

Specific Authority 633.01(1), 633.821 FS. Law Implemented 633.45(1)(a), 633.821 FS. History--New 9-6-04, Amended _____.

69A-62.021 General Guidelines for Firefighter Employer Comprehensive Safety and Health Programs.

- (1) through (2) No change.
- (3)(a) through (c) No change.

(d) Each Basic Life Support (BLS) and each Advanced Life Support (ALS) provider, as described in Rules 64E-2.002 and 64E-2.003, F.A.C., respectively, shall document that each driver has completed at least a 16-hour course of instruction on driving an authorized emergency vehicle, as defined by Section 316.003(1), F.S., which includes, at a minimum, classroom and behind-the-wheel training as outlined below:

- 1. Classroom Training.
 - a. Legal aspects of authorized emergency vehicle operators.
 - b. Selecting routes and reporting emergency operation.
 - c. The practice of defensive driving.
 - d. Accident avoidance.
 - e. Principles of vehicle control.
 - f. Routine safety checks of vehicle.
- 2. Practical.
 - a. Braking and control braking.
 - b. Backing; road position, fender judgment and steering technique.
 - c. Slalom; steering technique and chassis set.
 - d. Steering technique during a skid; a skid pad is optional.
 - e. Turn-around-steering technique; fender judgment, road position, controlled braking, controlled acceleration, understeer, oversteer and chassis set.

A list of approved courses/providers is posted on the "Firefighter Safety and Health" webpage at <http://www.fldfs.com/sfm/bfst/SafetyHealth/SafetyForms.htm> ~~http://www.fldfs.com/sfm~~ or may be obtained from the Safety Program Office of the Bureau of Fire Standards and Training at (352)369-2800. Fire Department or Training Center requests for the approval of other courses must be directed to the same office.

- (f) through (m) No change.
- (4) through (7) No change.

Specific Authority 633.804, 633.805, 633.808, 633.821 FS. Law Implemented 633.804, 633.805, 633.807, 633.808, 633.821 FS. History--New 9-6-04, Amended 6-6-07, _____.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE NO.: IT-1.001
RULE TITLE: Division of Cultural Affairs

PURPOSE AND EFFECT: This amendment to Rule IT-1.001, F.A.C., provides for a description of the reporting responsibilities of state agencies as regards the Art in State Buildings Program.

SUMMARY: Administration of the art selection process will be the responsibility of the state agency that receives funding from the legislature for construction of facilities that provide public access. These agencies shall submit notification of funding and documentation of each art selection process to the Florida Arts Council through the Division of Cultural Affairs before acquiring artwork.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 255.043(4), 265.284(5)(d), 265.285(1)(c), 265.286(1), (4), (6), 265.2861(2)(b), (f), 265.2865(6), 265.51, 265.605(1), 265.608(1), 265.609(1), (4), 265.701(5), 265.702(8) FS.

LAW IMPLEMENTED: 215.97, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.601-.603, 265.605-.607, 265.608, 265.609, 265.701, 265.702, 286.011, 286.012, 286.25, 288.0656, 288.06561 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:

DATE AND TIME: June 9, 2008, 9:00 a.m.

PLACE: Room 307, R. A. Gray Building, 500 South Bronough 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 2 days before the workshop/meeting by contacting: Morgan Lewis, Division of Cultural Affairs, (850)245-6356. 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: Lee Modica, Division of Cultural Affairs, (850)245-6476

THE FULL TEXT OF THE PROPOSED RULE IS:

IT-1.001 Division of Cultural Affairs.

(1) through (2) No change.

(a) Art in State Buildings Program. This program acquires artwork for public display in the interior or exterior of state buildings, in accordance with section 255.043, *Florida Statutes*. State agencies that receive funding from the legislature for construction of new "public access" facilities shall set aside one-half of one percent (.5%) of their appropriation or \$100,000, whichever is less, to purchase or commission artwork. Each agency shall follow the art selection process and forms contained in the Department of State's *Art in State Buildings Handbook* (CA2E120, eff. 6/30/08), and in doing so, shall report funding appropriations and submit documentation supporting its art selection process to the Florida Arts Council through the Division of Cultural Affairs. The following Arts in State Buildings Forms are hereby incorporated by reference: Administrator Designation Form (CA2E121, eff. 6/30/08), Construction Appropriation Notification Form (CA2E122, eff. 6/30/08), Project Checklist (CA2E123, eff. 6/30/08), User Agency Representative Designation Form (CA2E124, eff. 6/30/08), Orientation Meeting Report (CA2E125, eff.6/30/08), Image Review Meeting Report (CA2E126, eff. 6/30/08), Implementation Expenses Authorization Form (CA2E127, eff. 6/30/08), Artist's Declaration Form (CA2E128, eff. 6/30/08), Artist's Representative Designation Form (CA2E129, eff. 6/30/08), Recommendation Reports (CA2E130, eff. 6/30/08), Finalist Review Meeting Report (CA2E131, eff. 6/30/08), Selection Detail Report (CA2E132, eff. 6/30/08), Selection Approval Form (CA2E133, eff. 6/30/08), Artwork Inventory Sheet (CA2E134, eff. 6/30/08), and Project Completion Form (CA2E135, eff. 6/30/08). The Art in State Buildings Handbook and forms are available on the Division's web site at www.Florida-Arts.org or may be obtained from the Director of the Division of Cultural Affairs, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250. ~~section provides guidelines and procedures by which artworks are acquired through the Art in State Buildings Program. The Division shall administer the art selection process in conjunction with the DMS, Board of Regents, the Florida Arts Council, and other state agencies. The State of Florida Art in State Buildings Program Guide (Form CA1E063, eff.2/96) provides the eligibility criteria and art selection procedures.~~

(b) through (20) No change.

Specific Authority 255.043(4), 265.284(5)(d), 265.285(1)(c), 265.286(1), (4), (6), 265.2861(2)(b), (f), 265.2865(6), 265.51, 265.605(1), 265.608(1), 265.609(1), (4), 265.701(5), 265.702(8) FS. Law Implemented 215.97, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.601-.603, 265.605-.607, 265.608, 265.609, 265.701, 265.702, 286.011, 286.012, 286.25, 288.0656, 288.06561 FS. History--New 11-23-82, Formerly IT-1.01, Amended 10-1-96, 10-31-96, 2-2-97, 6-2-97, 7-17-97, 9-10-97, 1-4-98, 7-26-98, 8-2-98, 10-5-98, 10-25-98, 8-17-99, 8-1-02, 12-29-02, 10-14-03(17), 10-14-03(20), 11-16-03, 2-5-05, 5-16-05, 6-21-05, 12-20-05, 5-22-06, 6-5-06, 6-27-07, 8-20-07, 9-16-07, 1-8-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lee Modica, Division of Cultural Affairs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sandy Shaughnessy, Director, Division of Cultural Affairs

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2008

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

| | |
|------------|--|
| RULE NOS.: | RULE TITLES: |
| 5C-24.001 | Definitions |
| 5C-24.002 | General Requirements |
| 5C-24.003 | Official Certificate of Veterinary Inspection (OCVI) |

PURPOSE AND EFFECT: The purpose and effect of this rule is to update references to the current code of federal regulations referenced in current rules, to revise the definition of official certificate of veterinary inspection (OCVI) to be consistent with Florida Statutes, to delete unnecessary language in current rules, and to clarify the OCVI required for the intrastate sale of dogs and cats in Florida. This rule also corrects an erroneous form number contained in the current rules.

SUMMARY: Revises definitions relating to veterinarians and livestock to reference to the most current versions of the code of federal regulations. This rule deletes obsolete language relating to general requirements for the Department to provide certain forms, and this rule revises language to clarify the OCVI that is required to transfer the ownership of a dog or cat by sale within Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 570.07(23) FS.

LAW IMPLEMENTED: 585.08, 585.145 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 RULES IS: Dr. William Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 S. Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; FAX: (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

5C-24.001 Definitions.

(1) Accredited Veterinarian. A veterinarian licensed in the state of origin and approved by the Deputy Administrator, United States Department of Agriculture, Animal and Plant Health Inspection Service, to perform certain functions of federal and cooperative state-federal programs in accordance with the provisions of 9 CFR 160-162 (2007 1998).

(2) Cattle. Cattle shall include any bull, steer, ox, cow, heifer, calf, or any other bovine animal.

(3) Department. The Florida Department of Agriculture and Consumer Services.

(4) Division. The Division of Animal Industry of the Florida Department of Agriculture and Consumer Services.

(5) Domestic Animal. Any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, rhea or emu, or other domesticated beast or bird. The term "animal" shall include wild or game animals whenever necessary to effectively control or eradicate dangerous transmissible diseases or pests which threaten the agricultural interests of the state.

(6) Domesticated Fowl. Any member of the Class Aves that is propagated or maintained under control of a person for commercial, exhibition or breeding purposes, or as pets.

(7) Horses. Any horse, mule, ass, zebra or other Equidae.

(8) Licensed Veterinarian. Any veterinarian who has a current license with the Florida Board of Veterinary Medicine.

(9) Livestock. Any grazing animals, such as cattle, horses (equidae), sheep, swine, goats, cervidae and other hoofed animals and ratites which are raised for private use or commercial purposes.

(10) National Poultry Improvement Plan (NPIP). A cooperative state-federal-industry program for prevention and control of certain hatchery disseminated diseases and for improvement of poultry and poultry products as provided in 9 CFR 145 - and 147 (2007 1998).

(11) Official Certificate of Veterinary Inspection (OCVI). Official certificate of veterinary inspection means a legible certificate of veterinary inspection signed by the examining veterinarian licensed by the state of origin and accredited by the United States Department of Agriculture. An official form provided by the Division to licensed and accredited veterinarian for the purpose of certifying the identification, test

~~requirements, and health of specific animals for movement, exhibition, and other designated purposes for the species of animal.~~

(12) Ratites. Ostriches, emus, and rheas.

(13) Materials: Title 9 CFR 161-162 (2007), 145; - and 147 (2007 1998) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328.

Specific Authority 585.002(4), 585.08(2)(a) FS. Law Implemented 585.08(2)(a), 585.145(1), (2), 828.29(3) FS. History—New 7-13-99, Amended.

5C-24.002 General Requirements.

(1) Forms Provided. The Division of Animal Industry, Department of Agriculture and Consumer Services will provide forms when required by statute or rule for certification of identification, required tests, and health as required for movement, exhibition, and other designated purposes for the species of animal.

~~(2) Request for Forms. The OCVI will be provided to licensed and accredited veterinarians only, unless otherwise provided in this rule. The forms may be obtained by written request to the Florida Department of Agriculture and Consumer Services, Health Form Request, Post Office Box 6710, Tallahassee, Florida 32314-6710. The form number and name, and the quantity of forms must be included in the written request.~~

~~(2)(3) Fees for Forms. A fee will be charged for the forms as provided in Rule 5C-24.003, F.A.C. the specific section of this rule. The fee must be submitted with the request for forms, as a check or money order made payable to the Florida Department of Agriculture and Consumer Services.~~

~~(3)(4) Deposit of Fees. The fees collected shall be deposited in the Department's General Inspection Trust Fund.~~

Specific Authority 585.002(4), (5) FS. Law Implemented ~~ch. 94-339, Laws of Florida~~; 585.002(5), 828.29(3)(b) FS. History—New 7-13-99, Amended.

5C-24.003 Official Certificate of Veterinary Inspection (OCVI).

(1) Horses.

(a) OCVI. The OCVI for horses is the Official Equine Certificate of Veterinary Inspection, DACS-09002 ~~(SN-6001) (Rev. 04/06 10/97)~~.

(b) The fee for the OCVI, DACS-09002 ~~(SN-6001) (Rev. 04/06 10/97)~~ is \$65 per book of 25.

(2) Livestock.

(a) The OCVI for cattle, goats, sheep, swine, cervidae, ratites, and other hoofed animals, excluding horses, is the Official Certificate of Veterinary Inspection, DACS-09004 ~~(SN-6000) (Revised 06/07 1/98)~~.

(b) The fee for the OCVI, DACS-09000+ (~~SN-6000~~) (Revised 06/07 4/98) is \$65 per book of 25.

(3) Domesticated Fowl.

(a) OCVI. The OCVI for domesticated fowl originating from other than NPIP participating flocks, hatcheries or dealers is the Official Certificate of Veterinary Inspection, DACS-09000+ (~~SN-6000~~) (Revised 06/07 4/98).

1. The OCVI, DACS-09000+ (~~SN-6000~~) (Revised 06/07 4/98) will be provided to licensed and accredited veterinarians.

2. The fee for the OCVI, DACS-09000+ (~~SN-6000~~) (Revised 06/07 4/98) is \$65 per book of 25.

(b) NPIP Participating Flocks, Hatcheries, and Dealers. The certification of health status for interstate shipment of flocks, hatcheries, and dealers participating in the NPIP is the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 8/95).

1. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 8/95) will be certified by a Division representative and provided to an NPIP participating flock, hatchery, or dealer.

2. The certification and processing fee for the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 8/95) is \$50 for 25 certified forms.

(c) Official Health Certificate Avian, DACS-09023 (Rev. 07/07 8/95). The Official Health Certificate Avian, DACS-09023 (Rev. 07/07 8/95) is the OCVI for NPIP participating flocks, hatcheries, and dealers which are required by the country or state of destination to provide an OCVI in addition to the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 8/95).

1. The Official Health Certificate Avian, DACS-09023 (Rev. 07/07 8/95) is certified by a Division veterinarian and is provided to the NPIP participating flock, hatchery or dealer.

2. The fee for the Official Health Certificate Avian, DACS-09023 (Rev. 07/07 8/95) is \$100 per 100 certificates.

3. Special Certifications. The fee for individual OCVI including, but not limited to, certificates requiring individual identification numbers of domesticated fowl, vaccination status, or the Florida Department of Agriculture seal, is \$30 for each certificate.

(4) Dogs, Cats and Other Non-Livestock Species.

(a) OCVI for Interstate Movement. The OCVI for dogs, cats and other non-livestock species, including but not limited to zoo animals and domesticated non-native wildlife, is Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-livestock Species, DACS-09086 (~~SN-6002~~) (Rev. 04/06 4/98).

(b) OCVI for Sale of Dog or Cat. The OCVI required to transfer the ownership of a dog or cat by sale within Florida is the Official Certificate of Veterinary Inspection for Intrastate Sale of Dog or Cat, DACS-09085 (~~SN-6003~~) (Rev. 01/08 10/97) must accompany any dog or cat sold, or offered for sale, in the state of Florida.

(c) The fee for the OCVI, DACS-09086 (~~SN-6003~~) (Rev. 04/06 10/97) or DACS 09085 (~~SN-6002~~) (Rev. 01/08 10/97) is \$65 per package of 25.

(5) Forms. The Official Equine Certificate of Veterinary Inspection, DACS-09002 (~~SN-6004~~) (Rev. 04/06 10/97); the Official Certificate of Veterinary Inspection, DACS-09000+ (~~SN-6000~~) (Revised 06/07 4/98); the Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-Livestock Species, DACS 090865 (~~SN-6002~~) (Rev. 04/06 4/98); the Official Certificate of Veterinary Inspection for Intrastate Sale of a Dog or Cat, DACS-090856 (~~SN-6003~~) (Rev. 01/08 10/97; and the Official Health Certificate Avian, DACS-09023 (Rev. 07/07 8/95) are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 South Calhoun Street, Room 323, Mayo Building, Tallahassee, Florida 32399-0800. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 8/95) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328.

Specific Authority 585.002(4), (5), 585.08(2)(a), 585.145(2), 585.15 FS. Law Implemented 585.002(5), 585.08(1), (2), 585.145(1), (2), (3), 585.155, 828.29 FS. History—New 7-13-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. William Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 S. Calhoun Street, Tallahassee, FL 32399-0800; phone: (850)410-0900; fax: (850)410-0957

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian/Director of Animal Industry, Florida Department of Agriculture and Consumer Services, 407 South Calhoun Street, Tallahassee, FL 32399-0800

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2008

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

| | |
|-----------|---|
| RULE NO.: | RULE TITLE: |
| 5C-28.001 | Dog and Cats – Intrastate Transfer of Ownership |

PURPOSE AND EFFECT: The purpose and effect of this rule is to adopt the requirements necessary to transfer the ownership of a dog or cat by sale within Florida.

SUMMARY: Section 585.145(2), Florida Statutes, provides that the Department shall specify by rule the health tests, official certificates of veterinary inspection, or other

certificates and documents that must first be obtained prior to the owner, broker, or transferor transferring ownership of an animal by sale. This rule is being promulgated to adopt the specific official certificate of veterinary inspection (OCVI) that must be obtained before ownership of a dog or cat can be transferred by sale within Florida. This rule further provides that the original OCVI shall be provided to the person to whom ownership is transferred.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 585.002(4) FS.

LAW IMPLEMENTED: 585.145(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: Dr. William Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 S. Calhoun Street, Tallahassee, FL 32399-0800; phone (850)410-0900; FAX: (850)410-0957

THE FULL TEXT OF THE PROPOSED RULE IS:

5C-28.001 Dog and Cats – Intrastate Transfer of Ownership.

(1) Prior to the transfer of ownership by sale of a dog or cat within this state, the owner, broker or transferor of the dog or cat shall first obtain an official certificate of veterinary inspection which meets the requirements of Section 828.29, F.S., and utilizes the form DACS-09085 (Rev. 01/08), Official Certificate of Veterinary Inspection For Intrastate Sale of Dog Or Cat, adopted in Rule 5C-27.001, F.A.C.

(2) As evidence of compliance with subsection (1) of this rule, the original of DACS-09085, Official Certificate of Veterinary Inspection For Intrastate Sale Of Dog Or Cat, shall be provided to the owner or agent to whom ownership is being transferred.

(3) County-operated or city-operated animal control agencies and registered nonprofit humane organizations are exempt from this rule.

Specific Authority 585.002(4) FS. Law Implemented 585.145(2) FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Florida Department of Agriculture and Consumer Services, 407 South Calhoun Street, Tallahassee, FL 32399-0800; telephone (850)410-0900; fax: (850)410-0915

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian/Director of Animal Industry, Florida Department of Agriculture and Consumer Services, 407 South Calhoun Street, Tallahassee, FL 32399-0800

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2008

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

| | |
|-----------|---|
| RULE NO.: | RULE TITLE: |
| 5E-14.142 | Responsibilities and Duties – Records, Reports, Advertising, Applications |

PURPOSE AND EFFECT: The purpose and effect of the proposed rules are to add an amendment that will accommodate newer phone communication technology in the conduct of pest control by removing a requirement for a phone terminating in the licensed business location, while providing for accountability for pest control sales calls. This will allow the use of cell phones which are increasingly important for pest control operators.

SUMMARY: Addition of an amendment that will accommodate newer phone communication technology in the conduct of pest control by removing a requirement for a phone terminating in the licensed business location, while providing for accountability for pest control sales calls. This will allow the use of cell phones which are increasingly important for pest control operators.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 482.051 FS.

LAW IMPLEMENTED: 482.051, 482.21(21) 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: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)921-4177

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) through (2) No change.

(3) Advertising:

(a) Pest control advertising on service vehicles, in telephone directories or other advertising media shall in all cases be factual and shall be set forth only under the licensee’s name or trade name registered with the Department. Unregistered fictitious names are prohibited.

(b) All pest control telephone directory advertising, including ~~direct dial~~ long distance lines shall in all cases show the licensee’s name or trade name registered with the Department, complete licensed business location address from where services will be performed and telephone numbers. ~~Blind (unidentified) telephone numbers are prohibited. All telephone numbers used in the solicitation and acceptance of pest control shall terminate in the licensed business location.~~

(c) Solicitation and acceptance of pest control must be performed by an identification card holder whether performed in person or by telephone.

(4) through (8) No change.

Specific Authority 482.051 FS. Law Implemented 482.021(21), 482.061, 482.071, 482.091, 482.111(5), (9), 482.161(1)(g), (h), 482.226(1), (6) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Michael J. Page

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Anderson H. “Andy” Rackley

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09942
RULE TITLE: State Uniform Transfer of Students in the Middle Grades

PURPOSE AND EFFECT: The purpose of this rule is to ensure consistency for students who transfer to a Florida public school after grade 6. The effect of this rule will be to provide consistency for students who enter a Florida public middle school at the seventh or eighth grade from out of state or from a foreign country by not requiring them to spend additional time in a Florida public school in order to meet the middle grades promotion requirements if the student has met all of the promotion requirements of the school district, state or country from which he or she is transferring.

SUMMARY: General requirements for middle grades promotion.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 1003.4156(3) FS.

LAW IMPLEMENTED: 1003.4156 FS.

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

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Iris Wilson, Deputy Chancellor, K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09942 State Uniform Transfer of Students in the Middle Grades.

The purpose of this rule is to establish procedures relating to the completion of the middle grades promotion requirements by students who transfer to a Florida public school after grade 6. The procedures shall be as follows:

(1) Students who enter a Florida public school composed of middle grades in grade 7, from out of state or from out of country, who met all promotion requirements during the previous school year of the school district, state, or country from which he or she is transferring, shall be considered to have successfully completed one (1) English course, one (1) mathematics course, one (1) social studies course, and one (1) science course in order to satisfy the General Requirements for Middle Grades Promotion pursuant to Section 1003.4156, Florida Statutes.

(2) Students who enter a Florida public school composed of middle grades in grade 8, from out of state or from out of country, who met all promotion requirements during the previous school year of the school district, state, or country from which he or she is transferring, shall be considered to have successfully completed two (2) English courses, two (2) mathematics courses, two (2) social studies courses, and two (2) science courses in order to satisfy the General Requirements for Middle Grades Promotion pursuant to Section 1003.4156, Florida Statutes.

Specific Authority 1003.4156(3) FS. Law Implemented 1003.4156 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Iris Wilson, Deputy Chancellor, K-12 Public Schools,
Department of Education
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Frances Haithcock, Chancellor,
K-12 Public Schools, Department of Education
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 2, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 9, 2008

NDEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-3.0291 Specifications for New School Buses
PURPOSE AND EFFECT: The purpose of the rule amendment
is to implement Florida’s statutory requirements to effect safe
and efficient transportation of Florida public school students
by county school districts and charter schools. The effect is the
adoption of the Florida School Bus Specifications, 2008, with
required changes reflecting public expectations and higher
benchmarks among student transportation providers for the
safety of students.

SUMMARY: This rule is amended to adopt the revised school
bus specifications.

SUMMARY OF STATEMENT OF ESTIMATED
REGULATORY COSTS: No Statement of Estimated
Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 1006.25 FS.

LAW IMPLEMENTED: 1006.22, 1006.25 FS.

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

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE IS: Charlie Hood, Office of School
Transportation, Department of Education

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-3.0291 Specifications for New School Buses.

(1) School buses purchased each year shall conform to
current National School Transportation Specifications and
Procedures of the National Conference on School
Transportation, current Federal Motor Vehicle Safety
Standards and to specifications prescribed by the State Board
for body, chassis and special equipment as provided in Section
1006.25, Florida Statutes. Each school bus as defined by
Section 1006.25(1), Florida Statutes, shall meet the

requirements of the Florida School Bus Specifications
applicable for the year the bus was manufactured or the
previous year if specifications were not revised and approved
for a given year. Specifications shall incorporate the specific
standards as approved by the State Board prior to and including
the following years: 1965, 1966, 1968, 1969, 1970, 1971,
1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1982,
1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1992, 1993,
1995, 2000, 2002, 2004, and 2006, and 2008 revised. Copies of
the above specifications are on file and available from the
School Transportation Management Section, Florida
Department of Education, 325 West Gaines Street, Tallahassee,
Florida 32399. Specifications may vary for different sizes and
types of buses to meet specific needs and conditions. Bid forms
prepared under the direction of the Commissioner shall
incorporate basic specifications and equipment.

(2) Any school district may, at its option, upgrade any
school bus or buses with equipment meeting specifications
which are current at the time of the upgrade.

(3) The Chief Financial Officer may approve special
equipment differing from or not prescribed in Florida School
Bus Specifications for the specific purpose of limited pilot
testing to determine if such equipment provides substantive
improvements in safety or cost effectiveness. Pilot testing of
equipment shall not be approved until the Chief Financial
Officer has determined to the extent practical that the
equipment will not compromise safety.

Specific Authority 1006.25 FS. Law Implemented 1006.22, 1006.25
FS. History—Amended 9-17-72, 7-20-74, Repromulgated 12-5-74,
Amended 11-10-83, 3-28-84, 10-8-84, 10-8-85, Formerly 6A-3.29,
Amended 8-19-86, 9-30-87, 10-4-88, 12-11-89, 12-18-90, 11-10-92,
9-5-93, 11-15-94, 10-18-95, Formerly 6A-3.029, Amended 6-11-00,
Formerly 6-3.029, Amended 4-21-03, 2-22-05, 11-26-06,_____.

Cf. Florida School Bus Specifications Revised, January 1965;
Florida School Bus Specifications Revised, Chassis – 1966; Body –
1966;
Florida School Bus Specifications Revised, January 1966;
Florida School Bus Specifications Revised, 1968;
Florida School Bus Specifications Revised, 1969;
Florida School Bus Specifications Revised, 1970;
Florida School Bus Specifications Revised, 1971;
Florida School Bus Specifications Revised, 1972;
Florida School Bus Specifications Revised, 1973;
Florida School Bus Specifications Revised, November 1974;
Florida School Bus Specifications Revised, January 1975;
Florida School Bus Specifications Revised, Chassis – October 1976;
Body – October 1976, No Type A; No Exceptional Child; Florida
School Bus Specifications Revised, Body, Chassis, Type A, and
Exceptional Child, March 1977;
Florida School Bus Specifications Revised, 1978;
Florida School Bus Specifications Revised, Amended, 1979;
Florida School Bus Specifications Revised, November 1980;
Florida School Bus Specifications Revised, 1982;
Florida School Bus Specifications Revised, 1983;
Florida School Bus Specifications Revised, January 1984;

Florida School Bus Specifications Revised, September 1984;
Florida School Bus Specifications Revised, September 1985;
Florida School Bus Specifications Revised, July 1986;
Florida School Bus Specifications Revised, October 1987;
Florida School Bus Specifications Revised, 1988;
Florida School Bus Specifications Revised, 1989;
Florida School Bus Specifications Revised, 1990;
Florida School Bus Specifications Revised, 1992;
Florida School Bus Specifications Revised, 1993;
Florida School Bus Specifications Revised, 1995;
Florida School Bus Specifications Revised, 2000;
Florida School Bus Specifications Revised, 2002;
Florida School Bus Specifications Revised, 2004;
Florida School Bus Specifications Revised, 2006;
Florida School Bus Specifications Revised, 2008.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Charlie Hood, Office of School Transportation, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda Champion, Deputy Commissioner for Finance and Operations

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 2, 2008

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.0571
RULE TITLE: Career and Technical Education and Adult General Education Standards and Industry-Driven Benchmarks

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt the revised standards, benchmarks, and curriculum frameworks, delete obsolete language, and correct statutory citations. The effect will be a rule which incorporates the current standards, benchmarks, and curriculum frameworks and is consistent with current statutes.

SUMMARY: This rule is amended to adopt revised standards, benchmarks, and curriculum frameworks.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 1004.92(2)(b)3. FS.

LAW IMPLEMENTED: 1004.92(2)(b)4. FS.

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

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Andy Anderman, Director, Career and Technical Education, Division of Workforce Education, 325 West Gaines Street, Tallahassee, Florida; (850)245-9020

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0571 Career and Technical Education and Adult General Education Vocational and Workforce Development Standards and Industry-Driven Benchmarks.

Section 1004.92, 239.229, Florida Statutes, requires the Department of Education to develop program standards and industry-driven benchmarks for career and technical education vocational, adult and community education programs. The criteria for qualification of individual courses for inclusion in the classification of secondary career education programs prescribed in Section 1011.80, 236.081(4)(e), Florida Statutes, or Workforce Development Education programs as prescribed in Section 1011.62, 239.115, Florida Statutes, are annually adopted by the State Board and shall be published by the Commissioner in a document titled, “Standards, Benchmarks, and Frameworks Career and Technical Education Curriculum Frameworks, Academic Year 2008/2009.” “Vocational Education Program Courses Standards, July 1999”, or in the document “Curriculum Frameworks Adult General Education, 2007/2008.” “Adult Education Program Courses Standards, July 1999.” These criteria are hereby incorporated by this rule and made a part of the rules of the State Board of Education to become effective with the effective date of this rule. Copies of these publications may be obtained from the Division of Workforce Education ~~Development~~, Department of Education, The Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399 ~~at a cost to be established by the Commissioner but which shall not exceed actual cost.~~ or from the Department’s website at <http://www.fldoe.org/workforce/dwdframe>.

(1) District school boards and community colleges boards of trustees variance authority. District school boards of education and community college boards of trustees are authorized, to vary up to ten (10) percent of the intended outcomes of each framework included in the document “Standards, Benchmarks, and Frameworks Career and Technical Education Curriculum Frameworks, Academic Year 2008/2009.” “Vocational Education Program Courses Standards, July 1999”, and “Curriculum Frameworks Adult General Education, 2007/2008.” ~~the “Adult Education Program Courses Standards, July 1999.”~~ The variance does not apply to frameworks identifying occupations requiring state or federal licensure, certification or registration.

(2) Commissioner of Education waiver authority. The Commissioner of Education may approve a school’s waiver request submitted by a district school board to allow the school to substitute locally approved intended outcomes for State Board approved outcomes included in the documents

“Standards, Benchmarks, and Frameworks Career and Technical Education Curriculum Frameworks, Academic Year 2008/2009” and “Curriculum Frameworks Adult General Education, 2007/2008.” “Vocational Education Program Courses Standards, July 1999” provided that:

- (a) The framework does not identify occupations requiring state or federal licensure, certification or registration;
- (b) Locally approved outcomes specified for the state approved program adequately address the major concepts/content contained in the curriculum framework;
- (c) The waiver request fulfills the provisions of Section 1001.10, 229.592(9), Florida Statutes.

Specific Authority 1004.92(2)(b)3. FS. Law Implemented 1004.92(2)(b)4. FS. History—New 10-30-78, Amended 10-23-79, 5-29-80, 7-9-81, 7-6-82, 5-29-83, 6-14-84, 7-10-85, Formerly 6A-6.571, Amended 7-9-86, 7-22-87, 8-30-88, 7-31-90, 7-31-91, 7-31-92, 7-31-93, 7-31-94, 4-30-96, 1-23-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Andy Anderman, Director, Career and Technical Education,
 Division of Workforce Education
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Lucy Hadi, Chancellor, Workforce
 Education
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: April 29, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: April 18, 2008

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.0784
 RULE TITLE: Approval of Charter School
 Governance Training

PURPOSE AND EFFECT: This is a new rule to establish procedures for the approval of charter school governance training submitted to the Department of Education by potential training providers. The effect of this rule is to provide consistency to the instructional components, submission, review, and approval of charter school governance training.

SUMMARY: This rule provides for the implementation of Section 1002.33, Florida Statutes, relating to the requirement for governing bodies of charter schools in Florida to participate in governance training that has been approved by the Department of Education.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 1002.33(24) FS.
 LAW IMPLEMENTED: 1002.33(9)(k) FS.
 A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
 DATE AND TIME: June 17, 2008, 8:30 a.m.
 PLACE: Tampa Airport Marriott, Tampa, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jean Miller, Acting Executive Director, Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Room 522, Tallahassee, Florida 32399-0400; (850)245-0502

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0784 Approval of Charter School Governance Training.

The following provisions are established for the approval of charter school governing board training submitted to the Florida Department of Education for approval pursuant to Section 1002.33, Florida Statutes.

(1) General training requirements.

(a) Beginning with the effective date of this rule, every member of the governing body of a charter school operating in Florida shall participate annually in governance training on or before August 1 of each calendar year. The training must be delivered consistent with a training plan that has been submitted and approved by the Department as described in this rule.

(b) Training for charter school governing boards with one or more members who have had no previous board service or have served on the board for less than ninety (90) days must include a minimum of four (4) hours of instruction focusing on government in the sunshine, conflicts of interest, ethics, and financial responsibility as specified in Section 1002.33(9)(k), Florida Statutes.

(c) A minimum of two (2) hours of refresher instruction on the four (4) topics in Section 1002.33(9)(k), Florida Statutes, may be offered if a charter school’s governing board is composed entirely of members who have served continuously on the school’s board for ninety (90) days or more, and all board members have completed four (4) hours of instruction as described in paragraph (1)(b) of this rule.

(d) Instruction beyond the hours specified in paragraphs (1)(b) and (c) of this rule may be included in the training plan to address additional topics generally recognized and supported by research or practitioners as important for effective governing board operation.

(e) Each charter school is responsible for contracting with or providing a trainer who delivers governance training consistent with a governance training plan that has been approved by the Department.

(2) Governance training plans.

(a) For the purpose of this rule, a training plan is a written instructional document describing the instructional design for charter school governing board training which includes measurable performance objectives, instructional content, delivery strategies, learning activities, and assessment for training to fulfill the statutory requirements for charter school governing board instruction focusing on government in the sunshine, conflicts of interest, ethics, and financial responsibility as specified in Section 1002.33(9)(k), Florida Statutes. The training plan may include, but not be limited to, traditional instructional settings, individualized learning modules, and online education.

(b) A governance training plan submitted for review and approval by the Department shall address each of the following components:

1. Description of the content to be delivered that fulfills all topics identified in Section 1002.33(9)(k), Florida Statutes, and is consistent with the hours of instruction specified in paragraphs (1)(b) and/or (1)(c) of this rule.

2. Additional topics to be addressed during the training.

3. Measurable learning objectives that specify the performance required.

4. Description of instructional strategies, activities and presentation materials.

5. Methods to be used to measure the stated learning objectives, overall training performance, and provider effectiveness.

6. Length of time required for training.

7. References used in developing the training.

8. Certification that the training has been developed and is owned by the provider or that the provider is licensed to use the training for purposes pursuant to Section 1002.33, Florida Statutes, and

9. Qualifications and experience of all persons who will be actively involved in providing training.

(3) Submission and review of training plans.

(a) Potential training providers shall complete Form IEPC-9, Charter School Governance Training, Training Plan Approval Application, for submitting a charter school governance training plan for review and approval. Form IEPC-9 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's website at <http://www.floridaschoolchoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(b) After completing and signing the form, a training provider seeking approval must submit the original and five (5) copies of the form to the Office of Independent Education and Parental Choice as described on the form.

(c) The Commissioner of Education shall appoint a committee to review charter school governance training plans. The review team shall be appointed by the Commissioner of Education and composed of individuals with knowledge in education, finance, governance, and law. A training plan submitted for approval to the Department will be reviewed within thirty (30) days of receipt to determine compliance with the components identified in paragraph (2)(b) of this rule.

(d) The review team's findings will be consolidated and provided as recommendations to the Commissioner or designee. Using the recommendations of the committee, the Commissioner shall determine if the provider has met the criteria for approval or denial. Within ten (10) working days following the Commissioner's determination, the Department shall send a written notification to the proposed provider regarding the outcome of the training plan review.

(e) The names of training providers whose training plans have been approved to meet requirements of Section 1002.33(9)(k), Florida Statutes, will be posted on the Department's website at <http://www.floridaschoolchoice.org> and will be available in hard copy upon request to the Office of Independent Education and Parental Choice. Governance training that was delivered between January 1, 2008, and the effective date of this rule will be considered to have met statutory requirements if it was delivered pursuant to a training plan subsequently approved by the Department and reported as described in subsection (5) of this rule.

(f) A notice of denial of approval shall be sent to proposed training providers who submitted plans that do not comply with the components identified in paragraph (2)(b) of this rule. The notice of denial will identify specific areas of program weakness that must be corrected prior to reconsideration for approval. The provider shall have sixty (60) days after receipt of the notice of denial to resolve any outstanding issues, including submission of a revised training plan for reconsideration and review pursuant to paragraphs (3)(b), (c), and (d) of this rule. If issues with the training plan have not been resolved within sixty (60) days after receipt of the original notice of denial or any subsequent notice of denial following reconsideration of the revised training plan, whichever is later, the application for approval shall be administratively closed. After sixty (60) days from the date the application is administratively closed, a new training plan may be submitted to the Department as described in paragraphs (3)(a) and (b) of this rule.

(4) Length of approval and renewal of training plans.

(a) Each approval or extension shall be granted for a period of time determined by the Department of Education, but shall not exceed two (2) years from the date of approval.

(b) No earlier than six (6) months prior to the expiration of approval, a training provider may submit a request for extension of an approved training plan by completing and submitting Form IEPC-10, Charter School Governance

Training, Application to Renew an Approved Training Plan. Form IEPC-10 is hereby incorporated by reference to become effective with the effective date of this rule and will be available electronically on the Department's website at <http://www.floridaschoolchoice.org> or may be obtained from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(c) A request for training plan renewal submitted for approval to the Department will be reviewed within thirty (30) days of receipt to determine continued compliance with the components identified in paragraph (1)(b) of this rule. Within ten (10) working days following the Commissioner's determination, the provider will be notified in writing of the Department's decision to renew the plan or not to renew. If a training plan is not renewed, a provider may submit a new training plan to the Department as described in paragraphs (3)(a) and (b) of this rule.

(5) Report of governing board training.

(a) Each training provider offering an approved training program in accordance with this rule shall submit a report of each governing board's training to the Department and a copy of the report to the charter school director within thirty (30) days of the training. The charter school director is responsible for providing a copy of the report to the school's sponsor within thirty (30) days of receiving the report from the trainer.

(b) Information to be reported shall include the name of the charter school governing board and individual members who received training, the date and location of the training, and whether or not the training objectives were achieved. The report shall be submitted electronically to the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(c) Each training provider offering an approved charter school governance training program shall provide a certificate of participation to every governing board member who completes the training and achieves the training objectives as stated in the training plan.

Specific Authority 1002.33(24) FS. Law Implemented 1002.33(9)(k) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paulette Mainwood, Office of Independent Education and Parental Choice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jean Miller, Acting Executive Director, Office of Independent Education and Parental Choice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 29, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 11, 2008

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-10.040
 RULE TITLE: Basic Skills Requirements for Postsecondary Career Certificate Education

PURPOSE AND EFFECT: The purpose of this rule amendment is to delete obsolete tests. The effect will be a rule which accurately identifies current assessment instruments.

SUMMARY: The rule is amended to delete tests which are no longer available.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 1001.02(1), 1004.91(1), 1007.271(3) FS.

LAW IMPLEMENTED: 1004.91 FS.

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

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lucy Hadi, Chancellor, Workforce Education, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.040 Basic Skills Requirements for Postsecondary Career Certificate Education.

(1) Students who are enrolled in a postsecondary program offered for career education credit of 450 hours or more shall complete an entry-level basic skills examination within the first six (6) weeks after admission into the program. The assessment instruments listed in paragraphs (1)(a) through (1)(c)(e) of this rule (English version only) are designated to assess student mastery of basic skills and shall be used according to standards established for test administration and interpretation set forth in Standards for Educational and Psychological Testing (APA, AERA, NCME, 1992) and with appropriate accommodations for students with disabilities as specified in Rule 6A-1.0943, F.A.C.:

(a) Tests of Adult Basic Education (TABE), Complete Battery or Survey Form, Forms 9 & 10, 2003;

(b) Florida College Entry-Level Placement Test or Multiple Assessment Placement Service (MAPS), where authorized;

~~(c) Tests of Adult Basic Education (TABE), Complete Battery or Survey Form, Forms 7 & 8, 1994;~~

~~(d) Tests of Adult Basic Education — Work Related (TABE-WR), 1994; or~~

~~(c)(e) Wonderlic Basic Skills Test (WBST), 1994.~~

(2) through (8) No change.

Specific Authority 1001.02(1), 1004.91(1), 1007.271(3) FS. Law Implemented 1004.91 FS. History—New 10-8-85, Formerly 6A-10.40, Amended 5-2-89, 9-5-93, 11-25-97, 1-24-99, 4-26-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lucy Hadi, Chancellor, Workforce Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lucy Hadi, Chancellor, Workforce Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 22, 2008

DEPARTMENT OF EDUCATION

State Board of Education

| | |
|------------|--|
| RULE NOS.: | RULE TITLES: |
| 6A-22.001 | Definitions |
| 6A-22.002 | Rehabilitation Provider Qualifications |
| 6A-22.003 | Reemployment Status Review |
| 6A-22.004 | Notice Requirements |
| 6A-22.006 | Screening Process |
| 6A-22.008 | Reemployment Services and Programs |
| 6A-22.009 | Employee Responsibilities |
| 6A-22.010 | Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities |
| 6A-22.011 | List of Forms |
| 6A-22.012 | Expenditures from the Workers' Compensation Administrative Trust Fund |

PURPOSE AND EFFECT: The purpose and effect of these rule amendments are to (a) mandate the electronic submission of DWC-21 (Reemployment Services Billing Form) and DWC-22 (Reemployment Status Review Form) data from the carriers to the Bureau of Rehabilitation and Reemployment Services, resulting in increased workers' compensation system efficiencies; (b) require qualified rehabilitation providers to have a business e-mail address thereby increasing efficiencies in the workers' compensation system; (c) allow for on-the-job training that is temporary, thereby expanding the opportunities for injured employees to receive training; (d) clarify various Bureau of Rehabilitation and Reemployment Services procedures for screening cases under Section 440.491(6), Florida Statutes; (e) provide for cost containment, capping all services provided by qualified rehabilitation providers to the

Bureau of Rehabilitation and Reemployment Services at \$55.00 per hour; and (f) permit certain vocational assessments to be conducted by certified rehabilitation counselors or certified disability management specialists.

SUMMARY: The rules are proposed for amendments to better align services and ensure consistency with current state and federal laws.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 440.491(5), (6), (7), (8) FS.

LAW IMPLEMENTED: 440.491 FS.

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

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Reginald L. Watkins, Bureau Chief, Vocational Rehabilitation, (850)245-3473

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-22.001 Definitions.

~~(1) "Cooperative working agreement" means a written contractual agreement between the Department and a qualified rehabilitation provider or a public or private agency to provide comprehensive reemployment services such as on the job training development, job placement and follow up.~~

~~(1)(2) "Customary residence" is the injured employee's place of permanent residence. Whenever the injured employee changes his or her permanent residence, the customary residence changes also.~~

(3) through (4) renumbered (2) through (3) No change.

~~(5) "Ergonomic job analysis" is the objective study of the relationship among job demands, environmental conditions and human functional characteristics.~~

(6) through (7) renumbered (4) through (5) No change.

~~(6)(8) "Labor market" means an area not to exceed a fifty (50) mile radius of the injured employee's customary vicinity.~~

~~(7)(9) "On-the-job training (OJT) contractor" is a qualified rehabilitation provider or employee of a public or private agency which has entered into a contract cooperative working agreement with the Department for the provision of on-the-job development and follow-up services.~~

~~(8)(10) "On-the-job training (OJT) contract" is a contract between an employer, injured employee and the Department in which an employer agrees to hire an injured employee subject to the same working conditions and benefits as all other similarly situated employees. Pursuant to the contract, the~~

employer shall provide training and adequate supervision to enable the injured employee to achieve predetermined competencies to assist the injured employee to ensure a return to suitable gainful employment with the contract employer at the end of the contract period.

(11) through (13) renumbered (9) through (11) No change.

(12) “Unemployed” means that the injured employee is not receiving wages for services or labor performed for an employer.

(13)~~(14)~~ A vocational evaluator is:

(a) a rehabilitation counselor as defined in paragraph 6A-22.002(1)(b), F.A.C., who is qualified thereby to make vocational assessments as herein defined and is employed by the Department; or

(b) a vocational evaluator as defined in paragraph 6A-22.002(1)(c), F.A.C., who is qualified thereby to perform vocational evaluations as herein defined and in Section 440.491(1)(i), Florida Statutes, and is employed by the Department; or

(c) a vocational evaluator as defined in paragraph 6A-22.002(1)(c), F.A.C., who is approved by the Department to perform vocational evaluations as herein defined and in Section 440.491(1)(i), Florida Statutes, and is employed privately. “Vocational evaluator” is a qualified individual employed by the Department or who holds the designation of a certified vocational evaluator and is approved by the Department to perform vocational evaluations.

(14)~~(15)~~ No change.

Specific Authority 440.491(5), (6), (7) FS. Law Implemented 440.491 FS. History–New 7-1-96, Amended 2-9-00, 6-26-01, Formerly 38F-55.001, Amended 5-5-04, _____.

6A-22.002 Rehabilitation Provider Qualifications.

(1) through (3) No change.

(4) Each applicant shall have a business e-mail address and must maintain that address during the period that the applicant is listed in the directory.

(5)~~(4)~~ No change.

(6)~~(5)~~ Employees of the Department are exempt from the requirements of subsections 6A-22.002(2) and (3), F.A.C.

Specific Authority 440.491(7) FS. Law Implemented 440.491(7) FS. History–New 7-1-96, Amended 6-26-01, Formerly 38F-55.002, Amended 5-5-04, 2-22-05, _____.

6A-22.003 Reemployment Status Review.

(1) The carrier shall conduct a reemployment status review by completing a reemployment status review form, ~~on the~~ DWC-22, which is incorporated by reference in Rule 6A-22.011, F.A.C..

(2) The carrier shall complete an electronic form DWC-22 within fifteen (15) days of the reporting requirement deadlines set forth in Section 440.491(3)(a), F.S., and

(a) Shall retain a copy in the carrier’s file, and

(b) Shall submit the electronic form DWC-22 to the Department’s website https://wc-returntowork-vr.doe.state.fl.us/rehabforms/ within fifteen (15) business days of completion.

(c) Electronic form DWC-22 shall comply with the DWC-22 Reemployment Status Review Form File Layout for Electronic Submission, Revision A Record Length: 1000 Header Record Layout incorporated into this rule by reference.

(d) An electronic form DWC-22 filed with the Department which is not completed according to these rules will be returned by the Department to the employer or carrier. Upon receipt of the returned form, the employer or carrier shall properly complete and refile the form with the Department within fifteen (15) days.

Specific Authority 440.491(3), ~~(4)~~, (5), (6), (8) FS. Law Implemented 440.491 FS. History–New 7-1-96, Amended 6-26-01, Formerly 38F-55.005, Amended _____.

6A-22.004 Notice Requirements.

(1) No change.

(2) A carrier shall use the following written notice: “Your continuing disability indicates you may be unable to perform the duties of the job held at the time of your work-related injury. If this is correct and you are unable to return to work in any capacity with your current employer or find other employment which would allow you to earn your pre-injury wages, you may be eligible for a screening for reemployment services from the State of Florida, Department of Education. Upon receipt of your request, the Department will assess your case to determine what services are necessary to return you to suitable gainful employment. Reemployment services that you may be eligible for include job seeking skills training, counseling, referrals to other agencies, job market information, transferable skills analysis, job development, job placement, job analysis, job modification, vocational testing, vocational evaluation, on-the-job training, securing a general education diploma (GED), or formal training and education. Additionally, if you have reached maximum medical improvement and are unable to earn at least eighty (80) percent of your compensation rate, and subject to the overall limitation of one hundred four (104) weeks of temporary total disability benefits payable in a workers’ compensation case with a date of accident which falls on or after October 1, 2003, the carrier shall pay training and education temporary total disability benefits for a period up to twenty-six (26) weeks upon beginning a Department approved retraining program or the carrier may elect to pay temporary partial disability/wage loss benefits if you earn wages as the result of on-the-job training or work while enrolled in a program. An additional twenty-six (26) weeks may be approved if deemed necessary by the Judge of Compensation Claims. If your date of accident occurred on or after October 1, 2003, the above benefits shall not be in addition to the 104 weeks’ maximum number of weeks payable for temporary total disability benefits prior to reaching

maximum medical improvement. To request a screening, contact your local state Division of Vocational Rehabilitation District Office or the Central Office in Tallahassee at (850)245-3470 and ask to speak with a staff person in the Reemployment Services Section of the Bureau of Rehabilitation and Reemployment Services.” The carrier shall send a copy of this notification to the Bureau of Rehabilitation and Reemployment Services, Department of Education, 101A Forrest Building, 2728 Centerview Drive, Tallahassee, Florida 32399-0400 within ten days of mailing the notification to the injured employee.

Specific Authority 440.491(5), (6), (8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.006, Amended 3-1-05, _____.

6A-22.006 Screening Process.

(1) No change.

(2) The screening process shall consist of:

(a) A review of all available medical and vocational documentation relevant to the compensable injury to determine whether the injured employee is able to perform the duties of the pre-injury occupation; and

(b) A review of the documentation which supports the payment of temporary partial disability and wage loss benefits to determine the injured employee’s inability to obtain suitable gainful employment because of his injury; and

(c) An interview with the injured employee.

(d) A vocational assessment. The vocational assessment shall determine the relevance and weight of the following factors in the case: the permanent physical restrictions, if any, present in the case; the availability of employment with the employer at the time of the injury; the injured employee’s transferable skills and the labor market; whether the injured employee conducted an unsuccessful job search, and the reasons the job search was unsuccessful; the injured employee’s education and academic skills and vocational education; the injured employee’s motivation; the injured employee’s financial ability to complete training; and the availability of transportation to allow the injured employee to complete training. The vocational assessment shall determine whether the injured employee is ineligible to receive reemployment services, or is eligible to receive reemployment services. If the injured employee is eligible to receive services, the vocational assessment shall determine which of the following shall be offered to the injured employee: placement, and/or on-the-job training, and/or an evaluation, and/or a re-training program costing less than \$2,500 and lasting six (6) months or less.

(e) A rehabilitation counselor or vocational evaluator providing vocational assessments shall:

1. conduct an initial interview with the injured employee;

2. submit to the Department within thirty (30) calendar days of the initial interview a written report which shall address each of the vocational assessment factors enumerated above and discuss how the provision of the recommended service(s) will facilitate reemployment;

3. conduct an exit interview with the injured employee; and

4. submit to the Department within ten (10) days of submission of the written report a statement of acknowledgement of the vocational assessment signed by the injured employee and the rehabilitation counselor or vocational evaluator.

(3) through (4) No change.

(5) The Department may provide the following vocational assessment services as part of the screening process to determine eligibility: Orientation, employability skills training, counseling, vocational testing, transferable skills analysis, labor market surveys, vocational assessment services, job analysis and evaluation.

(5) through (6) renumbered (6) through (7) No change.

~~(8)(7)~~ Following a Department screening the Department shall not provide any additional reemployment services or refer the injured employee for a vocational evaluation:

~~(a) If the injured employee has filed a claim for permanent total disability benefits under Section 440.15(1), F.S., which the carrier has denied, wherein either the injured employee’s medical condition or vocational capabilities are in dispute, until such time as an Office of the Judge of Compensation Claims adjudicates the injured employee’s claim; or~~

~~(a)(b)~~ If the injured employee’s medical condition is unresolved or unstable, until such time as the medical condition becomes stable; or

~~(b)(c)~~ If the injured employee has reached maximum medical improvement and returned to and maintained suitable gainful employment for at least ninety (90) calendar days; or

~~(c)(d)~~ If the injured employee refuses to accept reemployment services from the Department.

(9)(8) The Department shall not refer the injured employee for a vocational evaluation if the injured employee:

(a) Has returned to suitable gainful employment as a result of placement services provided by the Department; or

(b) Has no documented permanent physical restrictions related to the injury; or

(c) Has transferable skills which would allow return to work in suitable gainful employment; or

(d) Was terminated by the employer for good cause unrelated to the injury or any restrictions or limitations resulting therefrom; or

(e) Terminated suitable gainful employment for reasons unrelated to the injury.

Specific Authority 440.491(5), (6) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.009, Amended 5-5-04,_____.

6A-22.008 Reemployment Services and Programs.

(1) The Department shall approve sponsorship of reemployment services provided through an on-the-job training program, ~~vocational assessment~~, job placement or a training and education program when recommended in and approved as part of a Department reemployment plan.

(2) When the Department provides a vocational assessment or a vocational evaluation to the injured employee, the vocational assessment or vocational evaluation shall determine the reemployment services, such as are enumerated without limitation in Section 440.491(1)(f), Florida Statutes, necessary to return the injured employee to suitable gainful employment. The Department will approve and sponsor reemployment services if:

(a) The vocational assessment is completed by a qualified rehabilitation counselor or the vocational evaluation is completed by a vocational evaluator approved by the Department, as the case may be; and

(b) The vocational assessment is compliant with paragraph 6A-22.006(2)(d), F.A.C., or

(c) The vocational evaluation contains the information identified in paragraph 6A-22.010(2)(e), F.A.C., and

(d) The vocational evaluation demonstrates that the injured employee:

1. Has no transferable skills which would allow for return to suitable gainful employment with the same employer in the same, different or modified job or a new employer in the same, modified or different job; or

2. Requires additional Department sponsored reemployment services to enable the injured employee to return to suitable gainful employment.

~~The Department will approve and sponsor retraining services if:~~

~~(a) The vocational evaluation is completed by a Department approved vocational evaluator, and~~

~~(b) The vocational evaluation contains the information identified in paragraph 6A-22.010(2)(e), F.A.C.; and~~

~~(c) The vocational evaluation demonstrates that the injured employee:~~

~~1. Has no transferable skills which would allow for return to suitable gainful employment with the same employer, same job; same employer, different or modified job; new employer, same job; new employer, modified or different job; or~~

~~2. Requires additional Department sponsored reemployment services to enable the injured employee to return to suitable gainful employment.~~

(3) through (5) No change.

~~(6) The Department shall not sponsor reemployment services if the vocational evaluation does not recommend reemployment services.~~

Specific Authority 440.491(5), (6) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 2-9-00, 6-26-01, Formerly 38F-55.011, Amended 3-1-05,_____.

6A-22.009 Employee Responsibilities.

(1) No change.

(2) An employee who refuses retraining and education after the recommendation of a vocational evaluator and approval by the Department, will forfeit his or her entitlement to further training and education benefits, as well as additional payment for lost wages under Chapter 440, Florida Statutes. The following shall not be deemed a refusal of training and education:

(a) Failure to participate in a recommended retraining program due to medical instability; or

(b) Failure to participate in a recommended retraining program due to an adverse change in the employee's medical status; or

(c) Failure to participate in a recommended retraining program due to the school's failure to offer the approved program; or and

(d) Failure to participate in a recommended retraining program due to a family medical emergency.

Specific Authority 440.491(5), (6) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.012, Amended 3-1-05,_____.

6A-22.010 Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities.

(1) A qualified rehabilitation provider providing employer or carrier sponsored reemployment services shall:

1. Reemployment services as a result of a reemployment assessment, or(a) Submit a properly completed individualized written rehabilitation program to the employer or carrier for approval within thirty (30) days of referral which specifies the recommended services and associated costs necessary to return the injured employee to suitable gainful employment, using terminology consistent with Department service code descriptions ~~to the employer or carrier for approval~~ when recommending:

2. Three or more counseling sessions, or

3. A vocational evaluation, or

4. A work evaluation, or

5. Training and education, including on-the-job training,

or

6. Placement services, or

7. Changes to the initial individualized written rehabilitation program.

(b) Maintain a copy of the properly completed individualized written rehabilitation program in the injured employee's file.

(2) A certified vocational evaluator providing Department sponsored vocational evaluations shall:

(a) Ensure any test site used for Department sponsored vocational evaluations meets the definition of "test site" set forth in subsection 6A-22.001(13), F.A.C.; and

(b) Be responsible for the administration, scoring and interpretation of all testing instruments and work samples used as part of the vocational evaluation process; and

(c) Remove or cure conditions that invalidate test results; and

(d) Provide adaptive evaluation tools or techniques to accommodate any physical or functional disability or language barrier; and

(e) Conduct an initial interview with the injured employee.

(f) Submit to the Department, within thirty (30) calendar days of Department approval of services, a written report which shall:

1. Include an interpretation of testing instruments and work samples used, specifying the form and level of tests, percentile scores, norm groups, grade levels, standard scores and stanine scores as applicable to the test instrument; and

2. Identify the injured employee's physical and intellectual capabilities, aptitudes, achievements, work related behaviors, and interests. The interests of the injured employee alone cannot be the only basis for the vocational evaluator's recommendation; and

3. Identify residual or transferable skills; and

4. Identify the most appropriate vocational objectives; and

5. Identify which reemployment service(s) are necessary for the injured employee to return to suitable gainful employment; and

6. Discuss how the provision of the recommended service(s) will facilitate reemployment; and

7. When a retraining program is recommended, include the rationale for the recommended program, the entrance, enrollment and exit requirements of the program, the anticipated program costs and the proximity of the program to the injured employee's customary residence; and

8. Include an individualized labor market survey which supports the injured employee's ability to compete for employment in the identified vocational goal(s) and shall include information documenting:

a. The potential wage earning capacity,

b. The physical demands of the identified vocational goal as identified by potential employers,

c. The minimum educational requirements and work experience required by potential employers, and

d. Each potential employer's job openings for the six (6) months prior to the survey and projected openings for the upcoming six (6) months.

~~(g)(f)~~ Conduct an exit interview with the injured employee.

(h) Submit to the Department, within ten (10) days of submission of the written report, the original receipt statement signed by the injured employee and the vocational evaluator.

(3) Any qualified rehabilitation provider providing any employer or carrier ~~or Department~~ sponsored reemployment services, reemployment assessments or medical care coordination shall submit with each DWC-21, which is incorporated by reference into this rule, a written report which reports services provided and expected outcomes, covering the following points:

(a) Summary by date of contacts with the injured employee and other pertinent parties; and

(b) Problems or issues adversely affecting the reemployment process and the corrective actions taken in that process; and

(c) Continuing feasibility of the reemployment plan; and

(d) Vocational activities planned for the subsequent month; and

(e) Justification for change or modification of current plan.

(4) through (5) No change.

(6) A qualified rehabilitation provider providing either employer or carrier ~~or Department~~ sponsored reemployment services, reemployment assessments, medical care coordination ~~and vocational evaluations~~, shall:

(a) Report on electronic form DWC-21 only those services provided by or through the authorized qualified rehabilitation provider. Services not rendered by or through the qualified rehabilitation provider may not be billed or reimbursed.

(b) Submit a properly completed electronic form DWC-21 listing the specific service(s) provided, utilizing only valid service codes and descriptors for those direct services rendered to the injured employee. Direct services are those services provided or required by an individualized written rehabilitation program. Other services are to be billed in the manner agreed upon by the employer or carrier and the qualified rehabilitation provider.

1. The initial electronic form DWC-21 shall be submitted to the Department within thirty (30) days of the contract approval date for Department sponsored services or to the employer or carrier within thirty (30) days of the date of the referral for employer or carrier sponsored services.

2. An interim electronic form DWC-21 shall be submitted at thirty (30) day intervals thereafter during which the authorized services are provided. The DWC-21 should not be filed if services are not provided within any thirty (30) day period.

3. A final electronic form DWC-21 shall be submitted within thirty (30) days of the date of the last service provided or according to the terms of a contract with the Department for vocational evaluation services.

(c) Close a file and submit a final electronic form DWC-21 when attorney involvement interferes with the provision of direct services.

(7) through (8) No change.

(9) The employer or carrier shall:

(a) Ensure that the information required in this rule is provided on the form DWC-21 prior to payment and filing of the electronic form DWC-21 with the Department, and

(b) Approve or deny the provision of services recommended as part of an individualized written rehabilitation program within fifteen (15) calendar days of receipt of the same; and pay or deny form DWC-21 bills within forty-five (45) calendar days after receipt of a bill for services provided to an injured employee, and

(c) Complete items 20, 21 and 23 on every electronic form DWC-21 filed with the Department. In item 20 it is necessary to legibly enter the date the form DWC-21 was received. In item 21 it is necessary to legibly enter the date the form DWC-21 was reimbursed. In item 23 it is necessary to enter the amount reimbursed only if it is different from the amount billed by the qualified rehabilitation provider or facility, and

(d) File electronic form DWC-21 with the Department of Education ~~at its on the Department's website at <https://wc-returntowork-vr.doe.state.fl.us/rehabforms/office> in Tallahassee, Florida,~~ within thirty (30) days after the full or partial payment of form DWC-21 ~~(A DWC-21 filed with the Department shall have a date stamp in the upper right hand corner indicating the date the DWC-21 is sent to the Department),~~ and

(e) Be responsible for the legibility, accuracy and completeness of the social security number, date of accident, the employer or carrier's and servicing company/TPA's Department of Insurance, Division of Workers' Compensation's assigned four digit carrier code number and Federal Employer Identification Number (FEIN), and those areas that the employer or carrier completes on form DWC-21.

(10) No change.

(11) An electronic form DWC-21 filed with the Department which is not completed according to these rules will be returned by the Department to the employer or carrier. Upon receipt of the returned form, the employer or carrier shall properly complete and refile the form with the Department within fifteen (15) days.

(12) Form DWC-21 ~~as is~~ incorporated by reference in Rule 6A-22.011, F.A.C., shall comply with the DWC-21 Reemployment Services Claim Form File Layout for Electronic Submission, Revision C Record Length: 1200 Header Record Layout incorporated into this rule by reference.

Specific Authority 440.491(5), (6), (7) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.013, Amended 5-5-04,_____.

6A-22.011 List of Forms.

(1) Forms DWC-21, DWC-22, DWC-23, DWC-24, ~~and~~ DWC-96, DWC-22 Reemployment Status Review Form File Layout for Electronic Submission, Revision A Record Length: 1000 Header Record Layout, and DWC-21 Reemployment Services Claim Form File Layout for Electronic Submission, Revision C Record Length: 1200 Header Record Layout and accompanying instructions are incorporated by reference as part of this rule to become effective with the effective date of this rule April 2004. Each form shall be typed or legibly completed in order for the form to be considered properly filed or submitted with the Department.

(a) The carrier shall submit the form DWC-21 to the Department ~~reemployment services billing form shall be submitted to the Department on form DWC-21.~~

(b) Reemployment status review form shall be submitted to the Department on form DWC-22.

(c) Request for screening form shall be submitted to the Department on form DWC-23.

(d) Department and student agreement for sponsorship of training and education form shall be completed on form DWC-24.

(e) Qualified rehabilitation provider application shall be submitted to the Department on form DWC-96.

(2) A copy of the forms and accompanying instructions incorporated by subsection 6A-22.011(1), F.A.C., may be obtained from the Department of Education, Bureau of Rehabilitation and Reemployment Services, 2728 Centerview Drive, Suite 101A, Forrest Building, Tallahassee, Florida 32399-0400. Copies are also available at the following Department web site: <http://www.rehabworks.org/index.cfm?fuseaction=Submain.WorkersComp> <http://www.firm.edu/doe/rules/rules.htm>.

Specific Authority 440.491(5), (6), (7) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 6-26-01, Formerly 38F-55.014, Amended 5-5-04,_____.

6A-22.012 Expenditures from the Workers' Compensation Administrative Trust Fund.

(1) ~~Upon receipt of the completed evaluation report, The~~ Department shall authorize reimbursement for reemployment services received from qualified rehabilitation providers ~~the evaluation~~ from the Workers' Compensation Administration Trust Fund at a maximum rate of \$55.00 per hour; The total reimbursement for an evaluation may not exceed \$1,100.00 per evaluation.

(2) through (8) No change.

Specific Authority 440.491(5), (6), (7), (8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 12-2-98, 6-26-01, Formerly 38F-55.015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Reginald L. Watkins, Bureau Chief, Vocational Rehabilitation
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Bill Palmer, Director, Division of
 Vocational Rehabilitation
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: April 22, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: June 22, 2007

DEPARTMENT OF REVENUE

Miscellaneous Tax

| RULE NOS.: | RULE TITLES: |
|------------|--|
| 12B-6.001 | Scope; Definitions; Index Price |
| 12B-6.0015 | Imposition of the Gross Receipts Tax |
| 12B-6.0021 | Registration |
| 12B-6.005 | Payment of Tax; Reports; Public Use Forms |
| 12B-6.0051 | Public Service Tax Reporting Form |
| 12B-6.008 | Interest |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12B-6, Florida Administrative Code (F.A.C.), Gross Receipts Tax, is to implement: (1) the provisions of Sections 203.01 and 203.012, Florida Statutes (F.S.), as amended by Sections 1 and 2, Chapter 2005-148, Laws of Florida (L.O.F.), which, effective January 1, 2006, imposes a tax on utility services delivered to a retail consumer in Florida; and (2) the provisions of Section 2, Chapter 2007-60, L.O.F., which moves the due date of the payment of tax from the last day of the month to the 20th day of the month. When adopted, these proposed changes to Rule Chapter 12B-6, F.A.C., will provide for the administration of the gross receipts tax imposed on utility services.

SUMMARY: The substantial rewording of Rule 12B-6.001, F.A.C.: (1) changes the title to "Scope; Definitions; Index Price"; (2) provides that the rule chapter applies to the tax imposed under Chapter 203, F.S., on utility services delivered to a retail consumer in Florida; (3) defines the terms "cost price," "Department," "distribution company," "electricity index price," "gas index price," "gross receipts," "person," and "utility services" for purposes of the rule chapter; (4) provides that the gross receipts tax imposed on certain utility services delivered to a retail consumer in Florida is based on an index price; (5) provides how the Department will announce the annual index prices for electricity and for natural and manufactured gas; (6) provides that the index price applies to electricity only if the transportation of the electricity is sold independent of the sale of the electricity itself; and (7) provides when the calculation of the tax requires the use of an index price, the distribution company must use a reasonable methodology to apply the residential, commercial, and industrial classifications to its existing rate structure.

Proposed new Rule 12B-6.0015, F.A.C. (Imposition of the Gross Receipts Tax), provides: (1) that the 2.5 percent gross receipts tax is imposed on distribution companies' gross receipts from the privilege of selling and transporting natural or manufactured gas to retail consumers in Florida; (2) how the tax is computed based on the index price; (3) that the sale or transportation of natural or manufactured gas to public or private utilities for use as a fuel in the generation of electricity or for resale is not subject to tax and how to document such sales or charges; (4) that the sale or transportation of natural or manufactured gas to persons eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material, is not subject to tax and how to document such sales or charges; (5) that the 2.5 percent gross receipts tax is imposed on distribution companies' gross receipts from the privilege of selling and transporting electricity to retail consumers in Florida and how the tax is to be calculated; (6) that the tax does not apply to receipts from customers for purposes of resale; (7) that receipts from separately itemized charges for the connection, disconnection, suspension, or restoration of utility services are not subject to tax; (8) that receipts from separately itemized fees for returned checks, late payments, and interest due on late payments are not subject to gross receipts tax; (9) that receipts from separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment are not subject to gross receipts tax; (10) that the gross receipts tax applies to charges for utility services separately itemized to customers as an amount for services based on a standard rate amount with a separate rate adjustment; (11) that each and every fee imposed by a political subdivision of the State of Florida that is passed on to the customer as a separately itemized charge is included in the gross receipts subject to tax; (12) that any municipal public service tax and any sales tax separately itemized to the customer is not included in the gross receipts subject to tax; (13) that the sale or delivery of electricity as part of an electric interchange agreement or contract between utilities is not subject to tax and provides guidelines on how to document such sale or delivery; (14) that wholesale sales of electric transmission services and the loss of electricity from the generation, transmission, or distribution of electricity are not subject to tax; (15) that separately itemized charges for gross receipts tax on a customer's bill, invoice, statement, or other evidence of sale are a part of the gross receipts of a distribution company; (16) for the imposition of use tax on natural or manufactured gas imported into Florida for which the Florida gross receipts tax has not been paid; (17) the documentation requirements, including a suggested resale certificate, for tax-exempt sales of utility services for purposes of resale and when the Department will accept resale certificates to document tax-exempt sales for the purpose of resale; and (18) recordkeeping requirements for taxpayers who sell or deliver utility services.

The proposed amendments to Rule 12B-6.0021, F.A.C. (Registration), provide: (1) that prior to engaging in the business of selling, transporting, delivering, or importing utility services in Florida, every person is required to register with the Department; and (2) updated information on how to register with the Department.

The proposed amendments to Rule 12B-6.005, F.A.C. (Payment of Tax; Reports; Public Use Forms): (1) replace the term "utility provider" with the term "taxpayer"; (2) incorporate the provisions of Section 2, Chapter 2007-60, L.O.F., which move the due date for reporting and remitting the gross receipts tax from the last day of the month to the 20th day of the month; (3) provide when taxpayers may elect to pay the gross receipts tax on total billings for electricity each month or on the actual gross receipts for electricity received in that month; (4) remove obsolete provisions regarding the filing of an application for refund; (5) provide that persons engaged in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year or post such list on a publicly-accessible Internet web site; and (6) adopt changes to Form DR-133, Gross Receipts Tax Return, and update information on how to obtain copies of the form from the Department.

The amendments to Rule 12B-6.0051, F.A.C. (Public Service Tax Reporting Form), update information on how to obtain Form DR-700001, Municipal Public Service Tax Data Base, from the Department.

The amendments to Rule 12B-6.008, F.A.C. (Interest), provide that interest shall not exceed one percent per month and remove obsolete provisions regarding interest for payments due prior to January 1, 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 166.233, 203.01(3)(a)2., 213.06(1) FS.

LAW IMPLEMENTED: 166.233, 203.01, 203.012, 203.06, 213.235, 213.255(1), (2), (3), 213.37, 231.755, 215.26 FS.

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

DATE AND TIME: June 10, 2008, 11:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun 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 48 hours before the workshop/meeting by

contacting: Larry Green. 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: Robert Babin, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4842

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial Rewording of Rule 12B-6.001 follows. See Florida Administrative Code for present text.)

12B-6.001 Scope; Definitions; Index Price ~~Imposition of the Gross Receipts Tax.~~

(1) SCOPE. This rule chapter applies to the tax imposed by Chapter 203, F.S., on utility services delivered to a retail consumer in Florida.

(2) DEFINITIONS. For purposes of this rule chapter:

(a) "Cost price" means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.

(b) "Distribution company" means any person owning or operating local electric, or natural or manufactured gas utility, distribution facilities within this state for the transmission, delivery, and sale of electricity or natural or manufactured gas. The term does not include natural gas transmission companies that are subject to the jurisdiction of the Federal Energy Regulatory Commission.

(c) "Department" means the Florida Department of Revenue.

(d) "Electricity index price" means the applicable residential, industrial, or commercial price per kilowatt hour for retail consumers in Florida in the previous calendar year, as published in the United States Energy Information Administration Electric Power Monthly.

(e) "Gas index price" means the applicable residential, industrial, or commercial price per 1,000 cubic feet for retail consumers in Florida in the previous calendar year, as published in the United States Energy Information Administration Natural Gas Monthly.

(f) "Gross receipts" means the total payments received in money, goods, services, or other consideration.

(g) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

(h) "Utility services" means electricity for light, heat, or power; and natural or manufactured gas for light, heat, or power, including transportation, delivery, transmission, and

CERTIFICATION

NATURAL OR MANUFACTURED GAS PURCHASED BY
A PERSON ELIGIBLE FOR EXEMPTION UNDER
INDUSTRIAL CLASSIFICATIONS IN SECTION
212.08(7)(ff)2., F.S.

This is to certify that I have purchased natural or manufactured gas for use as an energy source or raw material that is excluded from tax pursuant to Section 203.01(3)(d), F.S.

I certify that the applicable purchases were made by a company whose four-digit SIC Industry Number, as listed below, is classified under SIC Industry Major Group Number 10, 12 through 14, 20, or 22 through 39 or Group Number 212 in the Standard Industrial Classification (SIC) Manual, 1987, published by the Office of Management and Budget.

I acknowledge that I will be liable for tax pursuant to Section 203.01(1)(f), F.S., if the requirements for exclusion pursuant to Section 203.01(3)(d), F.S., are not satisfied.

I understand that if such purchases of natural or manufactured gas do not qualify for the exclusion as indicated on this certification, I must pay the applicable tax directly to the Department of Revenue.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

| | |
|----------------------------------|-------|
| _____ | _____ |
| Purchaser's Name (Print or Type) | Date |
| _____ | _____ |
| Signature of Authorized Person | Title |

Federal Employer Identification Number (FEI No.)

(2) ELECTRICITY.

(a) A tax is imposed at the rate of 2.5 percent on a distribution company's gross receipts from the privilege of selling electricity that is delivered to a retail consumer in this state when the charge to the consumer includes charges for both the electricity and the transportation of the electricity. Tax imposed pursuant to this paragraph is calculated by multiplying the distribution company's gross receipts by 2.5 percent.

1. The tax imposed in paragraph (2)(a) does not apply to:

a. Receipts from customers for separately itemized charges for the connection, disconnection, suspension, or restoration of electricity;

b. Receipts from customers for separately itemized charges for returned checks or other forms of payment, late payments, or interest due on late payments; or

c. Receipts from customers for separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment.

2.a. When charges for utility services are separately itemized as an amount for services based on a standard rate amount with a separate rate adjustment on the same billing,

invoice, statement, or other evidence of sale for services, gross receipts tax is due on the receipts for utility services after the application of the rate adjustment.

b. Example: A customer purchases electricity from an electric utility under an energy management program. The customer is billed the standard residential rate. In addition, the customer receives load management monthly credits for allowing specified electrical equipment to be interrupted at the option of the electric utility. The charge for electric service after the load management credits are applied against the charge at the standard residential rate is the amount subject to the gross receipts tax.

c. Example: A customer purchases electricity from an electric utility at the standard residential service rate. The electric utility charges each residential customer in this rate class an additional energy cost recovery factor, called "energy charges," on a per kilowatt hour basis. The customer is billed for electricity at the standard residential rate, plus the applicable energy charges. The amount charged to the customer at the standard residential rate, plus the amount of the energy charges, is the amount subject to the gross receipts tax.

3. Each and every fee imposed by a political subdivision of the State of Florida on the distribution company, such as a franchise fee, is included in the charge upon which the gross receipts tax is computed, when the fees are passed on to the customer and separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

4. Any municipal public service tax imposed under Section 166.231 or 166.232, F.S., or any sales tax imposed under Chapter 212, F.S., on the sale or purchase of electric power or energy is not included in the charge upon which the gross receipts tax is computed when the municipal tax or sales tax is separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

(b) Each distribution company that receives payment for the delivery of electricity to a retail consumer in this state is subject to tax on the exercise of this privilege as provided by this paragraph, unless the payment is subject to tax under paragraph (a). Under this paragraph, the gross receipts tax on the delivery of electricity is calculated as follows: (number of kilowatt hours delivered) × (the applicable electricity index price) × (2.5 percent).

(c) The tax imposed in paragraphs (2)(a) and (b) does not apply to:

1. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, for resale subject to the documentation requirements outlined in subsection (5);

2. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, as part of an electric

interchange agreement or contract between such utilities for the purpose of transferring more economically generated power.

a. The electric utility is required to maintain a copy of the agreement or contract in its books and records and is not required to meet the provisions of this rule regarding sales for resale.

b. The internal use, including interdepartmental transfers, of the purchased power is not subject to tax.

3. Wholesale sales of electric transmission service.

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility's customers.

(3) SEPARATELY ITEMIZED CHARGES. A distribution company may wholly or partially separately itemize the gross receipts tax on the customer's bill, invoice, statement, or other evidence of sale. However, the gross receipts tax is imposed on the privilege of doing business, and it is an item of cost to the distribution company. The distribution company remains fully and completely liable for the payment of the tax, even when the tax is wholly or partially separately itemized on the customer's bill, invoice, statement, or other evidence of sale. When the tax is wholly or partially separately itemized, every person, including governmental units and charitable and religious organizations, is liable for the payment of the tax to the distribution company.

(4) USE TAX.

(a) Gross receipts tax is levied upon a person's cost price of electricity, or natural or manufactured gas, imported into this state or severed within this state for the person's own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under Chapter 203, F.S., and who cannot demonstrate payment of the tax imposed by Chapter 203, F.S. The tax implemented pursuant to this paragraph is calculated by multiplying the cost price of the utility service by 2.5 percent.

(b) The tax implemented pursuant to paragraph (4)(a) does not apply to:

1. The use of natural gas in the production of oil or gas, or the use of natural or manufactured gas by a person transporting natural or manufactured gas, when used and consumed in providing such services;

2. The use of natural gas or manufactured gas by a person eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material;

3. The use of natural gas or manufactured gas by a public or private utility as fuel in the generation of electricity; or

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility's customers.

(5) SALES FOR RESALE.

(a) The sale, transportation, or delivery of utility services for resale is only exempt from the tax imposed under Chapter 203, F.S., if the sale, transportation, or delivery is documented in strict compliance with this rule. Distribution companies must document sales for resale by obtaining resale certificates from customers who purchase transportation, delivery, or utility services for the purposes of resale. Resale certificates submitted during the protest period will be accepted by the Department as valid proof and documentation of the resale, but will not be accepted when submitted in any proceeding under Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.

(b) The distribution company is only required to obtain one certificate for sales made for the purposes of resale from each customer making purchases for the purposes of resale. The certificate must contain the purchaser's name and address, the purchaser's gross receipts tax registration number and its effective date, a statement that the purchases are for the purpose of resale, the signature of the purchaser or an authorized representative of the purchaser, and the date of issuance. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS TAX ON UTILITY SERVICES

This is to certify that the electricity for light, heat, or power or the natural or manufactured gas for light, heat, or power _____ purchased after _____ (date) from _____ (seller's name) is purchased for the purpose of resale pursuant to Chapter 203, F.S.

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax I will be liable for payment of the tax directly to the Department and subject to the penalties imposed under Section 203.03(2), F.S.

I understand that I must disclose to the seller, or remit tax on, any purchase not for resale when tax was not paid to the seller and/or distribution company.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Signature _____

Certificate of Registration Number _____

Effective Date of Registration _____

By _____ (authorized signature)

Date _____

(6) RECORDKEEPING REQUIREMENTS. Distribution companies that sell, transport, or deliver utility services to retail consumers in Florida and taxpayers that import utility services into Florida for their own use must maintain electrical interchange agreements or contracts, resale certificates, exemption certificates, and other documentation required under the provisions of this rule chapter in their books and

records until tax imposed under Chapter 203, F.S., may no longer be determined and assessed under Section 95.091, F.S. Electronic storage of required documentation through the use of imaging, microfiche, or other electric storage media will satisfy compliance with recordkeeping requirements.

Specific Authority 203.01(3)(a)2., 213.06(1) FS. Law Implemented 203.01, 203.012, 213.37 FS. History—New _____.

12B-6.0021 Registration.

(1) Prior to engaging in the business of ~~providing or selling, transporting, delivering, or importing~~ utility services, as ~~provided in Rule 12B-6.001, F.A.C.,~~ every person, distribution company, or other entity upon which the gross receipts tax is imposed is required to register with the Department.

(2) Registration with the Department for gross receipts tax purposes is available by using one of the following methods:

(a) Registering through ~~the Department's Internet web site at the address shown inside the parentheses (www.myflorida.com/dor/)~~ using the Department's "e-Services" system located on the Department's Internet site at www.myflorida.com/dor; or

(b) Filing an Application to Collect and/or Report Tax in Florida (~~Form form~~ DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.), with the Department as indicated on the form.

Specific Authority ~~203.01,~~ 213.06(1) FS. Law Implemented 203.01 FS. History—New 6-5-85, Formerly 12B-6.021, Amended 5-4-03, _____.

12B-6.005 Payment of Tax; Reports; Public Use Forms.

(1)(a) Except as provided in Rule Chapter 12-24, F.A.C., and paragraph (c) below, all taxes imposed on utility services are due to the Department on or before the 20th last day of the month following the date of the sale or transaction. The payment and return must either reach the Department or be postmarked on or before the 20th last day of the month for receipts for utility services received in the preceding calendar month for a ~~taxpayer utility provider~~ to avoid penalty and interest for late filing. When the 20th last day of the month falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, a Sunday, or a legal holiday. A tax return is required to be filed on or before the 20th last day of each month even when no tax is due. The report is required to be signed by an officer or a representative duly authorized to act by the taxpayer. For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the 1986 Internal Revenue Code, as amended. A "legal holiday" pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a

legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) Form DR-133, Gross Receipts Tax Return (R. 07/07, hereby incorporated by reference), is the return to be used to report the gross receipts tax imposed on utility services. Copies of this form are available, without cost, by one or more of the following methods: 1) downloading selected forms from the Department's Internet site at www.myflorida.com/dor; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(c)(b) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 203.01(1)(j)(f), F.S., the tax is due on or before the 20th last day of the month following the authorized reporting period and becomes delinquent on the ~~first day of the next succeeding day that is not a Saturday, a Sunday, or a legal holiday month.~~

(d)(e) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;
2. Any return for reporting tax is required to be submitted by electronic means; or
3. No tax is due with a return for reporting tax.

(e)(d)1. For taxes levied pursuant to paragraph (2)(a) of Rule 12B-6.0015, F.A.C., the A taxpayer may elect to pay the gross receipts tax on total billings for electricity utility services for each month or on the actual gross receipts for electricity utility services received in that month.

2. When the ~~taxpayer utility provider~~ elects to pay gross receipts tax on total billings for ~~electricity utility services~~, the ~~taxpayer provider~~ may take a credit for net uncollectibles for which gross receipts tax has been previously paid to the Department. The credit must be reported on the provider's return in accordance with the timing provisions of Section 215.26(2), F.S.

3. Instead of taking In-lieu of a credit for net uncollectibles, the ~~taxpayer provider~~ may seek a refund of tax previously paid by filing an Application for Refund (~~Form form~~ DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. The application for refund must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

4.a. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid. Credits for tax paid on or after October 1, 1994, and prior to July 1, 1999, must be reported on the provider's return within 5 years after the date the tax was paid.

4.b. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid. Credits for tax paid on or after July 1, 1999, must be reported on the taxpayer's provider's return within 3 years after the date the tax was paid.

(2) Persons who engage in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year. A person may satisfy the customer-reporting requirement by: 1) providing a written list of customers to the Department; or 2) maintaining a publicly-accessible customer list on the person's Internet web site. The person must provide the written list of customers or the Internet address of the publicly-accessible Internet web site by January 31 of each year to GTA Miscellaneous Tax Coordinator, c/o GTA Program Director, Florida Department of Revenue, 5050 W. Tennessee Street, Bldg D-1, Tallahassee, Florida 32399-0100. Persons who choose to satisfy the customer-reporting requirement by posting a list of customers on a publicly-accessible Internet web site must update the list by January 31 of each year. This reporting requirement does not apply to distribution companies. Any person required to furnish such a list may elect to identify only those customers who take direct delivery without purchasing interconnection services from a distribution company.

(2)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of utility services. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922 2208; or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 4) calling the Forms Request Line during regular office hours at (800)352 3671 (in Florida only) or (850)488 6800; or, 5) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367 8331.

| Form Number | Title | Effective Date |
|-------------|---|----------------|
| (3) DR-133 | Gross Receipts Tax Return (R. 06/04) | 09/04 |

Specific Authority 213.06(1) FS. Law Implemented 203.01, 203.012, 213.255(1), (2), (3), 213.37, 213.755, 215.26 FS. History-New 11-13-78, Amended 7-1-80, 8-26-81, Formerly 12B-6.05, Amended 10-4-89, 12-19-89, 5-4-03, 9-28-04,_____.

12B-6.0051 Public Service Tax Reporting Form.

(1)(a) The public-use form provided in this rule is to be utilized by each municipality or charter county to report to the Department services taxed under Sections 166.231 and 166.232, F.S., and to report any other required information. The public-use form is employed by the Department for this purpose, and it is hereby incorporated in this rule by reference.

(b) Copies of this form are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site (www.myflorida.com/dor/forms); or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Departments Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

| Form Number | Title | Effective Date |
|---------------|---|----------------|
| (2) DR-700001 | Municipal Public Service Tax Database Report (R. 10/01) | 05/03 |

Specific Authority 166.233, 213.06(1) FS. Law Implemented 166.233 FS. History-New 4-5-98, Amended 5-4-03,_____.

12B-6.008 Interest.

(1) Interest shall accrue at the following rate:

(a) One percent per month (prorated dialing using the daily factor of .000328767) for payments due prior to January 1, 2000.

(b) For payments due on or after January 1, 2000, the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily), not to exceed one percent per month.

(2) Interest accrues from the date of the delinquency until paid.

Specific Authority 213.06(1) FS. Law Implemented 203.06, 213.235 FS. History-New 11-13-78, Amended 6-5-85, Formerly 12B-6.08, Amended 10-4-89, 4-2-00, 5-4-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert Babin, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4842

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Director, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), were noticed in the Florida Administrative Weekly on October 28, 2005 (Vol. 31, No. 43, pp. 3825-3831) and on February 23, 2007 (Vol. 33, No. 8, pp. 809-816). Rule development workshops were held on November 16, 2005, and March 15, 2007. Comments were received at the rule development workshop and changes have been made by the Department to the proposed changes to Rule Chapter 12B-6, F.A.C. A Notice of Rule Development to incorporate the provisions of Chapter 2007-60, L.O.F., in proposed Rule 12B-6.005, F.A.C. (Payment of Tax; Reports; Public Use Forms) was noticed in the Florida Administrative Weekly on November 21, 2007 (Vol. 33, No. 47, p. 5501).

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-102.201
RULE TITLE: Notice of Proposed Rules

PURPOSE AND EFFECT: The proposed rule is needed in order to allow for posting of proposed rulemaking on the department's website and provide consistency regarding the posting of proposed rulemaking.

SUMMARY: The proposed rule amends Rule 33-102.201 F.A.C. to update the rule to allow for posting of proposed rulemaking on the department's website and the locations for posting proposed rulemaking are updated for consistency and clarity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 120.54(3)(a) FS.

LAW IMPLEMENTED: 120.54(3)(a) 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: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-102.201 Notice of ~~Proceedings and~~ Proposed Rules.

(1) No change.

(2) Notice to those directly affected by a proposed rule shall be by:

(a) through (b) No change.

(c) Posting notice of the intended action on the Department of Corrections website ~~bulletin board in the Central Office in Tallahassee.~~

(d) Posting by memorandum notice of the intended action on the inmate ~~and personnel~~ bulletin boards of all major institutions, annexes, work camps, road prisons, and work release community correctional centers, community vocational centers and offices throughout the state directing that complete proposed rules are available in each institutional library or office. A copy of the notice shall be circulated among the inmates in all disciplinary, administrative and ~~or~~ close management confinement areas of all facilities.

Specific Authority 120.54(3)(a) FS. Law Implemented 120.54(3)(a) FS. History--New 10-8-76, Amended 5-2-85, Formerly 33-12.01, Amended 8-13-97, Formerly 33-12.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Perri K. Dale, Deputy General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard D. Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

| | |
|------------|---|
| RULE NOS.: | RULE TITLES: |
| 59A-4.103 | Licensure, Administration and Fiscal Management |
| 59A-4.106 | Facility Policies |
| 59A-4.107 | Physician Services |
| 59A-4.1075 | Medical Director |
| 59A-4.108 | Nursing Services |
| 59A-4.109 | Resident Assessment and Care Plan |

| | |
|------------|--|
| 59A-4.110 | Dietary Services |
| 59A-4.112 | Pharmacy Services |
| 59A-4.118 | Medical Records |
| 59A-4.122 | Physical Environment and Physical Plant Maintenance |
| 59A-4.123 | Risk Management and Quality Assurance |
| 59A-4.1235 | Liability Claims |
| 59A-4.126 | Disaster Preparedness |
| 59A-4.128 | Evaluation of Nursing Homes and Licensure Status |
| 59A-4.1285 | Respite Care |
| 59A-4.1288 | Exception |
| 59A-4.1295 | Additional Standards for Homes That Admit Children 0 Through 20 Years of Age |
| 59A-4.130 | Fire Prevention, Fire Protection, and Life Safety |
| 59A-4.133 | Plans Submission and Review and Construction Standards |
| 59A-4.134 | Plans Submission and Fee Requirements |
| 59A-4.150 | Geriatric Outpatient Nurse Clinic |
| 59A-4.165 | Nursing Home Guide |
| 59A-4.166 | Nursing Home Consumer Satisfaction Survey |

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate changes in the authorizing statute and revise technical errors and update references. The Agency proposes to amend Rule 59A-4.103, F.A.C., to include provisions for initial and change of ownership applications or suspension of a current license when licensure fees are returned to the Agency due to insufficient funds. This section also includes specifications regarding the issuance of partial inactive licenses for alternative uses pursuant to Section 400.0712, Florida Statutes (F.S.). Other changes to this section include the incorporation of modifications to the licensure application, technical changes clarifying the submission process for required reports to the Agency and defining days as “calendar” days. Proposed amendments to Rule 59A-4.106, F.A.C., include providing a web address for obtaining transfer and discharge forms, deleting a reference to services provided by the Department of Children and Families, presenting criteria for a Do Not Resuscitate Order (DNRO), incorporating references to federal guidelines and providing a specific address to obtain copies of a “Health Care Advance Directives.” Rule 59A-4.108, F.A.C., updates statutory references for facility staffing in accordance with state law, and establishes requirements for requesting the use of licensed nurses to perform licensed nursing and certified nursing assistant duties.

Proposed amendments to Rule 59A-4.110, F.A.C., include a technical change to the position title of director of food service and replaces the outdated references to the Dietary Managers

training and certification process. Amendments to Rule 59A-112, F.A.C., include technical changes for the terminology of the Emergency Drug Kit. Proposed amendment to Rule 59A-4.122, F.A.C., includes details for the placement of a resident’s bed and further defines the requirement for a closet and comfortable room temperatures. Changes to Rule 59A-4.123, F.A.C., incorporates revisions to the 1-day Adverse Incident Reporting Form, provides for electronic submission of this form and clarifies when events reported to law enforcement are considered adverse incidents.

Rule 59A-4.1235, F.A.C., is amended to incorporate revisions to the Liability Claims form and provides for the electronic submission of this form. Proposed amendment to Rule 59A-4.126, F.A.C., provides language regarding the submission of the emergency management plan, testing of this plan, and procedures and notifications for evacuation, overcapacity and re-occupancy of the nursing home structure during a disaster. An amendment to Rule 59A-4.128, F.A.C., removes the measurement of deficiencies in terms of scope and severity for state licensure. The establishment of Rule 59A-4.1285, F.A.C., provides requirements for developing and implementing a respite care program for nursing home licensees that choose to provide such a service. A proposed change to Rule 59A-4.1288, F.A.C., incorporates reference to federal regulations established since 1991. Amendments to Rule 59A-4.1295, F.A.C., include technical changes, clarification of requirements for the approval to initiate, expand or suspend pediatric services, and provides reference to Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 and removal of language as required by statutory changes. Proposed amendments to Rule 59A-4.130, F.A.C., provides revised language to conform to code edition changes and retains language not included in the Florida Building Code. Proposed amendment Rule 59A-4.133, F.A.C., provides language to reference the Florida Building Code to conform to statutory changes, and deletes all other requirements. Proposed new Rule 59A-4.134, F.A.C., revises the requirements for construction plans submission to conform to codes and statutory changes. Amendments to Rule 59A-4.150, F.A.C., include the deletion or correction of several recurring or obsolete definitions and references throughout the section. Proposed changes to Rule 59A-4.165, F.A.C., replaces the reference for a 45-month reporting period in the Nursing Home Guide with language that cites the time period defined in Section 400.191, F.S. Rule 59A-4.166, F.A.C., regarding the Nursing Home Consumer Satisfaction Survey is abolished due to repeal of the statutory authority. Other revisions are made throughout the Chapter to correct technical errors and update references.

SUMMARY: This proposed rule includes provisions for recent changes in licensure regulations and disaster preparedness, incorporates new laws regarding alternate bed placement and

inactive licenses, reinstates provisions for respite care and amends technical errors and updates references throughout the Chapter.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 400.23 FS.

LAW IMPLEMENTED: 400.011, 400.022, 400.141, 400.142, 400.23 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: June 9, 2008, 10:00 a.m.

PLACE: 2727 Mahan Drive, Building 3, AHCA Conference Room C, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Erin Smith (850)414-9707

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-4.103 Licensure, Administration and Fiscal Management.

(1) The licensee or applicant must prospective licensee shall make application for an initial, renewal or change of ownership license to operate a nursing home facility and must shall provide:

a. All of the information required by this rule and Chapter 400, Part II, F.S., on AHCA Form 3110-6001, October 2007, "Health Care Licensing Application – Nursing Homes" incorporated by reference. "Application for Nursing Home Licensure."

b. AHCA Form 3001-6001, September 2005, Instructions for Completing Application for Nursing Home Licensure, which is incorporated by reference

c. AHCA Forms 3110-0011, 3110-0011A, 3110-0011B, and 3110-0011C, and 3110-0011D, August 2001, "Controlling Interest Affidavit for Nursing Homes," which are incorporated by reference

b. AHCA Form 3100-0009, June 2007 4332-0001, January 2002, "Proof of Financial Ability to Operate Schedule," which is incorporated by reference, available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(2) The licensure fee must shall be included with the application. A biennial An annual fee of \$100 is \$50 per bed is required as described in Rule 400.062(3), Florida Statutes

(F.S.), plus the resident protection fee of \$.50 \$.25 per bed and the Data Collection and Analysis Assessment of \$12.00 \$6.00 per bed as authorized by Section 408.20(1)(b), F.S., Assessments; Health Care Trust Fund Costs of Nursing Home Statistical Unit, March 9, 1994. The Data Collection and Analysis Assessment is waived for facilities having a certificate of authority under Chapter 651, F.S. A license for an initial or change of ownership application will not be issued until the application fee has been received by the Agency and all associated checks have cleared. If a check for the renewal licensure fee is dishonored and returned to the Agency, the licensee will have ten business days to pay the full amount plus any applicable fees as provided by law. Such payment must be made by cash, cashier's check, or money order. Failure to pay the licensure and processing fee will result in suspension of the license until all fees are paid in full.

(3) Single copies of AHCA forms incorporated by reference within this chapter may be obtained from the Agency for Health Care Administration, Long Term Care Section, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or web address: <http://ahca.myflorida.com/>. Information regarding the electronic submission of reports to the Agency may be found at: <http://ahca.myflorida.com/reporting/index.shtml>.

(4) A nursing home licensee may request an inactive license for part of a facility as specified in Section 400.0712, F.S., to use an unoccupied contiguous portion of the facility for an alternative use to meet the needs of elderly persons. Prior to providing alternative services, the facility must submit a written request to the Agency. A request may be submitted at any time during the licensure period and must include the intended use of the inactive portion; a schematic drawing of the floor plan of the building identifying the inactive area; the total number of inactive beds and the prospective date the beds will become inactive.

(a) Upon receipt of written approval by the Agency to continue with the plan for the partial inactive license, the licensee must submit to the Agency AHCA Form 3110-6001, October 2007, "Health Care Licensing Application – Nursing Homes" within 60 days of the approval and a bed change request form for beds certified through the Centers for Medicare and Medicaid Services. The appropriate licensure application for the alternative use must accompany this application, unless the space will be utilized for services authorized under the existing nursing home license.

(b) If the alternative service license is approved, a partial inactive license will be issued concurrently with the issuance of the license for the alternative use. The expiration date of the partial inactive license will coincide with the licensee's nursing home renewal. The licensee must indicate the intent to continue the partial inactive license at each nursing home licensure renewal. Licensure fees will remain at the standard

rate for nursing home beds, whether active or inactive, at the time of renewal and will not be assessed for another Agency license requested for the alternative use of the inactive beds.

(c) Notification to reactivate the inactive portion of the building must be submitted to the Agency at least 30 days prior to the planned date to admit residents to the previously inactive beds. The inactive portion will be reactivated upon the satisfactory completion of an onsite inspection.

~~(5)(4)~~ Administration.

(a) The nursing home licensee shall have full legal authority and responsibility for the operation of the facility.

(b) The licensee of each facility ~~must shall~~ designate one person, who is licensed by the ~~Department of Health, Agency for Health Care Administration,~~ Board of Nursing Home Administrators under Chapter 468, Part II, F.S., as administrator who oversees the day-to-day administration and operation of the facility.

(c) Each nursing home ~~must shall~~ be organized according to a written Table of Organization.

(d) ~~By the 10th calendar day of each month, the~~ The licensee ~~must shall~~ submit to the Agency the ~~monthly vacant bed report reflecting the number of beds available for occupancy on the last day of the preceding month. The a~~ monthly vacant bed report ~~which is incorporated by reference by using as~~ AHCA Form 3110-0013, ~~August 2007~~ ~~January,~~ "Nursing Home Monthly Bed Vacancy Report," as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(e) ~~Each nursing home licensee must submit to the Agency semi-annually on or before April 15 and November 15 of each year, the~~ Submit Nursing Home Staffing Report which is incorporated by reference ~~as by using~~ AHCA Form 3110-0012, ~~August 2007, and updated biannually thereafter to reflect a new reporting period. January, 2002~~ "Nursing Home Staffing Report" as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(f) Information required in paragraphs (d) and (e) may be submitted electronically to the Agency at: ahca.myflorida.com/reporting/index.shtml.

~~(6)(5)~~ Fiscal Management.

(a) The licensee ~~must shall~~ maintain fiscal records for each nursing home it operates in accordance with the requirements of Chapter 400, Part II, F.S., and ~~this rule these Rules~~.

(b) An accrual or cash system of accounting ~~must shall~~ be used to reflect transactions of the business. Records and accounts of transactions, such as general ledgers and disbursement journals, ~~must shall~~ be brought current no less

than quarterly and ~~must shall~~ be available for review by authorized representatives of appropriate ~~s~~State and ~~f~~Federal agencies.

(c) A licensee ~~must shall~~ obtain a surety bond as required by Chapter 400, Part II, F.S. It ~~must shall~~ be based on twice the average monthly balance in the resident trust fund during the prior fiscal year or \$5,000, whichever is greater. A licensee who owns more than one nursing home may purchase a single surety bond to cover the residents' funds held in nursing homes located within the same Agency geographic region as defined in the AHCA "Nursing Home Guide Performance Measures Algorithm" dated July 2000 ~~AHCA service district~~. A surety bond ~~must shall~~ contain substantially the same language as is found in AHCA Form 3110-6002, ~~May 2008~~ ~~July 2001,~~ Nursing Home Patient Trust Surety Bond, which is incorporated by reference, ~~may be obtained from the Agency or online at: http://ahca.myflorida.com/~~. The surety bond ~~must-~~ ~~AHCA 3110-6002, July 2001, may be obtained from and shall~~ be filed with the Agency for Health Care Administration, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(d) A self-insurance pool, which may be an interest bearing account, may be established to provide compensation to any resident suffering financial loss in accordance with the provisions of Section 400.162(5)(c), F.S., as the result of one or more of the member licensees violating any of the provisions of Section 400.162, F.S.

1. Such self-insurance pool ~~must shall~~ be administered under the direction of an elected board of trustees. The membership of the board of trustees ~~must shall~~ be composed of one representative from each participating licensee.

2. An application for establishing a self-insurance pool ~~must shall~~ be made by the trustees to the Agency AHCA. Such application ~~must shall~~ contain the following information: the names, complete addresses, and affiliation of the trustees; the name and complete address of each licensee participating in the pool; the total dollar amount of the pool; and the name and complete address of the bank in which the account is maintained, including the account number. The application ~~must shall~~ be accompanied by:

a. An individual application from each licensee applying for membership in the self-insurance pool. Such application ~~must shall~~ contain the following information: the name, telephone number, and complete address of the facility; the name, telephone number, and complete address of the licensee; the name of the facility's administrator, manager or supervisor; his or her license and renewal number; the names of all employees involved in the administration of the resident trust fund account; the average monthly balance in the resident trust fund account during the prior year; the total dollar amount the licensee has deposited in the self-insurance pool; and the name and complete address of the bank in which the account is maintained, including the account number.

b. Prima facie evidence showing that each individual member of the pool has deposited an amount equal to twice the average monthly balance of the trust fund account or \$5,000.00 dollars, whichever is greater, in a separate account maintained by the board of trustees in the name of the self-insurance pool in a ~~chartered commercial~~ bank authorized under Chapter 658, F.S., that is a member of the Federal Reserve System, in the State of Florida to secure performance of payment of all lawful awards made against any member or members of the self-insurance pool, Section 400.162(5), F.S., and this rule ~~these Rules~~.

3. After the inception date of the pool, prospective new members of the pool must shall submit an application for membership to the board of trustees. Such application must shall contain the information specified in ~~subparagraph (6)(d)(5)(b)2~~. The trustees may approve the application for membership in accordance with this rule ~~these Rules~~. If so approved, the application for membership in accordance with this rule ~~these Rules~~ shall be filed with the Agency AHCA. Participation in a pool by a particular licensee must shall be approved by the Agency if the licensee indicates in its application that it does meet the requirements of Section 400.162(5), F.S., and this rule ~~these Rules~~ and verification is provided to document the financial status indicated on the application.

4. The amount deposited in such an account must shall be maintained at all times.

(e) If, at any time during the period for which a license is issued, a licensee who has not purchased a surety bond or entered into a self-insurance agreement is requested to hold funds in trust as provided in Section 400.162(5), F.S., the licensee must shall notify the Agency AHCA in writing ~~of the request~~ and make application for a surety bond or for participation in a self-insurance agreement within seven calendar days of the request, ~~exclusive of weekends and holidays~~. Copies of the application, along with written documentation of related correspondence with an insurance agency or group must shall be maintained and must shall be available for review. All notices required by this ~~r~~Rule provision must shall be sent to the Agency for Health Care Administration AHCA, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.0712074, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.147, 400.151, 400.162, 400.179, 400.18, 400.232, 408.20 FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, 1-1-86, 11-12-89, 12-25-90, 10-6-91, Formerly 10D-29.103, Amended 4-18-94, 2-6-97, 5-5-02, _____.

59A-4.106 Facility Policies.

(1) Admission, retention, transfer, and discharge policies:

(a) Upon request and in a language the resident or his ~~her~~ or ~~her~~ representative understands, at the time of admission and as changes are being made, each resident must will receive:

1. A copy of the residents' bill of rights conforming to the requirements in Section 400.022, F.S.;

2. A copy of the facility's admission and discharge policies; and

3. Information regarding advance directives.

(b) Each resident admitted to the facility must shall have a contract in accordance with Section 400.151, F.S., which covers:

1. A list of services and supplies, complete with a list of standard charges, which are available to the resident but not covered by the facility's per diem or by Title XVIII and Title XIX of the Social Security Act, and the bed reservation and refund policies of the facility.

2. When a resident is in a facility offering continuing care and is transferred from independent living or assisted living to the nursing home section, a new contract need not be executed; an addendum must shall be attached to describe any additional services, supplies or costs not included in the most recent contract that is in effect.

(c) No resident who is suffering from a communicable disease shall be admitted or retained unless the medical director or attending physician certifies that adequate or appropriate isolation measures are available to control transmission of the disease.

(d) Residents must may not be retained in the facility if they that require services beyond those for which the facility is licensed or has the functional ability to provide as determined by the medical director and the director of nursing in consultation with the facility administrator.

(e) Residents must shall be assigned to a bedroom area and must shall not be assigned bedroom space in common areas except in an emergency. Emergencies must shall be documented and shall be for a limited, specified period of time.

(f) All resident transfers and discharges must shall be in accordance with the facility's policies and procedures, provisions of ~~s~~Sections 400.022 and 400.0255, F.S., this rule, and other applicable ~~s~~State and ~~f~~Federal laws and will include notices provided to residents which are incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, ~~Revised~~, May 2001, "Nursing Home Transfer and Discharge Notice," and 3120-0003, ~~Revised~~, May 2001, "Fair Hearing Request For Transfer or Discharge From a Nursing Home," and 3120-0004, ~~December 2007 Revised~~, ~~May, 2001~~, "Long-Term Care Ombudsman Council Request for Review of Nursing Home Discharge and Transfer." These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308 or at the web address: <http://ahca.myflorida.com/>.

The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.

(2) Each nursing home licensee ~~must~~ ~~facility shall~~ adopt, implement, and maintain written policies and procedures governing all services provided in the facility.

(3) All policies and procedures ~~must~~ ~~shall~~ be reviewed at least annually and revised, as needed with input from, at minimum, the facility administrator, medical director, and director of nursing.

(4) Each licensee ~~must~~ ~~facility shall~~ maintain policies and procedures in the following areas:

- (a) Activities;
- (b) Advance directives;
- (c) Consultant services;
- (d) Death of residents in the facility;
- (e) Dental services;
- (f) Staff education, including HIV/AIDS training in accordance with Section 381.0035, F.S.;
- (g) Diagnostic services;
- (h) Dietary services;
- (i) Disaster preparedness;
- (j) Fire prevention and control;
- (k) Housekeeping;
- (l) Infection control;
- (m) Laundry service;
- (n) Loss of power, water, air conditioning or heating;
- (o) Medical director/consultant services;
- (p) Medical records;
- (q) Mental health;
- (r) Nursing services;
- (s) Pastoral services;
- (t) Pharmacy services;
- (u) Podiatry services;
- (v) Resident care planning;
- (w) Resident identification;
- (x) Resident's rights;
- (y) Safety awareness;
- (z) Social services;
- (aa) Specialized rehabilitative and restorative services;
- (bb) Volunteer services; and
- (cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy ~~must~~ ~~shall~~ include reporting within the facility and to the Agency AHCA.

(5) Staff Education.

(a) Each nursing home licensee ~~must~~ ~~shall~~ develop, implement, and maintain a written staff education plan, which ensures a coordinated program for staff education for all facility employees. The staff education plan ~~must~~ ~~shall~~ be reviewed at least annually by the risk management and quality assurance committee and revised as needed.

(b) The staff education plan ~~must~~ ~~shall~~ include both pre-service and in-service programs.

(c) The staff education plan ~~must~~ ~~shall~~ ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:

- 1. Prevention and control of infection;
- 2. Fire prevention, life safety, and disaster preparedness;
- 3. Accident prevention and safety awareness program;
- 4. Resident's rights;
- 5. Federal law, 42 CFR 483, Requirements for States and Long Term Care Facilities, October 1, 2006 September 26, 1991, including any amendments integrated since 2006, which is incorporated by reference and sState rRules and rRegulations, Chapter 400, Part II, F.S., and this rule;

~~6. The Florida "Right to Know" Hazardous Materials, Chapter 442, F.S.;~~

(d) The staff education plan ~~must~~ ~~shall~~ ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV/AIDS in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. All employees ~~must~~ ~~shall~~ have a minimum of one hour biennially.

(6) Advance Directives.

(a) Each nursing home licensee ~~must~~ ~~shall~~ have written policies and procedures, which delineate the nursing home's position with respect to the state law and rules relative to advance directives. The policies ~~must~~ ~~shall~~ not condition treatment or admission upon whether or not the individual has executed or waived an advance directive. In the event of conflict between the facility's policies and procedures and the individual's advance directive, provision should be made in accordance with Section 765.308, F.S.

~~(b)(7)~~ The facility's policy ~~must~~ ~~shall~~ include:

~~1.(a)~~ Providing each adult individual, at the time of the admission as a resident, with a copy of "Health Care Advance Directives – The Patient's Right to Decide," as prepared by the Agency for Health Care Administration, State Center for Health Statistics, April 2006, effective 1-11-93, which is hereby incorporated by reference, or with a copy of some other substantially similar document which is a written description of Florida's state law regarding advance directives. A copy of the "Health Care Advance Directives – The Patient's Right to Decide," may be obtained from the Florida Center for Health

Information and Policy Analysis at 2727 Mahan Drive, MS 16, Tallahassee, FL 32308, or electronically at [ahca.myflorida.com/MCHO/Health Facility Regulation/HC Advance Directives/](http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/HC_Advance_Directives/)

2.(b) Providing each adult individual, at the time of the admission as a resident, with written information concerning the nursing home's policies respecting advance directives; and

3.(e) The requirement that documentation of the existence of an advance directive be contained in the medical record. A nursing home licensee that ~~which~~ is provided with the individual's advance directive ~~must shall~~ make the advance directive or a copy thereof a part of the individual's medical record.

(c) Pursuant to Section 400.142(3), F.S., a nursing home may honor a Do Not Resuscitate Order (DNRO) as follows:

1. Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid DNRO is present and executed pursuant to Section 401.45, F.S.

2. Facility staff and nursing home licensees shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a DNRO and rules adopted by the Agency, pursuant to Section 400.142(3), F.S.

Specific Authority 400.141, 400.141(7), ~~400.142(3)~~, 400.23, 765.110 FS. Law Implemented 400.022, 400.0255, 400.102, 400.141, 400.141(7), 400.151, 400.23, 765.110 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.106, Amended 4-18-94, 1-10-95, 2-6-97, 5-5-02, _____.

59A-4.107 Physician Services.

(1) Each nursing home licensee ~~must facility shall~~ retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.

(2) Each resident or legal representative, ~~must shall~~ be allowed to select his or her own private physician.

(3) Verbal orders, including telephone orders, ~~must shall~~ be immediately recorded, dated, and signed by the person receiving the order. All verbal treatment orders ~~must shall~~ be countersigned by the physician or other health care professional on the next visit to the facility.

(4) Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he visits a facility.

(5) All physician orders ~~must shall~~ be followed as prescribed, and if not followed, the reason ~~must shall~~ be recorded on the resident's medical record during that shift.

(6) Each resident ~~must shall~~ be seen by a physician or another licensed health professional acting within their scope of practice at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required. If a physician documents that a resident does not need to be seen on this schedule and there is no other requirement for physician's services that must be met due to Title XVIII or XIX, the resident's physician may document an alternate visitation schedule.

(7) If the physician chooses to designate another health care professional to fulfill the physician's component of resident care, they may do so after the required visit. All responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

(8) Each nursing home licensee ~~must maintain facility shall have~~ a list of physicians designated to provide emergency services to residents when the resident's attending physician, or designated alternate is not available.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23, 464.012 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.107, Amended 10-5-92, 4-18-94, 1-10-95, _____.

59A-4.1075 Medical Director.

(1) Each nursing home licensee ~~must facility will~~ have only one physician who is designated as Medical Director.

(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, F.S., the nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.

(b) A Medical Director who does not have hospital privileges ~~must shall~~ be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations, the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a ~~health Health~~ maintenance organization licensed in Florida.

(c) A physician must have his or her principal office within 60 miles of all facilities for which he/she serves as Medical Director. ~~The p~~Principal office is the office maintained by a physician pursuant to Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/her or her principal office at the time of becoming Medical Director. The ~~A~~Agency may approve a request to waive this

requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

(d) The nursing home licensee must ~~facility shall~~ appoint a Medical Director who must shall visit the facility at least once a month. The Medical Director must shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director must shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of ten nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.

(4) The Medical Director must ~~appointed by the facility shall~~ meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director must ~~appointed by the facility shall~~ participate in the development of the comprehensive care plan for the resident when he/ or she is also the attending physician of the resident.

Specific Authority 400.141 FS. Law Implemented 400.141(2) FS. History–New 8-2-01, Amended_____.

59A-4.108 Nursing Services.

(1) The administrator of each nursing home must will designate one full-time registered nurse as a director of nursing (DON) who shall be responsible and accountable for the supervision and administration of the total nursing services program. When a director of nursing is delegated institutional responsibilities, a full-time qualified registered nurse (RN) shall be designated to serve as assistant director of nursing. In a facility with a census of 121 or more residents, a registered nurse ~~an registered nursing~~ must be designated as an assistant director of nursing.

(2) Persons designated as director of nursing or assistant director of nursing must shall serve only one nursing home facility in this capacity, and shall not serve as the administrator of the nursing home facility.

(3) The director of nursing must shall designate one licensed nurse on each shift to be responsible for the delivery of nursing services during that shift.

(4) In addition to the requirements outlined in subsection 400.23(3)(a), F.S., the nursing home licensee must ~~facility shall~~ have sufficient nursing staff, on a 24-hour basis to provide

nursing and related services to residents ~~in order~~ to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. ~~The facility will staff, at a minimum,~~

~~1. an average of 1.7 hours of certified nursing assistant and 6 hours of licensed nursing staff time for each resident during a 24 hour period.~~

(5) In multi-story, multi-wing, or multi-station nursing home facilities, there must shall be a minimum of one nursing services staff person who is capable of providing direct care on duty at all times on each floor, wing, or station.

(6) No nursing services staff person shall be scheduled for more than 16 hours within a 24 hour period, for three consecutive days, except in an emergency. Emergencies must shall be documented and must shall be for a limited, specified period of time.

(7) A nursing home licensee may allow a licensed nurse that performs both licensed nurse and certified nursing assistant duties during the same shift to divide the hours of patient care provided between the licensed nurse and certified nursing assistant staffing ratio requirements consistent with services provided. Approval to utilize licensed nurses to perform certified nursing assistant duties must be requested upon license renewal as provided in section 10 of AHCA Form #3110-6001, March 2007, "Health Care Licensing Application – Nursing Homes". The licensee must document daily the time the licensed nurse performed personal care services to comply with minimum staffing requirements.

Specific Authority 400.022, 400.23 FS. Law Implemented 400.011, 400.022, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 8-1-85, 7-1-88, 7-10-91, Formerly 10D-29.108, Amended 4-18-94,_____.

59A-4.109 Resident Assessment and Care Plan.

(1) Each resident admitted to the nursing home facility must shall have a plan of care. The plan of care must shall consist of:

(a) Physician’s orders, diagnosis, medical history, physical exam and rehabilitative or restorative potential.

(b) A preliminary nursing evaluation with physician’s orders for immediate care, completed upon ~~on~~ admission.

(c) A complete, comprehensive, accurate and reproducible assessment of each resident’s functional capacity which is standardized in the facility, and is completed within 14 days of the resident’s admission to the facility and every 12 ~~twelve~~ months, thereafter. The assessment must shall be:

1. Reviewed no less than once every three ~~3~~ months,
2. Reviewed promptly after a significant change in the resident’s physical or mental condition,
3. Revised as appropriate to assure the continued accuracy of the assessment.

(2) The nursing home licensee must develop facility is responsible to develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the resident's highest practicable physical, mental and social well-being. The care plan must be completed within seven 7 days after completion of the resident's assessment.

(3) At the resident's option, every effort must shall be made to include the resident and family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the resident's plan of care.

(4) All staff personnel who provide care, and at the resident's option, private duty nurses or persons who are not non employees of the facility, must shall be knowledgeable of, and have access to, the resident's plan of care.

(5) A summary of the resident's plan of care and a copy of any advanced directives must shall accompany each resident discharged or transferred to another health care facility, licensed under Chapter 400, Part II, F.S., or must shall be forwarded to the receiving facility as soon as possible consistent with good medical practice.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.109, Amended 4-18-94, 1-10-95,_____.

(Substantial rewording of Rule 59A-4.110 follows. See Florida Administrative Code for present text.)

59A-4.110 Dietary Services.

(1) The licensee must have a qualified dietitian on staff or through consultation services. A qualified dietitian is one who:

(a) Is a registered dietitian as defined in subsection 468.503(11), F.S. and is currently registered with the American Dietetic Association; or

(b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, in a program accredited by Commission on Accreditation for Dietetics Education (CADE), of the American Dietetic Association as found on www.eatright.org/cps/rde/xchg/ada/hs.xsl/CADE.html, which is incorporated by reference; has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

(2) The administrator must designate one full-time person as a director of food services. In a facility with a census of 61 or more residents, the duties of the director of food services must not include food preparation or service on a regular basis.

(3) The director of food services must be a qualified dietitian or he/she must meet one of the following requirements and be certified through the Certifying Board for Dietary Managers and maintain continuing education as set forth by the certifying board on or before December 31, 2010:

(a) Successfully complete a dietetic assistant correspondence or class room training program, approved by the American Dietetic Association. This training program is the dietary managers' course formerly administered by the Dietary Managers Association; or

(b) Successfully complete a course offered by an accredited college or university that provided 90 or more hours of correspondence or classroom instruction in food service supervision, and has prior work experience as a dietary supervisor in a health care institution with consultation from a qualified dietitian; or

(c) Have training and experience in food service supervision and management in the military service equivalent in content to the programs described in this subsection; or

(d) Successfully complete an associate degree program which meets the education standard established by the American Dietetic Association.

(4) A one-week supply of a variety of non-perishable food and supplies, that represents a nourishing diet of generally accepted standards of proper nutrition, must be maintained in the facility.

Specific Authority 400.022(1)(a), (f), (g), 400.141(5), 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-1-88, 7-10-91, Formerly 10D-29.110, Amended 4-18-94, 2-6-97,_____.

59A-4.112 Pharmacy Services.

(1) The nursing home licensee must facility shall adopt procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

(2) The nursing home licensee must facility shall employ, or obtain, the services of a state licensed consultant pharmacist. A consultant pharmacist is a pharmacist who is licensed by the Department of Health, Board of Pharmacy Department of Business and Professional Regulation and registered as a consultant pharmacist by the Board of Pharmacy in accordance with Rules 64B16-26.300 and 64B16-28.501, F.A.C., and who provides consultation on all aspects of the provision of pharmacy services in the facility.

(3) The consultant pharmacist must shall establish a system to accurately record the receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(4) The consultant pharmacist must shall determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(5) Drugs and biologicals used in the facility ~~must shall~~ be labeled in accordance with currently accepted professional principles, Chapter 499, F.S., and Rules 64B16-28.108 and 64B16-28.502, F.A.C.

(6) ~~Prescription Drugs~~ and non-prescription medications requiring refrigeration ~~must shall~~ be stored in a refrigerator. ~~When stored in a general use refrigerator, they shall must be stored in a separate, covered, waterproof, and labeled receptacle. The refrigerator must be locked or located within a locked medication room and accessible only to licensed staff in accordance with state and federal laws.~~

(7) All controlled substances ~~must shall~~ be disposed of in accordance with state and federal laws. All non-controlled substances may be destroyed in accordance with the facility's policies and procedures. Records of the disposition of all substances ~~must shall~~ be maintained in sufficient detail to enable an accurate reconciliation and a copy of the disposition must be filed in the resident's record or maintained electronically in a readily accessible format.

(8) Non-controlled substances in unit dose containers may be returned to the dispensing pharmacy for credit.

(9) If ordered by the resident's physician, the resident or his or her representative may, upon discharge, take all current prescription drugs with him or her. An inventory of the drugs released ~~must shall~~ be completed, ~~shall be~~ dated, and signed by both the person releasing the drugs and the person receiving the drugs, and ~~must shall~~ be placed in the resident's record.

(10) The ~~licensee must facility shall~~ maintain an Emergency Medication Kit, also known as the Emergency Drug Kit (EDK), the contents of which shall be determined in consultation with the medical director, director of nursing and pharmacist, and it shall be in accordance with facility policies and procedures. The kit ~~must shall~~ be readily available and ~~must shall~~ be kept sealed. All items in the kit ~~must shall~~ be properly labeled. The ~~licensee must facility shall~~ maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory of the contents of the EDK must Emergency Medication Kit shall be attached to the outside of the kit, which must include the earliest expiration date of the EDK drugs. If the seal is broken, the kit must be restocked and resealed by the next business day after use.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-10-91, Formerly 10D-29.112, Amended 4-18-94, _____.

59A-4.118 Medical Records.

(1) The ~~licensee must facility shall~~ designate a full-time employee as being responsible and accountable for the facility's medical records. If this employee is not a qualified Medical Record Practitioner, then the ~~licensee must retain facility shall have the services of~~ a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is certified eligible for a certification as

a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

(2) Each medical record ~~must shall~~ contain sufficient information to clearly identify the resident, his or her diagnosis and treatment, and results. Medical records ~~must shall~~ be complete, accurate, accessible and systematically organized.

(3) Medical records ~~must shall~~ be retained for a period of five years from the date of discharge. In the case of a minor, the record ~~must shall~~ be retained for three 3 years after a resident reaches legal age under state law.

(4) In the event of a change of ownership, the transferee must maintain all client records, including those originated by the transferor, as required in this subsection.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.145, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 3-2-88, Formerly 10D-29.118, Amended 4-18-94, _____.

59A-4.122 Physical Environment and Physical Plant Maintenance.

(1) The ~~licensee must facility shall~~ provide a safe, clean, comfortable, and homelike environment, which allows the resident to use his or her personal belongings to the extent possible.

(2) The ~~licensee must facility shall~~ provide:

(a) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

(b) Clean bed and bath linens that are in good condition;

(c) Private closet space or wardrobe space for each resident;

(d) Furniture, such as a bedside cabinet, drawer space;

(e) Adequate and comfortable lighting levels in all areas;

(f) Comfortable and safe room temperature levels in conformance with section 483.15(h)(6) 42 Code of Federal Regulations Chapter IV (10-1-00 Education) and;

(g) The maintenance of comfortable sound levels. Individual radios, TVs and other such transmitters belonging to the resident will be tuned to stations of the resident's choice.

(3) Each nursing home licensee must establish written policies designed to maintain the physical plant and overall nursing home environment to assure the safety and well-being of residents.

(4) The building and mechanical maintenance programs must be supervised by a person who has knowledge in the areas of building and mechanical maintenance.

(5) All mechanical and electrical equipment must be maintained in working order, and must be accessible for cleaning and inspection.

(6) All mechanical systems must be tested, balanced and operated prior to being placed into service and maintained in accordance with the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006. Permanent records must be maintained.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.122, Amended 4-18-94, _____.

59A-4.123 Risk Management and Quality Assurance.

(1) The licensee must ~~facility shall~~ maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

(2) The licensee must submit a report to the Agency on each incident determined to be adverse as specified in subsection 400.147(5), F.S. on ~~facility shall use~~ AHCA Form 3110-0009, Revised, February 2003 ~~January, 2002, October, 2004~~, “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” and AHCA Form 3110-0010, 3110-0010A, and 3110-0010B, Revised, January, 2002, “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” which ~~is~~ are incorporated by reference ~~when reporting events as stated in Section 400.147, F.S.~~ These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. Each licensee must comply with reporting timeframes and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C., at: <http://ahca.myflorida.com/reporting/index.shtml>.

(3) Each licensee that has submitted a “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” report must submit a full report of each event by completing “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, February 2003, which is incorporated by reference. This form may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. If a thorough investigation has revealed that the event does not meet the definition of adverse incident, a statement of corrective action on “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, February 2003, is not required. Each licensee must comply with report timeframe and transmission requirements specified in section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C., at: <http://ahca.myflorida.com/reporting/index.shtml>. Each facility shall ~~use AHCA Form 3110-0008, and AHCA Form 3110-0008A, Revised, January, 2002, “Nursing Home Monthly Liability Claim Information,” which are incorporated by reference when reporting liability claims filed against it as~~

~~required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.~~

(4) Events reported to law enforcement are considered adverse incidents if the report leads to an investigation by law enforcement officials and the report involves a resident of the facility.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New 4-1-82, Amended 9-5-82, 4-1-84, 8-1-85, 7-10-91, Formerly 10D-29.123, Amended 4-18-94, 5-5-02, _____.

59A-4.1235 Liability Claims.

Each nursing home licensee must use AHCA Form 3110-0008, and AHCA Form 3110-0008A, February 2003, “Nursing Home Monthly Liability Claim Information,” which are incorporated by reference, when reporting notices of intent to litigate and complaints filed with the Clerks of the Courts received by the licensee during the prior month as required by Section 400.147(9), F.S. If a liability claim has not been filed against the licensee in a given month, no report is required. These forms must be submitted by the tenth calendar day following the month of receipt and may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C. at: <http://ahca.myflorida.com/reporting/index.shtml>.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New _____.

59A-4.126 Disaster Preparedness.

(1) Each nursing home licensee must ~~facility shall~~ have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan ~~is shall be~~ the responsibility of the facility administrator, and ~~must shall~~ be accomplished in consultation with the Department of Community Affairs’, ~~c~~County ~~e~~Emergency ~~m~~Management ~~a~~Agency.

(2) The plan must ~~shall~~ include, at a minimum, the following:

(a) Criteria, as shown, in Section 400.23(2)(g), F.S.; and

(b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006, March 1994, which is incorporated herein by reference and obtainable ~~available~~ from the Agency for Health Care Administration, 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308 or on the web site at <http://ahca.myflorida.com/MCHQ/Plans/index.shtml#forms>.

(3) The plan, including the "Emergency Management Planning Criteria for Nursing Homes," must be submitted annually, at the time of a change of ownership of the facility and after significant modification of the plan, to the county emergency management agency for review and approval.

(4) If the licensee is advised by the county emergency management agency of necessary revisions to the plan, those revisions must be made and the plan resubmitted to the county emergency management agency within 30 days of notification.

(5) The county emergency management agency shall be the final administrative authority for emergency plans developed by the nursing home licensee.

(6) The nursing home licensee must test the implementation of the emergency management plan annually, either in response to a disaster, an emergency, or in a planned drill. The outcome must be evaluated and documented and appropriate modifications to the plan to address deficiencies must be made within 30 days.

(7) The emergency management plan must be located in a designated area of the facility for immediate access by nursing home staff.

(8) If residents must be evacuated from the premises due to emergency conditions or a disaster, the licensee must report the location and number of residents evacuated to the Agency's Long Term Care Unit in Tallahassee at (850)488-5861 or through the Emergency Status System (ESS) at: <http://ahcaxnet/esswebahca> within 24 hours after the evacuation is completed. If the Long Term Care Unit is unavailable to receive such information, the licensee must contact the appropriate Agency field office. The administrator or designee is responsible for knowing the location of each resident until the resident has been discharged from the facility. The licensee must inform the appropriate Agency field office of a contact person(s) who will be available 24 hours a day, seven days a week, until the facility is reoccupied.

(9) A licensee may exceed its licensed capacity to act as a receiving facility in accordance with an emergency operations plan for residents of evacuating providers from a geographic area where an evacuation order has been issued by a local authority having jurisdiction. While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all residents.

(10) The Agency must review requests for overcapacity beyond 15 days. Approvals shall be based upon satisfactory justification, need and resident safety as provided by the receiving and sending facilities.

(11) If the residents are evacuated from a nursing home during or after an emergency situation or disaster, the facility must not be reoccupied until a determination is made by the nursing home administrator, the Agency and, if required, the local authority having jurisdiction, that the facility is appropriate to meet the needs of the residents.

(12) A facility with significant structural or systems damage must relocate residents out of the damaged facility until approval is received from the Agency's Office of Plans and Construction to reoccupy the facility. Such approval will be based upon safety determinations pursuant to the requirements of the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 and this rule.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.126, Amended 8-15-94, 6-1-06, _____.

59A-4.128 Evaluation of Nursing Homes and Licensure Status.

(1) The Agency shall, at least every 15 months, evaluate and assign a licensure status to every nursing home facility. The evaluation and licensure status shall be based on the facility's compliance with the requirements contained in this rule, and Chapter 400, Part II, F.S.

(2) The evaluation shall be based on the most recent licensure survey report and investigations conducted by the Agency and those persons authorized to inspect nursing homes under chapter 400, Part II, F.S.

(3) The licensure status assigned to the nursing home facility will be either conditional or standard. The licensure status is based on the compliance with the standards contained in this rule and Chapter 400, Part II, F.S. ~~Non-compliance will be stated as deficiencies measured in terms of scope and severity.~~

Specific Authority 400.23 FS. Law Implemented 400.102, 400.19, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 9-26-85, 7-21-87, Formerly 10D-29.128, Amended 8-15-94, 2-28-95, 10-13-96, 5-5-02, _____.

59A-4.1285 Respite Care.

(1) Each nursing home licensee that meets the standards provided in Section 400.141(6) F.S., may develop and implement a respite care program.

(2) All sections in this rule and Chapter 400, Part II, F.S., shall apply to a nursing home licensee offering a respite care program. For each person admitted under the respite care program, the nursing home licensee must:

(a) Consider respite residents as nursing home residents to determine the nursing home minimum staffing required by Section 400.23(3)(a), F.S.

(b) Have an abbreviated plan of care developed with those items specified in paragraph 59A-4.109(1)(a), F.A.C. At a minimum, the modified plan of care must include nutritional requirements, medication orders, physicians' orders, nursing assessments and dietary preferences. The nursing or physician assessments may take the place of all other required assessments.

(c) Have a contract which, at a minimum, must include the services to be provided to the resident including: charges for services, activities, equipment, emergency medical services and the administration and provision of medications. If multiple respite admissions for a single person are anticipated, the original contract may be good for one year from the date of execution.

(3) Persons admitted under the respite care program are:

(a) Exempt from the requirements specified in subsection 59A-4.106(1), F.A.C., for a discharge plan, discharge summary, and discharge diagnosis; however, each nursing home licensee must ensure a resident is released to his or her caregiver or an individual designated in writing by the caregiver;

(b) Entitled to resident's rights specified under Section 400.022, F.S., with the following exceptions:

1. Funds or property of the respite resident shall not be considered trust funds subject to the requirements of Section 400.022(1)(h), F.S., until the resident has been in the facility for more than 14 consecutive days. Each nursing home licensee must develop policies and procedures for handling respite care residents' funds or property, which must include free access to personal funds as needed and release of all property and funds upon discharge.

2. The rights of residents as specified in Sections 400.022(i) and (l), F.S., for respite residents must be addressed in the resident contract.

3. The rights of residents as specified in Sections 400.022(p)(q)(u) and (v), F.S., will not apply.

(c) Allowed to use their personal medications for the respite stay if permitted under facility policy. Prescription medications brought in with the respite resident must be in a properly labeled container. Over-the-counter medications must be in the original container. The nursing home licensee must obtain physician's orders for the medications. The caregiver may provide information regarding the medications as part of the nursing assessment, which must agree with the physician's orders. Medications should be released with the resident upon discharge and in accordance with current orders. The nursing home policy may include acceptance of:

1. An attestation by the caregiver that the medications have been under his or her control prior to bringing it to the nursing home;

2. Verification by the DON, the consultant pharmacist, or provider pharmacy that the medications as packaged are the same as labeled and ordered by the physician.

(4) A person receiving respite care shall be entitled to a total of 60 days in the nursing home within a contract year or a calendar year if the contract is for less than 12 months. However, each single stay shall be limited to not more than 14 days. If a stay exceeds 14 days, the nursing home licensee must comply with all assessment and care planning requirements applicable to nursing home residents.

(5) Persons receiving respite care shall reside in a licensed nursing home bed.

(6) A prospective respite resident must provide such relevant medical information from a physician, a physician assistant, or nurse practitioner and other information from the primary caregiver as may be required by the nursing home, prior to or at the time of admission to the nursing home to receive respite care. The medical information must include a physician's order for respite care and proof of a physical examination by a licensed physician, physician assistant or nurse practitioner. The physician's order and physical examination may be used to provide intermittent respite care for up to 12 months from the date the order is written.

(7) The nursing home licensee must assume the duties of the primary care giver. To ensure continuity of care and services, the respite resident shall be entitled to retain his or her personal physician and must have access to medically necessary services such as physical therapy, occupational therapy or speech therapy as needed. The nursing home licensee must arrange for transportation to these services if necessary.

Specific Authority 400.011 FS. Law Implemented 400.151 FS. History--New 7-21-87, Formerly 10D-29.1285, Amended _____.

59A-4.1288 Exception.

Nursing homes licensees that participate in Title XVIII or XIX must follow certification rules and regulations found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, October 1, 2006, including any amendments integrated since 2006, which are incorporated by reference September 26, 1991, and sState rRules and rRegulations, Cehapter 400, Part II, F.S., and this Rrule. Non-certified facility licensees facilities must follow the contents of this Rrule and the standards contained in the Conditions of Participation found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, September 26, 1991, which is incorporated by reference with respect to social services, dental services, infection control, dietary and the therapies.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-18-94, Amended _____.

59A-4.1295 Additional Standards for Homes That Admit Children 0 Through 20 Years of Age.

(1) Nursing homes licensees who accept children with a level of care of Intermediate I or II, skilled or fragile, must meet the following standards as indicated. Intermediate I and II are defined in Cehapter 59G-4, F.A.C. Children considered skilled have a chronic debilitating disease or condition of one or more physiological or organ systems that generally make the child dependent upon 24-hour per day medical, nursing, or health supervision or intervention. Fragile children are medically complex and the medical condition is such that they are technologically dependent upon through medical

~~equipment apparatus~~ or procedure(s) to sustain life and who can expire, without warning unless continually under observation.

(2) Each child ~~must shall~~ have an assessment upon admission by licensed physical, occupational, and speech therapists ~~that are~~ experienced in working with children. Therapies ~~must will~~ be administered based upon the outcome of these assessments and the orders of the child's physician.

(3) Admission criteria:

(a) The child must require intermediate, skilled or fragile nursing care and be medically stable, as documented by the physician determining level of care.

(b) For nursing facility placement, a recommendation ~~must shall~~ be made in the form of a written order by the child's attending physician in consultation with the parent(s) or legal guardian(s). For Medicaid certified nursing facilities, the recommendations for placement of a Medicaid applicant or recipient in the nursing facility ~~must shall~~ be made by the Multiple Handicap Assessment Team. Consideration must be given to relevant medical, emotional, psychosocial, and environmental factors.

(c) Each child admitted to the nursing home facility ~~must shall~~ have a plan of care developed by the interdisciplinary care plan team. The plan of care ~~must shall~~ consist of those items listed below.

1. Physician's orders, diagnosis, medical history, physical examination and rehabilitative or restorative needs.

2. A preliminary nursing evaluation with physician orders for immediate care, completed on admission.

3. A comprehensive, accurate, reproducible, and standardized assessment of each child's functional capability which is completed within 14 days of the child's admission to the facility and every twelve months thereafter. The assessment ~~must shall~~ be:

a. Reviewed no less than once every 120 days;

b. Reviewed promptly after a significant change in the child's physical or mental condition;

c. Revised as appropriate to assure the continued usefulness of the assessment.

4. The plan of care ~~must shall~~ also include measurable objectives and timetables to meet the child's medical, nursing, mental and psychosocial needs identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the child's highest practicable physical, mental, social and educational well-being. The care plan must be completed within ~~seven~~ 7 days after completion of the child's assessments ~~required in subsection (3) above~~.

5. ~~To In order to~~ enhance the quality of life of each child ages 3 years through 15 years, the facility ~~administration~~ must notify by certified mail the school board in the county in which the facility is located that there is a school-age child residing in the facility. Children ages 16 through 20 years may be enrolled in an education program according to their ability to participate. Program participation for each child regardless of age is predicated on ~~his or her their~~ intellectual function, physical limitations, and medical stability. Collaborative planning with the public school system and community at-large is necessary to produce integrated and inclusive settings which meet each child's needs. The failure or inability on the part of ~~city City, county County, state State, or federal Federal~~ school systems to provide an educational program according to the child's ability to participate shall not obligate the ~~licensee facility~~ to supply or furnish an educational program or bring suit against any ~~city City, county County, state State, or federal Federal~~ organizations for their failure or inability to provide an educational program. Nothing contained herein is intended to prohibit, restrict or prevent the parents or legal guardian of the child from providing a private educational program that meets applicable ~~s~~State laws.

6. At the child's guardian's option, every effort ~~must shall~~ be made to include the child and his or her family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the child's plan of care.

7. All employees of the facility who provide hands on care, ~~must shall~~ be knowledgeable of, and have access to, the child's plan of care.

8. A summary of the child's plan of care ~~must shall~~ accompany each child discharged or transferred to another health care facility or ~~must shall~~ be forwarded to the facility receiving the child as soon as possible consistent with good medical practice.

(4) The child's attending physician, licensed under ~~e~~Chapter 458 or 459, F.S., ~~must shall~~ maintain responsibility for the overall medical management and therapeutic plan of care and ~~must will~~ be available for face-to-face consultation and collaboration with the nursing facility medical and nursing director. At a minimum, the physician or his or her designee ~~must shall~~:

(a) Evaluate and document the status of the child's condition at least monthly;

(b) Review and update the plan of care every 60 days;

(c) Prepare orders as needed and accompany them by a signed progress note in the child's medical record; and

(d) Co-sign verbal orders no more than 72 hours after the order is given. Physicians' orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he or she visits a facility. Orders transmitted via computer mail are not acceptable. Verbal orders

not co-signed within ~~seventy-two (72)~~ hours shall not be held against the licensee facility if it has documented timely, good-faith efforts to obtain such said co-signed orders.

(5) The following must be completed for each child. A ~~an~~ RN registered nurse must shall be responsible for ensuring these tasks are accomplished:

(a) Informing the attending physician and medical director of beneficial and untoward effects of the therapeutic interventions;

(b) Maintaining the child's record in accordance with facility policies and procedures; and

(c) ~~Instructing instructing~~ or arranging for the instruction of the parent(s), legal guardian(s), or other caretakers(s) giver(s) on how to provide the necessary interventions, how to interpret responses to therapies, and how to manage unexpected responses ~~in order~~ to facilitate a smooth transition from the nursing facility to the home or other placement. This instruction must will cover care coordination and must will gradually pass the role of care coordinator to the parent or legal guardian, as appropriate.

(6) In addition to the requirements of section 420 of the Florida Building Code 2004 Edition including all supplements in effect as of December 2006, ~~The licensee must facility shall~~ provide the following:

(a) ~~A minimum of 100 square feet in a single bedroom and 80 square feet per child in multiple bedrooms;~~

(a)(b) Bathroom and bathing facilities appropriate to the child's needs to allow for:

1. Toileting functions with privacy ~~(a door to the bathroom must will be provided);~~ and
2. Stall showers and tubs.

(b)(c) There must shall be an indoor activities area that:

1. Encourages exploration and maximizes the child's capabilities;
2. Accommodates mobile and non-mobile children; and
3. Supports a range of activities for children and adolescents of varying ages and abilities.

(c)(d) There must shall be an outdoor activity area that is:

1. Secure with areas of sun and shade;
2. Free of safety hazards; and
3. Equipped with age appropriate recreational equipment for developmental level of children and has storage space for same.

(d)(e) All furniture and adaptive equipment must be physically appropriate to the developmental and medical needs of the children;

(e)(f) Other equipment and supplies must shall be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(7) For ~~those nursing homes that facilities who~~ admit children age 0 through 15 years of age, the following standards apply in addition to those above and throughout Chapter 59A-4, F.A.C.

(a) Each child must shall have an assessment upon admission by licensed physical, occupational, and speech therapists who are experienced in working with children. Therapies must will be administered based upon the outcome of these assessments and the orders of each the child's physician.

(b) The nursing home licensee must facility shall have a contract with a board certified pediatrician who serves as a consultant and liaison between the nursing facility and the medical community for quality and appropriateness of services to children.

(c) The nursing home licensee facility must assure that pediatric physicians are available for routine and emergency consultation to meet the children's child's needs.

(d) The nursing home licensee facility must ensure that children reside in distinct and separate units from adults.

(e) The nursing home licensee must facility shall be equipped and staffed to accommodate no more than ~~sixty (60)~~ children at any given time, of which there must shall be no more than 40 children of ages 0 through 15 ~~at any given time,~~ nor more than 40 children of ages 16 through 20 ~~at any given time.~~

(f) The nursing home licensee facility must provide access to emergency and other forms of transportation for children.

(g) At least one licensed health care staff person with current Pediatric Advanced Life Support (PALS) Life Support certification must for children shall be on the unit where children are residing at all times ~~where children are residing.~~

(h) The nursing home licensee must facility shall maintain an Emergency Medication Kit, also known as an Emergency Drug Kit (EDK) of pediatric medications, as well as adult dosages for those children who require adult doses. The contents of in the EDK Emergency Medication Kit shall be determined in consultation with the Medical Director, Director of Nursing, a registered nurse who has current experience working with children, and a Pharmacist who has pediatric expertise. The kit must shall be readily available and shall must be kept sealed. All items in the kit must shall be properly labeled. The nursing home licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory to include expiration dates of the contents of the EDK must Emergency

Medication Kit shall be attached to the outside of the kit. If the seal is broken, the kit must be restocked and resealed the next business day after use.

(i) Each nursing home licensee must ~~facility shall~~ develop, implement, and maintain a written staff education plan that ~~which~~ ensures a coordinated program for staff education for all facility employees who work with children. The plan must ~~shall~~:

1. Be reviewed at least annually by the quality assurance committee and revised as needed.

2. Include both pre-service and in-service programs. In-service for each department must include pediatric-specific requirements as relevant to its discipline.

3. Include ~~Ensure that~~ education that is conducted annually for all facility employees who work with children, at a minimum, in the following areas:

a. Childhood diseases to include prevention and control of infection;

b. Childhood accident prevention and safety awareness programs;

4. Require ~~Ensure that~~ all non-licensed employees of the nursing home to complete an initial educational course on HIV and AIDS, preferably pediatric HIV and AIDS, in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time he or she is ~~they are~~ hired, the employee ~~they~~ must have two hours within six months of employment. All employees must ~~shall~~ have a minimum of one hour biennially.

(j) All facility staff must ~~shall~~ receive in-service training in and demonstrate awareness of issues particular to pediatric residents annually.

(8)(a) For the purposes of this subsection ~~rule~~, nursing care must ~~shall~~ consist of the following:

(a) ~~For residents who are skilled: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants (CNAs). The child's nursing care shall be as follows:~~

1. ~~There shall be one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 3.5 hours of nursing care per patient day.~~

2. ~~In determining the minimum hours of nursing care required above, there shall be no more than 1.5 hours per patient day of certified nursing assistant (CNA) care and no less than 1.0 hours per patient day of licensed nursing care.~~

(b) ~~For residents who are fragile: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants. The child's nursing care shall be as follows:~~

1. ~~One~~ include one registered nurse on duty, on-site 24 hours per day on the unit where children reside. ~~There shall be an average of 5 hours of nursing care per patient day.~~

2. ~~In determining the minimum hours per patient day required above, there shall be no more than 1.5 hours per patient day of CNA care, and no less than 1.7 hours per patient day of licensed nursing care.~~

(b)(e) In the event that there are more than ~~forty-two (42)~~ children in the facility, there must ~~shall~~ be no fewer than ~~two (2)~~ registered nurses on duty, on-site, 24 hours per day on the unit where the children reside.

(9) A qualified dietitian with knowledge, expertise and experience in the nutritional management of medically involved children must ~~shall~~ evaluate the needs and special diet of each child at least every 60 days.

(10) The pharmacist must ~~will~~ have access to appropriate knowledge concerning pediatric pharmaceutical procedures, i.e., total parenteral nutrition (TPN) infusion regime and be familiar with pediatric medications and dosages.

(11) The nursing home licensee must ~~facility shall~~ maintain or contract as needed for pediatric dental services.

(12) Safety equipment, such as childproof safety latches on closets; and cabinets, straps on all seating services, locks on specific storage cabinets, bumper pads on cribs, and car seats for transporting must be used whenever appropriate to ensure the safety of the child.

(13) Pediatric equipment and supplies must ~~shall~~ be available as follows:

(a) Suction machines, one per child requiring suction, plus one suction machine for emergency use;

(b) Oxygen, in portable tanks with age appropriate supplies;

(c) Thermometers;

(d) Sphygmomanometers, stethoscopes, otoscopes; and

(e) Apnea monitors and pulse oximeters.

(14) Other equipment and supplies must ~~shall~~ be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(15) Prior to initiating or expanding services to pediatric residents, the licensee or applicant must receive written approval from the Agency. Nursing home licensees that wish to convert existing nursing home beds to pediatric beds must:

(a) Have a standard license pursuant to Section 400.062, F.S.:

(b) Submit approval from the Office of Plans and Construction based upon submission of plans and specifications of the building for approval as outlined in Rule 59A-4.133, F.A.C.

(c) Submit a revised licensure application no less than 30 days prior to the anticipated date that services will be provided. The application must include the number and configuration of beds to be used to serve pediatric residents and a listing of services that will be provided.

(16) Approval to provide pediatric services shall be based upon demonstration of compliance with this rule and Chapter 400, Part II, F.S.

(17) Any changes in pediatric services, including cessation of services, must be reported to the Agency in writing at least 30 days prior to the change.

Specific Authority ~~400.23(5)(2), (4)~~ FS. Law Implemented ~~400.23(5)(4)~~ FS. History—New 11-5-96, Amended 9-7-97, _____.

(Substantial rewording of Rule 59A-4.130 follows. See Florida Administrative Code for present text.)

59A-4.130 ~~Fire Prevention~~, Fire Protection, and Life Safety, Systems Failure and External Emergency Communications.

(1) Each nursing home licensee must provide fire protection through the elimination of fire hazards. All portions of the existing facility must comply with the requirements of the National Fire Protection Association (NFPA) Life Safety Code 101 for Existing Health Care Occupancy, as adopted by the State Fire Marshal and incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts, 02269-9101.

(2) All fires or explosions must be reported to the Agency's Office of Plans and Construction, 2727 Mahan Drive, MS # 24, Tallahassee, Florida 32308, within seven days of the occurrence. Upon notification and in accordance with NFPA 1, Fire Prevention Code, the Agency must investigate the cause, origin, and circumstances of the fire or explosion. To facilitate this investigation, the nursing home licensee must complete the form "Fire Incident Report," AHCA Form 3500-0031, September 2006, incorporated herein by reference and available by mail from the Agency's Office of Plans and Construction or accessible from the Agency's web site at ahca.myflorida.com/MCHQ/Plans/index.shtml#forms.

(3) In accordance with NFPA 101, Life Safety Code, if a system failure of the fire alarm system, smoke detection system, or sprinkler system occurs, the following actions must be taken by the licensee:

(a) Notify the local fire department and document instructions.

(b) Notify the Agency's Office of Plans and Construction or the appropriate Agency field office.

(c) Assess the extent of the condition and effect corrective action, with a documented correction period. If the corrective action will take more than four hours, the following must be completed:

1. Implement a contingency plan to the facility fire plan containing a description of the problem, a specific description of the system failure, and the projected correction period. All staff on the shifts involved must have documented in-service training for the emergency contingency.

2. Begin a documented fire watch until the system is restored. Staff performing the fire watch must be trained in appropriate observations and actions, as well as be able to expeditiously contact the fire department. To maintain a fire watch, the licensee must utilize only certified public fire safety personnel, a security guard service, or facility staff. If facility staff are used for this function, they must meet the following criteria:

a. Be off duty from their regular facility position or assigned only to fire watch duty. The licensee must maintain compliance with direct care staffing requirements at all times;

b. Be trained and competent as determined by the licensee in the duties and responsibilities of a fire watch;

c. Have immediate access to two-way electronic communication.

3. If the projected correction period changes or upon restoration of the system to normal operation, the licensee must notify the appropriate Agency's field office and local fire authorities.

(4) External Emergency Communication. Each newly constructed facility that has not received a Preliminary Stage II Plan Approval from the Office of Plans and Construction on the effective date of this rule, shall provide for external electronic communication not dependent on terrestrial telephone lines, cellular, radio, or microwave towers, such as an on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group. This agreement must provide for a volunteer operator and communication equipment to be relocated into the facility in the event of a disaster until communications are restored. Other methods that can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission must be approved by the Agency's Office of Plans and Construction.

Specific Authority ~~381.031(1)(g), 7,~~ 400.23, 400.191(2) FS. Law Implemented ~~381.031, 400.102, 400.141, 400.23, 633.05(8), 633.051~~ FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, Formerly 10D-29.119, 59A-4.119, Amended _____.

(Substantial rewording of Rule 59A-4.133 follows. See Florida Administrative Code for present text.)

59A-4.133 Physical Plant Codes and Standards for Nursing Homes Plans Submission and Review and Construction Standards.

(1) All construction of new nursing homes and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of existing facilities must be in compliance with the Florida

Building Code 2004 Edition, including all supplements in effect as of December 2006, as adopted by the Florida Building Commission, incorporated by reference and obtainable from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

(2) No building shall be converted to a licensed nursing home unless it complies with the standards and codes set forth herein and with licensure requirements set forth in this Chapter.

(3) Guide on Alternative Approaches to Life Safety, NFPA-101 A as adopted by the State Fire Marshal, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, shall not be used to meet the required codes and standards for new construction or for the conversion of an existing building to a licensed nursing home.

(4) Where additions, modifications, alterations, refurbishing, renovations or reconstruction are undertaken within an existing facility, all such additions, modifications, alterations, refurbishing, renovations or reconstruction must comply with applicable sections of the codes for new facilities. Where existing major structural elements make total compliance impractical or impossible, the licensee or potential licensee must submit to the Office of Plans and Construction a request to utilize alternate materials and methods in accordance with the Florida Building Code.

(5) In additions, modifications, alterations, refurbishing, renovations or reconstruction projects and those projects that are making additions to existing facilities, only that portion of the total facility affected by the project must comply with applicable sections of the referenced codes for new construction.

(6) A licensed nursing home or any portion of a licensed nursing home that was reviewed and approved under a previous edition of the Life Safety Code must be in compliance with the requirements of Chapter 19, Existing Health Care Occupancy, of the National Fire Protection Association (NFPA) Life Safety Code 101, as adopted by the State Fire Marshal, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, with the exception of any part included in the additions, modifications, alterations, refurbishing, renovations or reconstruction that must be in compliance with currently adopted codes and standards. A licensed nursing home and any portion of a licensed nursing home that was reviewed and approved under a previous edition of Chapter 59A-4, Florida Administrative Code and the state or local building code must remain in compliance with the rule or building code in effect at the date of licensure with the exception of any part included in the

additions, modifications, alterations, refurbishing, renovations or reconstructions that must be in compliance with currently adopted codes and standards.

(7) All existing facilities must be maintained in a safe condition free of hazards and all existing architectural, mechanical, electrical and structural systems and appurtenances must be maintained in good working order. No architectural, mechanical, electrical, or structural system or appurtenance may be deleted or discontinued without first obtaining approval from the Agency.

(8) When a building or portion of a building is converted to a new licensed nursing home, it must comply with the requirements of Chapter 4 and Institutional Occupancy- Group I, Unrestrained, of the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 as adopted by the Florida Building Commission, incorporated by reference and obtainable from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206., and the National Fire Protection Association (NFPA) Life Safety Code 101, Chapter 18, New Health Care Occupancy, as adopted by the State Fire Marshal, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101. When a building is converted from another type of occupancy to a nursing home, it must comply with the requirements of the Florida Building Code. A change of ownership shall not constitute a change of occupancy.

(9) Other facilities or providers not owned or operated by the licensee of a nursing home may be fully integrated with the nursing home's physical plant only after it has been successfully demonstrated to the Agency that:

(a) All areas of the facility's physical plant are designed and maintained in a manner that will ensure continued licensure compliance of the nursing home.

(b) The areas associated with the separately licensed or unlicensed area provide and maintain clear, visible and readable signs denoting its separateness from the licensed nursing home.

(10) The Agency shall conduct annual life safety inspections of nursing homes to ensure compliance with all licensing and fire safety requirements. Inspections may also be conducted by the Agency as it deems necessary to carry out the functions of the Agency for the following reasons:

(a) To ensure compliance with the licensing and life safety requirements of this Chapter;

(b) To respond to licensing, life safety, and other physical plant complaints; or

(c) To protect the public health and safety.

(11) Nothing in these standards shall be construed as restrictive to a facility that chooses to do work or alterations as part of a long-range, phased safety improvement plan. All hazards to life and safety and all areas of noncompliance with

applicable codes and regulations must be corrected in accordance with a plan of correction approved in advance by the Agency's Office of Plans and Construction.

(12) Projects that have not received at least a Stage II Preliminary Plan approval from the Office of Plans and Construction on the effective date of this rule must conform to the requirements as set forth in these rules.

Specific Authority ~~381.031(1)(g)7,~~ 400.23 FS. Law Implemented ~~381.031,~~ 400.011(2), 400.021(1)-(17), 400.022(1)-(4), 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 4-29-92, Formerly 10D-29.120, 59A-4.120, Amended 2-6-97, 10-21-99, _____.

59A-4.134 Plans Submission and Fee Requirements.

(1) No construction work, including demolition, shall be started until prior written approval has been given by the Office of Plans and Construction. This includes all construction of new facilities and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of all existing facilities.

(2) Approval to start construction only for demolition, site work, foundation, and building structural frame may be obtained prior to construction document approval when the following is submitted for review and approval:

(a) Preliminary Stage II approval letter from the Office of Plans and Construction.

(b) Construction documents, specifications and construction details for all work to be undertaken.

(c) A letter from the nursing home licensee holding the Agency harmless for any changes that may occur to the project as a result of the final construction document review.

(d) A life safety plan indicating temporary egress and detailed phasing plans indicating how the areas to be demolished or constructed are to be separated from all occupied areas must be submitted for review and approval when demolition or construction in and around occupied buildings is to be undertaken.

(3) Projects that have been submitted to the Agency for review will be considered abandoned and will be terminated after any of the following has occurred:

(a) Construction has not begun within one year after written approval of the construction documents from the Office of Plans and Construction;

(b) No further plans have been submitted for Agency review within one year after a project has been initiated with the Office of Plans and Construction;

(c) Construction has been halted for more than one year. After this termination, resubmission as a new project will be required.

(4) When construction is planned, either for new buildings, additions, alterations or renovations to existing buildings, the plans and specifications must be prepared and submitted to the Office of Plans and Construction for approval

by a Florida registered architect and a Florida registered professional engineer. An architecture or engineering firm not practicing as a sole proprietor must also be registered as an architecture or engineering firm with the Florida Department of Business and Professional Regulation.

(5) The initial submission of plans to the Office of Plans and Construction for any new project must include a completed Plan Review Application Form, ACHA Form 3500-0011, November 1996, revised March 2002, incorporated by reference and obtainable from the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308 and a valid Certificate of Need, if required by the Agency. This information must accompany the initial submission. Approval will not be granted for any project without a Certificate of Need if required by the Agency.

(6) Plans and specifications submitted for review shall be subject to a plan review fee. This fee is prescribed by Section 400.232, F.S. All fees must be paid by check made payable to the Treasurer, State of Florida, with the check noted with the Office of Plans and Construction facility log number. Fees will be accepted only from the licensee or prospective licensee.

(7) Plans and specifications shall normally be submitted in three stages. Exceptions to the submission of all three stages shall be subject to prior approval by the Office of Plans and Construction.

(a) Stage I, schematic plans.

(b) Stage II, preliminary plans or design development drawings.

(c) Stage III, construction documents, including specifications, addenda and change orders.

(8) For each stage of submission, a program or scope of work must be submitted. It must consist of a detailed word description of all contemplated work and any required phasing to be provided in the proposed construction.

(9) For projects involving only equipment changes or system renovations, only Stage III, construction documents need be submitted. These documents must include the following:

(a) Life safety plans showing the fire/smoke compartments in the area of renovation.

(b) Detailed phasing plans indicating how the new work will be separated from all occupied areas.

(c) Engineering plans and specifications for all of the required work.

(10) Stage I, Schematic Plans.

(a) At a minimum, the following must be incorporated into the schematic plans:

1. Single-line drawings of each floor that must show the relationship of the various activities or services to each other and each room arrangement. The function of each room or space must be noted in or near the room or space. The proposed roads and walkways, service and entrance courts, parking, and orientation must be shown on either a small plot

plan or on the first floor plan. Provide a simple cross-section diagram showing the anticipated construction. Provide a schematic life safety plan showing smoke and fire compartments, exits, exit passageways and gross areas of smoke and fire compartments. Provide information as to which areas have sprinklers, both new and existing.

2. If the proposed construction is an addition or is otherwise related to existing buildings on the site, the schematic plans must show the facility and general arrangement of those other buildings.

3. A schedule showing the total number of beds, types of bedrooms and types of ancillary spaces.

(11) Stage II, Preliminary Plans.

(a) At a minimum, to gain a Stage II approval, the following must be incorporated into the preliminary plans.

1. A vicinity map showing the major local highway intersections for new nursing home construction.

2. Site development plans that:

a. Show existing grades and proposed improvements as required by the schematic submission.

b. Provide building locating dimensions.

c. Provide site elevations for both the 100 year flood elevations and hurricane category 3 surge inundation elevations if the project involves the construction of a new facility or is a new addition of a wing or floor to an existing facility.

d. Provide the location of the fire protection services water source to the building.

3. Architectural plans that include:

a. Floor plans, 1/8-inch scale minimum, showing door swings, windows, casework and millwork, fixed equipment and plumbing fixtures. Indicate the function of each space.

b. A large-scale plan of typical new bedrooms with a tabulation of gross and net square footage of each bedroom. Tabulate the size of the bedroom window glass.

c. Typical large-scale interior and exterior wall sections to include typical rated fire and fire/smoke partitions and a typical corridor partition.

d. All exterior building elevations.

e. Equipment that is not included in the construction contract but that requires mechanical or electrical service connections or construction modifications must be identified to assure its coordination with the architectural, mechanical and electrical phases of construction.

f. If the project is located in an occupied facility, preliminary phasing plans indicating how the project is to be separated from all occupied areas.

4. Life safety plans that include:

a. Single-sheet floor plans showing fire and smoke compartmentation, all means of egress and all exit signs. Additionally, dimension the longest path of travel in each

smoke compartment to the door(s) to the adjoining compartment, calculate the total area of the smoke compartment in square feet, and tabulate exit inches.

b. All sprinklered areas, fire extinguishers, fire alarm devices and pull station locations.

c. If the project is an addition or conversion of an existing building, fully developed life safety plans.

d. If the project is a renovation in an existing building, life safety plans of the floor being renovated and the required exit egress floor(s).

e. When demolition or construction in and around occupied buildings is to be undertaken, a life safety plan indicating temporary egress and detailed phasing plans indicating how the areas to be demolished or constructed are to be separated from all occupied areas.

5. Mechanical engineering plans that include:

a. Single-sheet floor plans with a one-line diagram of the ventilating system with relative pressures of each space. Provide a written description and drawings of the anticipated smoke control system, passive or active, and a sequence of operation correlated with the life safety plans.

b. The general location of all fire and smoke dampers, all duct smoke detectors and firestats.

c. If the building is equipped with fire sprinklers, the location of the sprinkler system risers and the point of connection for the fire sprinkler system. State the method of design for the existing and new fire sprinkler systems.

d. The locations of all plumbing fixtures and other items of equipment requiring plumbing services and/or gas services.

e. The locations of any fume, radiological or chemical hoods.

f. The locations of all medical gas outlets, piping distribution risers, terminals, alarm panels, low pressure emergency oxygen connection, isolation/zone valves, and gas source locations.

g. The locations and relative size of major items of mechanical equipment such as chillers, air handling units, fire pumps, medical gas storage, boilers, vacuum pumps, air compressors and fuel storage vessels.

h. The locations of hazardous areas and the volume of products to be contained therein.

i. The location of fire pump, stand pipes, and sprinkler risers.

6. Electrical Engineering Drawings that include:

a. A one-line diagram of normal and essential electrical power systems showing service transformers and entrances, switchboards, transfer switches, distribution feeders and over-current devices, panel boards and step-down transformers. The diagram must include a preliminary listing and description of new and existing, normal and emergency loads, preliminary estimates of available short-circuit current at all new equipment and existing equipment serving any new

equipment, short-circuit and withstand ratings of existing equipment serving new loads and any new or revised grounding requirements.

b. Fire alarm zones and correlate with the life safety plan.

7. Outline specifications are to include a general description of the construction, including construction classification and ratings of components, interior finishes, general types and locations of acoustical material, floor coverings, electrical equipment, ventilating equipment and plumbing fixtures, fire protection equipment, and medical gas equipment.

8. Whenever an existing building is to be converted to a health care facility, the general layout of spaces of the existing structure must be submitted with the preliminary plans for the proposed facility.

9. Whenever additions, modifications, alterations, renovations, and refurbishing to an existing building is proposed, the general layout of spaces of the existing facility must be submitted with the preliminary plans.

(12) Stage III, Construction Documents.

(a) The Stage III construction documents must be an extension of the Stage II preliminary plan submission and must provide a complete description of the contemplated construction. Construction documents must be signed, sealed, dated and submitted for written approval to the Office of Plans and Construction by a Florida registered architect and Florida registered professional engineer. These documents must consist of work related to civil, structural, mechanical, and electrical engineering, fire protection, lightning protection, landscape architecture and all architectural work. At a minimum, and in addition to the requirements for Stage II submission, the following must be incorporated into the construction documents:

1. Site and civil engineering plans that indicate building and site elevations, site utilities, paving plans, grading and drainage plans and details, locations of the two fire hydrants utilized to perform the water supply flow test, and landscaping plans.

2. Life safety plans for the entire project.

3. Architectural plans.

a. Typical large-scale details of all typical interior and exterior walls and smoke walls, horizontal exits and exit passageways.

b. Comprehensive ceiling plans that show all utilities, lighting fixtures, smoke detectors, ventilation devices, sprinkler head locations and fire-rated ceiling suspension member locations where applicable.

c. Floor/ceiling and roof/ceiling assembly descriptions for all conditions.

d. Details and other instructions to the contractor on the construction documents describing the techniques to be used to seal floor construction penetrations to the extent necessary to prevent smoke migration from floor to floor during a fire.

4. Structural engineering plans, schedules and details.

5. Mechanical engineering plans to include fire and smoke control plans. Show all items of owner furnished equipment requiring mechanical services. Provide a clear and concise narrative control sequence of operations for each item of mechanical equipment including but not limited to air conditioning, heating, ventilation, medical gas, plumbing, and fire protection and any interconnection of the equipment of the systems. Mechanical engineering drawings must depict completely the systems to be utilized, whether new or existing, from the point of system origination to its termination. Provide a tabular schedule giving the required air flow (as computed from the information contained on the ventilation rate table) in cubic feet per minute (cfm) for supply, return, exhaust, outdoor, and ventilation air for each space listed or referenced by note on the ventilation rate table as shown on the architectural documents. The schedule must also contain the Heating Ventilation and Air Conditioning (HVAC) system design air flow rates and the resulting space relative pressures. The schedule or portion of the schedule, as applicable, must be placed in the specifications or in the drawing set containing the spaces depicted.

6. Fire protection plans, where applicable, that must include the existing system as necessary to define the new work.

7. Electrical engineering plans that must describe complete power, lighting, alarm, communications and lightning protection systems and power system study.

8. A power study that must include a fault study complete with calculations to demonstrate that over-current devices, transfer switches, switchboards, panel boards, motor controls, transformers and feeders are adequately sized to safely withstand available phase-to-phase and phase-to-ground faults. The study must also include an analysis of generator performance under fault conditions and a coordination study resulting in the tabulation of settings for all over-current device adjustable trips, time delays, relays and ground fault coordination. This must be provided for all new equipment and existing equipment serving any new equipment. Power studies for renovations of existing distribution systems must include only new equipment and existing equipment upstream to the normal and emergency sources of the new equipment. Renovations involving only branch circuit panel boards without modifications to the feeder will not require a full power study; instead, the power study will be limited to the calculation of new and existing loads of the branch circuit panel.

9. A complete set of specifications for all work to be undertaken.

a. All project required contractor supplied testing and/or certification reports must be submitted in type written format, on standard forms, reviewed and accepted by the Engineer of Record prior to presenting to the Agency for review.

b. The specifications must require a performance verification test and balance air quantity values report for a minimum of two operating conditions for each air handling unit system. One operating condition must be with the specified air filters installed in the minimum pressure drop or clean state. The second operating condition must be at the maximum pressure drop and/or dirty state. The air quantities reported are acceptable if they are within ten percent of the design value and the space relative pressures are maintained. This requirement applies to any air-handling unit affected by the construction to be performed.

10. Well coordinated construction documents. In the case of additions to existing institutions, the mechanical and electrical, especially existing essential electrical systems and all other pertinent conditions must be a part of this submission.

11. Signed, sealed and dated subsequent addenda, change orders, field orders and other documents altering the above must be submitted for advance written approval from the Office of Plans and Construction.

(13) All submissions will be acted upon by the Agency within 60 days of the receipt of the initial payment of the plan review fee. The Agency will either approve or disapprove the submission and will provide a listing of deficiencies in writing. Each subsequent resubmission of documents for review on the project will initiate another 60-day response period. If the Agency does not act within 60 days of receipt of a submission, the submission will be considered approved. However, all deficiencies noted by the Agency must be satisfactorily corrected before final approval can be obtained for the project from the Agency.

(14) Additions or revisions that substantially change the original scope of the project or are submitted by different design professionals will be required to be submitted as a new project.

(15) The Agency is required to archive all public record documents for a period of 5 years. These documents are electronically stored. Therefore, within 60 days after final approval of the project has been obtained from the Agency, the licensee and the Office of Plans and Construction must be provided with a complete set of record drawings electronically submitted as Portable Document Format (.pdf) files showing all of the construction, fixed equipment and the mechanical and electrical systems as installed. These electronically submitted .pdf files must include the life safety plans of the facility.

Specific Authority 400.23 FS. Law Implemented 400.011, 400.022, 400.141, 400.142, 400.23 FS. History—New _____.

59A-4.150 Geriatric Outpatient Nurse Clinic.

(1) Definitions:

~~(a) Advanced Registered Nurse Practitioner — a person who holds a current active license to practice professional nursing and a current Advanced Registered Nurse Practitioner certificate issued by the Florida State Board of Nursing.~~

~~(a)(b) Appropriate Resources – those service providers who provide most effectively and efficiently the specific services needed by the geriatric patient.~~

~~(c) Agency for Health Care Administration — AHCA.~~

~~(b)(d) Geriatric Outpatient Nurse Clinic – a treatment room or rooms site in a nursing home used to provide treatment room for the provision of health care to geriatric patients on an outpatient basis, which is staffed by a registered nurse, advanced registered nurse practitioner (ARNP), or by a physician’s assistant.~~

~~(c)(e) Geriatric Patient – any patient who is 60 years of age or older.~~

~~(f) Nursing Facility — a facility licensed under Part I of Chapter 400, F.S.~~

~~(g) Physician’s Assistant — a person who holds a current certificate issued by the Florida State Board of Medical Examiners of Florida State Board of Osteopathic Medical Examiners, to serve as a physician’s assistant to function in the dependent relationship with the supervising physician. (Sections 458.135(2)(d); 459.151(2)(d), F.S.).~~

~~(d)(h) Pre-established Protocols – a statement prepared by or with the responsible or attending physician defining the extent and limits of the medical services provided by the registered nurse. Such protocols must be reviewed at periods not to exceed one year, to be dated and signed by the physician, and to be kept readily available.~~

~~(i) Professional Standards of Practice — those measurements or guides for practice developed and/or endorsed by the respective professional disciplines.~~

~~(j) Registered Dietitian — one who meets the standards and qualifications established by the Committee on Professional Registration of the American Dietetic Association and is currently registered with the American Dietetic Association.~~

~~(k) Registered Nurse — a person who holds a current active license to practice professional nursing issued by the Florida State Board of Nursing. (Section 464.071, F.S.)~~

~~(e)(t) Responsible Physician – the licensed physician delegated by the supervising physician as responsible for the services rendered by the physician’s assistant or ARNP in the absence of the supervising physician.~~

~~(f)(m) Routine Health Care – the provision of preventive care, detection of health problems, referral for medical care, and management of chronic illness within medical prescriptions.~~

~~(g)(n)~~ Substantive Change – a change in when the patient's condition indicating need for changes to such an extent that a change in treatment and/or medication orders is indicated or non-applicability of when pre-established protocols are not applicable.

~~(h)(e)~~ Supervising Physician – the licensed physician assuming responsibility and legal liability for the services rendered by the physician's assistant or ARNP. (Sections 458.135(2)(e); 459.151(2), (3), F.S.)

~~(i)(p)~~ Treatment Room – the room or suite of rooms set aside for the examination and care of patients.

(2) Applications.

(a) ~~The nursing home licensee must submit a~~ A letter to ~~shall be sent through~~ the local county Public Health Unit Department and to the Agency's Long Term Care Unit AHCA by the operator of a currently licensed nursing home stating intent to establish a geriatric outpatient nurse clinic in compliance with Chapter 400, F.S., Chapter 77-401, Laws of Florida, and applicable the rules pertaining to these chapters. A copy of ~~the said letter must shall~~ be sent to the Health Program Office of the Department of Health and ~~Rehabilitative Services~~ by the local county Public Health Department Unit. This letter ~~must shall~~ be sent at least sixty (60) days prior to the anticipated date of establishment of the clinic. The Director, ~~of the County Public Health Department Unit~~ shall provide specific recommendations for operation of the clinic when transmitting the letter.

(b) The Agency must AHCA shall ascertain compliance with all applicable laws, rules, regulations, and codes during the inspection and by letter notify the operator of compliance or non-compliance.

(c) Receipt of the letter of notification stating compliance ~~shall~~ constitutes authority to operate a geriatric outpatient nurse clinic within the nursing home facility.

(d) Application for renewal of authority to operate a geriatric outpatient nurse clinic ~~must shall~~ be submitted in the manner described above at the same time the application for the nursing home ~~relicensure~~ is submitted.

(e) Suspension or revocation of the nursing home license automatically suspends or revokes authority to operate the geriatric outpatient nurse clinic.

~~(f) A Certificate of Need issued by the Agency required by Sections 381.493 through 381.497, F.S., is a pre-requisite to establish a geriatric outpatient nurse clinic.~~

(3) Treatment Rooms and Access Areas.

(a) Plant maintenance and housekeeping ~~must shall~~ be in accordance with Rule 59A-4.049, F.A.C.

(b) Every nursing home licensee facility conducting a geriatric outpatient nurse clinic ~~must shall~~:

1. Use an existing treatment room exclusively for the examination and treatment of patients.

2. Store supplies and equipment in such a manner that safeguards patients and staff from hazards.

3. Have a waiting area that does not interfere with regular in-patient functions.

4. Provide clinic patients with the most direct route to and from the treatment room.

(4) Administration.

(a) The business and administrative management of the geriatric outpatient nurse clinic ~~must shall~~ be under the management control of the nursing home facility administrator. This ~~must shall~~ include, but not be limited to, maintenance of the following written records.

1. Clinic financial records must be a recognized system of accounting used to accurately reflect details of the business and include adequate documentation of all transactions identifying all income by source and describe all expenditures by category in such a manner as to be suitable by community recognized procedure.

2. An accident and incident record, containing a clear description of each accident and any other incident or hazardous or deviant behavior of a patient or staff member with names of individuals involved, description of medical and other services provided, by whom such services were provided and the steps taken to prevent recurrence.

3. Personnel records for each clinic employee and/or contractual provider. These records ~~must will~~ be kept updated and include current Florida license and certificate numbers. Original application for the position, references furnished and an annual performance evaluation ~~must shall~~ be included.

4. A record of personnel policies, including statement of policies affecting personnel and a job description for each person providing clinic services.

5. Clinic Schedule.

6. Compliance with requirements of Title VI of the Civil Rights Act of 1964.

(b) The provision of health services through geriatric outpatient nurse clinics ~~must shall~~ be under the direct management control of the registered nurse, ARNP or physician's assistant providing those services. Management ~~must~~ control the provision of health services to shall contain the following:

1. Assure that all health services are provided according to legal, ethical and professional practice standards to protect the health, safety and well-being of the patients.

2. ~~Maintain~~ ensure confidentiality of clinical records for each patient as required in this rule, Chapter 400, Part II, F.S., and applicable state and federal regulations relating to patient records.

3. ~~Assure r~~Responsibility for development and periodic review of written policies and protocols governing patient care, including emergency procedures.

4. ~~Assure r~~Responsibility for development and periodic review of the patient referral system.

5. ~~Assure r~~Responsibility for the administration and handling of drugs and biologicals as required in this rule, Chapter 400, Part II, F.S., and applicable state and federal regulations relating to patient records ~~these Rules.~~

6. ~~Maintainance~~ of an individual and cumulative clinic census record.

7. ~~Coordinateion~~ of patient care with the attending physician and other community health and social agencies and/or facilities.

8. ~~Maintainance~~ of a safe, sanitary clinic environment.

(5) Fiscal Management.

(a) There ~~must shall~~ be a recognized system of accounting used to accurately reflect business details of the clinic operation and services kept separate from the nursing home's facility fiscal records.

(b) A reasonable fee, based on cost of operation and services, may be charged for clinic services rendered.

(c) Personnel involved in operating and/or providing clinic services ~~must shall~~ not:

1. Pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for referral of any patients to the clinic.

2. Request or accept any remuneration, rebate, gift, benefit, or advantage of any form from any vendor or other supplier because of the purchase, rental, or loan, of equipment, supplies or services for the resident, client and/or patient.

(6) Personnel Policies.

(a) Staff in the geriatric outpatient nurse clinic ~~must will~~ be governed by the personnel standards ~~their Personnel Standards in rRules and rRegulations governing nursing homes Nursing Homes and related health care facilities Related Health Care Facilities. Rule 59A-4.157, F.A.C.~~

(b) Staff in the geriatric outpatient nurse clinic ~~must shall~~ be qualified and sufficient in numbers to perform the necessary services.

(c) Services of this clinic ~~must not will in no way~~ reduce the minimum staffing standards for in-patient care.

(d) Staff in the geriatric outpatient clinic may be regularly employed or serve on a contractual basis.

(7) Personnel Functions and Responsibilities.

(a) The registered nurse, ARNP or physician assistant staffing the geriatric outpatient clinic must: Registered Nurse ~~(Sections 464.021(2)(a)1., 2., F.S.)~~

1. ~~Be responsible~~ ~~The nurse shall have the responsibility~~ for eliciting and recording a health history, observation and assessment nursing diagnosis, counseling and health teaching of patients and the maintenance of health and prevention of illness.

2. ~~Provide~~ ~~The nurse shall provide~~ treatment for the medical aspects of care according to pre-established protocols or physician's orders.

3.2. ~~Note~~ ~~The nurse shall note~~ findings and activities on the clinical record.

4.3. ~~Provide~~ ~~The nurse shall provide~~ progress reports to the attending physicians about patients under the physician's care when there is a substantive change in the patient's condition, there are deviations from the plan of care, or at least every sixty (60) days.

~~(b) The Advanced Registered Nurse Practitioner (Section 464.003(3)(c), F.S.)~~

1. ~~The Advanced Registered Nurse Practitioner shall perform the functions outlined for the Registered Nurse, and in addition: Provide additional services dependent upon the certification authority of the Advanced Registered Nurse Practitioner by the Florida State Board of Nursing.~~

2. ~~The Advanced Registered Nurse Practitioner shall note findings and activities on the clinical record.~~

~~(c) The Physician's Assistant (Sections 458.347(3); 459.022, F.S.)~~

1. ~~The physician's assistant shall perform health care tasks delegated by the supervising or responsible physician.~~

2. ~~The physician's assistant shall note findings and activities on the clinical record.~~

(8) Patient Eligibility Criteria.

(a) Acceptance of patients and discharge policies ~~must shall~~ include but not be limited to the following:

1. ~~(b) Patients must shall~~ be accepted for clinic services on self-referral for nursing care, or upon a plan of treatment established by the patient's attending physician.

2. ~~(e) Patients~~ ~~The patients~~ with an attending physician will be held responsible for providing the clinic with a written medical plan of treatment reviewed and signed by their physician ~~at least sixty (60) days.~~

3. ~~(d) When services are to be terminated, the patient must is to~~ be notified of the date of termination and the reason for termination that ~~must shall~~ be documented in the patient's clinical record. ~~A plan shall be developed for a R~~ referrals must be made for any continuing care required indicated.

(9) Patient's Rights.

(a) The nursing home licensee must facility shall adopt, implement and make public a statement of the rights and responsibilities of the clinic patients and ~~must shall~~ treat such patients in accordance with the provisions of the said

statement. This statement ~~must shall~~ be conspicuously posted and available to clinic patients in pamphlet form. The statement ~~must ensure shall insure~~ each patient the following:

~~1.(b)~~The right to have private communication with any person of his or her choice.

~~2.(e)~~ The right to present grievances on behalf of himself, herself, or others to the facility's staff or administrator, to government officials, or to any person without fear of reprisal, and to join with other patients or individuals to work for improvements in patient care.

~~3.(d)~~ The right to be fully informed in writing, prior to ~~or~~ at the time of admission and during his or her attendance, of fees and services not covered under Title XVIII or Title XIX of the Social Security Act or other third party reimbursement ~~options agents~~.

~~4.(e)~~ The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated in the written medical plan of treatment by the physician, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated in the written medical plan of treatment by the physician, and to know the consequences of such actions.

~~5.(f)~~ The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with rules as promulgated by the ~~Agency AHCA~~.

~~6.(g)~~ The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records.

~~7.(h)~~ The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement of the services provided by the ~~nursing home licensee facility~~.

~~(i) The right to freedom of choice in selecting a nursing home.~~

~~1. Each nursing home shall post a copy of the statement required by subsection (1) so that it is clearly evident.~~

~~(b)2-~~ Any violation of the patient's rights set forth in this section shall constitute grounds for action by the Agency under the provisions of Section 400.102, F.S.

(10) ~~The scope Scope~~ of ~~services Services~~ of the geriatric outpatient nurse clinic must include:

~~Geriatric Outpatient Nurse Clinic~~

- (a) Observation of signs and symptoms.
- (b) Assessment of health status/progress.
- (c) Nursing diagnosis and plan of care.
- (d) Nursing care of patients and counseling to maintain health and prevent disease, including diet counseling.
- (e) Health instruction to control progression of disease and/or disability and self care measures.

(f) Administration of medication and treatment as prescribed by a person licensed in this state to prescribe such medications and treatment.

(g) Provision of progress reports to the attending physician.

(h) Referral for additional services as needed.

(i) Follow-up on a regular basis by communication with the patient, the patient's physician, and other agencies or persons to which referrals were made.

(j) When staffed by an ARNP Advanced Registered Nurse Practitioner advanced registered nurse or physician's assistant Physician's Assistant, additional services may be provided dependent upon their respective certification authority. (Sections 458.347, 459.022, 464.003(3)(c), F.S.)

(11) Clinical Records.

(a) The clinic ~~must shall~~ maintain a clinical record for every patient receiving health services that contain the following:

1. Identification data including name, address, telephone number, date of birth, sex, social security number, clinic case number if used, next of kin or guardian and telephone number, name and telephone number of patient's attending physician.

2. Assessment of problems.

3. ~~A hHealth cCare pPlan~~ including diagnosis diagnose, type, and frequency of services and when receiving medications and medical treatments, the medical treatment plan and dated signature of the physician or designee health professional licensed in this state to prescribe such medications and treatments.

4. Clinical notes, signed and dated by staff providing service.

a. Progress notes with changes in the patient's condition.

b. Services rendered with progress reports.

c. Observations.

d. Instructions to the patient and family.

e. Referrals made.

f. Consultation reports.

g. Case conferences.

h. Reports to physicians.

i. Termination summary which must include:

(I) Date of first and last visit.

(II) Total number of visits by discipline.

(III) Reason for termination of service.

(IV) Evaluation of achievements of previously established goals at time of termination.

(V) Condition of patient on discharge.

j. Clinical records ~~must shall~~ be confidential. Information may be released by the nurse, ARNP or physician's assistant responsible for clinical services only in accordance with state and federal regulations related to patient records and confidentiality.

~~(I) When permission is granted in writing by the patient or guardian.~~

~~(II) To those persons or agencies with a legitimate professional need or regulatory authority pursuant to Section 455.241, F.S.~~

~~(III) When so ordered by the courts.~~

(12) Medications. The clinic ~~must shall~~ have policies and procedures for the administration of medications by health care professionals acting within the scope of practice defined by laws and rules of the Department of Health and the Department of Professional Regulation which ~~must shall~~ include, ~~for example,~~ the following:

(a) All prescriptions for medications ~~must shall~~ be noted on the patient's record, and include the date, drug, dosage, frequency, method or site of administration, and the authorized health care professional's signature.

(b) All verbal orders for medication or medication changes ~~must shall~~ be taken by the clinic registered nurse, ARNP or physician's assistant. Such orders must be in writing and signed by the authorized health care professional within eight (8) days and added to the patient's record.

(c) The clinic registered nurse, ARNP or physician's assistant ~~must shall~~ record and sign for each medication administered, by drug, dosage, method, time and site on patient's record.

(d) An emergency plan for reversal of drug reaction to include the nursing home licensee's pro re nata (P.R.N. or "as needed") facility's PRN standing orders for medications available in the Emergency Drug medication Kit.

(e) If there is not a separate Emergency Drug medication Kit in the clinic, the nursing home licensee's facility's Emergency Drug medication Kit ~~must shall~~ be immediately accessible for use in the outpatient clinic.

(f) A drug storage system that includes:

1. Prescribed medications for individual outpatients may be retained in the clinic. These medications ~~must shall~~ be stored separately from those of the nursing home in-patients for preventive measures and treatment of minor illnesses.

2. Multi-dose containers ~~must shall~~ be limited to medications or biologicals commonly prescribed for preventive measures and treatment of minor illnesses.

3. A list ~~must shall~~ be kept of patients receiving medication from multi-dose medication containers.

Specific Authority ~~381.493-381.497,~~ 400.141(5)(3), 400.23(2) FS. Law Implemented 400.33, 400.141, 400.333 FS. History--New 4-27-78, Formerly 10D-29.71, 10D-29.071, 59A-4.071, Amended 2-6-97, _____.

59A-4.165 Nursing Home Guide.

(1) Pursuant to Section 400.191 F.S., the Agency shall provide information to the public in consumer-friendly printed and electronic formats (hereafter collectively the "Guide") to assist consumers and their families in comparing and evaluating nursing home facilities.

(2) The format of the printed Guide is shown in the "Nursing Home Guide Performance Measures Algorithm 2000" document, dated July 2000, incorporated by reference herein.

(3) The format of the electronic Guide will be the same as the printed Guide, but with the addition of the following:

(a) The ability to search for a nursing home facility electronically.

(b) Details of each deficiency ~~which deficiencies~~ the nursing home facility has been cited for over the time period specified in Section 400.191, F.S. past 45 months

(4) The data provided in the Guide shall include the following:

(a) General guidance about when a nursing home is the appropriate choice of care.

(b) General guidance about selecting a nursing home.

(c) Contact information such as phone numbers and web sites where questions can be answered, and further information obtained.

(d) A listing of all nursing home facilities in the State of Florida, including hospital based skilled nursing units. This listing shall include for each nursing home facility the following:

1. Name;

2. Address;

3. Voice and fax phone numbers;

4. Web address of facility;

5. A recognition if the nursing home licensee facility has been awarded a Gold Seal;

6. The current licensee;

7. Which calendar year the current licensee became the licensee;

8. Whether the licensee is a for-profit, or non-profit entity, and whether or not the nursing home facility is part of a retirement community;

9. Any corporate or religious affiliations;

10. The number of private, semi-private, and total beds at the nursing home facility;

11. The lowest daily charge for a semi-private room;

12. The payment forms accepted;

13. Any special services or amenities, or recreational programs provided;

14. Any non-English languages spoken by the administrator or staff of the nursing home facility; and

15. A summary of the deficiencies found at the nursing home facility over the time period specified in Section 400.191, F.S. ~~a 45-month period~~ prior to the publication of the Guide. The summarization procedure is discussed in detail below.

(5) The Guide will employ a procedure for summarizing the deficiencies as follows:

(a) All deficiencies cited over the most recently available time period as specified in Section 400.191, F.S. ~~45-month period~~ prior to the publication of the Guide will be collected.

(b) Each citation will be assigned points based on the type of deficiency and its assigned severity and scope. For those nursing homes facilities that are not federally certified, each citation will be assigned points based on the type of deficiency and its assigned class. Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The points assigned to an N-Tag shall be those that would be assigned to the equivalent F-Tag or K-Tag, if the nursing home facility were federally certified.

(c) A score for a nursing home facility will be computed by summing the points of all of its citations, and then dividing this sum by the number of ~~annual~~ recertification surveys conducted at the facility in the same ~~45-month~~ period as in paragraph (a) above. For those nursing homes facilities that are not federally certified, the number of ~~annual~~ licensure surveys will be used in place of the number of ~~annual~~ recertification surveys.

(d) For federally certified nursing homes facilities, the above computations will reflect any changes resulting from the Informal Dispute Resolution process, or administrative or appellate proceedings; inasmuch as the federal Centers for Medicare and Medicaid Services Health Care Financing Administration concurs with such changes.

(e) The scores for the freestanding nursing facilities will be ranked within each region. The regions are defined in the "Nursing Home Guide Performance Measures Algorithm," ~~document, dated July 2000, incorporated by reference herein.~~

(f) Ranks for the hospital based skilled nursing units will be assigned the same rank as the freestanding nursing home facility in the same region with an equal or next lower score.

(g) These ranks shall be presented numerically and/or symbolically in the Guide.

(h) Paragraphs (b) through (g) shall be repeated for subsets of the citations. These subsets are discussed in the "Nursing Home Guide Performance Measures Algorithm," ~~document, dated July 2000, incorporated by reference herein.~~

(i) Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The sub-setting of the tags in paragraph (h) for non-certified facilities shall be accomplished by using these equivalent F-Tags and K-Tags.

(j) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., MS 33, Tallahassee, FL 32308.

(6) The electronic version of the guide will be available at <http://ahcaxnet.fdhc.state.fl.us/nhcguide/> ~~www.fdhc.state.fl.us~~ and www.floridahealthstat.com.

Specific Authority 400.191(6) FS. Law Implemented 400.191 FS. History--New 2-15-01, Amended _____.

59A-4.166 Nursing Home Consumer Satisfaction Survey.

~~(1) Pursuant to Section 400.0225, F.S., the Agency or its contractor shall conduct consumer satisfaction surveys of all nursing homes and skilled nursing units of hospitals in the state. These nursing homes and skilled nursing units shall hereafter be referred to as "nursing facilities".~~

~~(2) The Agency or its contractor will survey family members and guardians of residents of these nursing facilities by way of mail surveys. This will require each nursing facility to provide to the Agency or its contractor, upon request, the names and addresses of at least one family member or guardian for each resident.~~

~~(3) The Agency or its contractor will interview residents of these facilities in person. This will require each nursing facility to provide to the Agency or its contractor, upon request, a list of all residents, along with each resident's room number, and each resident's birth date.~~

~~(4) The Agency or its contractor shall conduct these surveys and interviews at each nursing facility at least annually.~~

~~(5) The specific protocol for conducting these surveys and interviews is shown in the "Nursing Home and Skilled Nursing Unit Resident and Family Member Survey Project" document, dated July 2000, incorporated by reference herein.~~

~~(6) Only data summarized to the level of the facility may be released.~~

(7) ~~The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., Tallahassee, FL 32308.~~

Specific Authority 400.0225 FS. Law Implemented 400.0225 FS. History--New 2-15-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: CaraLee Starnes at (850)488-5861

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Molly McKinstry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 16, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

| | |
|------------|--------------|
| RULE NOS.: | RULE TITLES: |
| 61B-76.003 | Budgets |
| 61B-76.005 | Reserves |

PURPOSE AND EFFECT: This proposed rule amendment is for the purpose of allowing cooperative associations to use the pooling method for funding reserves for capital expenditures and deferred maintenance. The pooling method is a funding formula that utilizes a combined analysis and common source of money to pay for the maintenance or repair of assets within the pooled reserve account. The pooling method provides associations with more flexibility and meets the statutory requirement that reserve funding be based on the estimated deferred maintenance or replacement cost and funded over the lives of the assets to be reserved. This change is recommended to provide cooperative associations the same regulatory requirements that exist for condominium associations. The proposed rule amendment also conforms the language to the same terminology used for condominiums.

SUMMARY: This rule amendment addresses the funding of reserves for capital expenditures and deferred maintenance in cooperatives regulated under Chapter 719, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 719.501(1)(f), (j) FS.

LAW IMPLEMENTED: 719.106(1)(e), (j), 719.107(2), 719.501(1)(j), 719.618(1) 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: June 9, 2008, 9:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe 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 48 hours before the workshop/meeting by contacting: Sharon A. Malloy, Senior Management Analyst II at (850)488-1631. 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: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-76.003 Budgets.

(1) Required elements for estimated operating budgets. The budget for each association shall:

(a) through (d) No change.

(e) Unless the association maintains a pooled account for reserves required by Section 719.106(1)(j), Florida Statutes, the association shall include a schedule stating each reserve account for capital expenditures and deferred maintenance as a separate line item with the following minimum disclosures:

1. The total estimated useful life of the asset component;
2. The estimated remaining useful life of the asset component;
3. The estimated replacement cost or deferred maintenance expense of the asset component;
4. The estimated fund balance as of the beginning of the period for which the budget will be in effect; and
5. The developer's total funding obligation, when all units are sold, for each converter reserve account established pursuant to Section 719.618, Florida Statutes, if applicable.

(f) If the association maintains a pooled account for reserves required by Section 719.106(1)(j), Florida Statutes, the association shall include a separate schedule of any pooled reserves with the following minimum disclosures:

1. The total estimated useful life of each asset within the pooled analysis;
2. The estimated remaining useful life of each asset within the pooled analysis;
3. The estimated replacement cost or deferred maintenance expense of each asset within the pooled analysis; and

4. The estimated fund balance of the pooled reserve account as of the beginning of the period for which the budget will be in effect.

(g) Include a separate schedule of any other reserve funds to be restricted by the association as a separate line item with the following minimum disclosures:

1. The intended use of the restricted funds; and
2. The estimated fund balance of the item as of the beginning of the period for which the budget will be in effect.

(2) through (3) No change.

Specific Authority 719.501(1)(f), (j) FS. Law Implemented 719.106(1)(e), (j), 719.107(2), 719.501(1)(j) FS. History–New 12-20-95, Amended _____.

61B-76.005 Reserves.

(1) through (2) No change.

(3) Calculating reserves required by statute. Reserves for deferred maintenance and capital expenditures required by Section 719.106(1)(j), Florida Statutes, shall be calculated using a formula that will provide funds equal to the total estimated deferred maintenance expense or total estimated replacement cost for an asset or group of assets over the remaining useful life of the asset or group of assets. Funding formulas for reserves required by Section 719.106(1)(j), Florida Statutes, shall be based on either a separate analysis of each of the required assets or a pooled analysis of two or more of the required assets.

(a) If the association maintains separate reserve accounts for each of the required assets, the amount of the current year contribution to each reserve component shall be the sum of the following calculation:

1. (a) The total amount necessary, if any, to bring a negative account component balance to zero; and

2. (b) The total estimated deferred maintenance expense or total estimated replacement cost of the reserve asset component less the estimated balance of the reserve account component as of the beginning of the period for which the budget will be in effect. The remainder, if greater than zero, shall be divided by the estimated remaining useful life of the asset. The formula may be adjusted each year for changes in estimates and deferred maintenance performed during the year and may consider factors such as inflation and earnings on invested funds.

(b) If the association maintains a pooled account of two or more of the required reserve assets, the amount of the contribution to the pooled reserve account as disclosed on the proposed budget shall be not less than that required to ensure that the balance on hand at the beginning of the period for which the budget will go into effect plus the projected annual cash inflows over the remaining estimated useful lives of all of the assets that make up the reserve pool are equal to or greater than the projected annual cash outflows over the remaining estimated useful lives of all of the assets that make up the

reserve pool, based on the current reserve analysis. The projected annual cash inflows may include estimated earnings from investment of principal. The reserve funding formula shall not include any type of balloon payments.

(4) through (9) No change.

Specific Authority 719.501(1)(f), (j) FS. Law Implemented 719.106(1)(j), 719.501(1)(j), 719.618(1) FS. History–New 12-20-95, Amended 1-19-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chuck Drago, Interim Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

| | |
|------------|--|
| RULE NOS.: | RULE TITLES: |
| 61C-1.001 | Definitions |
| 61C-1.004 | General Sanitation and Safety Requirements |

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to simplify adoption of the 2001 Food Code by adopting all applicable parts under the “Food Code” definition and amending, as necessary, other references to the 2001 Food Code in the division’s rules. The proposed rule amendment also improves readability under the plain language initiative.

SUMMARY: The proposed rule amendment adopts the 2001 Food Code under the definition of “Food Code” in Rule 61C-1.001, F.A.C., and amends references to the 2001 Food Code currently found throughout Chapter 61C-1, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 509.032, FS.

LAW IMPLEMENTED: 509.032, 509.215, 509.221 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 RULES IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012; Telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULES IS:

61C-1.001 Definitions.

Except when otherwise defined in this rule, the definitions provided in paragraph 1-201.10(B), Food Code, 2001 Recommendations of the United States Public Health Service/Food and Drug Administration; the 2001 Food Code Errata Sheet (August 23, 2002); and Supplement to the 2001 FDA Food Code (August 29, 2003), ~~herein adopted by reference~~, shall apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C. In addition, the following definitions apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C.:

(1) through (13) No change.

(14) Food Code – This term as used in Chapters 61C-1, 61C-3, and 61C-4, F.A.C., means paragraph 1-201.10(B), Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, and Chapter 7 of the Food Code, 2001 Recommendations of the United States Public Health Service/Food and Drug Administration including Annex 3: Public Health Reasons/Administrative Guidelines; and Annex 5: HACCP Guidelines of the Food Code; the 2001 Food Code Errata Sheet (August 23, 2002); and Supplement to the 2001 FDA Food Code (August 29, 2003), herein adopted by reference. A copy of the Food Code, as adopted by the division, is available on the division’s Internet website www.MyFloridaLicense.com/dbpr/hr. A copy of the entire Food Code is available on the U.S. Food and Drug Administration Internet website. Printed copies of the entire Food Code are available through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(15) through (30) No change.

Specific Authority 509.032~~(6)~~ FS. Law Implemented 509.032 FS. History–Amended 9-20-63, 3-21-64, 1-7-70, Revised 2-4-71, Amended 10-18-71, 11-17-73, 12-18-74, 12-5-82, Formerly 7C-1.01, Amended 9-10-89, 12-31-90, 2-27-92, 11-4-92, Formerly 7C-1.001, Amended 3-31-94, 10-9-95, 9-25-96, 1-1-98, 12-6-00, 2-27-05,_____.

61C-1.004 General Sanitation and Safety Requirements.

The following general requirements and standards shall be met by all public lodging and public food service establishments:

(1) Water, plumbing and waste. Except as specifically provided in these rules, standards for water, plumbing and waste shall be governed by Chapter 5, Food Code, ~~as herein adopted by reference in Rule 61C-1.001, F.A.C.~~ For the purposes of this section, the term “food establishment” as

referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, FS.

(a) through (e) No change.

(2) through (3) No change.

(4) The storage and use of poisonous and toxic materials shall be governed by the provisions of Chapter 7, Food Code, ~~as herein adopted by reference in Rule 61C-1.001, F.A.C.~~ For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, F.S.

(5) through (13) No change.

Specific Authority 509.032~~(2)(d), (3), (6)~~ FS. Law Implemented 509.032~~(2)(d), (3)(a), (b), (e)~~, 509.215, 509.221 FS. History–Amended 2-20-64, 7-14-67, 2-8-69, Revised 2-4-71, Amended 2-17-73, Repromulgated 12-18-74, Amended 9-19-84, Formerly 7C-1.04, Amended 12-31-90, 2-11-92, 2-27-92, 6-15-92, Formerly 7C-1.004, Amended 3-31-94, 10-9-95, 9-25-96, 5-11-98, 7-2-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill L. Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chuck Drago, Interim Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 25, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-3.001 Sanitation and Safety Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to simplify adoption of the 2001 Food Code by removing adoption of the Food Code in this rule and instead simply referencing the Food Code as adopted in the definition found in Rule 61C-1.001, F.A.C. The proposed rule amendment also improves readability under the plain language initiative.

SUMMARY: The proposed rule amendment changes references to the 2001 Food Code.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 509.032 FS.
 LAW IMPLEMENTED: 509.032, 509.211, 509.2112, 509.221 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012; telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-3.001 Sanitation and Safety Requirements.

The following requirements and standards shall be met by all public lodging establishments.

- (1) through (2) No change.
- (3) Glassware, tableware and utensils.

(a) The handling, cleaning and sanitizing of glassware, tableware and utensils in public lodging establishments shall be subject to the provisions of Chapter 4, Food Code, ~~as hereby~~ adopted by reference in Rule 61C-1.001, F.A.C. As referenced in this chapter of the Food Code, the term "food establishment" shall apply to all public lodging establishments as defined in Chapter 509, F.S.

- (b) through (c) No change.
- (4) through (12) No change.

Specific Authority 509.032(~~6~~) FS. Law Implemented 509.032, 509.211, 509.2112, 509.221 FS. History--Amended 1-20-63, Revised 2-4-71, Amended 9-19-84, Formerly 7C-3.01, Amended 12-31-90, Formerly 7C-3.001, Amended 3-31-94, 9-25-96, 1-18-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill L. Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chuck Drago, Interim Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 25, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

| | |
|-------------------|---|
| RULE NOS.: | RULE TITLES: |
| 61C-4.010 | Sanitation and Safety Requirements |
| 61C-4.0161 | Mobile Food Dispensing Vehicles and Theme Park Food Carts |
| 61C-4.023 | Food Protection Manager Certification and Public Food Service Employee Training |

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments are to simplify adoption of the 2001 Food Code by removing adoption of the Food Code in this Chapter and instead simply referencing the Food Code as adopted in the definition found in Rule 61C-1.001, F.A.C. The proposed rule amendment also improves readability under the plain language initiative.

SUMMARY: The proposed rule amendments change references to the 2001 Food Code throughout Chapter 61C-4, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 509.032, 509.039, 509.049 FS.
 LAW IMPLEMENTED: 509.032, 509.035, 509.039, 509.049, 509.211, 509.215, 509.221 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 RULES IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012; telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULES IS:

61C-4.010 Sanitation and Safety Requirements.

(1) Food Supplies and Food Protection – ~~Except~~ ~~except~~ as specifically provided in this rule, public food service establishments shall be subject to the provisions of Chapter 3, Food Code, ~~as herein~~ adopted by reference in Rule 61C-1.001, FAC.

(a) through (c) No change.

(d) Section 3-301.11(B); of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., specifies that food service employees shall not contact ~~provides the specifications for no bare hand contact of exposed~~ ready-to-eat food with bare hands. Under Pursuant to the language “except...when unless otherwise approved” ~~as provided~~ in Section 3-301.11(B); of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., food service employees may contact ready-to-eat foods with their bare hands immediately prior to service if the operator of the public food service establishment maintains a written operational procedure which addresses all of the following components:

1. through 2. No change.

3. Food service employees ~~Employees~~ who handle ready-to-eat foods must thoroughly wash their hands before returning to their work stations and as needed during their work periods in accordance with the handwash requirements of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. Additionally, these food service employees shall use a chemical hand sanitizing solution which must comply with the specification provided in Section 2-301.16(C); of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. The establishment must also fully comply with Sections 5-203.11(A) and 5-204.11; of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., regarding the number and location of hand washing lavatories.

4. The person in charge of the public food service establishment is responsible for verifying, prior to any food handling activity, that all food handling employees are in compliance with Sections 2-201.11, 2-201.12, and 2-201.13; of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., as those sections relate relative to employee health status, exclusions, and restrictions.

5. The public food service establishment's written operational procedures must provide an effective way to monitor employees to verify compliance with the requirements of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and the establishment's specifications of the written operational procedures. Additionally, the written operational procedures must also describe the corrective actions the operator must take when procedures are not followed. All food service employees, including the operator, manager, or any supervisory position, who handle ready-to-eat foods with bare hands must comply with all requirements of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and the public food service establishment's written operational procedures.

(e) No change.

(f) If an ~~establishment~~ employee of a public food service establishment is observed using bare hands to handle ready-to-eat foods and the establishment has failed to develop, maintain or make available a written set of operational procedures; or, comply with any rule requirement relative to

the use of bare hands, personal health, or professional hygiene, the division shall cite the establishment for noncompliance. Noncompliance on a second inspection within two years of the first infraction shall result in enforcement action in accordance with Section 509.261, F.S. A subsequent finding of noncompliance relative to the use of bare hands, personal health, or professional hygiene will result in enforcement action in accordance with Section 509.261, F.S., and enforcement of Section 3-301.11(B) of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., until the establishment operator verifies completion of corrective action, including and completes remedial training of all food preparation employees.

(g) If the division or other food regulatory authority is notified of a suspected foodborne illness outbreak in any public food service establishment which utilizes bare hand contact with ready-to-eat foods, the division will temporarily enforce no bare hand contact in the establishment in accordance with Section 3-301.11(B); of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., until ~~a determination is made by~~ the health authority determines whether a foodborne illness outbreak exists or until such time as the origin of the foodborne illness outbreak is confirmed. If the origin of the foodborne illness, specific to the implicated establishment, is determined to be a food service employee associated outbreak, the division shall pursue enforcement action in accordance with Section 509.261, F.S., and continue to enforce compliance with Section 3-301.11(B); of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., until the establishment operator verifies completion of corrective action, including and completes remedial training of all food preparation employees.

(2) No change.

(3) Personnel – ~~Except except~~ as specifically provided in this rule, personnel in public food service establishments shall be subject to the provisions of Chapter 2, Food Code, as herein adopted by reference in Rule 61C-1.001, F.A.C.

(4) Procedure When Infection Is Suspected – ~~When when~~ the division has reasonable cause to suspect possibility of disease transmission from any food service establishment employee, the division shall immediately consult with the state health officer or designee to provide epidemiological assistance or make other such investigation as may be indicated and take appropriate action in accordance with Part 2-2; of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and these rules.

(5) Food Equipment, Utensils and Linens – ~~Public public~~ food service establishments shall be subject to the provisions of Chapter 4, Food Code, as herein adopted by reference in Rule 61C-1.001, F.A.C.

(6) Physical Facilities – ~~Except except~~ as specifically provided in these rules, the physical facilities at public food service establishments shall be subject to the provisions of Chapter 6, Food Code, as herein adopted by reference in Rule

61C-1.001, F.A.C. Public food service establishments and all ~~parts of~~ property used in connection with their operations shall be kept free of litter. The walking and driving surfaces of all exterior areas of public food service establishments shall be effectively maintained ~~so as~~ to minimize dust. These surfaces shall be graded to prevent pooling of water.

(7) No change.

Specific Authority 509.032(2)(d), ~~(6)~~ FS. Law Implemented 509.032(2)(d), ~~(3)(a), (b), (c)~~, 509.035, 509.221 FS. History--New 1-1-77, Amended 1-6-81, Formerly 10D-13.23, Amended 2-21-91, Formerly 10D-13.023, 7C-4.010, Amended 3-31-94, 9-25-96, 1-1-98, 7-2-98, 12-6-00, 2-27-05, _____.

61C-4.0161 Mobile Food Dispensing Vehicles and Theme Park Food Carts.

(1) No change.

(2) Mobile food dispensing vehicles shall meet the following additional requirements:

(a) through (b) No change.

(c) Mobile food dispensing vehicles shall operate from an approved commissary that meets all applicable requirements of this rule. The commissary must be provided with potable water and adequate facilities for disposal of liquid and solid waste. The mobile food unit must report to the commissary to store or replenish supplies, clean utensils and equipment, or dispose of liquid and solid waste. Mobile food dispensing vehicles which are self-sufficient for equipment, storage, and utilities must report to the commissary as often as needed, but not less than at least once weekly, or more often as needed to replenish supplies, clean the interior of the unit, or dispose of liquid or solid wastes. For the purpose of this rule, a mobile food dispensing vehicle which is self-sufficient includes a three compartment sink for washing, rinsing, and sanitizing of equipment and utensils; a separate handwash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP gas, or a portable power generation unit; ~~and a liquid waste disposal system and potable water holding tank; and a liquid waste disposal system in accordance with Subparts 5-3 and 5-4; of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.~~ Mobile food dispensing vehicles which are not self-sufficient must report to their commissary at least once daily. The exterior of the vehicle may be washed in any location, provided the waste water does not create a sanitary nuisance.

(d) No change.

(3) through (10) No change.

Specific Authority 509.032(2)(d), ~~(6)~~ FS. Law Implemented 509.032(2)(d), ~~(3)(a)~~, 509.211, 509.215, 509.221 FS. History--New 2-21-91, Formerly 10D-13.0291, 7C-4.0161, Amended 3-31-94, 9-25-96, 5-11-98, 7-2-98, _____.

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(1) through (3) No change.

(4) Public Food Service Employee Training.

(a) All public food service employees must receive training on professional hygiene and foodborne disease prevention. Professional hygiene includes personal cleanliness and hygienic practices in accordance with the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and techniques to prevent cross contamination. Foodborne disease prevention training must include the types and causes of foodborne illness, identification of potentially hazardous food, and how to control or eliminate harmful bacteria in a public food service establishment.

(b) Public food service employees must receive training which relates to their assigned duties. Employees who prepare foods must be knowledgeable about safe methods of thawing, cooking, cooling, handling, holding and storing foods. Service personnel must be knowledgeable about safe methods of serving food. Employees who clean equipment and facilities must be knowledgeable about proper cleaning and sanitization methods. Employees responsible for maintaining the premises must be knowledgeable about proper vermin control methods as specified in the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.

(c) Licensees who provide in-house employee training shall make available on the premises of the establishment, or in a theme park or entertainment complex in a central location, upon the division's request, the curriculum and materials used to conduct training. If training is obtained from an outside provider, the licensee must provide, upon the division's request, information about the selected training program and methods used to evaluate training outcomes. Training outcomes include employees correctly applying procedures and answering questions relative to assigned duties. Employees must safely perform their work duties ~~safely~~ in a manner consistent with the requirements of the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.

Specific Authority 509.032(6), 509.039, 509.049 FS. Law Implemented 509.039, 509.049 FS. History--New 2-21-91, Amended 5-12-92, Formerly 10D-13.037, 7C-4.023, Amended 3-31-94, 10-9-95, 1-18-98, 2-7-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill L. Veach, Director, Division of Hotels and Restaurants,
Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Chuck Drago, Interim Secretary,
Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 2, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 25, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Mobile Home Relocation Corporation

| | |
|-------------------|--|
| RULE NOS.: | RULE TITLES: |
| 61M-1.001 | Procedures for Operation |
| 61M-1.002 | Claims Procedures |
| 61M-1.003 | Approved Forms |
| 61M-1.004 | Late Fees |
| 61M-1.005 | Determination of Mobile Home Park Status |
| 61M-1.006 | Qualification for Compensation |
| 61M-1.007 | Timeframe to Apply for Assistance |
| 61M-1.008 | Grievance Procedure |

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments will be to make language changes to clarify and organize existing rules and forms and to address operational concerns arising out of the current versions of existing rules and forms. Changes to existing rules will also be considered to address possible concerns arising out of the incorporation of forms into a separate rule. The board will also discuss, and will consider, possible new rules relating to late fees to implement changes to Section 723.06116(1)(a)-(d), F.S., and possible new rules relating to the determination of mobile home park status, rental agreement status, timeframes to apply for assistance to implement changes to Section 723.0612(12), F.S., and a grievance procedure.

SUMMARY: The subject areas to be addressed in these rule amendments are: the operation of the Florida Mobile Home Relocation Corporation and the use of applicable forms by the public, requests for assistance for relocation and abandonment expenses by members of the public who reside in a mobile home park where there has been a change in land use and determinations made with regard to such applications, procedures for the collection of funds from mobile home park owners whose residents have sought relocation or abandonment expenses and procedures for aggrieved individuals to challenge decisions of the Florida Mobile Home Relocation Corporation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 723.0611(3) FS.

LAW IMPLEMENTED: 723.003, 723.061, 723.0611, 723.06115, 723.06116, 723.0612 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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: Janet Garrett, Executive Director, FMHRC, P. O. Box 14125, Tallahassee, FL 32317-4125, (888)862-7010. 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: Janet Garrett, Executive Director, FMHRC, P. O. Box 14125, Tallahassee, FL 32317-4125, (888)862-7010

THE FULL TEXT OF THE PROPOSED RULES IS:

61M-1.001 Procedures for Operation.

(1) The Florida Mobile Home Relocation Corporation (referred to in these Rules as "Corporation") board of directors, one of whom serves as chair, shall conduct the corporation's business at meetings held as frequently as deemed necessary by the board. All such meetings shall be noticed in the Florida Administrative Weekly, as well as the principal publications of the largest nonprofit association representing mobile home owners in this state and the largest nonprofit association representing the manufactured housing industry in this state, who comprise the members of the Corporation board of directors. Such notice shall be published at least 7 ~~14~~ days prior to the date scheduled for the meeting of the board of directors, except in the case of emergency meetings of the board of directors, in which case the notice may be published less than 7 ~~14~~ days prior to the date of the meeting. The board of directors may hold meetings by telephone conference call, or other electronic means, by providing 48 hours written notice via facsimile to the largest nonprofit association representing mobile home owners in this state, the largest nonprofit association representing the manufactured housing industry in this state and to other interested parties who have provided notice to the Corporation of their interest in receiving public notice of Corporation business, to review applications for payment of relocation expenses or abandonment so as to meet the timetable set forth in Section 723.0612(4), F.S. and to conduct such other business as authorized by law. Regular meetings of the Corporation board of directors may also be conducted by telephone conference call upon providing the 7 day notice referred to above and members of the board of directors may attend any in person meetings of the Corporation by telephone.

(2) The board of directors may employ or retain attorneys, accountants and ~~or~~ administrative personnel to perform the administrative and financial transactions and responsibilities of the Corporation and to perform any other necessary duties not prohibited by law. The board of directors is not required to

engage in a competitive solicitation or bidding process for goods and services needed by the board to perform its functions.

(3) Members of the board of directors may be reimbursed by the Corporation for actual and necessary expenses incurred by them as members in accordance with state guidelines as approved by the department. Members of the board of directors are not entitled to any additional compensation for their services.

(4) The Corporation shall establish, by rule, an address for receipt of mail and any official notices required by Section 723.0612, F.S. The ~~initial~~ address for receipt of such mail or notices shall be Florida Mobile Home Relocation Corporation, Post Office Box ~~3047 44125~~, Tallahassee, Florida ~~32315-3047 32317-4125~~.

(5) The Corporation is authorized to open accounts with financial institutions or credit unions to conduct the financial affairs of the Corporation.

(6) The Corporation shall implement procedures, in conjunction with the department, for the transfer of funds from the Florida Mobile Home Relocation Trust Fund to the Corporation for the payment of claims for relocation and abandonment expenses approved by the board of directors.

Specific Authority 723.0611(3) FS. Law Implemented 723.0611, 723.0612 FS. History—New 1-6-04, Amended 11-3-04,_____.

61M-1.002 Claims Procedures.

(1) In order to receive payment from the Corporation for relocation expenses, the ~~applicant mobile home owner~~ shall submit to the Corporation, with a copy to the park owner, a Home Owner Application for Payment of Relocation Expenses, FMHRC Form 1001, (Revised March 25, 2008) incorporated herein by reference, which includes a copy of the notice of eviction due to change in use of the land comprising the mobile home park and a copy of the signed contract with an ~~installer moving or towing contractor~~ that includes an itemization of the costs of taking down, moving and setting up the mobile home in a new location. The copy of the notice of eviction shall show a date after July 1, 2001, the effective date of the statute creating the Florida Mobile Home Relocation Corporation. ~~The cost itemization referenced herein shall be in a form substantially similar to the Installer's Form, FMHRC Form 1007, (Revised March 25, 2008) incorporated herein by reference, must be used in order for the applicant's request to be considered for approval by the board of the Corporation.~~ The application shall also include a copy of the title(s) to the mobile home showing the name of the owner of the home being the same as the applicant for relocation expenses. The title certificate must bear the Department of Highway Safety and Motor Vehicles designation of "HS" which designates the home as a "mobile home." No other designation on the title will be accepted for processing and approval for relocation expenses. Any application received that does not contain

complete information and all of the required documentation shall be returned by the Corporation to the applicant along with a notice of the deficiencies in the application. Only completed applications will receive a date stamp. In the event the applicant resubmits the application with the required documentation, the application will then receive a date stamp assigning its priority. Applicants for payment under this section shall also submit an Acknowledgement of Non-Participation in Litigation and Acknowledgement of Non-Acceptance of Compensation from Park Owner, FMHRC Form 1008, (Revised March 25, 2008) incorporated herein by reference. ~~An applicant mobile home owner~~ who complies with the application requirements of law and rule shall be entitled to payment of the actual moving expenses to relocate the mobile home within a 50-mile radius of the vacated park, not to exceed \$3,000 for a single-section mobile home or \$6,000 for a multi-section mobile home. Please refer to the Corporation's website for the forms referenced herein and for additional information on how to submit an application for assistance from the Corporation, www.fmhrc.org.net.

(2) Any relocation claims made pursuant to this rule shall be prioritized as follows: The mail will be collected from the post office box address of the Corporation at least Monday, Wednesday and Friday, state and federal holidays excluded. Any completed applications received will be date stamped. Priority of payment of claims for relocation expenses will be based upon the date the completed application is date stamped.

(3) The Corporation must approve payment within 45 days after receipt of the completed relocation application, or payment is deemed approved. Once the mobile home has been moved to its new location, the Corporation shall forward to the park owner notice of a copy of the approval along with an invoice for payment of \$2,750 for a single-section mobile home or \$3,750 for a multi-section mobile home. If the ~~applicant's homeowner's~~ application was approved prior to June 26, 2003, the Corporation will invoice the park owner for payment of \$2,000 for a single-section mobile home or \$2,500 for a multi-section mobile home.

(4) If funds are available and the completed application is approved, the following shall occur:

(a) In the event the mobile home has not yet been moved to a new location, the Corporation shall issue a voucher to the ~~installer moving or towing contractor~~ in the amount of the contract price for relocation of the mobile home. The amount of the voucher shall be as approved by the board of the Corporation and as set forth in Section 723.0612(1), F.S. The ~~installer moving or towing contractor~~ may redeem the voucher from the Corporation following completion of the relocation of the mobile home and upon approval of the relocation by the mobile home owner that the work performed was satisfactory. Within 30 days of receipt of ~~Installer Contractor~~ Voucher for Payment for Mobile Home Relocation, FMHRC Form 1003, (Revised March 25, 2008) incorporated herein by reference,

and proof of the satisfactory completion of the relocation by the installer moving or towing contractor, the Corporation shall pay the amount set forth on the voucher.

(b) In the event the applicant home owner has already moved the mobile home to a new location and paid for the move, the Corporation shall issue a voucher to the applicant home owner whose application was previously approved by the Corporation in accordance with this rule. The amount of the voucher shall be as approved by the board of the Corporation and as set forth in Section 723.0612(1), F.S. The applicant home owner may redeem the voucher upon submitting proof of the relocation of the mobile home in the form of a receipt or invoice marked "paid" by the installer moving or towing contractor. Within 30 days of receipt of Applicant Home Owner Voucher for Payment for Mobile Home Relocation, FMHRC Form 1004, (Revised March 25, 2008) incorporated herein by reference, and proof of the relocation by the installer moving or towing contractor, as set forth herein, the Corporation shall pay the amount set forth on the voucher.

(5) In the event a mobile home owner who has been evicted for change in the use of the land chooses to abandon the mobile home pursuant to Section 723.0612(7), F.S., the home owner who received a notice of eviction on or after June 26, 2003 may collect from the Corporation \$1,375 for a single-section mobile home and \$2,750 for a multi-section mobile home so long as the mobile home owner delivers to the park owner the current title(s) to the mobile home properly endorsed by the owner of record with valid releases of all liens shown on the title(s). If the home owner received a notice of eviction prior to June 26, 2003, the applicant homeowner may collect an amount equal to one fourth of the maximum allowable moving expenses. In order to qualify for reimbursement under this subsection, the title certificate on the mobile home sought to be abandoned must bear the Department of Highway Safety and Motor Vehicles designation of "HS" which is the designation as a "mobile home." No other designation will be accepted for processing and approval for payment for an abandoned home. The applicant mobile home owner who seeks payment under this section shall submit to the Corporation an Application for Payment for Abandoned Mobile Home, FMHRC Form 1002, (Revised March 25, 2008) incorporated herein by reference, which includes a copy of the notice of eviction due to change in the use of the land comprising the mobile home park and a copy of the current title(s) to the mobile home with the proper designation of "HS" duly endorsed to the park owner by the owner of record and valid releases of all liens shown on the title. Applicants for payment under this paragraph shall also submit an Acknowledgment by Park Owner When a Home Is Abandoned, FMHRC Form 1009, (Revised March 25, 2008) incorporated herein by reference, with either the park owner's signature acknowledging abandonment and agreeing to make payment to the Corporation, or the applicant's home owner's

signature certifying their inability to obtain the park owner's signature; Abandonment Acknowledgement, FMHRC Form 1010, (Revised March 25, 2008) incorporated herein by reference, which is a notarized form stating when where the home was abandoned and the address to which payment should be sent to; and Acknowledgement of Non-Participation in Litigation and Acknowledgement of Non-Acceptance of Compensation from Park Owner, FMHRC Form 1008, (Revised March 25, 2008) incorporated herein by reference. For applications approved on or after April 6, 2004, the Corporation shall forward the park owner a copy of the approval along with an invoice for payment of \$1,375 for a single-section and \$2,750 for a multi-section mobile home. Only completed applications will receive a date stamp. In the event the applicant resubmits the application with the required documentation, the application will then receive a date stamp assigning its priority. For applications approved prior to April 6, 2004, the Corporation shall forward the park owner a copy of the approval along with an invoice for payment of one fourth of the maximum allowable moving expenses. Please refer to the Corporation's website for the forms referenced herein and for additional information on how to submit an application for assistance from the Corporation, www.fmhrc.org.net.

(6) In the event the funds for payment of relocation expenses or ~~the~~ payment for abandonment of the mobile home have been exhausted, the following procedures will be utilized: due to the payment of previous claims and expenses of the corporation,

(a) The applicant mobile home owner who has properly completed the relocation application and attached the required documentation, and been approved by the Corporation will receive a certificate, Form 1005 (Revised March 25, 2008) incorporated herein by reference showing the time and date of approval of payment of an applicant's relocation expenses to a claimant. Should sufficient funds become available, the Corporation shall pay the claimant for relocation expenses whose unpaid claim is the earliest by time and date of approval.

(b) The applicant who has properly completed the abandonment application and attached the required documentation, and been approved by the Corporation, will receive a certificate, Form 1006 (Revised March 25, 2008) incorporated herein by reference. In the event the funds for payment for an abandoned home have been exhausted, The Corporation shall pay the applicant home owner at the time the park owner has made the required payment to the Corporation for that applicant.

(7) Any abandonment claims made pursuant to this rule shall be prioritized as follows: The mail will be collected from the post office box address of the Corporation at least Monday, Wednesday and Friday, state and federal holidays excluded. Any completed applications received will be date stamped.

Priority of payment of claims for abandonment expenses will be based upon the date the completed application is date stamped.

(8) The Corporation must approve payment within 45 days after receipt of the completed abandonment application, or payment is deemed approved. Once the mobile home has been abandoned, the Corporation shall forward to the park owner a copy of the approval along with an invoice for payment of \$1,375 for a single-section mobile home or \$2,750 for a multi-section mobile home. If the applicant's application was approved prior to June 26, 2003, the Corporation will invoice the park owner for payment of \$1,250 for a single-section mobile home or \$2,500 for a multi-section mobile home.

(9) The forms adopted by the Corporation are:

(a) Homeowner Application for Payment of Relocation Expenses, FMHRC Form 1001.

(b) Homeowner Application for Payment for Abandoned Mobile Home, FMHRC Form 1002 (Revised March 25, 2008).

(c) Installer Voucher for Payment for Mobile Home Relocation, FMHRC Form 1003 (Revised March 25, 2008).

(d) Applicant Voucher for Payment for Mobile Home Relocation, FMHRC Form 1004 (Revised March 25, 2008).

(e) Certificate for Payment of Relocation Expenses When Funds Become Available, FMHRC Form 1005 (Revised March 25, 2008).

(f) Certificate for Payment for Abandoned Mobile Home When Funds Become Available, FMHRC Form 1006 (Revised March 25, 2008).

(g) Installer's Form, FMHRC Form 1007 (Revised March 25, 2008).

(h) Acknowledgement of Non-Participation in Litigation and Acknowledgement of Non-Acceptance of Compensation from Park Owner, FMHRC Form 1008 (Revised March 25, 2008).

(i) Acknowledgment by Park Owner When a Home Is Abandoned, FMHRC Form 1009 (Revised March 25, 2008).

(j) Abandonment Acknowledgment, FMHRC Form 1010 (Revised March 25, 2008).

(10) All forms referenced in these rules and utilized by the Corporation may be obtained by writing to the Florida Mobile Home Relocation Corporation, Post Office Box 3047 44125, Tallahassee, Florida 32315-3047 32317-4125 or by visiting www.fmhrc.org.

Specific Authority 723.0611(3) FS. Law Implemented 723.061, 723.06116, 723.0612 FS. History—New 1-6-04, Amended 11-3-04, _____.

61M-1.003 Approved Forms.

~~The corporation adopts the forms below as suggested forms for use by mobile home owners and park owners:~~

~~(1) Home Owner Application for Payment of Relocation Expenses, FMHRC Form 1001, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(2) Application for Payment for Abandoned Mobile Home, FMHRC Form 1002, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(3) Contractor Voucher for Payment for Mobile Home Relocation, FMHRC Form 1003, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(4) Home Owner Voucher for Payment for Mobile Home Relocation, FMHRC Form 1004, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(5) Certificate for Payment of Relocation Expenses When Funds Become Available, FMHRC Form 1005, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(6) Certificate for Payment for Abandoned Mobile Home When Funds Become Available, FMHRC Form 1006, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(7) Installer's Form, FMHRC Form 1007, incorporated by reference herein and effective 1-6-04, amended 11-3-04.~~

~~(8) Acknowledgement of Non-Participation in Litigation and Acknowledgement of Non-Acceptance of Compensation from Park Owner, FMHRC Form 1008, incorporated by reference herein and effective 11-3-04.~~

~~(9) Acknowledgment by Park Owner When a Home Is Abandoned, FMHRC Form 1009, incorporated by reference herein and effective 11-3-04.~~

~~(10) Abandonment Acknowledgment, FMHRC Form 1010, incorporated by reference herein and effective 11-3-04.~~

All forms referenced in these rules may be obtained by writing to the Florida Mobile Home Relocation Corporation, Post Office Box 14125, Tallahassee, Florida 32317-4125 or by visiting www.fmhrc.net.

Specific Authority 723.00611(3) FS. Law Implemented 723.061, 723.0611, 723.06116, 723.0612 FS. History—New 1-6-04, Amended 11-3-04, Repealed _____.

61M-1.004 Late Fees.

(1) Pursuant to Section 723.06116(1)(a)-(d), Florida Statutes, late fees will be imposed according to the following schedule:

(a) 10% of total amount due for over 30 days past due; and
(b) 15% of total amount due for over 60 days past due; and
(c) 20% of total amount due for over 90 days past due; and
(d) 25% of total amount due for 120 days or more past due.

(2) In determining the initial 30-day past due deadline and imposition of all subsequent late fees, 5 days for mailing will be added to the original invoice postmark date.

Specific Authority 723.0611(3) FS. Law Implemented 723.06116(1) FS. History—New _____.

61M-1.005 Determination of Mobile Home Park Status.

In order to qualify for assistance from the Corporation, an applicant must own a mobile home and live in a mobile home park as defined by Section 723.003, Florida Statutes. The Corporation will rely upon the determination of the Florida Department of Business and Professional Regulation as to the status of a mobile home park and, specifically, whether the mobile home park meets the definition of "mobile home park" as defined by Section 723.003, Florida Statutes.

Specific Authority 723.0611(3) FS. Law Implemented 723.002, 723.003, 723.06116(1) FS. History--New _____.

61M-1.006 Qualification for Compensation.

(1) In order to qualify for compensation from the Corporation, the applicant must be mobile home owner as defined in Section 723.003, F.S., with title of the home in the name of the applicant and that person must have a valid rental agreement with a mobile home park on the date the rental agreement is terminated pursuant to Section 723.061(1)(d), F.S.

(2) Nothing in this rule shall limit the provisions of Section 723.0612, F.S., governing compensation from the Corporation.

(3) A mobile home owner is entitled to compensation from the Corporation if there is a valid rental agreement at the time the applicant is approved for compensation from the Corporation, or through the effective date of termination of the rental agreement set forth in the notice of termination for a change in use of the land as set forth in Section 723.061(1)(d), F.S., whichever occurs first.

(4) If a mobile home owner is sued for eviction for any reason under Section 723.061, F.S., during the pendency of the notice of termination for a change in use of the land as set forth in Section 723.061(1)(d), F.S., the right to compensation will terminate as to that applicant upon issuance of the Writ of Possession by the court, if issuance of the Writ of Possession occurs prior to the date of the Corporation's approval of the application for compensation.

Specific Authority 723.0611(3) FS. Law Implemented 723.003, 723.06116(1) FS. History--New _____.

61M-1.007 Timeframe to Apply for Assistance.

Pursuant to Section 723.0612(12), Florida Statutes, an applicant shall have 1 year after the expiration of their notice of eviction due to change in the use of the land to apply for assistance from the Corporation. If the applicant is a participant in a legal action based on the change in the use of the land against the mobile home park owner, then the applicant shall have 2 years after the expiration of the notice of eviction due to a change in the use of the land within which to apply for assistance from the Corporation.

Specific Authority 723.0611(3) FS. Law Implemented 723.0612(9), 723.0612(12) FS. History--New _____.

61M-1.008 Grievance Procedure.

(1) Any applicant for payment or compensation from the Corporation who is dissatisfied with the decision of the Corporation's board of directors may file a grievance with a committee appointed to hear such grievances. The committee shall be comprised of a panel of 4 members, 2 of whom are appointed by the largest non-profit association representing mobile home owners in this state, and 2 of whom are appointed by the largest non-profit association representing mobile home park owners. The grievance panel shall not include any current members of the Corporation's board of directors.

(2) All grievances must be filed in writing within 30 days of notification of the action from which the grievance arose and considered by the grievance committee within 45 days of receipt of all required information as described in subsection (4) below.

(3) The grievance shall be submitted in writing to the Corporation. Upon receipt of the written grievance, the Corporation shall forward the grievance to the above-referenced panel appointed by the non-profit associations.

(4) The written grievance shall include the following information:

(a) The date of the adverse determination upon which the grievance is based; and

(b) A detailed description of the facts and circumstances complained of; and

(c) The desired relief sought; and

(d) Supporting documentation.

(5) The recommendation of the grievance committee will be reported to and duly considered by the Corporation's board of directors.

Specific Authority 723.0611(3) FS. Law Implemented 723.0612(9), 723.0612(12) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert J. Sniffen, Sniffen Law Firm, P.A., General Counsel to Florida Mobile Home Relocation Corporation, 211 East Call Street, Tallahassee, FL 32301

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: FMHRC Board of Directors

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 25, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE NO.: 64B11-5.001
 RULE TITLE: Requirements for License Renewal of an Active License; Continuing Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to add language to clarify Board approval of HIV/AIDS education courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health, pursuant to Section 456.033, Florida Statutes.

SUMMARY: The rule amendment will add language to clarify Board approval of HIV/AIDS education courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health, pursuant to Section 456.033, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.036, 468.219 FS.

LAW IMPLEMENTED: 456.013, 456.033, 456.036, 468.219 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 Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-5.001 Requirements for License Renewal of an Active License; Continuing Education.

Continuing education includes attendance and participation as required at a live presentation such as workshop, seminar, conference, or in-service educational programs. It may also include participation in other continuing education activities that require a formal assessment of learning. Examples include, but are not limited to, electronic or web-based courses, formalized self-study courses and continuing education articles. An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2.009 or 64B11-3.007, F.A.C., respectively, and has complied with the following requirements:

- (1) through (3) No change.

(4) HIV/AIDS – The licensee shall complete one (1) hour of HIV/AIDS education as set forth in Section 456.033, F.S., no later than upon first renewal. Courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, Florida Statutes, are approved by this Board.

(5) through (15) No change.

Specific Authority 456.036, 468.219 FS. Law Implemented 456.013, 456.033, 456.036, 468.219 FS. History–New 4-17-95, Amended 10-30-95, 3-11-96, Formerly 59R-64.060, Amended 9-23-99, 10-18-01, 6-25-02, 5-7-03, 3-28-04, 10-24-04, 8-30-06, 10-15-06, 6-6-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2008

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 add language to clarify continuing education for the first renewal to include Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

SUMMARY: The rule amendment will add language to clarify continuing education for the first renewal to include Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC 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: Susan 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) No change.

(2) Within each license renewal biennium, each licensed optician shall complete a minimum of 20 hours of continuing professional education, according to the criteria set forth in these rules. A maximum of 5 hours of continuing professional education may be earned from courses without classroom instruction. An optician initially licensed in the first year of the biennium shall, for the first renewal, be required to complete only one-half the number of hours of continuing education as are required biennially in Rule 64B12-15.003, F.A.C., of which a maximum of 2.5 hours may be earned from courses without classroom instruction. An optician initially licensed during the second year of the biennium shall not be required to complete continuing education for the first license renewal. For the first renewal in which a licensee is required to take continuing education, one (1) hour of continuing education instruction must be on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

(3) through (7) No change.

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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2008

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-15.003 RULE TITLE: Standards for Continuing Professional Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add language to clarify when continuing education must include Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

SUMMARY: The rule amendment will delete unnecessary language and to add language to clarify when continuing education must include Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.013(7), (9), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(6), (7), (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: Susan 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:

64B12-15.003 Standards for Continuing Professional Education.

(1) through (2) No change.

(3) Continuing professional education courses must contribute to the advancement, extension or enhancement of professional skills and knowledge in the practice of opticianry or the management of a practice. For biennial renewal, twenty hours of continuing education shall be required as follows:

(a) through (b) No change.

(c) For the first renewal in which a licensee is required to take continuing education, one (1) hour of continuing education instruction must be on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS); ~~One (1) hour must be instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS); and~~

(d) through (e) No change.

(f) Five (5) Four (4) hours shall be electives consisting of courses in one (1) or more of the subjects of categories (a), (b), (c), or (e) above or subjects relating to management of a practice from a business perspective including sales and marketing, business and finance, personnel management, stress management, risk management, fire prevention or disaster planning, or for attending a board meeting as provided herein.

(4) through (7) No change.

Specific Authority 456.013(7), (9), 484.005, 484.008(3) FS. Law Implemented 456.013(6), (7), (9), 484.008(3) FS. History--New 10-12-80, Formerly 21P-15.03, Amended 3-5-87, 8-10-87, 10-29-87, 1-6-88, 6-11-92, Formerly 21P-15.003, Amended 4-17-94, Formerly 61G13-15.003, Amended 3-14-95, Formerly 59U-15.003, Amended 4-20-99, 12-31-00, 10-29-02, 4-23-03, 4-11-06, 9-13-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: April 11, 2008

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.001
RULE TITLE: Examination Requirements

PURPOSE AND EFFECT: Examination Requirements for Optometry Clinical Examination defines areas that must be covered by the examination and also identifies the exact percentage of items that should be devoted to each area. Both stipulations are intended to reflect the current knowledge needed by optometry practitioners in order to protect the health and welfare of the public.

The knowledge in a field like optometry changes over time. Consequently, a new task analysis of the profession is conducted and modification of the examination is made as needed. In between task analyses, subject matter experts are engaged on a yearly basis to review the existing composition of the examination and identify areas that may need minor modification in order to keep the examination up to date, to help ensure that the examination is both current and valid.

Theoretically, every time subject matter experts identify even small needed medications, a rule change should be proposed to the Board to authorize this revision. However, making rule changes is a relatively complex undertaking and may take several months.

Therefore, as purpose and effect of this rule amendment, the Board is specifying percentage ranges for the various items in the examination, rather than exact percentages, in the examination rule.

SUMMARY: Percentage ranges for the various items in the examination, rather than exact percentages, in the examination rule are specified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.017(2), 463.005, 463.006(2) FS.

LAW IMPLEMENTED: 456.017(2), 463.006(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: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.001 Examination Requirements.

The examination for licensure shall consist of the National Board of Examiners in Optometry examination (hereafter NBEO examination), and Parts I and II of the state examination for licensure. The examination for certification of a licensee shall consist of the Treatment and Management of Ocular Disease (hereafter TMOD) part of the NBEO.

- (1) No change.
- (2) State Examination.
 - (a) through (c) No change.

(d) Part II of the state examination shall consist of a clinical portion and a pharmacology/ocular disease portion.

1. The subject areas and associated weights for the clinical portion of the practical examination shall be as follows:

- a. Confrontation Visual Field Testing for Neurologic Deficit (Finger Counting Visual Field Recognition, Location, and Disease Process) 7-12% ~~9%~~
- b. Muscle Balance and Motility 2-7% ~~4%~~
- c. Pupillary Examination 8-13% ~~8%~~
- d. Objective Examination (Retinoscopy) 1-6% ~~2%~~
- e. Subjective Refraction 1-6% ~~3%~~
- f. Internal Examination by Means of Binocular Indirect Ophthalmoscopy 15-20% ~~18.5%~~
- g. Biomicroscopy Anterior 17-22% ~~21.5%~~
- h. Biomicroscopy Posterior (Fundus Lens) 16-21% ~~17%~~
- i. Goldmann Tonometry 9-14% ~~10%~~
- j. Gonioscopy 6-11% ~~7%~~

2. The grading criteria for each subject area and the points associated with each criterion shall be as follows:

- a. Confrontation Visual Field Testing for Neurologic Deficit (Finger Counting and Visual Field Defect Recognition, Location, and Disease Process) 6-11 ~~9~~
 - 1.1. Conducts specified visual field test in a manner consistent with obtaining accurate findings. Accurately identify visual field defect name, location, and disease process. 3-8 ~~4~~
- b. Muscle Balance and Motility Testing 3-8 ~~4~~
 - 1.1 Conducts examinations in a manner that will allow for evaluation of any phoric and or tropic posture, deficiencies in extra ocular muscles, or cranial nerve paresis. 5-10 ~~8~~
- c. Pupillary Examination 5-10 ~~8~~

- 1.1 Conducts pupillary tests in a manner consistent with obtaining accurate findings.
 - d. Objective Examination (Retinoscopy) ~~2-7~~ 2
 - 1.1. Conducts Retinoscopy in a manner capable of obtaining a visual acuity of 20/30
 - e. Subjective Refraction ~~2-7~~ 3
 - 1.1. Conducts refraction in a manner capable of obtaining a visual acuity of 20/20
 - f. Internal Examination by Means of Binocular Indirect Ophthalmoscopy ~~16-21~~ 18-5
 - 1.1. Accurately views and evaluates retinal landmark as requested
 - g. Biomicroscopy (Anterior) ~~20-25~~ 24-5
 - 1.1. Uses proper technique to demonstrate requested views of anterior structures of eye
 - h. Biomicroscopy Posterior (Fundus lens.) ~~16-21~~ 17
 - 1.1. Accurately views and evaluates posterior landmarks as requested.
 - i. Tonometry ~~7-12~~ 10
 - 1.1. Demonstrates accurate technique for the measurement of intra-ocular pressure
 - j. Gonioscopy ~~4-9~~ 7
 - 1.1. Demonstrates accurate technique for identifying angle structures
3. through 6. No change.
(3) No change.

Specific Authority 456.017(2), 463.005, 463.006(2) FS. Law Implemented 456.017(2), 463.006(2) FS. History—New 11-13-79, Amended 5-28-80, 7-10-80, 8-20-81, 2-14-82, 6-6-82, 10-3-82, 4-10-84, 5-29-85, Formerly 21Q-4.01, Amended 7-21-86, 11-20-86, 7-27-87, 7-11-88, 7-18-91, 4-14-92, Formerly 21Q-4.001, Amended 2-14-94, Formerly 61F8-4.001, Amended 8-8-94, 11-21-94, 4-21-96, Formerly 59V-4.001, Amended 7-27-99, 7-15-02, 3-8-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2008

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-15.009 RULE TITLE: Citations
 PURPOSE AND EFFECT: The purpose of the amendment is to add an additional violation for which a citation is an appropriate penalty.
 SUMMARY: An additional violation for which a citation is an appropriate penalty is added.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.077, 463.005 FS.

LAW IMPLEMENTED: 456.077 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: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-15.009 Citations.

(1) through (5) No change.

(6) Tendering a check payable to the Board of Optometry or to the Department of Health that is dishonored by the institution upon which it is drawn shall result in a fine of \$100 and payment of the check within 30 days.

Specific Authority 456.077, 463.005 FS. Law Implemented 456.077 FS. History—New 1-1-92, Formerly 21Q-15.009, 61F8-15.009, 59V-15.009, Amended 3-21-00, 4-17-01, 12-26-01, 5-1-02, 7-15-02, 6-13-04, 11-16-05, 11-5-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2008

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: 64E-2.018 RULE TITLE: Trauma Registry
 PURPOSE AND EFFECT: To notice proposed revisions to the Florida Trauma Registry Manual dated December 2005. This document is incorporated by reference in Rule 64E-2.018, F.A.C., pursuant to Section 395.404(1), Florida Statutes.
 SUMMARY: The proposed amendment to Rule 64E-2.018, F.A.C., changes the date of the Trauma Registry Manual from December 2005 to February 2008 and includes a technical amendment to correct the statute referenced in “Specific Authority.” A copy of the proposed revisions to the Trauma

Registry Manual can be found on the following website: <http://www.doh.state.fl.us/demo/Trauma/notices.htm> under "Notices and Upcoming Events."

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 395.401, 395.405 FS.

LAW IMPLEMENTED: 395.3025(4)(f), 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405, 401.30, 401.35 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: Susan McDevitt, Office of Trauma, Department of Health, 4052 Bald Cypress Way, Bin C-18, Tallahassee, Florida 32399-1738, (850)245-4440, ext. 2760; Email: susan_mcdevitt@doh.state.fl.us; Fax: (850)488-2512

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-2.018 Trauma Registry.

Instructions for completing and submitting data are defined in the Florida Trauma Registry Manual, ~~February 2008~~ ~~December 2005~~, which is incorporated by reference and available from the department, as defined by subsection 64E-2.001(8), F.A.C.

Specific Authority 395.405, ~~395.401~~ ~~401.35~~ FS. Law Implemented 395.3025(4)(f), 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405, 401.30, 401.35 FS. History—New 8-3-88, Amended 12-10-92, 11-30-93, Formerly 10D-66.103, Amended 7-14-99, 11-19-01, 6-3-02, 6-9-05, 4-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan McDevitt, Director, Office of Trauma

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Bencie Fairburn, M.D., M.S.A., Director, Division of Emergency Medical Operations
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2008

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:

65A-1.205 Eligibility Determination Process

PURPOSE AND EFFECT: The proposed rule amendment clarifies the Department's eligibility processing procedures applicable to all public assistance programs. It also removes

reference to the Relative Caregiver Program (RCP) as the provision has been moved to Rule 65A-4.208, F.A.C., since it is only pertinent to individuals who meet Temporary Cash Assistance eligibility factors.

SUMMARY: The proposed rule amendment provides for the use of a paper or web-based application to apply for public assistance. It also provides clarification on the Department's eligibility determination process and removes reference to the RCP.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 409.919, 414.45 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919, 410.033, 414.045, 414.095, 414.31 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: June 11, 2008, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, telephone (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.205 Eligibility Determination Process.

(1) The individual ~~receives a Request for Assistance and completes a Department application for assistance~~ # to the best of the individual's ability using either the ACCESS Florida Application, CF-ES 2337, Jan 08, incorporated by reference in Rule 65A-1.400, F.A.C., or an ACCESS Florida Web Application (only accepted electronically), CF-ES 2353, Mar 08, incorporated by reference in Rule 65A-1.400, F.A.C., and submits it. An application must include at least the individual's name, address and signature to initiate the application process. ~~An~~ The eligibility specialist determines the ~~potential~~ eligibility of each household member for public assistance, ~~and prints out the data on the Common Application Form (CAF) or alternately, Form CF-ES 2327, Common Application Form and Eligibility Questionnaire, May 04, incorporated by reference, can substitute for the CAF. The individual then decides whether or not to apply for assistance. The Common Application Form or CF-ES 2327 is signed and dated by the individual to complete the process of applying. The applicant must be informed of the department's standards of assistance,~~

penalties for fraud, right to appeal and to have a fair hearing, the civil rights provisions and other rights and responsibilities. An applicant may withdraw the application at any time without affecting their right to reapply at any time.

(a) ~~The Department must determine an applicant's eligibility must be determined~~ initially at application and if the applicant is determined eligible, at periodic intervals thereafter. ~~It is t~~The applicant's is responsibility to keep appointments with the eligibility specialist and furnish information, documentation and verification needed to establish eligibility ~~as determined by the eligibility specialist within time periods specified by the eligibility specialist.~~

~~(b) The eligibility specialist determines eligibility and provides services and benefits using the Florida On-line Recipient Integrated Data Access (FLORIDA) computer system. When the system is unavailable for a 20 minute or for a longer period of time or unresponsive to the point of rendering the system ineffectual and causes a serious backlog of clients, the eligibility specialist will initiate manual procedures to continue unit operations.~~

~~(b)(e) Time standards for processing applications vary by public assistance program in accordance with 7 C.F.R. §273.2(g), 45 C.F.R. §206.10(a)(3)(i) and 42 C.F.R. §435.911. For Food Stamp and Cash Assistance programs, The time standards begins with the date following the date the application was filed on which the department or an outpost site receives a signed and dated application and ends on with the date the Department makes on which benefits are made available or mails a notice concerning a determination of ineligibility is made. For the Medicaid Program, the time standard ends on the date the Department mails an eligibility notice is mailed. The Department Applications must be processed and determinations of eligibility made within the following time frames:~~

| Program; | Application Processing Time Standards; |
|---|--|
| Expedited Food Stamps | 7 days |
| Food Stamps | 30 days |
| Temporary Cash Assistance, Refugee Assistance and Child In Care | 45 days |
| Medical Assistance and State Funded Programs for individuals who apply on the basis of disability | 90 days |

For all other Medical Assistance and State Funded Programs for applicants on the basis of non-disability eligibility, including OSS, QOMB, SLMB, and QOI

All days counted after the date of application are calendar days. Applicant delay days do not count in determining non-compliance with the time standard. ~~See paragraph (e) of this rule. The Department uses i~~Information provided on form CF-ES 2930, Screening for Expedited Medicaid Appointments, Apr 07, 7/00 (incorporated in Rule 65A-1.400, F.A.C., to by reference) will be used in determining expedited processing of Medicaid disability-related applications.

~~(c)(d) If the eligibility specialist determines at the interview or at any time during the application process that the applicant must provide additional information or verification is required, or that a member of the an assistance group must member is required to register for employment services, the eligibility specialist must give the applicant ten grant the assistance group 10 calendar days to furnish the requested information required documentation or to comply with the verification or employment registration requirement(s). For all programs, the verifications are due ten 10 calendar days from the date of written request (i.e., the date the verification checklist is generated) or 30 days from the date of application, whichever is later. In cases where the applicant must provide medical information, is requested the return due date is 30 calendar days following the request or 30 days from the date of application, whichever is later. If the verification due date falls on a holiday or weekend, the deadline for the requested information is the next working day. If the verification or information is difficult for the person to obtain, the eligibility specialist must provide assistance in obtaining the verification or information when requested or when it appears necessary. If the applicant does not provide required verifications or and information, as applicable, are not provided by the deadline date, the application will be is denied, unless the applicant a requests an for extension is made by the applicant or there are extenuating circumstances justifying an additional extension. The eligibility specialist makes the decision of whether to grant the request for extension based on extenuating circumstances beyond the control of the individual, such as sickness, lack of transportation, etc. When the applicant provides all required information or verification, as applicable is obtained, the eligibility specialist determines eligibility for the public assistance programs. If the eligibility criteria are met, benefits are authorized.~~

~~(d)(e) In accordance with 42 C.F.R. §435.911, There are situations of non-agency processing delays due to unusual circumstances for Medicaid disability-related applications. uUnusual circumstances that might affect the timely processing of Medicaid applications are determined and~~

documented in accordance with 42 CFR subpart 435.911 and include applicant delay, physician delay and emergency delay as defined below. Unusual circumstances are considered non-agency processing delays, and the calendar time passing during such delay(s) does is not counted as part of the 90-day time standard for determining the timeliness of Medicaid eligibility decisions based on disability.

1. Applicant delay is defined as the time attributed to the applicant who fails to keep any scheduled appointment or to provide requested and required eligibility information or verification. Applicant delay begins: the date the applicant does not keep attend an Department agency scheduled appointment with either the Department agency or health professionals and ends the date the applicant keeps attends that appointment as rescheduled; or, the date the applicant does not bring requested and required information to the initial interview and ends the date the applicant provides the that information is supplied to the Department agency. The "Are You Disabled and Applying for Medicaid?" brochure, CF/PI 165-107, Jan 08, incorporated by reference, describes rRequested and required information for eligibility determination is as indicated in the brochure, CF/PI 165-107, Notification of Disability Information and Request, 11/99 (incorporated by reference).

2. Physician delay is defined as the time attributed to a physician for not providing requested when medical evidence or conducting a medical examination is requested and is not provided timely. Physician delay begins: ten days after the Department makes its an initial request by the agency for medical evidence from the physician applicant's medical source and ends the date the Department agency receives complete medical evidence from the medical source that is responsive to the Department's agency's request; or, fourteen days after the Department requests a medical examination is requested by the agency and ends the date the Department agency receives the complete medical examination results.

3. Emergency delay is defined as time attributed to other situations beyond the Department's agency's control. These delays are situations such as disasters, unexpected office closure(s) and systems inaccessibility or unavailability. Emergency delay begins with the day date such an event occurs and ends the day the Department agency is able to resume application processing.

(f) Copies of the brochure CF/PI 165-107 and the form CF-ES 2930 may be obtained from the Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 406, Tallahassee, Florida 32399-0700.

(2) Eligibility must be redetermined at periodic intervals in accordance with federal regulations 7 C.F.R. §273.14 (food stamps), 45 C.F.R. §206.10(a)(9)(iii), 42 C.F.R. §435.916 (Medicaid), 45 CFR 206.10(a)(9)(iii) (temporary cash assistance); and Section 414.095, F.S., the Department must determine eligibility at periodic intervals.

(a) A complete eligibility review is the process of in which the eligibility specialist reviewing all factors related to continued eligibility of the assistance group.

(b) A partial eligibility review entails review of one or more, but not all factors of eligibility. The Department schedules pPartial reviews are scheduled based on known facts or anticipated changes or when an unanticipated change occurs. It does not usually require aA face-to-face interview is not usually required, unless it cannot obtain the necessary information cannot be obtained without the this interview exchange.

(3) The Department must conduct fFace-to-face interviews with the food stamp and cash assistance applicants/recipients or their authorized designated representatives must be held at each application unless waived due to hardship as described in 7 C.F.R. §273.2(e)(2). The Department conducts cComplete redeterminations of eligibility and recipient interviews are conducted in accordance with federal regulations governing the benefit type. These interviews are held at by phone, in the ACCESS Florida CF local office, the recipient's home, or other location upon which the applicant/recipient and eligibility specialist mutually agree. The applicant/recipient must is required to keep the interview appointment or make arrangements with the eligibility specialist prior to the appointment time to reschedule the appointment, if necessary.

(4) If aAn applicant or recipient who fails to keep an appointment without arranging another time with the eligibility specialist; fails or refuses to sign and date the applications form(s) described in subsection (1); fails or refuses to submit a periodic report; or fails or refuses to submit required documentation or verification the Department will be denied benefits as it cannot establish eligibility cannot be established.

(5) The Department may substantiate, verify or document iInformation provided by the applicant/recipient must be substantiated, verified or documented as part of each determination of eligibility. For any program, when there is a question about the validity of the information provided, the Department will ask for additional documentation or verification as required. The term verification is used generically to represent this process. The factor of eligibility and questionable nature of information dictates whether or not substantiation, verification or documentation is required.

(a) No change.

(b) Verification confirms the accuracy of information through a source(s) other than the individual. The Department may secure vVerification may be secured electronically, on the telephonically, in writing ten form, or by personal contact.

(c) No change.

(6) The DDepartment conducts data exchanges with other agencies and systems to obtain information on each applicant and recipient. It uses dData exchanges are performed to

