03, Amended 8-27-87, 9-23-93, 12-3-03,_____.

11G-2.004 Physical Evidence, Body Parts, Specimens.

(1) Definitions. The following definitions apply to this section:

(a) “Body part”. The entire head, an entire extremity, a portion of an extremity that includes a hand or foot, or the torso, of a dead human body. For human skeletal remains a body part is defined as a nearly complete skull, or most of the bones of extremity, or most of the bones of the torso.

(b) “Organ”. An entire internal viscus, such as a brain, heart, larynx, lung, stomach, or uterus of a dead human body.

(c) “Tissue”. A representative sample of a body part or organ, constituting a minority of the volume or mass of the part or organ.

(d) “Embedded tissue”. Tissue which has been embedded in paraffin blocks, or the like, for the purpose of histological study.

(e) “Sections”. Tissue mounted on glass slides for the purpose of histological staining.

(f) “Stained sections”. Sections which have been stained for the purpose of microscopic examination.

(g) “Fluid”. Liquid from a blood vessel, body cavity, hollow viscus, hematoma, or abscess of a dead human body. Fluids include blood, vitreous humor, bile, gastric content, urine, cerebrospinal fluid, and effusions.

(h) “Specimen”. A body part, organ, tissue, fluid, embedded tissue, section, or stained section; or a swab from a body part, organ, tissue, or body surface.

(i) “Physical evidence”. An item or items taken during an investigation which is believed to be pertinent to the determination of the cause of death, manner of death, identification of the deceased, determination of disease, injury or intoxication, or which is taken to answer anticipated questions in any investigation. Includes specimens.

(j) “Retained”. With respect to specimens, kept by the medical examiner after the release of the remains to the legally authorized person next of kin.

(k) “Research”. Any one of the following:

1. Procedures designed for therapy or resuscitation, performed on a dead human body for experiment or practice, unrelated to the determination of cause of death, mechanism of death, manner of death, presence of disease, injury, or intoxication, or identification of the deceased.

2. Testing of body parts or organs for purposes unrelated to the determination of cause of death, manner of death, presence of disease, injury, intoxication, or identification.

3. Testing of tissues or fluids by an experimental scientist that results in no report to the medical examiner.

4. Research does not include test development, test validation, quality assurance testing, or investigative work, utilizing tissues or fluids, when the tissues or fluids are received by a laboratory in support of a death investigation by a medical examiner.

(1) “Next of Kin”. “Legally authorized person” as defined by Section 497.005(37), F.S.

(2) The medical examiner shall seize such physical evidence as shall be necessary to determine the cause and manner of death, presence of disease, injury, intoxication, and identification of the decedent, or to answer questions arising in criminal investigations, and shall label, prepare, analyze, examine, and catalog such evidence as needed.

~~(3) Examination for alcohol and appropriate chemical and drug concentrations shall be done in all deaths resulting from violence to persons over ten years of age, when death occurs within twelve hours of injury.~~

~~(3)(4)~~ Physical evidence Evidence shall be retained by the medical examiner as follows:

(a) Stained sections shall be preserved indefinitely and embedded tissue preserved for at least ten ~~(10)~~ years.

(b) Fixed organs shall be retained until the medical examiner has completed his or her studies of them.

(c) All other specimens shall be retained for one year.

(d) All other physical evidence not released to another investigative agency or to the owner shall be retained for one year.

(e) Physical evidence Evidence that is retained for any period longer than is specified above must be held in accordance with Rule 11G-2.006, F.A.C.

~~(4)(5)~~ Requests for independent examination and analysis of physical evidence in the custody of the medical examiner shall be allowed by the medical examiner under his or her supervision and control in a manner designed to provide maximal preservation of the physical evidence. Unless compelling reasons dictate, irreplaceable, non-duplicable and non-divisible physical evidence such as embedded tissue shall not be released for independent analysis and examination.

~~(5)(6)~~ Physical evidence specimens no longer required to be retained by the medical examiner shall be disposed of.

~~(6)(7)~~ Procedures Concerning Body Parts.

(a) Human remains released by a medical examiner to the legally authorized person next of kin shall include all body parts unless the legally authorized person next of kin explicitly agrees ~~agree~~ to claim an incomplete body.

(b) If human remains recovered by the medical examiner are incomplete owing to dismemberment or decomposition, and there is a possibility that further body parts will be discovered subsequently, the legally authorized person next of kin shall be given the choice of claiming incomplete remains, or waiting to claim the remains until further parts are recovered.

(c) If a body part ~~such as a skull~~ requires special examination, release of the remains should be delayed until the special examination is completed unless the legally authorized person next of kin explicitly chooses ~~choose~~ to claim incomplete remains.

(d) Body parts retained by the medical examiner shall be subsequently released to the legally authorized person next of kin or disposed of pursuant to paragraph (6)(e) of this rule section ~~the wishes of the next of kin~~.

(e) Body parts not claimed by the legally authorized person next of kin are considered biomedical waste [Section 381.0098(2)(a), F.S.] and shall be destroyed by legally prescribed means, at the expense of the medical examiner.

(f) Evidentiary aspects of retained body parts shall be preserved by documentation by writing, photography, radiography or other indirect means, or by retention of tissue samples. Body parts themselves shall not be retained as evidence for legal proceedings.

~~(g) Permission of the next of kin is not required to retain organs, tissues, sections, or fluids for the determination of cause of death, manner of death, disease, injury, intoxication, or identification of the deceased.~~

~~(h) Permission of the next of kin is not required to destroy retained organs, tissues, sections, or fluids.~~

~~(7)(8)~~ Retention, Utilization, and Destruction of Specimens Research.

(a) Permission of the legally authorized person next of kin is required for:

1. Retention of specimens solely for the purpose of research.

2. Research procedures, designed for therapy or resuscitation, performed on a dead human body for experiment or practice, unrelated to the determination of cause of death, mechanism of death, manner of death, presence of disease, injury, or intoxication, or identification of the deceased.

(b) Permission of the legally authorized person next of kin is not required ~~for~~:

1. To retain organs, tissues, sections, or fluids.

2. To destroy retained organs, tissues, sections, or fluids.

~~3. For the~~ The utilization of specimens for teaching and educational purposes, or publication in scientific or medical publications, or other purposes that are not research, when the specimens were retained for the determination of cause of death, manner of death, disease, injury, intoxication, identification of the deceased, or preservation of evidence.

~~4.2. For the~~ The utilization of medical examiner records for teaching and educational purposes, or publication in scientific or medical publications, when the records were created in the course of medical examiner death investigations

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.11, 406.13 FS. History—New 10-18-81, Formerly 11G-2.04, Amended 8-27-87, 10-14-96, 7-29-01, 11-30-04, _____.

11G-2.005 Records, Autopsy Report.

(1) The district medical examiner ~~District Medical Examiner~~ shall keep among the official records:

(a) The appointment as district medical examiner ~~DME~~ by the Governor;

(b) A copy of each letter of appointment, resignation, and removal of an associate medical examiner; AME;

(c) A log or registry of all cases referred to the medical examiner; examiner's office;

(d) Records of all investigations performed, including findings, laboratory reports, photographs, and autopsy reports; ;

(e) Photocopies ~~Copies (typed)~~ of all death certificates ~~Death Certificates~~ signed by a DME or AME in his capacity as a medical examiner; and

(f) All other notes or documentation forming a record of an investigation; and-

(g) Documentation of the custody and surrender of dead bodies.

(2) Autopsy Report:

(a)(2) The detailed findings of each autopsy shall be included in an autopsy report. ~~The autopsy report shall be typed and shall only include the objective results of the examination of the body and the toxicologic samples. The circumstantial history and toxicologic correlations shall constitute a separate portion of the investigative report.~~

(b) The autopsy report shall be typed and shall include among the case identification data the following information:

1. The medical examiner district or county;
2. The place, date, and time of the autopsy;
3. The name of the decedent, if known;
4. The medical examiner case number;
5. The name of the medical examiner responsible for the opinions; and

6. The name of any other pathologist who performed or assisted with the autopsy.

(c) The autopsy report shall be signed by the medical examiner completing the autopsy and the signature line shall be dated.

(d) The autopsy report shall clearly distinguish objective observations from opinions. Among the objective observations to be included or appended shall be the gross observations, any microscopic observations, and any results of toxicology tests. Among the opinions to be included shall be the cause of death.

~~(3) Any death certificate signed by a DME or AME in the capacity of medical examiner shall show the address of the District Medical Examiner's office.~~

Rulemaking Authority 406.04 FS. Law Implemented 406.11, 406.13 FS. History--New 10-18-81, Formerly 11G-2.05, Amended 6-3-10,_____.

11G-2.006 Practice Guidelines.

The duties and standards of care of a medical examiner are to be consistent with those contained in the "Practice Guidelines for Florida Medical Examiners, sponsored ~~Sponsored~~ by the Florida Association of Medical Examiners," revised July 28, 2010, which publication is dated 11-19-2009 and is hereby incorporated by reference. The Practice Guidelines can be

obtained at the Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida, Attention Medical Examiner's staff.

Rulemaking Authority 406.04 FS. Law Implemented 406.075, 406.11, 406.13 FS. History--New 7-29-01, Amended 11-30-04, 3-21-07, 6-3-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE NO.: 11G-2.0031
RULE TITLE: SIDS Autopsy Protocol

PURPOSE AND EFFECT: To repeal rule identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary and to relocate the SIDS autopsy protocol to the Practice Guidelines.

SUMMARY: To repeal Rule 11G-2.0031, F.A.C., pertaining to the SIDS Autopsy Protocol rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment, i.e., repeal of a reporting requirement.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 383.3362(4) 406.04 FS.

LAW IMPLEMENTED: 383.3362, 406.11, 406.13 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.
 PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11G-2.0031 SIDS Autopsy Protocol.

~~(1) Sudden infant death syndrome (SIDS) is the sudden death of an infant under one year of age which remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and review of the clinical history.~~

~~(2) A medical examiner is obligated to perform a complete autopsy and conduct a thorough scene and clinical history review of any sudden, unexpected or apparently non-violent death of an infant under one year of age which might be a case of SIDS.~~

~~(3) The medical examiner investigating a potential SIDS case must be familiar with the place of discovery of the infant in terms of sleep site, bed clothes, position at time of discovery, sharing the bed with others, and environmental hazards such as fumes or extreme temperature hazards. Familiarity with the scene may be determined by personal inspection on the part of the medical examiner or a medical examiner investigator or police investigator. The results of scene investigation shall be included in the medical examiner case file. The diagnosis of SIDS should not be made if it is apparent that a hazard such as overlay by an adult, fall from bed, suffocation from dangerous coverings or other environmental hazards played a role in the death.~~

~~(4) The clinical history review shall attempt to include determination of prenatal, delivery and postnatal medical information relevant to a proper diagnosis of SIDS and should include history of familial disease, mental illness and social setting pertinent to exclusion of illnesses or child abuse, the absence of which is essential to the diagnosis of SIDS. During the investigation contact shall be made with the Department of Children and Family Services for information in its records of abuse or neglect of children within the family or family setting.~~

~~(5) An autopsy is mandated whenever an infant death is under investigation as a potential SIDS. The autopsy is needed to exclude congenital, infectious, environmental or other unnatural causes of death. The gross narrative description shall consider external features including integrity of all orifices, status of internal organs and tissues and hollow viscera contents. Serosal and membrane petechiae and presence or absence of blood clot in the heart and great vessels should be mentioned as well as a skeletal x ray survey and appropriate photographs. Histological slides should include major viscera sufficient to exclude readily diagnosed disease processes. Bacterial cultures and viral cultures should be performed when needed to document or exclude suspect infectious agents. Appropriate tissues and fluids should be preserved for toxicological study when indicated.~~

~~(6) As soon as the diagnosis of SIDS is made, a letter of condolence and explanation with reference to a counseling visit by the county public health unit representatives should be sent from the medical examiner to the parents or guardians. The county public health unit must be notified and furnished the names and addresses of the parents or guardians. The medical examiner shall furnish case investigative findings to the Consumer Product Safety Commission or other concerned governmental agencies upon request. In such event the counseling letter should make reference to the prospective visit by such agency.~~

Rulemaking Specific Authority 383.3362(4), 406.04 FS. Law Implemented 383.3362, 406.11, 406.13 FS. History--New 10-14-96, Amended 7-6-99, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Donna Hunt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE NOS.:	RULE TITLES:
11G-5.003	District Medical Examiner Terms of Office
11G-5.004	Process for District Medical Examiner Candidate Nomination to the Governor

PURPOSE AND EFFECT: Clarifies that the term of office for a Commission member appointed to the Medical Examiner’s Commission is determined by the governor and adds to the District Candidate Search Committee a “medical examiner designated by the chairperson” upon notification of a vacancy on the Medical Examiners Commission.

SUMMARY: Revises district medical examiner gubernatorial appointments and district candidate search committee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment, i.e., repeal of a reporting requirement.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 406.04 FS.

LAW IMPLEMENTED: 406.06(1)(a) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615 or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11G-5.003 District Medical Examiner Terms of Office. The term of office ~~for a of the~~ district medical examiner appointed by the governor shall be three years. A gubernatorial appointment ~~Appointments~~ to fill a vacancy shall be for the unexpired portion of the term. For the purpose of administration, the 24 district medical examiners serve staggered terms, in accord with the following rotation:

- (1) First year – Districts 1 through 7;
- (2) Second year – Districts 8 through 14;
- (3) Third year – Districts 15 through 24.

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.06(1)(a) FS. History–New 2-23-93, Amended _____.

11G-5.004 Process for District Medical Examiner Candidate Nomination to the Governor.

- (1) through (2) No change.
- (3) Procedure to fill a District Medical Examiner Vacancy.
 - (a) No change.

(b) Within 30 days of being notified of a vacancy or anticipated vacancy, the Chairman of the Commission shall call for a district candidate search committee to be established and appoint a chairman. The search committee shall consist of invited representatives from the offices of the state attorney(s), public defender(s), sheriff(s), police chief(s), county commission(s), funeral homes and a representative of the local medical community from within the bounds of that particular medical examiner district and a physician member of the Medical Examiners Commission or other medical examiner designated by the Chairman ~~or his designee~~. The search committee shall be requested to:

- 1. through 6. No change.
- (c) through (f) No change.

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.06(1)(a) FS. History–New 2-23-93, Amended 9-27-93, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

DEPARTMENT OF LAW ENFORCEMENT

Employee Relations

RULE NOS.: RULE TITLES:
11I-1.005 Disciplinary Investigations
11I-1.010 Appeals to the Public Employees Relations Commission
11I-1.013 Repeal

PURPOSE AND EFFECT: To repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: To repeal Rules 11I-1.005, F.A.C., pertaining to disciplinary investigations, 11I-1.010, F.A.C., pertaining to appeals to the Public Employees Relations Commission, and 11I-1.013, F.A.C., regarding references to the Duty Manual.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

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 is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S. and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the proposed amendment, i.e., repeal of rules.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 110.201(2), 447.207(8), 943.03 FS.

LAW IMPLEMENTED: 110.227, 112.532(1), 112.532(4), 112.533 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Richard Ward at (850)410-8257 or rickward@fdle.state.fl.us, or write the Florida Department of Law Enforcement, Office of Executive Investigations, P. O. Box 1489, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Ward at (850)410-8257 or rickward@fdle.state.fl.us, or write the Florida Department of Law Enforcement, Office of Executive Investigations, P. O. Box 1489, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11I-1.005 Disciplinary Investigations.

The methods and agents of investigation utilized prior to notice of personnel action shall vary with the nature of the offense and the needs of the employer to obtain complete information. In the event that law enforcement personnel are under investigation, the rights provided under Part VI, Chapter 112, F.S., as to notice and methods of interrogation shall be applied. If an employee is included in a bargaining unit which is subject to a collective bargaining agreement, that employee may request that a Union representative be present during any disciplinary investigation or investigatory meeting in which the employee is being questioned about alleged misconduct of the employee.

Rulemaking Specific Authority 943.03(4) FS. Law Implemented 112.532(1), 112.532(4), 112.533 FS. History--New 7-8-82, Formerly 11I-1.05, Amended 11-5-02, Repealed _____.

11I-1.010 Appeals to the Public Employees Relations Commission.

An employee who has earned permanent status in the Career Service in accordance with the provisions of paragraph 60L-33.003(2)(d), F.A.C., shall have the right to appeal to the Public Employees Relations Commission any reduction in pay, demotion, suspension or dismissal by the Department.

Rulemaking Specific Authority 110.201(2), 447.207(8), 943.03 FS. Law Implemented 110.227(5) FS. History--New 7-8-82, Formerly 11I-1.10, Amended 7-14-87, 7-1-90, 11-5-02, Repealed _____.

11I-1.013 Repeal.

That portion of Rule 11-1.012, F.A.C., referring to the Duty Manual, specifically Department Directives Number 200.08, 200.13, and 200.17, is hereby repealed insofar as it conflicts with the provisions of this chapter.

~~Rulemaking Specific~~ Authority 943.03(3) FS. Law Implemented 110.227(1) FS. History--New 7-8-82, Formerly 111-1.13, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Richard Ward
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DEPARTMENT OF LAW ENFORCEMENT

Florida Criminal Justice Executive Institute

RULE NOS.: RULE TITLES:
11K-1.001 Florida Criminal Justice Executive Institute – Definition
11K-1.002 Background/Scope/Purpose
PURPOSE AND EFFECT: To repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: To repeal Rules 11K-1.001 and 11K-1.002, F.A.C., pertaining to the Florida Criminal Justice Executive Institute’s purpose and definitions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment, i.e., repeal of rules.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 145.071, 943.03(4) FS.

LAW IMPLEMENTED: 943.1755 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt at (850)410-8615, or donnahunt@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11K-1.001 Florida Criminal Justice Executive Institute – Definition.

~~The Florida Criminal Justice Executive Institute is an entity of the Florida Department of Law Enforcement (FDLE) established pursuant to Section 943.1755, F.S., for the purposes stated therein.~~

~~Rulemaking Specific~~ Authority 943.03(4) FS. Law Implemented 943.1755 FS. History--New 2-1-84, Formerly 11K-1.01, Amended 5-29-91, Repealed _____.

11K-1.002 Background/Scope/Purpose.

~~The purpose of this rule is to establish qualification requirements for sheriffs to receive salary supplement as provided for in Section 145.071, Florida Statutes.~~

~~Rulemaking Specific~~ 145.071, 943.03(4) FS. Law Implemented 145.071 FS. History--New 2-1-84, Formerly 11K-1.02, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donna Hunt

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

RULE NO.: 11N-1.008
 RULE TITLE: Active Criminal Investigative and Active Criminal Intelligence

PURPOSE AND EFFECT: To repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: To repeal Rule 11N-1.008, F.A.C., pertaining to Violent Crime and Drug Council meetings and confidentiality of records.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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:

OTHER RULES INCORPORATING THIS RULE: N/A.

EFFECT ON THOSE OTHER RULES: N/A.

The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S. and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the proposed amendment, i.e., repeal of rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.042 FS.

LAW IMPLEMENTED: 943.031, 943.042 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 28, 2012, 1:00 p.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

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: Sherry Gomez at (850)410-7094 or SherryGomez@fdle.state.fl.us or write to the Florida Department of Law Enforcement, IFS, Policy & Planning

Office, P. O. Box 1489, Tallahassee, FL 32302. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Gomez at (850)410-7094 or SherryGomez@fdle.state.fl.us or write to the Florida Department of Law Enforcement, IFS, Policy & Planning Office, P. O. Box 1489, Tallahassee, FL 32302

THE FULL TEXT OF THE PROPOSED RULE IS:

11N-1.008 Active Criminal Investigative and Active Criminal Intelligence.

~~All sessions of meetings of the Council in which active eriminal investigative or active criminal intelligence information is discussed shall be closed to the public as authorized at Section 943.031(7), F.S. All documents and information in the custody of the Council revealing active eriminal intelligence or active eriminal investigative information are exempt from public disclosure as provided by law. Only members of the Council or members of the Department of Law Enforcement assisting the Council, and persons whose presence has been specifically authorized by the Council shall be allowed to attend sessions of the Council's meetings otherwise closed to the public.~~

Rulemaking Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Sherry Gomez

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2011

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.223
 RULE TITLE: Designation of Institutions for Youthful Offenders

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to remove the list of specific youthful offender institutions and indicate that youthful offenders may be reassigned to non-youthful offender facilities per Section 958.11, F.S.

SUMMARY: The proposed rule removes the list of specific youthful offender institutions and indicates that youthful offenders may be reassigned to non-youthful offender facilities pursuant to Section 958.11, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on analysis from the Bureau of Classification and Central Records indicating that the rule change only affects internal operations of the Department by permitting more flexibility in where a youthful offender program will be located and would not have an impact on small business or the private sector, the rule is not expected to require legislative ratification.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09, 958.11 FS.

LAW IMPLEMENTED: 944.09, 958.11 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.223 Designation of Institutions for Youthful Offenders.

(1) Upon completion of the reception process, each youthful offender shall be transferred to an institution designated for his or her age and custody in accordance with Section 958.11, F.S.

(2) Youthful Offenders may be reassigned to non-youthful offender facilities in accordance with Section 958.11, F.S. ~~The following are designated as youthful offender institutions:~~

- ~~(a) Indian River Correctional Institution;~~
- ~~(b) Lancaster Correctional Institution and Lancaster Work Camp;~~
- ~~(c) Brevard Correctional Institution and Brevard Work Camp;~~
- ~~(d) Sumter Correctional Institution — Male Basic Training Program;~~
- ~~(e) Lowell Correctional Institution Women’s Unit — Basic Training Program;~~
- ~~(f) Lake City Correctional Institution;~~
- ~~(g) Hernando Correctional Institution; and~~
- ~~(h) Taylor Correctional Institution Annex.~~

Rulemaking Specific Authority 944.09, 958.11 FS. Law Implemented 944.09, 958.11 FS. History—New 10-11-95, Amended 9-11-97, 4-14-98, Formerly 33-33.009, Amended 3-13-01, Formerly 33-506.103, Amended 12-7-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Cannon, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 13, 2011

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.718
 RULE TITLE: Review of Request for Visiting Privileges

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to transfer via rulemaking Form DC6-111D from Rule 33-601.737, F.A.C., and to amend the form to permit staff to consider an applicant’s relationship to the inmate if the applicant is a victim.

SUMMARY: Form DC6-111D is being transferred from Rule 33-601.737, F.A.C., to this rule. Form DC6-111D is updated to permit staff to evaluate a victim’s relationship to an inmate for whom the victim has requested visitation privileges.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on the fact that the rule is only being amended to incorporate a form in a different location, and based on analysis from the Bureau of Classification and Central Records that the form change only affects internal operations and would not impact small business or the private sector, the rule is not expected to require legislative ratification.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.718 Review of Request for Visiting Privileges. In approving or disapproving visiting privileges, assigned institutional classification officer shall review Form DC6-111A, ~~the Request for Visiting Privileges, Form DC6-111A,~~ and shall consider all factors related to the security, order, or effective management of the institution. Form DC6-111A is incorporated by reference in Rule 33-601.715, F.A.C.

(1) No change.

(2) The assigned institutional classification officer staff shall evaluate a person’s criminal history and visiting background using Form DC6-111D, ~~the Visitor Screening Matrix, Form DC6-111D.~~ Form DC6-111D is hereby incorporated by reference. A copy is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is October, 2011.

(3) ~~Form DC6-111D is incorporated by reference in Rule 33-601.737, F.A.C.~~

~~Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 9-29-03, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Russell Hosford, Assistant Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 9, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.737
RULE TITLE: Visiting – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to repeal the rule and incorporate the forms into substantive visiting rules located in Chapter 33-601, F.A.C.

SUMMARY: The rule is being repealed, as the six forms incorporated are being transferred to substantive rules within Chapter 33-601, F.A.C., via rulemaking.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on the fact that the rule is being repealed only to move the forms within to different locations in substantive rules, the repeal does not affect small business or the private sector and is therefore not expected to require legislative ratification.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.737 Visiting – Forms.

~~Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 4-29-02, 9-29-03, 3-31-05, 7-17-05, 3-21-06, 3-29-07, 8-23-07, Repealed _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy Cannon, Assistant Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 9, 2012

DEPARTMENT OF THE LOTTERY

RULE NOS.: 53-13.001, 53-13.008, 53-13.009
RULE TITLES: Determining Salary Upon Appointment, Overtime Compensation, Perquisites

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: The above listed rules were superseded by emergency rules and are obsolete.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Repealing this unnecessary rule will not have an adverse impact or impose a regulatory cost.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 24.105(9)(j) FS.

LAW IMPLEMENTED: 24.105(19)(d) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 29, 2012, 10:00 a.m.

PLACE: Florida Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Diane D. Schmidt, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32301, schmidtd@flalottery.com

THE FULL TEXT OF THE PROPOSED RULES IS:

53-13.001 Determining Salary Upon Appointment.

Rulemaking Specific Authority 24.105(9)(j) FS. Law Implemented 24.105(19)(d)FS. History–New 2-25-93, Superseded by 53ER05-47; F.A.C., Repealed _____.

53-13.008 Overtime Compensation.

Rulemaking Specific Authority 24.105(9)(j) FS. Law Implemented 24.105(19)(d) FS. History–New 2-25-93, Amended 7-4-93, Superseded by 53ER05-35, Amended 5-22-05, Superseded by 53ER05-53, F.A.C., Replaced by 53ER07-31, Repealed _____.

53-13.009 Perquisites.

Rulemaking Specific Authority 24.105(9)(j) FS. Law Implemented 24.105(19)(d), 216.262(1)(f) FS. History–New 2-25-93, Superseded by 53ER06-33, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Glenda Thornton, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia O’Connell, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 21, 2011

DEPARTMENT OF THE LOTTERY

RULE NO.: 53-16.004
 RULE TITLE: Overtime/Compensation for Excess Hours of Work

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to repeal a rule identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: The above listed rule was superseded by an emergency rule and is obsolete.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Repealing this unnecessary rule will not have an adverse impact or impose a regulatory cost.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 24.105(9)(j) FS.

LAW IMPLEMENTED: 24.105(19)(d) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 29, 2012, 9:00 a.m.

PLACE: Florida Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32301, schmidtd@flalottery.com

THE FULL TEXT OF THE PROPOSED RULE IS:

53-16.004 Overtime/Compensation for Excess Hours of Work.

Rulemaking Specific Authority 24.105(9)(j) FS. Law Implemented 24.105(19)(d) FS. History- New 2-25-93, Amended 7-4-93, 9-16-93, Superseded by 53ER05-52, F.A.C., Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Glenda Thornton, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia O’Connell, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 21, 2011

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-7.035
 RULE TITLE: Staffing Requirements

PURPOSE AND EFFECT: The agency is proposing to amend the rule to remove outdated references and previously repealed requirements, correct language that conflicts with statutory language, and remove language that duplicates statutory language.

SUMMARY: Revisions to update and correct and to remove duplicative language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Review and analysis of statutory sections cited for this rule determined that the rule being amended is not consistent with statutory language cited as law implemented and included repetition of statutory language. Based on that analysis, the Agency has determined that no legislative ratification pursuant to subsection 120.541(3), F.S. is required for amendment of this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 483.051 FS.

LAW IMPLEMENTED: 483.035, 483.051, 483.111 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: March 1, 2012, 2:30 p.m.

PLACE: Agency for Health Care Administration, Building 3, Conference Room C, 2727 Mahan Drive, Tallahassee, Florida
 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: Karen Rivera, Laboratory Unit, 2727 Mahan Drive,

Building 1, Mail Stop 32, Tallahassee, Florida. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Rivera, Laboratory Unit, 2727 Mahan Drive, Building 1, Mail Stop 32, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-7.035 Staffing Requirements.

(1) The laboratory must be staffed with a director(s) who meets the qualifications specified under Chapter 483, Part III, F.S., ~~for all specialties and subspecialties in which the laboratory is licensed.~~

(a) through (3) No change.

(4) Exclusive Use Laboratories shall be staffed in accordance with CLIA as defined under subsection 59A-7.020(7), F.A.C.

~~(a) A director qualified under Chapter 483, Part III, F.S., and at least one director qualifying under paragraph 59A-7.035(1)(b), F.A.C.; and~~

~~(b) Clinical laboratory personnel licensed as a clinical laboratory director, supervisor, technologist, technician or exclusive use technician or registered as a trainee as provided under Chapter 483, Part III, F.S., and Chapter 64B3, F.A.C.~~

(5) Plasmapheresis centers performing ~~only waived tests,~~ total protein by refractometer or ABO and Rh typing shall be staffed with:

(a) through (b) No change.

(6) Sites performing testing authorized under Rule 59A-7.034, F.A.C., must be staffed with personnel qualified under subsection 59A-7.034(8)(5), F.A.C., under the direct supervision of the clinical laboratory director, supervisor or technologist qualified under Chapter 483, Part III, F.S.

(7) Laboratories located outside Florida and licensed under Chapter 483, Part I, F.S., ~~and facilities issued a certificate of exemption under Chapter 483.106, F.S.,~~ must meet personnel qualification requirements established under the Clinical Laboratory Improvement Amendments of 1988 and federal rules adopted thereunder as described in subsection 59A-7.020(8)(6), F.A.C. Such personnel shall not be required to be licensed under Chapter 483, Part III, F.S.

Rulemaking Authority 483.051 FS. Law Implemented ~~483.034,~~ 483.035, 483.051, 483.111 FS. History–New 11-20-94, Amended 12-27-95, 7-27-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Rivera

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 10, 2011

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.250
 RULE TITLE: Prescribed Drug Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Prescribed Drug Services coverage, Limitations and Reimbursement Handbook, updated January 2012. The handbook updates the procedures for reimbursement of providers for prescribed drugs.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Prescribed Drug Services coverage, Limitations and Reimbursement Handbook, updated January 2012. The handbook updates the procedures for reimbursement of providers for prescribed drugs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, March 1, 2012, 11:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Bldg. 3, Conference Rm B, Tallahassee, FL 32301

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 48 hours before the workshop/meeting by contacting: Marie Donnelly via email at Marie.Donnelly@ahca.myflorida.com. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marie Donnelly at Marie.Donnelly@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.250 Prescribed Drug Services.

(1) This rule applies to all prescribed drug services providers enrolled in the Medicaid program.

(2) All participating prescribed drug services providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Prescribed Drug Services Coverage, Limitations, and Reimbursement Handbook, updated January 2012 ~~May 2008~~, which is incorporated by reference, and available from the Medicaid fiscal agent's website at www.mymedicaid-florida.com. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling Provider Inquiry at 1(800)289-7799.

Rulemaking Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 FS. History—New 1-1-77, Amended 6-30-77, 10-1-77, 2-1-78, 4-1-78, 9-28-78, 6-1-79, 2-28-80, 11-11-81, 7-3-84, Formerly 10C-7.42, Amended 3-11-86, 12-5-88, 6-4-90, 10-29-90, 5-20-92, 4-11-93, Formerly 10C-7.042, Amended 12-28-95, 8-3-97, 2-11-98, 9-13-99, 7-20-00, 1-29-01, 4-24-01, 10-6-02, 12-7-06, 11-3-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anne Wells, Chief, Medicaid Bureau of Pharmacy Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 10, 2011

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.251
 RULE TITLE: Florida Medicaid Prescribed Drugs Reimbursement Methodology

PURPOSE AND EFFECT: The purpose of this rule is to state the reimbursement methodology for prescribed drug claims in the Florida Medicaid program.

SUMMARY: The purpose of this rule is to state the reimbursement methodology for prescribed drug claims in the Florida Medicaid program, per statutory change.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, March 1, 2012, 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Bldg. 3, Conference Room B, Tallahassee, FL 32301

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 48 hours before the workshop/meeting by contacting: Marie Donnelly at Marie.Donnelly@ahca.myflorida.com. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marie Donnelly at Marie.Donnelly@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.251 Florida Medicaid Prescribed Drugs Reimbursement Methodology.

(1) Reimbursement for prescribed drug claims is made in accordance with the provisions of Title 42, Code of Federal Regulations Sections 447.512-.516. Reimbursement for covered drugs dispensed by a licensed pharmacy, approved as a Medicaid provider, ~~by~~ or an enrolled dispensing physician filling his own prescriptions, or by a medical professional administering injectable medications, shall not exceed the lower of:

(a) The estimated acquisition cost, defined as the lower of:

1. Average Wholesale Price (AWP) minus 16.4%, or Wholesaler Acquisition Cost (WAC) plus ~~1.5~~ 4.75%, plus a dispensing fee of \$3.73;

2. The Federal Upper Limit (FUL) established by the Centers for Medicare and Medicaid Services, plus a dispensing fee of \$3.73; or

(b) The State Maximum Allowable Cost (SMAC), plus a dispensing fee of \$3.73; or

(c) The provider's Usual and Customary (U&C) charge, inclusive of dispensing fee.

(2) For drugs purchased by qualified entities under Section 340B of the Public Health Service Act: Covered entities and Federally Qualified Health Centers or their contracted agents that fill Medicaid patient prescriptions with drugs purchased at

prices authorized under Section 340B of the Public Health Service Act must bill Medicaid for reimbursement at the actual acquisition cost plus a dispensing fee of \$7.50 for these drugs.

Rulemaking Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 (37)(a) FS. History—New 1-28-09, Amended 8-23-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anne Wells, Chief, Medicaid Bureau of Prescribed Drug Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 17, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE NO.: 61G2-2.004
 RULE TITLE: Licensure by Endorsement or Reciprocity

PURPOSE AND EFFECT: The Board proposes this rule amendment to delete unnecessary language.

SUMMARY: The rule amendment deletes unnecessary language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.384(2), 468.387 FS.
 LAW IMPLEMENTED: 468.384(2), 468.387 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-2.004 Licensure by Endorsement or Reciprocity.

(1) through (3) No change.

~~(4) For the purpose of issuance of a license, all endorsement or reciprocal applications will be valid for a period of six months after Board approval. Any applicant who fails to complete the licensure process within that time shall be required to make application as a new applicant.~~

Rulemaking Specific Authority 468.384(2), 468.387 FS. Law Implemented 468.384(2), 468.387 FS. History—New 12-6-87, Formerly 21BB-2.004, Amended 9-27-93, 5-7-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE NO.: 61G2-4.003 RULE TITLE: Change of Sponsor

PURPOSE AND EFFECT: The Board proposes this rule amendment to add necessary language.

SUMMARY: This rule amendment adds necessary language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.384 FS.

LAW IMPLEMENTED: 468.382(3), 468.3855 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, FL 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-4.003 Change of Sponsor.

(1) No change.

(2) No credit for training received or period of apprenticeship served shall be allowed unless it occurred under the supervision of the sponsor under whose supervision the apprenticeship is licensed, as provided for by statute.

Rulemaking Specific Authority 468.384(2) FS. Law Implemented 468.382(3), 468.3855 FS. History—New 5-4-87, Formerly 21BB-4.003, Amended 10-13-93, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2011

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-30.015 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the disciplinary guidelines for physician assistants and to address comments submitted by the staff of the Joint Administrative Procedures Committee.

SUMMARY: The proposed rule amendments set forth violations and the range of disciplinary guidelines for the violations with regard to physician assistants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.079, 458.309, 458.331(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 458.331(4), 458.347(4)(e)1., (7)(g) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-30.015 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon physician assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS	RECOMMENDED PENALTIES	
	First Offense	Subsequent Offenses
(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board.		
(Section 458.331(1)(a), F.S.)		
(Section 456.072(1)(h), F.S.)		
1. No change.		
2. Attempting to renew a license by bribery or fraud.	2. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.	2. Revocation and a \$10,000.00 fine.
3. Obtaining or renewing a license by bribery or fraud.	3. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.	3. Revocation and a \$10,000.00 fine.
4. Obtaining or renewing a license through error of the Department or the Board.	4. Revocation.	4. Revocation.

(b) Action taken against license by another jurisdiction.
(Section 458.331(1)(b), F.S.)
(Section 456.072(1)(f), F.S.)

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice.
(Section 458.331(1)(c), F.S.)
(Section 456.072(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising.
(Section 458.331(1)(d), F.S.)

(e) Failure to report another licensee in violation.
(Section 458.331(1)(e), F.S.)
(Section 456.072(1)(i), F.S.)

(f) Aiding unlicensed practice.
(Section 458.331(1)(f), F.S.)
(Section 456.072(1)(j), F.S.)

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00.

1. Revocation and an administrative fine of \$10,000.00 ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine of \$10,000.00 ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, and an administrative fine of \$1,000.00 to \$5,000.00, and 50 to 100 hours of community service.

1. Revocation and an administrative fine of ranging from \$5,000.00 to \$10,000.00, or in the case of application for licensure, denial of licensure.

2. An From an administrative fine of \$10,000.00 ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, and 50 to 100 hours of community service.

(e) From a letter of concern to probation an administrative fine ranging from \$1,000.00 to \$2,500.00, 25 to 50 hours of community service, or denial of licensure.

(f) From reprimand to suspension, followed by probation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~1. From revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine of \$10,000.00 ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, and from 100 to 200 hours of community service.

2. An From an administrative fine of \$10,000.00 ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, and 100 to 200 hours of community service.

(e) From reprimand to suspension or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00, and 50 to 100 hours of community service.

(f) From probation to revocation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(g) Failure to perform legal obligation.
(Section 458.331(1)(g), F.S.)
(Section 456.072(1)(k), F.S.)

1. Continuing medical education (CME) violations.
(Section 456.072(1)(e), F.S.)
(Section 456.072(1)(s), F.S.)
(Section 456.033(9), F.S.)
 - a. Failure to document required HIV/AIDS, or end of life care, or palliative health care.
 - b. Failure to document required domestic violence CME or substitute end of life care CME.
 - c. Failure to document required HIV/AIDS, or end of life care, or palliative healthcare, and failure to document domestic violence CME.
2. No change.
3. Failing to disclose financial interest to patient.
(Section 456.052, F.S.)

(h) No change.
1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements.
(Section 458.331(1)(i), F.S.)

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, ~~50 hours of community service~~, and an administrative fine from \$1,000.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:
 - a. An administrative fine ranging from \$250.00 to \$500.00.
 - b. An administrative fine ranging from \$250.00 to \$500.00.
 - c. An administrative fine ranging from \$500.00 to \$1,000.00.

3. A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00, ~~50 hours of community service~~ to a reprimand, ~~100 hours of community service~~ and an administrative fine of \$2,500.00.

1. Revocation and an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.

2. ~~An~~ From an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service~~ and a reprimand through suspension of the license followed by a period of probation, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, ~~25 to 50 hours of community service~~ and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, ~~from 50 to 100 hours of community service~~, and an administrative fine from \$2,500.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:
 - a. An administrative fine ranging from \$500.00 to \$1,000.00.
 - b. An administrative fine of \$500.00 to \$1,000.00.
 - c. An administrative fine ranging from \$1,000.00 to \$2,000.00.

3. A refund of fees paid by or on behalf of the patient and from a reprimand, ~~100 hours of community service~~, and an administrative fine of \$2,500.00 to a reprimand, ~~200 hours of community service~~ and an administrative fine of \$5,000.00.

2. ~~An~~ From an administrative fine of ~~\$10,000.00 ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service~~ and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, ~~50 to 100 hours of community service~~ and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

- (j) Sexual Misconduct.
(Section 458.331(1)(j), F.S.)
(Section 458.329, F.S.)
(Section 456.072(1)(u), F.S.)
- (k) Deceptive, untrue, or fraudulent representations in the practice of medicine.
(Section 458.331(1)(k), F.S.)
(Section 456.072(1)(a), (m), F.S.)
 1. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.
 2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.
- (l) Improper solicitation of patients.
(Section 458.331(1)(l), F.S.)
- (m) Failure to keep legible written medical records.
(Section 458.331(1)(m), F.S.)
 1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.
 2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.
- (n) Exercising influence on patient for financial gain.
(Section 458.331(1)(n), F.S.)
(Section 456.072(1)(n), F.S.)
- (j) From probation to revocation, or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00.
- (k) From a letter of concern, ~~and 25 to 50 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00~~.
 1. From revocation with leave to reapply in three (3) years, and an administrative fine ranging ~~of \$10,000.00 from \$1,000.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.
 2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, ~~50 to 100 hours of community service~~, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.
- (l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, ~~25 to 50 hours of community service~~ and a reprimand to probation, or denial of licensure.
- (m) From letter of concern, ~~25 to 50 hours of community service~~ to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.
 1. From revocation with leave to reapply in three (3) years, and an administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.
 2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, and a reprimand, ~~50 to 100 hours of community service~~ to suspension of the license, or in the case of application for licensure, denial of licensure.
- (n) Payment of fees paid by or on behalf of the patient and from a reprimand, ~~25 to 50 hours of community service to probation~~, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (j) From suspension, to be followed by a period of probation to revocation, ~~100 to 200 hours of community service~~ or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (k) From probation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~ to revocation.
 1. From permanent revocation and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.
 2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, and suspension of the license, followed by a period of probation to revocation, ~~100 to 200 hours of community service~~, or in case of application for licensure, denial of licensure.
- (l) From suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.
- (m) From a reprimand to suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.
 1. From permanent revocation and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.
 2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, and suspension of the license, followed by a period of probation, ~~100 to 200 hours of community service~~ to revocation, or in case of application for licensure, denial of licensure.
- (n) Payment of fees paid by or on behalf of the patient and from probation, ~~50 to 100 hours of community service~~, to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

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| <p>(o) Improper advertising of pharmacy.
(Section 458.331(1)(o), F.S.)</p> | <p>(o) From a letter of concern to probation, or a denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$250.00 to \$2,500.00.</p> | <p>(o) From a reprimand, 50 to 100 hours of community service, and an administrative fine of \$2,500.00 to probation, and an administrative fine from \$2,500.00 to \$5,000.00, or denial of licensure.</p> |
| <p>(p) Performing professional services not authorized by patient.
(Section 458.331(1)(p), F.S.)</p> | <p>(p) From a letter of concern, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(p) From a reprimand, 50 to 100 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(q) Inappropriate or excessive prescribing.
(Section 458.331(1)(q), F.S.)</p> | <p>(q) From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.</p> | <p>(q) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(r) Prescribing or dispensing of a scheduled drug by the physician assistant to himself or herself.
(Section 458.331(1)(r), F.S.)</p> | <p>(r) From probation to suspension or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(r) From suspension to revocation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(s) Inability to practice medicine with skill and safety.
(Section 458.331(1)(s), F.S.)</p> | <p>(s) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(s) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, 50 to 100 hours of community service, and an administrative fine from \$2,500.00 to \$5,000.00.</p> |
| <p>(t)1. Malpractice: practicing below acceptable standard of care.
(Section 458.331(1)(t), F.S.)</p> | <p>(t)1. From a letter of concern, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(t)1. From reprimand, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>2. Gross Malpractice.</p> | <p>2. From probation, 25 to 50 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>2. From suspension followed by probation to revocation or denial, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>3. No change.</p> | | |
| <p>(u) Performing of experimental treatment without informed consent.
(Section 458.331(1)(u), F.S.)</p> | <p>(u) From a letter of concern to suspension, to be followed by a period of probation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(u) From suspension to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(v) Practicing beyond scope permitted.
(Section 458.331(1)(v), F.S.)
(Section 456.072(1)(o), F.S.)</p> | <p>(v) From a letter of concern to reprimand and probation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(v) From probation to suspension or revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(w) Delegation of professional responsibilities to unqualified person.
(Section 458.331(1)(w), F.S.)
(Section 456.072(1)(p), F.S.)</p> | <p>(w) From reprimand to suspension, followed by probation, 25 to 50 hours of community service or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(w) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |

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| <p>(x)1. Violation of law, rule, or failure to comply with subpoena. (Section 458.331(1)(x), F.S.); (Section 456.072(1)(b), (q), F.S.)</p> | <p>(x)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, 25 to 100 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(x)1. From probation, 50 to 150 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>2. Violation of an order of the Board.</p> | <p>2. From a reprimand <u>and suspension followed by a period of probation</u>, 25 to 50 hours of community service, and an administrative fine of \$1,000.00 to a reprimand <u>and suspension followed by a period of probation</u>, and an administrative fine of \$5,000.00.</p> | <p>2. From a reprimand <u>and suspension followed by a period of probation</u>, 50 to 100 hours of community service, and an administrative fine of \$2,500.00 to a reprimand <u>and suspension followed by a period of probation</u>, and an administrative fine of <u>\$10,000.00</u> \$5,000.00 and probation.</p> |
| <p>(y) Conspiring to restrict another from lawfully advertising services. (Section 458.331(1)(y), F.S.)</p> | <p>(y) From a letter of concern to a reprimand, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$2,500.00</p> | <p>(y) From a reprimand, 50 to 100 hours of community service, and an administrative fine of \$2,500.00 to a reprimand, and an administrative fine of \$5,000.00.</p> |
| <p>(z) Aiding an unlawful abortion. (Section 458.331(1)(z), F.S.)</p> | <p>(z) From probation, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(z) From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(aa) Presigning prescription forms. (Section 458.331(1)(aa), F.S.)</p> | <p>(aa) From a letter of concern to a reprimand and an administrative fine of \$1,000.00 to a letter of concern, and an administrative fine of \$2,500.00.</p> | <p>(aa) From a reprimand to probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(bb) Failure to adequately supervise assisting personnel. (Section 458.331(1)(dd), F.S.)</p> | <p>(bb) From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(bb) From probation to suspension followed by probation, or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(cc) Improper use of substances for muscle building or enhancement of athletic performance. (Section 458.331(1)(ee), F.S.)</p> | <p>(cc) From a reprimand to suspension, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(cc) From suspension to be followed by a period of probation, to revocation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(dd) Use of amygdaline (laetrile). (Section 458.331(1)(ff), F.S.)</p> | <p>(dd) From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(dd) From suspension to be followed by a period of probation to revocation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(ee) Misrepresenting or concealing a material fact. (Section 458.331(1)(gg), F.S.)</p> | <p>(ee) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, 25 to 50 hours of community service or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.</p> | <p>(ee) From probation, 50 to 100 hours of community service to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.</p> |

(ff) Improperly interfering with an investigation or a disciplinary proceeding.
 (Section 458.331(1)(hh), F.S.)
 (Section 456.072(1)(r), F.S.)
 (gg) Failing to report any M.D., D.O. or PA, who is in violation of law.
 (Section 458.331(1)(ii), F.S.);
 (Section 456.072(1)(i), F.S.)
 (hh) No change.
 (ii) Violating Chapters 458, 456, F.S., or any rules adopted pursuant thereto.
 (458.331(1)(nn), F.S.)
 (jj) No change.
 (kk) Performing or attempting to perform health care services on the wrong patient, a wrong site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.
 (Section 456.072(1)(bb), F.S.)

(ll) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.
 (Section 456.072(1)(cc), F.S.)

(mm) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.
 (Section 456.072(1)(gg), F.S.)
 (nn) through (rr) No change.

(ff) From a reprimand to probation, ~~25 to 50 hours of community service~~ or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.
 (gg) From a letter of concern to probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00
 (ii) From a reprimand, ~~25 to 100 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00.
 (kk) From a \$1,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, undergo a risk management assessment, a one (1) hour lecture on wrong-site surgery, and suspension to be followed by a term of probation.
 (ll) From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.
 (mm) From reprimand to probation, ~~25 to 50 hours of community service~~ and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

(ff) From probation, ~~50 to 100 hours of community service~~ to revocation or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
 (gg) From probation to revocation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
 (ii) From probation, ~~100 to 200 hours of community service~~; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.
 (kk) From a \$7,500.00 fine, a reprimand, ~~100 to 200 hours of community service~~, and probation or denial to a \$10,000.00 fine and revocation.
 (ll) From a \$7,500.00 fine, a reprimand and probation, ~~100 to 200 hours of community service~~, or denial to revocation.
 (mm) From probation, ~~50 to 100 hours of community service~~ to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(3) through (4) No change.

Rulemaking Authority 456.079, 458.309, 458.331(4) FS. Law Implemented 456.072, 456.079, 458.331(4), 458.347(4)(e)1., (7)(g) FS. History—New 3-13-89, Formerly 21M-17.015, 61F6-17.015, 59R-30.015, Amended 6-7-98, 4-9-01, 5-16-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Council on Physician Assistants
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.001
 RULE TITLE: Examination for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment because the examination is being developed and administered by a national company and the rule must be updated to reflect this change.

SUMMARY: The rule amendment will update the rule to reflect the change of the examination being developed and administered by a national company.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.017(1)(d),(5), 484.005 FS.

LAW IMPLEMENTED: 456.017(1)(d), (5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.001 Examination for Licensure.

(1) There shall be three ~~five~~ parts to the examination for Florida Licensure in opticianry: a national written opticianry competency examination; a national written contact lens examination; and the National Commission of State Opticianry

and Regulatory Boards (NCSORB) Examination, which is composed of two parts a neutralization examination; a dispensing problems examination; and a practical examination.

(2) The national written opticianry competency examination portion of the examination shall be the National Opticianry Competency Examination developed by the American Board of Opticianry. This portion of the licensure examination shall be completed through the American Board of Opticianry, and proof of successful completion shall be required prior to a candidate's taking of the state board approved ~~practical~~ examination.

(3) The national written contact lens examination portion of the examination shall be the Contact Lens Registry Examination developed by the National Contact Lens Examiners. This portion of the licensure examination shall be completed through the National Contact Lens Examiners, and proof of successful completion shall be required prior to a candidate's taking of the state board approved ~~practical~~ examination.

(4) The criteria for determining the minimum score necessary for passing the National Opticianry Competency Examination and the Contact Lens Registry Examination shall be developed through the collective judgment of qualified experts appointed by the "American Board of Opticianry" to set the score that represents the minimum amount of knowledge necessary to pass the examination. The National Commission of State Opticianry and Regulatory Boards (NCSORB) examination shall be scored using the criterion-referenced passing score established by the NCSORB.

(5) Proof of having successfully completed the national portions of the examination shall consist of certification of the candidate's scores from the testing body directly to the Board. It is the candidate's responsibility to arrange for transfer of scores. The scores shall reflect that the candidate successfully completed the examinations within the three years preceding application for licensure. If however, the candidate successfully completed the examinations and has maintained a current certificate by having completed continuing education courses, the Board shall accept a copy of the original certificate of National Certification.

(6) Applicants, who have been certified eligible by the board, having completed all requirements, will be admitted to take the National Commission of State Opticianry and Regulatory Boards (NCSORB) neutralization, the dispensing problems, and the practical examinations.

(7) ~~The neutralization examination for opticianry licensure shall require candidates to neutralize lenses within the tolerances set out in the American National Standard (Z80.1-1987) A score of at least seventy percent (70%) shall be required to pass the neutralization examination.~~

~~(8) The dispensing problems examination for opticianry licensure shall be taken via computer at a testing center. A score of at least seventy percent (70%) shall be required to pass the dispensing problems examination.~~

~~(9) The practical examination for opticianry licensure shall consist of:~~

- ~~(a) Measuring and Calipering~~
- ~~(b) Lens Identification~~
- ~~(c) Fitting and Adjusting~~
- ~~(d) Pupillary Distance~~

~~Grading tolerances for measuring and calipering shall be as follows:~~

- ~~Thickness \pm .2mm~~
- ~~Base curve \pm .25 diopters~~
- ~~Length \pm 2mm~~
- ~~Mechanical \pm 1mm~~
- ~~Width \pm 1mm~~
- ~~Decentration \pm 1mm~~

~~Grading tolerances for pupillary distance shall be as follows:~~

- ~~Monoocular Distance P.D.~~
- ~~Left and right \pm 1mm~~
- ~~Binoocular P.D.~~
- ~~Distance and near \pm 2mm~~

~~A score of at least seventy percent (70%) shall be required to pass the practical examination.~~

~~(10) In arriving at a final score for each part of the examination that uses percentage scores, any percentage score which contains a fractional part of a point of one-half (.5) or higher will be raised to the next highest whole number.~~

~~(11) When requested in writing by an applicant, the Board shall provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this rule provision shall bear the full cost for the Department's development, preparation, administration, grading, and evaluation of any examination in a language other than English.~~

Rulemaking Specific Authority 456.017(1), ~~(5)~~, 484.005 FS. Law Implemented 456.017(1), ~~(5)~~ FS. History—New 12-6-79, Amended 8-10-80, 3-11-81, 10-29-81, 6-30-82, 8-11-82, 2-2-83, 8-29-85, Formerly 21P-9.01, Amended 9-17-87, 3-30-89, 2-18-93, Formerly 21P-9.001, Amended 5-2-94, Formerly 61G13-9.001, Amended 5-4-97, Formerly 59U-9.001, Amended 4-20-98, 9-12-99, 1-7-03, 8-28-05, 7-12-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.0015
RULE TITLE: Application for Examination and Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the application process and requirements for licensure examination; to update and incorporate by referenced form DH-MQA 1065, "Application for Licensure Examination"; and to renumber the rule accordingly.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the application process and requirements for licensure examination; to update and incorporate by reference form DH-MQA 1065, "Application for Licensure Examination"; and to renumber the rule accordingly.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.017(2), 484.005 FS.

LAW IMPLEMENTED: 456.017(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.0015 Application for Examination and Licensure

(1) Any person seeking licensure as an optician shall submit to the Board a completed application to take the examination on Form DH-MQA 1065, Application for Licensure Examination, (revised 11/1109), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at www.doh.state.fl.us/mqa/opticianry. The application shall be accompanied with the application fee specified in Rule 64B12-11.002, F.A.C., which is non-refundable, and the examination fee specified in Rule 64B 1.016, F.A.C., which shall be refunded if the applicant is denied examination or does not timely complete application.

~~(2) A completed application with appropriate fees shall be received in the Board office at least 60 days prior to the examination.~~

~~(2)(3)~~ Any application which is not accompanied with the application appropriate fees shall not be accepted for review and shall be returned to the applicant.

~~(3)(4)~~ No change.

~~(4)(5)~~ Upon certifying applicants for the licensure examination, the Board shall also certify applicants for licensure, contingent and effective upon the following:

(a) through (c) No change.

~~(d) Successful completion of a two-hour live technical practice continuing education course by a Board approved provider.~~

~~(e)(d)~~ No change.

~~(f)(e)~~ No change.

~~(6) Should the applicant be unable to sit for the examination due to illness, death of a family member, or similar circumstances beyond the applicant's control, then the examination fee shall be applied to the next examination for which the applicant can sit.~~

Rulemaking Authority 456.013, 456.017, 456.072, 484.005, 484.007, 484.014(2) FS. Law Implemented 456.013, 456.017, 456.072, 484.007, 484.014(2) FS. History--New 3-30-89, Amended 3-29-92, 2-18-93, Formerly 21P-9.0015, Amended 5-2-94, Formerly 61G13-9.0015, 59U-9.0015, Amended 1-4-98, 11-28-02, 8-28-05, 5-25-09, 5-19-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 4, 2011

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.002
RULE TITLE: Re-Examination

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the examination application process because a national company is now administering the examination and the application process and requirements have changed. Form DH-MQA 1190, "Re-Examination Application," will be updated and incorporated by reference into the rule.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the examination application process because a national company is now administering the examination and the application process and requirements have changed. Form DH-MQA 1190, "Re-Examination Application," will be updated and incorporated by reference into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.017(2), 484.005 FS.

LAW IMPLEMENTED: 456.017(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.002 Re-Examination

An applicant who fails any portion of the National Commission of State Optionary and Regulatory Boards (NCSORB) state examination for licensure shall be required to pay the re-examination fee as set forth in Rule 64B 1.016, F.A.C., and to retake only that portion of the examination on which the applicant has not yet achieved a passing grade. However, an applicant may only retake any portion twice and must complete the retake(s) allowed retakes within 2 years of the original failed examination date. An applicant who has not achieved a passing score on all portions of the original examination within 2 years of the original examination date must apply for and take the entire current licensure examination excluding ABO and NCLE, provided current certification is maintained. An applicant seeking to retake any portion of the NCSORB state examination for licensure as described above shall submit to the Board a completed application on Form DH-MQA 1190, Re-Examination Application (revised 11/1109), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at www.doh.state.fl.us/mqa/opticianry. The application shall be accompanied with the application fee specified in Rule 64B12-11.002, F.A.C., which is non-refundable.

Rulemaking Authority 456.017(2), 484.005 FS. Law Implemented 456.017(2) FS. History--New 12-6-79, Amended 8-29-85, Formerly 21P-9.02, Amended 3-10-86, 3-5-87, Formerly 21P-9.002, Amended 5-2-94, Formerly 61G13-9.002, 59U-9.002, Amended 8-28-05, 6-17-09, 5-19-10_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-10.007 RULE TITLE: Minimum Equipment Requirements
PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the minimum equipment maintained in each office where opticianry is practiced.
SUMMARY: The rule amendment will clarify the minimum equipment maintained in each office where opticianry is practiced.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 484.005(2) FS.

LAW IMPLEMENTED: 484.002(3), 484.005(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-10.007 Minimum Equipment Requirements

The following equipment must be maintained in each office in which an optician practices opticianry:

- (1) through (9) No change.
- (10) A non-expired set ~~Set~~ of trial soft contact lenses, if fitting and adapting contact lenses pursuant to subsection 64B12-10.009(2), F.A.C.

Rulemaking Specific Authority 484.005(2) FS. Law Implemented 484.002(3), 484.005(2) FS. History--New 12-6-79, Formerly 21P-10.07, Amended 5-31-87, Formerly 21P-10.007, 61G13-10.007, 59U-10.007, Amended 8-16-04_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-10.012
 RULE TITLE: Change of Address

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify process for notifying the Board of a change of address to comply with intention of the statute.

SUMMARY: The rule amendment will clarify process for notifying the Board of a change of address to comply with intention of the statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 484.005, 456.035 FS.

LAW IMPLEMENTED: 456.035 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-10.012 Change of Address.

Each licensee shall notify the Board of any change of the licensee's current mailing address, and practice address in writing within thirty (30) working days of the address change.

Rulemaking Specific Authority 484.005, 456.035 FS. Law Implemented 456.035 FS. History--New 4-22-90, Formerly 21P-10.012, Amended 4-17-94, Formerly 61G13-10.012, 59U-10.012, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-11.003
 RULE TITLE: Active Status Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to lower the renewal fee for an active status license.

SUMMARY: The rule amendment will lower the renewal fee for an active status license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.025, 456.036, 484.005, 484.008(1) FS.

LAW IMPLEMENTED: 484.008(1), 455.271 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.003 Active Status Fee

The fee for biennial renewal of an optician's active status license shall be \$~~125.00~~ ~~150.00~~.

Rulemaking Specific Authority ~~456.025, 456.036, 484.005, 484.008(1) FS. Law Implemented 484.008(1), 455.271 FS. History--New 12-6-79, Amended 6-30-82, Formerly 21P-11.03, Amended 3-30-89, 7-10-89, 7-3-91, Formerly 21P-11.003, 61G13-11.003, Amended 10-24-94, Formerly 59U-11.003, Amended 1-4-98, 2-1-04,~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-15.001
RULE TITLE: Continuing Education for License Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language to clarify the requirements for continuing education for license renewal and to renumber the rule accordingly.

SUMMARY: The rule amendment will delete unnecessary language to clarify the requirements for continuing education for license renewal and to renumber the rule accordingly.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013(8), (9), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(8),(9), 484.008(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-15.001 Continuing Education for License Renewal,

(1) through (5) No change.

~~(6) Licensed opticians who serve as full-time instructors of opticianry at an educational institution accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on Postsecondary Education shall not be required to complete continuing education courses in order to renew their licenses, so long as they were so employed during the entire biennium.~~

~~(6)(7) No change.~~

Rulemaking Specific Authority 456.013(8), (9), 484.005, 484.008(3) FS. Law Implemented 456.013(8), (9), 484.008(3) FS. History--New 10-12-80, Amended 6-30-82, 12-5-82, 9-5-83, 8-30-84, Formerly 21P-15.01, Amended 3-5-87, 9-17-87, 3-30-89, 12-23-90, 6-11-92, 2-18-93, 5-19-93, Formerly 21P-15.001, Amended 4-17-94, Formerly 61G13-15.001, Amended 8-8-94, 3-14-95, 4-18-96, Formerly 59U-15.001, Amended 8-6-97, 4-20-99, 7-27-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-16.003
RULE TITLE: Apprenticeship Requirements and Training Program

PURPOSE AND EFFECT: The Board proposes the rule amendment modify the language to clarify the requirements for apprenticeship and training programs. The rule amendment will also provide the website where form DH-MQA 1063, "Apprenticeship Sponsor Form," can be downloaded.

SUMMARY: The rule amendment will modify the language to clarify the requirements for apprenticeship and training programs. The rule amendment will also provide the website where form DH-MQA 1063, "Apprenticeship Sponsor Form," can be downloaded.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 484.005 FS.

LAW IMPLEMENTED: 484.007(1)(d)4. FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-16.003 Apprenticeship Requirements and Training Program.

(1) No change.

(2) An apprentice shall have no more than two sponsors at any given time. If an apprentice has two sponsors, one sponsor shall be the primary sponsor responsible for the secondary sponsor and the apprentice. The primary sponsor shall be responsible for the completion, filing, signature and

verification of the Apprenticeship Sponsor Form (DH-MQA 1063, revised 11/08) which is hereby adopted and incorporated by reference, which can be obtained from the Board's website at www.doh.state.fl.us/mqa/opticianry. The secondary sponsor may work with the apprentice in a store or office other than the primary store or office as long as the apprentice works under the apprenticeship requirements and training program.

(3) No change.

(4) An apprenticeship shall consist of 6,240 hours of training, completed within five years after the apprentice's first registration with the Department. However, time spent in training at a board-approved school of opticianry may be substituted for required apprenticeship time. Each credit hour earned at such school shall count as 86.67 apprenticeship hours.

(a) No change.

(b) Each sponsor may attend a Board-approved Apprentice/Sponsor Orientation course. This course will count toward either the elective or the laws and rules continuing education requirement pursuant to Rule 64B12-15.003, F.A.C.

(c) No change.

(5) through (6) No change.

Rulemaking Authority 484.005 FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History--New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4-23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02, 4-11-06, 9-27-06, 4-19-07, 11-20-07, 5-25-09, 11-29-09, 5-19-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2012

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-6.011 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the disciplinary guidelines for physician assistants and to address comments submitted by the staff of the Joint Administrative Procedures Committee.

SUMMARY: The proposed rule amendments set forth violations and the range of disciplinary guidelines for the violations with regard to physician assistants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.079, 459.015(5) FS.

LAW IMPLEMENTED: 456.072, 456.079, 459.015(5), 459.022(4)(e)1., (7)(f) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-6.011 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon physician assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

RECOMMENDED PENALTIES

(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board.

(Section 459.015(1)(a), F.S.);

(Section 456.072(1)(h), F.S.)

1. No change.

2. Attempting to renew a license by bribery or fraud.

3. Obtaining or renewing a license by bribery or fraud.

4. Obtaining or renewing a license through error of the Department or the Board.

First Offense

2. Revocation of the license and payment of a ~~\$5,000.00 fine to revocation and a \$10,000.00 fine.~~

3. Revocation of the license and payment of a ~~\$5,000.00 fine to revocation and a \$10,000.00 fine.~~

4. Revocation.

Subsequent Offenses

~~2. Revocation and a \$10,000.00 fine.~~

~~3. Revocation and a \$10,000.00 fine.~~

~~4. Revocation.~~

(b) Action taken against license by another jurisdiction.
(Section 459.015(1)(b), F.S.);
(Section 456.072(1)(f), F.S.)

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilt of crime directly relating to practice or ability to practice.
(Section 459.015(1)(c), F.S.);
(Section 456.072(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising.
(Section 459.015(1)(d), F.S.)

(e) Failure to report another licensee in violation.
(Section 459.015(1)(e), F.S.);
(Section 456.072(1)(i), F.S.)

(f) Aiding unlicensed practice.
(Section 459.015(1)(f), F.S.);
(Section 456.072(1)(j), F.S.)

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00.

1. Revocation and an administrative fine of ~~\$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.

2. From an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, and an administrative fine of \$1,000.00 to \$5,000.00, ~~and 50 to 100 hours of community service~~.

1. Revocation and an administrative fine of ~~\$10,000.00 ranging from \$5,000.00 to \$10,000.00~~, or in the case of application for licensure, denial of licensure.

2. From an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, ~~and 50 to 100 hours of community service~~.

(e) From a letter of concern to probation, an administrative fine ranging from \$1,000.00 to \$2,500.00, ~~25 to 50 hours of community service~~, or denial of licensure.

(f) From reprimand to suspension, followed by probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. ~~From revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine of ~~\$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, ~~and from 100 to 200 hours of community service~~.

2. From an administrative fine of ~~\$10,000.00 ranging from \$2,500.00 to \$5,000.00~~, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, ~~and 100 to 200 hours of community service~~.

(e) From reprimand to suspension or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00 ~~and 50 to 100 hours of community service~~.

(f) From probation to revocation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(g) Failure to perform legal obligation. (Section 459.015(1)(g), F.S.); (Section 456.072(1)(k), F.S.)

1. Continuing medical education (CME) violations. (Section 456.072(1)(e), F.S.); (Section 456.072(1)(s), F.S.); (Section 456.033(9), F.S.)

a. Failure to document required HIV/AIDS, or end of life care, or palliative health care.

b. Failure to document required domestic violence CME or substitute end of life care CME.

c. Failure to document required HIV/AIDS, or end of life care, or palliative health care, and failure to document domestic violence CME.

2. No change.

3. Failing to disclose financial interest to patient. (Section 456.052, F.S.)

(h) No change.

1. Relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements. (Section 459.015(1)(j), F.S.)

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, ~~50 hours of community service~~, and an administrative fine from \$1,000.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$250.00 to \$500.00.

b. An administrative fine ranging from \$250.00 to \$500.00.

c. An administrative fine ranging from \$500.00 to \$1,000.00.

3. A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00, ~~50 hours of community service~~ to a reprimand, 100 hours of community service and an administrative fine of \$2,500.00.

1. Revocation and an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00~~, or in the case of application for licensure, denial of licensure.

2. ~~An~~ From an administrative fine of ~~\$10,000.00 ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service~~, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient from a reprimand and an administrative fine of \$1,000.00, ~~25 to 50 hours of community service~~ to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, ~~from 50 to 100 hours of community service~~, and an administrative fine from \$2,500.00 to \$5,000.00.

1. Document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine ranging from \$500.00 to \$1,000.00.

b. An administrative fine of \$500.00 to \$1,000.00.

c. An administrative fine ranging from \$1,000.00 to \$2,000.00.

3. A refund of fees paid by or on behalf of the patient and from a reprimand, ~~400 hours of community service~~ and an administrative fine of \$2,500.00 to a reprimand, 200 hours of community service and an administrative fine of \$5,000.00.

2. ~~An~~ From an administrative fine of ~~\$10,000.00 ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service~~, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, ~~50 to 100 hours of community service~~, from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(j) Sexual Misconduct.
(Section 459.015(1)(l), F.S.);
(Section 456.072(1)(v), F.S.)

(j) From probation to revocation, or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(j) From suspension, to be followed by a period of probation to revocation, ~~100 to 200 hours of community service~~ or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(k) Deceptive, untrue, or fraudulent representations in the practice of osteopathic medicine.
(Section 459.015(1)(m), F.S.);
(Sections 456.072(1)(a), (m), F.S.)

(k) From a letter of concern, ~~and 25 to 50 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00.~~

(k) From probation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00~~ to revocation.

1. Deceptive, untrue, or fraudulent representations in the practice of osteopathic medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00,~~ or in the case of application for licensure, denial of licensure.

1. From permanent revocation and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00,~~ or in the case of application for licensure, denial of licensure.

2. Deceptive, untrue, or fraudulent representations in the practice of osteopathic medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00,~~ ~~50 to 100 hours of community service~~, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00,~~ and suspension of the license, followed by a period of probation to revocation, ~~100 to 200 hours of community service~~, or in case of application for licensure, denial of licensure.

(l) Improper solicitation of patients.
(Section 459.015(1)(n), F.S.)

(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, ~~100 to 200 hours of community service~~, and a reprimand to probation, or denial of licensure.

(l) From suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

(m) Failure to keep legible written medical records.
(Section 459.015(1)(o), F.S.)

(m) From letter of concern, ~~25 to 50 hours of community service~~ to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(m) From a reprimand to suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.

1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

1. From revocation with leave to reapply in three (3) years, and an administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00,~~ or in the case of application for licensure, denial of licensure.

1. From permanent revocation and an administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00,~~ or in the case of application for licensure, denial of licensure.

2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$1,000.00 to \$5,000.00,~~ ~~and a reprimand,~~ ~~50 to 100 hours of community service~~ to suspension of the license, or in case of application for licensure, denial of licensure.

2. ~~An From an~~ administrative fine ~~of \$10,000.00 ranging from \$2,500.00 to \$5,000.00,~~ and suspension of the license, followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation, or in case of application for licensure, denial of licensure.

(n) Exercising influence on patient for financial gain.
(Section 459.015(1)(q), F.S.);
(Section 456.072(1)(n), F.S.)

(o) Improper advertising of pharmacy.
(Section 459.015(1)(r), F.S.)

(p) Performing professional services not authorized by patient.
(Section 459.015(1)(s), F.S.)

(q) Inappropriate or excessive prescribing.
(Section 459.015(1)(t), F.S.)

(r) Prescribing, dispensing, administering of a scheduled drug by the physician assistant to himself or herself.
(Section 459.015(1)(u), F.S.)
(s) Use of amygdalin (laetrile).
(Section 459.015(1)(v), F.S.)

(t) Inability to practice osteopathic medicine with skill and safety.
(Section 459.015(1)(w), F.S.)

(u)1. Malpractice: practicing below acceptable standard of care.
(Section 459.015(1)(x), F.S.)

2. Gross Malpractice

3. No change.

(n) Payment of fees paid by or on behalf of the patient and from a reprimand, ~~20 to 50 hours of community service~~ to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a letter of concern to probation, or a denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$250.00 to \$2,500.00.

(p) From a letter of concern, ~~25 to 50 hours of community service~~, to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(q) From reprimand to probation, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

(r) From probation to suspension or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(s) From a reprimand to probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(t) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(u)1. From a letter of concern, ~~25 to 50 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From a probation, ~~25 to 50 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(n) Payment of fees paid by or on behalf of the patient and from probation, ~~50 to 100 hours of community service~~, to suspension, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a reprimand, ~~50 to 100 hours of community service~~, and an administrative fine of \$2,500.00 to probation, and an administrative fine from \$2,500.00 to \$5,000.00, or denial of licensure.

(p) From a reprimand, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(q) From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(r) From suspension, ~~50 to 100 hours of community service~~, to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(s) From suspension to be followed by a period of probation to revocation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(t) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine from \$2,500.00 to \$5,000.00.

(u)1. From reprimand, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

2. From suspension followed by probation to revocation or denial, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(v) Performing of experimental treatment without informed consent.
(Section 459.015(1)(y), F.S.)

(w) No change.
(x) Delegation of professional responsibilities to unqualified person.
(Section 459.015(1)(aa), F.S.);
(Section 456.072(1)(p), F.S.)

(y)1. Violation of law, rule, or failure to comply with subpoena.
(Section 459.015(1)(bb), F.S.);
(Sections 456.072(1)(b), (q), F.S.)

2. Violation of an order of the Board.

(z) Conspiring to restrict another from lawfully advertising services.
(Section 459.015(1)(cc), F.S.)

(aa) Aiding an unlawful abortion.
(Section 459.015(1)(dd), F.S.)

(bb) Presigning prescription forms.
(Section 459.015(1)(ee), F.S.)

(cc) Improperly interfering with an investigation or a disciplinary procedure.
(Section 459.015(1)(kk), F.S.);
(Section 456.072(1)(r), F.S.)

(dd) Failing to report any M.D., D.O., or PA, who is in violation of law.
(Section 459.015(1)(ll), F.S.);
(Section 456.072(1)(i), F.S.)

(v) From a letter of concern to suspension, to be followed by a period of probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00

(x) From reprimand to suspension, followed by probation, ~~25 to 50 hours of community service~~, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(y)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, ~~25 to 100 hours of community service~~ and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From a reprimand and suspension followed by a period of probation, ~~25 to 50 hours of community service~~, and an administrative fine of \$1,000.00 to a reprimand and suspension followed by a period of probation and an administrative fine of \$5,000.00.

(z) From a letter of concern to a reprimand, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(aa) From probation, ~~25 to 50 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(bb) From a letter of concern to a reprimand and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$2,500.00.

(cc) From a reprimand to probation, 25 to 50 hours of community service, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(dd) From a letter of concern to probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(v) From suspension to be followed by a period of probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(x) From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(y)1. From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

2. From a reprimand and suspension followed by a period of probation, ~~50 to 150 hours of community service~~, and an administrative fine of \$2,500.00 to a reprimand and suspension followed by a period of probation and an administrative fine of \$5,000.00 ~~and probation~~.

(z) From a reprimand, ~~50 to 100 hours of community service~~, and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00.

(aa) From suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(bb) From a reprimand to probation, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(cc) From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(dd) From probation to revocation or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(ee) Failure to adequately supervise assisting personnel.
(Section 459.015(1)(hh), F.S.)

(ff) Improper use of substances for muscle building or enhancement of performance.
(Section 459.015(1)(ii), F.S.)

(gg) Misrepresenting or concealing a material fact during disciplinary or licensure procedure.
(Section 459.015(1)(jj), F.S.)

(hh) No change.
(ii) Violating Chapters 459, 456, F.S., or any rules adopted pursuant thereto.
(Section 459.015(1)(pp), F.S.)

(jj) No change.
(kk) Performing or attempting to perform health care services on the wrong patient, a wrong site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.
(Section 456.072(1)(bb), F.S.)

(ll) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.
(Section 456.072(1)(cc), F.S.)
(mm) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.
(Section 456.072(1)(gg), F.S.)
(nn) through (rr) No change.

(ee) From a reprimand to probation, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(ff) From a reprimand to suspension, or denial of licensure, ~~25 to 50 hours of community service~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(gg) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, ~~25 to 50 hours of community service~~, or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.

(ii) From a reprimand, ~~25 to 100 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00.

(kk) From a \$1,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, undergo a risk management assessment, a one (1) hour lecture on wrong-site surgery, and suspension to be followed by a term of probation.

(ll) From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.

(mm) From reprimand to probation, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

(ee) From probation to suspension followed by probation, or denial of licensure, ~~50 to 100 hours of community service~~, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(ff) From suspension to be followed by a period of probation, to revocation or denial of licensure, ~~50 to 100 hours of community service~~ and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(gg) From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.

(ii) From probation, ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(kk) From a \$7,500.00 fine, a reprimand, ~~100 to 200 hours of community service~~, and probation or denial to a \$10,000.00 fine and revocation.

(ll) From a \$7,500.00 fine, a reprimand and probation, ~~100 to 200 hours of community service~~, or denial to revocation.

(mm) From probation, ~~50 to 100 hours of community service~~ to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(3) through (4) No change.

Rulemaking Authority 456.079, 459.015(5) FS. Law Implemented 456.072, 456.079, 459.015(5), 459.022(4)(e)1., (7)(f) FS. History—New 4-18-89, Formerly 21R-6.011, Amended 11-4-93, Formerly 61F9-6.011, 59W-6.011, Amended 6-7-98, 4-9-01, 7-13-03, 5-16-10,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Council on Physician Assistants

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-14.0051
RULE TITLE: Training Requirements for Physicians Practicing in Pain Management Clinics

PURPOSE AND EFFECT: The proposed rule amendments are intended to re-title the rule to “Training Requirements for Physicians Practicing in Pain Management Clinics” and to delete all the provisions in the rule except for the training requirements.

SUMMARY: The rule is being amended to delete all language except for the training requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 459.0137(4) FS.

LAW IMPLEMENTED: 459.0137 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

~~64B15-14.0051 Training Requirements Standards of Practice for Physicians Practicing in Pain Management Clinics. THIS RULE IS APPLICABLE TO PHYSICIANS PRACTICING IN PRIVATELY OWNED PAIN MANAGEMENT CLINICS THAT ARE REQUIRED TO BE REGISTERED PURSUANT TO SECTION 459.0137, F.S., WHO PRIMARILY ENGAGE IN THE TREATMENT OF PAIN BY PRESCRIBING OR DISPENSING CONTROLLED SUBSTANCE MEDICATIONS.~~

~~(1) Definitions. The following definitions apply to this rule only.~~

~~(a) Controlled Substance. A “controlled substance” is any substance named or described in Schedules I-V of Section 893.03, F.S.~~

~~(b) Adverse Incidents. An “adverse incident” is any incident set forth in Sections 459.026(4)(a)-(c), F.S.~~

~~(c) “Board certified pain management physician” means a physician who possesses Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine; or Board certification in pain medicine by the American Board of Pain Medicine (ABPM); or a Certificate of Added Qualification in Pain Management by the American Osteopathic Association (AOA).~~

~~(d) “Addiction medicine specialist” means a board certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine or an addiction medicine physician certified or eligible for certification by the American Society of Addiction Medicine (ASAM), or who holds a Certificate of Added Qualification in Addiction Medicine from the AOA.~~

~~(e) “Mental health addiction facility” means a facility licensed pursuant to Chapter 394 or 397, F.S.~~

~~(2) Standards of Practice in Pain Management Clinics.~~

~~(a) Evaluation of Patient and Medical Diagnosis. A complete medical history and a physical examination must be conducted prior to commencement of any treatment and documented in the medical record. The exact components of the physical examination shall be left to the judgment of the clinician who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and~~

intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of prior medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) ~~Treatment Plan.~~ The written individualized treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) ~~Informed Consent and Agreement for Treatment.~~ The physician shall discuss the risks and benefits of the use of controlled substances including the risks of abuse/addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The physician shall employ the use of a written controlled substance agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. ~~To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, drug testing shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician;~~

2. ~~Number and frequency of all prescription refills;~~

3. ~~Patient compliance and reasons for which drug therapy may be discontinued (e.g., violation of agreement); and~~

4. ~~Agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating physician unless otherwise authorized by the treating physician and documented in the medical record.~~

(d) ~~Periodic Review.~~ The patient shall be seen by the physician at regular intervals, not to exceed three months, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects and review the etiology of the pain. Continuation or modification of therapy shall depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician shall reevaluate the appropriateness of continued treatment. The physician shall monitor patient compliance in medication

usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of three-month intervals.

(e) ~~Consultation.~~ The physician shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and requires consultation with or referral to an addictionologist or psychiatrist.

(f) ~~Patient Drug Testing.~~ To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, patient drug testing shall be performed in accordance with one of the collection methods set forth below and shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician. Nothing in this rule shall preclude a pain management clinic from employing additional measures to assure the integrity of the urine specimens provided by patients.

1. ~~Referral to an outside laboratory.~~ A physician shall send the patient to a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory or a collection site owned or operated by a CLIA-certified laboratory;

2. ~~Specimen collected in the pain management clinic and sent to an outside laboratory for testing.~~ A physician shall collect in the office the patient specimen to be used for drug testing in a device that measures pH, specific gravity, and temperature and then the specimen shall be sent to a CLIA-certified laboratory. The physician shall follow the collection procedures required by the agreement the pain management clinic has entered into with the CLIA-certified laboratory it uses.

3. ~~Specimen collected and tested in office.~~ A physician shall collect and test in the office the specimen to be used for drug testing using CLIA-waived point-of-care test or CLIA-approved test that uses a device that measures the pH, specific gravity, and temperature. Results of the drug test shall be read according to the manufacturer's instructions.

(g) ~~Patient Medical Records.~~ The physician is required to keep accurate and complete records to include, but not be limited to:

1. ~~The complete medical history and a physical examination, including history of drug abuse or dependence;~~

2. ~~Diagnostic, therapeutic, and laboratory results;~~

3. ~~Evaluations and consultations;~~

4. ~~Treatment objectives;~~

5. ~~Discussion of risks and benefits;~~

6. Treatments;
7. Medications (including date, type, dosage, and quantity prescribed);
8. Instructions and agreements;
9. Periodic reviews;
10. Drug testing results;
11. A photocopy of the patient's government issued photo identification; and

12. If a written prescription for a controlled substance is given to the patient, a duplicate of said prescription must be maintained in the patient's medical record.

13. Each pain management clinic physician's medical record shall contain the physician's full name presented in a legible manner. In addition, each clinic must maintain a log on the premises which shall contain the full name, presented in a legible manner, along with a corresponding sample signature and initials of every physician, anesthesiologist assistant, and physician assistant working in the clinic.

14. Medical records must remain current, they must be maintained in an accessible manner and readily available for review and must be in full compliance with Rule 64B15-15.004, F.A.C., and Section 459.015(1)(o), F.S.

~~(h) Denial or Termination of Controlled Substance Therapy:~~

~~1. If a patient's initial drug testing reflects the adulteration of the specimen or the presence of illegal or controlled substances (other than medications with approved prescriptions), or when the testing result is questioned by either the patient or the physician, the specimen will be sent to a CLIA certified laboratory for gas or liquid chromatography/mass spectrometry (GC/MS or LC/MS or LC/MS/MS or GC/MS/MS) confirmation. If the result of the GC/MS or LC/MS or LC/MS/MS or GC/MS/MS testing is positive, the physician shall refer the patient for further consultation with a board certified pain management physician, an addiction medicine specialist, or to a mental health addiction facility as it pertains to drug abuse or addiction. After consultation is obtained, the physician shall document in the medical record the results of the consultation. The treating physician shall not prescribe or dispense any controlled substances until there is written concurrence of medical necessity of continued controlled substance therapy provided by a board certified pain management physician, an addiction medicine specialist, or from a mental health addiction facility. If the treating physician is a board certified pain management physician, or an addiction specialist, the physician does not need to refer the patient for further consultation. If the physician suspects diversion, then the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.~~

~~2. For patients currently in treatment by the physician or any other physician in the same pain management clinic, patients with signs or symptoms of substance abuse, shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the physician is board-certified or board-eligible in pain management. Throughout the period of time prior to receiving the consultant's report, a prescribing physician shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to assure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing physician will incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record.~~

~~3. For patients currently in treatment by the physician or any other physician in the same pain management clinic, evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy and the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.~~

~~(i) Facility and Physical Operations:~~

~~1. A pain management clinic shall be located and operated at a publicly accessible fixed location and shall contain the following:~~

- a. A sign that can be viewed by the public that contains the clinic name, hours of operations, and a street address;
- b. A publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four hours per day;
- c. Emergency lighting and communications;
- d. Reception and waiting area;
- e. Restroom;
- f. Administrative area including room for storage of medical records, supplies and equipment;
- g. Private patient examination room(s);
- h. Treatment room(s) if treatment is being provided to the patient;
- i. A printed sign located in a conspicuous place in the waiting room viewable by the public disclosing the name and contact information of the clinic Designated Physician, and the names of all physicians practicing in the clinic;
- j. Storage and handling of prescription drugs. Clinics that store and dispense prescription drug shall comply with Sections 499.0121, 893.07, F.S., and Rule 64F 12.012, F.A.C.

~~2. Nothing in this subsection shall excuse a physician from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care.~~

~~(j) Infection Control.~~

~~1. The clinic shall maintain equipment and supplies to support infection prevention and control activities.~~

~~2. The clinic shall identify infection risks based on the following:~~

~~a. Geographic location, community, and population served;~~

~~b. The care, treatment and services it provides; and~~

~~c. An analysis of its infection surveillance and control data.~~

~~3. The clinic shall maintain written infection prevention policies and procedures that address the following:~~

~~a. Prioritized risks;~~

~~b. Limiting unprotected exposure to pathogen;~~

~~c. Limiting the transmission of infections associated with procedures performed in the clinic; and~~

~~d. Limiting the transmission of infections associated with the clinic's use of medical equipment, devices, and supplies.~~

~~(k) Health and Safety.~~

~~1. The clinic, including its grounds, buildings, furniture, appliances and equipment shall be structurally sound, in good repair, clean, and free from health and safety hazards.~~

~~2. The clinic shall have evacuation procedures in the event of an emergency which shall include provisions for the evacuation of disabled patients and employees.~~

~~3. The clinic shall have a written facility-specific disaster plan which sets forth actions that will be taken in the event of clinic closure due to unforeseen disasters which shall include provisions for the protection of medical records and any controlled substances.~~

~~4. Each clinic shall have at least one employee on the premises during patient care hours that is certified in Basic Life Support and is trained in reacting to accidents and medical emergencies until emergency medical personnel arrive.~~

~~(l) Quality Assurance. Each pain management clinic shall have an ongoing quality assurance program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, evaluates methods to improve patient care, identifies and corrects deficiencies within the facility, alerts the Designated Physician to identify and resolve recurring problems, and provides for opportunities to improve the facility's performance and to enhance and improve the quality of care provided to the public. The Designated Physician shall establish a quality assurance program that includes the following components:~~

~~1. The identification, investigation, and analysis of the frequency and causes of adverse incidents to patients;~~

~~2. The identification of trends or patterns of incidents;~~

~~3. The development of measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients, and~~

~~4. The documentation of these functions and periodic review no less than quarterly of such information by the designated physician.~~

~~5. The Quality Assurance program must be reviewed once every three years by a Florida licensed risk manager and documentation of said review must be provided to the Department together with any corrective action plan within 30 days of the review and maintained for inspection purposes.~~

~~(m) Data Collection and Reporting.~~

~~1. Reporting of adverse incidents. The Designated Physician for each pain management clinic shall report all adverse incidents to the Department of Health as set forth in Section 459.026, F.S.~~

~~2. The Designated Physician shall also report to the Board of Osteopathic Medicine, in writing, on a quarterly basis the following data:~~

~~a. Number of new and repeat patients seen and treated at the clinic who are prescribed or dispensed controlled substance medications for the treatment of chronic, non-malignant pain;~~

~~b. The number of patients discharged due to drug abuse;~~

~~c. The number of patients discharged due to drug diversion; and~~

~~d. The number of patients treated at the pain clinic whose domicile is located somewhere other than in Florida. A patient's domicile is the patient's fixed or permanent home to which he intends to return even though he may temporarily reside elsewhere.~~

~~3. All physicians practicing in pain management clinics shall advise the Board of Osteopathic Medicine in writing, within 10 calendar days of beginning or ending his or her practice at a pain management clinic.~~

~~(n) Training Requirements. Effective July 1, 2012, physicians who have not met the qualifications set forth in subsections (1) through (6) subparagraphs 1. through 6., below, shall have successfully completed a pain medicine fellowship that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or a pain medicine residency that is accredited by ACGME or the AOA. Prior to July 1, 2012, physicians prescribing or dispensing controlled substance medications in pain management clinics registered pursuant to Section 459.0137(1), F.S., must meet one of the following qualifications:~~

~~(1)1- Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine; or a Certificate of Added Qualification in Pain Management by the American Osteopathic Association;~~

~~(2)2- Board certification in pain medicine by the American Board of Pain Medicine (ABPM);~~

~~(3)3-~~ Successful completion of a pain medicine fellowship that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or a pain medicine residency that is accredited by the ACGME or the AOA;

~~(4)(a)4.a-~~ Successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, or psychiatry approved by the ACGME or the AOA;

~~(b)b-~~ Successful completion of a residency program in family practice, internal medicine, or orthopedics approved by the AOA; or

~~(c)c-~~ Current Certificate of Added Qualification approved by the AOA in hospice, palliative medicine or geriatric medicine.

~~(5)5-~~ Current staff privileges at a Florida-licensed hospital to practice pain medicine or perform pain medicine procedures;

~~(6)6-~~ Three (3) years of documented full-time practice, which is defined as an average of 20 hours per week each year, in pain-management and within six months of the effective date of this rule, attendance and successful completion of 40 hours of in-person, live-participatory AMA Category I or AOA Category IA CME courses in pain management that address all the following subject areas:

~~(a)a-~~ The goals of treating both short term and ongoing pain treatment;

~~(b)b-~~ Controlled substance prescribing rules, including controlled substances agreements;

~~(c)c-~~ Drug screening or testing, including usefulness and limitations;

~~(d)d-~~ The use of controlled substances in treating short-term and ongoing pain syndromes, including usefulness and limitations;

~~(e)e-~~ Evidenced-based non-controlled pharmacological pain treatments;

~~(f)f-~~ Evidenced-based non-pharmacological pain treatments;

~~(g)g-~~ A complete pain medicine history and a physical examination;

~~(h)h-~~ Appropriate progress note keeping;

~~(i)i-~~ Comorbidities with pain disorders, including psychiatric and addictive disorders;

~~(j)j-~~ Drug abuse and diversion, and prevention of same;

~~(k)k-~~ Risk management; and

~~(l)l-~~ Medical ethics.

In addition to the CME set forth in subsection (6) subparagraph 6- above, physicians must be able to document hospital privileges at a Florida-licensed hospital; practice under the direct supervision of a physician who is qualified in subsections (1) through (4) subparagraphs 1- through 4- above;

or have the practice reviewed by a Florida-licensed risk manager and document compliance with all recommendations of the risk management review.

~~(7)7-~~ Upon completion of the 40 hours of CME set forth above, physicians qualifying under ~~(6) subparagraph 6-~~ above, must also document the completion of 15 hours of in-person, live participatory AMA Category I or AOA Category IA CME in pain management for every year the physician is practicing pain management.

Rulemaking Authority 459.0137(4) FS. Law Implemented 459.0137 FS. History—New 11-8-10, Amended 3-16-11,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-19.002
RULE TITLE: Violations and Penalties

PURPOSE AND EFFECT: The proposed rule amendments are intended address written comments submitted by the staff of the Joint Administrative Procedures Committee and to set forth additional violations and the range of penalties for those violations.

SUMMARY: The proposed rule amendments address written comments submitted by the staff of the Joint Administrative Procedures Committee (JAPC) and set forth additional statutory violations and the range of penalties for those violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. 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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.079, 459.015(5) FS.

LAW IMPLEMENTED: 456.072, 456.079, 456.50 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

(1) through (70) No change.

(71) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime which relates to health care fraud.

(459.015(1)(rr)7., F.S.)

(a) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

FIRST OFFENSE:

~~SECOND OFFENSE:~~

(b) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

~~(459.015(1)(rr), F.S.)~~

~~FIRST OFFENSE:~~

~~SECOND OFFENSE:~~

(72) through (75) No change.

(76) Failure to comply with the controlled substance prescribing requirements of Section 456.44, F.S.

(456.072)(1)(mm), F.S.

FIRST OFFENSE:

SECOND OFFENSE:

(77) Providing false or deceptive expert witness testimony related to the practice of medicine.

(456.072)(1)(qq), F.S.

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.002 Violations and Penalties.

In imposing discipline upon applicants and licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited directly under each violation description.

~~revocation and a \$10,000~~ ~~revocation and a \$10,000 fine.~~
~~\$5,000 fine.~~

~~revocation and a \$7,500~~ ~~revocation and a \$10,000 fine.~~
~~fine.~~

suspension, followed by a period of probation, and a \$10,000 fine.
revocation and a \$10,000 fine.

suspension of license for a period of six (6) months followed by a period of probation and an administrative fine in the amount of \$10,000.00. revocation and an administrative fine in the amount of \$10,000.00.

suspension of license for a period of one (1) year followed by a period of probation and an administrative fine in the amount of \$10,000.00. revocation and an administrative fine in the amount of \$10,000.00.

suspension of license for a period of one (1) year followed by a period of probation and an administrative fine in the amount of \$10,000.00.

<u>FIRST OFFENSE:</u>	<u>reprimand and an administrative fine of \$5,000.00.</u>	<u>revocation and an administrative fine of \$10,000.00.</u>
<u>SECOND OFFENSE:</u>	<u>suspension and an administrative fine of \$7,500.00.</u>	<u>revocation and an administrative fine of \$10,000.00.</u>
<u>(78) Failure to comply with the requirements of Section 390.0111(3), F.S., regarding termination of pregnancies. (456.072)(1) (k), F.S.</u>		
<u>FIRST OFFENSE:</u>	<u>letter of concern and an administrative fine of \$1,000.00.</u>	<u>a period of probation and an administrative fine in the amount of \$2,500.00.</u>
<u>SECOND OFFENSE:</u>	<u>reprimand and an administrative fine of \$2,500.00.</u>	<u>suspension followed by a period of probation and an administrative fine in the amount of \$5,000.00.</u>
<u>THIRD OFFENSE:</u>	<u>reprimand and an administrative fine of \$5,000.00.</u>	<u>revocation and an administrative fine in the amount of \$10,000.00.</u>

Rulemaking Authority 456.079, 459.015(5) FS. Law Implemented 456.072, 456.079, 456.50 FS. History—New 9-30-87, Amended 10-28-91, 1-12-93, Formerly 21R-19.002, 61F9-19.002, 59W-19.002, Amended 2-2-98, 2-11-01, 6-7-01, 2-26-02, 12-7-05, 11-14-06, 11-27-06, 5-10-10, 7-27-10, 11-10-11,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19 and November 4, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO 64B15-22.004 RULE TITLE: Mandatory Registration of Unlicensed Physicians

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised unlicensed physician registration in the rule and to delete rule language which is unnecessary.

SUMMARY: The proposed rule amendment incorporates the revised unlicensed physician registration in the rule and deletes rule language which is unnecessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 459.005, 459.021 FS.

LAW IMPLEMENTED: 459.021 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-22.004 Mandatory Registration of Unlicensed Physicians.

Registration as a resident, intern, or fellow shall be accomplished by completing the board approved application form, DH-MQA 1172 (Revised 08/11 05/10), Application for Registration as an Osteopathic Physician in Training, which is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way,

Bin #C06, Tallahassee, Florida 32399-3256, or from the Board's website at: www.doh.state.fl.us/mqa/osteopath/index.html. ~~Said application shall include the following information:~~

- ~~(1) Full name and address.~~
- ~~(2) Date of Birth.~~
- ~~(3) The name and address of their training hospital/program.~~
- ~~(4) The date of commencement of their internship or residency.~~
- ~~(5) The name of the institution and the date of receipt of their Doctor of Osteopathic medicine degree.~~

Rulemaking Authority 459.005, 459.021 FS. Law Implemented 459.021 FS. History--New 10-28-91, Amended 1-3-93, Formerly 21R-22.004, 61F9-22.004, 59W-22.004, Amended 1-19-98, 6-28-09, 4-15-10, 9-16-10_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-3.001

RULE TITLE: Licensure as a Physical Therapist by Examination

PURPOSE AND EFFECT: The Board proposes to delete visa screening and English proficiency requirements as well as revising the application date.

SUMMARY: Removing English proficiency and visa screening as well as updating the application revised date.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and

that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.031(3) FS.

LAW IMPLEMENTED: 456.017, 486.031, 486.051 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.001 Licensure as a Physical Therapist by Examination.

Every physical therapist who applies for licensure by examination shall file DOH Form #DH-MQA 1142 Application for Licensure, Revised ~~01/12~~ ~~02/10~~, incorporated by reference, which is available through www.doh.state.fl.us/mqa, and demonstrate to the Board that the applicant:

- (1) through (2) No change.
- (3)(a) through (b)1.e. No change.

~~f. Is recognized to perform visa screening by the Immigration and Naturalization Service of the federal government.~~

g. through h. No change.

~~i. Until and including December 31, 2006, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum score of 220 on the computer based test or 560 on the paper test version of the Test of English as a Foreign Language (TOEFL) and 4.5 on the test of written English (TWE) and 50 on the test of spoken English (TSE).~~

- 2. No change.
- a. through d. No change.

~~3. Effective January 1, 2007, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum total score of 89 on the TOEFL as well as accompanying minimum scores in the test's four components of: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension.~~

Rulemaking Authority 486.025(1), 486.031(3) FS. Law Implemented 456.017, 486.031, 486.051 FS. History—New 8-6-84, Amended 6-2-85, Formerly 21M-7.20, Amended 5-18-86, Formerly 21M-7.020, 21MM-3.001, Amended 3-1-94, Formerly 61F11-3.001, Amended 12-22-94, 4-10-96, Formerly 59Y-3.001, Amended 12-30-98, 1-23-03, 4-9-06, 9-19-06, 3-13-07, 5-11-08, 5-21-09, 8-10-09, 7-5-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-3.003
RULE TITLE: Licensure by Endorsement

PURPOSE AND EFFECT: The Board proposes to revise the application date.

SUMMARY: Updating revised date of #DH-MQA 1142 Application for Licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.031(3) FS.
LAW IMPLEMENTED: 486.031, 486.051 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.003 Licensure by Endorsement.
An applicant filing DOH Form #DH-MQA 1142 Application for Licensure, Revised ~~01/12 02/10~~, which is available through www.doh.state.fl.us/mqa, and demonstrating that he or she meets the requirements of Rule 64B17-3.001, F.A.C., may be licensed to practice physical therapy by endorsement by presenting evidence satisfactory to the Board that the applicant has active licensure in another jurisdiction and has passed an examination before a similar, lawful, authorized examining board in physical therapy in such other jurisdiction if their standards for licensure are as high as those maintained in Florida. The standard for determining whether the standards of another jurisdiction are as high as the standards in Florida shall be whether the written examination taken for licensure in such other jurisdiction by applicants meeting Florida’s minimum educational qualifications was through the national physical therapy examination provider certified by the Department. An applicant who has failed to pass the National Physical Therapy Examination for Physical Therapists by or on the fifth attempt, regardless of the jurisdiction through which the examination was taken, is precluded from licensure.

Rulemaking Authority 486.025, 486.081 FS. Law Implemented 486.081 FS. History—New 8-6-84, Formerly 21M-7.26, Amended 5-18-86, Formerly 21M-7.026, 21MM-3.004, 61F11-3.004, 59Y-3.004, Amended 4-21-02, 11-11-02, 11-1-04, 4-9-06, 5-21-09, 8-10-09, 6-9-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-4.001
RULE TITLE: Licensure as a Physical Therapist Assistant by Examination

PURPOSE AND EFFECT: The Board proposes to delete visa screening and English proficiency requirements as well as revising the application date.

SUMMARY: Removing English proficiency and visa screening as well as updating the application revised date.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.102 FS.

LAW IMPLEMENTED: 456.017, 486.102(3), 486.104 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-4.001 Licensure as a Physical Therapist Assistant by Examination.

Every physical therapist assistant who applies for licensure by examination shall file DOH Form #DH-MQA 1142 Application for Licensure, Revised 01/12 ~~02/10~~, which is available through www.doh.state.fl.us/mqa, and demonstrate to the Board that the applicant:

(1) through (3) No change.

(a) through (b)1.e. No change.

~~f. Is recognized to perform visa screening by the Immigration and Naturalization Service of the federal government.~~

g. through h. renumbered f. through g. No change.

2.a. through d. No change.

~~3. Evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum total score of 89 on the TOEFL as well as accompanying minimum scores~~

~~in the test's four components of: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension.~~

Rulemaking Authority 486.025, 486.102 FS. Law Implemented 456.017, 486.102(3), 486.104 FS. History--New 8-6-84, Amended 6-2-85, Formerly 21M-10.20, Amended 5-18-86, Formerly 21M-10.020, 21MM-4.001, Amended 3-1-94, Formerly 61F11-4.001, Amended 12-22-94, 4-10-96, Formerly 59Y-4.001, Amended 1-23-03, 4-9-06, 9-19-06, 5-21-09, 9-22-09, 9-28-09, 6-9-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: RULE TITLE:

64B17-4.003 Licensure by Endorsement

PURPOSE AND EFFECT: The Board proposes to revise the application date.

SUMMARY: Updating revised date of #DH-MQA 1142 Application for Licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.102 FS.

LAW IMPLEMENTED: 456.017, 486.102(3), 486.104 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-4.003 Licensure by Endorsement.

An applicant, filing DOH Form #DH-MQA 1142 Application for Licensure, Revised ~~01/12~~ ~~02/10~~, which is available through www.doh.state.fl.us/mqa, and demonstrating that he or she is licensed in another state may be licensed to practice as a physical therapist assistant by endorsement by presenting evidence of active licensure in another jurisdiction, under oath, and evidence satisfactory to the Board that the applicant from such other jurisdiction has been licensed under standards for licensure as high as those maintained in Florida. The standard for determining whether those requirements are as high as those in Florida shall be whether the applicant was required to meet educational standards equivalent to those set forth in subsection 64B17-4.001(3), F.A.C., and whether the written examination taken for licensure in such other jurisdiction was through the designated national physical therapist assistants examination provider certified by the Department. An applicant who has failed to pass the National Physical Therapy Examination for Physical Therapist Assistants by or on the fifth attempt, regardless of the jurisdiction through which the examination was taken, is precluded from licensure.

Rulemaking Authority 486.025, 486.107(1) FS. Law Implemented 486.107(1) FS. History—New 8-6-84, Formerly 21M-10.26, Amended 5-18-86, Formerly 21M-10.026, 21MM-4.004, 61F11-4.004, 59Y-4.004, Amended 7-11-02, 11-11-02, 12-5-04, 4-9-06, 5-21-09, 9-28-09, 9-23-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.713
 RULE TITLE: SSI-Related Medicaid Income Eligibility Criteria

PURPOSE AND EFFECT: The proposed rule amendment adds the Request for Veterans Information, CF-ES 2262, and incorporates it by reference. The proposed rule adds language for Veterans Administration benefits and the Department's policy and procedures of such benefits. Included in this proposed rule amendment are some technical changes of a non-substantive nature improving the overall content of the rule.

SUMMARY: The proposed rule amendment adds the Request for Veterans Information CF-ES 2262 and associated policy of Veterans Administration benefits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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 Department considered the factors in Section 120.541, F.S. The proposed rule is not expected to exceed the criteria in paragraph 120.541(2)(a), F.S., therefore legislative ratification is not required under subsection 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 29, 2011, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

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 7 days before the workshop/meeting by contacting: Cindy Keil. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700, cindy_keil@dcf.state.fl.us, (850)717-4113

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.713 SSI-Related Medicaid Income Eligibility Criteria.

(1) Income limits. An individual's income must be within limits established by federal or state law and the Medicaid State Plan. The income limits are as follows:

(a) through (c) No change.

(d) For ICP, gross income cannot exceed 300 percent of the Supplemental Security Income (SSI) SSI federal benefit rate after consideration of allowable deductions set forth in subsection (2) below 65A-1.713(2), F.A.C. Individuals with income over this limit may qualify for institutional care services by establishing an income trust which meets criteria set forth in subsection 65A-1.702(15), F.A.C.

(e) through (h) No change.

(i) For Protected Medicaid, income cannot exceed the limits established in accordance with 42 U.S.C. § 1383c₂ (2000 Ed., Sup. IV) ~~(incorporated by reference)~~.

(j) No change.

(2) Included and Excluded Income. For all SSI-related coverage groups the ~~D~~department follows the SSI policy specified in 20 C.F.R. § 416.1100 et seq. (2007) 20 C.F.R. 416.1100 (2007) (incorporated by reference) et seq., including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance, unreimbursed Medical Expenses, and reduced VA Improved pensions, to determine what counts as income and what is excluded as income with the following exceptions:

(a) through (e) No change.

(3) The Veterans Administration (VA) provides a housebound allowance to eligible individuals who do not qualify for regular aid and attendance payments. This allowance can be paid to a veteran or widow or a widower who receives dependency or indemnity compensation. It is excluded income.

(4) The Veterans Administration provides an allowance for unreimbursed medical expenses incurred by the veteran that exceeds five percent of an individual's annual income. Unreimbursed medical expenses is excluded income. The Department can use form CF-ES 2262, Request for Veteran's Information, 11/2011 (incorporated by reference) to verify through the Department of Veterans Affairs the type and amount of VA payments.

~~(5)(3)~~ When Income Is Considered Available for Budgeting. The ~~D~~department counts income when it is received, when it is credited to the individual's account, or when it is set aside for their use, whichever is earlier.

(a) If a regular periodic payment is occasionally received in a month other than the normal month of receipt and there is no intent to interrupt the regular payment schedule the ~~D~~department considers the funds to be available income in the normal month of receipt. Examples include checks advance

dated because the regular payment date falls on a weekend or holiday, or electronic fund transfers or direct deposits which are posted to a bank account before or after the month they are payable.

(b) No change.

~~(6)(4)~~ Income Budgeting Methodologies. To determine eligibility SSI budgeting methodologies are applied except where expressly prohibited by 42 U.S.C. § 1396 (2000 Ed., Sup. IV) ~~(incorporated by reference)~~, or another less restrictive option is elected by the state under 42 U.S.C. § 1396a(r)(2) (2000 Ed., Sup. IV) ~~(incorporated by reference)~~. When averaging income, all income from the most recent consecutive four weeks shall be used if it is representative of future earnings. A longer period of past time may be used if necessary to provide a more accurate indication of anticipated fluctuations in future income.

(a) For MEDS-AD Demonstration Waiver, Protected Medicaid, Medically Needy, Qualified Working Disabled Individual, QMB, SLMB, QI1, and to compute the community spouse income allocation for spouses of ICP individuals, the following less restrictive methodology for determining gross monthly income is followed:

1. When income is received monthly or more often than once per month the monthly income from that source shall be computed by first determining the weekly income amount and then multiplying that amount by four 4. A five-week month shall not be treated any differently than a four-week month.

2. No change.

3. When earned income is received less often than monthly, the ~~D~~department counts the total amount in the month received and does not prorate.

(b) For institutional care, hospice, and HCBS waiver programs the ~~D~~department applies the following methodology in determining eligibility:

1. No change.

2. If the individual's monthly income does not exceed the institutional care income standard in any month the ~~D~~department will prorate the income over the period it is intended to cover to compute patient responsibility, provided that it does not result in undue hardship to the client. If it causes undue hardship it will be counted for the anticipated month of receipt.

(c) Medically Needy. The amount by which the individual's countable income exceeds the Medically Needy income level, called the "share of cost", shall be considered available for payment of medical care and services. The ~~D~~department computes available income for each month eligibility is requested to determine the amount of excess countable income available to meet medical costs. If countable income exceeds the Medically Needy income level the ~~D~~department shall deduct allowable medical expenses in chronological order, by day of service. Countable income is determined in accordance with subsection (2) above

65A-1.713(2), F.A.C. To be deducted the expenses must be unpaid, or if paid, must have been paid in the month for which eligibility is being determined or incurred and paid during the three previous calendar months to the month for which eligibility is being determined but no earlier than the three retroactive application months. The paid expense may not have been previously deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:

- 1. through 2. No change.

(7) Materials incorporated by reference are available from the Economic Self-Sufficiency Headquarter’s Office at 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Forms are also available on the Department’s website at <http://www.dcf.state.fl.us/dcfforms/Search/DCFFormSearch.aspx>.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History–New 10-8-97, Amended 1-27-99, 4-1-03, 6-13-04, 8-10-06 (1), (4), 8-10-06 (1), 2-20-07, 10-16-07, 5-6-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeri Flora

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David E. Wilkins

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2011

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Manatees

RULE NOS: 68C-22.012	RULE TITLES: Volusia County and Associated County (Parts of Putnam, Lake, and Seminole) Zones
68C-22.028	Flagler County Zones

PURPOSE AND EFFECT: The purpose of the proposed rule making action is to improve protection of manatees and manatee habitat in Flagler County by limiting allowable motorboat speed in portions of the county. (This action would also amend the rule for Volusia County to remove from this rule existing boat speed zones in Flagler County.) These actions are being proposed after considering recommendations made by the Flagler County Local Rule Review Committee that was formed pursuant to Section 379.2431(2)(f), F.S. The effect of the action would be to limit allowable motorboat speed in portions of the county during the warm season, including 2.7 linear miles of Slow Speed on the Intracoastal Waterway (ICW). The warm season would be defined as May

through September 7 (to include Labor Day). Adoption of the proposed rule would add about 15 minutes to the time it currently requires to transit the county in the ICW during the warm season, with no change during the rest of the year. Additional information is available at: <http://myfwc.com/wildlifehabitats/managed/manatee/rulemaking/>.

SUMMARY: The proposed action would: [1] remove the existing zones in the extreme southern end of Flagler County that are a part of the rule for Volusia County; and [2] establish new zones in this area and other portions of Flagler County that would be in effect only from May 1 through September 7. The proposed zones would include 2.7 linear miles of Slow Speed zones on the ICW. Zones would be established in the vicinity of the Hammock Dunes Parkway Bridge, in the general area between Silver Lake and the State Road 100 (Moody Blvd) Bridge (including Lehigh Canal), and in the southernmost roughly 2.1 miles of Flagler County.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: A Statement of Estimated Regulatory Costs (SERC) has not yet been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. The agency has determined that the proposed rule is not expected to require legislative ratification based on the nature of the rule and the preliminary information and analysis conducted to date.

RULEMAKING AUTHORITY: 379.2431(2) FS.

LAW IMPLEMENTED: 379.2431(2) FS.

A HEARING WILL BE HELD BY COMMISSION STAFF AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: February 29, 2012, 6:00 p.m.

PLACE: Flagler County Board Chambers, 1769 E. Moody Blvd., Bldg 2, Bunnell, FL 32110

THE FINAL PUBLIC HEARING WILL BE HELD BY THE COMMISSION AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: April 25-26, 2012, 8:30 a.m – 5:00 p.m.

PLACE: Plantation Golf Resort and Spa, 9301 West Fort Island Trail, Crystal River, FL 34429

Another notice will be published in the F.A.W. if the date or location of the final hearing changes. The Commission’s agenda for this meeting will indicate the specific day when this item is scheduled to be addressed.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in either of these hearings is asked to advise the agency at least 5 days before the hearing by contacting the FWC at (850)488-6411. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Chris Boland, Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 South Meridian Street, Tallahassee, Florida 32399-1600. Comments may be submitted by e-mail to ManateeRuleComments@MyFWC.com (please reference Flagler County in the subject line).

THE FULL TEXT OF THE PROPOSED RULE IS:

68C-22.012 Volusia County and Associated County (Parts of Putnam, Lake, ~~and Seminole and Flagler~~) Zones.

(1) The Commission designates those portions of the St. Johns River basin and the Halifax/Indian River and Tomoka River basin within Volusia and adjacent counties, as described below, as areas where manatees are frequently sighted. The Commission has further determined that they are assumed to inhabit these waters periodically or continuously. This rule is for the purpose of regulating the speed and operation of motorboats in ~~portions of~~ these designated areas in Volusia County as well as in counties adjacent to Volusia County in portions of the St. Johns River basin ~~and in portions of the Halifax/Indian River and Tomoka River basin~~. In addition to Volusia County, waters within the following counties are regulated within the provisions of this rule: Putnam, Lake, and Seminole ~~(St. Johns River basin); and Flagler (Halifax River)~~. In balancing the rights of fishermen, boaters, and waterskiers to use these waterways for recreational and commercial purposes (as applicable under Section ~~379.2431(2)(k)~~ Section 370.12(2)(j), F.S.) with the need to provide manatee protection, the Commission has examined the need for higher speed travel corridors through regulated areas. Such corridors are provided in those areas where the Commission determined, on the basis of all available information, (1) there is a need for the corridor and (2) the corridor will not result in serious threats to manatees or their habitat (as defined in Rule 68C-22.001, F.A.C.). Higher speed corridors are not provided in areas where both of the above findings were not made.

(2) No change.

(3) For the purpose of regulating the speed and operation of motorboats within portions of the Halifax River, Indian River basin and Tomoka River zones are established as follows:

(a) SLOW SPEED ZONE (Year-round) – The following described zones shall include all navigable waters and all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, mosquito ditches, and boat basins, unless otherwise designated or excluded:

1. Halifax River, Halifax Creek and Smith Creek Area: All waters of Smith Creek, Halifax Creek, and the Halifax River, excluding the main marked channel of the Atlantic Intracoastal Waterway (designated for regulation under paragraph (3)(d)1., below), southerly of the Flagler County/Volusia County line ~~a line which bears North 67° 00' 00" East (True) located 2000~~

~~feet South 29° 00' 00" East (True) of Red Intracoastal Waterway Channel Marker "22" (latitude 29° 26' 28" North, longitude 81° 06' 58" West), northerly of a line which bears North 72° 00' 00" East (True) running through Green Intracoastal Waterway Channel Marker "9" (latitude 29° 19' 54" North, longitude 81° 04' 06" West) and easterly of the general contour of the easterly shoreline of the islands lying westerly of the Intracoastal Waterway Channel between the general contour of the shoreline of the southernmost tip of a peninsula (approximate latitude 29° 22' 28" North, approximate longitude 81° 05' 12" West) and a point which lies 600 feet South 72° 00' 00" West (True) from the aforementioned Green Intracoastal Waterway Channel Marker "9";~~

2. Area westerly of Smith Creek: All waters within the backwater area lying ~~southwesterly of a line which bears approximately North 30° 00' 00" West (True) from the general contour of the shoreline at the northernmost tip of an island (approximate latitude 29° 25' 56" North, approximate longitude 81° 06' 40" West) to the general contour of the shoreline of the westerly bank of Smith Creek and southwesterly of a line which bears approximately South 15° 00' 00" East (True) from the general contour of the shoreline at the southeastern tip of an~~ the aforementioned island (approximate latitude 29° 25' 32" North, approximate longitude 81° 06' 29" West) to the general contour of the shoreline of the westerly bank of Smith Creek, near Green Intracoastal Waterway Channel Marker "23" and southerly of the Flagler County/Volusia County line;

3. through 25. No change.

(b) through (c) No change.

(d) MAXIMUM 30 MPH/25 MPH NIGHTTIME ZONE (Year-round) – Waters of the Halifax River, Indian River, and Tomoka River basin as follows:

1. Halifax Creek/Halifax River Area: All waters within the main marked channel of the Atlantic Intracoastal Waterway southerly of the Flagler County/Volusia County line ~~a line which bears North 67° 00' 00" East (True) located 2000 feet South 29° 00' 00" East (True) of Red Intracoastal Waterway Channel Marker "22" (latitude 29° 26' 28" North, longitude 81° 06' 58" West) and northerly of a line which bears North 72° 00' 00" East (True) running through Green Intracoastal Waterway Channel Marker "9" (latitude 29° 19' 54" North, longitude 81° 04' 06" West);~~

2. through 7. No change.

(e) and (f) No change.

(4) through (6) No change.

(7) Maps depicting the zones described in this rule are available on the agency's website at <http://myfwc.com>. The maps are intended only as visual aids and do not have regulatory effect; therefore, in the event of conflict between the maps and the descriptions of the zones provided by this rule, the rule text shall prevail. The zones described in Rule 68C-22.012(1), (2), and (3), are depicted on the following

maps, labelled "Manatee Protection Zones—St. Johns River Basin, Volusia and Associated Counties," dated May 1994, and "Manatee Protection Zones—Halifax and Indian River Areas, Volusia and Associated Counties," dated May 1994, which shall replace the previously published maps. (Maps provided are intended as depictions of the abovedescribed zones. In the event of conflict between the two, the above descriptions shall prevail.)

Rulemaking Authority 379.2431(2) FS. Law Implemented 379.2431(2) FS. History—New 3-19-79, Formerly 16N-22.12, Amended 12-5-89, 7-25-91, 6-23-94, Formerly 16N-22.012, Amended 5-31-95, Formerly 62N-22.012, Amended _____.

68C-22.028 Flagler County Zones.

(1)(a) The Commission hereby designates the waters within Flagler County, as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion that manatees inhabit these areas on a regular or periodic basis. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat.

(b) In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state for recreational and commercial purposes (as applicable under Section 379.2431(k), F.S.), with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds through or within regulated areas. Such lanes, corridors, or areas are provided in those locations where the Commission determined they are consistent with manatee protection needs.

(2) The following zones are established, which include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, channels and boat basins, and other waterways unless specifically excluded or otherwise designated for more restrictive regulation. As used in this rule, ICW means the Intracoastal Waterway Coordinates used in the descriptions of zone boundaries are referenced to the North American Datum of 1983 (NAD83).

(a) SLOW SPEED (May 1 – September 7)

1. Hammock Dunes Parkway Area – All waters, including in the ICW channel, south of a line that bears 70° from a point (approximate latitude 29° 34' 49" North, approximate longitude 81° 11' 34" West) on the western shoreline of the ICW approximately 2,700 feet north of the Hammock Dunes

Parkway Bridge, north of a line that bears 70° from a point (approximate latitude 29° 34' 21" North, approximate longitude 81° 11' 21" West) on the western shoreline of the ICW approximately 300 feet south of the Hammock Dunes Parkway Bridge, and east of the Palm Harbor Parkway Bridge;

2. Lehigh Canal Area – All waters of Lehigh Canal; and those waters east of the ICW channel south of Red ICW Channel Marker "6" (approximate latitude 29° 30' 50" North, approximate longitude 81° 09' 00" West) and north of a line that bears 70° from a point (approximate latitude 29° 29' 36" North, approximate longitude 81° 08' 32" West) on the western shoreline of the ICW approximately 1,800 feet south of Lehigh Canal, including all waters of the waterbody east of the ICW in the vicinity of Green ICW Channel Marker "13";

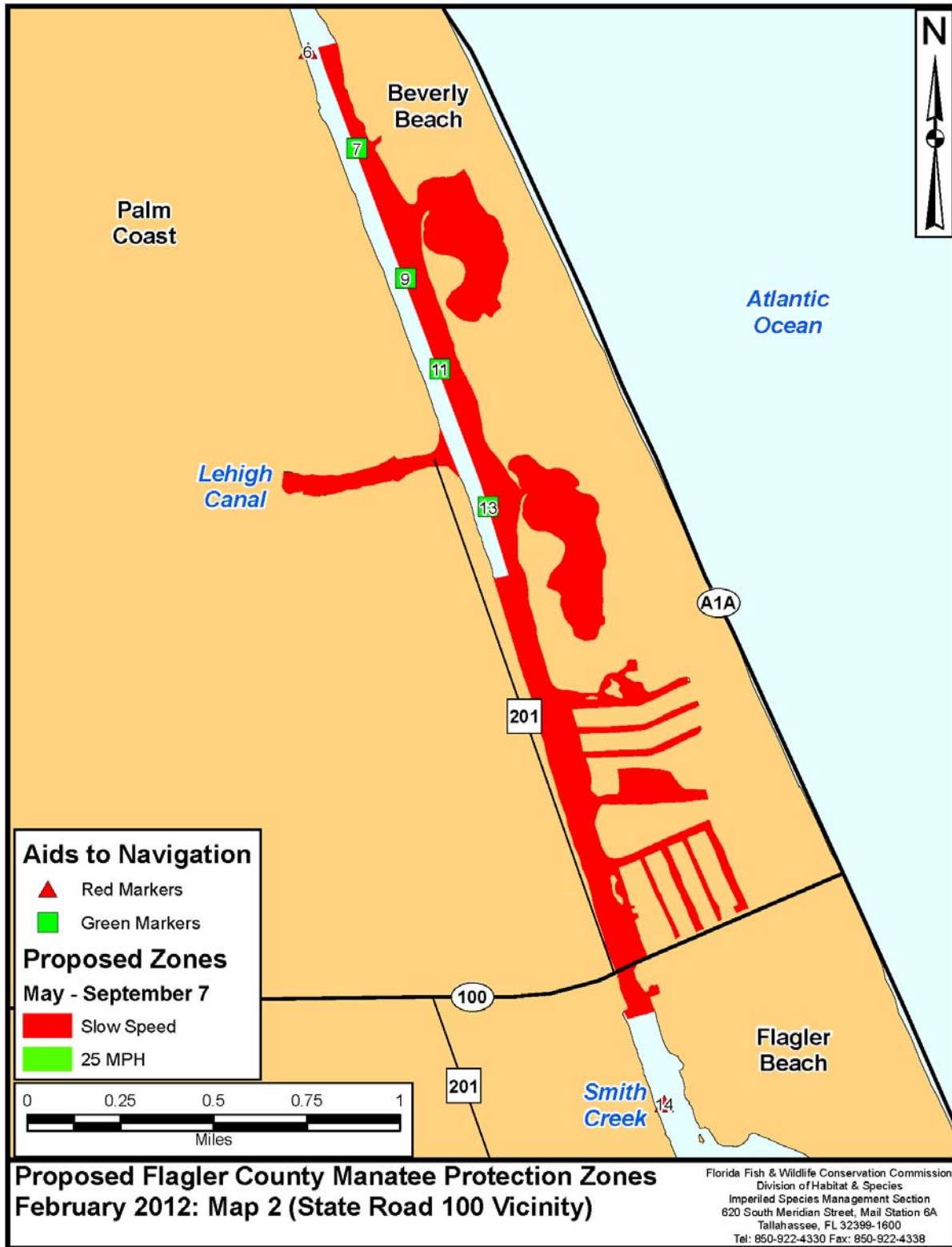
3. State Road 100 Area – All waters, including in the ICW channel, south of a line that bears 70° from a point (approximate latitude 29° 29' 36" North, approximate longitude 81° 08' 32" West) on the western shoreline of the ICW approximately 1,800 feet south of Lehigh Canal and north of a line that bears 70° from a point (approximate latitude 29° 28' 34" North, approximate longitude 81° 08' 12" West) on the western shoreline of the ICW approximately 500 feet south of the SR 100 (Moody Blvd) Bridge; and,

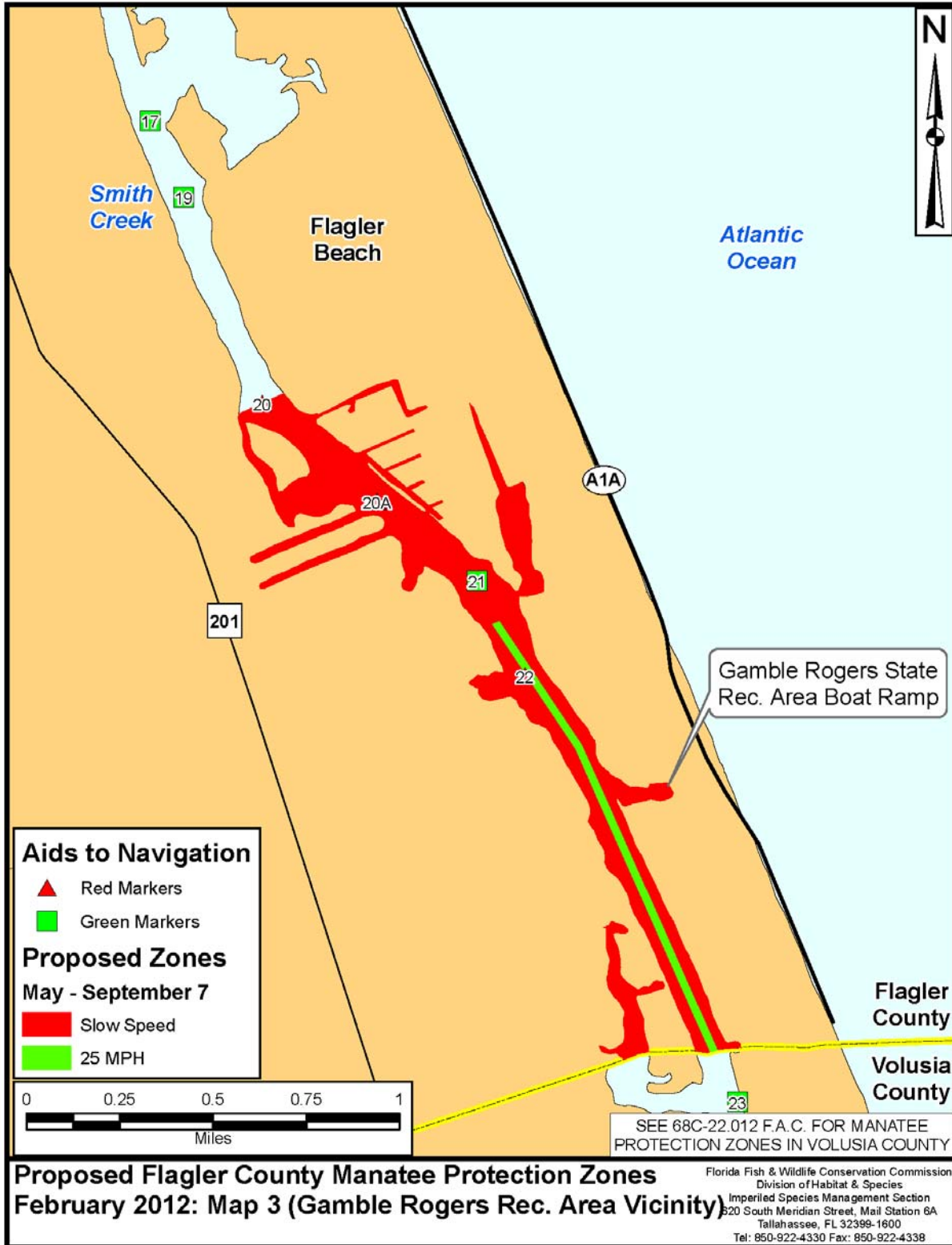
4. Vicinity of Gamble Rogers State Recreation Area – All waters, including in the ICW channel except as otherwise designated in (2)(b) below, south of a line that bears 70° through Red ICW Channel Marker "20" (approximate latitude 29° 27' 08" North, approximate longitude 81° 07' 37" West) and north of the Flagler County/Volusia County line.

(b) MAXIMUM 25 MPH (May 1 – September 7) – Those waters in the marked ICW channel south of a line that bears 70° from a point (approximate latitude 29° 26' 36" North, approximate longitude 81° 07' 03" West) on the western shoreline of the ICW approximately 900 feet north of Red ICW Channel Marker "22" and north of the Flagler County/Volusia County line.

(3) Maps depicting the zones described in this rule are available on the agency's website at <http://myfwc.com>. The maps are intended only as visual aids and do not have regulatory effect; therefore, in the event of conflict between the maps and the descriptions of the zones provided by this rule, the rule text shall prevail.







Rulemaking Authority 379.2431(2) FS. Law Implemented 379.2431(2) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Eric Sutton, Director of the Division of Habitat and Species Conservation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioners of the Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2011

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
690-162.203	Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance.

PURPOSE AND EFFECT: To adopt changes to the NAIC Model Regulation and explain the conditions for use of the preferred class structure mortality tables and to permit use of the mortality tables for policies issued prior to the adoption date of the original rule.

SUMMARY: Section 625.121(5), F.S., provides that the Commission may adopt by rule the NAIC Model Regulations for valuation of life insurance policies. This rule does that. This rule is being amended due to changes made to the NAIC Model Regulation. The amendment explains the conditions for use of the preferred class structure mortality tables, and permits use of the mortality tables for policies issued prior to the adoption date of the original rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Agency personnel familiar with the subject matter of the rule amendment have performed an economic analysis of the rule amendment that shows that the rule amendment is

unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 624.308(1), 625.121 FS.

LAW IMPLEMENTED: 624.307 (1), 625.121 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 28, 2012, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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: Kerry Krantz, Office of Insurance Regulation, E-mail Kerry.Krantz@flor.com. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail Kerry.Krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-162.203 Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance.

(1) Scope. This rule shall govern mortality tables for use in reserves as set forth in Section 625.121, F.S.

(2) Purpose. The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with Section 625.121(5)(a)3., F.S., and subsection 690-164.020(5), F.A.C.

(3) Definitions.

(a) “2001 CSO Mortality Table” means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection (b). Unless the context indicates otherwise, the “2001 CSO Mortality Table”

includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

3. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

4. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(b) "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC September 10, 2006, which is available in the NAIC Proceedings (3rd Quarter 2006) which is adopted herein and incorporated by reference. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(c) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(4) 2001 CSO Preferred Class Structure Table.

(a) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this rule, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007.

1. On valuation dates beginning with December 31, 2010, for policies issued on or after January 1, 2005 for policies not issued in this state, and on or after June 8, 2005, for policies

issued in this state, and prior to January 1, 2007 wherever issued, these tables may be substituted at the option of the insurer and subject to the conditions of subsection (5), if the Regulatory Asset Adequacy Issues Summary required by rule Chapter 690-138, F.A.C. includes, if applicable, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods.

2. On valuation dates beginning with December 31, 2010, these tables may be substituted by an insurer not domiciled in this state at its option to value the policies identified in (a)(1), if the insurer provides the office with a statement from the commissioner of its state of domicile that the conditions for substituting these tables required by that state have been met.

(b) No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes.

(c) A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of Rule 690-162.201, F.A.C., Adoption of 2001 Commissioners Standard Ordinary (CSO) Mortality Tables.

(5) Conditions.

(a) For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the

time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.

(c) The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007 shall not be permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following:

1. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that (a) provides coverage for the period from the next policy premium due date to the earlier of the end of the policy year and the next reinsurance premium due date, and (b) would be refunded to the ceding entity upon the termination of the policy.

2.a. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

b. For purposes of this condition, the reserve (i) for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and (ii) for the midterminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table.

(6) Effective Date. This rule shall be effective for policies issued on or after January 1, 2007, for valuation dates on or after the date this rule becomes effective.

Rulemaking Specific Authority 624.308(1), 625.121 FS. Law Implemented 624.307(1), 625.121 FS. History—New 1-16-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Office of Insurance Regulation, E-mail Kerry.Krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-170.101	Title, Scope, Application, and Purpose
69O-170.103	Demand for Arbitration and Response
69O-170.105	Costs, Expenses and Fees of the Arbitration
69O-170.107	Procedure for Arbitration
69O-170.109	Selection of the Arbitration Panel
69O-170.111	Scope of the Evidence in a Rate Filing Arbitration
69O-170.113	Computation of Time; Service by Mail
69O-170.115	Filing and Service of Papers; Signing
69O-170.117	Discovery
69O-170.119	Subpoenas and Witnesses; Fees
69O-170.121	Official Recognition of Facts
69O-170.123	Motion Hearings by Telephone
69O-170.126	Pre-hearing Conference; Pre-hearing Stipulation
69O-170.127	Notice of Final Hearing; Scheduling
69O-170.129	Conduct of Proceedings
69O-170.131	Conduct of Formal Hearing; Evidence
69O-170.133	Post-hearing Memorandum
69O-170.135	Final Decision and Award
69O-170.137	Related Laws and Rules

PURPOSE AND EFFECT: There is no longer statutory authority for Rules 69O-170.101, .103, .105, .107, .109, .111, .113, .115, .117, .119, .121, .123, .126, .127, .129, .131, .133, .135, .137, F.A.C., and therefore this action will completely repeal the rules.

SUMMARY: Section 627.062(6), Florida Statutes, granted insurers the right to arbitrate rate filing disputes with the Office. The section gave the FSC authority to adopt the above referenced rules regarding arbitration of rate filings. Section 627.062(6), Florida Statutes, has been amended to remove the

provision for arbitration. Therefore these rules are no longer relevant, nor does the Office any longer have authority for such rules. Consequently, these rules need to be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Agency personnel familiar with the subject matter of the rule repeal have performed an economic analysis of the rule repeal that shows that the rule repeal is unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 627.062(6) FS.

LAW IMPLEMENTED: 627.062 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 27, 2012, 10:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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: Debra Seymour, Office of Insurance Regulation, E-mail Debra.Seymour@flor.com. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Debra Seymour, Office of Insurance Regulation, E-mail Debra.Seymour@flor.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-170.101 Title, Scope, Application, and Purpose.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.101, Repealed_____.

69O-170.103 Demand for Arbitration and Response.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.103, Repealed_____.

69O-170.105 Costs, Expenses and Fees of the Arbitration.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.105, Repealed_____.

69O-170.107 Procedure for Arbitration.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.107, Repealed_____.

69O-170.109 Selection of the Arbitration Panel.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.109, Repealed_____.

69O-170.111 Scope of the Evidence in a Rate Filing Arbitration.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.111, Repealed_____.

69O-170.113 Computation of Time; Service by Mail.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.113, Repealed_____.

69O-170.115 Filing and Service of Papers; Signing.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.115, Repealed_____.

69O-170.117 Discovery.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.117, Repealed_____.

69O-170.119 Subpoenas and Witnesses; Fees.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.119, Repealed_____.

69O-170.121 Official Recognition of Facts.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.121, Repealed_____.

69O-170.123 Motion Hearings by Telephone.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.123, Repealed_____.

69O-170.126 Pre-hearing Conference; Pre-hearing Stipulation.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.126, Repealed_____.

69O-170.127 Notice of Final Hearing; Scheduling.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.127, Repealed_____.

69O-170.129 Conduct of Proceedings.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.129, Repealed_____.

69O-170.131 Conduct of Formal Hearing; Evidence.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.131, Repealed_____.

69O-170.133 Post-hearing Memorandum.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.133, Repealed_____.

69O-170.135 Final Decision and Award.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.135, Repealed_____.

69O-170.137 Related Laws and Rules.

Rulemaking Specific Authority 627.062(6) FS. Law Implemented 627.062 FS. History–New 8-31-97, Formerly 4-170.137, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Debra Seymour, Office of Insurance Regulation, E-mail Debra.Seymour@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2011

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-200.004	Qualification to Obtain and Hold a License
69O-200.005	Use of the Statutory Deposit
69O-200.006	Contractual Liability Insurers
69O-200.009	Form Filings
69O-200.014	Exemption From Financial Examination
69O-200.015	Forms Incorporated by Reference

PURPOSE AND EFFECT: Incorporates into the existing rules a new category of Motor Vehicle Service Agreement Companies: “Motor Vehicle Manufacturers.”

SUMMARY: In Sections 634.011(7) and 634.041(12), Florida Statutes, the legislature created a new category of Motor Vehicle Service Agreement Companies: “Motor Vehicle Manufacturers.” These amendments address the legislative mandate to modify the rules and forms to incorporate this new category.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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: Agency personnel familiar with the subject matter of the rule amendment have performed an economic analysis of the rule amendment that shows that the rule amendment is unlikely to have an adverse impact on the State economy in excess of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 634.021, 634.031, 634.041, 634.121, 634.1213, 634.1216, 634.061, 634.252 FS.

LAW IMPLEMENTED: 634.041(12), 637.137(6) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 27, 2012, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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: David Altmaier, Office of Insurance Regulation, E-mail David.Altmaier@flor.com. 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David Altmaier, Office of Insurance Regulation, E-mail David.Altmaier@flor.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-200.004 Qualification to Obtain and Hold a License.

(1) An applicant must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-CI-1423~~422~~, incorporated by reference in Rule 69O-200.015, F.A.C., for the following:

(a) ~~Officers, directors, and stockholders holding 10% or more of the outstanding voting stock of the applicant and of any company or entity which has control over the applicant;~~

(b) ~~Officers and directors of the applicant and of any company or entity having which has control over the applicant; and,~~

(c) ~~Partners, members, sStockholders and other individuals holding a voting interest of 10% or more in any greater shares of outstanding stock of the applicant and any company or entity having direct or indirect which has control over the applicant.~~

(2) An applicant that is a motor vehicle manufacturer, as defined in Section 634.011(7), Florida Statutes, must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-C1-1423 for all officers and directors of the applicant only.

~~(3)(2)~~ Subsequent to the date of licensure, individuals who become associated with the motor vehicle service agreement company in any of the above capacities shall submit the information required in subsection (1) above; however, those individuals who become associated with an agreement company which:

(a) Manufacturers motor vehicles;

(b) Demonstrates it has ~~they have a gap~~ net worth in excess of \$100,000,000, as reported under generally accepted accounting principles (GAAP);

(c) Annually files with the Office a 10K Report; and,

(d) Annually notifies the Office in writing of any changes in officers (Executive Vice Presidents and above) and directors of the agreement company, shall be exempt from the requirements of subsection (1).

(4) Individuals named as officers or directors of a motor vehicle manufacturer licensee must within 45 days submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-C1-1423 for those officers and directors directly overseeing the Florida service contract operations, unless the licensee is exempt under subsection (3) above or subsection (7) below.

(5) In addition to background requirements for newly associated individuals, as noted in subsections (1) through (4) above, an acquisition filing pursuant to Section 628.4615, Florida Statutes, will require updates of previously filed background documentation for material changes.

~~(6)(3)~~ Motor vehicle service agreement companies are required to notify the Office in writing within 15 days of any change in the corporate name, business name, address or phone number of the company.

~~(7)(4)~~ The Office will ~~may, at its discretion,~~ waive any of the above provisions if the applicant or licensee can satisfy the Office that the documents are not required in determining if the individual(s) in question can manage the company and its affairs and is competent and trustworthy. The following criteria will be considered by the Office in making this determination:

(a) The financial condition of the applicant or licensee;

(b) The financial condition of the companies having control over the applicant or licensee;

(c) The history and structure of the companies;

(d) The A.M. Best rating of all insurance companies involved; and,

(e) The position held by the individual(s) in question.

(8) Subsequent to the date of licensure, a motor vehicle service agreement company may submit in writing a request to the Office that, for future reporting and compliance requirements, it be recognized as a motor vehicle manufacturer as defined in Section 634.011(7), Chapter 634, F.S. Such request must be certified by an officer of the licensee and must include documentation that clearly sets forth how the licensee meets the definition in Section 634.011(7), F.S.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041 FS. History–New 5-26-93, Formerly 4-200.004, Amended _____.

69O-200.005 Use of the Statutory Deposit.

The deposit required under Section 634.052, Florida Statutes, may be used in the funding of the 15 ~~40%~~ reserve deposit required under Section 634.041~~(8)(a)(3)(12)~~, Florida Statutes.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.052 FS. History–New 5-26-93, Formerly 4-200.005, Amended _____.

69O-200.006 Contractual Liability Insurers.

(1) The insurer issuing a contractual liability policy shall, prior to approval by the Office be a property and casualty insurer with a Florida certificate of authority which indicates it may write “other liability insurance” or “auto warranties.”-

(2) All insurers issuing contractual liability policies to motor vehicle service agreement companies must, at a minimum, use policy provisions providing policyholder protection substantially equivalent to and not materially in conflict with that provided in the sample contractual liability policy Form OIR-969, incorporated by reference in Rule 69O-200.015, F.A.C. A policy is in violation of this subsection only if it is in violation of a statute or rule.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041 FS. History–New 5-26-93, Formerly 4-200.006, Amended _____.

69O-200.009 Form Filings.

Rulemaking Specific Authority 634.021 ~~634.121~~ FS. Law Implemented 634.121 ~~634.021~~ FS. History--New 5-26-93, Formerly 4-200.009.

69O-200.014 Exemption From Financial Examination.

(1) The Office may, upon receipt of a written request, grant an exemption from the financial examination required by Section 634.141, Florida Statutes.

(2) A company applying for exemption must first submit documentation that demonstrates that the company:

- (a) Has a statutory net worth in excess of \$500 million;
- (b) Has been licensed as a motor vehicle service agreement company for more than 6 years;
- (c) Is publicly traded on the New York Stock Exchange;
- (d) Files an annual report on the Office's form on or before March 1 of each year; and
- (e) Files with the Office its current Form 10K and 10Q, within 30 days of filing with the Securities and Exchange Commission;

(f) ~~Annually by~~ On or before March 1, 1993 and in three year intervals thereafter, files a written request for the exemption. This request for exemption shall be accompanied by an exemption fee of \$2000 to be deposited into the Chief Financial Officer's Regulatory Trust Fund.

(3) Motor vehicle manufacturers, as defined in Section 634.011(7), Florida Statutes, must only comply with paragraph (2)(f) above to apply for exemption from examination.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.141, 634.416 ~~634.1216~~ FS. History--New 5-26-93, Formerly 4-200.014, Amended.

69O-200.015 Forms Incorporated by Reference.

(1) The following forms are incorporated into this rule chapter by reference to implement the provisions of Chapter 634, Part I, Florida Statutes:

Title	Form Number
(a) Application Cover Letter	OIR-CI-982 (02/92)
(b) Application Instructions	OIR-CI-994 (02/92)
(c) Application Checklist	OIR-CI-993 (02/92)
(d) Invoice	OIR-CI-990 (02/92)
(d)(e) Fingerprint Fee Invoice	OIR-CI-903 (09/91)
(e)(f) Application for License as a Motor Vehicle Service Agreement Company	OIR-CI-469 (02/92)
(f)(g) Consent to Service of Process	OIR-CI-144 (11/90)
(g)(h) Resolution Form	OIR-CI-514 (11/90)
(h)(i) Statement of Acquisition	OIR-CI-448 (05/89)
(i)(j) Sample Contractual Liability Policy	OIR-CI-969 (08/92)
(j)(k) Instructions for Deposit	OIR-CI-992 (05/94)
(k)(l) List of Salesman	OIR-CI-995 (02/92)
(l)(m) Management Information	OIR-CI-844 (10/91)

(m)(n) Stockholder Listing	OIR-CI-973 (10/91)
(n)(o) Biographical Statement	OIR-CI-1423422 (09/08) (11/90)
(p) Abbreviated Biographical	OIR-CI-449 (01/91)
(o)(q) Release of Information	OIR-CI-450 (08/92)
(p)(r) Equifax Instructions	OIR-CI-934 (10/91)
(q)(s) Fingerprint Instructions	OIR-CI-938 (04/91)
(r)(t) Annual Statement	OIR-A3-467 (01/92)
(s)(u) Quarterly Report	OIR-A3-466 (02/87)
(t) Application for License Motor Vehicle Service Agreement Company Manufacturer.	OIR-A3-1983 (02/09)
(u) Annual Report for Motor Vehicle Manufacturers.	OIR-A3-1984 (01/10)
(v) Application for Exemption from Field Examination.	OIR-A3-1985 (01/10)
(w) Application for License Continuance Motor Vehicle Service Agreement Company.	OIR-A3-2019 (01/10)

(2) These forms are effective on the dates referenced above. Copies of the forms may be obtained from the Office of Insurance Regulation at www.flor.com (Type the form number into the search function).

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041, 634.061, 634.071, 624.501, 634.161, 634.252 FS. History--New 6-25-90, Formerly 4-114.015, Amended 5-26-93, 6-6-94, Formerly 4-200.015, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Altmaier, Office of Insurance Regulation, E-mail David.Altmaier@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.002 RULE TITLE: Placement of Races on Primary Ballots

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 27, July 8, 2011 issue of the Florida Administrative Weekly has been withdrawn.