

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Substance Abuse Program**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Title	65D-30.001
Definitions	65D-30.002
Common Licensure Standards	65D-30.003
Standards for Private Office Practices	65D-30.004
Standards for Addictions Receiving Facilities	65D-30.005
Standards for Detoxification	65D-30.006
Standards for Residential Treatment	65D-30.007
Standards for Day or Night Treatment	65D-30.008
Standards for Outpatient Treatment	65D-30.009
Standards for Intervention	65D-30.010
Standards for Prevention	65D-30.011
Standards for Inmate Substance Abuse Programs	65D-30.012
Standards for Medication and Methadone Maintenance Treatment	65D-30.013
Departmental Licensure and Regulatory Standards	65D-30.014

**PURPOSE AND EFFECT:** Chapter 65D-30, entitled Substance Abuse Services, is being adopted to implement statutory requirements under Chapter 397, F.S., enacted in 1993, and to enable the department, as the regulatory authority for substance abuse services, to respond more effectively to changing trends and practices in the substance abuse field.

**SUBJECT AREA TO BE ADDRESSED:** Specific program standards for substance abuse licensable service components as defined in section 397.311(19), F.S.

**SPECIFIC AUTHORITY:** 397.321(5),(8) FS.

**LAW IMPLEMENTED:** 20.19, 232, 384, 397.311, 397.311(19)(a)(b)(c)(d)(e)(f)(g)(h)(i), 397.321(23), 397.321(28), 397.401, 397.403, 397.405, 397.406, 397.407, 397.409, 397.411, 397.415, 397.419, 397.427, 397.431(5), 397.451, 397.471, 397.501, 397.601, 397.601(2), 397.675, 397.6751, 397.6751(2),(3), 397.6752, 397.6758, 397.6759, 397.677, 397.6771, 397.6772, 397.6773, 397.6774, 397.6775, 397.679, 397.6791, 397.6793, 397.6795, 397.6797, 397.6798, 397.6799, 397.681, 397.6811, 397.6814, 397.6815, 397.6818, 397.6819, 397.6821, 397.6822, 397.693, 397.695, 397.6951, 397.6955, 397.6957, 397.697, 397.6971, 397.6975, 397.6977, 397.705, 397.707, 397.752, 397.753, 397.754, 397.901, 465, 633.022, 944.026, 948 FS.

**IF REQUESTED IN WRITING, AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 1:00 p.m. – 4:00 p.m., Monday, October 11, 1999

**PLACE:** Department of Children and Family Services, 2720 Blair Stone Road, Unit C, Conference Room, Tallahassee, FL

PRIOR TO, OR AT THE TIME OF THE WORKSHOP, ANY PERSON MAY SUBMIT INFORMATION (1) RELATING TO THE DEPARTMENT’S STATEMENT OF ESTIMATED REGULATORY COSTS (IF ONE HAS BEEN REQUESTED OR IF ONE HAS BEEN PREPARED); AND (2) ANY PROPOSALS AS TO HOW THE SAME DEPARTMENT REGULATORY GOAL CAN BE ACHIEVED WITH A LOWER REGULATORY COST.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Phil Emenheiser  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II  
Proposed Rules**

**DEPARTMENT OF EDUCATION**

<b>RULE TITLE:</b>	<b>RULE NO.:</b>
Educational Facilities	6-2.001

**PURPOSE AND EFFECT:** The purpose of the rule amendment is to update the rule as it relates to life cycle cost criteria, standards for new and existing relocatable classroom buildings, to reformat and reorganize the material for future incorporation of the “new construction” standards into the Florida Building Code, and to include other updates in response to changed requirements of Florida Statute. The effect will be a rule which reflects the changes made in law.

**SUMMARY:** This rule is to be amended to comply with current facility standards and with present legislative directive. Chapter 235 Florida Statute requires the Commissioner of Education to provide standards and requirements for the procurement and management of educational facilities. Incorporated in the rule by reference is the document “State Requirements for Educational Facilities” (SREF). The SREF requirements include, but are not limited to: leasing, planning, constructing, inspecting and maintaining public educational facilities from public school child care through community colleges. Financing of public educational capital outlay projects includes kindergarten through university facilities and other educational agencies.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

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

**SPECIFIC AUTHORITY:** Section AXIIS9(a), AXIIS9(d), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239.229, 240.327(1) FS.

LAW IMPLEMENTED: Section AXIIS9(a), AXIIS9(d) State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.33(12)(j), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e)(f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 442.019, 442.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.02 FS.

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

TIME AND DATE: 9:00 a.m., October 26, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Suzanne Marshall, Bureau Chief, Educational Facilities, Department of Education, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400, (850)487-1130

THE FULL TEXT OF THE PROPOSED RULE IS:

6-2.001 Educational Facilities.

Commissioner State Board of Education requirements adopted pursuant to Chapter 120, Florida Statutes, to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter 235, Florida Statutes, are contained in the Department of Education publication titled "State Requirements for Educational Facilities, 1999 Volume I-Process and Rule and Volume II-Building Code 1997," which is hereby incorporated by reference and made a part of this rule. All educational and ancillary facilities constructed by a school board or community college board shall comply with the State Uniform Building Code for Public Educational Facilities Construction (UBC). The UBC shall supersede any other code adopted by a board, or any other building code or ordinance, for the construction of educational and ancillary facilities and plants whether at the local, county, or state level rule. After January 1, 2001, the UBC will be merged into the Florida Building Code.

(1) In addition to "State Requirements for Educational Facilities, 1999 Volumes I and II 1997," all, or the specific portions cited, of the following building codes are hereby incorporated by reference and made a part of this rule. If there should be conflicting requirements between these codes and "State Requirements for Educational Facilities, 1999 Volumes I and II 1997," the more, or most stringent requirement shall apply.

(a) ACI 318-95, American Concrete Institute, "Building Code Requirements for Structural Concrete and Commentary" 1995, and ACI 530-92, Building Code Requirements for Masonry Structures.

(b) AHERA. Asbestos Hazard Emergency Response Act, 40 CFR, Part 763, as revised July 1, 1995.

(c) AISC. American Institute of Steel Construction Allowable Stress Design (Manual of Steel Construction), Ninth Edition, adopted by SBC.

(d) AISI. American Iron and Steel Institute. Specifications for the Design of Cold-Formed Steel Structure Members August 1986 Edition with December 1989 Addendum.

(e)(e) ANSI. American National Standards Institute. References to ANSI standards shall be the 1995 edition.

(f)(f) ASCE. American Society of Civil Engineers. References to ASCE 7-98 93 standards shall be the edition listed in the "State Requirements for Educational Facilities, 1999 1997."

(g)(g) ASHRAE. American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(h)(h) ASTM. American Society for Testing Materials. References to ASTM standards shall be the edition listed in the 1997 edition of the ASTM standards.

(i)(i) DCA. Department of Community Affairs.

1. Florida Americans With Disability Implementation Act, 1993 and the Florida Accessibility Code for Building Construction, October 1997 1994 as adopted by the State Board of Building Codes and Standards which has become the Florida Building Commission.

2. Florida Energy Efficiency Code for Building Construction (FEEC), 1998 Revisions to the 1997 Edition 1993, as adopted by the State Board of Building Codes and Standards under Rule 9B-3.047, FAC.

(j)(j) DOT – AASHTO, American Association of State Highway and Transportation Officials "Standard Specifications for Highway Bridges (1990 English Edition; 1994 Metric Edition) as modified by Florida DOT Structures Design Guidelines for Load and Resistance Factor Design" Revised January 1, 1999 July 1998, as incorporated by reference in Chapter 14, FAC.

(k)(k) FEMA. Federal Emergency Management Agency. Rules and Regulations 44 CFR, Parts 59 and 60, revised as of October 1, 1995, for flood plain criteria governing insurability of facilities constructed in flood plain.

(l)(l) NEC. National Electrical Code, 1996 (NFPA 70).

(m)(m) NFPA. National Fire Protection Association, 1997 1994, NFPA 101, and other NFPA codes as applicable. Exceptions are NFPA 101 Sections 10-2.27 and 10-7.2.27 "Exit Passageways" and where NFPA codes are exceeded by these State Requirements.

~~(n)(t)~~ OSHA. Occupational Safety and Health Administration, U.S. Department of Labor, 29 CFR as Revised July 1, 1995.

~~(o)(m)~~ SBC. Standard Building Code, 1997 as adopted by the Department of Community Affairs 1994 with 1996 Revisions, except as may be superseded by these State Requirements.

~~(p)(n)~~ SGC. Standard Gas Code, 1997 1994 with 1996 Revisions.

~~(q)(e)~~ SMC. Standard Mechanical Code, 1997 1994 with 1996 Revisions.

~~(r)(p)~~ SPC. Standard Plumbing Code, 1994 with 1995/96 Revisions.

~~(s)(e)~~ TMS. The Masonry Society Standards, 1992; TMS 602-92, TMS 402-92.

~~(t)~~ Commercial Building Standard for Telecommunications Pathways and Spaces, EIA/TIA-569, October 1990.

~~(s)~~ Commercial Building Telecommunications Cabling Standard, TIA/EIA-568-A, October 1995.

(2) Copies of the publication "State Requirements for Educational Facilities, 1999 Volumes I and II 1997" are available from the Office of Educational Facilities, Florida Department of Education, Room 1054, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400, at a cost to be determined by the Commissioner, but which shall not exceed actual cost. Copies of the codes listed in subsection (1) of this rule are available from the publisher whose location and address are available from Educational Facilities. These codes are readily available to the public upon request at the cost established by the publisher.

Specific Authority Section AXIIS9(a), AXIIS9(d), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239.229, 240.327(1) FS. Law Implemented Section AXIIS9(a), AXIIS9(d), State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.33(12)(j), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e)(f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 422.019, 422.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.025 FS. History--New 10-30-94, Amended 4-28-97, Formerly 6A-2.0111, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 1999

DATE NOTICE OF PROPOSED DEVELOPMENT PUBLISHED IN FAW: September 10, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Articulation Between Universities, Community Colleges, and School Districts

RULE NO.: 6A-10.024

PURPOSE AND EFFECT: The purpose of this rule is to reflect changes made by the Legislature. Included in the changes is the requirement for the Articulation Coordinating Committee to include representatives of nonpublic postsecondary institutions in its membership and for the Articulation Agreement to govern the admission to state universities of associate in science degree graduates from Florida community colleges. The Articulation Coordinating Committee is also recommending language that would designate it as the statewide K-16 council. This change in language reflects the tasks assigned to the committee in statute and conforms with the terminology used for similar committees or councils in other states. Provisions have been made at the national level for discussions among these councils to exchange ideas and to promote educational achievement and equity of educational opportunity. The effect will be to amend the rule to be consistent with changes made by the Legislature.

SUMMARY: Amends rule 6A-10.024, FAC., to add two representatives of nonpublic postsecondary institutions to the Articulation Coordinating Committee, designate the ACC as the statewide K-16 council, and guarantee the articulation of certain associate in science programs into certain baccalaureate programs at state universities when appropriate conditions are met.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 229.053(1), 240.115 FS.

LAW IMPLEMENTED: 228.093(3)(d), 229.053(2)(c), 229.551(1)(f), 229.555(2), 229.814(5), 240.115, 240.116, 246.013 FS.

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

TIME AND DATE: 9:00 a.m., October 26, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. David Mosrie, Director, Division of Public Schools, Department of Education, Room 514 Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)488-2601

## THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.024 Articulation Between Universities, Community Colleges, and School Districts.

(2) Articulation Coordinating Committee. The Commissioner shall establish an Articulation Coordinating Committee which shall report to the Commissioner and consist of thirteen (13) members appointed by the Commissioner: three (3) members representing the state university system; three (3) members representing the state community college system; one (1) member representing vocational education; three (3) members representing public schools; two (2) members representing nonpublic postsecondary institutions; one (1) member representing students; one (1) member from the Commissioner's staff who shall serve as chairman; and one (1) additional member. The Committee shall:

(a) Function as the statewide pre-kindergarten through university, or K-16, council and accept continuous responsibility for community college-university-school district relationships, including recommending to the Commissioner plans for school district articulation relationships with community colleges and universities, including coordination of cooperative plans required by Section 229.814(5), Florida Statutes.

(6) The associate in science degree is the career education and transfer degree of the community colleges. It is a two-year degree intended to prepare students for the workforce and for transfer into the State University System.

(a) The associate in science degree shall be awarded upon:

1. Completion of the minimum number of semester hours of college credit courses as required in Rule 6A-14.030(2)(a), FAC., including, Completion of at least fifteen to eighteen (15-18) semester hours in the general education core curriculum in the liberal arts and sciences comprised of courses which meet the Southern Association of College and Schools Commission on Colleges criteria. English and math courses must meet the requirements of Rule 6A-10.030, FAC. No physical education or wellness credit will be included in the general education block of credit.

3. Achievement of the minimum standards in Rule 6A-10.0312, FAC., will be required by the time the student earns 36 semester hours at the senior institution in upper division work.

4. Completion of common prerequisites will be required for the baccalaureate degree or as otherwise outlined in program-specific statewide agreements.

5. Courses taken as part of the associate in science degree to meet the general education requirements will transfer and apply toward the 36 credit hours required for the baccalaureate degree. No additional general education credit hours can be required except to complete the total 36 general education hours or for remediation.

(b) The Interdisciplinary Capstone Agreement. Every associate in science degree graduate of a Florida community college program that articulates with an interdisciplinary capstone degree program in a Florida public or private university shall be guaranteed admission to that program except for limited access programs and those requiring specific grades on particular courses for admission. All associate in science degree graduates who articulate under the interdisciplinary capstone agreement shall be treated equally, regardless of the community colleges from which they receive their degrees.

1. The general education component of the A.S. degree will maintain its integrity upon transfer to the interdisciplinary capstone program.

2. The Articulation Coordinating Committee shall maintain a current listing of interdisciplinary capstone programs which will be published on an annual basis.

(c) The Career Ladder Agreement – Beginning fall term 2000, all graduates of a Florida community college associate in science degree program listed in the Statewide Articulation Manual shall be granted admission to any of the universities in the State University System in the program designated to articulate with their degree, except for limited access programs and those requiring specific grades on particular courses for admission. Each State University System institution shall develop admissions criteria to ensure that associate in science degree students are evaluated on an equal basis with associate in arts degree graduates and native university students for admission into programs designated as limited access and those requiring specific grades on particular courses for admission.

1. The associate in science degree shall be awarded based on all of the requirements contained in subsection (6)(a) of this rule and in accordance with the articulation agreement provisions contained in the Statewide Articulation Manual.

2. General education courses not taught in accordance with the Southern Association of Colleges and Schools Commission on Colleges criteria for programs designed for college transfer shall not be included in the associate in science degree.

3. The associate in science to bachelor of arts/bachelor of science articulation agreements between the State Board of Community Colleges and the State University System shall be documented and maintained in a Statewide Articulation Manual. The State Board of Community Colleges and the Board of Regents, in consultation with their member institutions, shall review periodically, as necessary, but no more than once a year, the provisions of the state articulation agreements and the prescribed curricula to ensure the continued effectiveness of the articulation between the A.S. and B.A./B.S. programs. Any recommendations for revisions to the state articulation agreements will be forwarded to the Articulation Coordinating Committee for review and approval.

(6) through (20) renumbered as (7) through (21) No change.

Specific Authority 229.053(1), 240.115(1) FS. Law Implemented 228.093(3)(d), 229.053(2)(c), 229.551(1)(f), 229.555(2), 229.814(5), 240.115, 240.116, 246.013 FS. History--New 5-5-75, Amended 10-7-75, 6-8-76, 8-22-77, 12-26-77, 3-28-78, 5-10-78, 7-2-79, 2-27-80, 5-27-81, 1-6-83, 4-5-83, 6-28-83, 1-9-85, Formerly 6A-10.24, Amended 8-4-86, 5-18-88, 5-29-90, 7-30-91, 10-4-93, 5-3-94, 1-2-95, 9-30-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. John Stewart, Deputy Commissioner for Educational Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 1999

DATE NOTICE OF PROPOSED DEVELOPMENT PUBLISHED IN FAW: October 30, 1998

**DEPARTMENT OF EDUCATION**

**State Board of Community Colleges**

RULE TITLE: Delegation of Powers and Duties

RULE NO.: 6H-1.030

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is to delegate to the executive director the authority to approve or disapprove proposals to use Academic Improvement Trust Funds, submitted in accordance with the provisions of Section 240.36(7)(c), Florida Statutes. The effect of this action will be to make the process more efficient for the individual colleges and the State Board of Community Colleges. It will shorten the response time for acting on these proposals and will reduce the size of the agenda for the meetings of the State Board of Community Colleges.

SUMMARY: Section 240.36(7)(c), Florida Statutes, provides that proposals for uses of a community colleges Academic Improvement Trust Fund shall be submitted to the State Board of Community Colleges for approval. Rule 6H-1.030, FAC, delegates a number of powers and duties of the Board to the executive director. This amendment adds the approval of proposals for use of Academic Improvement Trust Funds to the list of powers and duties delegated to the executive director.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 240.309(1) FS.

LAW IMPLEMENTED: 240.311(4), 240.36(7)(c) FS.

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

TIME AND DATE: 8:00 a. m., November 4, 1999

PLACE: Sheraton World Resort, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges, Division of Community Colleges, 325 West Gaines. St., Ste. 1314, Tallahassee, FL 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

**6H-1.030 Delegation of Powers and Duties.**

The executive director of the community college system is the executive officer and secretary of the State Board of Community Colleges. The following powers and duties are delegated by the Board to the executive director.

(1) Review new associate degree and certificate programs for relationship to student demand.

(2) Advise presidents of fiscal policies adopted by the legislature and of their responsibility to follow such policies.

(3) Represent the State Community College System before the legislature and the State Board of Education.

(4) Administer the state program of support for the State Community College System.

(5) Review and approve operating budgets and budget amendments of the community colleges. The executive director periodically shall report such action to the State Board of Community Colleges.

(6) Approve community college expenditures in the absence of budget approval.

(7) Implement the community college program fund.

(8) Approve community college calendar exceptions.

(9) Administer personnel functions for the Board, except when specifically exempted by Board action, according to rules of the Department of Management Services Administration.

(10) Approve or disapprove proposals for use of Academic Improvement Trust Funds.

Specific Authority 240.309(1) FS. Law Implemented ~~220.53(1), 240.309(1), 240.311(4), 240.36(7)(c)~~ FS. History--New 2-27-84, Amended 1-7-85, 5-28-85, Formerly 6H-1.30, Amended 3-9-87,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sydney H. McKenzie, III, General Counsel, State Board of Community Colleges

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: J. David Armstrong, Jr., Executive Director, Community College System

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 1999

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: Imposition of the Tax

RULE NO.: 12B-12.0031

PURPOSE AND EFFECT: The proposed amendments to Rule 12B-12.0031, FAC, implement a change made by the 1998 Legislature to subsection (1) of section 376.75, F.S. The effect of these proposed amendments is to conform the existing rule to this legislative change.

SUMMARY: The proposed amendments to Rule 12B-12.0031, FAC, eliminate a provision which imposes sales and use tax on the total price for which a persn other than a retail dealer sells perchloroethylene, hereafter referred to as "perc." This total price includes the \$5 per gallon tax imposed on perc.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the proposed amendments to this rule do not implement any new administrative program or procedure, but instead eliminate an existing rule provision, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS.

LAW IMPLEMENTED: 376.301, 376.75 FS.

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

TIME AND DATE: 9:00 a.m., October 18, 1999

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)488-8026

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULE IS:

- 12B-12.0031 Imposition of the Tax.
- (1) through (2) No change.

(3)(a)~~4~~: Any person selling or importing taxable perc and any other person who sells tax-paid perc, other than a retail dealer, must either:

~~1.a~~: Separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale; or,

~~2.b~~: Certify on the sales document that the tax has been paid.

~~2. The tax is to be included in the price upon which Sales and Use Tax or any other tax imposed by Part I of Chapter 212, Florida Statutes, is computed. This requirement applies even if the perc tax is listed as a separate item on the sales invoice or customer bill.~~

(3)(b) through (4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.301, 376.75 FS. History--New 3-18-96, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alan Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)488-8026

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rule amendments were noticed for a Rule Development Workshop in the Florida Administrative Weekly on July 30, 1999 (Vol. 25, No. 30, p. 3348). The workshop was held on August 16, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

**DEPARTMENT OF REVENUE**

RULE TITLES: Explanation of Rules

RULE NOS.: 12C-1.001

Tax Imposed 12C-1.011

Other Methods of Apportionment 12C-1.0152

Payroll Factor for Apportionment 12C-1.0154

Returns; Time and Place for Filing 12C-1.0222

Special Rules Relating to Estimated Tax 12C-1.034

Methods of Accounting 12C-1.042

Forms 12C-1.051

PURPOSE AND EFFECT: Rule 12C-1.001, FAC, is repealed because it is unnecessary. Rule 12C-1.011, FAC, is amended to clarify that corporations with representatives engaged in activities in Florida which exceed those protected by P.L. 86-272 are subject to Florida corporate income tax. Necessary technical changes to Rule 12C-1.0152, FAC, are included in

the proposed rule amendments. Rule 12C-1.0154, FAC, is amended to furnish guidance in computing the payroll factor to taxpayers who hold a partnership interest and are subject to Florida corporate income tax. Rule 12C-1.0222, FAC, is amended to clarify the rule, and to conform the rule to Florida Statutes. Rule 12C-1.034, FAC, is amended to further clarify estimated tax requirements and conform the rule to Florida Statutes. Rule 12C-1.042, FAC, is amended to delete language that is obsolete. Rule 12C-1.051, FAC, is amended to reflect the adoption of current forms used by taxpayers providing information to the Department.

**SUMMARY:** These proposed amendments clarify, explain or define terms and concepts used in the application and administration of the corporate income tax regarding nexus, apportionment factor computation, estimated tax requirements, and forms adoption.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since the proposed amendments to this rule do not implement any new administrative program or procedure, but instead reduce the administrative burden on specific taxpayers, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

**SPECIFIC AUTHORITY:** 213.06(1), 220.182(8), 220.183(6)(d), 220.51 FS.

**LAW IMPLEMENTED:** 120.55(1)(a)4., 213.21, 220.02(1), 220.03(1)(r), 220.11, 220.12, 220.13, 220.131, 220.15, 220.151, 220.152, 220.16, 220.21, 220.22, 220.221, 220.222, 220.24, 220.241, 220.32, 220.33, 220.34, 220.42, 220.44, 220.51, 220.68, 220.723, 220.801, 220.807, 220.809, 221.02, 221.04 FS.

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

**TIME AND DATE:** 10:00 a.m., October 20, 1999

**PLACE:** Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4700

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.001 Explanation of Rules.

~~All rules relating specifically to Chapter 220 of the Florida Statutes, bear the initial identification code "12C-1." Other rules of the Department of Revenue may also apply. This rule chapter also relates to the administration of Chapter 221, Florida Statutes.~~

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.01, 221.04 FS. History—New 10-20-72, Amended 12-18-83, Formerly 12C-1.01, Amended 12-21-88, 4-8-92, Repealed.

12C-1.011 Tax Imposed.

(1) The following activities, notwithstanding others within the meaning of taxable privileges described in s. 220.02, F.S., will be construed as conducting business, earning or receiving income in this state, or constitute those activities of a resident or citizen of this state for purposes of this tax, and corporations participating therein are subject to taxation unless exempted by the constitution or the laws of the United States or this state.

(a) through (j) No change.

(k) Making sales that are approved in the state by "independent contractors" who do not hold themselves out as engaged in selling, or soliciting orders for the sale of; more than one principal; or making sales through the use of representatives in this state, when activities engaged in exceed those protected by P.L. 86-272 (15 U.S.C. ss. 381-384), which is incorporated by reference in Rule 12C-1.0511, F.A.C.

(l) through (4) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.02(1), 220.11, 220.12, 220.15, 220.151, 220.22 FS. History—New 1-19-73, Amended 10-20-73, 8-23-76, 12-18-83, Formerly 12C-1.11, Amended 12-21-88, 1-30-90, 4-8-92, 5-17-94, 3-18-96, \_\_\_\_\_.

12C-1.0152 Other Methods of Apportionment.

(1)(a) A departure from the applicable method of apportionment required under the provisions of ss. 220.15 or 220.151, F.S., shall be permitted only where the method does not accurately and fairly reflect business activity in Florida. An alternative method may not be invoked, either by the Department of Revenue or by the taxpayer, merely because it reaches a different apportionment percentage than the regularly applicable formula. However, if the applicable formula will lead to grossly distorted result in a particular case, a fair and accurate alternative method is appropriate (see Norfolk and Western Railway Co. v. Missouri State Tax Commission, 390 U.S. 217, 88 S. Ct. 995, 19 L. Ed. 2d 1201 (1968), which is incorporated by reference in Rule 12C-1.0511, F.A.C.).

(b) A taxpayer ~~The party (Department of Revenue or the taxpayer)~~ seeking to utilize an alternative apportionment method must show by clear and cogent evidence that the regularly applicable formula would result in taxation of extraterritorial values (see Butler Bros. v. McColgan, 315 U.S. 501, 62 S. Ct. 701, 86 L. Ed. 991 (1942), which is incorporated by reference in Rule 12C-1.0511, F.A.C.). This can be shown

only if the regularly applicable formula is demonstrated to operate unreasonably and arbitrarily in apportioning to Florida a percentage of income which is out of all proportion to the business transacted in Florida (see *Hans Rees' Sons, Inc. v. North Carolina ex rel Maxwell*, 283 U.S. 123, 51 S. Ct. 385, 75 L. Ed 879 (1931), which is incorporated by reference in Rule 12C-1.0511, F.A.C.).

(2) through (4) No change.

Specific Authority 213.06 (1), 220.51 FS. Law Implemented 220.15, ~~220.44~~, 220.151, 220.152, 220.44 FS. History—New 5-17-94, Amended 3-18-96, \_\_\_\_\_.

12C-1.0154 Payroll Factor for Apportionment.

(1) through (5) No change.

(6) Compensation paid to employees of a partnership is included in the denominator of the taxpayer's payroll factor to the extent of the taxpayer's interest in the partnership. The amount paid to employees in Florida is also included in the numerator of the payroll factor to the extent of the taxpayer's interest in the partnership. Partnership payroll should be allocated to each partner based on each partner's interest in the partnership, or as designated in the partnership agreement, for inclusion in the Florida payroll factor.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.13, 220.15, 220.44 FS. History—New 5-17-94, Amended 3-18-96, \_\_\_\_\_.

12C-1.0222 Returns; Time and Place for Filing.

(1) through (2)(a)1. No change.

2. A corporation which has been granted an automatic extension of time for filing its federal income tax return pursuant to section 6081(b) of the Internal Revenue Code, or which has established reasonable cause pursuant to the second sentence of subparagraph 1., will be granted an extension of time to file its return provided the following requirements are satisfied:

a. No change.

b. The original of the application must be filed with the Process Manager for Taxpayer Services, Florida Department of Revenue, 5050 W. Tennessee Street, Tallahassee, Florida 32399-0135, on or before the due date prescribed for the filing of the return of the corporation. A copy of the federal extension must be attached to the Florida return when it is filed. For applications mailed on or before, but received after, the due date of the return, see Rule 12C-1.032, F.A.C. Except as provided in Rule Chapter 12-24, F.A.C., the corporation shall remit with the application an amount estimated to be the balance of its proper tax due for the taxable year after giving effect to payments and credits on its declaration of estimated income tax. Failure to make payment with an application when one is required will void an otherwise automatic extension of time to file. ~~Additionally, when the taxpayer underpays the required payment by the greater of \$500.00 or 10 percent of the tax shown on the return when filed, the extension of time to file shall be void.~~ In such a case, the taxpayer will be subjected to

the penalty provided in s. 220.801, F.S., for failure to file a timely return, and interest will be assessed on any tax due from the due date of the return to the date of payment.

c. No change.

3. The parent company of an affiliated group qualified to file a Florida consolidated income tax return ~~pursuant to s. 220.131(1), F.S.~~, which has been granted an automatic extension of time for filing a federal consolidated return, or which has established reasonable cause ~~pursuant to the second sentence of subparagraph 1.~~, will be granted an extension of time to file its return, provided the following requirements are met:

a. No change.

b. The original of such application shall be filed with the Process Manager for Taxpayer Services, Florida Department of Revenue, 5050 W. Tennessee Street, Tallahassee, Florida 32399-0135, on or before the due date prescribed for the filing of the return of the parent corporation. A copy of the federal extension must be attached to the Florida return when it is filed. For applications mailed on or before, but received after, the due date of the return, see Rule 12C-1.032, F.A.C. Except as provided in Rule Chapter 12-24, F.A.C., the parent corporation shall remit with the application an amount estimated to be the balance of the tax properly due from the affiliated group for the taxable year after giving effect to all payments and credits on declarations of estimated income tax. Failure to make payment with an application when one is required will void an otherwise automatic extension of time to file and will preclude the initial election to file a consolidated return under s. 220.131(1), F.S., which requires such election be made not later than the due date (including extensions) for filing the consolidated return for the taxable year. Additionally, ~~when the taxpayer underpays the required payment by the greater of \$500.00 or 10 percent of the tax shown on the return when filed,~~ the extension of time to file shall be void and the taxpayer will be subject to the penalty provided in s. 220.801, F.S., for failure to file a timely return, and interest will be assessed on any tax due from the due date of the return to the date of payment.

c. No change.

4. A partnership which has been granted an extension of time for filing its federal partnership return, Form 1065 ~~F-1065~~, or which has established reasonable cause ~~pursuant to subparagraph 1.~~, will be granted an extension of time to file its Florida partnership return, Form F-1065, provided the following requirements are met:

a. through (b) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.222, 220.32, 220.801 FS. History—New 10-20-73, Amended 10-8-74, 4-21-75, 3-5-80, 12-18-83, Formerly 12C-1.222, Amended 12-21-88, 12-19-89, 4-8-92, 3-18-96, \_\_\_\_\_.

12C-1.034 Special Rules Relating to Estimated Tax.

(1) through (2) No change.



(3) Reasonably Expect.

(a) 1. through 2. No change.

3. A business may be required to make a declaration of estimated tax by the 1st day of the 5th month, even though income may not actually be earned until later in the taxable year. For example, a seasonal business that can reasonably expect before ~~by~~ the 1st day of the 4th month of a taxable year to owe \$2,500 for the taxable year will be required to make a declaration of estimated tax on the first day of the fifth month of the taxable year. Therefore, a Christmas shop that has a taxable year ending January 31 will be expected to make a declaration by June 1 (the first day of the fifth month following the end of the taxable year) if the corporation reasonably expects to owe \$2,500 for the tax year. It does not matter whether the corporation is making sales by that date or not.

(b) No change.

(c) When the tax due for the corporation's prior taxable year exceeded \$2,500, there will be a presumption that the taxpayer could reasonably expect to owe \$2,500 in estimated tax. However, a taxpayer may rebut this presumption ~~and show reasons to use an alternate date.~~

(d) No change.

(e) ~~In the first taxable year, or where the preceding taxable year was less than 12 months, the Department is authorized to make a factual determination which will relieve a corporation from filing the declaration of estimated tax on or before the first day of the 5th month of the taxable year. There However, there is no automatic first year exception from filing the declaration by the first day of the fifth month of the taxable year and making payments of estimated tax in accordance with the time limitations set by s. 220.33(1), F.S.~~

(4) through (6) No change.

(7) Amended declarations.

(a) through (c) No change.

(d) If an amended declaration is filed, s. 220.33(6), F.S., provides that the remaining payments should also be increased or decreased.

(e) No change.

(8) No change.

(9) Underpayment of estimated tax.

(a) through (f) No change.

(g) Period of underpayment.

1. The period of the underpayment of any installment of estimated tax begins on the day following the date such installment is required to be paid and ends on the first day of the fourth month following the close of the taxable year, or the date such underpayment is paid, whichever is earlier.

2. through (j) No change.

(10) Affiliated groups. Consolidated return not filed in prior year.

(a) through (b) 1. No change.

2. If the members of a group are treated as separate taxpayers for the taxable year under subparagraph (b) 1., then each member is entitled to a separate \$2,500 estimated tax threshold for purposes of determining requirements for making a declaration of estimated tax under s. 220.24(1), F.S., for such year, unless whether or not the group files a consolidated return for such year.

3. No change.

4. If the group files a consolidated return for such year, ~~then for purposes of determining the amount of the installment which would be required to be paid is if the estimated tax were equal to 90 percent of the tax shown on the return for the taxable year (for s. 220.34(2)(b) 1., F.S.). The the "tax shown on the return" for any member shall be the portion of the tax shown on the consolidated return. The exception provided by s. 220.34(2)(d) 1., F.S., will not apply in the year a group first files a consolidated return. ~~allocable to such member in a manner consistent with the group's election, for federal income tax purposes, under section 1552 of the Internal Revenue Code. For purposes of determining an amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return for, and the law applicable to the preceding taxable year (for s. 220.34(2)(d) 1., F.S.), the "facts shown on the return" shall be the facts shown on each member's separate return for the preceding year.~~~~

(11) Affiliated group. Consolidated tax return filed in prior year.

(a) through (b) No change.

(c) If a group is required to file a consolidated declaration of estimated tax for the taxable year, then:

1. No change.

2. If such group does not file a consolidated return for the taxable year, each member of the group shall be entitled to a separate \$2,500 estimated tax threshold for purposes of determining requirements for making a declaration of estimated tax under s. 220.24(1), F.S., for such year. For purposes of s. 220.34(2)(b) 2., F.S., the "amount, if any of the installment paid" by any member shall be an amount apportioned to such member in any manner designated by the common parent. The exception provided by ~~For purposes of s. 220.34(2)(d) 1., F.S., will not apply to a group filing separate returns in a year immediately following a year in which a consolidated return was filed. the "facts shown on the return" shall be the facts shown on the consolidated return for the preceding year and the tax computed under such section shall be allocated in a manner consistent with the group's election for federal income tax purposes, under s. 1552, I.R.C., which is incorporated by reference in Rule 12C-1.0511, F.A.C.~~

(12) Short taxable years.

(a) through (b) 1. No change.

2. However, the declaration shall be filed on or before the first day of the next taxable year first month succeeding the last month of the short taxable year if the taxpayer can reasonably expect to owe more than \$2,500 in estimated tax before the first day of such last month and the date specified in subsections (5) and (6) as applicable is not within the short taxable year.

3. Any estimated tax payable in installments which is not paid before the first day of the next taxable year first month succeeding the last month of the short taxable year, whether or not the date otherwise specified in s. 220.33, F.S., for payment has arrived, shall be paid on the first day of the first month succeeding the last month of the short taxable year.

(c) The application of the provisions of paragraphs (a) and (b) may be illustrated by the following examples:

1. Example (1): A taxpayer filing on a calendar year basis that changes to a fiscal year beginning September 1, 1993, will have a short taxable year beginning January 1, 1993, and ending August 31, 1993. If the corporation can reasonably expect to owe more than \$2,500 in ~~estimated~~ tax before April 1, 1993, the first day of the 4th month of the taxable year, the declaration of estimated tax must be filed on or before May 1, 1993 (the first day of the 5th month).

2. Example (2): If, in the first example, the taxpayer could not reasonably expect to owe more than \$2,500 in ~~estimated~~ tax until July 1, 1993, then the requirements of s. 220.24, F.S., were met before the first day of the last month of the short taxable year, and a declaration of estimated tax is required to be filed on or before September 1, 1993, for the short taxable year. However, if the taxpayer does not reasonably expect to owe more than \$2,500 in ~~estimated~~ tax until August 1, 1993, then the requirements of s. 220.24, F.S., were not met before the first day of the last month of the short taxable year, and no declaration of estimated tax is required to be filed for the short taxable year.

3. Example (3): The taxable year for a corporation that has elected to be a calendar year taxpayer began June 1, 1993. The taxable year is, therefore, June 1, 1993, through December 31, 1993. The taxpayer can reasonably expect by August 31, 1993 (before the 1st day of the 4th month of the taxable year) to owe \$10,000 in ~~estimated~~ tax. The declaration of estimated tax must be filed by October 1 (the 1st day of the 5th month of the taxable year). Payments of estimated tax would be due October 1, December 1 (the 1st day of the 7th month), and January 1 (the 1st day of the succeeding taxable year). The taxpayer must pay at least 90 percent of the tax finally determined to be due. The tax finally determined to be due was \$10,000; therefore, the taxpayer must pay at least \$9,000 in estimated tax to avoid being underpaid. The provisions of s. 220.33, F.S., provide for four equal installments if the declaration is required to be filed on or before the 1st day of the 5th month of the taxable year. The taxpayer will not be underpaid if the payments due

October 1 and December 1 ~~are each~~ is at least ~~\$3,000~~ \$2,250 (~~one-third~~ 25 percent of \$9,000). The payment made on January 1 must be the remaining balance of ~~\$3,000~~ \$4,500.

(d)1. In cases where the short taxable year results from a change of annual accounting period, for the purpose of determining whether the anticipated income for a short taxable year will result in an estimated tax liability requiring the filing of a declaration, such income shall be placed on an annual basis by multiplying such income by 12 and dividing the result by the number of months in the short period. If the tax computed on such ~~annual~~ annualized income exceeds \$2,500, the estimated tax shall be the same part of the excess so computed as the number of months in the short period is of 12 months.

2. For example, a taxpayer which changes from a calendar year basis to a fiscal year basis beginning October 1, 1988, will have a short taxable year beginning January 1, 1988, and ending September 30, 1988. If on or before August 31, 1988, the taxpayer anticipates that it will have income of \$54,000 for the 9-month taxable year, the estimated tax is computed as follows:

Anticipated income for 9 months	\$54,000.00
<del>Annual</del> <u>Annualized</u> income (54,000 x 12/9)	72,000.00
Tax liability on \$72,000	
(((\$72,000 - 5,000) x 5.5 percent)	3,685.00
Estimated tax for 9-month period	
(\$3,685 x 9/12)	\$ 2,763.75

Since the tax liability on the ~~annual~~ annualized income is in excess of \$2,500, a declaration is required to be filed, reporting an estimated tax of \$2,763.75 for the 9-month taxable period. This paragraph does not apply in any case where the short taxable year does not result from a change in the taxpayer's annual accounting period.

(e) No change.

(f) Where a declaration of estimated tax has been filed for a short taxable year, an amended declaration may be filed during any interval between installment dates. However, no amended declaration for a short taxable year may be filed until after the installment date on or before which the original declaration was filed, and only one amended declaration may be filed during each interval between installment dates. For purposes of this paragraph, the term "installment date" includes the first day of the next taxable year first month succeeding the last month of a short taxable year if such first day does not fall on a prescribed installment date.

(13) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 213.21, 220.131, 220.24, 220.241, 220.33, 220.34, 221.02, 221.04 FS. History—New 10-20-72, Amended 10-20-73, 7-27-80, 12-18-83, Formerly 12C-1.34, Amended 12-21-88, 4-8-92, 5-17-94, 3-18-96, \_\_\_\_\_.

12C-1.042 Methods of Accounting.

(1) Long-term Contracts.

(a) No change.

(b) An election to file the same as federal under s. 220.42(3), F.S., shall be made by filing a timely return on which the income from long-term contracts is reported on the percentage of completion method of accounting. The election must be made in the first year under the Florida Income Tax Code in which any portion of the taxpayer's gross income derived from long-term contracts would be required to be taken into account under the percentage of completion method for federal tax purposes. An election under s. 220.42, F.S., is available to a partnership which reports income from long-term contracts for federal tax purposes under the completed contract method. An election by a partnership must be made in a timely filed return for its first year under the Florida Income Tax Code in which any portion of its gross income derived from long-term contracts would be required to be taken into account under the percentage of completion method. An election by a partnership pursuant to this paragraph shall be applicable to all partners equally, but any such election by a partnership shall not apply to any partner's nonpartnership interests.

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

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.42 FS. History—New 10-8-74, Formerly 12C-1.42, Amended 12-21-88, 4-8-92, 3-18-96.

12C-1.051 Forms.

The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions:

Form Number	Title	Effective Date
(1) Form DR-703;	Dealer Questionnaire; (r. 12/92) dated 12/92;	03/96
(2) Form DR-835;	Power of Attorney; (r. 07/97) dated 06/95;	—
(3) Form F-851;	Affiliations Schedule; (r. 01/98) dated 01/95;	—
(4) Form F-1065;	Florida Partnership Information Return with Instructions; (r. 01/98) dated 12/94;	—
(5) Form F-1120;	Corporate Income/Franchise and Emergency Excise Tax Return with Instructions (Package); (r. 01/99) dated 12/94;	—
(6) F-1120A	Florida Corporate Short Form Income Tax Return (N. 01/99)	—
(7) F-1120A (Flats)	Florida Corporate Short Form Income Tax Return (N. 01/99)	—
(8)(6) Form F-1120FT; (Flats);	Florida Corporate Income/Franchise and Emergency Excise Tax Return; (r. 1/99) dated 12/94;	—
(9)(7) Form F-1120FTN;	Instructions for Preparing Forms F-1120, F-1120ES, and F-7004; (r. 01/99) dated 01/95;	—
(10)(8) Form F-1120ES;	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax (Installment 1, 2, 3, 4); (r. 01/99) dated 12/94;	—
(11)(9) Form F-1120ES; (Flats);	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax (Installment 1); (r. 01/99) dated 12/94;	—
(12)(10) Form F-1120ES; (Flats);	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax (Installment 2, 3, 4); (r. 01/99) dated 12/94;	—
(13)(11) Form F-1120F;	Forms Requisition; (r. 01/99) dated 12/94;	—
(14)(12) Form F-1120P;	Payment Coupon; (r. 01/99) dated 12/94;	—
(15)(13) Form F-1120X;	Amended Florida Income Tax Return; (r. 01/99) dated 12/93;	—
(16)(14) Form F-1122;	Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income and Emergency Excise Tax Return; (r. 01/98) dated 12/94;	—
(17)(15) Form F-1150;	Computation of Installment Sales Income Adjustment; (r. 1/99) dated 12/94;	—
(18)(16) Form F-1155;	Computation of Long-Term Contract	—

(19)(17) Form F-1156;	Adjustment; (r. 01/99) dated 12/94;	03/96
(18) Form F-1157;	Gasohol Development Tax Incentive Credit; (r. 01/95)	—
(20)(19) Form F-1157Z;	Enterprise Zone Jobs Credit, dated December 1992;	01/96
(21)(20) Form F-1158;	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax; (r. 07/95) dated July 1995;	—
(22)(21) Form F-1158Z;	Enterprise Zone Property Tax Credit; (r. 07/95) dated December 1992;	01/96
(23) F-1159	Enterprise Zone Property Tax Credit; (r. 07/95) dated July 1995;	—
(24)(22) Form F-2220;	Child Care Facility Credit Application (N. 01/99) Underpayment of Estimated Tax on Florida Corporate Income, Franchise and Emergency Excise Tax; (r. 01/99) dated 12/94;	—
(25)(23) Form F-7004;	Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return; (r. 01/99) dated 12/94;	—

Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system, (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 1(800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.21, 220.22, 220.221(3), 220.51, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4700

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rule amendments were noticed for a Rule Development Workshop in the Florida Administrative Weekly on July 16, 1999 (Vol. 25, No. 28). The workshop was held on August 5, 1999. No one appeared at the workshop to testify, and no one submitted written comments

**COMMISSION ON ETHICS**

RULE TITLE: List of Forms and Instructions  
 RULE NO.: 34-7.010

PURPOSE AND EFFECT: The Commission is amending various forms to reflect the current filing year and clarify instructions.

SUMMARY: The forms promulgated by the Commission and adopted by reference in Rule 34-7.010, specifically: CE Form 1; CE Form 2; CE Form 6; CE Form 50; Guide to the Sunshine Amendment and Code of Ethics for Public Officers, Candidates, and Employees; and CE Form 10, are being revised to indicate the current filing year and to further refine the instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: Art. II, Sec. 8(f),(h), Fla. Const., 112.3147, 112.3215(13), 112.322(7),(10), 112.324 FS.

LAW IMPLEMENTED: Art. II, Sec. 8(a),(f),(h), Fla. Const., 112.313(9),(12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS.

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

TIME AND DATE: 9:00 a.m., October 21, 1999  
 PLACE: Cabinet Meeting Room, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julia Cobb Costas, Staff Attorney

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.010 List of Forms and Instructions.

(1) The following forms and instructions are adopted by reference and are used by the Commission in its dealings with the public:

(a) Form 1, Statement of Financial Interests. To be utilized by state officers, local officers, candidates for state or local office and specified state employees for compliance with Section 112.3145(2) and (3), Florida Statutes. Effective 1/2000 ~~4/99~~.

(b) Form 2, Quarterly Client Disclosure. To be utilized by elected constitutional officers, state officers, local officers and specified employees for compliance with Section 112.3145(4), Florida Statutes. Effective 1/2000 ~~4/98~~.

(c) Form 6, Full and Public Disclosure of Financial Interests. To be utilized by all elected constitutional officers, candidates for such offices, other statewide elected officers,

and others as prescribed by law for compliance with Article II, Section 8(a) and (h), Florida Constitution, as specified in Chapter 34-8 of these rules. Effective 1/2000 ~~4/99~~.

(d) Form 50, Complaint. To be utilized by persons wishing to file a complaint against any public officer, public employee or candidate for public office alleging a violation of any provision of Part III, Chapter 112, Florida Statutes, or to be utilized by persons wishing to file a complaint which alleges any other breach of public trust on the part of a public officer or employee who is not within the jurisdiction of the Judicial Qualifications Commission. Effective 1/2000 ~~2/95~~.

(e) A Guide to the Sunshine Amendment and Code of Ethics for Public Officers, Candidates, and Employees. Instructions to be utilized by public officers, public employees, candidates for public office, and other interested persons in complying with the Sunshine Amendment and the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes. Effective 1/2000 ~~4/99~~.

(f) through (m) No change.

(n) Form 10, Annual Disclosure of Gifts from Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses. To be utilized by persons who are required to file Form 1 or Form 6 and by State procurement employees for compliance with the gift disclosure requirements of Section 112.3148(6), Florida Statutes, and the honorarium disclosure requirements of Section 112.3149(6), Florida Statutes. Effective 1/2000 ~~4/99~~.

(o) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: January 1, 2000

Specific Authority Art. II, Sec. 8(f),(h), Fla. Const., 112.3147, 112.3215(13), 112.322(7), (10), 112.324 FS. Law Implemented Art. II, Sec. 8(a),(f),(h), Fla. Const., 112.313(9),(12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS. History—New 4-11-76, Formerly 34-7.10 through 7.22, 8.10, Amended 2-23-77, 4-7-77, 5-17-77, 10-20-77, 2-25-79, 1-29-80, 4-29-81, 1-12-82, 3-25-82, 2-21-83, Formerly 34-7.10, Amended 7-10-88, 3-4-91, 10-6-91, 10-29-91, 12-22-91, 7-5-92, 10-15-92, 12-6-92, 11-10-93, 12-27-93, 11-21-94, 2-16-95, 12-26-95, 1-27-97, 1-1-98, 11-19-98, 1-1-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Julia Cobb Costas, Staff Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil Claypool, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 2, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 1999

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: FLORIDA LOTTO Prize Divisions  
 RULE NO.: 53-28.003

PURPOSE AND EFFECT: The purpose of the rule is to amend the allocation of funding for rounding differences in second, third, and fourth FLORIDA LOTTO prizes.

SUMMARY: The rule addresses rounding differences in second, third, and fourth FLORIDA LOTTO prizes.

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

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

SPECIFIC AUTHORITY: 24.105(10)(c), 24.115(1) FS.

LAW IMPLEMENTED: 24.105(10)(c), 24.115(1) FS.

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

TIME AND DATE: 9:00 a.m. October 20, 1999

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-28.003 FLORIDA LOTTO Prize Division.

(1) through (5) No change.

(6) Except for the Jackpot Prize which will pay the exact amount, the second, third and fourth prizes will be rounded down to the nearest fifty cents (\$.50); provided, however, that the fourth prize shall be no less than \$3.50. All rounding differences in the second, third and fourth prizes will be used to fund future prizes in Lottery games or for special Lottery prize promotions ~~prizes for the Florida Lottery's Flamingo Fortune game show.~~

Specific Authority 24.105(10)(c), ~~24.105(10)(a)~~, 24.115(1) FS. Law Implemented 24.105(10)(c), ~~24.105(10)(e)~~, 24.115(1) FS. History--New 11-22-93, Amended 7-31-95,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: FANTASY 5 Prize Divisions  
RULE NO.: 53-29.003

PURPOSE AND EFFECT: The purpose of the rule is to amend the allocation of funding for rounding differences in second and third FANTASY 5 prizes.

SUMMARY: The rule addresses rounding differences in second and third FANTASY 5 prizes.

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

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

SPECIFIC AUTHORITY: 24.105(10)(c), 24.115(1) FS.

LAW IMPLEMENTED: 24.105(10)(c), 24.115(1) FS.

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

TIME AND DATE: 9:00 a.m., October 20, 1999

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-29.003 Fantasy 5 Prize Divisions.

(1) through (4) No change.

(5) Except for the Grand Prize which will pay the exact amount, the second and third prizes will be rounded down to the nearest fifty cents (\$.50); provided, however, that the third prize shall be no less than \$3.50. All rounding differences in the second and third prizes will be used to fund future prizes in Lottery games or for special Lottery prize promotions ~~prizes for the Florida Lottery's Flamingo Fortune game show.~~

Specific Authority 24.105(10)(c), 24.115(1) FS. Law Implemented 24.105(10)(c), ~~24.105(10)(e)~~, 24.115(1) FS. History--New 11-22-93, Amended 8-27-95,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**RULE TITLES:** Final Orders Required to Be Indexed  
**RULE NOS.:** 59-1.045  
 Numbering of Final Orders 59-1.047

**PURPOSE AND EFFECT:** Section 120.53, F.S. requires each agency to index its final orders resulting from Chapter 120 proceedings, but excepts from the indexing requirement those final orders lacking precedential value. Final orders excepted from the indexing requirement must be listed. Rule 59-1.045 identifies categories of final orders that are routinely listed, but not indexed. The proposed amendment adds as an additional category for listing, final orders resulting from summary proceedings under section 120.574, F.S. Rule 59-1.047 provides for the numbering and coding of each final order by the type of proceeding and by the subject of the order. The proposed amendment adds and consolidates codes.

**SUMMARY:** The proposed amendment to Rule 59-1.045, "Final Orders Required to Be Indexed," adds an additional category to be listed, but not indexed: final orders resulting from summary proceedings. Rule 59-1.047, "Numbering of Final Orders," provides for the numbering and coding of final orders. The amendment adds and consolidates codes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

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

**SPECIFIC AUTHORITY:** 120.53(1)(c)5. FS.

**LAW IMPLEMENTED:** 120.53(1)(a)-(e), 120.53(1)(h) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF TNIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE TO BE NOTICED IN THE F.A.W.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** R. S. Power, Agency Clerk, Agency for Health Care Administration, Suite 3437, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)922-5865

**THE FULL TEXT OF THE PROPOSED RULES IS:**

59-1.045 Final Orders Required to be Indexed.

Final Orders which are required to be indexed pursuant to Rule 1S-6.001(1)-(2), shall be indexed. Final Orders which do not resolve a substantial legal issue of first impression; establish for the first time a rule of law, principle, or policy; later, modify, or clarify a prior Final Order; resolve conflicting Final Orders; or harmonize decisions of appellate courts shall be listed, but not indexed in the following categories:

(1) Final Orders resulting from informal proceedings under Section 120.57(2), F.S.

(2) Final Orders closing cases on the basis of settlements, consent orders, or stipulations under Section 120.57(4), F.S.

(3) Final Orders resulting from summary proceedings under Section 120.574, F.S.

Specific Authority 120.53(1)(c)5. FS. Law Implemented 120.53(1)(a)-(e) FS. History--New 6-3-93, Amended \_\_\_\_\_.

59-1.047 Numbering of Final Orders.

(1) All Final Orders that are required to be indexed or listed shall be sequentially numbered as rendered pursuant to Rule 1S-6.002(1)(a).

(2) The sequential number shall be a two-part number separated by a dash with the first part indicating the year and the second part indicating the numerical sequence of the order as rendered for that year beginning with number 1 each new calendar year. The assigned agency designation prefix, AHCA, shall precede the two-part number.

(3) The applicable order category shall be added as a suffix succeeding the agency designation prefix and two-part number. The order categories are as follows:

- DS Declaratory Statement
- EO Emergency Order
- FOI Final Order Informal Proceeding
- FOF Final Order Formal Proceeding
- FOS Final Order Summary Proceeding
- S Stipulation, Agreed Settlement, or Consent Order
- ~~AS Agreed Settlement~~
- ~~CO Consent Order~~

(4) Following the order category, the order number may include a code identifying the subject of the order. As appropriate, the following codes shall be used.

- CON Certificate of Need
- OLC Health Facility Regulation
- MDC Medicaid – Miscellaneous
- MDO Medicaid Overpayment
- MDA Medicaid Audit of Cost Report
- MDT Medicaid Provider Terminations
- MDE Medicaid Provider Enrollment
- MDR Medicaid Per Diem Rate
- MDP Medicaid Peer Review
- HCB Matters formerly under the Health Care Board
- BID Bid Protests
- PER Personnel Matters
- SED Screening for Employment Disqualification
- SPS Statewide Provider and Subscriber Assistance Panel

Specific Authority 120.53(1)(c)5. FS. Law Implemented 120-53(1)(h) FS. History--New 6-3-93, Amended \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** R. S. Power, Agency Clerk

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Ruben J. King-Shaw, Jr., Director

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** September 1, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility Compliance

RULE CHAPTER TITLE: Hospital Licensure
RULE CHAPTER NO.: 59A-3
RULE TITLE: Physical Plant Requirements for General, Rehabilitation and Psychiatric Hospitals
RULE NO.: 59A-3.081

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Chapter 59A-3, FAC, is to fulfill the requirements of the 1998 Legislative Session, which amended the Hospital Licensing and Regulation Statutes 395, F.S., and directed the Agency to adopt by rule licensure requirements for mobile surgical facilities providing surgical services to inmates of the Department of Corrections facility established after July 1, 1998. The proposed rule will not compromise public safety, human health, the environment, or any other protection afforded by law.

SUMMARY: The proposed rule amendment provides for physical plant requirements for mobile surgical facilities providing elective surgical services only to inmates patients of the Department of Corrections facilities or private correctional facilities operating pursuant to Chapter 957, F.S., established after July 1, 1998, and not to the general public. In addition, these provisions have been incorporated into subsection 59A-3.081(54), FAC.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 395.1055, 395.0163, 408.036 FS.

LAW IMPLEMENTED: 395.001, 395.1055, 395.1065, 408.036, 957.05 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD ON THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. EST, October 14, 1999

PLACE: Agency for Health Care Administration, Building #1, 2nd Floor Conference Room 208, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James (Skip) Gregory, Chief, Office of Plans and Construction, Agency for Health Care Administration, Building 1, Room 140, 2727 Mahan Drive, Tallahassee, Florida, (850)487-0713

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.081 Physical Plant Requirements for General, Rehabilitation and Psychiatric Hospitals.

(54) Physical Plant Requirements for Mobile Surgical Facility. The following are additional special requirements for Mobile Surgical Facilities established after July 1, 1998.

(a) Mobile Surgical Facility. A mobile surgical facility is a mobile facility as defined in Chapter 395.003, F.S., and which provides elective surgical care under contract with the Department of Corrections or a private correctional facility operating pursuant to Chapter 957, F.S.

(b) General Requirements: In addition to the codes and standards referenced in this rule, the mobile surgical facility shall comply with the requirements of Ambulatory Health Care Centers, Chapter 12-6 of the National Fire Protection Association (NFPA), 101 Life Safety Code, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904.

1. Site Requirements:

a. There shall be a level concrete pad designed for the structural loads of the facility in accordance with the Standard Building Code Chapter 18 & 19, incorporated by reference and available from Southern Building Code Congress International, 910 Montclair Road, Birmingham, Alabama 35213-1206.

b. There shall be walls, fences or concrete-filled steel bollards around the immediate site to prevent collisions with the unit by other vehicles.

c. The facility shall have a tie-down anchoring system designed by a Florida registered professional engineer or architect in accordance with Section H105.3, Tiedowns, Appendix H, Manufactured Home Tiedown Standards, Southern Building Code Congress International incorporated by reference and available from Southern Building Code Congress International, 910 Montclair Road, Birmingham, Alabama 35213-1206.

d. The facility shall be sited so that it does not diminish egress from the hospital and so that the exhaust from the tractor and/or generator is kept away from all fresh air intakes of the hospital.

e. There shall be a rain-free covered passage from the hospital to the entrance of the mobile facility.

2. Architectural Design Requirements:

a. There shall be an operating room with a minimum area of 170 square feet. The minimum room dimension shall be 12 feet.

b. There shall be an operating room service area containing sterilizing facilities, medication preparation and storage areas, scrub facilities, soiled work room with work counter, clean work room with storage for clean and sterile supplies, and janitor's closet with floor receptor or service sink.

c. There shall be a recovery room/Post-Anesthetic Care Unit (PACU) adjacent to the operating room, which shall accommodate a minimum of two recovery beds. The size of this room shall be based on 80 square feet per recovery bed.

d. There shall be a nurse station for charting, communications, and storage.

e. There shall be a recovery service area containing a nourishment station, a hand washing facility, medication preparation area with refrigerator and double locked storage, clean linen storage, soiled linen area with soiled linen receptacles, and clean work area with work counter and sink.

f. There shall be an accessible patient/staff toilet room and hand wash facility adjacent to the recovery room.

g. There shall be a clothing change area for doctors, nurses and other personnel with secured storage and access to toilet room.

**3. Mechanical System Requirements:**

a. The Heating, Ventilating and Air Conditioning systems shall comply with NFPA 90A, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904

b. The patient gas medical systems shall be Type I as defined by NFPA 99, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904. Medical gas, vacuum, and oxygen supply systems shall comply with Chapter 13, Ambulatory Health Care Center Requirements of NFPA 99, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904.

c. The facility shall provide, as a minimum, the quantity of station outlets per bed position indicated in the following table:

<u>Area</u>	<u>Oxygen</u>	<u>Vacuum</u>
<u>Recovery Room/(PACU)</u>	<u>1</u>	<u>3</u>
<u>Operating Room</u>	<u>2</u>	<u>3</u>

An additional vacuum station outlet shall be provided in the operating room dedicated for connection of an anesthesia machine.

d. The plumbing systems shall comply with the Standard Plumbing Code incorporated by reference and available from Southern Building Code Congress International, 910 Montclair Road Birmingham, Alabama 35513-1206.

e. The facility shall be equipped with fire extinguishers.

**4. Electrical System Requirements:**

a. The essential electrical system shall comply with a Type I system as defined in Chapter 3 of NFPA 99, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904.

b. The electrical system shall comply with Article 517 of the National Electric Code, NPFA 70, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904 and with 59A-3.081(46),(47),(48),(50),(51), F.A.C.

c. There shall be an automatic fire alarm system in the facility. An alarm initiated in the mobile facility shall activate the hospital fire alarm system and an alarm in the hospital shall initiate an alarm in the mobile facility.

d. There shall be a telephone connected to the hospital communication system.

e. Electrical connections to the hospital shall not interrupt, dimieh or otherwise affect adversely in any way the electrical system of the hospital.

f. There shall be a lightning protection system as defined in NFPA 780, incorporated by reference and available from NFPA, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9904, for the rain-free covered connection and the mobile facility unless the mobile facility is shown to be within the cone of protection of the hospital and bonded to the lightning protection systems of the hospital.

**5. Details and Finishes:** The mobile facility shall comply with 59A-3.081(31), F.A.C., sections (i),(j),(k),(l),(m) and (p).

Specific Authority 395.0163, 395.1055, 408.036 FS. Law implemented 395.001, 395.1055, 395.1065, 408.036, 957.05 FS. History–New 1-1-77, Formerly 10D-28.81, Amended 1-16-87, 11-23-88, Formerly 10D-28.081, Amended 9-3-92, 6-29-97, 3-18-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: James (Skip) Gregory, Chief, Office of Plans and Construction  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Director  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: March 19, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Health Quality Assurance**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minimum Standards for Home Health Agencies	59A-8
RULE TITLES:	RULE NOS.:
Definitions	59A-8.002
Telephone Reporting	59A-8.0025
Licensure Requirements	59A-8.003
Licensure Procedure	59A-8.004
Geographic Service Area	59A-8.007
Scope of Services	59A-8.008
Denial, Suspension, Revocation of License and Imposition of Fines	59A-8.0086
Personnel	59A-8.0095
Personnel Policies	59A-8.0185
Acceptance of Patients or Clients	59A-8.020
Plan of Care	59A-8.0215
Service Provision Plan	59A-8.0218
Clinical Records	59A-8.022
Administration of Drugs and Biologicals	59A-8.024
Advance Directives	59A-8.0245

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the rule, including rule reduction, language clarification, and minor changes to conform to federal regulation and changes in the Florida Statute.



SUMMARY: The proposed rule amendment includes rule reductions through deletion of entries in the definition and licensure procedures sections. To conform to federal regulations and changes in the Florida Statute changes have been made in background screening, hours of operation, and a variable survey cycle for state licensure. Language is added or changed to further clarify such areas as drop-off sites and satellite offices, supervision by skilled therapists, change of ownership procedures, partnerships, contracts, a home health agency's responsibilities in serving assisted living facility residents, and home health aide in-service training, among others.

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

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

SPECIFIC AUTHORITY: 400.461-400.497, 400.512-400.518 FS.

LAW IMPLEMENTED: 400.461-400.497, 400.512-400.518 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 3:00 p.m., October 19, 1999

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Gambill, Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Bldg. 1, Room 204, Tallahassee, FL 32308, (850)414-6010, or e-mail: gambills@fdhc.state.fl.us.

Agendas and copies of the draft rule can be obtained by contacting this office.

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-8.002 Definitions.

(1) “Accrediting organization” means the Community Health Accreditation Program or the Joint Commission on Accreditation of Healthcare Organizations.

(1) renumbered (2) No change.

(3) “Assistance with activities of daily living” means a certified nursing assistant or a home health aide provides to the patient individual assistance with activities of daily living, including the following:

(a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient's place of residence. Physical support includes holding the patient's hand,

elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.

(b) Bathing. Helping the patient in and out of the bathtub or shower and being available while the patient is bathing. Can also include washing and drying the patient who is bed-bound.

(c) Dressing. Helping patients, who require assistance in dressing themselves, put on and remove clothing.

(d) Eating. Helping with feeding patients who require assistance in feeding themselves.

(e) Personal hygiene. Helping the patient with shaving. Assisting with oral, hair, skin and nail care.

(f) Toileting. Reminding the patient about using the toilet, assisting him or her to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the patient on the bedpan, and helping with related personal hygiene.

(g) Assistance with physical transfer. Providing verbal and physical cueing, physical assistance, or both while the patient moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide is trained in its use.

(h) Assistance with self-administered medication, as defined in Rule 59A-8.0095(5).

~~(2) “Branch office” means a secondary office established in the same county as the main office is not separately licensed and shares administration with the main office.~~

(4) “Caregiver” means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. Caregivers include, for example, relatives, household members, guardians, friends, neighbors, and employees and volunteers of facilities.

(5)(3) “Case management” means the initial assessment of the patient and caregiver family for appropriateness of and acceptance for home health services; establishment and periodic review of a plan of care; implementation of medical treatment when ordered; referral, follow-up, provision of, evaluation of and supervision of care; coordination of services given by other health care providers; and documentation of all activities and findings.

(6) “Change of ownership” means when a home health agency is purchased by a new corporation or partnership from the entity which currently holds the home health agency license. A one hundred percent stock purchase of the current corporate or partnership owner, or a change in the principles in the existing corporation or partnership, does not constitute a change of ownership, if that corporation or partnership continues to be the owner of the home health agency. If a

person or persons own the home health agency, rather than a corporation or partnership, a change of ownership takes place when those individual(s) sell the home health agency to other individual(s), or when the form of ownership changes from individual ownership to a business entity.

~~(4) "Companion and sitter" means one who sits with an elderly, handicapped, or convalescent person, accompanies the person on trips and outings, prepares and serves meals, and may stabilize the person when walking, standing, or sitting but does not provide personal health care services.~~

~~(7)(5) "DCF DHRS" means the Department of Children and Families Health and Rehabilitative Services.~~

(8) "Dietetics and nutrition practice" means assessing nutrition needs and status using appropriate data; recommending dietary regimens, nutrition support, and nutrient intake; improving the patient's health status through nutrition counseling and education.

(9) "Dietitian/Nutritionist" means a person licensed to engage in dietetics and nutrition practice pursuant to Chapter 468, F.S.

(10) "Direct employee" means one of the following pays the withholding taxes for the employee: the home health agency; a management company which has a contract to manage the home health agency; or an employee leasing company which has a contract with the home health agency to handle the payroll and payroll taxes for the home health agency.

(11) "Drop-off site" means any location in any county within the geographic service area of the main office, pursuant to Rule 59A-8.003(7).

(12) "Employee leasing company" means a company licensed and regulated under Chapter 468, Part XI, F.S.. A leasing company handles the payroll and taxes on leased employees. While an employee leasing company pays the withholding taxes, the employee is still considered a direct employee, as defined in s. 468.534, F.S., of the home health agency.

(13) "FBI" means the Federal Bureau of Investigation.

(6) renumbered (14) No change.

(15) "Financial instability," pursuant to s. 400.126(1)(d), F.S., means the home health agency cannot meet its financial obligation. Evidence such as the issuance of bad checks or an accumulation of delinquent bills shall constitute prima facie evidence that the ownership of the home health agency lacks the financial ability to operate. Evidence also includes the Medicare or Medicaid program's indications or determination of financial instability or fraudulent handling of government funds by the home health agency.

(16) "Full-time equivalent" means when an employee works between 37 to 40 hours per week.

~~(17)(7) "Geographic service area" means the area, as specified on the license, in which the home health agency may send its personnel to provide home health services to patients in their own home or places of residence.~~

~~(8) "Home health aide" means one who provides personal health care services for a patient in the patient's home or place of residence, under the supervision of a registered nurse.~~

~~(18)(9) "Home infusion therapy services" means teaching, assessment, evaluation and clinical services related to the administration of intravenous substances provided by a professional licensed under Chapters 464, 458, or 459, F.S.~~

(19)(10) "Licensed nurse," as defined in s. 464.003(4), F.S., and s. 464.003(5), F.S., means a registered nurse licensed to practice professional nursing or a licensed practical nurse licensed to practice nursing under the direction of a physician or registered nurse pursuant to Chapter 464, F.S.

(11) renumbered (20) No change.

(21) "Nutrition assessment" means the evaluation of the nutrition needs of the patient using appropriate data to determine nutrient needs or status and make nutrition recommendations for the patient.

(22) "Nutrition counseling" means advising and assisting the patient on appropriate nutrition intake by integrating information from the nutrition assessment.

(12) through (13) renumbered (23) through (24) No change.

~~(14) "Office" means any home health agency location outside the county of the agency's main office; however any location in any county within the geographic service area used exclusively for pick-up or drop-off of supplies or records, but not housing of records, or for agency staff to use to complete paperwork or to communicate with the main office shall not be considered an office. No other business shall be conducted at these locations, including offering or advertising or servicing of patients or prospective patients.~~

~~(15) "Organization" two or more persons or entities who as a course of business arrange for the delivery of home health services through others.~~

~~(25)(16) "Patient" means an individual who receives home health services in one's home or place of residence.~~

(26)(17) "Plan of Care Patient care plan" means a coordinated plan, which includes the treatment orders plan of treatment, prepared by the case manager in collaboration with each professional discipline providing service to the patient and caregiver family.

(18) through (19) renumbered (27) through (28) No change.

(29)(20) "Physician" means a doctor of medicine, osteopathy, podiatry, or chiropractic legally authorized to practice in the state pursuant to Chapters 458, 459, 460, or 461, F.S. Physicians working in Veterans Administration hospitals and clinics are exempt from state licensure according to Chapter 458, F.S.

~~(21) "Plan of treatment" means written orders signed by a physician which authorizes the provision of care or treatment to a patient in his home or place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, or Speech Therapists.~~

(30) "Providing one service directly" means all of the service will be provided by direct employees except when an employee is documented to be on leave, for a period of not more than 6 months, and a temporary contracted staff person provides the services during the employee's absence.

(22) through (23) renumbered (31) through (32) No change.

~~(24) "Screening" means the assessment of the background of home health agency personnel which includes employment history checks, checks of references, records checks of the DHRS abuse registry and the FDLE for criminal record check.~~

(33) "Satellite office" means a secondary office established in the same county as the main office, pursuant to Rule 59A-8.003(6).

~~(25) "Service provision plan" means a plan to provide services which exclude nursing, or therapy or dietitians/nutritionists, and which do not require a physician's treatment orders.~~

(26) through (27) renumbered (35) through (36) No change.

~~(28) "Staffing services" means services provided to health care facilities on a temporary basis by licensed health care personnel and certified nursing assistants.~~

(37) "Treatment orders means written orders signed by a physician which authorizes the provision of care or treatment to a patient in his or her place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, or Speech Therapists, or Dietitians/Nutritionists.

Specific Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History—New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 10-27-94,\_\_\_\_\_.

59A-8.0025 Telephone Reporting.

The Agency for Health Care Administration shall notify home health agencies 90 days prior to a change in the statewide toll free telephone number for the Department of Children and Families Health and Rehabilitative Services central abuse registry.

Specific Authority 400.497 FS. Law Implemented 400.497 FS. History—New 5-30-90, Formerly 10D-68.0025, Amended 10-27-94,\_\_\_\_\_.

59A-8.003 Licensure Requirements.

(1) The issuance of an initial a license shall be based upon compliance with Chapter 400, Part IV, F.S., and this rule as evidenced by a signed and notarized, complete and accurate application, form number AHCA 3110-1001, \_\_\_\_\_, 1999, incorporated by reference, and the results of a survey conducted by the AHCA.

(2)(1) An application for renewal of license must be submitted to AHCA at least 90 60 days prior to the date of expiration of the license, pursuant to s. 400.471(6), F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home health agencies that apply for renewal of their licenses will be surveyed on a variable survey cycle, pursuant to s. 400.484, F.S., based on the extent of compliance on previous surveys with these rules and state laws. After two consecutive full surveys, home health agencies that had no class I, class II, or class III deficiencies, as defined in s. 400.484(2)(a)-(c), F.S., as a result of the surveys or a complaint survey, will be surveyed on an unannounced basis no later than every 36 months. Home health agencies that had no class I or class II deficiencies as defined in s. 400.484(2)(a) and (b), F.S., as a result of the previous survey or a complaint survey will be surveyed on an unannounced basis no later than a range of 18 to 24 months. Home health agencies that had a change of ownership since the previous survey, a complaint survey or other survey with a class I or class II deficiency citation, as defined in s. 400.484(2)(a)-(c), F.S., will receive an unannounced survey no later than every 12 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis, prior to the next full survey cycle. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(3) Surveys of Accredited Home Health Agencies:

(a) AHCA may accept the survey report of an accrediting organization in lieu of its own periodic licensure inspection, provided that the standards included in the survey report of the accrediting organization are determined by the Agency to document that the home health agency is in compliance with state licensure requirements.

(b) It is the responsibility of the home health agency to request deemed status by writing to the AHCA Home Care Unit and showing documentation of accreditation by an approved accrediting organization. In all situations the accredited home health agency must have documentation that the deemed status survey was conducted by the appropriate organization.

(c) Home health agencies requesting deemed status must submit the annual licensure renewal application packet and required fees, along with the accrediting organization's survey report. The AHCA Home Care Unit will submit the survey report to the AHCA area office for review and determination as to whether the home health agency is in substantial compliance with state licensure requirements.

(d) The AHCA area office will notify the home health agency of the determination of compliance or non-compliance with state licensure standards. For home health agencies not in

compliance the area office may survey the home health agency or may prepare a statement of deficiencies based on a review of the accrediting organization's report.

(e) Home health agencies not in compliance with licensure standards must submit a plan of correction to the AHCA area office within 10 calendar days of receipt of the statement of deficiencies. AHCA will review the Plan of Correction for approval or denial.

(f) Home health agencies in compliance will not be subject to an inspection by AHCA except under the following circumstances:

1. The HHA has been denied accreditation or has received a provisional or conditional accreditation report from the accrediting organization on its most recent survey, and has not submitted an acceptable plan of correction to the organization and to the agency; or

2. The HHA has received full accreditation but has not authorized the release of the report to the AHCA, or has not ensured that AHCA has received the accrediting organization's report.

(4) AHCA will conduct investigations of complaints regarding licensure violations. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the administrator of the nature of the complaint. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation. For complaints involving accredited home health agencies, a copy of the report will be sent to the appropriate accrediting organization. Patient names will be redacted prior to mailing.

(5)(2) An application package for a change of ownership shall be made on a form prescribed by AHCA, Application for Home Health Agency License, AHCA 3110-1001, Revised \_\_\_\_\_. If a change of ownership is to occur, the buyer or lessee must submit an application to AHCA for a new license at least 60 days prior to the effective date of the change.

(a) The buyer or lessee must make application to the agency for a new license at least 60 days before the date of the transfer of ownership as required by s. 400.471(7), F.S..

(b) At the time of the transfer of ownership all patient records held by the current licensee shall be transferred to the applicant.

(c) Failure to apply for a change of ownership of a licensed home health agency as required by s. 400.471, F.S., shall result in a fine set and levied by AHCA pursuant to Rule 59A-8.0086(3). This is also applicable to owners who incorporate and do not report this change of ownership to the agency.

(6) A licensed home health agency may operate a satellite office. A satellite office must be located in the same county as the agency's main office. Supplies and records can be stored at a satellite office and phone business can be conducted the same as in the main office. The satellite office shares administration

with the main office and is not separately licensed. Signs and advertisements can notify the public of the satellite office location. If the agency wants to open an office outside the county where the main office is located, the second office must be separately licensed.

(7) A licensed home health agency may operate a drop-off site in any county within the geographic service area of the main office. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency's patients. Prospective patients cannot be contacted from this location. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(8)(3) If a change of address is to occur, or if an agency intends to open a satellite office, the home health agency must provide 30 days advance notice in writing to the AHCA Home Care Unit in Tallahassee and the AHCA area office. The home health agency must submit to the AHCA Home Care Unit a certificate of occupancy, certificate of use, or fire and zoning reports for the new address and receive a revised license. Failure to notify AHCA within the time frame will result in a \$500 fine, pursuant to s. 400.474(1), F.S. Emergency relocations must be reported within seven days, with the reason for the relocation documented, to avoid a penalty assessment.

(9) A home health agency has the following responsibility in terms of hours of operation:

(a) The home health agency administrator and director of nursing, or their alternates, must be available to the public for any eight consecutive hours between 7 a.m. and 6 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.

(b) When the administrator and the director of nursing are not on the premises during designated business hours, a staff person must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications. This individual can be a clerical staff person.

(c) If an AHCA surveyor arrives on the premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records, are not available on the premises they, or the designated alternate, must be available on the premises within thirty minutes.

(d) The home health agency shall have written policies and procedures governing 24 hour availability to licensed professional nursing staff by active patients of the home health agency receiving skilled care. These procedures shall describe an on-call system whereby designated nursing staff will be

available to directly communicate with the patient. For agencies which provide only home health aide and homemaker, companion and sitter services and who provide no skilled care, written policies and procedures shall address the availability of a supervisor during hours of patient service.

(e) Failure to be available or to respond, as defined in Rule 59A-8.003(9)(a), (b) and (c), will result in a \$500 fine, pursuant to s. 400.474(1), F.S. A second incident will be grounds for denial or revocation of the agency license.

(10)(4) The initial, change of ownership and renewal fee for home health licensure is \$830.

Specific Authority 400.497 FS. Law Implemented 400.464, 400.741, 400.497, 400.471, 400.484 FS. History—New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 10-27-94, 2-1-97, \_\_\_\_\_.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form prescribed by the AHCA, Application for Home Health Agency Application for Licensure License, AHCA 3110-1001, Revised \_\_\_\_\_ January, 1997, incorporated by reference. The form may be obtained through the Agency for Health Care Administration – Health Facility Compliance Regulation, Home Long-Term Care Unit, 2727 Mahan Drive, Building 1, Room 200 220, Tallahassee, Florida 32308. The applicant must file with the application the following:

(a) listing of services to be provided directly by employees of the home health agency;

(b) listing of services to be provided directly by contract, if any, and the administrative, supervisory, fiscal and quality assurance relationship between the contractor and the home health agency;

(c) number and disciplines of professional staff, and

(d) educational, professional licensure, and experience qualifications of the persons who are in the positions of administrator and director of nursing;

(e) a certificate of occupancy, a certificate of use or a zoning report and a fire report for initial licensure and changes of ownership.

(2) If the application is for a change of ownership for a home health agency being leased, the applicant must file a copy of the lease agreement with the application.

(3) Proof of financial ability to operate must be shown by a balance sheet and income and expense statement for the first two years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses.

(4) Each home health agency must have liability insurance in an amount not less than \$250,000 per claim. The insurer and policy number must be identified.

(2)(5) A corporate applicant shall identify the state of incorporation, its legal name, its business name, and the names and addresses of corporate officers and directors, the name and

address of each person having at least a 5% 10% equity interest in the corporation. For initial and change of ownership applications and corporate name changes, a A current certificate of status or authorization pursuant to Chapter 607.0128, F.S., is required.

(3)(6) If the applicant is a partnership, the name and address of each partner, its legal name, and the business name and address must be identified. For initial and change of ownership applications and partnership name changes, a current certificate of status or authorization for limited partnerships, pursuant to Chapter 620, F.S., is required. For initial and change of ownership applications and for name changes for general partnerships, a current certificate of status or authorization or an affidavit of fictitious name must be submitted. For initial and change of ownership applications and name changes, an affidavit of fictitious name is required when the home health agency chooses to operate under a name other than the name of the partnership or corporation, pursuant to s. 865.09, F.S.

(7) renumbered (4) No change.

(5)(8) The applicant shall submit a signed affidavit from the administrator affirming that the administrator, the financial officer, and all direct and contract personnel who enter the home in the capacity of their employment care staff hired have been screened for good moral character and. This affidavit also confirms that all remaining personnel, who enter the home in the capacity of their employment, have worked continuously for the home health agency since before October 1, 1994 1989.

(6) New employees may work on probationary status, once they have submitted the documents described in Rule 59A-8.004(7) or (8), pending a determination of compliance with minimum standards set forth in Chapter 435, F.S.

(7) Screening for good moral character for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in s. 400.471(4), F.S.. The fingerprint card and the Florida Abuse Hotline Information System Background Check form, AHCA 3110-0003, for level 2 screening for the administrator and the financial officer can be obtained from, and should be submitted to, the Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Building 1, Room 200, Tallahassee, Florida 32308.

(8) Level 1 Screening for good moral character for all personnel, including contractors, who enter the home shall consist of :

(a) Submission of the Florida Abuse Hotline Information System Registry Background Check Form, AHCA form 3110-0003, July 1998 Nov. 1993, incorporated by reference, to the local DCF DHRS screening coordinator. The form may be obtained through the Agency for Health Care Administration - Health Facility Compliance Regulation, Home Long-Term Care Unit, 2727 Mahan Drive, Building 1, Room 200 220, Tallahassee, Florida 32308. The cost of processing the

screening request must be paid by the home health agency or the employee being screened. The check must accompany the screening request and made payable to the DCF DHRS.

(b) Submission of the Request for Level 1 Criminal History Records Check Form, AHCA form 3110-0002, June 1998 Aug. 1993, incorporated by reference, to the FDLE, Crime Information Bureau, Post Office Box 1489, Tallahassee, Florida, 32302. The form may be obtained through the Agency for Health Care Administration – Health Facility Compliance Regulation, Home Long-Term Care Unit, 2727 Mahan Drive, Building 1, Room 200 220, Tallahassee, Florida, 32308. The cost of processing the screening request must be paid by the home health agency or the employee being screened. The check must accompany the screening request and be made payable to the FDLE or to the home health agency's agent, if one is used for FDLE screening.

Specific Authority 400.497 FS. Law Implemented 400.471, 400.512 FS. History–New 4-19-76, Formerly 10D-68.04, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, 10-6-91, Formerly 10D-68.004, Amended 10-27-94, 2-1-97, \_\_\_\_\_.

59A-8.007 Geographic Service Area.

(1) All home health agencies must apply for a geographic service area on their initial license application. Home health agencies may apply for a geographic service area which encompasses one or more of the counties within the specific AHCA area boundaries, pursuant to s. 408.032(5), F.S., and s. 400.497(8), F.S., in which the main office is located provided that the license application includes a plan for:

- (a) through (b) No change.
- (2) No change.
- (a) through (b) No change.

(3) The counties listed on the home health agency license should reflect counties in which the home health agency expects to provide services. If an agency refuses to serve residents of a specific county and that county is listed on the agency's license, AHCA shall remove that county from the agency's license. Refusal to provide services to a resident solely based on their residence in a specific county must be verified by AHCA prior to removing the county from the license.

Specific Authority 400.497 FS. Law Implemented 400.497 FS. History–New 10-27-94, Amended.

59A-8.008 Scope of Services.

(1) In cases of patients requiring only nursing, or in cases requiring nursing and physical, respiratory, occupational or speech therapy services, or nursing and dietetic and nutrition services, the agency shall provide case management by a licensed registered nurse directly employed by the agency. receiving only physical, speech, or occupational therapy services, or in cases of patients receiving only one or more of these services and home health aide services, case management shall be provided by the therapy personnel.

(2) In all other cases, of patients receiving only physical, speech, respiratory or occupational therapy services, or in cases of patients receiving only one or more of these therapy services and home health aide services, case management shall be provided by the licensed therapist, who is a direct employee of the agency or an independent contractor. requiring nursing, physical therapy, occupational, or speech therapy services, the agency shall provide case management by a licensed registered nurse directly employed by the agency.

(3) In cases of patients receiving only dietetic and nutrition services, case management shall be provided by the licensed dietitian/nutritionist who is a direct employee of the agency or an independent contractor.

(3) renumbered (4) No change.

(5)(4) Services provided by contract shall be through a written agreement between the home health agency requesting staff, herein referred to as the agency, and the company supplying staff, or the individual, herein referred to as the contractor. The contract which must include the following:

(a) No change.

(b) designation that the agency is responsible for monitoring of services provided, in accordance with s. 400.487(5), F.S., supervision or contractor performance review to be provided by the contracting agency over all contracted staff

(c) designation of full responsibility of the contracting agency over all contracted services,

(d) charges for contracted services and designation of full responsibility for patient billing by the agency,

(e) responsibility of the contracting agency to retain and maintain all clinical records of patients served by the contracted staff,

(f) through (i) No change.

(6) A home health agency which directly contracts with a resident of an assisted living facility or adult family care home to provide home health services shall coordinate with the facility or home regarding the resident's condition and the services being provided in accordance with the policy of the facility or home and if agreed to by the resident or the resident's representative. The home health agency shall retain responsibility for the care and services it provides and it shall avoid duplication of services by not providing care the assisted living facility is obligated, by resident contract, to provide to the patient.

(7) If a home health agency occupies space within a licensed assisted living facility, and this space is not licensed as a home health agency, the home health agency must notify AHCA, in writing, whether the space is a satellite office or a drop-off site, as defined in Rule 59A-8.002, F.A.C.

Specific Authority 400.487, 400.497, 400.509 FS. Law Implemented 400.497 FS. History–New 10-27-94, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, \_\_\_\_\_.

59A-8.0086 Denial, Suspension, Revocation of License and Imposition of Fines.

(1) The AHCA shall deny, suspend or revoke an ~~initial or renewal~~ application for license, or impose a fine,

(a) if the applicant fails to submit all the information required for an application within time frames specified in Chapter 120-60, F.S.

~~(b) if the applicant provides false information for an application;~~

~~(b)(e)~~ if the applicant fails to screen all employees as required by this rule or employs persons who are disqualified from employment based on abuse registry screening clearance or criminal record check, or

~~(c)(d)~~ No change.

~~(d)(e)~~ if the applicant fails to comply with the other provisions in s. 400.474, F.S., of the statute, Chapter 400, Part IV, F.S., or this rule.

(2) The AHCA shall ~~suspend or revoke a license or impose a fine,~~

~~(a) if the home health agency commits an intentional or reckless act or pattern of negligent acts that threaten the health or safety of a patient, or~~

(b) renumbered (e) No change.

~~(c) if the home health agency fails to comply with the other provisions of this rule or Home Health Services Act (Chapter 400, Part IV, F.S.);~~

~~(2)(3)~~ The action taken by AHCA regarding subsection (1) and ~~(2)~~ above shall be based on the following:

(a) through (c) No change.

~~(3)(4)~~ Failure to file an application within the time frames specified in this rule shall result in an administrative fine, pursuant to s. 400.474(1), F.S., in the amount of ~~\$50~~ \$100 per day, each day constituting a separate violation. In no event shall such fines aggregate more than ~~\$2,500~~ \$5,000.

~~(4)(5)~~ If the AHCA finds that a violation of these rules creates an emergency threatening the health and safety of its patients, the AHCA shall suspend the license by emergency order under Chapter 120-59~~(3)~~, F.S., and may institute injunctive proceedings.

Specific Authority 400.497 FS. Law Implemented 400.474, 400.481, 120.59~~(3)~~ FS. History—New 10-27-94, Amended.

59A-8.0095 Personnel.

(1) No change.

(a) No change.

1. Meet the criteria as defined in s. 400.462(1), F.S. Be a licensed physician, registered nurse, or an individual with training and experience in health service administration and at least one year of supervisory experience in home health care or related health programs.

2 through 3 No change.

4. ~~Be responsible for the daily operation of the agency.~~

~~4.5.~~ No change.

~~5.6.~~ Designate in writing a direct employee a qualified representative or an individual covered under a management company contract to manage the home health agency or an employee leasing contract, pursuant to s. 468.520, F.S., that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the on-site alternate administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet qualifications as stated in 59A-8.0095(1)(a)1., of this rule.

7. through 8. renumbered 6. through 7. No change.

(b) If an individual serves as the administrator of more than one licensed agency, pursuant to s. 400.462 (1), F.S., ~~operated by the same corporate entity,~~ a designated alternate administrator individual must be available during designated business hours, at each additional ~~on-site in the agency~~ who has the responsibility and authority for the daily operation of the agency. Available during designated business hours means being readily available on the premises or by telecommunications.

~~(c) If an agency changes administrator or alternate administrator the agency shall notify AHCA Home Care Unit office in Tallahassee prior to or on the date of the change.~~

(2) ~~Director of Nursing~~ Nursing Director

(a) The director of nursing of the agency ~~The nursing director shall be a graduate of an approved school of nursing and be registered in the state with at least 1 year of nursing supervisory or administrative experience and shall:~~

1. meet the criteria as defined in 400.462(7), F.S., and;

~~2. supervise or manage, directly or through qualified subordinates,~~ all personnel who provide direct patient care;

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

~~5.4. designate in writing~~ be a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract, pursuant to s. 468.520, F.S., who meets the qualifications as defined in s. 400.462(7), F.S., to serve as on-site alternate director of nursing during absences of the director of nursing. This person will be available during designated business hours, when the director of nursing is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During such absences, the on-site alternate director of nursing will have the responsibility and authority for the daily clinical operation of the agency.

(b) If the administrator is not a physician or registered nurse, the ~~nursing~~ director of nursing shall:

1. Establish service policies and procedures in compliance with state health statutes and administrative rules, pursuant to s. 381.0011(4), F.S., which generally conform to recommended Centers for Disease Control (CDC) and Occupational Safety and Health Agency (OSHA) guidelines for safety, universal precautions and infection control procedures;

2. through 4. No change.

(c) The ~~nursing~~ director of nursing shall establish and conduct an ongoing quality assurance program which assures:

1. Case assignment and management is appropriate, adequate, and consistent with the ~~patient care~~ plan of care, medical regimen and patient needs;

2. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with ~~patient care~~ plans of care;

3. through 5. No change.

(d) In an agency with less than a total of 10 full time equivalent employees and contracted personnel, the ~~nursing~~ director of nursing may also be the administrator.

(e) If an individual serves as the director of nursing of more than one licensed agency, pursuant to s. 400.462(7), F.S., a designated alternate director of nursing operated by the same corporate entity, a registered nurse must be available during designated business hours, at each additional ~~on-site in the~~ agency, who has the responsibility and authority for the clinical operation. Available during designated business hours means being readily available on the premises or by telecommunications.

(3) No change.

(a) No change.

1. be the case manager in all cases involving nursing or both nursing and therapy care. ~~In cases receiving only physical, speech, occupational, or respiratory therapy services or in cases other than those receiving only one or more of the above therapies and home health aide services, that licensed therapy professional shall serve as case manager;~~

2. be responsible for the clinical record for each patient receiving nursing care; and

3. assure that progress reports are made to the physician for patients receiving nursing services under medical care when the patient's condition changes or there are deviations from the plan of care treatment.

(b) No change.

(4) No change.

(a) A licensed practical nurse shall provide nursing care assigned by and under the direction of a supervising registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the nurse's training and experience. Supervisory visits will be documented

in patient files. Provision shall be made in agency policies and procedures for annual evaluation of the LPN's performance of duties by the registered nurse.

(b) No change.

1. through 3. No change.

4. other duties assigned by the registered nurse, pursuant to Chapter 464, F.S.

(5) Home Health Aide and Certified Nursing Assistant

(a) A home health aide or a certified nursing assistant (CNA) shall provide personal care services assigned by and under the supervision of a registered nurse. When only physical, speech, or occupational therapy is furnished, in addition to home health aide or CNA services, supervision can be supplied by a licensed therapist directly employed by the home health agency or by an independently contracted employee.

(b) For every certified nursing assistant the home health agency shall have on file the person's State of Florida certification.

~~(c)(a)~~ For every home health aide, a home health agency shall have on file documentation of successful completion of at least forty hours of training, pursuant to s. 400.497(1), F.S., in the following subject areas:

1. No change.

2. observation, reporting and documentation of patient or client status and the care or services provided;

3. through 7. No change.

8. physical, emotional, and developmental characteristics of the populations served by the agency, including the need for respect for the patient or client, his or her privacy, and his or her property;

9. through 15. No change.

16. Assistance with self-administered medication. Home health aides and CNAs assisting with self-administered medication, pursuant to s. 400.488, F.S., must receive a minimum of 2 hours of training (which can be part of the 40 hour home health training) prior to assuming this responsibility. Training must cover state law and rule requirements with respect to the assistance with self-administration of medications in the home, procedures for assisting the resident with self-administration of medication, common medications, recognition of side effects and adverse reactions and procedures to follow when residents appear to be experiencing side effects and adverse reactions. Training must include verification that each CNA and home health aide can read the prescription label and any instructions. Individuals who cannot read must not be permitted to assist with prescription medications. Other courses taken in fulfillment of this requirement must be documented and maintained in the home health aide's personnel file.

~~17.46~~ No change.



(d) If a home health aide successfully completes training through a vocational school approved by Florida's Department of Education, the individual must present to a home health agency a diploma issued by the vocational school. If the home health aide completes his or her training through a home health agency, and wishes to be employed at another agency, the individual must present to the second home health agency documentation of successful completion of training as listed in Rule 59A-8.0095(5)(c)1. through 17.

(e) Home health agencies which teach the home health aide course to their employees pursuant to s. 400.497(1), F.S., but who are not classified as a nonpublic post-secondary career school by Florida's Department of Education, must issue the following documentation to individuals at the time of successful completion of the training course. The documentation must include the following: the title "Home Health Aide Documentation;" the name, address, phone number, and license number of the home health agency; the student's name, address, phone number, and social security number; total number of clock hours completed in the training; the number of clock hours for each unit or topic of training; signature of the person who directed the training; and the date the training was completed. It must be stated on the documentation that s. 400.497(1), F.S., permits the home health agency conducting this training to provide such documentation.

(f) Home health training documentation issued by a home health agency on or after October 1, 1999 must contain language as listed in paragraph (e) above.

(g) Home health agencies which teach the home health aide course, but who are not an approved nonpublic post-secondary career school, cannot charge a fee for the training and cannot issue a document of completion with the words "diploma," "certificate," "certification of completion," or "transcript." The home health agency is limited to advertising in the "Help Wanted" section of the papers. The home health agency cannot advertise that they are offering "training for home health aides." The agency can indicate that they are hiring home health aides and will train.

(h)(b) A home health agency shall ensure that a certified nursing assistant has competency in in order to qualify as a home health aide, must complete a supplemental course of 20 hours which includes the home health core curriculum listed in Rule 59A-8.0095(5)(a)(c) 2. and 13, through 17, 16., F.A.C.

(i)(e) Home health aide training must be performed by or under the general supervision of a registered nurse who possesses a minimum of two years nursing experience one of which must have been in the provision of home health care.

(j)(d) Home health aides and CNAs must receive at least 12 hours of in-service training each calendar year, pursuant to s. 400.497(1), F.S.. HIV educational requirements are listed in Rule 59A-8.0185(2)(b). Other educational training to fulfill the 12 hours requirement can include coverage of topics listed in

Rule 59A-8.0095(5)(c)1. through 17., or such topics as domestic violence, CPR, and OSHA requirements. The training requirement may be fulfilled on a prorated basis during the home health aide's and the CNA's first year of employment or following a planned leave of absence, that is less than one year.

(k)(e) Responsibilities of the home health aide and CNA shall include:

1. personal care activities contained in a written assignment by a licensed health professional employee or contractor of the home health agency and which include assisting the patient or client with personal hygiene, ambulation, eating, dressing, shaving, and physical transfer;

2. maintenance of a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas, washing the patient's or client's dishes or laundry, and such tasks to maintain cleanliness and safety for the patient or client;

3.2. other activities as taught by a licensed health professional employee or contractor of the home health agency for a specific patient and are restricted to the following:

a. through g. No change.

h. measuring temperature, pulse, respiration or blood pressure;

3. renumbered 4. No change.

5.4. observing appearance and gross behavioral changes in the patient or client and reporting to the registered nurse; and

6.5. supervision of self-administered medication in the home is limited to the following:

a. obtaining the medication container from the storage area for the patient, if applicable;

b. ensuring that the medication is prescribed for the patient, preparing necessary items such as juice, water, cups, or spoons to assist the patient in the self-administration of medication;

c. through d. No change.

(l) In cases where a home health aides or a CNA will provide assistance with self-administered medications in accordance with s. 400.488, F.S., and paragraph (m) below, an assessment of the medications for which assistance is to be provided shall be conducted by a licensed health care professional to ensure the unlicensed caregiver provides appropriate assistance.

(m) The home health aide and CNA may also provide the following assistance with self-administered medication, as needed by the patient, in accordance with s. 400.488, F.S.:

1. prepare necessary items such as juice, water, cups, or spoons to assist the patient in the self-administration of medication;

2. open and close the medication container or tear the foil of prepackaged medications;

3. assist the resident in the self-administration process. Examples of such assistance include the steadying of the arm, hand, or other parts of the patient's body so as to allow the self-administration of medication;

4. assist the patient by placing unused doses of solid medication back into the medication container.

(n)(f) The home health aide or CNA shall not change sterile dressings, irrigate body cavities such as giving an enema, irrigate a colostomy or wound, perform a gastric irrigation or enteral feeding, catheterize a patient, administer medication, apply heat by any method, care for a tracheotomy tube, nor provide any personal health service which has not been included in the ~~patient care~~ plan of care.

(o) CNAs who earn their certificate in another state must contact the Florida Certified Nursing Assistant office at the Department of Health to inquire about taking the written examination prior to working as a CNA in Florida, pursuant to s. 400.211, F.S.. Home health aides who are trained in another state must provide a copy of the course work and documentation of course completion to the employing home health agency. If the course work is equivalent to Florida's requirements, the home health agency may employ the home health aide. If the home health aide's course work does not meet Florida's requirements, the home health aide must be trained to the extent necessary to bring the training into compliance with Rule 59A-8.0095(5), prior to providing services in the patient's or client's home.

(6) No change.

(a) The physical therapist shall be currently licensed ~~and registered~~ in the state with at least 1 year of experience in physical therapy. The physical therapist assistant shall be currently licensed in the state with at least 1 year of experience under the supervision of licensed physical therapist. Services provided by the physical therapist assistant ~~therapist~~ will be provided under the supervision of a licensed physical therapist and shall not exceed any of the duties outlined in this section.

(b) No change.

1. No change.

2. to observe and record activities and findings in the clinical record and report to the physician the patient's reaction to treatment and any changes in patient's condition, or when there are deviations from the plan of care;

3. to instruct the patient and caregiver ~~family~~ in care and use of physical therapy devices;

4. to instruct other health team personnel including, when appropriate, home health aides and caregivers ~~family members~~ in certain phases of physical therapy with which they may work with the patient; and

5. to instruct the caregiver ~~family~~ on the patient's total physical therapy program.

(7) No change.

(a) through (b) No change.

(c) record activities and findings in the clinical record and to report to the physician the patient's reaction to treatment and any changes in the patient's condition, or when there are deviations from the plan of care; and

(d) instruct other health team personnel and caregivers ~~family members~~ in methods of assisting the patient to improve and correct speech disabilities.

(8) No change.

(a) The occupational therapist shall be currently licensed in the state with one year of experience in occupational therapy and the occupational therapist assistant shall be currently licensed in the state with one year of experience under the supervision of a licensed occupational therapist. Duties of the occupational therapist assistant ~~therapist~~ shall be directed by the licensed occupational therapist and shall not exceed those outlined in this section.

(b) No change.

1. No change.

2. to guide the patient in his or her use of therapeutic, creative and self-care activities for the purpose of improving function;

3. to observe and record activities and findings in the clinical record and to report to the physician the patient's reaction to treatment and any changes in the patient's condition, or when there are deviations from the plan of care; and

4. to instruct the patient, caregivers ~~family members~~ and other health team personnel, when appropriate, in therapeutic procedures of occupational therapy.

(9) No change.

(a) The respiratory therapist shall be currently licensed by the state ~~and registered or certified~~ pursuant to Chapter 468, F.S., and have at least one year of experience in respiratory therapy.

(b) No change.

1. No change.

2. to observe and record activities and findings in the clinical record and report to the physician the patient's reaction to treatment and any changes in the patient's condition, or when there are deviations from the plan of care;

3. to instruct the patient and caregiver ~~family~~ in care and use of respiratory therapy devices;

4. to instruct other health team personnel including, when appropriate, home health aides and caregivers ~~family members~~ in certain phases of respiratory therapy in which they may assist the patient; and

5. to instruct the patient and caregiver ~~family~~ on the patient's total respiratory therapy program.

(10) No change.

(a) No change.

1. through 2. No change.

3. help the patient and caregiver family to understand, accept and follow medical recommendations and provide services planned to restore the patient to optimum social and health adjustment;

4. assist patients and caregivers families with personal and environmental difficulties which predispose toward illness or interfere with obtaining maximum benefits from medical care; and

5. identify resources, such as caregivers family and community agencies, to assist the patient to resume life in the community, including discharge planning, or to learn to live within his or her disability.

(b) The social worker shall not provide clinical counseling to patients or caregivers family members unless licensed pursuant to Chapter 491, F.S.

(11) Dietitian/Nutritionist

(a) The dietitian/nutritionist shall be currently licensed in this state with at least 1 year of experience in dietetics and nutrition practice.

(b) The responsibilities of the dietitian/nutritionist are:

1. to evaluate the nutrition needs of individuals in the home, using appropriate data to determine nutrient needs or status, and to make nutrition recommendations to the patient to maximize the patient's health and well-being;

2. to provide dietetics and nutrition counseling in the home, as prescribed by a physician;

3. to observe and record activities and findings in the clinical record and report to the physician the patient's reaction to treatment and any changes in a patient's condition;

4. to instruct the patient, caregiver(s), and other health team personnel in various phases of dietetic and nutrition treatment.

(12)(11) Homemakers and Companions and Sitters Utilized Employed by Home Health Agencies

~~(a) Homemaker, companions and sitters shall not perform any hands-on personal care services.~~

~~(a)(b) The homemaker or companion utilized by a home health agency shall: 1. receive, or have documentation on file of having received, at least 16 hours of training in topics related to human development and interpersonal relationships, nutrition, marketing, food storage, use of equipment and supplies, planning and organizing of household tasks and principles of cleanliness and safety;~~

(b) The homemaker shall:

1.2. maintain the home in an optimum state of cleanliness and safety depending upon the patient's and the caregiver's family resources;

2.3. No change.

3. perform casual, cosmetic assistance, such as brushing the client's hair, assisting with make-up, filing and polishing nails but not clipping nails;

4. stabilize the client when walking, as needed, by holding the client's arm or hand;

~~5.4. report to the appropriate supervisor any incidents or problems related to his or her work or to the caregiver family;~~

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

(c) The companion ~~or sitter~~ shall:

1. through 3. No change.

4. perform casual, cosmetic assistance, such as brushing the client's hair and assisting with make-up, filing and polishing nails but not clipping nails;

5. stabilize the client when walking, as needed, by holding the client's arm or hand;

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

Specific Authority 400.497 FS. Law Implemented 400.462, 400.471, 400.487, 400.488, 400.497 FS. History--New 2-1-97, Amended \_\_\_\_\_.

59A-8.0185 Personnel Policies.

(1) through (2) No change.

(a) requirement that, prior to contact with patients, and every two years thereafter, the employee must submit the results of a Mantoux method tuberculin skin test (TST) performed within the last six months, pursuant to s. 381.0011(4), F.S. The employee must also submit a statement from a ~~an appropriately licensed~~ health care professional licensed under Chapter 458, F.S., or Chapter 459, F.S., a physician's assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, based on an exam within the last six months, that the employee is in reasonable good health and does not appear to be at risk of transmitting communicable diseases ~~shows no apparent signs or symptoms of communicable disease and the results of a tuberculosis test. It is the responsibility of the agency to ensure that staff continue to appear in good health and that patients are not placed at risk by employees with positive tuberculin skin test TST (10 or more MM's).~~ Positive test reactors shall submit a statement from a ~~an appropriately licensed~~ health care professional licensed under Chapter 458, F.S., or Chapter 459, F.S., that the employee does not constitute a risk of communicating tuberculosis. ~~Every two years each employee shall submit a statement from an appropriately licensed health care professional that the employee is not at risk of communicating diseases including tuberculosis to any person under the care of the agency. Upon the specific written request of an individual staff member, copies of the most recent tuberculosis test result and above mentioned health statement may be released by one employer and provided to another employer within 2 years of the initial date of the test results and statement. Medical information is confidential and must not be disclosed without~~

the specific consent of the person to whom it pertains. The written request to release the physical examination must be kept on file.

(b) Requirement that records are maintained of training for ~~all~~ non-licensed direct care personnel which demonstrates that they have received a minimum of 2 hours of initial training and 1 hour biennially of in-service training in HIV and AIDS, pursuant to s. 381.0035, F.S. The training should include universal precautions and infection control procedures to ensure proper practices are followed.

(c) through (e) No change.

(3) The agency shall maintain a file for all employees which shall include name and address of employee, ~~social security number, date of birth,~~ name and address of next of kin or guardian, evidence of qualifications, licensure or registration if applicable, a signed and notarized Affidavit of Good Moral Character, results of background screening, contracts if applicable, and dates of employment and separation from the agency. Evidence of continuing education and in-service training for home health aides shall be on file and this information shall be kept in the personnel files or in a separate filing system maintained for this purpose and shall be available for inspection within 3 hours of request.

(4) No change.

Specific Authority 400.497 FS. Law Implemented 400.471, 400.497 FS. History—New 10-27-94, Amended \_\_\_\_\_.

#### 59A-8.020 Acceptance of Patients or Clients.

(1) When a home health agency accepts a patient or client for service, there shall be a reasonable expectation that the services can be provided appropriately, adequately and safely to the patient or client in his or her home or place of residence. The responsibility of the agency is to assure that the patient or client receives services as defined in a specific plan of care or a service provision plan, including all assigned visits.

(2) When the agency terminates services for a patient or client needing continuing home health care, as determined by the patient's physician, for patients receiving skilled care; or as determined by the patient or caregiver, for patients receiving care under a service provision plan, a plan must be developed and a referral made by home health agency staff to an appropriate home health agency or service provider prior to termination. The patient or client must be notified in writing of the date of termination, the reason for termination, pursuant to s. 400.491, F.S., and the plan for continued services by the agency or service provider to which the patient or client has been referred, pursuant to s. 400.497(7), F.S. and referral. This requirement does not apply to patients paying through personal funds or private insurance who default on their contract through non-payment. The home health agency should provide social work assistance to patients to help them determine their eligibility for assistance from government funded programs if their private funds have been depleted or will be depleted.

Specific Authority 400.497 FS. Law Implemented 400.487 FS. History—New 4-19-76. Formerly 10D-68.20, Amended 4-30-86, 8-10-88, Formerly 10D-68.020, Amended 10-27-94, \_\_\_\_\_.

#### 59A-8.0215 Plan of Care Patient Care Plan.

(1) A ~~patient~~ plan of care shall be established in consultation with the physician pursuant to s. ~~400.487~~ ~~400.481~~, F.S., and the home health agency staff who are involved in providing the care and services required to carry out the physician's treatment orders plan. The plan must be included in the clinical record and available for review by all staff involved in providing care to the patient. The plan of care shall contain a address the following:

(a) ~~source of referral;~~

(b) ~~plan of treatment initiated by the physician's verbal order prior to start of care and signed by the physician within 21 days of start of care;~~

(c) ~~statement of patient or family problems.~~

(d) ~~statement of patient's and family's ability to provide interim services;~~

(e) ~~assessment of the patient's needs; and~~

(f) list of individualized specific goals for each skilled discipline that provides patient care, with implementation plans addressing the level of staff who will provide care, the frequency of home visits to provide direct care and case management, and the frequency of supervisory visits for staff providing direct care.

(2) The patient, caregiver or guardian must be informed by the home health agency personnel that:

(a) he or she has the right to be informed of the his plan of care;

(b) he or she has the right to participate in the development of the his plan of care; and

(c) he or she may have a copy of the his plan if requested he requests it.

Specific Authority 400.497 FS. Law Implemented 400.487 FS. History—New 10-27-94, Amended \_\_\_\_\_.

#### 59A-8.0218 Service Provision Plan.

(1) When a client patient is accepted for homemaker or companion services or for home health aide services which do not require a physician's treatment orders, a service provision plan shall be established.

(2) No change.

(a) No change.

(b) assessment of client's patient's needs, made in the home by the appropriate supervisor, and If services are to be provided for less than 72 hours, the assessment may be completed by telephone between the appropriate supervisor and the client patient or caregiver family member;

(c) services to be provided and which discipline will provide them;

(c) through (d) renumbered (d) through (e) No change.

(3) The client, caregiver or guardian must be informed by the home health agency personnel that:

(a) he or she has the right to be informed of the service provision plan;

(b) he or she has the right to participate in the development of the service provision plan; and

(c) he or she may have a copy of the plan if requested.

(4)(3) The ~~service provision plan~~ appropriateness of ~~homemaker, companion or sitter services~~ shall be evaluated by the appropriate supervisor, with the client, caregiver or guardian, every 6 months.

(5)(4) A file must be maintained for each ~~client patient~~ receiving services as specified in Rule 59A-8.0218(1).

(6) Each home health agency shall maintain the service provision plan for 1 year following termination of service. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys.

Specific Authority 400.497 FS. Law Implemented 400.487 FS. History—New 10-27-94, Amended \_\_\_\_\_.

59A-8.022 Clinical Records.

(1) A clinical record must be maintained for each patient receiving nursing or therapy services, pursuant to s. 400.497(6), F.S., that includes all the services provided directly by the employees of the home health agency and those provided by contracted individuals or agencies.

(2) No information may be disclosed from the patient's file without the written consent of the patient or the patient's guardian. All information received by any employee, contractor, or AHCA employee regarding a patient of the home health agency is confidential and exempt from Chapter s. 119.04(1), F.S.

(3) If the patient transfers to another home health agency, a copy of his or her record must be transferred at his or her request.

(4) All clinical patient records must be retained by the home health agency for a period of five years following the termination of service. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys.

(5) If a home health agency has a satellite branch office in a county, either the main office will maintain the records for the patients served by the satellite branch office or the records will be maintained in the satellite branch office. In the event the main office does not maintain the patient records, these records shall be made available to AHCA representatives at the main office within 3 hours of the request. At a minimum, a listing of patients will be maintained in the office which does not maintain the records.

(6) No change.

(a) source of referral;

(b) physician's verbal orders initiated by the physician prior to start of care and signed by the physician within 24 days of start of care, pursuant to s. 400.497(7), F.S.;

(c) assessment of the patient's needs.

(d) statement of patient or caregiver problems.

(e) statement of patient's and caregiver's ability to provide interim services;

(f)(a) Identification sheet for the patient with name, address, telephone number, date of birth, sex, agency case number, caregiver, next of kin or guardian.

(g)(b) Plan of care or service provision plan and all subsequent updates and changes.

(h)(e) No change.

1. through 3. No change.

4. instructions to the patient and caregiver or guardian family, including administration of and adverse reactions to medications.

(d) through (g) renumbered (i) through (l) No change.

Specific Authority 400.497 FS. Law Implemented 400.491, 400.494, 400.497 FS. History—New 4-19-76, Amended 2-2-77, Formerly 10D-68.22, Amended 4-30-86, 8-10-88, Formerly 10D-68.022, Amended 10-27-94, \_\_\_\_\_.

59A-8.024 Administration of Drugs and Biologicals.

(1) through (2) No changes.

(a) No changes.

(b) all orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the physician if the patient or caregiver family are to be taught to give the medication;

(c) all verbal orders for medication or change in medication orders shall be taken by a registered nurse, a licensed practical nurse, or by a licensed therapist, limited to medications within the therapist's scope of practice, and reduced to writing and signed by the physician within 24 24 days of the receipt of the verbal order;

(d) experimental drugs, sera, allergenic desensitizing agents, penicillin or any other potentially hazardous drug shall not be given without the fully informed consent of the patient or caregiver family, and the nurse administering the drugs shall have and implement an emergency plan in case of a drug reaction.

Specific Authority 400.497 FS. Law Implemented 400.497 FS. History—New 4-19-76, Formerly 10D-68.24, Amended 4-30-86, 8-10-88, Formerly 10D-68.024, Amended 10-27-94, \_\_\_\_\_.

59A-8.0245 Advance Directives.

(1) Each home health agency shall have written policies and procedures, which delineate the agency's position with respect to the state law and rules relative to advance directives. The policies 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 agency's

policies and procedures and the patient's advance directive, provision should be made in accordance with Chapter section 765.308, Florida Statutes.

(2) No change.

(a) providing each adult patient, in advance of receiving services, with a copy of "Health Care Advance Directives – The Patients' Right to Decide", as prepared by the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308, revised December 1997 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;

(b) providing each adult patient, in advance of receiving services, with written information concerning the home health agency's care facility's policies respecting advance directives; and

(c) No change.

(d) A home health agency shall be subject to revocation of their license and a fine of not more than \$500 per incident, or both, pursuant to s. 400.474(1), F.S., if the home health agency, as a condition of treatment or admission, requires an individual to execute or waive an advance directive, pursuant to s. 765.110, F.S.

Specific Authority 765.110 FS. Law Implemented 400.497, 765.110 FS. History–New 1-11-93, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anne Menard

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 1998 and July 9, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Surveyors and Mappers**

RULE TITLES: RULE NOS.:  
Seals Acceptable to the Board 61G17-7.001  
Procedures for Signing and Sealing  
Electronically Transmitted Plans,  
Specifications, Reports, or Other  
Documents 61G17-7.0025

PURPOSE AND EFFECT: The Board proposes to update the rule text for Rule 61G17-7.001 to include a new Subsection (5). The Board is promulgating a new rule entitled "Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents."

SUMMARY: The Board is amending Rule 61G17-7.001 to include language which will advise surveyors and mappers who wish to sign and seal electronically transmitted plats, reports, or other documents that they shall follow the

procedures set forth in Rule 61G17-7.0025, F.A.C. Rule 61G17-7.0025 is a new rule which will address the procedures for signing and sealing electronically transmitted plans, specifications, reports and other documents if the surveyor or mapper wishes to submit their materials electronically.

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

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

SPECIFIC AUTHORITY: 472.008, 472.025 FS.

LAW IMPLEMENTED: 472.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dee O'Connor, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0756

THE FULL TEXT OF THE PROPOSED RULES IS:

61G17-7.001 Seals Acceptable to the Board.

(1) through (4) No change.

(5) Surveyors and mappers who wish to sign and seal electronically transmitted plats, reports, or other documents shall follow the procedures set forth in Rule 61G17-7.0025, F.A.C.

Specific Authority 472.008, 472.025 FS. Law Implemented 472.025 FS. History–New 1-3-80, Amended 6-9-80, Formerly 21HH-7.01, 21HH-7.001, Amended 5-30-95, 10-25-95, \_\_\_\_\_.

61G17-7.0025 Procedures for Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents.

(1) Information stored in electronic files representing plans, specifications, plats, reports, or other documents which must be sealed under the provisions of Chapter 472, F.S., shall be signed, dated and sealed by the professional surveyor and mapper in responsible charge.

(2) Electronic files may be signed and sealed by creating a "signature" file that contains the surveyor and mapper's name and PSM number, a brief overall description of the surveying and mapping documents, and a list of the electronic files to be sealed. Each file in the list shall be identified by its file name utilizing relative Uniform Resource Locators (URL) syntax described in the Internet Architecture Board's Request for Comments (RFC) 1738, December 1994, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: ftp://ftp.isi.edu/in-notes/

rfc1738.txt. Each file shall have an authentication code defined as an SHA-1 message digest described in Federal Information Processing Standard Publication 180-1 "Secure Hash Standard," 1995 April 17, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://www.itl.nist.gov/div897/pubs/fip180-1.htm>. A report shall be created that contains the surveyor and mapper's name and PSM number, a brief overall description of the surveyor and mapper documents in question and the authentication code of the signature file. This report shall be printed and manually signed, dated, and sealed by the professional surveyor and mapper in responsible charge. The signature file is defined as sealed if its authentication code matches the authentication code on the printed, manually signed, dated and sealed report. Each electronic file listed in a sealed signature file is defined as sealed if the listed authentication code matches the file's computed authentication code.

Specific Authority 472.008, 472.025 FS. Law Implemented 472.025 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Surveyors and Mappers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 6, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Manner of Application  
RULE NO.: 64B3-6.001

PURPOSE AND EFFECT: The proposed rule amendments are intended to address the frequency of administration of examinations and to incorporate a revised form into the rule.

SUMMARY: The proposed rule amendments specify that the examination is given twice a year. In addition, the rule incorporates a revised for application.

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

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

SPECIFIC AUTHORITY: 455.564, 483.805(4) FS.

LAW IMPLEMENTED: 455.564, 483.815, 483.823 FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-6.001 Manner of Application.

(1) All persons applying for licensure shall submit an application signed under oath to the Board on form DH 1051 (5/98) ~~DOH 6000-0008~~, Application for Licensure of Clinical Laboratory Director, Supervisor, Technologist, or Technician, effective \_\_\_\_\_ ~~8-27-97~~, which is incorporated by reference herein and which can be obtained from the Department. The application must be accompanied by the appropriate application fee required by Rule 64B3-9.001.

(2) No change.

(3) Examinations are given twice a year (spring and fall). Prospective applicants can contact the Board office for the exam dates and application cut-off dates. Applications for licensure for the fall examination, shall be filed no later than July 25th and completed no later than August 15th.

~~(4) For the spring examination, applications for licensure shall be filed no later than:~~

~~(a) January 25th and completed no later than February 15th in odd numbered years.~~

~~(b) January 5th and completed no later than February 1st in even numbered years.~~

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

~~(5)(6) No change.~~

~~(6)(7) No change.~~

Specific Authority 455.564, 483.805(4) FS. Law Implemented 455.564, 483.815, 483.823 FS. History--New 12-29-93, Formerly 61F3-6.001, Amended 5-29-95, 8-1-95, Formerly 59O-6.001, Amended 8-27-97, 9-20-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 1999 and August 27, 1999

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Competency Areas and Weighting  
 RULE NO.: 64B3-7.007

PURPOSE AND EFFECT: The proposed rule amendments are necessary to address the relative weights with regard to specialty subjects for licensure as a technologist

SUMMARY: The proposed rule amendments assign various weights to the specialty subjects for licensure as a technologist.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 455.574, 483.809 FS.

LAW IMPLEMENTED: 455.574, 483.811 FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-7.007 Competency Areas and Weighting.

The general areas of competency to be covered by the examinations for licensure and the approximate relative weight to be assigned in grading each content area tested, expressed as a percentage are as follows:

(1) No change.

(2) For the Specialty subjects for licensure as a Technologist:

(a) through (c) No change.

(d) Hematology:

- |  |                  |
|--|------------------|
| 1. Hematopoiesis                       | 4                |
| 2. Hematological procedures            | <del>40</del> 44 |
| 3. Hematologic disorders               | <del>12</del> 14 |
| 4. Hemostasis                          | 16               |
| 5. Quality control/quality assurance   | <del>8</del> 10  |
| 6. Therapy and monitoring therapy      | 2                |
| 7. Microscopy/body fluids              | 6                |
| 8. Specimen collection/handling/safety | 4                |
| <u>9. Urinalysis</u>                   | <u>8</u>         |

(e) through (g) No change.

(3) No change.

Specific Authority 455.574, 483.809 FS. Law Implemented 455.574, 483.811 FS. History—New 12-5-95, Formerly 59O-7.007, Amended 7-5-98, 6-22-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 1999

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Scope of Practice Relative to Specialty of Licensure  
 RULE NO.: 64B3-10.005

PURPOSE AND EFFECT: The proposed amendment is intended to address the scope of practice with regard to specialty licensure.

SUMMARY: The proposed rule amendment clarifies the scope of practice with regard to the specialty of hematology and addresses the utilization of flow cytometry.

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

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

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

The following rules are not intended to prevent collection and storage of specimens or the performance of manual pretesting procedures by persons who are exempt by statute or statutorily



authorized within their scope of practice. Clinical laboratory personnel qualified as a physician director, a licensed director, supervisor, technologist or technician in the specialty or specialties indicated can perform testing identified as being within the specialty. For the purpose of defining the specialties, Health Care Financing Administration's Common Procedure Coding System (HCFACPCS) shall be used as a supplemental guide for assigning tests to specific specialties. Tests which are not yet classified shall be assigned by the Board upon review.

(1) through (4) No change.

(5) The purpose of the specialty of hematology is to quantitatively and qualitatively evaluate cells in peripheral blood and bone marrow, their production, maturation and release; their morphology, chemistry and function; and diagnostic testing for optimum management of primary and secondary hematological disorders. Testing in this specialty also encompasses all the routine and special procedures, except those specific to cytology, performed to evaluate the numbers, morphology and function of cells in body fluids including urine and the evaluation of hemostasis and thrombosis and the management of anticoagulant therapy. Testing in this specialty may also encompass urine chemistries specific to routine urinalysis.

(6) through (17) No change.

(18) Individuals using flow cytometry in specialties other than histocompatibility must be able to demonstrate training or experience in this procedure, and must hold licensure in the specific discipline they are using flow cytometry for.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History--New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 59O-10.005, Amended 3-19-98, 1-28-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 1999

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Responsibilities of Technicians  
PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the responsibilities of technicians.  
SUMMARY: The proposed rule amendment clarifies the minimum qualifications for technicians performing highly complex clinical laboratory testing.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

RULE NO.: 64B3-13.004

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

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.800, 483.813, 483.823, 483.825 FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-13.004 Responsibilities of Technicians.

(1) The technician shall:

(a) through (k) No change.

(l) Shall not ~~perform release results of~~ clinical laboratory testing classified as highly complex pursuant to 42 CFR 493.10 and 42 CFR 493.17, incorporated by reference unless the technician meets the minimum qualifications contained in 42 CFR 493.1489, incorporated by reference for use in the diagnosis, management or treatment of patients until such time as these results have been verified in writing or by electronic means by a licensed technologist, supervisor or director. A technician may release results of testing classified as moderately complex pursuant to 42 CFR 493.10 and 42 CFR 493.17, incorporated by reference provided such results are performed under direct supervision and verified in writing or by electronic means by a licensed technologist, supervisor or director within 24 hours of release.

(m) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.800, 483.813, 483.823, 483.825 FS. History--New 12-6-94, Amended 3-28-95, 7-12-95, Formerly 59O-13.004, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 1999

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Examination Grading System and Examination Requirements for Dental Examination  
 RULE NO.: 64B5-2.013

PURPOSE AND EFFECT: The proposed rule amendments are intended to address changes in the clinical (or practical) examination.

SUMMARY: The proposed rule amendments set forth changes with regard to the clinical (or practical) examination, which include changes to the content and scoring of the examination.

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

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

SPECIFIC AUTHORITY: 466.004(4), 466.006(4), 455.574(1)(b) FS.

LAW IMPLEMENTED: 466.006(4), 466.009, 455.574(1)(b), (2) FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999  
 PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: William Buckhalt, Executive Director, Board of Dentistry/MQA, 2020 Capital Circle, S. E., Bin # C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.013 Examination Grading System and Examination Requirements for Dental Examination.

- (1) through (2) No change.
- (3) The clinical (or practical) examination for dental licensure shall consist of and be graded as to each part as follows:

- (a) Class II amalgam on a patient 25%
  - 1. Preparation 2/3
  - 2. Restoration 1/3
- (b) Periodontal exercise on a patient 15%

~~20%~~

- 1. Definitive debridement (root planing, curettage, deep scale, stain removal)
- (c) An objective ~~discrimination~~ type examination with respect to dental prosthetics in which candidates will view and evaluate

- photographs of exhibits of complete, fixed, partial, and removable partial prosthetics.
- These ~~Such~~ exhibits shall include but not be limited to one or more of the following:
- impressions, denture set-ups, study models, master casts, wax rims, partial denture frameworks, bite registrations, crowns, bridges, crown and bridge dies and preparations, and radiographs 10%
- articulated models, photographs, and prescriptions for complete dental prosthetics, fixed partial prosthetics, and removable partial prosthetics. 15%
- (d) Class II composite restoration on a specified model ~~Pin amalgam on a mannequin~~ 10%
  - ~~1. Preparation 2/3~~
  - ~~2. Restoration 1/3~~
- (e) Endodontic Procedure on an extracted tooth 10%
- (f) Preparation for a 3-unit fixed partial denture on a specified model. 20%  
~~examination for a cast restoration. 10%~~
- (g) Class IV composite restoration on a specified model 5% ~~10%~~
- (h) Class II amalgam restoration on a specified model 5%
- (4) The grading of the clinical portion of the dental examination shall be based on the following criteria:
  - (a) Class II amalgam on a patient:
    - 1. Preparation:
      - a. outline form – all prepared surfaces smooth and acceptable extensions without weakening tooth surfaces.
      - b. depth – adequate occlusal reduction and axial reduction.
      - c. retention – adequate shape and form designed to resist functional displacement forces.
      - d. through e. No change.
      - f. management of soft tissue is considered adequate in the absence of trauma or mutilation.

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The criteria do not have assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if caries remain; if gross overcutting occurs; if mechanical exposure occurs; if the

preparation is prepared or attempted to be prepared on the wrong tooth or wrong surface; or if the candidate fails to attempt or complete the procedure.

2. Restoration:

a. functional anatomy – appropriate occlusal and interproximal anatomy

b. proximal contour and contact – contact is considered present if there is definite, but not excessive ~~when~~ resistance to the passage of dental floss through the contact area is met with specified floss given at the time of the exam.

c. margins – suitable continuity with the cavosurface margin should be smooth with the absence of flash or overcarving.

d. gingival overhang – overhang is considered to be excess amalgam in either a proximal or gingival direction at the gingival cavosurface margin.

e. proper handling of materials including but not limited to condensation and finishing.

f.e. management of soft tissue is considered adequate in the absence of trauma or mutilation.

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner could result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if there is a ~~total~~ lack of contact; gross overhang; tissues grossly mutilated (may require suturing or surgical intervention); if the preparation for the restoration is prepared or attempted to be prepared on the wrong tooth or wrong surface; or a failure to attempt or complete the procedure.

(b) No change.

1. Definitive debridement (root planing, ~~eurette~~, deep scale, stain removal):

a. diagnosis – clinical and radiographic

b.a. presence of stain on assigned teeth

c.b. presence of supra-gingival calculus on assigned teeth

d.e. presence of sub-gingival calculus on assigned teeth

e.d. root roughness on assigned teeth

f.e. tissue management of soft tissue is considered adequate in the absence of trauma or mutilation.

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The

criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if there is gross mutilation of gingival tissue or if the candidate fails to attempt or complete the procedure is not attempted or completed or if there is gross mutilation of gingival tissue.

(c) Endodontic Procedure on an extracted tooth:

1. Access preparation:

a. outline form and access preparation – all prepared surfaces smooth, absence of undercuts and ledges.

b. straight line access to all canals

c. presence of remaining adequate dentin

2. Canal identification

3. Instrumentation and shaping of canals

4. Proper filling of the canal spaces with gutta percha

It is the intent of the Board that each of the criteria be accorded equal importance in grading. Equal importance does not mean that each criterion has a numerical or point value, but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if:

~~a~~: a perforation occurs; ~~b~~: the candidate fails to retrieve, or fails to successfully instrument around a broken instrument; ~~e~~: the preparation is prepared or attempted to be prepared on the wrong tooth; or ~~f~~: the candidate fails to attempt or complete the procedure.

(d) Dental prosthetics written practical: The examination shall be objective, with identifiable correct answers. A scaled score shall be derived by multiplying the percent of questions answered correctly by five (5).

(e) Preparation for a 3-unit fixed partial denture on a specified model of a posterior tooth assigned by the Board at the beginning of the examination for a cast restoration.

1. Preparation:

a. outline form – all prepared surfaces smooth with adequate parallelism and absence ~~absent~~ ~~of all~~ undercuts

b. depth – occlusal reduction and axial reduction

c. retention – all axial walls draw from gingival margin with resistance to displacement

d. adequate margins for gingival level, if indicated by the assigned preparation

e. mutilation of opposing or adjacent teeth

f. management of soft tissue is considered adequate in the absence of trauma or mutilation.

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough

degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if the preparation is prepared or is attempted to be prepared on the wrong tooth or wrong surface; if the wrong type of preparation is performed or attempted to be performed or if the candidate fails to attempt or complete the procedure.

(f) Restoration of a Class II Amalgam with a cusp replacement on a specified tooth.

1. Restoration

a. functional anatomy – acceptable occlusal and interproximal anatomy

b. proximal contour and contact – contact is considered present if there is definite, but not excessive, resistance to the passage of dental floss through the contact area.

c. margins – suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation

d. gingival overhang – overhang is considered to be excess amalgam in either a proximal or gingival direction at the gingival cavosurface margin

e. proper handling of material including but not limited to condensing and finishing

f. management of soft tissue is considered adequate in the absence of trauma or mutilation.

~~(f) Pin Amalgam on a mannequin:~~

~~1. Preparation:~~

~~a. outline form~~

~~b. depth~~

~~c. retention~~

~~d. pin placement~~

~~e. mutilation of opposing or adjacent teeth~~

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if there is lack of contact; gross overhang; if the restoration is completed or attempted to be completed on the wrong tooth or wrong surface; gross overcutting occurs; if a pinhole extends outside the surface of the tooth or the tooth is irreparably fractured by the placement of a pinhole; if the preparation is

~~prepared or attempted to be prepared on the wrong tooth or wrong surface; or if the candidate fails to attempt or complete the procedure.~~

~~(g)2. Restoration of a Class IV composite resin on a specified tooth:~~

~~1.a. functional anatomy – appropriate occlusal, incisal and interproximal anatomy~~

~~2.b. proximal contour and contact – contact is considered present if there is definite, but not excessive, resistance with dental floss through the contact area when resistance is met with specified floss given at the time of the exam~~

~~3.e. margins – suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation~~

~~4.d. gingival overhang – overhang is considered to be excess composite resin amalgam in either a proximal or gingival direction at the gingival cavosurface margin~~

~~5. proper handling of material including but not limited to condensing, curing, and finishing~~

~~6. re-establishment of correct tooth morphology~~

~~7.e. management of soft tissue is considered adequate in the absence of trauma or mutilation. ~~issues~~~~

~~8. mutilation of adjacent tooth structure or restoration during finishing procedures.~~

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if the preparation for the Class IV lesion is prepared or attempted to be prepared or the restoration is completed or attempted to be completed on the wrong tooth or wrong surface; if the interproximal contact has not been re-established; there is no contact; gross overhang; if simulated tissue of surrounding dentoform is grossly mutilated; if the preparation or restoration is prepared or is attempted to be prepared on the wrong tooth or wrong surface; or if the candidate fails to attempt or complete the procedure.

(h) Restoration of a Class II composite resin with cusp replacement on a specified tooth

~~(g) Class IV composite restoration on a specified model (Pre-prepared Class IV Preparation):~~

~~1. functional anatomy – appropriate occlusal, incisal and interproximal anatomy~~

~~2. proximal contour and contact – contact is considered present if there is definite, but not excessive, resistance to the passage of dental floss through the contact area~~

3. margins – suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation.

4. gingival overhang – overhang is considered to be excess composite resin restoration in either a proximal or gingival direction at the gingival cavosurface margin

5. proper handling of material including but not limited to condensing, curing, and finishing.

~~6.5.~~ re-establishment of correct tooth morphology appearance; color tint and hue

~~7.6.~~ management of soft tissue is considered appropriate in the absence of trauma or mutilation

~~8.7.~~ mutilation of adjacent tooth structure or restoration during finishing procedures.

It is the intent of the Board that each of the criteria are to be accorded equal importance in grading. Equal importance does not mean that each criteria has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed procedure potentially useless or harmful to the patient in the judgment of the examiner, will result in a failing grade on the procedure. The criteria do not have any assigned numerical or point value but are to be utilized in making a holistic evaluation of the procedure. However, a grade of zero (0) is mandatory if the preparation for the Class IV Lesion or the restoration is completed or is prepared or attempted to be completed prepared on the wrong tooth or wrong surface; if there is lack of contact; interproximal contact has not been reestablished; gross overhang; or if the candidate fails to attempt to complete the procedure.

(5) through (7) No change.

Specific Authority 466.004(4), 466.006(4), 455.574(1)(b) FS. Law Implemented 466.006(4), 466.009, 455.574(1)(b), (2) FS. History–New 10-8-79, Amended 6-22-80, 12-3-81, 12-6-82, 5-24-83, 12-12-83, 5-2-84, 5-27-84, Formerly 21G-2.13, Amended 12-8-85, 12-31-86, 5-10-87, 10-19-87, 12-10-89, 12-24-91, 2-1-93, Formerly 21G-2.013, 61F5-2.013, Amended 1-9-95, 2-7-96, 7-16-97, Formerly 59Q-2.013, Amended 8-25-98, 3-25-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 1999

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE:

RULE NO.:

Medicinal Drugs Which May Be

Ordered by Pharmacists

64B16-27.220

PURPOSE AND EFFECT: The proposed rule amendment is intended to address additions to the formulary.

SUMMARY: The proposed rule amendment adds substances to the formulary.

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

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

SPECIFIC AUTHORITY: 465.186(2) FS.

LAW IMPLEMENTED: 465.186 FS.

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

TIME AND DATE: 10:00 a.m., October 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.220 Medicinal Drugs Which May Be Ordered by Pharmacists.

A Pharmacist may order and dispense from the following formulary, subject to the stated conditions:

(1) through (4) No change.

(5) Antihistamines and decongestants. The following, including their salts, either as a single ingredient product or in combination, including nasal decongestants, may be ordered for patients above 6 years of age:

(a) through (f) No change.

(g) fexofenadine

(h) azelastine

The patient should be warned that antihistamines should not be used by patients with bronchial asthma or other lower respiratory symptoms, glaucoma, cardiovascular disorders, hypertension, prostate conditions and urinary retention. Antihistamines shall be labeled to advise the patient of drowsiness and caution against the concomitant use with alcohol or other depressants.

~~(i)(g)~~ No change

~~(j)(h)~~ Phenylephrine

~~(k)(i)~~ Phenyltoloxamine

~~(l)(j)~~ Azatadine

~~(m)(k)~~ Diphenylpyraline

Oral decongestants shall not be ordered for use by patients with coronary artery disease, angina, hyperthyroidism, diabetes, glaucoma, prostate conditions, hypertension, or patients currently using monoamine oxidase inhibitors.

(6) through (20) No change.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Amended 10-7-90, Formerly 21S-18.003, Amended 7-30-91, Formerly 21S-27.220, 61F10-27.220, Amended 3-12-97, Formerly 59X-27.220, Amended 6-15-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Formulary Committee

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF HEALTH**

**Division of Environmental Health and Statewide Services**

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Body Piercing 64E-19

RULE TITLES: RULE NOS.:

General 64E-19.001

Definitions 64E-19.002

Forms 64E-19.003

Requirements For Premises 64E-19.004

Requirements For Sterilizing Jewelry and Instruments 64E-19.005

Piercing Procedures 64E-19.006

Other Operations 64E-19.007

Enforcement 64E-19.008

**PURPOSE AND EFFECT:** The principal purpose of the proposed chapter is to implement various provisions of the law. A secondary purpose is to clarify and expand upon the regulatory requirements in the law. The effect of the rules will be to provide standards that protect the health of customers and employees of body-piercing salons. The rules will also provide department staff and the regulated industry better guidance on how a body-piercing salon should operate to be in compliance with the law.

**SUMMARY:** The proposed rules will define certain technical terms that are used in the body of the rules; incorporate by reference forms that are to be used by the department in the program; specify physical plant requirements for salons and temporary establishments including compliance with local building codes, floor and wall finishes, vermin control measures, minimum square footage requirements in certain work areas, minimum lighting requirements, restroom requirements, requirements for hand sinks in work areas, requirements for an autoclave and a sink for cleaning utensils; and water and sewage disposal system standards. In addition, the rules establish requirements for sanitizing and sterilizing

instruments and equipment, prescribe minimum sanitary techniques to follow when performing piercing, require salons to provide educational information to customers, specify a time frame for reporting certain injuries to the department, require salons to maintain customer and personnel records, and they prescribe minimum training requirements. The rules also specify certain enforcement provisions, including a requirement that establishments be inspected before they are licensed, they require establishments to allow department staff access for epidemiological investigations, they require operations to be physically separated from living quarters, and they establish a time frame for salons to comply with the rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** (1) Estimate of Cost and Paperwork to Implement:

The cost to the agency of developing the proposed rules including personnel salaries and benefits, printing and mailing, publishing in the Florida Administrative Weekly, conducting rule workshops, and providing training to department staff is as follows:

Personnel costs for rule development will be approximately \$5,070. Costs of printing and mailing copies to county health departments and the regulated industry are estimated to be \$1,416. Publishing notices of rule development, workshops, and public hearings in the Florida Administrative Weekly will be approximately \$546. Personnel costs for developing training for department staff are estimated to be \$1,970. Travel costs for conducting workshops and training sessions will be approximately \$6,541. First year inspection costs are estimated at \$24,452. This was estimated as follows: (a) annual inspections by an Environmental Specialist 2 and a Community Health Nurse 260 inspections x 2 hrs/inspection x \$39.35/hr. = \$22,457;

(b) re-inspections = .10 x 260 x 1.5 x \$39.35/hr. = \$1,534.65;

(c) complaint investigations. 03 x 260 x 1.5 x \$39.35 = \$460.40.

Professional Services \$27.00/hr x 170hrs = \$4,590  
 Support Staff \$20.00/hr x 30hrs = 480  
 \$5,070

Printing  
 DOH Printing 750 copies of rule = \$600  
 400 copies of law = \$176  
 Florida Administrative Weekly 0.71/line x 769 lines = \$546  
 \$1,362

Mailing to county health departments and industry 600 packets x \$1.00/packet = \$600

Training Development \$49.27/hr x 40 hrs = \$1,970

Travel Costs associated with providing training 10 training x \$616/training = \$6,160

(2) Cost or Benefit to Persons Directly Affected:

The total first year cost to the body-piercing industry of implementing this rule is estimated to be \$205,275. This includes \$149,150 for purchasing autoclaves, and installing sinks for handwashing or for washing instruments; \$34,875 in licensing fees; and \$21,250 in costs for obtaining training that is required by the rule. Customers and employees of body-piercing salons will benefit from this rule because establishments will be operating under uniform sanitary standards, which should provide them with better public health protection. In addition, this should elevate the industry's reputation in the eyes of the public and potential customers.

License fees

205 salons x \$150 = \$30,750  
 55 temporary establishments x \$75 = \$4,125  
 \$34,875

Equipment costs

86 One-compartment sinks x \$600 = \$51,600  
 65 Handwashing sinks x \$460 = \$35,100  
 38 Autoclaves x \$1,250 = \$47,500  
 65 Hot water heaters x \$230 \$14,950  
 \$149,150

Operator and Piercer Training

\$85/person x 250 persons = \$21,250

(3) Estimate of Effect on Competition and Open Market:

A small number of body-piercing salons may choose to close because of the costs associated with these rules. This would increase business for the remaining establishments. However, it is expected that most salons that are currently in business and new establishments will be able to comply with the proposed requirements.

(4) Estimate of Effect on Small Business:

It is estimated that all of the businesses that are affected by these rules will be small businesses as defined in the Florida Small and Minority Business Assistance Act of 1985. Representatives from the industry were active in developing the rules, which gave them the opportunity to help decide the appropriateness of the requirements. This will lessen the fiscal impact of the rules on the industry. In addition, less costly alternative requirements will be allowed where they exist and where they provide equivalent measures of public health protection. Lastly, it is proposed in the rules that establishments be given a grace period during which they will have time to comply with certain requirements. This should also help to lessen the economic impact of the requirements on the piercing industry.

(5) Data and Method Used in Making the Above Estimates:

Personnel costs for rule development were based primarily on an average salary of Environmental Specialist IIIs, an Environmental Manager, and administrative support staff within the Bureau of Facility Programs. Training development was based on the hourly salaries of an ES III and a Community

Health Nurse. The costs of providing training was estimated as follows: (\$200 airfare + \$60 motel + \$33 per diem x 2 x 10 training sessions) + 10 car rentals @ \$30/rental.

Printing costs were obtained from the Central General Services print shop. Printing costs in the Florida Administrative Weekly are based on a known factor. Mailing costs are based on previous experience of mailing similar materials.

The license fees are established by law. The number of establishments affected by these requirements is based on a percentage of the number of establishments in the department's database listed as providing body piercing/tattoo services. The costs of the one-compartment sinks and handwashing sinks were computed using a standard plumbing service charge of \$45 per hour, equipment quotations from retail plumbing suppliers, and an average service time for installation of the equipment of 8 hours. Autoclave costs were based on an average cost of autoclaves from a selected supplier. Operator training costs are based on an average of the lowest estimated cost per training per person (\$35) and the highest (\$135).

FEDERAL COMPARISON STATEMENT: There are federal regulations regarding the protection of workers from bloodborne pathogens, which may apply to body-piercing salons. Some portions of this proposed chapter are related to employee safety and will parallel the federal requirements. However, most of the requirements in this chapter deal with the sanitary operation of body-piercing salons, which is not the primary focus of the federal requirements. The federal requirement with which there will be some overlap is the Occupational Safety and Health Administration Bloodborne Pathogen Standard, 29 Code of Federal Regulations 1910.1030.

SPECIFIC AUTHORITY: 381.0075(10) FS.

LAW IMPLEMENTED: 381.0075 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., October 18, 1999

PLACE: Florida Department of Health, 1311 Winewood Blvd., Building 6, Room 103, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Leslie Harris, Environmental Manager, Bureau of Facility Programs

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-19.001 General.

This rule prescribes minimum sanitary and safety requirements related to the design and operation of body piercing salons and temporary establishments, as those terms are defined in subsection 381.0075(2), Florida Statutes. Body piercing salons shall also comply with section 381.0075, F.S., and Chapter 64E-16, Biomedical Waste, Florida Administrative Code.

Unless specified elsewhere in these requirements, temporary establishments shall meet the same requirements as salons at fixed locations.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075 FS. History–New \_\_\_\_\_.

#### 64E-19.002 Definitions.

(1) “Aftercare instructions” – means verbal and written instructions that the customer should follow to promote healing of the pierced area.

(2) “Antiseptic” – means an agent that inhibits the growth and multiplication of disease-causing microorganisms.

(3) “Aseptic techniques” – means methods used in piercing procedures to prevent contamination of a pierced area by pathogenic organisms.

(4) “Body piercing area” – means the specific area within a salon where body-piercing procedures are conducted.

(5) “Contaminated” – means the presence of microorganisms on inanimate objects.

(6) “Department” – means the Department of Health and its representative county health departments.

(7) “Formal training” – means a course of instruction that is presented under classroom conditions and approved by the department to detail compliance with the requirements of this chapter, including safety, sanitation, and sterilization requirements and standard precautions for preventing the transmission of infectious diseases.

(8) “Equipment” – means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body-piercing salon.

(9) “Handsink” – means a lavatory equipped with hot running water under pressure, used solely for washing hands, arms or other portions of the body.

(10) “Hot water” – means water which attains and maintains a temperature of at least 100 degrees Fahrenheit.

(11) “Injury” – means any unexpected complication, damage, harm, hurt, or impairment to a customer's body structure or function that is caused by a piercing and required the attention of a licensed practitioner.

(12) “Instruments” – means hand pieces, needles, and other tools that may come in contact with a customer's body or be exposed to body fluids during body-piercing procedures.

(13) “Licensed practitioner” means any physician, osteopathic physician, or dentist, licensed under chapters 458, 459, and 466, Florida Statutes. The term also includes an Advanced Registered Nurse Practitioner or Certified Physician's Assistant who performs medical acts of diagnosis, treatment, and operation pursuant to a protocol between an ARNP or PA and a Florida-licensed physician, osteopathic physician or dentist.

(14) “Minor” – means any person who has not attained the age of 18 years, except as provided in sections 743.01 and 743.015, Florida Statutes.

(15) “Oral piercing” – means a piercing in any portion of the mouth, including the tongue, lip and cheeks.

(16) “Notifiable disease” – shall have the same meaning as subsection 64D-3.001(12), Florida Administrative Code.

(17) “Piercer” – means any person who performs body-piercing procedures in an establishment regulated under this chapter.

(18) “Procedure surface” – means any surface of an inanimate object or any associated work area that may require sanitizing, as specified in subsection 381.0075(11), Florida Statutes.

(19) “Sanitizer” – means a disinfectant or germicide registered with the United States Environmental Protection Agency.

(21) “Single use” – means products or items that are intended for one-time, one-person use and are disposed of after use on each customer such as, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, and protective gloves.

(22) “Spore” – means a highly resistant dehydrated form of a bacterial cell, such as those of the genus Bacillus.

(23) “Standard precautions” – means a set of guidelines and controls, published by the Center for Disease Control and Prevention (CDC), which includes specific recommendations for the use of gloves, masks, protective eye wear and/or other protective equipment when contact with blood or body fluids containing blood is anticipated.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10) FS. History–New \_\_\_\_\_.

#### 64E-19.003 Forms.

(1) All forms listed in this section are incorporated by reference. Forms used by the public may be obtained from the county health department in the county of their location or the Department of Health, 2020 Capital Circle, S. E., BIN A08, Tallahassee, Florida 32399-1710.

(a) DH Form Body Piercing Salon Inspection Report.

(b) DH Form 4122, 10/99, Body Piercing Salon Injury Report.

(c) DH Form 4121, 10/99, Body Piercing Salon Citation of Violation.

(d) DH Form 4123, 10/99 Body Piercing Salon Stop Use Order.

(2) Upon receipt of a properly completed DH Form 4120, Application for a Body Piercing Salon License, the department shall process the application in accordance with the provisions of Chapter 120.60, F.S., and agency procedures.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(5)(b),(9),(10) FS. History–New \_\_\_\_\_.



64E-19.004 Requirements for Premises.

(1) Structural, electrical, mechanical, ventilation, and plumbing components of buildings shall comply with local building and zoning codes. Walls, floors, ceilings, and equipment in all areas of a salon shall be maintained in a clean condition and in good repair.

(2) Walls, floors, and procedure surfaces of equipment in areas where body-piercing procedures are conducted, where equipment and instruments are cleaned, and in restrooms shall be smooth non-absorbent and washable; except that, wooden floors may be used in these areas provided they are, at a minimum, varnished or sealed with a commercial water repelling coating and maintained as such. After use by each customer, all procedure surfaces shall be cleaned and sanitized with a sanitizer that has a demonstrated tuberculocidal activity, as indicated by the product label.

(3) Effective measures shall be taken by the salon operator to protect against the entrance, breeding or presence of insects, vermin and rodents in a salon. Openings to the outside shall be protected by such means as self-closing doors, screened or closed windows or controlled air currents. Screening material shall not be less than 16 mesh to the inch.

(4) There shall be a minimum of forty-five (45) square feet of floor space in the body piercing area for each person performing body piercing in the salon. Each salon shall have an area that can be screened from public view for customers requesting privacy. Multiple body piercing stations shall be separated by such means as dividers, curtains or partitions that are cleanable.

(5) Each salon shall be provided with an artificial light source equivalent to a minimum of twenty (20) foot candles three (3) feet off the floor, except that at least one hundred (100) foot candles shall be provided at the level where the body piercing procedure is being performed, and where instruments and sharps are assembled. Spot lighting may be used to achieve the one hundred foot candle requirement.

(6) A handsink, liquid soap, and disposable single-use paper towels shall be readily accessible and located within each body piercing area or centrally located within the overall work room or area, so each piercing area has access to the handsink. One handsink shall serve no more than three body piercing personnel. Hot water at handsinks shall not exceed 120 degrees Fahrenheit.

(7) Restrooms shall be supplied with liquid soap, toilet tissue, single-use paper towels, and a waste receptacle.

(8) At least one waste receptacle shall be provided in each body piercing area. Solid waste shall be collected, stored, and disposed of in a manner and frequency that does not create a sanitary nuisance, as that term is defined in Chapter 386, F.S. Biomedical waste shall be managed in accordance with Chapter 64E-16, F.A.C.

(9) Other equipment and supplies necessary for providing body-piercing services and for cleaning and sterilizing instruments shall be provided. This includes at least a separate one-compartment sink with hot and cold running water under pressure for cleaning instruments, an autoclave, instruments and single use supplies for performing piercings, work tables or counters, customer chairs, and storage cabinets or containers for storing clean and sterilized instruments and supplies. All surfaces of equipment shall be made of smooth, non-absorbent and non-porous material. Autoclaves shall be listed with the United States Food and Drug Administration as having received premarket approval or as being substantially equivalent to devices currently on the market. Each one-compartment sink and autoclave must have an adequate size, depth or capacity to submerge or otherwise accommodate the instruments being cleaned or autoclaved. Salons that use ultrasonic units with heating elements to clean their instruments, shall not be required to have hot water at the one-compartment sink; provided the heating elements can heat the cleaning solution to at least the minimum temperature required by this chapter and maintain that temperature throughout the cleaning cycle.

(10) Animals shall not be allowed in a body-piercing salon, except as provided under section 413.08, F.S. Aquariums with fish shall be allowed in waiting rooms and nonprocedural areas.

(11) Water supplies shall comply with the provisions of Chapter 64E-8 or 62-550, F.A.C.

(12) Sewage disposal shall comply with the provisions of Chapter 64E-6 or 62-600, F.A.C.

(13) There shall not be a direct opening between a body piercing salon and any building or portion of a building used as living or sleeping quarters or as a food establishment. This shall be accomplished, at a minimum, by a solid floor to ceiling wall of separation.

(14) Body-piercing salons not in full compliance with the building and equipment requirements of this section on the effective date of this chapter, shall have six months from the effective date of this chapter to comply with these requirements; provided that no complaints of injury validated by the department are reported to the department during that time period; further provided that no uncorrected sanitary nuisances, as defined by chapter 386, F.S., occur at the salon during that time period. This subsection does not apply to temporary establishments.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10),(11) FS. History—New

64E-19.005 Requirements For Sterilizing Jewelry and Instruments.

(1) All non-disposable instruments used for body piercing shall be cleansed and sterilized after each use in the manner prescribed in subsection 381.0075(11), including the temperature requirements. Autoclave sterilization shall be

conducted for the cycle of time and corresponding operating pressure recommended by the manufacturer of the autoclave. Sanitizers used in the cleaning process must have demonstrated tuberculocidal activity, as indicated by the product label, and be registered with the U.S. Environmental Protection Agency. Jewelry may be sterilized with a liquid chemical sterilant approved by the U.S. Food and Drug Administration (FDA) as long as the jewelry is sterilized according to the procedures on the product label.

(2) Unless otherwise specified by the autoclave manufacturer, instruments that are to be autoclaved must be packed individually in single use paper peel-packs or other containers designed for sterilizing instruments and marked with the expiration date. The expiration date shall not exceed 30 days from the date autoclaved.

(3) All sterilized instruments shall remain stored in sterile containers until just prior to performing a body piercing procedure. Where several instruments are sterilized at the same time in the same container, such as in a single use setup, once the container is opened, any instruments not used immediately in a procedure must be resterilized.

(4) In addition to the indicator requirements of subparagraph 381.0075(11)(b)2., F.S., body-piercing salons shall demonstrate, using spore destruction tests, that their autoclaves are capable of attaining the minimum operating standards specified in subsection (1) above. These tests shall be performed every 40 hours of autoclave operation, but not less than on a quarterly basis. A log shall be kept to document the hours of autoclave operation, and the spore tests shall be verified through an independent laboratory.

(5) Autoclaves shall be cleaned at the frequency recommended by the manufacturer. Autoclaves shall be serviced at the frequency recommended by the manufacturer, but not less than once a year.

(6) All clean or sterilized instruments and supplies shall be stored in clean, dry closed cabinets or tightly covered containers.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10),(11) FS. History—New \_\_\_\_\_.

#### 64E-19.006 Piercing Procedures.

(1) Persons performing body-piercing procedures must use aseptic techniques and sterile instruments as specified in subparagraph 381.0075(11)(a)1., F.S., at all times during the practice of body piercing. Before and after performing piercing procedures, piercers must thoroughly wash their hands in hot running water with liquid soap, rinse their hands and dry them with single-use disposable paper towels.

(2) When performing body-piercing procedures, piercers shall wear disposable sterile medical gloves. Gloves shall be discarded after the completion of each procedure on an individual customer in accordance with Chapter 64E-16, F.A.C. Should gloves become torn, punctured, or otherwise

contaminated, piercers shall rewash their hands immediately using the procedure described in subsection (1) above, and put on a new pair of sterile gloves.

(3) Piercers shall wear protective eyewear, shields and masks, if the piercer determines that spattering is likely to occur.

(4) Only jewelry and single use needles that are sterilized, and prepackaged single use sterile gauze or cotton swabs shall be used in piercing procedures. Jewelry must meet the requirements of subparagraph 381.0075(11)(a)5., F.S.

(5) Single use items contaminated prior to or during the procedure shall be discarded immediately and replaced with new ones before the procedure may resume.

(6) Any skin or mucous membrane surface to receive a body piercing procedure shall be free of rash, infection or any other visible disease condition.

(7) Piercers shall be free of any infection or any other visible disease condition that may be transmitted as a result of carrying out the piercing procedure.

#### (8) Preparation and Care of the Pierced Area.

(a) In accordance with subparagraph 381.0075(11)(a)4., F.S., before performing a body piercing procedure, the skin and surrounding area where the piercing is to be done shall be washed with an FDA approved pre-surgical scrub in accordance with the manufacturer's directions. A single use sterile gauze pad or other suitable sterile product may be used for washing the skin. If shaving is necessary, the skin shall be gently scrubbed with an FDA approved pre-surgical scrub in accordance with the manufacturer's directions, using a sterile gauze pad, before and after the shaving. Before an oral piercing procedure, customers must rinse their mouths with an antiseptic mouthwash.

(b) In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be sterile single-use products.

(c) Upon completion of the body piercing procedure, piercers must apply an antiseptic solution to the pierced area with a sterile single-use cotton swab or gauze pad.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10),(11) FS. History—New \_\_\_\_\_.

#### 64E-19.007 Other Operations.

(1) Informed Consent. Verbal and written educational information, approved by county health departments, shall be given to customers wanting to receive body-piercing procedures before the procedures begin. The information shall provide, at a minimum, a brief description of the piercing procedure, any precautions to be taken by the customer before the piercing, a description of the risks and possible consequences of body piercing services, instructions for care and restrictions following a piercing procedure, and restrictions against the piercing of minors prescribed by this chapter and section 381.0075, F.S. Prior to the piercing, customers shall

sign and date a statement indicating they received and discussed the information with the operator or piercer. Operators and piercers shall sign and date the statement as well, and retain the original with all other required records. A copy of the statement shall be provided to the customer upon request of the customer. The operator shall also post in public view the name, address and phone number of the county health department having jurisdiction over the facility and the procedure for filing a complaint.

(2) Reporting Complaints of Injuries. As specified in subparagraph 381.0075(11)(a)8., F.S., any injury or complaint of injury, suspected infections that required treatment by a licensed practitioner, or any notifiable diseases resulting from the body-piercing procedure that become known to the operator shall be reported to the local county health department by the operator within 24 hours of the operator becoming aware of the complaint or condition. The report shall be submitted on DH Form 4122, 10/99, Body Piercing Salon Injury Report.

(3) Customer Records. Records must be maintained in accordance with subparagraph 381.0075(11)(a)7., F.S., and shall include the following:

- (a) The customer's address and telephone number;
- (b) Their date of birth, race and sex;
- (c) Their physician's name, address and telephone number;
- (d) The name, telephone number and address of an emergency contact person for the customer;
- (e) A list of allergies, including allergies to medicines or topical solutions used by the establishment;
- (f) History of bleeding disorders;
- (g) The date of the customer's initial visit and any subsequent visits;
- (h) The body part or location that was pierced;
- (i) A description of the jewelry used in the piercing;
- (j) A description of any complications that occurred at the time of the piercing procedure;
- (k) Copies of the signed statement for receipt of educational information required in subsection 64E-19.007(1), of this chapter;
- (l) Copies of the written notarized parental consent statements required by subsection 381.0075(7), F.S., for minors. The statements must describe the type of piercings that will be performed on the minor.
- (m) The signature and printed name of the persons performing the piercings at each visit.

(4) Other Facility Records. The following records must also be maintained by the body-piercing salon.

- (a) Autoclave maintenance records and spore test results required in subsections 64E-19.005(4),(5) of this chapter;
- (b) A copy of this chapter and section 381.0075, Florida Statutes;

(c) Records on operators and all persons performing body-piercing services in the salon. Such records shall include their full names, dates of birth, sex, home addresses and telephone numbers, their dates of hire, and their duties and responsibilities. Such records shall be maintained for at least 2 years after a person's employment ends;

(d) Documentation of training required by this chapter and subparagraph 381.0075(11)(b)6., F.S., for operators and piercers.

(e) A complete description of all body piercing procedures provided;

(5) Records required by this section shall be maintained at each salon for the current licensing period. Records may be stored elsewhere after that time frame, but they must be stored in accordance with this chapter and be made available for review by the department upon request of the department.

The medical history of a customer shall be considered confidential, and it must not be disclosed to any person other than the customer without the written consent of the customer or piercer, except as provided by this chapter or applicable law. Appropriate disclosure may be made to the licensee or operator of a salon, piercers employed by the salon who assist a specific customer, the customer's legal representative or attending physician, parents or legal guardians of minors, and department personnel enforcing the requirements of this chapter. Records containing confidential information shall be stored in a manner that limits access only to those persons authorized above, whether the records are stored on or off the premises of the salon. The requirements of this subsection apply to the medical histories of piercers as well.

(6) Training.

(a) Operators and piercers shall complete formal training that meets the requirements of subsection 64E-19.002(7) of this chapter. When formal training courses are not available within a one hundred-mile radius of the body-piercing salon where the piercer is employed, piercers may substitute the successful completion of a correspondence course. Correspondence courses must meet the same subject matter requirements as formal training and be approved by the department in order to qualify as acceptable substitutes for formal training.

(b) The training required initially for each piercer shall include all the subjects listed in subsection 64E-19.002(7). Operators and piercers shall receive training annually thereafter in any one subject or combination of subjects listed in subsection 64E-19.002(7).

(c) Each formal training course shall include written material which covers the required subjects, such as a core training manual; or audio-visual presentations which cover the required subjects, such as slides or videos; and a question and answer period or format for trainees. A certificate, card, or other form of written documentation shall be provided to trainees who successfully complete the course.

(d) Operators and piercers must complete the required training according to the following time frames:

1. Operators hired on or after the effective date of this chapter must complete the required training prior to assuming responsibilities in a salon. Piercers hired on or after the effective date of this chapter shall have a period of 90 days after the effective date of employment to successfully complete the required training; however, such persons shall work under the direct supervision of a trained operator, until they have successfully completed the required training;

2. Operators and piercers hired before the effective date of this chapter shall have a period of 90 days after the effective date of this chapter to successfully complete the required training.

(e) Training courses required by this chapter must be presented by a person or persons who possess the knowledge, experience and credentials to teach the required subjects. Any individual or organization requesting the department to review their training courses for compliance with the requirements of this chapter shall submit copies of their training materials to the Bureau of Facility Programs, 2020 Capital Circle, S. E., BIN A08, Tallahassee, Florida 32399-1710. The materials submitted must include credentials of trainers and persons compiling the training materials, a copy of the classroom or correspondence course curriculum, and copies of written materials to be received by trainees. The bureau shall review the materials and inform the applicant of its findings within 30 days from receipt of the last training materials received from the applicant. When changes are made to a training course that has been reviewed and accepted by the department, those changes shall also be submitted to the bureau for review prior to implementing the changes.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(7),(10),(11) FS. History—New

64E-19.008 Enforcement.

(1) Department personnel shall inspect each body-piercing salon to ensure compliance with this chapter and with section 381.0075, F.S., prior to issuing a license to the salon.

(2) Department personnel shall be granted access to all areas of a body-piercing salon, including customer and personnel records to conduct epidemiological investigations.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(9)(a) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Leslie Harris, Environmental Manager, Bureau of Facility Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Eric Grimm, Chief, Bureau of Facility Programs

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 1999

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLE: Medicaid for Pregnant Women Pilot Project  
RULE NO.: 65A-1.725

PURPOSE AND EFFECT: This proposed rule implements a pilot program in Baker, Clay, Duval, Nassau, St. Johns, Flagler and Volusia counties that will utilize simplified application procedures. The purpose of this pilot program is to determine if simplified application procedures will result in increased participation by pregnant women.

SUMMARY: A face-to-face interview will not be required and a mail-in application form specific to this pilot program with attached information/rights and responsibilities will be used. The pilot program will begin July 1 and will continue through June 2000.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

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

TIME AND DATE: 10:00 a.m., October 18, 1999

PLACE: Building 3, Room 414, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 412D, Tallahassee, FL 32399-0700

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.725 Medicaid for Pregnant Women Pilot Project.

(1) Project Area Counties included in this pilot project are Baker, Clay, Duval, Nassau, St. Johns, Flagler, and Volusia. These counties are included in the Department of Children and Family Services Districts 4 and 12.

(2) Application Form. The application form for this pilot project will be CF-ES (Interim) Form 2700, June 1999 – June 2000 (incorporated by reference). This form may be used as a mail-in application form or it may be provided directly to the local Children and Family Services, health department or other

Qualified Designated Provider (ODP). Copies of the mail in application forms may be made available to pregnant women in health departments and other QDP sites in the pilot counties as well as selected doctors' offices designated by District 4 and 12 Economic Self-Sufficiency Program Offices. Copies of this form may be obtained by the public from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

(3) Interviews. A face-to-face interview is not required in this pilot project.

(4) Verification Prior to Approval. The following information must be verified prior to approval in this pilot project.

(a) Pregnancy.

(b) Date of birth and social security number may be obtained by telephone contact with the household. If a telephone contact is not provided, the information must be obtained by mail.

(c) If the pregnant woman is a non-citizen she may provide her Alien Number to the public assistance specialist on the application. If the information is not on the application, it may be obtained by telephone. The Alien Number must be received and SAVE telephonic verification using the Alien Number completed. If the SAVE telephonic verification indicates secondary verification is required, then copies of the INS verification must be obtained from the pregnant woman. After the documents are received and submitted the pregnant women may be approved on this factor.

(d) Questionable information presented on the application. Questionable information must be documented prior to approval.

(e) Verification of income is not required prior to disposition of the application unless there is reason to question the income reported.

(5) Verification Required After Approval. Income verification must be obtained within 30 days following approval. Income may be verified through a mailed request for verification or it may be completed by telephone collateral contact. Electronic data exchange with federal and state sources will also be used.

(6) Cooperation with Child Support Enforcement. Cooperation with child support enforcement is not required for the application for the pregnant woman as she is the only eligible person to be included in the Medicaid assistance group.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rodney McInnis, Management Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Policy Bureau, Public Assistance Policy – Legal Base Unit

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 1999

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLES:	RULE NOS.:
Definitions	67-45.001
Notice of Funding Availability	67-45.002
General Program Restrictions	67-45.003
Application Procedures	67-45.004
Loan Processing	67-45.006

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-45, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall: administer and implement Home Ownership Assistance Program provisions authorized by Florida Statutes, Section 420.5088 (4) and identify the definitions for terms when used in conjunction with the Single Family Revenue Bond Program.

SUMMARY: The proposed amendments to the Rule and adopted reference material include changes relative to the (1) development of General Program Requirements that prescribe the procedures used for allocating Home Ownership Assistance Program funds and (2) ratification of universal terms, as well as, terms defined by the Florida Housing Finance Corporation when used in conjunction with the Single Family Mortgage Revenue Bond Program.

STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507(12),(23) FS.

LAW IMPLEMENTED: 420.507(23), 420.5088 FS.

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

TIME AND DATE: 2:00 p.m., October 15, 1999

PLACE: Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 67-45.001 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, F.S.

~~(2) "Agency" means the Florida Housing Finance Agency.~~

~~(2)(3)~~ "Construction Loan" means a loan to a non-profit sponsor or developer under the Florida Home Ownership Assistance Program's Construction Loan Program as more fully described in Rule Chapter 67-44, F.A.C.

~~(3) "Corporation" means Florida Housing Finance Corporation.~~

(4) "Down Payment Assistance Loan" or "Loan" means a Florida Home Ownership Assistance Program loan in the amount of \$2,500.00 for which no interest is charged and for which repayment of principal is deferred until the expiration of the term of the First Mortgage, or in the event of sale, transfer, refinancing or rental of the Home, in which case the Loan is due and payable in full at that time. The Down Payment Assistance Loan may be used for down payment and/or closing costs associated with the purchase of the Home.

(5) "Eligible Borrower" means a person or persons or family or families:

(a) Whos receives a Down Payment Loan;

~~(b)(a)~~ Who intend to permanently reside as a household in the Home as their principal single-family residence;

~~(c)(b)~~ Whose total annual family income at time of closing does not exceed 72 percent for a family of one or two persons or 80 percent for a family of three or more persons of the State or local median income, whichever is greater.

~~(d) Who are participating in the Corporation's Single-Family Bond Program.~~

~~(6) "FannieMae" means the Federal National Mortgage Association.~~

~~(7)(6)~~ "FHA" means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.

~~(8)(7)~~ "First Mortgage" means the recorded mortgage to which the Down Payment Assistance Loan is subordinated and which is superior to any other lien or encumbrance on the property.

~~(9)(8)~~ "Florida Home Ownership Assistance Program" means the Florida Home Ownership Assistance Program created under Section 420.5088, F.S., which includes the Construction Loan Program, the Permanent Loan Program and the Down Payment Assistance Loan Program.

~~(9) "FNMA" means the Federal National Mortgage Association.~~

(10) "Home" means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State,

including a condominium unit and a manufactured home meeting FannieMae ~~FNMA~~ or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or ~~RHS RECD~~, as applicable, but not a two-, three- or four-family residence, unless each unit in such residence is owner occupied, and land appurtenant to the residential unit which:

(a) Is designed and intended primarily for residential housing;

(b) Is determined by a qualified ~~Qualified appraisal Appraisal~~ to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within a reasonable time after financing is provided. For purposes of this subparagraph, 60 days shall be deemed as a reasonable time;

(d) Has a sales price which does not exceed the Maximum Acquisition Cost as set forth in Rule 67-45.001(12), F.A.C.

(e) Maintains the basic livability ~~liveability~~ of the residence and does not provide, other than incidentally, a source of income to the Eligible Borrower (including child care services, on a regular basis for compensation).

(11) "Lender" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, ~~the First Housing Development Corporation of Florida~~, or other financial institution or governmental agency authorized to transact business within the State of Florida which institution customarily provides services in the financing of mortgages for real property in Florida. Lenders must be qualified FHA, VA, ~~RHS RECD~~, Government National Mortgage Association (GNMA), Fannie Mae FNMA, or Federal Home Loan Mortgage Corporation Association (FHLMC) originators and servicers or sellers as required by the program documents and approved as a participant for the particular Single-Family Bond Program, or any other public or private loan program approved by the Corporation's Board of Directors, under which the Down Payment Assistance Loan is subordinated.

(12) "Maximum Acquisition Cost" means the Maximum Acquisition Cost under the Corporation's Single-Family Bond Program.

(13) "Permanent Loan" or "Loan" means a loan to a borrower under the Florida Home Ownership Assistance Program's Permanent Loan Program as more fully described in Rule Chapter 67-46, F.A.C.

(14) "RHS" ~~"RECD"~~ means United State Department of Agriculture Rural Housing Service Rural Economic Community Development which was formerly known as the Farmer's Home Administration.

(15) "Second Mortgage" means the recorded mortgage securing the Construction Loan, Down Payment Assistance Loan or Permanent Loan which is subordinate only to the lien of the First Mortgage.

(16) "Single-Family Bond Program" means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation's Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

(17) "VA" means the U.S. Department of Veterans Affairs.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 91-45.001, Amended \_\_\_\_\_.

67-45.002 Notice of ~~Fund~~ Funding Availability.

The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intention to provide funding for qualified mortgage loans under the Single-Family Bond Program and the Down Payment Assistance Loan Program and inviting qualified Lenders to submit offers to originate to the Corporation at least seven (7) days prior to selection. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds. The Corporation's Board of Directors, in its sole discretion, may reserve up to 10 percent of the available funding for Demolition Developments.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-45.002, Amended \_\_\_\_\_.

67-45.003 General Program Restrictions.

Loans will be subject to the following restrictions:

(1) In no case may an Eligible Borrower receive both a Down Payment Assistance Loan and a Permanent Loan.

(2) Loans shall be made available only to Eligible Borrowers to finance Homes which do not exceed the Maximum Acquisition Cost.

(3) Loans will be serviced by the Corporation or its designated servicer.

(4) Loans shall be evidenced by a properly executed note as evidence of the indebtedness and shall be secured by a properly executed and recorded mortgage, subject only to the lien of the First Mortgage.

(5) Prepayment of the Loans shall be permitted without penalty.

(6) Loans are not assumable.

(7) No more than one-fifth of the funds available in the Trust Fund may be made available by the Board of Directors to provide loan loss insurance reserve funds to facilitate homeownership for any persons or families whose incomes do not exceed 120 percent of the State median income or local median income, whichever amount is higher. In the event of

default, the reserve funds may be used, at the sole discretion of the Corporation's Board of Directors, to offset losses incurred by both the first mortgagee and the second mortgagee.

(8) During the first 9 months of each fiscal year the program's allocation will be utilized as follows:

(a) Sixty percent of the program funds shall be reserved for Downpayment Assistance Loans.

(b) Twenty percent of the program funds shall be reserved for Permanent Loans.

(c) Twenty percent of the program funds shall be reserved for Construction Loans. If, at the end of 9 months, the Corporation determines that there is insufficient demand for loans under any of the above categories, the Corporation may, at its sole discretion, transfer all or a portion of the remaining allocation to fund another HAP loan program.

(9) If the application of the above percentages would cause the reservation of program funds under paragraph (9)(a) to be less than \$1 million, the reservation for paragraph (9)(a) shall be increased to \$1 million or all available funds, whichever amount is less, with the increase to be accomplished by reducing the reservation for paragraph (9)(b) and, if necessary, paragraph (9)(c).

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-45.003, Amended \_\_\_\_\_.

67-45.004 Application Procedures.

(1) Eligible Borrowers may apply for a Down Payment Assistance Loan with any Lender which is processing the applicant's First Mortgage Loan application.

(2) Applications may apply for either a Downpayment Assistance or Permanent Loan with any Participant which is processing the Applicant's First Mortgage loan application from funds available from a Corporation's Single Family Loan Program.

(3) Prior to funding a Downpayment Assistance or Permanent loan, Participants shall make application as required in the program documents of the relevant Single Family Loan Program.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History—New 8-7-95, Formerly 91-45.004, Amended \_\_\_\_\_.

67-45.006 Loan Processing.

(1) All applications and Loans shall be processed by the Lenders in accordance with the Lender's standard underwriting criteria and any criteria in regard to Second Mortgages which may be imposed by FHA, VA, FannieMae FNMA, RHS RECD or other parties insuring or guaranteeing the First Mortgage loan.

(2) Loan applications shall be reviewed by the lender originating the First Mortgage on the basis of first-come, first-served.

(3) Upon approval of an application by a Lender, the Corporation shall be contacted by telephone or telecopy, as provided in the applicable program documents, to ascertain the

availability of sufficient funds for making the Loans. The Executive Director, or his or her designee, shall either confirm the availability of sufficient funds to make the Loan or shall inform the Lender that the amount requested for the Loan exceeds the funds available to fund the Loan.

(4) If ~~sufficient~~ ~~insufficient~~ funds are not available to fund the full amount of the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan in full, as requested.

(5) Confirmation of sufficient available funds for a requested Loan shall be provided first by a telephonic confirmation by the Corporation or its designee, and then confirmation of fund availability shall be made in writing by the Corporation or its designee to the Lender.

Specific Authority 420.507(12),(23) FS. Law Implemented 429.5088 FS. History—New 8-7-95, Formerly 9I-45.006, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wallisa Cobb, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329,(850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 1999, Corporation Board Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 33, August 20, 1999

Any person requiring special accommodations at the Workshop because of a disability or physical impairment should contact Linda Hawthorne, Florida Housing Finance Corporation, (850)488-4197, at least five days prior to the Workshop. If you are hearing or speech impaired, please contact the Florida Housing Finance Corporation using the Florida Dual Party Relay System which can be reached at 1(800)955-9770 (voice) or 1(800)988-8711 (TDD).

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	67-46.001
Notice of Funding Availability	67-46.002
General Program Restrictions	67-46.003
Loan Processing	67-46.006

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-46, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall: administer and implement Home Ownership Assistance

Program provisions authorized by Florida Statutes, Section 420.5088 (4) and identify the definitions for terms when used in conjunction with the Single Family Revenue Bond Program. SUMMARY: The proposed amendments to the Rule and adopted reference material include changes relative to the (1) development of General Program Requirements that prescribe the procedures used for allocating Home Ownership Assistance Program funds and (2) ratification of universal terms, as well as, terms defined by the Florida Housing Finance Corporation when used in conjunction with the Single Family Mortgage Revenue Bond Program.

STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507(12),(23) FS.

LAW IMPLEMENTED: 420.507(23), 420.5088 FS.

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

TIME AND DATE: 2:00 p.m., October 15, 1999

PLACE: Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-46.001 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, F.S.

~~(2) "Agency" means the Florida Housing Finance Agency.~~

~~(2)(3) "Construction Loan" means a loan to a non-profit sponsor or developer under the Florida Home Ownership Assistance Program's Construction Loan Program as more fully described in Rule Chapter 67-44, F.A.C.~~

~~(3) "Corporation "means Florida Housing Finance Corporation.~~

(4) "Down Payment Assistance Loan" means a loan to a borrower under the Florida Home Ownership Assistance Program's Down Payment Assistance Loan Program as more fully described in Rule Chapter 67-45, F.A.C.

(5) "Eligible Borrower" means a person or persons or family or families:

(a) Who receives a Permanent Loan;

(b) Who intends to permanently reside as a household in the Home as their principal single-family residence;



(c) Whose total annual family income at time of closing does not exceed 80 ~~45~~ percent for a family of one or two persons or 50 percent for a family of three or more persons of the State or local median income; adjusted by household size, whichever is greater. ~~If the Corporation determines that there is insufficient demand for such loans by persons or families whose incomes do not exceed 50 percent of the State or local median income, the Corporation may make such Permanent Loans available to persons or families whose incomes do not exceed 72 percent for a family of one or two persons or 80 percent for a family of three or more persons of the State or local median income, whichever is greater.~~

(d) Who are ~~purchasers of Homes which received Construction Loan Program financing or who are participating in the Corporation's Single-Family Bond Program.~~ If the Corporation determines that there is insufficient demand for Permanent Loans by persons or families ~~who are purchasers of Homes which received Construction Loan Program financing~~ or who are participating in the Corporation's Single-Family Bond Program, the Corporation may make such Loans to persons or families who are receiving a first mortgage loan through another Corporation single-family program or any other public or private loan approved by the Corporation's Board of Directors.

(6) "FannieMae" means the Federal National Mortgage Association.

(7)(6) "FHA" means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.

(8)(7) "First Mortgage" means the recorded mortgage to which the Permanent Loan is subordinated and which is superior to any other lien on the property.

(9)(8) "Florida Home Ownership Assistance Program" means the Florida Home Ownership Assistance Program created under Section 420.5088, F.S., which includes the Construction Loan Program, the Permanent Loan Program and the Down Payment Assistance Loan Program.

(9) "FNMA" means ~~the Federal National Mortgage Association.~~

(10) "Home" means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting FannieMae FNMA or FHA standards, each of which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RHS RECD, as applicable, but not a two-, three- or four-family residence, unless each unit in such residence is owner occupied, and has land appurtenant to each residential unit which:

(a) Is designed and intended primarily for residential housing;

(b) Is determined by a Qualified Appraisal to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within a reasonable time after financing is provided. For purposes of this subparagraph, 60 days shall be deemed as a reasonable time;

(d) Has a sales price which does not exceed the Maximum Acquisition Cost as set forth in Rule 67-46.001(12)(13), F.A.C.

(e) Reasonably maintains the basic liveability of the residence and does not provide, other than incidentally, a source of income to the Eligible Borrower (including child care services on a regular basis for compensation).

(11) "Lender" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, ~~the First Housing Development Corporation of Florida~~, or other financial institution or governmental agency authorized to transact business within the State of Florida which institution customarily provides services in the financing of mortgages for real property in Florida. Lenders must be qualified FHA, VA, RHS RECD, Government National Mortgage Association (GNMA), FannieMae FNMA, or Federal Home Loan Mortgage Corporation Association (FHLMC) originators and servicers, or sellers and servicers as required by the program documents and approved as a participant for the particular Single-Family Bond Program, or any other public or private loan program approved by the Corporation's Board of Directors, under which the Permanent Loan is subordinated.

(12) "Maximum Acquisition Cost" means the Maximum Acquisition cost under the Corporation's Single-Family Bond Program.

(13) "Permanent Loan" or "Loan" means a Florida Home Ownership Assistance Program Loan for which no interest is charged and which shall be limited to:

(a) the lesser of \$15,000 or 25 percent of the purchase price of the Home or the amount necessary to enable the purchaser to meet credit underwriting criteria, for those individuals and families whose income is 65 percent or less of the county's median income and shall have a term not to exceed 30 years or the term of the First Mortgage; ~~whichever is less.~~

(b) the lesser of \$10,000 or 10 percent of the purchase price of the Home or the amount necessary to enable the purchaser to meet credit underwriting criteria, for those individuals and families whose income is 80 percent or less of the county's median income and shall have a term not to exceed 30 years or the term of the First Mortgage. Proceeds of the loan may be used only to assist with down payment and closing cost expenses, and/or to reduce the principal amount of the First Mortgage. Repayment shall be deferred for the term

of the First Mortgage, except in the event of sale, transfer, refinancing or rental of the Home in which case the Loan shall become due and payable in full at that time.

(14) "RHS" "RECD" means United State Department of Agriculture Rural Housing Service Rural Economic Community Development which was formerly known as the Farmer's Home Administration.

(15) "Second Mortgage" means the recorded mortgage securing the Construction Loan, Down Payment Assistance Loan or Permanent Loan which may be a consolidated note and mortgage and is subordinate only to the First Mortgage.

(16) "Single-Family Bond Program" means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation's Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

(17) "VA" means the U.S. Department of Veterans Affairs.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New 8-7-95, Formerly 91-46.002, Amended \_\_\_\_\_.

67-46.002 Notice of ~~Funding Fund~~ Availability.

The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intention to provide ~~to one of the following:~~ (1) Provide funding for qualified mortgage loans under the Single-Family Bond Program and the Permanent Loan Program and invite ~~inviting~~ qualified Lenders to submit offers to originate to the Corporation at least seven (7) days prior to selection. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds. The Corporation's Board of Directors, in its sole discretion, may reserve up to 10 percent of the available funding for Demolition Developments.

~~(2) Provide funding for qualified Construction Loans and for Permanent Loans to purchasers of Homes which received Construction Loan Program financing, and inviting qualified applicants under the Construction Loan Program to submit applications within a specified time period. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds. The notice shall also be mailed to each person and organization on the Corporation's PLP/HAP/HOME mailing list.~~

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History--New 8-7-95, Formerly 91-46.002, Amended \_\_\_\_\_.

67-46.003 General Program Restrictions.

Loans will be subject to the following restrictions:

(1) In no case may an Eligible Borrower receive both a Down Payment Assistance Loan and a Permanent Loan.

~~(2) With respect to purchasers of Homes which received Construction Loan Program financing, Loans shall be made available, in an aggregate amount not exceeding the amount of the Construction Loan.~~

~~(2)(3) Loans shall be made available only to Eligible Borrowers to finance Homes which do not exceed the Maximum Acquisition Cost.~~

~~(3)(4) Loans will be underwritten and serviced by the Corporation or its designated servicer, with the exception of those loans made to purchasers of Homes which received Construction Loan Program financing, in which case, the Loans shall be underwritten and serviced by the lender of the First Mortgage loan to the Home buyer.~~

~~(4)(5) Loans shall be evidenced by a properly executed note or other evidence of indebtedness and shall be secured by a properly executed and recorded mortgage.~~

~~(5)(6) Prepayment of the Loans shall be permitted without penalty.~~

~~(6)(7) Loans are not assumable.~~

(7) During the first 9 months of each fiscal year the program's allocation will be utilized as follows:

(a) Sixty percent of the program funds shall be reserved for Downpayment Assistance Loans.

(b) Twenty percent of the program funds shall be reserved for Permanent Loans.

(c) Twenty percent of the program funds shall be reserved for Construction Loans. If, at the end of 9 months, the Corporation determines that there is insufficient demand for loans under any of the above categories, the Corporation may, at its sole discretion, transfer all or a portion of the remaining allocation to fund another HAP loan Program.

(8) If the application of the above percentages would cause the reservation of program funds under paragraph 7(a) to be less than \$1 million, the reservation for paragraph 7(a) shall be increased to \$1 million or all available funds, whichever amount is less, with the increase to be accomplished by reducing the reservation for paragraph 7(b) and, if necessary, paragraph 7(c).

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History--New 8-7-95, Formerly 91-46.003, Amended \_\_\_\_\_.

67-46.006 Loan Processing.

(1) All applications and Loans shall be processed by the Lenders in accordance with each Lender's standard underwriting criteria and any criteria in regard to Second Mortgages which may be imposed by FHA, VA, FannieMae FNMA, RHS RECD or other parties insuring or guaranteeing the First Mortgage loan.

(2) Loan applications shall be reviewed by the lender originating the First Mortgage on a ~~the~~ basis of first-come, first-served basis.

(3) Upon approval of an application by a Lender, the Corporation or its designee shall be contacted by telephone or telecopy, as provided in the applicable program documents, to ascertain the availability of sufficient funds for making the Loans. The Executive Director, or his or her designee, shall either confirm the availability of sufficient funds to make the Loan or shall inform the Lender that the amount requested for the Loan exceeds the funds available to fund the full amount of the Loan.

(4) If insufficient funds are available to make the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation or its designee on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan in full, as requested.

(5) Confirmation of sufficient available funds for a requested Loan shall be provided first by a telephonic confirmation by the Corporation or its designee, and then confirmation of fund availability shall be made in writing by the Corporation or its designee to the Lender.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 9I-46.006, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wallisa Cobb, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 1999, Corporation Board Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 33, August 20, 1999

Any person requiring special accommodations at the Workshop because of a disability or physical impairment should contact Linda Hawthorne at the Florida Housing Finance Corporation, (850)488-4197, at least five days prior to the Workshop. If you are hearing or speech impaired, please contact the Florida Housing Finance Corporation using the Florida Dual Party Relay System which can be reached at 1(800)955-9770 (Voice) or 1(800)988-8711 (TDD).

**FISH AND WILDLIFE CONSERVATION COMMISSION**

RULE CHAPTER TITLE: Reef Fish  
 RULE CHAPTER NO.: 68B-14

RULE TITLE: Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Exception, Wholesale/Retail Purchase Exemption  
 RULE NO.: 68B-14.0036

PURPOSE AND EFFECT: Historically, the Marine Fisheries Commission, predecessor to the Fish and Wildlife Conservation Commission's (FWCC) Division of Marine Fisheries, was statutorily required to consider federal fishery management plans and avoid inconsistencies between state and federal regulations unless otherwise deemed to be in the best interests of the State of Florida. In continuation of this policy and in cooperation with federal regulators, the FWCC now proposes the following rulemaking.

A March 1999, stock assessment of the Atlantic red porgy fishery revealed that from 1973 to 1997, the number of age-1 red porgy entering the fishery declined over 99%, with a concurrent decline of over 97% in the fishery's total spawning biomass. In addition, there has been a substantial decline in both commercial and recreational landings, and the size of red porgy both at maturity and at transition from female to male, have occurred at progressively smaller sizes. In response to this information, the National Marine Fisheries Service closed all federal waters in the South Atlantic Exclusive Economic Zone (EEZ) to the harvest and possession of red porgy for 180 days beginning on September 8, 1999. Current Florida regulations provide for an automatic closure of commercial harvest in state waters anytime adjacent EEZ waters are closed to the commercial harvest of the same species. There is, however, no similar provision to close state waters to recreational harvest. Accordingly, the FWCC is proposing to amend red porgy regulations to close state waters to recreational harvest through March 5, 2000.

Accordingly, the purpose of this rulemaking is to conform state red porgy regulations with that of adjacent federal waters, while the effect will be to ease the regulatory burden on Florida's citizens by maintaining unified regulations between state and federal waters, and aid in restoration of the health and abundance of the red porgy fishery.

SUMMARY: Rule 68B-14.0035, F.A.C., is amended to prohibit the recreational harvest and possession of red porgy from state waters of the Atlantic Ocean through and including March 5, 2000.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S., WHICH DOES NOT PROVIDE FOR A PUBLIC HEARING.

SUBSTANTIALLY AFFECTED PERSONS MAY FILE OBJECTION WITH THE FISH AND WILDLIFE CONSERVATION COMMISSION. Objection must be received within 14 days of publication of this notice and must specify the portions of the proposed rule to which the person objects and the reason for the objection. Objections which are frivolous will not be considered sufficient to prohibit adoption of the rule as published.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida, 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Exception, Wholesale/Retail Purchase Exemption.

(5) Red porgy. Through and including March 5, 2000, no recreational harvester shall harvest or possess from in or on state waters of the Atlantic Ocean any red porgy. Beginning March 6, 2000, except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 5 red porgies per day.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98. Amended 3-1-99, Formerly 46-14.0036, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 2540 Executive Center Circle, West, Suite 106, Tallahassee, Florida 32301

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan Egbert, Executive Director, Fish and Wildlife Conservation Commission, 620 S. Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 1999

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE NO.:	RULE TITLES:
3F-8.007	Processing Fee

**NOTICE OF PUBLIC HEARING**

The Board of Funeral and Cemetery Services hereby gives notice of public hearing on the above-referenced rule(s) to be held on October 8, 1999, 10:00 a.m., Room 547, The Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. This public hearing is being held in response to a request received from Ross A. McVoy, counsel for Cemetery Management, Inc. The rule was originally published in Vol. 25, No. 31, of the Florida Administrative Weekly.

The person to be contacted regarding the proposed rule is: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, Fletcher Building, 6th Floor, 101 E. Gaines Street, Tallahassee, Florida 32399.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE NOS:	RULE TITLES:
3F-13.001	General Provisions
3F-13.002	Definitions
3F-13.003	General Construction Specifications
3F-13.004	Special Construction Specifications for Class "C" Mausolea

**NOTICE OF PUBLIC HEARING**

The Board of Funeral and Cemetery Services hereby gives notice of a public hearing on the above-referenced rule(s) to be held on October 8, 1999, 10:00 a.m. in Room 547, The Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. This public hearing is being held in response to a request received from Ross A. McVoy, counsel for Cemetery Management, Inc. The rule was originally published in Vol. 25, No. 32, of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana M. Evans, Executive Director, Board of Funeral and Cemetery Services, Fletcher Building, 6th Floor, 101 E. Gaines Street, Tallahassee, Florida 32399.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).