

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: RULE NO.:

NAIC Financial Examiners 690-138.001  
 Handbook Adopted

PURPOSE AND EFFECT: To adopt the 2006 NAIC Financial Condition Examiners Handbook Adopted, as permitted by Section 624.316, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Update NAIC Handbook.

SPECIFIC AUTHORITY: 624.308(1), 624.316(1)(c) FS.

LAW IMPLEMENTED: 624.316(1)(c) 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., March 8, 2006

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: [kerry.krantz@fldfs.com](mailto:kerry.krantz@fldfs.com)

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

**Section II  
Proposed Rules**

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: RULE NO.:  
 Close Management 33-601.800

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise Form DC6-229A, Close Management Daily Record of Segregation, to delete codes already documented on other forms.

SUMMARY: Form DC6-229A, Close Management Daily Record of Segregation, is being revised to delete codes already documented on other forms.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.800 Close Management.

(1)through (18) No change.

(19) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of Research, Planning and Support Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (e) No change.

(f) Form DC6-229A, Close Management Daily Record of Segregation, effective date 4-8-04.

(g) through (l) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—Formerly 33-601.801-.813, substantially amended 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick H. Brown, M.D., Assistant Secretary of Health Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2006

**AGENCY FOR HEALTH CARE ADMINISTRATION****Medicaid**

RULE TITLE: Visual Services  
 RULE NO.: 59G-4.340

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2006. The coverage and limitations handbook revisions include policy clarifications and updated billing information. The effect will be to incorporate by reference in the rule the Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2006.

SUMMARY: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2006. The effect will be to incorporate by reference in the rule the Florida Medicaid Visual Services Coverage and Limitations Handbook, January 2006.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of 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 409.919 FS.

LAW IMPLEMENTED 409.906, 409.908 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: 2:00 p.m., Monday, March 13, 2006

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jason Ottinger, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)922-7314

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.340 Visual Services.

(1) No change.

(2) All visual services practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Visual Services Coverage and Limitations Handbook, January ~~2006~~ ~~2004~~, ~~updated January 2005~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider

Support, and then on Handbooks. Paper copies of the handbooks may be obtained by calling Provider Inquiry at (800)377-8216.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 7-30-80, Formerly 10C-7.521, Amended 4-20-93, 8-25-93, Formerly 10C-7.0521, Amended 12-21-97, 10-13-98, 6-10-99, 4-23-00, 1-23-02, 2-20-03, 8-5-03, 10-12-04, 8-18-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jason Ottinger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 2, 2005

**AGENCY FOR HEALTH CARE ADMINISTRATION****Medicaid**

RULE TITLE: Traumatic Brain and Spinal  
 RULE NO.: 59G-13.130

Cord Injury Services

PURPOSE AND EFFECT: The purpose of this rule is to incorporate by reference the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook, April 2006. This handbook includes the provider requirements, covered services, service limitations, procedure codes, and fees for the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Program. The effect will be to incorporate by reference in the rule the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook.

In the Notice of Rule Development, published in the Florida Administrative Weekly, Vol. 31, No. 18, May 6, 2005, we erroneously numbered the Rule 59G-13.030, F.A.C. The correct rule number is Rule 59G-13.130, F.A.C.

SUMMARY: The purpose of this rule is to incorporate by reference the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook, April 2006. The effect will be to incorporate by reference in the rule the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.912 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., Monday, March 13, 2006  
 PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stephanie Clarke, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)488-8710

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.130 Traumatic Brain and Spinal Cord Injury Services.

(1) This rule applies to all traumatic brain and spinal cord injury waiver services providers enrolled in the Medicaid program.

(2) All traumatic brain and spinal cord injury waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook, April 2006, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081 which is incorporated by reference in Rule 59G-13.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) The following forms that are included in the Florida Medicaid Traumatic Brain and Spinal Cord Injury Waiver Services Coverage and Limitations Handbook are incorporated by reference: Appendix C contains the Home and Community-Based Waiver Referral Agreement, April 2006, seven pages; Appendix D contains the Brain and Spinal Cord Injury Program Request for Level of Care, April 2006, two pages; Appendix E contains the Notification of Level of Care, which is incorporated by reference in Rule 59G-13.030, F.A.C.; Appendix F contains the Brain and Spinal Cord Injury Program Waiting List Policy for the Traumatic Brain/Spinal Cord Injury Medicaid Waiver Program, April 2006, five pages, and Home and Community-Based Medicaid Waiver Prioritization Screening Instrument, April 2006, four pages; Appendix G contains the Notice of Decision, April 2006, two pages; and Appendix H contains the Brain and Spinal Cord Injury Program Medicaid Home and Community-Based Waiver Service Plan, April 2006, one page.

Specific Authority 409.919 FS, Law Implemented 409.906, 409.907, 409.908, 409.912 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephanie Clarke  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE TITLES:	RULE NOS.:
Cross County Enrollment	60BB-8.203
Uniform Attendance Policy for the Funding of the VPK Program	60BB-8.204
Voluntary Prekindergarten Uniform Statewide Provider Agreement	60BB-8.301
VPK Program Class Sizes and Composition	60BB-8.400

PURPOSE AND EFFECT: To adopt rules to establish procedures for early learning coalitions related to the Statewide Provider Agreement, the Uniform Attendance Policy, class sizes, and cross-county enrollment in the Voluntary Prekindergarten Education Program.

SUMMARY: The proposed rules seek to establish procedures for early learning coalitions related to the Voluntary Prekindergarten Education Program such as the Statewide Provider Agreement, the uniform attendance policy, class sizes, and cross-county enrollment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 120, 1002.79 FS.

LAW IMPLEMENTED: 1002.53, 1002.55, 1002.61, 1002.63, 1002.75 FS.

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

TIME AND DATE: 1:00 p.m. – 5:00 p.m. or until business is concluded, March 13, 2006

PLACE: Agency for Workforce Innovation, Caldwell Building, 107 E. Madison Street, Room B-49, Tallahassee, Florida 32399

Any person requiring special accommodations to participate in this hearing is asked to advise the agency at least forty-eight (48) hours before the meeting by contacting: Ms. Nicole Cutchin, (850)245-7150.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kelley Cramer, Senior Attorney, 107 East Madison Street, MSC 110, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULES IS:

60BB-8.203 Cross County Enrollment.

(1) Enrollment permitted in a county other than where the child resides.

(a) An early learning coalition may not prohibit a private prekindergarten provider or public school from enrolling an eligible child in the VPK program on the ground that the child resides in a Florida county other than the Florida county where the provider or school is located.

(b) A provider or school may establish and use admissions criteria governing how the private prekindergarten provider determines whether to admit the child, or how a school district limits the number of children admitted by a particular public school.

(2) Enrollment required with the early learning coalition serving the provider's or school's county.

(a) A child must be registered and enrolled for the VPK program with the early learning coalition serving the county within the coalition's geographic region in which the provider or school is located, regardless in which county the child resides.

(b) If a child is registered for the VPK program in a county served by one coalition but ultimately is admitted into the program by a provider or school located in a county within another coalition's geographic region, the parent must re-register and enroll the child with the coalition serving the county within the coalition's geographic region in which the provider or school is located.

(c) Re-registration of a child is ultimately the parent's responsibility. In order to facilitate the re-registration, each early learning coalition may enter into agreements with other coalitions to provide for the transfer of a child's registration application and supporting documentation to the appropriate coalition. If a coalition performs the face-to-face parent consultation for a child in accordance with Rule 60BB-8.202, F.A.C., but subsequently transfers the child's registration to another coalition, the coalition receiving the transferred registration is not required to repeat the face-to-face consultation.

Specific Authority 1002.79 FS. Law Implemented 1002.53(2) FS. History—New \_\_\_\_\_.

60BB-8.204 Uniform Attendance Policy for the Funding of the VPK Program.

Each provider or school delivering the VPK program shall be paid in accordance with the following:

(1) Payment for startup period.

(a) A provider or school is paid for each of the 5 instructional days of the startup period if a student attends the VPK program for at least 1 instructional day during the startup period. An instructional day that a student does not attend during the startup period is not recorded as an absence for purposes of calculating the student's cumulative absences

under subsection (2) below. However, in accordance with subsection (7) below, a provider or school is not paid for instructional days after the last instructional day that a student attends the VPK program with the provider or school, if, during the startup period, the student subsequently terminates enrollment from the program or reenrolls with another provider or school.

(b) If a student does not attend at least 1 instructional day during the startup period, regardless of when the student enrolls, the provider or school is not paid for the startup period.

(2) Payment for regular period. The regular period is the instructional days of a VPK prekindergarten class which remain after the startup period (e.g., 175 days of 180-day class schedule).

(a) A provider or school is paid for each instructional day that a student attends the VPK program during the regular period (i.e., instructional days remaining after the startup period).

(b) A provider or school is paid for each instructional day that the student is absent during the regular period until the student's cumulative absences exceed 15 percent of the total instructional days in the student's attendance period. The student's attendance period is the instructional days in the regular period, counting from the first instructional day that the student attends the program (i.e., instructional days remaining in a VPK prekindergarten class, beginning after the startup period with the first instructional day that the student attends the class).

(c) The provider or school is also paid up to an additional 5 percent of the total instructional days in the student's attendance period, for each instructional day that the student is absent from the VPK program due to extraordinary circumstances that are documented in accordance with subsection (3) below.

(d) After a student's cumulative absences exceed 15 percent (or exceed 20 percent as a result of extraordinary circumstances) of the total instructional days in the student's attendance period, the provider or school is not paid for the student's subsequent absences.

(e) A provider or school is not paid for instructional days in the regular period before the first instructional day that the student attends the VPK program.

(3) Absences due to extraordinary circumstances.

If a student is absent from the VPK program due to extraordinary circumstances other than a temporary closure as described in subsection (4) below, the provider or school must submit to the early learning coalition or its designee written documentation provided by the student's parent or guardian which describes the extraordinary circumstances justifying the absence. Examples of extraordinary circumstances include the following:

(a) Hospitalization of the student, parent, or guardian with appropriate documentation;

(b) Illness of the student, parent, or guardian, which requires a home-stay as documented;

(c) Death in the student's, parent's, or guardian's immediate family with appropriate documentation (e.g., obituary, death certificate);

(d) Court ordered visitation with appropriate documentation (e.g., court order); or

(e) The parent's or guardian's unforeseen documented military deployment or exercise.

(4) Temporary closure of provider or school.

(a) Circumstances within provider's or school's control.

If a provider or school temporarily closes on a scheduled instructional day due to circumstances within the provider's or school's control, the provider or school must revise its class schedule to deliver that day's instruction disrupted by the closure.

(b) Circumstances beyond provider's or school's control.

If a provider or school temporarily closes on a scheduled instructional day due to circumstances beyond the provider's or school's control, the provider or school is paid for that instructional day, as follows:

1. Before an early learning coalition pays a provider or school for a temporary closure, the provider or school must submit written documentation to the coalition or its designee which demonstrates, and the coalition or its designee must determine, that the closure is temporary and caused by circumstances beyond the provider's or school's control. A provider or school is not required to submit documentation of those circumstances, if:

a. The provider or school is located within a county for which the county government, the Governor, or the President of the United States declares that a state of emergency exists in the county; and

b. For the provider's or school's scheduled instructional days during the state of emergency, the county, state, or federal governments close offices in the county which are scheduled to be open for services other than essential services.

2. For the first 3 instructional days of the temporary closure, the provider or school is paid as if each enrolled student was in attendance.

3. For the 4th through 10th instructional days of the temporary closure, each day is recorded as an absence for each enrolled student. The provider or school is paid for each student's absence in accordance with subsections (1) and (2) above, if the student has not exhausted his or her paid absences. If a student has exhausted his or her paid absences, the provider or school is not paid for that student's absence.

4. If circumstances cause more than one temporary closure, the provider or school may not cumulatively record more than 10 instructional days as:

a. Attendance under subparagraph (4)(b)2.;

b. Absences under subparagraph (4)(b)3.; or

c. A combination of attendance under subparagraph (4)(b)2. and absences under subparagraph (4)(b)3.

5. If a temporary closure, or the cumulative number of instructional days from more than one closure, extends beyond 10 instructional days, the provider or school must revise its class schedule to deliver the instructional days disrupted after the 10th instructional day.

6. If a provider or school does not resume instruction after the closure, the provider or school is not paid for any instructional days described in subparagraphs (4)(b)1. or (4)(b)2. above. The coalition or its designee shall assist affected students by making alternative arrangements that mitigate the disruption of instruction, including, but not limited to, re-enrollment of students with other providers or schools.

7. If a student does not resume attendance in the VPK program after the temporary closure, the provider or school is paid for instructional days recorded as attendance under subparagraph (4)(b)2. but, in accordance with subsection (7) below, is not paid for instructional days recorded as absences under subparagraph (4)(b)3.

8. In lieu of payment for one or more of the instructional days recorded as attendance under subparagraph (4)(b)2. or recorded as absences under subparagraph (4)(b)3., the provider or school may revise its class schedule to deliver the instructional days disrupted by the temporary closure.

(5) Recording absences for refused attendance.

If a student arrives at the provider's or school's VPK site but the provider or school refuses the student's attendance for disciplinary or other reasons (e.g., due to tardiness or prohibited attire), the instructional day is recorded as an absence.

(6) Automatic withdrawal for excessive undocumented absences.

(a) If a student is absent from the VPK program for 5 consecutive instructional days, the student is considered withdrawn from the program unless the provider or school submits to the early learning coalition or its designee written documentation provided by the student's parent or guardian which describes the reasons for the absence. The documentation may describe any reasons for the absence and is not limited to the extraordinary circumstances described in subsection (3) above. The documentation must be submitted with the attendance roster for the month of the absence.

(b) If a student is withdrawn from the VPK program under paragraph (6)(a) above but subsequently attends the program, the student's enrollment in the program is resumed, each instructional day that the student did not attend the program is recorded as an absence, and those absences are paid in accordance with subsection (2) above.

(7) Effect of termination from VPK program.

If a student terminates enrollment from the VPK program, whether the termination is voluntary or involuntary (e.g., automatic withdrawal for excessive undocumented absences

under subsection (6) above), the provider or school is not paid for any instructional days or paid absences after the last instructional day that the student attends the program.

(8) Effect on provider's or school's attendance policy.

In accordance with Section 1002.71(6)(d), F.S., this uniform attendance policy is used for funding purposes only and does not prohibit a private prekindergarten provider or public school from adopting and enforcing the provider's or school district's attendance policy.

(9) Reporting absences under Rilya Wilson Act. – This uniform attendance policy governs payments under the VPK program and does not supersede any requirement for reporting absences under the Rilya Wilson Act (Section 39.604, F.S.).

Specific Authority 1002.79 F.S. Law Implemented 1002.71(6)(a), 1002.71(6)(c), 1002.71(6)(d) F.S. History–New \_\_\_\_\_.

60BB-8.301 Voluntary Prekindergarten Uniform Statewide Provider Agreement.

The Agency for Workforce Innovation has prescribed the use of a provider agreement, along with the following procedures, by early learning coalitions for registering private prekindergarten providers and public schools to deliver the VPK program:

(1) Agreement required.

As part of the registration process for the VPK program, the coalition shall require each provider or school to execute a provider agreement with the coalition. The coalition must execute agreements with the identical terms and conditions as Form AWI-VPK 20, (Statewide Provider Agreement), version date July 7, 2005, which is hereby incorporated by reference, and may not alter, delete or change the terms and conditions, except as provided in subsection (3) below. This Form is available at the following internet address: [www.floridajobs.org/earlylearning/documents/StatewideProviderAgreementFormAWI-VPK20.pdf](http://www.floridajobs.org/earlylearning/documents/StatewideProviderAgreementFormAWI-VPK20.pdf). This Form may also be obtained by contacting the Early Learning Coalition that serves the Provider's county or by calling the Office of Early Learning at 1(866)357-3239.

(2) Funding.

A coalition may not submit a provider's or school's enrollment to the Agency for Workforce Innovation for purposes of advance payment for services under the VPK program unless the provider or school has executed the provider agreement and the agreement is received by the coalition. In addition, a provider or school shall not be paid for services delivered before the executed agreement is submitted to the coalition.

(3) Amendments.

Each amendment to the provider agreement (Form AWI-VPK 20 – Statewide Provider Agreement) must be provided in writing, dated, and signed by both the coalition and the provider or school. Each amendment must also be approved by the Agency for Workforce Innovation, Office of Early Learning.

Specific Authority 1002.79 F.S. Law Implemented 1002.55(3)(g), 1002.61(7)(a), 1002.63(8)(a), 1002.75 F.S. History–New \_\_\_\_\_.

60BB-8.400 VPK Program Class Sizes and Composition.

(1) Blended classes.

A private prekindergarten provider or public school may organize its VPK classes as blended classes, teaching students enrolled in the VPK program together with children who are not enrolled in the program. A blended class may include children of any age; however, these multi-age arrangements must not conflict with the provider's or school's obligations under Sections 1002.55, 1002.61, and 1002.63, F.S.

(2) Minimum class size.

Each VPK class must be composed of at least four students enrolled in the VPK program. To receive the initial advance payment for a VPK class, at least four VPK students must be enrolled for the class. A provider or school does not violate the minimum class size if fewer than four VPK students attend on a particular day. After the initial advance payment for a class, the provider or school does not violate the minimum class size if fewer than four VPK students remain enrolled for the class (e.g., withdrawals). However, if a VPK student's class is composed of four or fewer VPK students, the provider or school may not dismiss the student unless:

(a) The provider or school documents in writing the student's noncompliance with the applicable conduct or attendance policies of the provider or school district; and

(b) The provider or school submits the documentation to the early learning coalition or the coalition's designee not more than three business days after the student is dismissed.

(3) Maximum class size.

Each VPK class must not exceed 18 students for the school-year program or 10 students for the summer program. Both VPK students and Non-VPK students are counted toward the 18-student and 10-student maximums. A VPK class may not exceed the maximum class size in enrollment or in daily attendance.

(4) Multi-class groups.

A provider or school may teach two or more VPK classes as one group in a single classroom. However, a provider or school must remain in compliance with the appropriate staff-to-children ratio, square footage per child, or other state or local requirements. Each VPK class within a multi-class group:

(a) May not exceed 18 students for the school-year program or 10 students for the summer program;

(b) Must have a prekindergarten instructor for each class; and

(c) If the class has 11 or more students, must have a second adult instructor.

Specific Authority 1002.79 F.S. Law Implemented 1002.55(3)(e), 1002.61(6), 1002.63(7) F.S. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kelley Cramer, Senior Attorney, 107 East Madison Street, MSC 110, Tallahassee, Florida 32399-4128, (850)245-7150
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sooni Raymaker, Deputy General Counsel, 107 East Madison Street, MSC 110, Tallahassee, Florida 32399-4128, (850)245-7150
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 27, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE TITLE: Percentage of Gross Pilotage Assessed
RULE NO.: 61G14-19.001
PURPOSE AND EFFECT: The proposed rule amendment is intended to decrease the gross pilotage assessment.

SUMMARY: The proposed rule amendment decreases the gross pilotage assessment from .25% to .1%.

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: 310.131, 310.185 FS.
LAW IMPLEMENTED: 310.131 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:
61G14-19.001 Percentage of Gross Pilotage Assessed.
(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state one tenth ~~twenty five hundredths~~ of one percent (.1%) (~~.25%~~) of the gross amount of pilotage earned by said pilots during each year. For the purposes of said assessment, the gross amount of pilotage earned shall be the amount of money collected by each pilot or by each entity of which the pilot is a member for piloting which shall include and not be limited to payment for piloting vessels to and from ports of this state, docking or undocking vessels, shifting vessels, running lines, delivering orders at sea, cancelled orders, boat service,

detention, pilots being carried to sea, anchoring vessels, and any other related services rendered. Funds collected due under this are to be made payable to the Board and paid by the fifteenth of the following month. When received, the funds are paid into the Professional Regulation Trust Fund as created within the Department.

(2) No change.

THIS RULE SHALL TAKE EFFECT MAY 1, 2006.

Specific Authority 310.131, 310.185 FS. Law Implemented 310.131 FS. History—New 2-5-76, Amended 1-19-77, 1-1-78, 12-7-78, 11-1-81, 6-8-82, 8-9-82, 7-31-83, Formerly 21SS-3.01, Amended 5-30-89, 2-19-90, 12-30-91, 12-2-92, Formerly 21SS-3.001, 21SS-19.001, Amended 3-20-94, 1-5-95, 1-30-96, 3-17-96, 11-21-96, 8-25-97, 1-26-99, 1-31-01, 8-1-02, 7-8-03, 2-17-05, 10-02-05, 2-1-06, 5-1-06.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pilot Commissioners
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pilot Commissioners
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 12, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at http://www.dep.state.fl.us/ under the link or button titled “Official Notices.”

DEPARTMENT OF JUVENILE JUSTICE

Detention Services

Table with 2 columns: RULE TITLES and RULE NOS.:
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Annual Reconciliation 63G-1.008
Dispute Resolution and Collection 63G-1.009

PURPOSE AND EFFECT: The proposed rule implements newly created Section 985.2155, Florida Statutes, governing the shared responsibility of counties and the state for juvenile detention.

SUMMARY: The proposed rule establishes the procedure by which the Department tracks counties’ usage of secure detention facilities prior to disposition, bills counties for their usage, collects the counties’ share of secure detention costs, apportions appropriated funds to cover the usage of fiscally constrained counties, and accepts and resolves disputes.

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: 20.316, 985.405, 985.2155 FS.

LAW IMPLEMENTED: 985.2155 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., March 13, 2006

PLACE: DJJ Headquarters, Knight Building, Probation Conference Room 108, 2737 Centerview Drive, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Clyde Benedix, Policy Development Officer, Department of Juvenile Justice, Office of Administration, 2737 Centerview Drive, Ste. 104, Tallahassee, FL 32399-3100, (850)921-3048

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 63G-1.001 Scope.

This rule establishes the process by which pre-disposition detention costs are shared by state and county government.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(1) FS. History—New \_\_\_\_\_.

#### 63G-1.002 Definitions.

(1) “Cost of detention care” means the cost of providing detention care as determined by the General Appropriations Act.

(2) “County estimated cost of detention care” means a projected cost estimate based upon a county’s prior annual usage.

(3) “Final court disposition” means the date the court enters a disposition for the subject referral.

(4) “Fiscally constrained county” means a county designated as a rural area of critical economic concern under Section 288.0656, Florida Statutes, and which is not required to pay the full costs of its resident juveniles’ predisposition detention care.

(5) “Residence” means the county where, at the time of referral, a child resides, as determined by a DJJ intake officer pursuant to Rule 63G-1.003, F.A.C., and entered in the Juvenile Justice Information System.

(6) “Secure detention” means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155 FS. History—New \_\_\_\_\_.

#### 63G-1.003 Determining Residence.

(1) DJJ Juvenile Probation Officers and contracted providers responsible for intake shall utilize the following procedure to determine a referred child’s county of residence:

(a) The address provided by the child at intake will initially be checked against the address included in the police report and against any existing address for the child already in the Juvenile Justice Information System.

(b) In all cases, an effort will be made to verify the address with the child’s parent or guardian.

(c) All attempts to contact the parent or guardian, and the results of those attempts, will be noted in the chronological record in the child’s case file.

(2) Children in substitute care placements, such as foster care, will be deemed to reside in the county where the Department of Children and Families or its contracted agency has a district office or service center that arranged the temporary placement.

(3) Address verification procedures are to be included in the annual refresher training on the Juvenile Justice Information System given to Departmental Juvenile Probation Officers and its contracted providers responsible for intake.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5) FS. History—New \_\_\_\_\_.

#### 63G-1.004 Calculating Estimated Costs.

(1) Each county’s share of predisposition detention costs is based upon usage during the previous fiscal year, with the first year’s estimates based upon usage during fiscal year 2004-05. Estimates will be calculated as follows:

(a) All youth served in secure detention during the relevant fiscal year as reflected in the Juvenile Justice Information System will be identified;

(b) Each placement record will be matched to the appropriate referral based upon the referral identification code. Placements associated with administrative handling, such as pick-up orders and violations of probation, will be matched to a disposition date for their corresponding statutory charge;

(c) The number of service days in secure detention is computed by including all days up to and including the date of final disposition for the subject referral.

(2) Each county will receive a percentage computed by dividing the number of days used during the previous year by the total number of days used by all counties. The resulting percentage, when multiplied by the cost of detention care as fixed by the legislature, constitutes the county’s estimated annual cost.

(3) The estimated cost will be billed to the counties in monthly installments.

(4) Invoices are to be mailed on the first day of the month prior to the service period, so that an invoice for the August service period will be mailed on July 1.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(3) FS. History–New \_\_\_\_\_.

#### 63G-1.005 Fiscally Constrained Counties.

(1) Each fiscally constrained county will be assigned a percentage computed by dividing its previous year's number of predisposition detention days by the total number of predisposition detention days used by all fiscally constrained counties during the previous year.

(2) Each county's percentage is multiplied by the amount appropriated by the legislature to pay the costs of detention care. For informational purposes, fiscally constrained counties will be invoiced for their prorated monthly share.

(3) If the total number of predisposition service days actually used by all fiscally constrained counties combined exceeds the previous year's usage for which appropriation was made by the legislature, matching funds will be required to make up the shortfall. Fiscally constrained counties will be assessed for the amount of the shortfall under the following methodology:

(a) The total number of excess service days will be translated into a dollar figure based upon the percentage of increase over the original budgeted amount.

(b) Each fiscally constrained county will be responsible for a share of the shortfall computed by multiplying its assigned percentage calculated in subsection (1) by the total shortfall computed in paragraph (3)(a).

(4) The department shall determine whether a shortfall is likely at the end of the third quarter. If a shortfall is expected, the department shall provide fiscally constrained counties an estimate of their share of the expected shortfall on or before June 1.

(5) Fiscally constrained counties will be billed for their share of the shortfall by August 1, and payment is due no later than November 1.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(4) FS. History–New \_\_\_\_\_.

#### 63G-1.006 Receipt of Payment.

(1) Payment is to be made by check or by pre-arranged wire transfer, which is due the first day of the monthly service period.

(2) Payment will be deemed in arrears on the second day of the monthly service period.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5)-(6) FS. History–New \_\_\_\_\_.

#### 63G-1.007 Quarterly Reporting.

(1) Each quarter, the Department shall prepare a report to determine the extent of each county's actual usage. The report is to assist counties in fiscal planning and budgeting, and is not a substitute for the annual reconciliation or grounds for adjusting or withholding payment.

(2) The report shall contain the following information:

(a) Youth's name;

(b) Youth's address at the time of the referral;

(c) Sex;

(d) Date of birth;

(e) Name of parent or guardian;

(f) Phone contact;

(g) Number of detention days.

(3) The report will be provided to counties 45 days after the end of each quarter.

(4) The limited release of juvenile identifying information contained in each county's quarterly report is confidential. The release will not include treatment or charging information, is limited to the county official(s) designated to receive the report, and is not to be used for any purpose other than that of verifying the provision of detention services.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(7) FS. History–New \_\_\_\_\_.

#### 63G-1.008 Annual Reconciliation.

(1) On or before September 30 of each year, the Department shall provide a reconciliation statement to each paying county. The statement shall reflect the difference between the estimated costs paid by the county during the past fiscal year and the actual cost of the county's usage during that period.

(2) If a county's actual usage is found to have exceeded the amount paid during the fiscal year, the county will be invoiced for the excess usage. The invoice will accompany the reconciliation statement, and shall be payable on or before November 1.

(3) If a county's actual usage was less than the estimated amounts paid during the fiscal year, the county will be credited for its excess payments. Credit will be reflected in the November billing, and will carry forward as necessary.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5) FS. History–New \_\_\_\_\_.

#### 63G-1.009 Dispute Resolution and Collection.

(1) The quarterly reporting marks the point at which a county may take issue with the charges referenced in the report, but it cannot be the basis for withholding payment. Adjustments, including those necessitated by dispute resolution, cannot be made until the annual reconciliation.

(2) Disputes based upon a quarterly report, such as those relating to the residence of served youth or the number of chargeable service days, must be brought within 90 days or when the next quarterly report is provided, whichever is later.

(3) General objections, such as those seeking confirmation of a youth's county of residence, will be summarily denied. Disputes involving a detained youth's county of residence must include one or more of the following indicia of specificity:

(a) An alternative address asserted to be correct.

(b) Supporting documentation.

(c) An explanation of the basis for the dispute on form 63G-1-1.

(4) Disputes must be raised by means of form 63G-1-1, and sent by certified mail to the Department's Bureau of Finance and Accounting at 2737 Centerview Drive, Suite 212, Tallahassee, Florida 32399-3100. Accompanying documentation in support of the county's position may be included.

(5) Form 63G-1-1, is incorporated by reference and is available from the Bureau of Finance and Accounting in Tallahassee.

(6) The Department's response constitutes final agency action and may be challenged through the process available in Chapter 120, Florida Statutes.

Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5)-(8) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Clyde Benedix, Policy Development Officer, Office of Administration, Department of Juvenile Justice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jane McElroy, Assistant Secretary for Administration, Department of Juvenile Justice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Originally published as Rules 63F-9.001-.008, F.A.C., November 4, 2005

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: List of Approved Forms; Incorporation  
RULE NO.: 64B8-1.007

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised licensure application into the rule.

SUMMARY: The proposed rule amendment incorporates the Board's revised application form into the rule.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) DH-MQA 1000, entitled "Board of Medicine Medical Doctor Application for Licensure," (1/06) (~~4/03~~).

(2) through (31) No change.

Specific Authority 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 FS. History--New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, 11-17-03, 4-19-04, 1-31-05, 9-29-05.

NAME OF PERSON ORIGINATING PROPOSED RULE: Credentials Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES: Disciplinary Guidelines Citations  
 RULE NOS.: 64B8-44.003 64B8-44.005

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth a disciplinary guideline for failure to successfully complete an impaired practitioners program and to clarify the rule with regard to citation violations.

SUMMARY: The proposed amendment to Rule 64B8-44.003, F.A.C., sets forth the discipline for failing to successfully complete an impaired practitioners program. The amendments to Rule 64B8-44.005, F.A.C., eliminate redundancy in the rule.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.077, 456.079, 458.309, 468.507 FS.

LAW IMPLEMENTED: 456.077, 456.079, 468.517, 468.518 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Susan Love, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-44.003 Disciplinary Guidelines.  
 (1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

Violation	Recommended Range of Penalty
(a) through (q) No change.	
(r) Being terminated from or failing to successfully complete an impaired practitioners treatment program.	(r) First offense – Minimum stayed suspension and probation for a period of one (1) year with a fine of \$500.00 to a maximum of suspension or denial of license until successful completion or receipt of a written confirmation from the program that further treatment is neither required nor indicated followed by a one (1) year probation and a fine of \$1,500.00. Subsequent offenses – Minimum suspension for three (3) years or until licensee is able to demonstrate to the Board the ability to practice with reasonable skill and safety, whichever is longer and a fine of \$1,000.00 to a maximum of revocation or denial of license and a \$3,000.00 fine.

(s)(+) No change.

(5) through (7) No change.

Specific Authority 456.079, 458.309, 468.507 FS. Law Implemented 456.079, 468.517, 468.518(2) FS. History–New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99, 9-28-00, 9-26-01, 2-13-03, \_\_\_\_\_.

64B8-44.005 Citations.

(1) through (3) No change.

(4) The Board designates the following as citation violations, which shall result in a penalty of \$100:

(a) through (i) No change.

~~(j) Practicing on an inactive license for more than 90 days.~~

~~(k) Practicing on a delinquent license for more than 90 days.~~

~~(l)(+) No change.~~

(5) through (6) No change.

Specific Authority 456.077, 468.507 FS. Law Implemented 456.077, 468.517, 468.518 FS. History–New 1-1-92, Formerly 21M-50.005, 61F6-50.005, 59R-44.005, Amended 9-26-01, 3-25-02, 7-17-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: General Requirements  
 RULE NO.: 64B8-45.001

PURPOSE AND EFFECT: The proposed rule amendments clarify the requirements with regard to continuing education courses for licensure renewal.

SUMMARY: The proposed rule amendments clarify criteria for continuing education credit.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(7),(8), 468.507 FS.

LAW IMPLEMENTED: 456.013(7),(8), 468.514, 468.515 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-45.001 General Requirements.

(1) As a condition of biennial licensure renewal all licensees shall complete a minimum of thirty ~~contact~~ hours of continuing education in dietetics and nutrition practice within the twenty-four (24) month period prior to the expiration date of the license, of which no more than ten (10) hours may be in management, risk management, personal growth, and educational techniques. Up to fifteen (15) hours of credit shall be accepted per biennium for approved home study courses. Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium. One ~~contact~~ hour of continuing education equals a minimum of fifty minutes of instruction.

(2) Home study education is independent study and requires a certificate of completion. Web based, satellite transmitted, video or audio transmitted or on line instruction programs that allow or require the licensee to interact or communicate back and forth with the instructor during the presentation of the program are not considered home study education, but can be counted as continuing education.

(2) through (6) renumbered (3) through (7) No change.

Specific Authority 456.013(7),(8), 468.507 FS. Law Implemented 456.013(7),(8), 468.514, 468.515 FS. History—New 12-5-90, Amended 1-1-92, 9-24-92, 5-6-93, Formerly 21M-51.001, Amended 9-28-93, Formerly 61F6-51.001, Amended 1-2-95, 11-12-95, Formerly 59R-45.001, Amended 9-26-01, 3-4-02, 3-24-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 12, 2005

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: Disciplinary Guidelines  
 RULE NO.: 64B12-8.020

PURPOSE AND EFFECT: The Board proposes amending language within the disciplinary guidelines.

SUMMARY: The proposed rule amendments will clarify language in the disciplinary guidelines.

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: 456.072(2)(d), 456.079, 484.005 FS.

LAW IMPLEMENTED: 456.072, 456.079, 484.014 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-8.020 Disciplinary Guidelines.

(1) through (2) No change.

(3) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has committed any of the acts set forth in Section 484.014, F.S., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED		
	First Offense	Second Offense	Third Offense
(a) through (e) No change.			
(f) No change.	(f) From reprimand to probation of the license, <u>and an administrative fine ranging from \$1000.00 to \$3000.00</u> , and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(f) From probation to suspension of the license, <u>and an administrative fine ranging from \$3000.00 to \$5000.00</u> , and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(f) From suspension to revocation of the license, <u>and an administrative fine ranging from \$5000.00 to \$10,000.00</u> , and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(g) Practicing with a revoked, suspended, inactive, <u>retired</u> , or delinquent license. (484.014(1)(g), F.S.)	(g) No change.	(g) No change.	(g) No change.
(h) through (t) No change.			

(4) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has violated subsection 484.014(1)(g), F.S., by violating any of the following Board

rules, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED		
	First Offense	Second Offense	Third Offense
(a) through (d) No change.			
(e) Failure to have a licensed optician on the business premises at any time that opticianry is being practiced. Should the violator be an unlicensed person, the <del>Board will request the Department will</del> <u>enter a cease and desist order.</u>	(e) No change.	(e) No change.	(e) No change.
(f) through (i) No change.			

(j) Failure to <u>file the proper report upon termination of</u> <del>properly terminate an</del> apprenticeship as required by Rule 64B12-16.004, F.A.C. For each offense, depending upon aggravating and mitigating circumstances, the board may deny credit for hours of apprenticeship.	(j) No change.	(j) No change.	(j) No change.
(k) Failure to <u>file the proper report upon</u> <del>properly notify the Department of</del> termination <del>of as a</del> sponsorship as required by Rule 64B12- <del>16.004</del> <del>16.006</del> , F.A.C. Depending upon aggravating and mitigating circumstances for each offense, the Board may require probation with the condition that the licensee not serve as a sponsor.	(k) No change.	(k) No change.	(k) No change.
(l) through (n) No change.			

(5) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has violated subsection 456.063(3) or Section 456.072, F.S., by violating any of the

following provisions, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) No change.			
(b) No change.	(b) From reprimand to suspension of the license, <u>and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u> <del>If and if</del> fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(b) From probation to revocation of the license, <u>and an administrative fine ranging from \$3,000.00 to \$5,000.00,</u> and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(b) From suspension to revocation of license, <u>and an administrative fine ranging from \$5,000.00 to \$10,000.00,</u> and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(c) through (d) No change.			

(e) Failure to have a licensed optician on the business premises at any time that opticianry is being practiced. Should the violator be an unlicensed person, the <del>Board will request the</del> Department <u>will</u> <del>to</del> enter a cease and desist order.	(e) No change.	(e) No change.	(e) No change.
(f) No change.			
(g) No change.	(g) From reprimand to suspension of the license, <u>and an administrative fine ranging from \$1,000.00 to \$5,000.00.</u> If a <del>and</del> if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(g) From probation to suspension of the license, without the ability to reapply, <u>and an administrative fine ranging from \$3,000.00 to \$5,000.00,</u> and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(g) From suspension to revocation of license, without the ability to reapply, <u>and an administrative fine ranging from \$5,000.00 to \$10,000.00,</u> and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(h) through (l) No change.			
(m) <u>Termination from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S. Termination can be for failure to comply with the terms of the monitoring or treatment contract entered into by the licensed practitioner, failure to successfully complete any drug treatment or alcohol-treatment program, or termination from a monitoring or treatment contract without good cause. (456.072(1)(gg), F.S.)</u>	(m) <u>From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.</u>	(m) <u>From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.</u>	(m) <u>From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00 or refusal to certify an application for licensure.</u>

(6) through (7) No change.

Specific Authority 456.072(2)(d), 456.079, 484.005 FS. Law Implemented 456.072, 456.079, 484.014 FS. History—New 3-5-87, Amended 3-30-89, 4-22-90, 12-23-90, 1-27-93, Formerly 21P-8.020, Amended 5-2-94, Formerly 61G13-8.020, 59U-8.020, Amended 12-3-01, 3-16-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Opticianry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 11, 2005  
DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: Standards for Continuing Professional Education
RULE NO.: 64B12-15.003

PURPOSE AND EFFECT: The Board proposes amending the rule to delete language regarding contact lens theory continuing education courses and add language regarding classroom disruptions by personal communication devices.

SUMMARY: The proposed rule amendment will amend continuing education standards.

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: 456.013(7), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(6), (7), 484.008(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS, Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-15.003 Standards for Continuing Professional Education.

(1) through (2) No change.

(3) Continuing professional education courses must contribute to the advancement, extension or enhancement of professional skills and knowledge in the practice of opticianry or the management of a practice. For biennial renewal, twenty hours of continuing education shall be required as follows:

(a) through (c) No change.

(d) One (1) hour must be in contact lens theory and practice;

(d)(e) Effective August 1, 2002, a two (2) hours must relate continuing education course relating to the prevention of medical errors. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety; and;

(e)(f) No change.

(f)(g) Two (2) hours shall be electives consisting of courses in one or more of the subjects of categories (a), (b), through (c), or (e) above or subjects relating to management of a practice from a business perspective including sales and

marketing, business and finance, personnel management, stress management, risk management, fire prevention or disaster planning, or for attending a board meeting as provided herein.

(4) Upon application, a continuing education program which meets the following minimum criteria shall be approved by the Board. The program provider must document and submit at least the following:

(a) through (c) No change.

(d) The name and a current detailed curriculum vitae of any instructor or lecturer reflecting her or his competency, qualifications, education, and experience in the subject matter;

(e) No change.

(f) A statement of the date, time and place of presentation of the program(s) programs;

(g) For courses involving classroom instruction, a copy of rules designed to minimize classroom distractions to which rules shall include those against disruptive behavior not conducive to learning talking, and the use of personal communication devices cordless telephones or audible pagers;

(h) through (i) No change.

(5) No change.

(6) Upon completion of the program, the program provider must distribute and the participants must complete an evaluation form. The program provider must maintain the completed evaluation forms for at least 120 days from the date the program was offered. The program provider shall review and compile a summary of evaluation responses. The program provider shall retain the his summary of evaluation responses for at least three years, and submit to the Board upon the Board's request.

(7) No change.

Specific Authority 456.013(7), 484.005, 484.008(3) FS. Law Implemented 456.013(6),(7), 484.008(3) FS. History--New 10-12-80, Formerly 21P-15.03, Amended 3-5-87, 8-10-87, 10-29-87, 1-6-88, 6-11-92, Formerly 21P-15.003, Amended 4-17-94, Formerly 61G13-15.003, Amended 3-14-95, Formerly 59U-15.003, Amended 4-20-99, 12-31-00, 10-29-02, 4-23-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 11, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: Apprenticeship Requirements and Training Program
RULE NO.: 64B12-16.003

PURPOSE AND EFFECT: The Board proposes amending the rule to add language to require Apprentice/Sponsor Orientation Course hours.

SUMMARY: The proposed rule amendment will add an Apprentice/Sponsor Orientation course to apprenticeship requirements.

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: 484.005 FS.

LAW IMPLEMENTED: 484.002, 484.007(1)(d)4. FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS, Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-16.003 Apprenticeship Requirements and Training Program.

(1) No change.

(2) An apprentice shall have no more than two sponsors at any given time. If an apprentice has two sponsors, one sponsor shall be the primary sponsor responsible for the secondary sponsor and the apprentice. The primary sponsor shall be responsible for the completion, filing, signature and verification of the Apprenticeship Sponsor Attestation Form (DH-MQA 1063, 1/02), which is hereby adopted and incorporated by reference, and is available from the Board office at Department of Health, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The secondary sponsor may work with the apprentice in a store or office other than the primary store or office as long as the apprentice works under the apprenticeship requirements and training program.

(3) A sponsor may provide training for no more than two apprentices at a time.

(4) through (5) No change.

(6) Total training received by an apprentice during apprenticeship must consist of training in the following subject areas:

(a) through (g) No change.

(h) Filling contact lens prescriptions, ~~and~~ fitting, ~~and~~ adapting and dispensing contact lenses if the sponsor is a Board-Certified optician, licensed optometrist,

ophthalmologist, or an optician pursuant to subsection 64B12-10.009(1), F.A.C., or the apprentice must complete a Board approved course equivalent to 32 hours as a substitute for working experience with contact lenses. Such course must include the following instruction:

- 1 hour – contact lens history
- 2 hours – anatomy and physiology of the eye
- 1 hour – patient selection
- 2 hours – contact lens technology
- 2 hours – basic optics for contact lenses
- 4 hours – basic fitting methods
- 1 hour – patient follow-up
- 1 hour – data collection and record keeping
- 2 hours – ordering and verification
- 2 hours – patient instruction
- 2 hours – problem solving
- 2 hours – specialty fittings
- 1 hour – ANSI Standards
- 1 hour – Florida laws and rules
- 8 hours – hands on practice

Although the lecture sessions may be open to any number of students, the hands on sessions shall be limited to 20 students per qualified instructor and three assistant instructors. A qualified instructor is one who has been a Board Certified optician, licensed optometrist or ophthalmologist and actively engaged in contact lens fitting for 2 years immediately preceding instructorship or actively engaged as a contact lens instructor in an approved school of opticianry, an accredited school of optometry or an accredited medical school. The assistants must be Board certified or equally qualified to the instructor. Any request for course approval must be submitted to the Board 30 days prior to the next Board meeting and must be reviewed every two years. The apprentice must complete the entire course within 31 days.

(i) No change.

Specific Authority 484.005 FS. FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History–New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4- 23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 11, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006



THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

- (1) through (2) No change.
- (3) Bag and Trip Limits.
  - (a) No change.
  - (b) Grouper.

1. Nassau grouper and goliath grouper. No person harvesting for commercial purposes shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper, or goliath grouper. The purchase, sale, or exchange of any Nassau grouper or goliath grouper is prohibited.

2. Speckled hind and Warsaw grouper. No person shall harvest in or from state waters any speckled hind or Warsaw grouper for commercial purposes and the purchase, sale, or exchange of such fish is prohibited.

3. Vessels harvesting commercially in the state waters of the Gulf of Mexico as specified in subparagraph 68B-14.0045(1)(a)2., F.A.C., are subject to a grouper vessel trip limit. Groupers are all species listed in paragraph 68B-14.001(2)(b), F.A.C., except bank sea bass and black sea bass. The grouper vessel trip limit shall be 6,000 ~~10,000~~ pounds from January 1 until such time as the state waters are closed to harvest of any species pursuant to paragraph 68B-14.0045(2)(b), F.A.C., at which time the grouper vessel trip limit for that species is reduced to zero ~~National Marine Fisheries Service reduces the vessel trip limit in adjacent federal (EEZ) waters to 7,500 pounds or 5,500 pounds, in which case the Director of the Division of Marine Fisheries Management shall order a consistent reduction in the vessel trip limit in state waters of the Gulf of Mexico.~~ The grouper vessel limit shall be restored to 6,000 ~~10,000~~ pounds on January 1 of the following year.

- (c) through (d) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, 5-20-05, 9-16-05, \_\_\_\_\_.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE CHAPTER TITLE: The Florida Fire Prevention Code  
 RULE TITLE: Non-Binding Interpretations of the Florida Fire Prevention Code

RULE CHAPTER NO.: 69A-60  
 RULE NO.: 69A-60.011

PURPOSE AND EFFECT: To adopt a rule providing for informal non-binding interpretations of the Florida Fire Prevention Code, as directed by Section 633.026, Florida Statutes.

SUMMARY: Provides procedures for informal non-binding interpretations of the Florida Fire Prevention Code.

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

Any person who wishes to provide information regarding the statement of 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: 633.01, 633.026 FS.

LAW IMPLEMENTED: 633.026 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 A HEARING IS NOT REQUESTED, NO HEARING WILL BE HELD):

TIME AND DATE: 9:00 a.m., March 16, 2006

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Goodloe, Chief, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3173, Fax (850)414-6119, e-mail: jim.goodloe@fldfs.com

Pursuant to the provisions of the Americans with Disabilities Act and Section 286.26, Florida Statutes, any person requiring special accommodations to participate in this program, please advise the Department at least 48 hours before the program by contacting: Millicent King, (850)413-3173.

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-60.011 Non-Binding Interpretations of the Florida Fire Prevention Code.

(1) Definitions. For purposes of this rule section:

(a) "Code" means the Florida Fire Prevention Code.

(b) "State Fire Marshal" means the Chief Financial Officer of the State of Florida acting as State Fire Marshal, or the Division of State Fire Marshal, as the context requires.

(c) "Organization" means the entity with which the State Fire Marshal enters into a contract to provide administrative services in support of informal, non-binding interpretations as described in Section 633.026, F.S.

(d) "Fire Code Interpretations Committee," or "FCIC," means the committee established to provide informal interpretations of the Florida Fire Prevention Code.

(2) Procedures. The following procedures apply to the organization and to the FCIC.

(a) The FCIC shall consist of seven members, with one firesafety inspector and one alternate firesafety inspector certified in accordance with Section 633.081(2), F.S., representing each of the seven emergency management regions of the State which are described as follows:

1. Emergency Management Region 1 Counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Jackson, Washington, Bay, Gulf, Calhoun;

2. Emergency Management Region 2 Counties: Gadsden, Liberty, Leon, Franklin, Wakulla, Taylor, Jefferson, Madison, Lafayette, Hamilton, Suwannee, Columbia, Dixie;

3. Emergency Management Region 3 Counties: Nassau, Duval, Clay, St. Johns, Flagler, Putnam, Bradford, Union, Baker, Levy, Alachua, Gilchrist;

4. Emergency Management Region 4 Counties: Citrus, Hernando, Pasco, Pinellas, Hillsborough, Polk, Manatee;

5. Emergency Management Region 5 Counties: Marion, Sumter, Lake, Orange, Seminole, Osceola, Brevard, Volusia;

6. Emergency Management Region 6 Counties: Hardee, Sarasota, Desoto, Charlotte, Glades, Highland, Okeechobee, Hendry, Lee, Collier;

7. Emergency Management Region 7 Counties: Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River.

(b) At least annually, the organization shall provide to the Division a list of all certified firesafety inspectors that are currently serving on the FCIC in rendering interpretations, including proof of at least five-years' experience in performing firesafety inspections as a certified firesafety inspector.

(c) Each person to serve on the FCIC must have on file with the Division Form DFS-K3-1673, rev. 01/06, which is hereby adopted and incorporated herein, and which may be obtained by writing to the Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340, or by visiting the State Fire Marshal's website located at <http://www.fldfs.com/SFM/index.htm>.

(d) The name of each person to serve on the FCIC must be on file with the Division at least 30 days before that person is permitted to voice an opinion or cast a vote as a member of the FCIC on a request for a non-binding interpretation.

(e) Requests for non-binding interpretations of the Code shall be made as directed at the Division of State Fire Marshal website and shall include the following.

1. Each request shall cite the specific code and the section referenced in the question.

2. The question shall be asked in a format that can be answered with a Yes or a No response.

3. The question shall only be in reference to one section of the code.

4. Any additional question shall be made as a separate request.

(f) The organization through its designated representative or representatives shall review each request for an informal interpretation.

1. If the request for informal interpretation does not qualify for consideration by the FCIC, the organization shall so advise the requestor, giving the reason or reasons why it does not qualify for consideration, and shall take no further action.

2. If the request for informal interpretation is proper, the organization shall assign it to the FCIC.

3. If the FCIC deems it appropriate or necessary, it is permitted to initiate a review process which solicits comments for development of a response.

(g) The FCIC is not permitted to consider any comment unless the comment includes the name, employer if any, and contact information of the submitter. Anonymous comments shall not be presented to or considered by the FCIC.

(h) The FCIC shall prepare a response that is the result of a vote of at least a majority of the persons on the FCIC.

(i) Each person on the FCIC reviewing a request must be identified in the response.

(j) A copy of all documentation received or produced in conjunction with any informal interpretation shall be retained in accordance with the contract between the State Fire Marshal and the organization.

(k) Each informal interpretation rendered may be supported by a meeting in-person, or by telephone, teleconference, video conference, or such other means that the organization deems appropriate. The organization may permit interactive communication among the FCIC, the requesting party, the authority having jurisdiction and any other person or entity deemed appropriate.

(l)1. The seven FCIC members shall submit their response to the organization within ten (10) calendar days. The organization upon receipt of a response from a simple majority of the FCIC members, shall forward the response without comment or amendment to the requestor via electronic mail (email), if available and, if not available, by facsimile transmission or regular mail within 14 calendar days of receipt of the question.

2. If a response will not or cannot for any reason be sent to the requestor within 14 calendar days of receipt, the requestor shall be so notified by email, if available and, if not available, by facsimile transmission or regular mail. Such response shall be provided thereafter as soon as reasonably practicable, but not later than 30 days after submission of the request.

3. Each response shall also be sent via email to the Division of State Fire Marshal at the email address in the contract.

(m) Each response shall be posted on the organization's website.

(n) Each response is the opinion of the FCIC rendering the same or a majority of the members of such FCIC, and not the State Fire Marshal nor the organization, and shall create no legal right on the part of any person nor any legal duty on the

part of the FCIC, the organization, any individual, the State Fire Marshal, the State of Florida, nor any other person or entity.

(3)(a) No person is permitted to serve on the FCIC considering any matter involving such person's own jurisdiction if he or she is the firesafety inspector for that jurisdiction whose duties by statute, rule, ordinance, or code require or permit him or her to inspect any building or structure which is the subject of the request to the FCIC, or if that person has provided input on the matter for the building or structure that is the subject of the request.

(b) Each person serving on the FCIC shall serve at the pleasure of the State Fire Marshal or the organization and no person has any recourse against the State Fire Marshal or the organization for removal from the FCIC except as otherwise provided by federal or state law.

Specific Authority 633.01, 633.026 FS. Law Implemented 633.026 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 15, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 2, 2005

DEPARTMENT OF FINANCIAL SERVICES

Division of Agent and Agency Services

RULE TITLES:	RULE NOS.:
Pre-qualification and Licensure of Emergency Adjusters	69B-220.001
Conduct of Public Adjusters	69B-220.051
Ethical Requirements	69B-220.201

PURPOSE AND EFFECT: The purpose of the proposed rule development is to eliminate the licensing of emergency public adjusters, to make the licensing process for emergency company and independent adjusters faster and more economical by utilization of the Department's website and to change Office of Insurance Regulation to Department of Financial Services to reflect legislation that changed jurisdiction over adjusters. The purpose of a new rule that applies to public adjusters after the Governor issues an executive order that a state of emergency exists is to protect consumers who hire public adjusters after disasters. The purpose of other changes is to clarify the rules.

SUMMARY: Rule 69B-220.001, F.A.C., is amended to repeal rules that provide for the licensing of emergency public adjusters and to require that adjuster license applications be

submitted electronically through the Department's website instead of by submission of paper applications. All three rules are amended to change Office of Insurance Regulation to Department of Financial Services to reflect legislation adopted in 2004 that made the same changes in the statutes that regulate adjusters. Rule 69B-220.201, F.A.C., is amended to provide new ethical requirements for public adjusters to follow after a disaster creates a state of emergency.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost 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), 626.878, 626.9611 FS. LAW IMPLEMENTED: 624.307(1), 626.112(1), 626.611, 626.621, 626.865(2), 626.8732, 626.8734, 626.874, 626.878, 626.9541(1)(b),(i) 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:

TIME AND DATE: 1:30 p.m. – 4:30 p.m., March 17, 2006  
PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

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: Serica Johnson, (850)413-4241.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Hazel Muhammad, Chief, Bureau of Licensing, Department of Financial Services, 200 E. Gaines Street, Room 412, Larson Building, Tallahassee, FL 32399-0319, (850)413-5460

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-220.001 Pre-Qualification and Licensure of Emergency Adjusters.

(1) Purpose. This rule sets forth department office policy and procedure for licensure of emergency company adjusters and emergency independent adjusters under Section 626.874, Florida Statutes.

(2) No change.

(3) Definitions. For purposes of this rule, the following definitions shall apply.

(a) Department means the Department of Financial Services "~~Office~~" ~~means the Office of Insurance Regulation.~~

(b) "Licensed adjuster" and similar terms, refer to and include only persons ~~actually~~ currently licensed in good standing by the department office as a ~~public adjuster,~~ company adjuster; or independent adjuster, whether the

licensure be permanent resident licensure, permanent nonresident licensure or emergency licensure pursuant to this rule, and whether limited licensure or unlimited licensure. The terms do not include persons licensed as public adjusters by the department or persons licensed as any type of an adjuster or public adjuster by states other than the State of Florida.

(c) "Emergency" and "Catastrophe." These two terms as used in Section 626.874, Florida Statutes are synonymous, and no separate treatment is afforded catastrophe over emergency adjusters.

(d) "Emergency adjuster" when used in this rule without further specification, includes emergency company adjusters and emergency independent adjusters, and emergency public adjusters.

~~(e) "Public adjuster" when used in this rule without further specification, includes both permanent resident licensed public adjusters and emergency public adjusters.~~

~~(e)(f) "Unlicensed persons" as used in this rule means and refers to persons who are not actually currently licensed in good standing by the department office as an adjuster, whether the licensure be permanent resident licensure, or emergency licensure pursuant to this rule.~~

(4) General Provisions Applicable to All Emergency Adjusters.

(a) Declaration of Emergency; Determination that Emergency Exists.

1. The ~~department office~~ does not issue proclamations or other formal declarations of emergency. Instead, any person believing that an emergency exists and desiring licensure under Section 626.874, Florida Statutes, shall apply or cause application to be made to the ~~department office~~ for such licensure.

2. For purposes of Section 626.874, Florida Statutes, an emergency exists when, due to a specific, infrequent, and sudden natural or manmade disaster or phenomenon, there have arisen losses to property in Florida that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the licensing of emergency adjusters due to the magnitude of the catastrophic damage.

3. A failure of claims to be resolved expeditiously shall exist upon an insurer's filing with the ~~department Office~~ a written statement that one of the following conditions exists:

a. The insurer expects to incur at least 500 claims as a result of the event; or

b. The magnitude of the event is expected to generate twice the mean number of claims for one month for the affected area.

~~(b)4.~~ Requests for emergency adjuster licensure as an independent adjuster must be accompanied by a statement from an insurer, an independent adjusting firm, a licensed

independent resident adjuster, or a licensed general lines agent certifying that the applicant is qualified to act as an adjuster the same statement from an insurer who requires such services.

~~5. If the Office determines that an emergency exists, public adjusters seeking emergency licensure shall upon request be granted licensure pursuant to the provisions of this rule.~~

(5) Procedures for Licensing and Appointment of Emergency Adjusters; Responsibilities of Appointing Entity.

(a) All Florida-licensed insurers, independent adjusting firms, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, although the person is not currently licensed as an adjuster in Florida, if the Florida-licensed insurer, independent adjusting firm, independent adjuster or general lines agent utilizing these persons as emergency or catastrophe adjusters determine that these persons are qualified to do such adjusting work. A person is not qualified to adjust claims, for any entity or person who utilizes computer software program(s) in the adjusting process, unless the person has received training in and is capable of correctly utilizing the program(s). Within 3 calendar days after adjusting work has begun, the appropriate official must submit an online application to the department. Applications shall be submitted on the Department's website at [www.fldfs.com](http://www.fldfs.com). Applicable fees shall be submitted by electronic payment at the time of submission of an application.

1. The insurance company representative, independent adjusting firm, independent adjuster or general lines agent who submits the online application certifies that the applicant is qualified, thereby appoints the applicant to represent that company, independent adjusting firm, independent adjuster or general lines agent; and once the license is issued, the appointing person or entity is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophic) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, independent adjusting firm, independent adjuster or general lines agent. This responsibility continues until the appointing entity, appointing person or licensee notifies the department through the online appointment system or the licensee notifies the department through the online application process that the appointing entity, appointing person or licensee desires to terminate the appointment.

2. The insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, is responsible for

assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims, has received training in and is capable of correctly utilizing any computer software program(s) utilized by the appointing entity or person to adjust claims and is of good and honest character.

(e) There is an affirmative duty on the insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, to provide continuing and significant supervision of the applicant after licensure.

(b) Licenses Valid for 180 Days.

1. Emergency adjuster licenses are valid for 180 days from the date of issuance of the emergency license, unless a shorter period of time is specified in the license as issued. Because emergency licensure is an extraordinary deviation from regular licensing procedures, it is department office policy to specify, as the duration of emergency licensure, the shortest possible time in each particular emergency.

(6) Procedures for Extension of an Emergency Adjuster License.

2. The department office shall grant an extension of emergency licensure if the conditions set forth in subparagraph (4)(a)2. of this rule still exist. Each extension will last for a period of up to an additional 180 days.

(a) To apply for an extension of licensure as an emergency company or independent adjuster, the entity requesting a license extension shall submit an application for the extension on the department's website at www.fldfs.com licensee shall execute Form OIR-396E, "Application for Extension of License and Appointment as an Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit to the office the applicable fee, as specified in Form OIR-396E, for each extension. Applicable fees shall be submitted by electronic payment at the time of submission of an application for the extension.

b. To apply for an extension of licensure as an emergency public adjuster the licensee shall execute Form OIR AAS 1E, "Application for Extension of License and Appointment as an Emergency Public Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR AAS 1E, for each extension.

e. These forms may be obtained at the Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319.

(b) Only the licensure type and class that which the licensee holds at the time of application for extension may be extended.

(c) No change.

(d) No change.

(e) Natural Persons Only. The department office issues emergency adjuster licenses only to natural persons.

(f) Address and Website for the Department For Office. Unless a different address is specified herein, any notice or other item to be provided to the department office, shall be addressed as follows: Bureau of Agent/Adjuster Licensing, Department of Financial Services Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0319. If the communication is from or on behalf of a licensee, it shall not be deemed effectively received unless it shows the licensee's full name, license number, address, and phone number. The department's website address is www.fldfs.com.

(g) Administrative and Civil Jurisdiction. By obtaining a license applying for pre-qualification determination or licensure as an emergency adjuster the licensee applicant agrees that:

1. The licensee applicant is subject to all the disciplinary provisions and penalties of the Florida Insurance Code and the administrative procedures set forth in the Florida Statutes for the routine processing of such charges;

2. The licensee is subject to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;

3. Jurisdiction for acts committed prior to licensure or while licensed continues after the emergency licensure expires or is terminated;

4. If after the licensure expires or is terminated, the department office has reason to believe there was a violation of any provision of the Florida Insurance Code or these rules by the former licensee while licensed, the department office is not precluded from filing administrative action against the former licensee, and from serving the charges by certified mail to the licensee, or by publication of notice of action in the legal notices section of a newspaper of general circulation in or near the city or county of permanent residence or place of business as shown on the licensee's application for emergency licensure if certified mail service is unsuccessful;

5. The licensee or former licensee will respond to and defend the charges in Florida, or be defaulted;

6. The licensee or former licensee will not assert lack of jurisdiction; and

7. The licensee or former licensee believes that the preceding provisions satisfy minimum due process requirements of all state and federal constitutions.

(h) By the act of obtaining licensure as an emergency adjuster, a nonresident licensee irrevocably designates the Chief Financial Officer as the licensee's agent for service of all process in any way related to the licensee's activities as an emergency adjuster. Civil Jurisdiction; Service of Process. By the act of applying for pre-qualification determination or licensure as emergency public adjuster, the applicant irrevocably:

1. Agrees and submits to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;

2. Designates the Chief Financial Officer as the applicant's agent for service of all process in any way related to the applicant's activities licensed as an emergency public adjuster; and

3. Agrees that these provisions shall survive the expiration or termination of pre-qualification or licensure.

~~(5) Emergency Company and Independent Adjusters. The provisions of this subsection apply only to emergency company and emergency independent adjusters, and not to licensure of emergency public adjusters.~~

~~(a) All Florida licensed insurers, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, which persons they determine to be qualified to do such adjusting work, and even though the person is not currently licensed as an adjuster in Florida. Within 30 calendar days after adjusting work has begun, the appropriate entity official must execute and submit office Form OIR 396, "Application for License and Appointment as a Catastrophe or Emergency Adjuster," rev. 7/94, which is hereby adopted and incorporated by reference, and shall attach a check for applicable fee per applicant, as specified in Form OIR 396, payable to the Office of Insurance Regulation. Form OIR 396 is available at all office consumer service offices or from the office headquarters. The application and check shall be submitted to: Bureau of Licensing, P. O. Box 6000, Tallahassee, FL 32314 6000, or by overnight courier to: Bureau of Licensing, 200 East Gaines Street, Tallahassee, FL 32399 0319. One check may be used to pay the fees for multiple applications submitted together.~~

~~(b) Within 3 days of when an emergency adjuster begins work, the insurance company, independent adjuster, or general lines agent that is using the emergency adjuster must fax to the Bureau of Licensing the name of the emergency adjuster and his/her social security number. The fax must be on the letterhead of the insurance company, general lines agent, or independent adjuster/firm, and shall include the name and phone number of the contact person regarding emergency adjuster licensing. Contact should be made with the office for the appropriate fax numbers.~~

~~(c) The insurance company representative, general lines agent, or independent adjuster who signs Form OIR 396 to certify that the applicant is qualified (referred to herein as the "certifier"), thereby appoints the applicant to represent that~~

~~company, agent, or independent adjuster; and once the license is issued, the certifier is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophe) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, agent, or independent adjuster. Such responsibility continues until such time as said certifier shall notify the office in writing that the certifier desires to terminate the certification, at which time the emergency license is cancelled automatically, until such time as the applicant can obtain another certifier.~~

~~(d) The insurer, general lines agent, or independent adjuster who certifies to the office that the applicant is qualified, is responsible for assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims and is of good and honest character.~~

~~(e) There is an affirmative duty on the insurance company, general lines agent, or independent adjuster, to provide continuing and significant supervision to the applicant after licensure.~~

~~(f) Nonresident Company Adjusters. Persons employed by insurers and licensed by the office as non-resident company adjusters may temporarily come into Florida and work out of Florida offices as emergency adjusters for their employing insurance company without further licensure from the office, for 180 days or such shorter time as the office may by emergency rule specify as the maximum duration of emergency licensure for that particular emergency, and will not be deemed to have a Florida office such as would disqualify them from holding non-resident licensure or be held violative of their non-resident license status; provided, their employing insurance company shall before allowing such persons to adjust emergency losses while physically in Florida, provide the office with a listing of the names and adjuster license numbers of all such persons, and shall obtain from the office written acknowledgment that an emergency exists, specifying the emergency.~~

~~(g) Application for Emergency Adjuster Licensure as a Company or Independent Adjuster. Application for licensure as an Emergency Adjuster shall be made on Form OIR 396, "Application for Licensure and Appointment as Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference.~~

~~(6) Emergency Public Adjusters: General Provisions. This subsection pertains only to licensure of emergency public adjusters:~~

~~(a) Advance Approval Required:~~

~~1. No person may commence work as an emergency public adjuster until notified in writing by the office that the office:~~

~~a. Has received an application and made an affirmative pre-qualification determination and issued a letter so indicating, or~~

b. Has been approved for licensure if no pre-qualification determination was requested in advance.

2. If the pre qualification method is used, the subject of the pre qualification must request licensure pursuant to paragraph (7)(b) of this rule in order to commence work.

(b) ~~Background Checking; Grounds for Denial.~~ As to all applications for licensure as an emergency public adjuster, the office shall conduct such background inquiry as is necessary to determine the applicant's fitness and character. Adverse information noted in any area will be grounds for denial of application. The inquiry is limited to:

1. Inquiry of state or federal regulatory authorities in other states where the applicant has resided or done business;

2. Checking references provided;

3. Inquiry of criminal databases and law enforcement authorities; and

4. Checking for judgments and other adverse credit references.

(c) ~~Bond Required.~~ No person will be licensed as an emergency public adjuster unless the applicant has supplied to the office the \$5,000 bond required by Section 626.865(2), Florida Statutes. Applications for licensure will be received and preliminarily processed without the bond, but no licensure shall be issued until the bond is received in good and proper form.

(d) ~~Policy Regarding Licensing Threshold.~~ It is office policy and finding that a substantially higher threshold of certainty regarding fitness and character is appropriate and required for licensure as an emergency public adjuster, as compared to licensure as an emergency company or independent adjuster. This is because if a company or independent adjuster proves dishonest or incompetent, there is generally a regulated insurance company that may be required to make good that adjuster's misconduct. However, regarding a public adjuster, there is no such safeguard for consumers.

(e) ~~Records To Be Kept.~~

1. All emergency public adjusters shall at all times while licensed and for 30 days thereafter maintain in Florida an office and keep their records or copies of all records relating to all Florida losses being adjusted or previously adjusted under said emergency licensure. All emergency public adjusters licensed under this rule shall designate their Florida office location to the office within 72 hours after becoming licensed, and shall notify the office in writing within 24 hours of any change in said office location. Failure to designate such an office or to timely update the office as to its location is grounds for immediate termination of licensure. The address of this office shall appear on all contracts, literature, etc., used by the public adjuster. This office shall be open and staffed at least six hours of every day, between the hours of 8 a.m. and 5 p.m., Monday through Friday, public holidays excluded.

2. The records and offices of all emergency public adjusters shall be subject to inspection by the office without notice at any time.

(f) ~~Advertising.~~ All emergency public adjusters are strictly prohibited from advertising. Advertising means promotions, statements of availability, qualifications, and other similar statements, appearing on or in television, radio, newspapers, or magazines; and flyers, brochures, adhesive stickers affixed to any structure showing the adjusters name, address, phone number, and other similar information. Emergency public adjusters shall not use the services of any person or firm, who advertises for the emergency public adjuster, or who is directly or indirectly compensated for referring potential clients to the emergency public adjuster. The following do not constitute prohibited advertising:

1. The emergency public adjuster personally handing to any claimant or potential claimant brochures or other descriptive materials as to the public adjusting function, the public adjuster's qualifications, fees, and other similar information.

2. Solicitation (as defined herein) of work, by the emergency public adjuster in person, wherein the solicitation is made to the loss claimant, and subject to other limitations in this rule concerning solicitation; provided, limited emergency public adjusters may not solicit work on any premises which are not clearly commercial premises.

(g) ~~Advising Claimants and Others.~~ The advising of insureds, claimants, potential claimants, or other persons as to the role, value, or usefulness of public adjusters is deemed to be a material part of the business of public adjusting, and therefore requires licensure as a public adjuster under the laws of Florida and this rule, and may be engaged in only by persons licensed by the office as permanent or emergency public adjusters. Unlicensed persons may not engage in such activity even under the supervision of a licensed public adjuster.

(h) ~~Certain Contracts Unenforceable.~~ It is office policy that contracts engaging the services of a public adjuster, entered into in violation of any provisions of this rule or any emergency rule, shall be declared unenforceable on the part of any public adjuster, as violative of public policy.

(i) ~~Photo ID Required.~~ No emergency public adjuster, once approved for licensure by the office, shall be licensed or commence work, until obtaining from the office a photo identification card, paying in connection therewith the applicable fee as specified in Forms OIR AAS-1 and OIR AAS-3.

(7) ~~Emergency Public Adjuster Applicants.~~

(a) To apply for licensure as an emergency public adjuster, the applicant shall execute Form OIR AAS-1, "Application for License and Appointment as an Emergency Public Adjuster," rev. 3/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR AAS-1.

(b) To apply for pre-qualification determination for licensure as an emergency public adjuster, the applicant shall execute Form OIR-1199 "Application for Pre-qualification for Licensure as An Emergency Public Adjuster" Rev. 6/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-1199.

(c)1. Pre-qualification Determination is not required for licensure as an Emergency Public Adjuster. However, persons are urged to pre-qualify prior to a disaster in order to expedite the emergency licensure process.

2. Pre-qualification Determination requests will be considered between January 1 and April 30 of each year.

3. Any Pre-qualification Determination made will be valid for a period of two years.

(d)1. Persons may apply for pre-qualification determination or licensure as an emergency public adjuster if they are currently licensed as a public adjuster in their home state for the type or kinds of insurance for which they intend to adjust claims in this state.

2. Applicants must be in good standing in all states where so licensed.

3. Evidence of good standing must be in the form of a current original Letter of Certification from the applicable state insurance department(s). The letter shall not be older than 90 days when submitted in connection with the application for licensure or pre-qualification determination.

(e) The application form must be signed by three persons:

1. The person to receive emergency licensure;

2. A regularly licensed (non-Temporary, non-Catastrophic) public adjuster who will supervise the emergency public adjuster (the supervising public adjuster); and

3. One of the following persons (the certifying person):

a. An officer of a Florida licensed or admitted insurance company; or

b. A Florida licensed independent adjuster in good standing; or

c. A Florida licensed resident general lines insurance agent in good standing.

(f) The application forms may be obtained at all office consumer service offices or from office headquarters in Tallahassee and must be sent, with a check for the applicable fee, as specified in Form OIR-AAS-1 or OIR-1199, to: Office of Insurance Regulation, P. O. Box 6000, Tallahassee, FL 32314-6000; or the applicant may contact the office for an address for use of overnight courier service.

(g) Supervising Public Adjuster. Licensees who are licensed under this subsection must be supervised by a regularly licensed (non-Temporary, non-Catastrophic) resident public adjuster in good standing while they are performing work under their emergency public adjuster licensure. The emergency licensure automatically terminates if the

supervising public adjuster ceases to supervise the emergency adjuster. The emergency adjuster will be deemed to be an appointee of the supervising public adjuster. The supervising public adjuster is under an affirmative duty to provide continuing, significant supervision to the emergency public adjuster whose application he/she signed. The supervising public adjuster may prospectively terminate this duty at any time by notifying the office by certified mail, return receipt requested, or by overnight courier, that he/she will no longer be supervising the emergency public adjuster as of a date specified in said letter. Such a notice is not effective until actually received by the office.

(8) Non-Resident Public and Independent Adjusters. Non-Resident Public and Independent Adjusters are required to annually execute Form OIR-1297, "Affidavit of Insurance For Non-Resident Public and Independent Adjusters", rev. 10/02 which is hereby adopted and incorporated by reference. A copy of Form OIR-1297 may be obtained from the State of Florida, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0319, phone (850)413-3137.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 626.8732, 626.8734 FS. History—New 2-25-93, Amended 8-18-94, 1-7-97, 10-20-97, 1-9-03, Formerly 4-220.001, Amended \_\_\_\_\_.

#### 69B-220.051 Conduct of Public Adjusters.

(1) Purpose and Scope. This rule sets forth department Office policy as to certain matters generally affecting public adjusters. Procedures regarding application for licensure are not dealt with in this rule. Ethical provisions are not dealt with in this rule.

(2) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (c) No change.

(d) "Licensed public adjuster" and "public adjuster" refer to and include only persons actually currently licensed in good standing by the department Office as public adjusters, whether the licensure is resident licensure under Section 626.865, Florida Statutes, or nonresident licensure under Section 626.8732, Florida Statutes emergency licensure under Section 626.874, Florida Statutes, and whether the licensure is limited or unlimited. The phrase does not include persons licensed as public adjusters by other states but not by the State of Florida.

(e) "Resident public adjuster" and references thereto refers to a public adjuster not licensed on an emergency basis as contemplated by Section 626.874, Florida Statutes, and Rule 69B-220.001, F.A.C., and who is a bona fide resident of this state.

(e)(f) "Unlicensed persons," as used in this rule, means and refers to persons who are not actually currently licensed and appointed in good standing by the department Office as resident or nonresident emergency public adjusters.

(3) Communications Concerning Public Adjuster Services.

(a) Solicitation. The solicitation of public adjusting business for compensation is deemed to be a material part of the business of public adjusting and, therefore, requires licensure as a public adjuster under the laws of Florida and the rules of the department Office, and shall be engaged in only by persons licensed by the department Office as public adjusters. Unlicensed persons shall not engage in such activity even under the supervision of a licensed public adjuster. The phrase “solicitation of public adjusting business” and similar phrases as used in this rule means, for compensation, initiating contact with any person, whether in person, by mail, by telephone, or otherwise, and therein seeking, causing, urging, advising, or attempting:

1. To have any person enter into any agreement engaging the services of a public adjuster in any capacity; or

2. To have any person subsequently speak or meet with a licensed public adjuster for the purpose of engaging the services of a public adjuster in any capacity or for the purpose of being advised by a public adjuster in any regard.

(b) No change.

(4) Advertising.

(a) As with all forms of advertising concerning the business of insurance, public adjusters shall not falsely inform or advertise as set forth in Section 626.9541(1)(b), Florida Statutes, as well as any other section within the Insurance Code that which relates to advertising.

(b) Only Licensed Adjusters to Advertise. No person or entity shall in any way advertise services as a public adjuster in this state, unless such person or entity is licensed as a ~~resident~~ public adjuster or is a member of the Florida Bar.

(c) Advertisements to Show Licensee’s Full Name. Any advertisement by a ~~resident~~ public adjuster shall state the full name as specified in department Office records of the public adjuster who has caused the advertisement to appear. Where a firm containing multiple licensed public adjusters is causing the advertisement to appear, the firm shall designate one of said licensees whose full name as specified in department Office records shall appear in the advertisement.

1. Print and Website Advertisements. In print and website advertisements the public adjuster’s full name as specified in department Office records shall be in typeface no smaller than the typeface of the main body of text in the advertisement. Print advertisements include newspapers, magazines, flyers, brochures, business cards, adhesive and magnetic publication, and similar printed materials. If the material is already printed when this rule takes effect, the required public adjuster’s full name shall be added by means of rubber stamp, adhesive label, or other means.

2. Television Advertisements. In television advertisements the public adjuster’s full name as specified in department Office records shall be made to appear on the screen for a period reasonably calculated to allow a viewer to write the name down.

3. Radio Advertisements. In radio advertisements, the public adjuster’s full name as specified in department Office records shall be read during the advertisement, and at a speed reasonably calculated to allow an average listener to note the name of the licensee as it appears on his or her licensure.

(d) Responsibility of Advertising Licensee. The licensed adjuster whose name appears in the advertisement is responsible for personally reviewing the content of the advertisement and assuring that the advertisement complies with the rules of the department Office and the Insurance Code and is in all regards fair, accurate, and in no way deceptive or misleading.

(5) It is the affirmative duty of every ~~resident~~ public adjuster to supervise their business affairs and their staff to ensure to the extent it is within the public adjuster’s power that the Florida Insurance Code and Rule Chapter 69B-220, F.A.C., are ~~rule is~~ not violated.

(6) No change.

(7) All contracts for public adjuster services must be in writing. The contract must be signed by the public adjuster who solicited the contract. ~~If the public adjuster is licensed by the Department as an emergency public adjuster, the contract shall show the public adjuster’s permanent home address and home phone number, and permanent home state business address and phone number and Florida Department license number.~~

(8) No change.

Specific Authority 624.308(1), 626.9611 FS. Law Implemented 624.307(1), 626.112(1), 626.865(2), 626.874, 626.9541(1)(b),(i) FS. History-New 4-26-94, Amended 12-18-01, Formerly 4-220.051, Amended \_\_\_\_\_.

69B-220.201 Ethical Requirements.

(1) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (b) No change.

(c) “Department” means the Florida Department of Financial Services ~~“Office” refers to the Florida Office of Insurance Regulation.~~

(d) No change.

(2) No change.

(3) Code of Ethics. The work of adjusting insurance claims engages the public trust. An adjuster shall put the duty for fair and honest treatment of the claimant above the adjuster’s own interests in every instance. The following are standards of conduct that define ethical behavior, and shall constitute a code of ethics that which shall be binding on all adjusters:

(a) through (h) No change.

(i) ~~+~~ An adjuster shall not negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if the adjuster has knowledge of such representation, except with the consent of the attorney.

2- For purposes of this subsection, the term “third-party claimant” does not include the insured or the insured’s resident relatives.

(j)~~+~~ An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect the witness’s appearance or testimony during deposition or at the trial.

2- If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy of the statement.

(k) No change.

(l)~~+~~ An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss.

2- The adjuster shall not conclude a settlement when the settlement would be disadvantageous to, or to the detriment of, a claimant who is in the traumatic or distressed state described above in subparagraph (l)~~+~~.

(m)~~+~~ An adjuster shall not knowingly fail to advise a claimant of the claimant’s claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state.

2- An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar.

(n)~~+~~ A company or independent adjuster shall not draft special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release, unless advance written approval by the insurer can be demonstrated to the Department.

2- Except as provided above, a company or independent adjuster is permitted only to fill in the blanks in a release form approved by the insurer they represent.

(o) No change.

(p)~~+~~ No person shall, as a public adjuster, represent any person or entity whose claim the adjuster has previously adjusted while acting as an adjuster representing any insurer or independent adjusting firm.

2- No person shall, as a company or independent adjuster, represent him- or herself or any insurer or independent adjusting firm against any person or entity that the adjuster previously represented as a public adjuster.

(q)~~+~~ A public adjuster shall not represent or imply to any client or potential client that insurers, company adjusters, or independent adjusters routinely attempt to, or do in fact, deprive claimants of their full rights under an insurance policy.

2- No insurer, independent adjuster, or company adjuster shall represent or imply to any claimant that public adjusters are unscrupulous, or that engaging a public adjuster will delay or have other adverse effect upon the settlement of a claim.

(r)~~+~~ No public adjuster, while so licensed in the Department’s records, may represent or act as a company adjuster, independent adjuster, or general lines agent.

~~2- No independent adjuster or company adjuster, while so licensed in the Department’s records, may represent or act as a public adjuster.~~

(4) Public Adjusters, Other Ethical Constraints. In addition to considerations set out above for adjusters, the following ethical considerations are specific to public adjusters and shall be binding upon public adjusters:

(a) No change.

(b)~~+~~ The public adjuster shall notify the insured or claimant in advance of the name and location of any proposed contractor, architect, engineer, or similar professional, before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss or negotiating settlement.

2- The insured or claimant may exercise veto power of any of these persons, in which case that person shall not be used in estimating costs.

(c) through (e) No change.

(f)~~+~~ A public adjuster shall not accept referrals of business from any person with whom the public adjuster may conduct business where there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster.

2- Except as between licensed public adjusters, no public adjuster shall compensate any person, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.

(g)~~+~~ A public adjuster’s contract with a client shall be revocable or cancelable by the insured or claimant, without penalty or obligation, for at least 3 business days after the contract is executed.

2- The public adjuster shall disclose to the insured that the insured has the right to cancel with prompt notice within the revocation period.

3- If the insured elects to cancel the contract, prompt notice shall be provided to the adjuster.

4- Nothing in the provision shall be construed to prevent an insured from pursuing any civil remedy after the 3-day cancellation period.

(h) through (i) No change.

(j) A public adjuster shall not restrict or prevent an insurer, company adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to an insured or claimant or to the insured property that is the subject of a claim.

(5) Public Adjusters, Ethical Constraints During State of Emergency. In addition to considerations set forth above, the following ethical considerations shall apply to public adjusters in the event that the Governor of the State of Florida issues an Executive Order, by virtue of the authority vested in Article IV,

Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, declaring that a state of emergency exists in the State of Florida:

(a) No public adjuster shall require, demand, charge or accept any fee, retainer, compensation, commission, deposit, or other thing of value, prior to settlement of a claim.

(b) As to any one insured or claimant, no public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent of the amount of any insurance settlement or proceeds.

(c) No public adjuster shall enter into any contract, agreement or other arrangement with any person, including an attorney, building contractor, architect, appraiser or repairman, by which the person would enter into an agreement to assist a claimant or insured on an insurance claim, utilize the services of the adjuster to carry out the agreement and pay the adjuster an amount that would exceed the limitation of the adjuster's compensation or reimbursement as provided in paragraph (b) above.

(d) This subsection applies to all claims that arise out of the events that created the State of Emergency, whether or not the adjusting contract was entered into while the State of Emergency was in effect and whether or not a claim is settled while the State of Emergency is in effect.

Specific Authority 624.308, 626.878, 626.9611 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS. History—New 6-2-93, Amended 12-18-01, 3-27-05, Formerly 4-220.201, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip M. Fountain, Assistant Director, Division of Agent & Agency Services, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Alice Palmer, Director, Division of Agent and Agency Services, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2005

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: Informal Conferences RULE NO.: 69N-121.066

PURPOSE, EFFECT AND SUMMARY: To conform the rule to the new organization of the Office of Insurance Regulation and to make the rule come into accord with the implemented statute, Section 624.319, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 20.05, 120.53, 624.308 FS.

LAW IMPLEMENTED: 120.53, 624.307(1), 624.319, 624.324 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: 9:30 a.m., March 16, 2006

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation, e-mail: bob.prentiss@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69N-121.066 Informal Conferences.

(1) Informal Conferences Authorized. The Office head or a hearing officer designated by the Office may order an informal conference prior to a formal or informal proceeding.

(2) Procedures for Conferences Held Pursuant to Section 624.319(1), F.S.

(a) Every insurer will receive a draft of a report of examination made pursuant to Section 624.319, F.S. (draft report) ~~resulting from an examination under Section 624.316, F.S.~~ The insurer may review the draft report for a period of up to 30 days as determined from the date of the report's receipt by the insurer. If the insurer desires modifications to the draft report, the insurer shall request an informal conference, as permitted by Section 624.319(1), F.S., by writing to the Office no later than 30 days from the date of the report's receipt by the insurer as shown on the return receipt requested card returned to the Office by the U.S. Postal Service. Requests for an informal conference must be directed as appropriate to, Director, Life and Health Financial Oversight, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0327; Director, Property and Casualty Financial Oversight, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0329, Director, Market Investigations, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32399-4210, or Director,

