

(b) At an Appropriate Level of Functioning in the Community; or

(c) Not reasonably expected to return to an Appropriate Level of Functioning in the Community through Services.

(3) Prior closure does not prevent an individual from becoming an Applicant.

(4) Applicants previously closed under paragraph (2)(b) for not more than twelve months prior to again becoming an Applicant shall be:

(a) Presumed to satisfy Sections 381.76(1)(a)-(d), F.S.; and

(b) Presumed to satisfy Section 381.76(1)(e), F.S., if the specific required Services:

1. Are needed to achieve an Appropriate Level of Functioning in the Community;

2. Were not provided previously; and

3. Are not available or in sufficient supply from any other resource.

Rulemaking Specific Authority 381.0011 FS. Law Implemented 381.76 FS. History--New 10-31-05, Amended _____

64I-1.003 Services.

(1) All Services must be directed specifically to an individual Applicant or Eligible Individual by prior authorization of the General Program.

(2) Services can be delivered for an Applicant only to the extent necessary to determine eligibility for the General Program and for an Eligible Individual only to the extent necessary to achieve subsection 64I-1.002(2), F.A.C. closure.

(3) Services do not include:

(a) Upgrading, replacement or maintenance of a durable medical device;

(b) Funding for consumables (those items for which the very act of using destroys their further use), except in support of Services, and then for no more than twenty four (24) months beginning with the first time such funding is authorized;

(c) Any required by a change in circumstances not directly related to the Applicant or Eligible Individual's brain or spinal cord injury and capable of repetition throughout their life. Examples of changes in circumstances capable of repetition include moving to another location, obtaining a vehicle or, except in the case of an individual below the age of eighteen, the loss of a caregiver; or

(d) Any requiring approval under federal law, such as human subject research.

Rulemaking Authority 381.0011 FS. Law Implemented 381.79 FS. History--New _____

64I-1.005 Transitional Living Facility (TLF) Services.

(1) Services:

(a) No entity can deliver TLF services without complying with this rule and before receiving a TLF license from the Agency for Health Care Administration under Section 400.805, F.S.;

(b) TLF services are solely for persons who have sustained brain or spinal cord injury as defined in Section 381.745(2), F.S.;

(c) TLF services do not include services as an appropriate discharge site;

(d) No entity can deliver services as a TLF except upon obtaining and maintaining Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation for actions taken or intended to be taken under a TLF license. CARF may be reached via: the internet www.carf.org; telephone, (202)587-5001 or toll-free (866)888-1122; fax, (202)587-5009; and by mail CARF-CCAC, 1730 Rhode Island Avenue N.W., Suite 209, Washington, DC 20036, USA.

PROPOSED EFFECTIVE DATE: June 1, 2011 for Rule 64I-1.005.

Rulemaking Authority 381.0011, 400.805 FS. Law Implemented 381.75, 400.805 FS. History--New _____

NAME OF PERSON ORIGINATING PROPOSED RULE:
Thom DeLilla, Bureau Chief, Brain and Spinal Cord Injury Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2010

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2008, September 26, 2008 and June 26, 2009

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE NO.: 11B-30.007
RULE TITLE: Application for the State Officer Certification Examination and Notification Process

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 31, August 6, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NOS.:	RULE TITLES:
15C-18.001	Electronic Filing System
15C-18.004	EFS Agent Participation Requirements
15C-18.005	Service Providers; Certification; Requirements
15C-18.006	Electronic Filing System Requirements; Disclosure to Customer
15C-18.007	Enforcement; Service Providers; EFS Agents; Tax Collectors

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 33, August 20, 2010 issue of the Florida Administrative Weekly.

15C-18.001, subsection (2) shall read:

(c) "Electronic Filing System" means the system ~~owned by and~~ under the jurisdiction of and regulated by the Department which allows authorized EFS agents to process title and registration transactions.

~~(h)(+)~~ "Sales Agreement" means the document that buyer and seller sign memorializing the terms of the sale and includes, but is not limited to a buyer's order and a bill of sale.

~~(i)(+)~~ "Tax Collector" means one of the 64 state constitution or 3 charter appointed tax collectors in the 67 counties of Florida who serve as agents of the Department for the delivery of title and registration services.

15C-18.004, subsection (1) shall read:

(d) Apply to the Department on Form HSMV 82083, which is incorporated herein by reference a form prescribed by the Department.

~~(f) The entity's principal and all prospective users of the system must have no convictions involving a felony for the last 7 years except as provided in Section 112.011(1)(b), F.S. Regardless of the passage of time since the conviction and notwithstanding restoration of civil rights, anyone convicted of a felony involving dishonesty, including but not limited to identify theft, embezzlement or other economic crimes is not eligible to become an EFS agent or have access to an EFS agent's system. Have no convictions of a felony involving fraudulent crimes related to motor vehicles including, but not limited to, identity fraud, embezzlement or other related economic crimes by the principals or prospective users within the last five years. If there were any felony convictions against any principal or prospective user beyond the five years, they must have had their civil rights restored and provide proof of this prior to being authorized to access the system. This does not include any felony convictions involving the actual operation of a motor vehicle. The EFS agent must provide~~

verification to the Certified Service Provider that background checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the Certified Service Provider allowing access to the system and registering authorized users.

(i) An entity shall have no Prior disciplinary actions taken against it by the Department within the last two years that resulted in a suspension, revocation, or fine may be used as a determining factor in denial of an entity as an EFS agent.

15C-18.004, subsection (2) shall read:

(2) EFS agents may only stock regular series license plates and registration decals ~~unless they receive specific authority from the Department to stock additional indicia types.~~

15C-18.005, subsection (2) shall read:

~~(b) Demonstrate to Pass a structured test with the Department that the Service Provider's system at a minimum can successfully process the following transactions: original new, original used, and transfers of title and original, transfer and renewal of registrations.~~

15C-18.005, subsection (3) shall read:

(f) Ensure all EFS agent principals or prospective users have had a criminal history background checks conducted by the Florida Department of Law Enforcement and maintain lists of authorized users.

15C-18.006, subsection (1) shall read:

(f) Provide ~~an approved HSMV 84003 with~~ a list of license plates that have been voided, along with a reason for the void.

(g) Provide a report for each county, by authorized EFS agent, listing all current users.

(h) Provide a list to the Department of all authorized users of the Electronic Filing System.

15C-18.006, subsection (4) shall read:

(4) An EFS agent that desires to change its Certified Service Provider shall submit the request to the Department on Form HSMV 82083, which is incorporated herein by reference a form prescribed by the Department.

15C-18.006, subsection (5) shall read:

(5) If an EFS agent charges a fee to the customer for use of the electronic filing system in a title or registration transaction, the fee shall be disclosed separately and in a clear and conspicuously manner in the sales agreement along with the other options for titling and registration as an optional fee. The EFS agent may not disclose or disguise this as a State or Government fee.

15C-18.007, subsection (1) shall read:

~~(1) Enforcement authority for compliance with the requirements of the electronic filing system with regard to the Certified Service Providers is granted to the Department. The Department shall have the authority to terminate any contract or agreement with any Certified Service Provider for any~~

violation of the statute, the rules or the terms of the contract. Additionally, the following are prohibited and may result in the termination of certification as a service provider.

15C-18.007, subsection (2) shall read:

(2) Enforcement authority for compliance and the requirements of the electronic filing system with regard to EFS agents is granted to the Department. The Department ~~will shall have the authority to~~ revoke an EFS agent's ability to use the electronic filing system for any violation that jeopardizes the integrity of the system of the statute, the rules or the terms of the contract. This rule shall not prevent the Department from imposing any additional sanctions or fines as allowed by other applicable laws or rules including but not limited to Section 320.27, F.S. Additionally, the following are prohibited:

(c) Failure to pay applicable Department records fees for information not resulting in the issuance of a title certificate certification or registration credential.

(f) Failure to remain in good standing with the Tax Collector or State, including lapse or revocation of any state or of local license.

15C-18.007, subsection (3) shall read:

(3) Enforcement authority for non-compliance with rule 15C-18.003 is granted to the Department and ~~will may~~ result in the Department or its authorized representative handling EFS services for that county.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.217	Elderly Offender Housing
	NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 35, September 3, 2010 issue of the Florida Administrative Weekly.

33-601.217 Elderly Offender Housing.

- (1) No change.
- (2) Placement criteria. The department does not house inmates solely based on age. Elderly inmates are housed consistent with their custody level and medical status. However, certain facilities may be designated to house or to care for elderly inmates. Inmates shall be recommended for placement at a geriatric facility or dorm through routine classification assignment.

(a) Inmates shall meet the following criteria for placement in housing at a geriatric facility or dorm:

- 1. No change.
- 2. ~~Medium, minimum, or community custody;~~
- 2.3. Have not received any violent three or more major disciplinary reports within the last three years six months;
- 3.4. Are not otherwise deemed to be a security or disciplinary risk for placement; and
- 4. Are compatible with the facility's mission and profile.
- 5. ~~Medical profile that will allow the inmate to perform meaningful work activities.~~
- (b) ~~An inmate shall not be eligible for housing at a geriatric facility or dorm if he:~~
 - 1. ~~Is close or maximum custody;~~
 - 2. ~~Has a current or prior conviction for any sex offense;~~
 - 3. ~~Has a current or prior conviction for first degree murder;~~
 - 4. ~~Has an escape history or escape arrest with unknown disposition;~~
 - 5. ~~Has a violent felony or INS detainer;~~
 - 6. ~~Has an ex-death sentence;~~
 - 7. ~~Has a life sentence without parole eligibility;~~
 - 8. ~~Has been released from close management status within the last six months; or~~
 - 9. ~~Has a special medical need that cannot be accommodated in the work camp setting.~~

Rulemaking Specific Authority 944.09, 944.804 FS. Law Implemented 944.09, 944.804 FS. History—New 9-15-02, Amended 4-1-04, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0095	Personnel
59A-8.0215	Plan of Care and Service Provision Plan
59A-8.022	Clinical Records and Service Records
59A-8.0245	Advance Directives
59A-8.027	Emergency Management Plans

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 28, July 16, 2010 issue of the Florida Administrative Weekly.

The changes are in response to written comments received from the staff of the Joint Administrative Procedures Committee and from testimony received in the September 9, 2010 public hearing.

59A-8.0095 updates and adds to the requirements for various types of personnel.

The administrator shall be responsible for the overall operation of the home health agency. Additional oversight by the director of nursing is added as required in Section 400.497(5), F.S., paragraph 59A-8.0095(2)(d), F.A.C., is removed because its content is now included in Section 400.476(1)(b), F.S.

59A-8.0245 revises the date and web site address for the "Health Care Advance Directives – The Patients' Right to Decide." 59A-8.0245(3)(b) is removed because it repeats what is stated in Section 400.487(7), F.S.

59A-8.003 Licensure Requirements.

(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806, F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home health agencies that apply for renewal of their licenses will be surveyed by AHCA or an accrediting organization as defined in Rule 59A-8.002, F.A.C., pursuant to Sections 408.811 and 400.471, F.S. Home health agencies will be surveyed on an unannounced basis at least every 36 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(6) An application package for a change of ownership shall be made on a form prescribed by AHCA, as referenced in paragraph 59A-35.060(1)(m) subsection 59A-8.004(1), F.A.C.

(14) The home health agency shall submit the quarterly report required in Section 400.474, F.S. This rule applies to each home health agency required to be licensed by AHCA pursuant to Chapter 400, Part III, F.S.

(a) During each quarterly submission period each home health agency shall submit the data required by the form AHCA 3110-1027, based on the data as it existed on the last day of the prior calendar quarter.

(b) A separate form AHCA 3110-1027, April 2010, shall be submitted electronically for each home health agency required to be licensed by AHCA.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form prescribed by the AHCA in paragraph 59A-35.060(1)(m), F.A.C. ~~This form may be obtained at the AHCA web site, <http://ahca.myflorida.com/licensing-cert.shtml>, and then under "Home Health Agency".~~

(6) For initial applications, including changes of ownership, the applicant must submit proof of financial ability to operate, pursuant to Sections 400.471, 408.810, and

408.8065, F.S., and Rule 59A-35.062, F.A.C. ~~The compliance is demonstrated by completion of AHCA Form 3100-0009 pursuant to Rule 59A-35.062. Applications for changes of ownership and applications for initial licensure from agencies that failed to renew their licenses before expiration are not required to submit Schedule 1 of AHCA Form 3100-0009.~~

(7) An applicant for initial license shall sign the form AHCA 3110-1026, Attestation of Compliance with Distance Requirements, April 2010, pursuant to Section 400.471(7), F.S. The authorized representative signing this form attests no officer or controlling interest of the applicant agency are officers or controlling interests of another home health agency located within 10 miles of the applicant agency and is in the same county.

~~(8) An applicant for renewal of licenses shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial inability to operate, as defined in subsection 59A-8.002(14), F.A.C. If a licensee has shown signs of financial instability at any time, pursuant to Section 408.810(8), F.S., AHCA shall require proof of financial ability to operate, by submitting schedules 2 through 7 of AHCA Form 3100-0009, described in subsection (6) above, and documentation of correction of the financial instability, to include evidence of the payment of any bad checks, delinquent bills or liens. If complete payment cannot be made, evidence must be submitted of partial payment along with a plan for payment of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided.~~

59A-8.008 Scope of Services.

Rulemaking Authority ~~400.487, 400.497~~ FS. Law Implemented ~~400.471, 400.462, 400.497, 400.487~~ FS. History–New 4-19-76, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, _____.

59A-8.0095 Personnel.

(1) Administrator.

(a) The administrator of the agency shall:

3. Designate, in writing a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract, ~~pursuant to Section 468.520, F.S.,~~ that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the on-site alternate

administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet qualifications as stated in Section 400.462(1), F.S.

(2) Director of Nursing.

~~(c)5-~~ The director of nursing shall establish ~~Establish~~ a process to verify that services were provided. The home health agency must be able to validate that patient or client care was provided as ordered and specified in the plan of care or service provision plan. The surveyor may request a certified report that verifies the services ~~were~~ provided by a specified direct service staff person or contracted staff person for a specified time period as permitted in Section 400.497(5)(b), F.S. A certified report shall be in the form of a computer print out or other printed document and signed by the director of nursing. The report must be provided to the surveyor within two hours of the request.

~~(d)(e)~~ The director of nursing shall establish, and conduct, and document an ongoing quality assurance program. The program shall include at least quarterly, the review of the care and services of a sample of both active and closed clinical records by the director of nursing. ~~In large agencies, The~~ the director of nursing may delegate some of the record review to registered nurses.

(6) Physical Therapist and Physical Therapist Assistant.

(a) The physical therapist shall be currently licensed in the state, pursuant to Chapter ~~486~~ 485, F.S. The physical therapist assistant shall be currently licensed in the state, pursuant to Chapter ~~486~~ 485, F.S.

1. Services provided by the physical therapist and physical therapy assistant shall be in compliance with the standards of physical therapy practice in Chapter ~~486~~ 485, F.S., and Chapter 64B17-6, Florida Administrative Code.

(8) Occupational Therapist and Occupational Therapist Assistant.

(d) Supervision of the occupational therapy assistant by the occupational therapist shall be provided as required in 468.203~~(8)~~, F.S.

59A-8.0215 Plan of Care and Service Provision Plan.

(2) Home health agency staff must follow the physician, physician assistant, or advanced registered nurse practitioner's treatment orders that are contained in the plan of care. If the orders cannot be followed and must be altered in some way, the patient's physician, physician assistant, or advanced registered nurse practitioner must be notified and must approve of the change. Any verbal changes must be ~~are~~ put in writing and signed and dated with the date of receipt by the nurse or therapist who talked with the physician, physician assistant, or advanced registered nurse practitioner's office.

59A-8.022 Clinical Records and Service Records.

Rulemaking Authority 400.497 FS. Law Implemented 400.491, 400.494, ~~400.497~~ FS. History—New 4-19-76, Amended 2-2-77, Formerly 10D-68.22, Amended 4-30-86, 8-10-88, Formerly 10D-68.022, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, _____.

59A-8.0245 Advance Directives.

(3) Pursuant to Section 400.487~~(7)~~, F.S., a home health agency may honor a DNRO as follows:

(a) Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid Do Not Resuscitate Order (DNRO) is present, executed pursuant to Section 401.45, F.S. The Department of Health has developed a DNRO form that is described and available to the public as stated in Rule 64J-2.018, F.A.C.

~~(b) Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a Do Not Resuscitate Order (DNRO) and rules adopted by the agency, pursuant to Section 400.487, F.S. Any licensed professional home health agency personnel, who, in good faith, obeys the directives of an existing DNRO, executed pursuant to Section 401.45, F.S., will not be subject to prosecution or civil liability for his/her performance regarding patient care.~~

Rulemaking Authority 400.487, 765.110 FS. Law Implemented 400.487, ~~400.497~~, 765.110 FS. History—New 10-27-94, Amended 1-17-00, 9-22-05, _____.

59A-8.027 Emergency Management Plans.

(8) On admission, each home health agency shall, pursuant to Section 252.355, F.S., inform patients and patient caregivers ~~of the home health agency's procedures during and immediately following an emergency and inform patients~~ of the special needs registry maintained by their county Emergency Management office. The home health agency must document in the patient's file if the patient plans to evacuate or remain at home; if during the emergency the patient's caregiver can take responsibility for services normally provided by the home health agency; or if the home health agency needs to continue services to the patient. If the patient is a resident of an assisted living facility or an adult family care home, the home health agency must contact the assisted living facility or adult family care home administrator or designated emergency management personnel and find out the plan for evacuation of the resident in order to document the resident's plans in the home health agency's file for the patient. If it is determined the home health agency needs to provide continued services, it will be the responsibility of the home health agency to provide the same type and quantity of care for the patient in the special needs shelter during and after the emergency, equal to the care

received prior to the shelter assignment as specified in Section 400.492, F.S., except in certain situations as specified in Section 400.492(3), F.S.

Rulemaking Authority ~~400.492~~, 400.497 FS. Law Implemented 400.492, 400.497 FS. History--New 7-18-01, Amended 8-15-06, 3-29-07,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: 61E13-2.005 RULE TITLE: Contents of Application by a Pilot
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: 61E13-2.007 RULE TITLE: Processing of Application
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: 61G10-18.001 RULE TITLE: Continuing Education Credit Requirements
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 8, February 26, 2010 issue of the Florida Administrative Weekly.

The change is in response to a vote by the Board at a meeting held on April 23, 2010. The changes are as follows:

- 1. Subsection (4) shall now read as follows:
 - (4) Continuing Education Courses in Laws and Rules. Two continuing education credits in laws and rules of the Board may be obtained per biennium by attending one board meeting half day or four hours of a board meeting conducted by the Board of Landscape Architects and complying with the following:
 - (a) through (c) No change.
 - (d) Board members shall receive 2 hours of laws and rules continuing education credit per biennium for participation at one or more ~~four hours of~~ Board meeting(s).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Medicine

RULE NOS.:	RULE TITLES:
64B8-9.0131	Standards of Practice for Physicians Practicing in Pain Management Clinics
64B8-9.0132	Requirement for Pain Management Clinic Registration; Inspection or Accreditation

SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 16 of the April 23, 2010, issue of the Florida Administrative Weekly. The Board held public hearings on these rules on June 4, 2010, on August 7, 2010, and on October 2, 2010. The Board published a Notice of Change on August 20, 2010 and following the public hearing held on October 2, 2010, the Board voted to make additional changes to Rule 64B8-9.0131, F.A.C. The changes outlined in the Notice of Change published in the Florida Administrative Weekly on August 20, 2010, shall remain, unless addressed by the changes below. The changes are as follows:

- 1. The second sentence in subparagraph (2)(h)1., shall be reworded to read as follows: "If the result of the GC/MS or LC/MS or LC/MS/MS or GC/MS/MS testing is positive, the physician shall refer the patient for further consultation with a board-certified pain management physician, an addiction medicine specialist, or to a mental health addiction facility as it pertains to drug abuse or addiction."
- 2. The fourth sentence in subparagraph (2)(h)1., shall be reworded to read as follows: "The treating physician shall not prescribe or dispense any controlled substances until there is written concurrence of medical necessity of continued controlled substance therapy provided by a board-certified pain management physician, an addiction medicine specialist, or from a mental health addiction facility."
- 3. Subparagraph (2)(l)5., shall be changed to read as follows: "The Quality Assurance program must be reviewed once every three (3) years by a Florida-licensed risk manager

and documentation of said review must be provided to the Department together with any corrective action plan within 30 days of the review and maintained for inspection purposes.”

4. Paragraph (2)(n) is being deleted in its entirety because the training requirements for the practice of pain management will continue to be discussed by the Joint Committee.

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

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.:	RULE TITLE:
64B19-18.007	Requirements for Forensic Psychological Evaluations of Minors for the Purpose of Addressing Custody, Residence or Visitation Disputes

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 35, September 3, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE NOS.:	RULE TITLES:
64I-1.001	Definitions
64I-1.002	Services
64I-1.003	Order of Selection
64I-1.004	Scope of Services
64I-1.005	Transitional Living Facility (TLF) Service Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly has been withdrawn.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-200.004	Qualification to Obtain and Hold a License
69O-200.014	Exemption From Financial Examination
69O-200.015	Forms Incorporated by Reference

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 27, July 9, 2010

issue of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing and by the Joint Administrative Procedures Committee.

Rule 69O-200.004 has been revised to read as follows:

(1) An applicant must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-CI-1423~~422~~, incorporated by reference in Rule 69O-200.015, F.A.C., for the following:

(a) ~~Officers, directors, and stockholders holding 10% or more of the outstanding voting stock of the applicant and of any company or entity which has control over the applicant;~~

(b) ~~Officers and directors of the applicant and of any company or entity having which has control over the applicant; and,~~

(c) Partners, members, sStockholders and other individuals holding a voting interest of 10% or more in any greater shares of outstanding stock of the applicant and any company or entity having direct or indirect which has control over the applicant.

(2) An applicant that is a motor vehicle manufacturer, as defined in Section 634.011(7), Florida Statutes, must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-C1-1423 for all officers and directors of the applicant only.

(3)~~(2)~~ Subsequent to the date of licensure, individuals who become associated with the motor vehicle service agreement company in any of the above capacities shall submit the information required in subsection (1) above; however, those individuals who become associated with an agreement company which:

(a) Manufacturers motor vehicles;

(b) Demonstrates it has they have a gap net worth in excess of \$100,000,000, as reported under generally accepted accounting principles (GAAP);

(c) Annually files with the Office a 10K Report; and,

(d) Annually notifies the Office in writing of any changes in officers (Executive Vice Presidents and above) and directors of the agreement company, shall be exempt from the requirements of subsection (1).

(4) Individuals named as officers or directors of a motor vehicle manufacturer licensee must within 45 days submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-C1-1423 for those officers and directors directly overseeing the Florida service contract operations, unless the licensee is exempt under subsection (3) above or subsection (7) below.

(5) In addition to background requirements for newly associated individuals, as noted in subsections (1) through (4) above, an acquisition filing pursuant to Section 628.4615, Florida Statutes, will require updates of previously filed background documentation for material changes.

(6)(3) Motor vehicle service agreement companies are required to notify the department in writing within 15 days of any change in the corporate name, business name, address or phone number of the company.

(7)(4) The Office will ~~may, at its discretion,~~ waive any of the above provisions if the applicant or licensee can satisfy the Office that the documents are not required in determining if the individual(s) in question can manage the company and its affairs and is competent and trustworthy. The following criteria will be considered by the Office in making this determination:

- (a) The financial condition of the applicant or licensee;
- (b) The financial condition of the companies having control over the applicant or licensee;
- (c) The history and structure of the companies;
- (d) The A.M. Best rating of all insurance companies involved; and,
- (e) The position held by the individual(s) in question.

(8) Subsequent to the date of licensure, a motor vehicle service agreement company may submit in writing a request to the Office that, for future reporting and compliance requirements, it be recognized as a motor vehicle manufacturer as defined in Section 634.011(7), Chapter 634, F.S. Such request must be certified by an officer of the licensee and must include documentation that clearly sets forth how the licensee meets the definition in Section 634.011(7), F.S.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041 FS. History–New 5-26-93, Formerly 4-200.004, Amended _____.

Rule 690-200.014 has been revised to read as follows:

- (1) The Office may, upon receipt of a written request, grant an exemption from the financial examination required by Section 634.141, Florida Statutes.
- (2) A company applying for exemption must first submit documentation that demonstrates that the company:
 - (a) Has a statutory net worth in excess of \$500 million;
 - (b) Has been licensed as a motor vehicle service agreement company for more than 6 years;
 - (c) Is publicly traded on the New York Stock Exchange;
 - (d) Files an annual report on the Office’s form on or before March 1 of each year; and
 - (e) Files with the Office its current Form 10K and 10Q, within 30 days of filing with the Securities and Exchange Commission;

(f) Annually by ~~On or before~~ March 1, 1993 and in three year intervals thereafter, files a written request for the exemption. This request for exemption shall be accompanied by an exemption fee of \$2000 to be deposited into the Chief Financial Officer’s Regulatory Trust Fund.

(3) Motor vehicle manufacturers, as defined in Section 634.011(7), Florida Statutes, must only comply with paragraph (2)(f) above to apply for exemption from examination.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.141 634.1216 FS. History–New 5-26-93, Formerly 4-200.014, Amended _____.

Rule 690-200.015 has been revised to read as follows:

(1) The following forms are incorporated into this rule chapter by reference to implement the provisions of Chapter 634, Part I, Florida Statutes:

Title	Form Number
(a) Application Cover Letter	OIR-CI-982 (02/92)
(b) Application Instructions	OIR-CI-994 (02/92)
(c) Application Checklist	OIR-CI-993 (02/92)
(d) Invoice	OIR-CI-990 (02/92)
(d)(e) Fingerprint Fee Invoice	OIR-CI-903 (09/91)
(e)(f) Application for License as a Motor Vehicle Service Agreement Company	OIR-CI-469 (02/92)
(f)(g) Consent to Service of Process	OIR-CI-144 (11/90)
(g)(h) Resolution Form	OIR-CI-514 (11/90)
(h)(i) Statement of Acquisition	OIR-CI-448 (05/89)
(i)(j) Sample Contractual Liability Policy	OIR-CI-969 (08/92)
(j)(k) Instructions for Deposit	OIR-CI-992 (05/94)
(k)(l) List of Salesman	OIR-CI-995 (02/92)
(l)(m) Management Information	OIR-CI-844 (10/91)
(m)(n) Stockholder Listing	OIR-CI-973 (10/91)
(n)(o) Biographical Statement	OIR-CI-1423422 (09/08) (11/90)
(p) Abbreviated Biographical	OIR-CI-449 (01/91)
(o)(q) Release of Information	OIR-CI-450 (08/92)
(p)(r) Equifax Instructions	OIR-CI-934 (10/91)
(q)(s) Fingerprint Instructions	OIR-CI-938 (04/91)
(r)(t) Annual Statement	OIR-A3-467 (01/92)
(s)(u) Quarterly Report	OIR-A3-466 (02/87)
(t) Application for License Motor Vehicle Service Agreement Company	OIR-A3-1983 (02/09)
(u) Annual Report for Motor Vehicle Manufacturers.	OIR-A3-1984 (01/10)
(v) Application for Exemption from Field Examination.	OIR-A3-1985 (01/10)
(w) Application for License Continuance Motor Vehicle Service Agreement Company.	OIR-A3-2019 (01/10)

(2) These forms are effective on the dates referenced above. Copies of the forms may be obtained from the Office of Insurance Regulation, Bureau of Specialty Insurers, Larson Building, Tallahassee, FL 32399-0300.

Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041, 634.061, 634.071, 624.501, 634.161, 634.252 FS. History—New 6-25-90, Formerly 4-114.015, Amended 5-26-93, 6-6-94, Formerly 4-200.015, Amended _____.

Form OIR-CI-1423 “Biographical Affidavit” has been revised to include the rule number associated with the form. The revised form is available from the contact person, Steve Szypula at Steve.Szypula@flair.com.

Form OIR-A3-1983 “Application For License Motor Vehicle Service Agreement Company – Manufacturer” has been revised to include Sections 634.071 and 624.501, Florida Statutes, in the list of laws implemented. Section III of the form will now refer to the following form: “List of Proposed Sales Representatives”. This form, pertaining to sales representatives, will be included as part of OIR-A3-1983. The revised form is available from the contact person, Steve Szypula at Steve.Szypula@flair.com.

Form OIR-A3-1984 “Report for Motor Vehicle Manufacturers” will be revised to be titled as “Annual Report for Motor Vehicle Manufacturers”. Form OIR-A3-1984 will no longer refer to invoice form OIR-CI-1990 (2/92). An invoice titled “Annual Report For Motor Vehicle Manufacturers Request For Payment Of Application Fees” will be included in Form OIR-A3-1984. Form OIR-A3-1984 will also include the following exhibits/forms: Exhibit III “Reported Claims Incurred”, Exhibit VI “Claims Exposure – Florida”, “List of Officers/Directors and Key Personnel”, “List of Companies, Application for License Continuance Motor Vehicle Service Agreement Company” and “Application for Exemption From Field Examination Motor Vehicle Service Agreement Company or Manufacturer”. The revised form is available from the contact person, Steve Szypula at Steve.Szypula@flair.com.

The “Motor Vehicle Manufacturer Interrogatories” form will be revised to remove line number 10. The interrogatory description of line 3 has been revised to read as follows “Have any legal actions been taken against the Licensee during the period covered by this report? If “YES”, provide all documentation related to the legal actions taken against the Licensee related to the business of service contracts”. The revised form is available from the contact person, Steve Szypula at Steve.Szypula@flair.com.

The remainder of the rule reads as previously published.

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.:
12BER10-7

RULE TITLE:
Tax on Transfers of Ownership
Interest in Legal Entities

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2009-131, Laws of Florida, authorizes the Department to promulgate an emergency rule, and to renew such rule, to implement the provisions of the law. The law provides that conditions necessary for an emergency rule and its renewal have been met. Section 201.02(1)(b), F.S., provides for the imposition of tax on transfers of ownership interest in a conduit entity when the transfer is within three years of a transfer of Florida real property into the conduit entity, documentary stamp tax was not paid on the full consideration when the real property was transferred into the conduit entity, and the ownership interest transferred belonged to the grantor of the real property. This emergency rule provides how the tax is imposed, when the tax is due, and examples of transfers of real property that would be subject to the tax.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule, and the renewal of such rule, to implement Chapter 2009-131, Laws of Florida, and determined that all conditions necessary for this emergency rule have been met. This law imposes a tax on the transfer of a grantor’s ownership interest in a conduit entity when the grantor conveyed real property to the conduit entity without having paid tax on the full consideration for the real property and the transfer is within three years after the grantor conveyed the real property to the conduit entity.

SUMMARY: Emergency Rule 12BER10-07 (Tax on Transfers of Ownership Interest in Legal Entities), provides for the application of tax to transfers of a grantor’s ownership interest in a conduit entity after the grantor has conveyed real property to the conduit entity without having paid tax on the full consideration for the real property. This emergency rule: (1) provides when the tax is imposed under Section 201.02(1)(b), F.S., as amended by Chapter 2009-131, L.O.F., how the tax is computed, and when the tax is due; (2) provides definitions of the terms “conduit entity” and “full consideration”; and (3) provides examples of transfers of real property that would be subject to the tax.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Tim Phillips, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4724