

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Financial and Market Conduct Examination Reimbursement Expenses
RULE NO.: 4-138.002

PURPOSE AND EFFECT: The purpose of the workshop is to discuss the methods of calculating reimbursement rates charged insurers for market conduct and financial examinations so that the rule can be amended to provide the most equitable method of calculating examination reimbursement.

SUBJECT AREA TO BE ADDRESSED: The subject area of the rule development is the method of calculating reimbursement rates for financial and market conduct examinations.

SPECIFIC AUTHORITY: 624.308(1) FS.

LAW IMPLEMENTED: 624.624.307(1), 624.320 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: 9:30 a.m., November 9, 1999

PLACE: Room 601B, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Cheryl Patrenos, P & C Insurer Solvency and Market Conduct, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329, (850)413-5272

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Yvonne White, (850)413-4214.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF EDUCATION

RULE TITLE: Graduation Requirements for Certain Students with Disabilities
RULE NO.: 6-1.0996

PURPOSE AND EFFECT: This rule is being republished to satisfy the concerns of the Joint Administrative Procedures Committee. This rule was previously published and adopted by the State Board of Education in August 1999 under the prefix number of 6A being that reflecting a rule emanating under authority of the State Board. However, in 1997, the Florida

Legislature granted rule making authority to the Commissioner of Education for this rule. Therefore, this rule is being repromulgated under the prefix designation of 6 thus reflecting such rule to be under authority of the Commissioner of Education.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule is the graduation requirements for students with disabilities with the exact same text as originally approved by the State Board of Education in August 1999, including approval by the Commissioner of Education, but here repromulgated under designation of the Commissioner of Education to satisfy concerns of the staff of the Joint Administrative Procedures Committee.

SPECIFIC AUTHORITY: 229.565(1), 232.247 FS.

LAW IMPLEMENTED: 230.23(6)(a), 232.247 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE ADMINISTRATIVE WEEKLY. A rule development workshop has been deemed unnecessary by the Commissioner of Education due to the extensive input received from affected parties at the time the exact same rule was originally amended in August 1999.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, 1702 The Capitol, Tallahassee, Florida 32399-0400, (850)488-6539

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6-1.0996 Graduation Requirements for Certain Students with Disabilities.

Each school board shall, pursuant to Section 232.247, Florida Statutes, prescribe special requirements for graduation for students who have been properly identified as educable mentally handicapped, trainable mentally handicapped, hearing impaired, specific learning disabled, emotionally handicapped, profoundly handicapped, physically impaired, or language impaired. The school board shall make provision for each student to use basic, vocational, and exceptional student education courses as appropriate for meeting graduation requirements. Any such student completing the special requirements shall be awarded a Special Diploma in the form prescribed by Rule 6A-1.0995(2), FAC.

(1) Special Diploma Options. School boards may award Special Diplomas based on two (2) options.

(a) One option shall include procedures for determining and certifying mastery of student performance standards for a special diploma for students who enter ninth grade in or before school year 1998-1999 as prescribed in subsections (3)-(11) of this rule; or higher levels of student performance standards for students with disabilities adopted by the district school board;

and minimum number of course credits specified by the district school board. For students entering ninth grade in or after 1999-2000 mastery is determined as indicated in subsections (12)-(13) of this rule.

(b) The second option shall include procedures for determining and certifying mastery of demonstrated employment and community competencies in accordance with subsection (14) of this rule.

(2) Diploma procedures. Each school board shall develop procedures for ensuring that students may select and move between the Special Diploma options prescribed in subsection (1) of this rule, if both options are provided by the school district, and between courses of study leading to Standard or Special Diplomas, as appropriate.

(a) The individual educational plan (IEP) committee shall document whether the student is pursuing a course of study leading toward a Standard or Special Diploma on the IEP developed during the student's eighth grade year, or the IEP developed during the school year of prior to the student's fourteenth birthday, whichever occurs first. This decision shall be reviewed annually.

(b) Nothing contained in this rule shall be construed to limit or restrict the right of a student with a disability solely to a Special Diploma. The parents of each student eligible for a Special Diploma for students shall be notified through the IEP process of the options available under this rule.

(c) Special Diploma requirements shall be included in the district pupil progression plan adopted pursuant to Section 232.245, Florida Statutes.

(3) Educable mentally handicapped. Student performance standards for students identified as educable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level IV; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as educable mentally handicapped.

(4) Trainable mentally handicapped. Student performance standards for students identified as trainable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level III; Writing, Level IV; Language, Level III; Mathematics, Level III; and Social and Personal, Level III as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as trainable mentally handicapped.

(5) Hearing impaired. Student performance standards for students identified as hearing impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level IV; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as hearing impaired.

(6) Physically impaired. Student performance standards for students identified as physically impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

(c) Completion of the minimum number of course credits prescribed by the school board for students identified as physically impaired.

(7) Language impaired. Student performance standards for students identified as language impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level VI as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as language impaired.

(8) Emotionally handicapped. Student performance standards for students identified as emotionally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level IV as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as emotionally handicapped.

(9) Specific learning disabilities. Student performance standards for students identified as specific learning disabled shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level VI; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as specific learning disabled.

(10) Profoundly handicapped. Student performance standards for students identified as profoundly handicapped.

(a) Students with profound handicaps shall include students identified as profoundly mentally handicapped, dual-sensory impaired, autistic, or severely emotionally disturbed as defined by Rule 6A-6.03021, FAC., and

(b) The determination of the requirements for a Special Diploma for students identified as profoundly handicapped shall be consistent with the requirements for any other students identified in this rule and shall be specified in the student's IEP.

(11) Eleventh grade student performance standards. For students defined in this rule, mastery of the eleventh grade, student performance standards, through successful completion of courses, as defined in Rule 6A-1.0941(1), FAC., shall be accepted in lieu of mastery of the student performance standards noted above for awarding of a special diploma.

(12) Special diploma requirements. For students entering ninth grade in or after 1999-2000, special diploma requirements shall include:

(a) demonstration of proficiency at the independent, supported, or participatory level of each Sunshine State Standard for Special Diploma prescribed in Rule 6A-1.09401(1)(h), FAC., as determined through the IEP process, and

(b) completion of the minimum number of course credits for a special diploma as prescribed by the school board.

(13) Sunshine State Standards. For students with disabilities as defined in this rule, mastery of the Sunshine State Standards through successful completion of courses that meet graduation requirements for a standard diploma, specified in Rule 6A-1.09401(1)(a)-(g), FAC., shall be accepted in lieu of Sunshine State Standards for Special Diploma noted in subsection (12) of this rule for awarding of a special diploma.

(14) Employment and community competencies. Each school board's requirements for demonstration of mastery of specified employment and community competencies shall ensure:

(a) The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies;

(b) The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester, and paid a minimum wage in compliance with the requirements of the Fair Labor Standards Act;

(c) The student has mastered the employment and community competencies specified in a training plan. The training plan shall be developed and signed by the student, parent, teacher, and employer prior to placement in employment and shall identify the following:

1. The expected employment and community competencies;
2. The criteria for determining and certifying mastery of the competencies;
3. The work schedule and the minimum number of hours to be worked per week; and
4. A description of the supervision to be provided by school district staff.

Specific Authority 229.565(1), 232.247 FS. Law Implemented 230.23(6)(a), 232.247 FS. History—New 10-30-88, Amended 6-14-94, Formerly 6A-1.0996, Amended 10-10-99, Repromulgated. c.f. Minimum Student Performance Standards for Florida Schools 1994-95 through 2002-2003, Beginning Grades 3, 5, 8, and 11, Reading, Writing, and Mathematics Student Performance Standards for Florida Schools 1996-97 through 2001-2002, Exceptional Students, Reading, Writing, Language, Mathematics, and Social and Personal Sunshine State Standards for Special Diploma, 1999

DEPARTMENT OF EDUCATION

RULE TITLE: Responsibilities for the School Food Service Program
 RULE NO.: 6-7.042

PURPOSE AND EFFECT: This rule is being republished to satisfy the concerns of the Joint Administrative Procedures Committee. This rule was previously published and adopted by the State Board of Education in August 1999 under the prefix number of 6A being that reflecting a rule emanating under authority of the State Board. However, in 1997, the Florida Legislature granted rule making authority to the Commissioner of Education for this rule. Therefore, this rule is being repromulgated under the prefix designation of 6 thus reflecting such rule to be under authority of the Commissioner of Education.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule is the school food service requirements with the exact same text as originally approved by the State Board of Education in August 1999, including approval by the Commissioner of Education, but here repromulgated under designation of the Commissioner of Education to satisfy concerns of the staff of the Joint Administrative Procedures Committee.

SPECIFIC AUTHORITY: 228.195(2), 229.053(1) FS.

LAW IMPLEMENTED: 228.195, 229.053(2)(1), 230.23(16) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE ADMINISTRATIVE WEEKLY. A rule development workshop has been deemed unnecessary by the Commissioner of Education due to the extensive input received from affected parties at the time the exact same rule was originally amended in August 1999.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, 1702 The Capitol, Tallahassee, Florida 32399-0400, (850)488-6539

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6-7.042 Responsibilities for the School Food Service Program.

(2) Each district school board shall have the following responsibilities:

(c) To control the sale of food and beverage items in competition with the district approved food service program, including those classified as "foods of minimal nutritional value," listed in Code of Federal Regulations 210, Appendix B. These items may be sold in secondary schools only, with the approval of the school board, one (1) hour following the close of the last lunch period. A school board may allow the sale of carbonated beverages to students in high schools by a school activity or organization authorized by the principal at all times if a beverage of one hundred (100) percent fruit juice is sold at each location where carbonated beverages are sold. However, carbonated beverages may not be sold where breakfast or lunch is being served or eaten. Non-carbonated beverages, including one hundred (100) percent fruit juice, may be sold at all times during the day at any location. Consideration should be given to allowing only the sale of nutritious food and beverage items which meet at least United States Department of Agriculture dietary guidelines for Americans.

(4) Forms ESE 156, Preaward Nondiscrimination Compliance Review Summer Food Service Program for Children; ESE 195, Monthly Claim for Reimbursement Summer Food Service Program for Children; ESE 196, Summer Food Service Program for Children Application for Participation; ESE 197, Summer Food Service Program for Children Site Information Sheet; ESE 198, Summer Food Service Program for Children Agreement; ESE 003, Food Service Special Revenue Financial Report; ESE 157, Application for Change in Food Service Program; ESE 174, Monthly Reimbursement Voucher School Lunch and Breakfast Program; ESE 177, Monthly Reimbursement Voucher Special Milk (Only) Program; ESE 178, Private School/Institution Financial Report; ESE 491, National School Lunch, School Breakfast and Commodity School Program Application, Agreement & Policy Statement; ESE 472, Special Milk Program for Children Application, Agreement and Policy Statement; and Form ESE 080, Breakfast Program Supplement Report are hereby incorporated by reference and made a part of this rule to become effective September, 1999 These forms may be obtained from the Administrator of Information Services and Accountability, Division of Technology and Administration, Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

Specific Authority 228.195(2), 229.053(1) FS. Law Implemented 228.195, 229.053(2)(1), 230.23(16) FS. History—Amended 3-26-66, 4-17-72, 4-19-73, 10-20-73, Revised 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 10-18-77, 12-11-79, 1-7-81, 7-28-81, 9-23-81, 6-28-83, 10-15-84, 7-10-85, Formerly 6A-7.42, Amended 5-3-88, 5-16-90, 6-30-92, Formerly 6A-7.042, Amended 10-10-99, Repromulgated . c.f. National School Lunch Act as amended (42 USC) Sections 4 and 11, and Child Nutrition Act of 1966 as amended (42 USC) Sections 4 and 5, 7 CFR, Part 210, Section 210.6, CFR 210, Appendix B, CFR Parts 215, 220, 225, 226, 227, 235, 240, 245, 250, and 252.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Personnel – General
 RULE NO.: 33-208.001

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the application of department rules to volunteers, interns, and non-DC employees. The effect of the proposed rule is to exempt non-DC employees from the hair length and beard restrictions applied to employees, and to allow pastoral volunteers to have contact with offenders and their families consistent with the mission of the affiliated organization or religious community.

SUBJECT AREA TO BE ADDRESSED: Volunteers, Interns and Non-Department of Corrections Employees.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 790.001(8), 944.09, 944.14 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: 9:00 a.m., November 15, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-208.001 Personnel – General.

(1) through (4) No change.

(5) Conduct of Volunteers, Interns and Non-DC Employees. All rules, directives, and policy statements governing conduct of Department of Corrections employees apply to volunteers, interns and non-DC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, warden, Officer-in-Charge or Supervisor. There will be two exceptions:

(a) Male volunteers and interns shall not be subject to the same restrictions on hair length and beards.

(b) Volunteers who are pastoral care professionals or represent organizations that provide after-care to offenders under supervision and inmates upon their release are permitted to have contact with the ex-offender and his or her family. This contact shall be consistent with mission objectives of the volunteer organization or program with which the volunteer is involved and with pastoral care provisions established by the religious community with which the volunteer is affiliated.

Specific Authority 20.315, 944.09 FS. Law Implemented 790.001(8), 944.09, 944.14 FS. History—New 10-8-76, Formerly 33-4.01, Amended 2-17-77, 7-12-86, 6-13-88, Formerly 33-4.001, Amended .

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Offender Grievance Procedures	33-302.101
Employer Notification of Supervision Status	33-302.102
Correctional Probation Officers Carrying Firearms	33-302.104
Probation and Parole – Use of Force	33-302.105

PURPOSE AND EFFECT: The proposed rules are needed in order to clarify the responsibilities of correctional probation officers, to correct titles of probation staff, to require that officers carrying firearms must also carry and be certified in the use of chemical agents, and to clarify the requirements and procedures for obtaining authorization to carry firearms.

SUBJECT AREA TO BE ADDRESSED: Probation and Parole.

SPECIFIC AUTHORITY: 20.315, 790.06, 944.09 FS.

LAW IMPLEMENTED: 20.315, 790.06, 944.09, 944.35 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: 9:00 a.m., November 16, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.101 Offender Grievance Procedures.

(1) No change.

(2) The following procedures outline the steps to be taken by an offender under field supervision, ~~including in a probation and restitution center, or~~ an offender in pretrial intervention who has a complaint concerning actions on supervision. Steps for filing complaints are:

(a) The offender should first discuss any complaint with the correctional probation officer assigned to his case to determine if a resolution to the problem can be obtained.

(b) The offender may submit a written grievance outlining the problem to the officer's immediate supervisor ~~or to the major of the probation and restitution center for offenders assigned to a probation and restitution center~~ if the issue is not resolved with his correctional probation officer. The supervisor ~~or major~~ shall respond, in writing, with a response that attempts to resolve the issue, within 15 days of the receipt of the grievance. A copy of both the grievance and the supervisor's ~~or major's~~ response shall be forwarded to the

correctional probation administrator for informational purposes. A copy of the grievance and all responses to the grievance shall be maintained in the offender file.

(c) In the event the issue is not resolved with the supervisor ~~or major~~, contact can be made by the offender with the correctional probation administrator for the purpose of review. The correctional probation administrator shall respond to the offender in writing, with a response that attempts to resolve the issue, within 10 days of contact.

(d) In the event the issue is not resolved with the correctional probation administrator, the offender may file a written complaint with the regional director of community corrections for review. The regional director of community corrections shall provide a written response which attempts to resolve the issue within 30 days, with a copy to the Department of Corrections Inspector General's Office.

(3) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 5-28-86, Amended 10-1-89, 9-30-91, 2-15-98, Formerly 33-24.005, Amended _____.

33-302.102 Employer Notification of Supervision Status. Correctional probation officers shall notify the employer of each offender under his or her supervision of the offender's supervision status within 30 days of the onset of supervision and within 30 days of an offender's new employment situation. The officer shall advise the employer of the offense or offenses for which the offender is under department supervision. Offenders under supervision in the community are required to notify their employer of their supervision status within 30 days or their officer shall inform their employer accordingly, unless otherwise stated in the supervision order.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 5-28-86, Formerly 33-24.010, Amended _____.

33-302.104 Correctional Probation Officers Carrying Firearms.

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

(c) "Correctional probation officer" means a person who is employed full time by the Department of Corrections whose primary responsibility is the supervised custody, surveillance, and control of assigned offenders and includes supervisory personnel whose duties include the supervision, training and guidance of correctional probation officers. This term does not include personnel above the level of regional division director of community corrections.

(d) "Firearm card" means the document issued by the department pursuant to this rule to a correctional probation officer who has been authorized by the department to carry a firearm while on duty. Form DC3-326, Firearms Qualification and Authorization, shall be used for this propose. Form DC3-326 is hereby incorporated by reference. A copy of this form may be obtained from Department of Corrections, Forms Control Administrator, Office of the General Counsel

~~Probation and Parole Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is July 1, 1992.

(3) Authorization Procedures.

(a) In addition to the requirements of this rule, correctional probation officers who want to carry firearms shall also be required to comply with rule 33-209.103 where applicable.

~~(b)(a)~~ Any correctional probation officer who wants to carry a firearm while on duty shall make written application by interoffice memorandum for such authorization through the correctional probation administrator. Any correctional probation administrator or assistant to the ~~regional division~~ director of community corrections who wants to carry a firearm while on duty shall make application to the ~~regional division~~ director of community corrections. A regional director of community corrections who wants to carry a firearm while on duty shall make application to the deputy director of community corrections. The written application shall contain documentation that the individual has complied with the training and qualification requirements set forth in ~~(c)(b)~~ below. The application shall also contain a statement that the officer has read and understands rule 33-302.104 and 33-209.103.

~~(c)(b)~~ Correctional probation officers who wish to carry firearms while on duty shall complete training and qualification requirements pursuant to rule 33-209.103. Correctional probation officers shall not be allowed to carry a firearm on duty until firearms qualification is successfully completed. Qualification, requalification and training shall be completed using the specific weapon that the officer will be using on duty and any type of ammunition approved by the local training center. Documentation of the model, make, and serial number of the weapon used shall be submitted along with the documentation of training and qualification in the application for authority to carry the firearm. A receipt of purchase or affidavit of ownership for the weapon shall also be provided.

~~(d)(e)~~ No change.

~~(e)(d)~~ Upon review of the application, the documentation of training and qualification pursuant to 33-209.103, and after completing an FCIC/NCIC check on the firearm by serial number, the correctional probation administrator or ~~regional division~~ director of community corrections or deputy director of community corrections shall approve the request within 10 working days and shall issue a written card which establishes that the officer has been authorized to carry a firearm. Each correctional probation administrator shall maintain a list of all officers in that circuit who have been authorized to carry firearms. Form DC3-327, Firearm Authorization List, will be used for this purpose. Form DC3-327 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel ~~Probation and Parole Services~~, 2601 Blair Stone Road,

Tallahassee, Florida 32399-2500. Requests must be accompanied by a self-addressed stamped envelope. The effective date of this form is July 1, 1992. A copy of the application, documentation of qualification, firearms authorization card, and receipt or affidavit of ownership shall be placed in the employee's personnel file. If an officer temporarily or permanently replaces the firearm used for qualification, the officer shall notify the department of the replacement and provide the model, make and serial number of the replacement firearm.

~~(f)(e)~~ The firearms authorization card shall expire one year from the date of initial firearms card issuance ~~qualification~~ unless written documentation of re-qualification is submitted to the authorizing entity prior to the expiration of the firearms card. The officer shall be required to successfully re-qualify each year thereafter pursuant to 33-209.103 and this rule in order to remain qualified to carry a firearm. ~~All correctional probation officers authorized to carry a firearm shall annually complete one hour of department approved firearm in-service training in addition to that required in 33-209.103.~~

(g) Re-qualification must occur within 90 days prior to the employee's firearm card expiration date. Upon re-qualification, the new firearm card will expire one year from the expiration date of the previous firearm card.

(h) A correctional probation administrator or designee shall immediately suspend authorization to carry a firearm, except for firearm training purposes, and shall secure the firearm card from any officer who has failed to re-qualify as of the card expiration date. A correctional probation officer who attempts to re-qualify and fails shall be provided the opportunity to participate in remedial firearm training as specified in chapter 33-209 at a time approved by the correctional probation administrator.

(i) A correctional probation officer who fails to complete firearm re-qualification after remedial training has been provided, and who wishes to renew authorization to carry a firearm, must re-attend and successfully complete basic recruit firearm training at the officer's own expense.

(j) A correctional probation officer who does not re-qualify prior to the date of expiration of the firearm card shall not be permitted to carry a firearm while on duty, except for firearm training purposes. If the officer successfully re-qualifies within a year of the date of expiration of the firearm card, a new card will be issued with an expiration date one year from the date of re-qualification. If the officer does not successfully re-qualify within one year of the expiration date of the firearm card, the officer must re-attend and successfully complete basic recruit firearm training at his or her own expense.

~~(k)(f)~~ No change.

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

(c) Each probation office shall have a designated secure space containing a secure locker. Officers shall place their holstered firearms in the secure locker immediately upon entering the office. It is not necessary for the officer to remove the firearm from the locker for those occasions when the officer leaves the office for personal time or when the firearm is not desired. The firearm shall be removed from the locker at the conclusion of the duty day. No firearm shall be left in the probation office overnight.

(d) No change.

(5) through (6) No change.

(7) Use of Firearm. For the purposes of this rule, "use of a firearm" means to discharge a firearm or to have a firearm readily accessible for immediate discharge, i.e., loaded and in a person's hand.

(a) No change.

(b) In accordance with firearms training, correctional probation officers are authorized to use deadly force only after all other reasonable efforts to avoid confrontation have been exhausted, including retreat or use of defensive tactics or chemical agents. ~~Other efforts include, but are not limited to, retreat or use of chemical agents or defensive tactics.~~ Effective July 1, 2000, all officers authorized to carry firearms must be certified to carry chemical agents per rule 33-302.105 and must carry chemical agents while carrying firearms.

(c) through (d) No change.

(8) Procedures Following Use of Firearm.

(a) Except during authorized training, when a correctional probation officer discharges a firearm, the officer shall notify the appropriate law enforcement authorities as soon as possible and shall advise them of the circumstances of the incident. After contacting the law enforcement authorities, the officer shall contact and advise a supervisor of the incident. The supervisor shall immediately contact the correctional probation administrator and shall then report to the scene of the incident. The correctional probation administrator shall immediately contact the regional division director of community corrections. The regional division director of community corrections shall immediately notify the deputy regional director of community corrections of the incident. The regional director of community corrections shall also immediately contact the inspector general, who shall then initiate an investigation.

(b) through (c) No change.

(9) Removal of Authorization to Carry a Firearm.

(~~a~~) The correctional probation administrator shall have the authority to permanently remove or to temporarily suspend the authorization to carry a firearm ~~pending a psychological examination~~ for a correctional probation officer, a correctional probation supervisor or correctional probation deputy administrator ~~to carry a firearm~~ if the officer has exhibited behavior which indicates that the carrying of a firearm by this officer could present a threat to the security of other officers,

offenders, or the general public, or the officer has demonstrated an inability to properly care, maintain, handle or secure the firearm. The regional division director of community corrections shall have this same authority with regard to a correctional probation administrator or assistant to the division director of community corrections. The deputy director of community corrections shall have the same authority with regard to a regional director of community corrections. The regional director of community corrections shall be notified each time a decision is made to remove an officer's authorization to carry a firearm.

(b) No change.

(10) (a) through (d) No change.

(e) Each officer shall be responsible for having the authorized firearm, including any temporary or replacement firearm, inspected annually by a certified gunsmith or law enforcement armorer to ensure that it performs properly and conforms with the manufacturer's standards. The officer shall present certification of such inspection to the correctional probation administrator.

(11) Costs. Unless otherwise appropriated by the Legislature, or as specified in this rule, all costs of firearms, ammunition, training, licensing and other associated matters shall be borne by the employee.

(12) No change.

Specific Authority 20.315, 120.53(1)(a), 790.06, 944.09 FS. Law Implemented 20.315, 120.53(1)(a), 790.06, 944.09 FS. History—New 5-28-86, Amended 7-7-92, 12-20-92, 3-30-94, 9-27-94, 12-19-94, 3-8-95, 2-15-98, Formerly 33-24.013, Amended.

33-302.105 Probation and Parole – Use of Force.

(1) Physical force shall not be used on offenders under supervision or others in the performance of duty unless required in self-defense or the protection of others; or to prevent damage to property or to quell a disturbance; or to overcome physical resistance to a lawful command; or to prevent an offender from inflicting injury to herself or himself. A Community Corrections Report of Force Used An Assault Incident Report Form shall be prepared, dated and signed by the employee using force and submitted to the correctional probation administrator within one five working days of such an incident with copies provided to the regional division director of community corrections.

(2) through (3)(f) No change.

(g) In any case in which chemical agents are used, an accurate record shall be maintained as to what type was used, how much was used, and the location and reason for use, and a factual description of the circumstances and the incident. This information shall be reflected on the Assault Incident Report, Form DC4-954. The officer who used the chemical agent shall complete the report within 48 hours after the incident. This form is hereby incorporated by reference. A copy of the form may be obtained from the Forms Control Administrator, Probation and Parole Services Program Office of the General

may be obtained from the Forms Control Administrator, Probation and Parole Services Program Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope. The effective date of this form is March 4, 1992.

Specific Authority 944.09 FS. Law Implemented 944.35 FS. History--New 5-28-86, Amended 8-6-90, 2-15-98, Formerly 33-24.017, Amended

DEPARTMENT OF CORRECTIONS

RULE TITLE: Restoration of Forfeited Gain Time **RULE NO.:** 33-601.105
PURPOSE AND EFFECT: The proposed rule is needed in order to delete references to a rating level which has been discontinued. References to the "outstanding" rating have been changed to "above satisfactory", the term currently being used.
SUBJECT AREA TO BE ADDRESSED: Gain Time.
SPECIFIC AUTHORITY: 20.315, 944.09, 944.275 FS.
LAW IMPLEMENTED: 20.315, 944.09, 944.275, 944.28 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: 2:00 p.m., November 15, 1999
PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 33-601.105 Restoration of Forfeited Gain Time.
(1) No change.
- (2) Exceptional adjustment. Restoration of gain time is to be used as a positive management tool. Gain time that has been previously forfeited as a result of disciplinary action or violation of the conditions of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release shall be considered when the restoration would produce the same or greater benefits as those derived from the forfeiture in the first place. Only those inmates who have shown exceptional adjustment and outstanding performance since their last disciplinary report or violation of the conditions of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release are to be considered. The restoration shall be considered near the end of the sentence or when the inmate has clearly performed positively over a period

of time and it appears the inmate will continue this positive adjustment without further violating the rules of the department or the laws of the state.

- (a) Eligibility.
 - 1. Restoration of gain time due to loss by disciplinary action:
 - a. No change.
 - b. The inmate's institutional adjustment must be considered as above-satisfactory ~~outstanding~~ by the classification team as established by rule 33-601.210, Florida Administrative Code. "Outstanding" is defined in rule 33-601.101(3)(c)4.
 - c. through f. No change.
 - 2. Restoration of gain time forfeited by violation of the conditions of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release may be considered only when there have been no new convictions for offenses that occurred during the period of release.
 - a. through b. No change.
 - c. The inmate's institutional adjustment must be considered as above satisfactory ~~outstanding~~ by the classification team since return as a parole, provisional release, supervised community release, conditional medical release, control release, or conditional release violator;
 - d. through e. No change.
 - (b) No change.

Specific Authority 20.315, 944.09, 944.275 FS. Law Implemented 20.315, 944.09, 944.275, 944.28 FS. History--New 11-27-84, Previously numbered 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Workers' Compensation
RULE TITLES: Definitions **RULE NOS.:** 38F-55.001
Division Sponsored Reemployment Services and Programs 38F-55.011

PURPOSE AND EFFECT: To change the definition of "education program" in 38F-55.001; and to address the educational programs and facilities when the Division determines a training program is necessary to return an injured employee to suitable gainful employment.
SUBJECT AREA TO BE ADDRESSED: Education programs and facilities in Division sponsored reemployment services.
SPECIFIC AUTHORITY: 440.15(1), 440.491(5),(6),(7),(8) FS.
LAW IMPLEMENTED: 440.15, 440.491 FS.
IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Paul Lincolnhol, Bureau of Rehabilitation and Medical Services, Room 100, Forrest Building, 2728 Centerview Drive, Tallahassee, Florida; telephone number (850)488-3431, ext. 318.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE PROVIDED UPON REQUEST.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Publications Incorporated by Reference

RULE NO.: 40C-4.091

PURPOSE AND EFFECT: The St. Johns River Water Management District proposes to revise Figure 12.2.8-1 entitled "St. Johns River Water Management District Drainage Basins" and the associated table for drainage basin names. Additionally, the District proposes to revise the figure in Appendix M entitled "St. Johns River Water Management District Regional Watersheds for Mitigation Banking" and the associated table for regional watershed names. These drainage basins and regional watershed figures/tables are part of the Applicant's Handbook: Management and Storage of Surface Waters and are relevant to certain permitting criteria applicable to environmental resource permit (ERP) applications. The drainage basins are used in the evaluation of whether a regulated activity will cause unacceptable cumulative impacts upon wetlands and other surface waters. The regional watersheds are used in the analysis of ecological benefits of proposed mitigation banks, are considered in the establishment of mitigation bank service areas and are used as part of the determination of the number of mitigation credits needed to offset a given wetland impact. With one exception, the proposed basins and watersheds are either increased in size or the same size as those in the existing rules. The one exception is the proposed Western Etoniah Lakes basin, which is proposed as a portion of the existing Etoniah Creek basin.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments address the drainage basin and regional watershed maps and associated tables of basin and watershed names. These maps and tables are used in the review of ERP applications and mitigation bank permit applications, pursuant to Part IV, Chapter 373, F.S.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.414, 373.4136, 373.418 FS.

LAW IMPLEMENTED: 373.016(2), 373.413, 373.4135, 373.4136, 373.414(8), 373.416, 373.418, 373.426 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m. till noon, November 5, 1999
 PLACE: St. Johns River Water Management District Service Center, 7775 Baymeadows Way, Suite 102, Jacksonville, Florida 32256

TIME AND DATE: 10:00 a.m. till noon, November 5, 1999
 PLACE: Orange County Public Library, 101 East Central Blvd., Third Floor Meeting Room, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water

THE PRELIMINARY FULL TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 40C-4.091 Publications Incorporated by Reference.
- (1) The Governing Board hereby adopts by reference:
 - (a) Part I "Policy and Procedures," Part II "Criteria for Evaluation," subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin", "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," "Legal Description Tomoka River Hydrologic Basin," "Legal Description Spruce Creek Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Marion County," and "Legal Descriptions of the Lake Apopka Drainage Basin," and Appendix M "Regional Watersheds for Mitigation Banking," of the document entitled "Applicant's Handbook: Management and Storage of Surface Waters," effective ~~1-11-99~~.
 - (b) through (c) No change.
 - (2) No change.

Specific Authority 373.044, 373.046(4), 373.113, 373.171, 373.413, 373.4136, 373.415, 373.416, 373.418, 373.421(2) FS. Law Implemented 373.046, 373.413, 373.4135, 373.4136, 373.415, 373.416, 373.421(2)-(6), 373.426 FS. History—New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 8-11-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, _____.

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INSERT FULL PAGE GRAPHIC

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Health Quality Assurance Home Care Unit

RULE CHAPTER TITLE: Minimum Standards for Nurse Registries
RULE CHAPTER NO.: 59A-18

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the rule, including rule reduction, changes in the Florida Statute, and language clarification. Rule reduction includes deletion of entries in the following sections: Definitions and Supplemental Staffing for Health Care Facilities. Deletions also include the following sections: License Required, Licensed Practical Nurse, and Homemaker, Companion or Sitter Registration Requirements. Changes in the Florida Statute include background screening, hours of operation, and a variable survey cycle for state licensure. Language is added or changed to further clarify such areas as change of ownership procedures, partnerships, geographic service area, home health aide education and responsibilities, among others.

SUBJECT AREA TO BE ADDRESSED: Minimum Standards for Nurse Registries.

SPECIFIC AUTHORITY: 400.497, 400.506 FS.

LAW IMPLEMENTED: 400.497, 400.506 FS.

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

TIMES AND DATE: 10:00 a.m. – 12:00 noon; 1:00 p.m. – 3:00 p.m., November 9, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 initial draft rule can be obtained by contacting this office.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services
RULE NO.: 59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed amendment to the Florida Title XIX Long-Term Care Reimbursement Plan is to incorporate changes to the nursing home reimbursement plan payment methodology as required by proviso language following specific appropriation 252 of the 1999-2000 General Appropriations Act which provides \$9,051,822 to increase the patient care caps effective January 1, 2000.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is payment methodology to increase the nursing home patient care caps effective January 1, 2000.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED 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: 10:00 a.m., November 8, 1999

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2118, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carol Shotwell, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308, (850)414-2759

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Physician Office Incident Reporting
RULE NO.: 64B8-9.001

PURPOSE AND EFFECT: The Board proposes the development of a rule to address the new statutory provision requiring physicians to report adverse incidents which occur in the office.

SUBJECT AREA TO BE ADDRESSED: Criteria for reporting adverse incidents and contents of the reports.

SPECIFIC AUTHORITY: 458.309(1), 458.351(6) FS.

LAW IMPLEMENTED: 458.351 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-9.001 Physician Office Incident Reporting.

(1) Definitions.

(a) "Adverse incident" for purposes of reporting to the department, is defined in section 458.351 as an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

1. The death of a patient.
2. Brain or spinal damage to a patient.
3. The performance of a surgical procedure on the wrong patient.
4. The performance of a wrong-site surgical procedure;
5. The performance of a wrong surgical procedure; or
6. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process and if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required transfer of the patient.
7. A procedure to remove unplanned foreign objects remaining from a surgical procedure.
8. Any condition that required the transfer of a patient to a hospital licensed under chapter 395, Florida Statutes, from an ambulatory surgical center licensed under chapter 395, Florida Statutes, or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395, Florida Statutes.

(b) “Licensee” for purposes of this rule, includes a physician or physician assistant issued a license, registration, or certificate, for any period of time, pursuant to Chapter 458, Florida Statutes.

(c) “Office maintained by a physician” as that term is used in section 458.351(1) is defined as a business location where the physician delivers medical services regardless of whether other physicians are practicing at the same location or the business is non-physician owned.

(2) Incident Reporting System. An incident reporting system shall be established for each physician office.

(a) Incident Reports. The incident reporting system shall include the prompt, postmarked and sent by certified mail within 15 calendar days after the occurrence of the adverse incident, reporting of incidents to the Department at 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253. The report shall be made on the Physician Office Adverse Incident Report. The report must be submitted by the licensee who was involved in the adverse incident. This report shall contain the following information:

1. The patient's name, locating information, gender, age, diagnosis, date of office visit, and purpose of office visit.
2. A clear and concise description of the incident including time, date, and exact location within the office.
3. A listing of all persons then known to be involved directly in the incident, including license numbers and locating information, and a description of the person's exact involvement and actions.
4. A listing of any witnesses not previously identified in 3.

5. The name, license number, locating information, and signature of the physician or licensee submitting the report, along with date and time that the report was completed.

(b) Incident Report Review and Analysis. Evidence of compliance with this paragraph will be considered in mitigation in the event the Board takes disciplinary action.

1. The physician shall be responsible for the regular and systematic reviewing of all incident reports filed by the physician or physician assistant under the physician's supervision, for the purpose of identifying factors that contributed to the adverse incident and identifying trends or patterns as to time, place, or persons. The physician shall implement corrective actions and incident prevention education and training indicated by the review of each adverse incident and upon emergence of any trend or pattern in incident occurrence.

2. Copies of incident reports shall be maintained in the physician office.

Specific Authority 458.309(1), 458.351(6) FS. Law Implemented 458.351 FS. History—New _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Requirement for Physician Office Registration; Inspection or Accreditation

RULE NO.: 64B8-9.0091

PURPOSE AND EFFECT: The Board proposes the development of a rule to address the requirement for office registration and for inspection or accreditation.

SUBJECT AREA TO BE ADDRESSED: The registration of offices where Level II and Level III procedures are being performed and the requirement for inspection or accreditation for those settings.

SPECIFIC AUTHORITY: 458.309 (1),(3) FS.

LAW IMPLEMENTED: 455.681, 458.309 (3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-9.0091 Requirement for Physician Office Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Florida licensed physician who holds an active Florida license and performs level II surgical procedures in Florida with a maximum planned duration of five (5) minutes or longer or any level III office surgery, as fully defined in 64B8-9.009, shall register with the Board of Medicine. It is the physician's responsibility to ensure that every office in which he or she performs levels II or III surgical procedures as described above is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) In order to register an office for surgical procedures, the physician must provide to the Board of Medicine, his or her name, mailing address, Florida license number, and a list of each office where the covered surgical procedures are going to be performed by the physician. The list shall also include each office name, address, telephone number, and level of surgery being performed at that location by the physician; if more than one physician is practicing at that location, a list of all physicians and levels of surgery being performed must be provided. Additionally, the physician shall submit a statement of compliance with Chapter 64B8-9.009, F.A.C., when registering with the Department.

(c) The physician must immediately notify the Board Office, in writing, of any changes to the registration information.

(d) The registration shall be posted in the office.

(2) Inspection.

(a) Unless the physician has previously provided written notification of current accreditation by a nationally recognized accrediting agency or an accrediting organization approved by the Board the physician shall submit to an annual inspection by the Department. Nationally recognized accrediting agencies are the American Association of Ambulatory Surgery Facilities (AAAASF), Accreditation Association for Ambulatory Health Care (AAAHC) and Joint Commission on Accreditation for Ambulatory Healthcare Organizations (JCAHO).

(b) The initial inspection conducted pursuant to this rule shall be announced in advance of the arrival of the inspector(s).

(c) The Department shall determine compliance with the requirements of 64B8-9.009, F.A.C.

(d) If the office is determined to be in noncompliance, the physician shall be notified and shall be given a written statement at the time of inspection. Such written notice shall specify the deficiencies. Unless the deficiencies constitute an immediate and imminent danger to the public, the physician shall be given 30 days from the date of inspection to correct any documented deficiencies and notify the Department of corrective action. Upon written notification from the physician that all deficiencies have been corrected, the Department is authorized to reinspect for compliance.

(e) The deficiency notice and subsequent documentation shall be reviewed for consideration of disciplinary action. Documentation of corrective action shall be considered in mitigation of any offense.

(f) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(3) Accreditation.

(a) The physician shall submit written notification of the current accreditation survey of his or her office(s) from a nationally recognized accrediting agency or an accrediting organization approved by the Board in lieu of undergoing an inspection by the Department.

(b) A physician shall submit, within thirty (30) days of accreditation, a copy of the current accreditation survey of his or her office(s) and shall immediately notify the Board of Medicine of any accreditation changes that occur. For purposes of initial registration, a physician shall submit a copy of the most recent accreditation survey of his or her office(s) in lieu of undergoing an inspection by the Department.

(c) If a provisional or conditional accreditation is received, the physician shall notify the Board of Medicine in writing and shall include a plan of correction.

THIS RULE SHALL TAKE EFFECT 60 days after it is filed for adoption.

Specific Authority 458.309(1),(3) FS. Law Implemented 458.309(3), 455.681 FS. History—New

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Approval of Physician Office 64B8-9.0092
 Accrediting Organizations

PURPOSE AND EFFECT: The Board proposes the development of a rule to address the manner in which accrediting organizations will be reviewed and approved by the Board.

SUBJECT AREA TO BE ADDRESSED: Approval of accrediting organizations with regard to office surgery facilities.

SPECIFIC AUTHORITY: 458.309(1),(3) FS.

LAW IMPLEMENTED: 458.309(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-9.0092 Approval of Physician Office Accrediting Organizations.

(1) Definitions.

(a) "Accredited" means full accreditation granted by a Board approved accrediting agency or organization. "Accredited" shall also mean provisional accreditation provided that the office is in substantial compliance with the accrediting agency or organization's standards; any deficiencies cited by the accrediting agency or organization do not affect the quality of patient care, and the deficiencies will be corrected within six months of the date on which the office was granted provisional accreditation.

(b) "Approved accrediting agency or organization" means nationally recognized accrediting agencies: American Association of Ambulatory Surgery Facilities (AAAASF), Accreditation Association for Ambulatory Health Care (AAAHC) and Joint Commission on Accreditation for Ambulatory Healthcare Organizations (JCAHO). Approved organizations also include those approved by the Board after submission of an application for approval pursuant to this rule.

(c) "Department" means the Department of Health.

(2) Application. An application for approval as an accrediting organization shall be filed with the Board office at 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253, and shall include the following information and documents:

(a) Name and address of applicant;

(b) Date applicant began to operate as an accrediting organization;

(c) Copy of applicant's current accreditation standards;

(d) Description of accreditation process, including composition and qualification of accreditation surveyors; accreditation activities; criteria for determination of compliance; and deficiency follow-up activities.

(e) A list of all physician offices located in Florida that are accredited by the applicant. If there are no accredited Florida physician offices, a list of accredited offices outside of Florida is required.

(f) Statement of compliance with all requirements as specified in this rule.

(3) Standards. The standards adopted by an accrediting organization for surgical procedures performed in a physician office shall meet or exceed provisions of Chapters 455 and 458 and rules promulgated thereunder. Standards shall require that all health care practitioners be licensed or certified to the extent required by law.

(4) Requirements. In order to be approved by the Board, an accrediting organization must comply with the following requirements.

(a) Accreditation periods shall not exceed three years.

(b) The accrediting organization shall obtain authorization from the accredited entity to release accreditation reports and corrective action plans to the Board. The accrediting organization shall provide a copy of any accreditation report to the Board office within 30 days of completion of accrediting activities. The accrediting organization shall provide a copy of any corrective action plans to the Board office within 30 days of receipt from the physician office.

(c) If the accrediting agency or organization finds indications at any time during accreditation activities that conditions in the physician office pose a potential immediate jeopardy to patients, the accrediting agency or organization will immediately report the situation to the Department.

(d) An accrediting agency or organization shall send to the Board any change in its accreditation standards within 30 calendar days after making the change.

(e) An accrediting agency or organization shall comply with confidentiality requirements regarding protection of patient records.

(5) Renewal of Approval of Accrediting Organizations. Every accrediting organization approved by the Board pursuant to this rule is required to renew such approval every 3 years.

(a) To facilitate board review and renewal of approval each approved accrediting organization seeking to renew approval shall:

1. Submit to the Board a written statement certifying that the accrediting organizations standards continue to be as originally reviewed by the Board and that the accrediting organization continues to be in compliance with each of the requirements of this rule, or

2. Submit to the Board a written statement stating any changes in the recognizing agency's requirements and providing a full description of such changes.

(b) Each written submission shall be filed with the Board at least three months prior to the third anniversary of the accrediting organization's initial approval and each subsequent renewal of approval by the Board. Upon review of the submission by the Board, written notice shall be provided to the accrediting organization indicating the Board's acceptance of the certification and the next date by which a renewal submission must be filed or of the Board's decision that any identified changes are not acceptable and on that basis denial of renewal of approval as an accrediting organization.

(c) Any person interested in obtaining a complete list of approved accrediting organizations may contact the Board of Medicine or Department of Health.

Specific Authority 458.309(3) FS. Law Implemented 458.309(3) FS. History—New

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE TITLES: Public Swimming Pool and Bathing Places
RULE NO.: 64E-9.003

PURPOSE AND EFFECT: The purpose of the proposed rule change is to incorporate revised forms into the rule.

SUBJECT AREA TO BE ADDRESSED: The changes will provide two updated forms. Both DH Form 920, Dec. 98, Public Pool And Bathing Place Inspection Report (64E-9.003(1)(b) and DH Form 914, 3/98, Application For Approval Of Swimming Pool Plans (64E-9.003(2)(c) shall be changed.

SPECIFIC AUTHORITY: 381.0011, 381.006, 514.021 FS.

LAW IMPLEMENTED: Part I Ch. 386, 381.0011, 381.0025, 381.006, 514.011, 514.0115, 514.021, 514.025, 514.03, 514.031, 514.033 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., November 16, 1999

PLACE: Department of Health, 1317 Winewood Boulevard, Building 5, Room 203, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert Pryor, Environmental Specialist III, 2020 Capital Circle, S. E., Bin A08, Tallahassee, FL 32399-1710, whose telephone number is (850)487-0004

Copies of the proposed forms can be obtained without cost, by contacting Robert Pryor at the above address.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE TITLE: The Agency's Responsibilities to Foster Parents
RULE NO.: 65C-15.027

PURPOSE AND EFFECT: These changes to 65C-15 require agencies to increase the number of pre-service training hours for foster parents and to document both pre-service and in-service training hours in the foster home record.

SUBJECT AREA TO BE ADDRESSED: Child Placing Agencies.

SPECIFIC AUTHORITY: 409.175 FS.

LAW IMPLEMENTED: 409.175 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: 9:00 a.m., November 5, 1999

PLACE: 1317 Winewood Blvd., Building 8, Room 232, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Amy West, Specialist, 1317 Winewood Blvd., Tallahassee, FL 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65C-15.027 The Agency's Responsibilities to Foster Parents.

(1) The agency shall provide or identify training opportunities for foster parents to increase their skills and ability to parent children who are not their own. The agency shall ensure that each newly licensed foster parent receive not less than ~~21~~ 42 hours of pre-service training prior to initial per year during the first two years of licensure. The pre-service training shall, at a minimum, address the topics found in s. 409.175(13)(b). Training opportunities should include training on agency policy, rules and laws, training which provides foster parents with an understanding of foster care, training which provides foster parents with an understanding of the needs of children and their families, training on the responsibilities of the foster parent to the agency and the child. The pre-service training hours are to be documented and in the family foster home record.

(2) Prior to licensure renewal, the agency shall ensure that each foster parent has completed a minimum of eight hours of in-service training. The in-service training hours are to be documented and in the family foster home record.

~~(3)~~ (2) The agency shall have a signed agreement with all foster parents, which includes the following:

- (a) Expectations and responsibilities of the agency staff and the foster parents;
- (b) The fiscal and medical arrangements for the children placed in the home;
- (c) The authority which foster parents can exercise for the children placed in their home;
- (d) The actions which require agency staff authorization; and
- (e) A statement of the agency's discipline policy.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 12-19-90, Amended 10-27-93, Formerly 10M-24.040, Amended _____.

Section II Proposed Rules

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE: Fees and Procedures Regarding
 Department Information and Services

RULE CHAPTER NO.: 4-127

RULE TITLES: Database Information

RULE NOS.: 4-127.001

Cost of Publications

4-127.002

Penalties Pertaining to Filing Requirements

4-127.003

PURPOSE AND EFFECT: The methods for determining cost of publication as required by Section 624.313(3), F.S.

SUMMARY: This rule is being amended to delete the parts, which are obsolete or duplicative.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 624.308(1) FS.
 LAW IMPLEMENTED: 119.07(1)(b), 624.307, 624.313(3) FS.

IF REQUESTED IN WRITING 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., November 16, 1999
 PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jamie Payne, Document Processing, Department of Insurance, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Yvonne White, (850)922-3100, Ext. 4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-127.001 Database Information.

The cost for the Annual Report of the Department of Insurance, pursuant to 624.313(1), Florida Statutes, is \$30.00.

~~(1) This rule establishes procedures for individuals and entities purchasing certain data contained in the Department's computer database. These data are: the Department's annual report; other special reports; lists; labels; and bar codes.~~

~~(2) All insurers, firms, individuals, or other entities requesting the information described in subsection (1) from the Department's computer database system shall submit their requests in writing to the Bureau of Data Control, Division of Insurer Services, Department of Insurance, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0300.~~

~~(3)(a) Upon receipt of the request, the Data Collection Section of the Bureau of Data Control will prepare an invoice for the items requested.~~

~~(b) The following costs are applicable:~~

~~1. The cost for the Annual Report of the Department of Insurance is \$30.00.~~

~~2. There will be a special service charge of \$25.00 plus the applicable actual cost of duplication or retrieval, as permitted by Section 119.07(1)(b), Florida Statutes, for lists, mailing labels, additional bar codes, or any records generated.~~

~~(c) The purchaser shall return the original copy of the invoice to: Finance and Accounting, Revenue Processing Section, Bureau of Data Control, Post Office Box 6100, Tallahassee, Florida 32314-6100, along with payment in the appropriate amount. All checks shall be made payable to the Florida Department of Insurance.~~

~~(d) Upon receipt of payment, the items requested will be forwarded to the requesting party.~~

Specific Authority 624.308(1) FS. Law Implemented 119.07(1)(b), 624.307, 624.313(3) FS. History—New 9-29-92, Amended _____.

4-127.002 ~~Cost Bulk Orders~~ of Publications.

~~(1) The Department shall establish the cost of each publication issued pursuant to Section 624.313, Florida Statutes, which shall include the cost of printing, binding, writing, editing, typesetting, artwork, photography, and other similar activities, involved with the particular publication, plus the cost of packaging and shipping. The procedures in this rule apply to bulk orders of publications issued pursuant to the provisions of Section 624.313, Florida Statutes. A bulk order is defined as 25 or more copies of a publication.~~

~~(2) This rule applies to all persons or entities wishing to purchase publications in bulk, except for those persons and entities specifically exempted by subsection (3) of Section 624.313, Florida Statutes.~~

~~(3) The Department shall establish the cost of each publication, which shall include the cost of printing, binding, writing, editing, typesetting, artwork, photography, and other similar activities, as appropriate to the particular publication.~~

~~(4) The purchaser shall place the order with the Bureau of Consumer Outreach and Education, Division of Consumer Services, Department of Insurance, Larson Building, Tallahassee, Florida 32399-0300. The Bureau shall notify the purchaser of the total price, which will include a charge for packaging and shipping. The total price will be based on the current price for the publication ordered and the current cost for packaging and shipping. The purchaser shall send a check~~