

- (b) Loss of housing; or
- (c) Other unforeseen emergencies.

(7) STRAP Repayment. Upon determination that the household meets a hardship exception, the department will complete the TCA eligibility determination and calculate the repayment amount of the STRAP payment. The STRAP repayment amount will be reduced by one-third for each month the family does not receive TCA (i.e., the month of receipt of the STRAP payment and subsequent months). The repayment amount will be prorated over the next eight months for which TCA is received.

(8) Effective Date. Implemented in Franklin County and Gulf County. STRAP may be implemented in other Designated Geographic Areas that meet the criteria in paragraph (1)(d) of this rule as determined by the department.

Specific Authority 414.45 FS. Law Implemented 414.16, 414.1599 FS. History—New

## 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.”

### WATER MANAGEMENT DISTRICTS

#### Southwest Florida Water Management District

RULE TITLE: Minimum Flows

RULE NO.: 40D-8.041

PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C. to establish minimum flows and levels for the upper Myakka River pursuant to Section 373.042, Florida Statutes (F.S.).

SUMMARY: The District has identified seasonal low, medium and high flow periods for the Myakka River. Short-term minimum flow compliance standards were developed for each of these periods using a “building block” approach. For the Myakka River, historic flows demonstrate that a Minimum Flow for the low flow period greater than 0 cubic feet per second (cfs) is inappropriate due to the historically ephemeral nature of the system. Therefore, the Minimum Low Flow for the low flow period (Block 1, April 20 through June 25) is the natural flow minus 15% at the Sarasota USGS Gage.

For the Minimum High Flow for the high flow period (Block 3, June 26 through October 26), is a stepped flow reduction of 16% and 7% of the historic flows, with the step occurring at the 15% exceedance flow (577 cfs) at the Sarasota USGS Gage.

For the medium flow period (October 27 to April 19) it was determined that changes in habitat availability for fish and macroinvertebrates determined the Minimum Medium Flow. The Minimum Medium Flow is established as the flow less 5% at the Sarasota USGS Gage.

Five and ten year means and medians are proposed as long-term compliance standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) Minimum Flows for the Lower Hillsborough River.

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

(2)(3) No change.

(3) Minimum Flows for Myakka River

(a) The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the river are met.

(b) Minimum Flows for the Myakka River at the USGS Myakka River near Sarasota Gage USGS # 02298830 (“Sarasota Gage”) are set forth in Table 8-10 below. The long-term compliance standards set forth in Table 8-B are established based on the application of the Minimum Flows to the lowest anticipated natural flow conditions. Minimum Flows for the Myakka River are both seasonal and flow dependent. Two standards are flow-based and applied continuously regardless of season. The first is a Minimum Low Flow threshold of 0 cfs at the Sarasota Gage. The second is a Minimum High Flow threshold of 577 cfs at the Sarasota Gage. The Minimum High Flow is based on changes in the number of days of inundation of floodplain features. There are also three seasonally dependent or Block specific Minimum Flows. The Block 1 and Block 2 Minimum Flows are based on potential changes in habitat availability for fish species and macroinvertebrate diversity. The Block 3 Minimum Flow is based on changes in the number of days of connection with floodplain features.

**Table 8-10 Minimum Flow for Myakka River at USGS Myakka River near Sarasota Gage**

Period	Effective Dates	Where Flow on Previous Day Equals:	Minimum Flow Is
<u>Annually</u>	<u>January 1 to December 31</u>	<u>0 cfs</u> <u>&gt;0 cfs</u>	<u>0 cfs</u> <u>Seasonally dependent – see</u> <u>Blocks below</u>
<u>Block 1</u>	<u>April 20 to June 25</u>	<u>0 cfs</u> <u>&gt;0 cfs</u>	<u>0 cfs</u> <u>previous day flow minus 15%</u>
<u>Block 2</u>	<u>October 27 to April 19</u>	<u>0 cfs</u> <u>&gt;0 cfs</u>	<u>0 cfs</u> <u>previous day flow minus 5%</u>
<u>Block 3</u>	<u>June 26 to October 26</u>	<u>0 cfs</u> <u>&gt;0 cfs and &lt;577 cfs</u> <u>&gt;577 cfs</u>	<u>0 cfs</u> <u>previous day flow minus 16%</u> <u>previous day flow minus 7%</u>

(c) Compliance – The Minimum Flows are met when the flows in Table 8-11 are achieved.

**Table 8-11 Compliance Standards for Myakka River at USGS Myakka River near Sarasota Gage**

Minimum Flow	Hydrologic Statistic	Flow (cfs)
<u>Annual Flow</u>	<u>10-Year Mean</u>	<u>172</u>
	<u>10-Year Median</u>	<u>12</u>
	<u>5-Year Mean</u>	<u>149</u>
	<u>5-Year Median</u>	<u>5</u>
<u>Block 1</u>	<u>10-Year Mean</u>	<u>23</u>
	<u>10-Year Median</u>	<u>0</u>
	<u>5-Year Mean</u>	<u>4</u>
	<u>5-Year Median</u>	<u>0</u>
<u>Block 2</u>	<u>10-Year Mean</u>	<u>28</u>
	<u>10-Year Median</u>	<u>4</u>
	<u>5-Year Mean</u>	<u>15</u>
	<u>5-Year Median</u>	<u>3</u>
<u>Block 3</u>	<u>10-Year Mean</u>	<u>324</u>
	<u>10-Year Median</u>	<u>181</u>
	<u>5-Year Mean</u>	<u>241</u>
	<u>5-Year Median</u>	<u>133</u>

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS. History—Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00,\_\_\_\_\_.

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact Dianne Lee at (352)796-7211, ext. 4658; TDD only: 1(800)231-6103.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Marty Kelly, Manager, Ecologic Evaluation, Resource Conservation and Development, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4235  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2005

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE TITLE: Minimum Flows  
PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C., to establish minimum flows and levels for the freshwater segment of the Alafia River pursuant to Section 373.042, Florida Statutes (F.S.).  
RULE NO.: 40D-8.041

SUMMARY: The District has identified seasonal low, medium and high flow periods for the Alafia River. Short-term minimum flow compliance standards were developed for each of these periods using a “building block” approach. Two standards are flow-based and applied continuously regardless of season. The first is a Minimum Low Flow threshold of 59 cubic feet per second (cfs) at the Lithia Gage. The second is a Minimum High Flow threshold of 375 cfs at the Lithia Gage. The Minimum Low Flow for the river during the low flow period (April 20 through June 24) is based on fish passage depth and wetted perimeter inflection points.

For the high flow period of the year (which runs from June 25 to October 27), a Minimum High Flow of 374 cfs is established.

For the medium flow period (October 28 to April 19) it was determined that inundation of woody habitat would define the Minimum Flow. Using these limiting factors, the Minimum Medium Flow is the flow minus 19 percent at the Lithia Gage site, with the exception that the flows cannot go below 59 cfs at the Lithia Gage site and that minimum flows above 374 cfs need to be limited to an 8 percent reduction of the flows over 374 cfs.

Five and ten year means and medians are proposed as long-term compliance standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) Minimum Flows for the Lower Hillsborough River.

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

(2)(3) No change.

(3) Minimum Flows for Alafia River.

(a) The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the river are met.

(b) Minimum Flows for the Alafia River at the USGS Alafia River at Lithia Gage USGS # 02301500 (“Lithia Gage”) are set forth in Table 8-8 below. The long-term compliance standards set forth in Table 8-9 are established based on the application of the Minimum Flows to the lowest anticipated natural flow conditions. Minimum Flows for the Alafia River are both seasonal and flow dependent. Two standards are flow-based and applied continuously regardless of season. The first is a Minimum Low Flow threshold of 59 cfs at the Lithia Gage. The second is a Minimum High Flow threshold of 375 cfs at the Lithia Gage. The Minimum High Flow is based on changes in the number of days of inundation of floodplain features. There are also three seasonally dependent or Block specific Minimum Flows. The Block 1 and Block 2 Minimum Flows are based on potential changes in habitat availability for fish species and macroinvertebrate diversity. The Block 3 Minimum Flow is based on changes in the number of days of connection with floodplain features.

Table 8-8 Minimum Flow for Alafia River at USGS Alafia River at Lithia Gage

Period	Effective Dates	Where Flow on Previous Day Equals:	Minimum Flow Is
Annually	January 1 to December 31	≤59 cfs	59 cfs
		>59 cfs and <374 cfs	Seasonally dependent – see Blocks below
		>374 cfs	Previous day flow minus 8%
Block 1	April 20 to June 25	≤57 cfs	59 cfs
		>57 cfs and <66 cfs	67 cfs
		>66 cfs and <374 cfs	previous day flow minus 10%
		>374 cfs	previous day flow minus 8%
Block 2	October 27 to April 19	≤59 cfs	59 cfs
		>59 cfs and <69 cfs	67 cfs
		>69 cfs and <374 cfs	previous day flow minus 15%
		>374 cfs	previous day flow minus 8%

<u>Block 3</u>	<u>June 26 to October 26</u>	<u>≤59 cfs</u> <u>&gt;59 cfs and &lt;64 cfs</u> <u>&gt;64 cfs and &lt;374 cfs</u> <u>&gt;374 cfs</u>	<u>59 cfs</u> <u>67 cfs</u> <u>previous day flow minus 13%</u> <u>previous day flow minus 8%</u>
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(c) Compliance – The Minimum Flows are met when the flows in Table 8-9 are achieved.

Table 8-9 Compliance Standards for Alafia River at Lithia Gage

<u>Minimum Flow</u>	<u>Hydrologic Statistic</u>	<u>Flow (cfs)</u>
<u>Annual Flow</u>	<u>10-Year Mean</u>	<u>192</u>
	<u>10-Year Median</u>	<u>101</u>
	<u>5-Year Mean</u>	<u>163</u>
	<u>5-Year Median</u>	<u>86</u>
<u>Block 1</u>	<u>10-Year Mean</u>	<u>85</u>
	<u>10-Year Median</u>	<u>35</u>
	<u>5-Year Mean</u>	<u>53</u>
	<u>5-Year Median</u>	<u>27</u>
<u>Block 2</u>	<u>10-Year Mean</u>	<u>137</u>
	<u>10-Year Median</u>	<u>82</u>
	<u>5-Year Mean</u>	<u>110</u>
	<u>5-Year Median</u>	<u>66</u>
<u>Block 3</u>	<u>10-Year Mean</u>	<u>318</u>
	<u>10-Year Median</u>	<u>179</u>
	<u>5-Year Mean</u>	<u>276</u>
	<u>5-Year Median</u>	<u>163</u>

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS. History—Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marty Kelly, Manager, Ecologic Evaluation, Resource Conservation and Development, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4235

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2005

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact Dianne Lee at (352)796-7211, ext. 4658; TDD only: 1(800)231-6103.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE:

Renewal of Inactive Registrations, Licenses and Certifications

RULE NO.:

61J1-4.007

PURPOSE AND EFFECT: The Florida Real Estate Appraisal Board is amending Rule 61J1-4.007, F.A.C., to add updated and increased education requirements for appraisers to renew inactive registrations, licenses, and certifications. The Board is also updating this rule to comply with the January 1, 2008, AQB licensure criteria.

SUMMARY: The Board is amending Rule 61J1-4.007, F.A.C., to require inactive appraisers of all licensure categories to complete updated and additional education before being permitted to renew their inactive licenses. The Board is also updating this rule to comply with the January 1, 2008, AQB licensure criteria.

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 cost, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of the notice.

SPECIFIC AUTHORITY: 475.614, 475.619 FS.

LAW IMPLEMENTED: 475.618, 475.619 FS.

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



DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2005  
DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: Office Entrance Signs  
RULE NO.: 61J2-10.024

PURPOSE AND EFFECT: The Board proposes to repeal the rule because it only duplicates a provision in Chapter 475, Florida Statutes.

SUMMARY: The rule is being repealed.

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: 120.53, 475.05 FS.

LAW IMPLEMENTED: 475.22 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-10.024 Office Entrance Signs.

Specific Authority 120.53, 475.05 FS. Law Implemented 475.22 FS. History—New 1-1-80, Amended 2-17-81, Formerly 21V-10.24, Amended 9-26-88, 10-15-91, 6-28-93, Formerly 21V-10.024, Repealed\_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

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

**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 HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLES: General Requirements of Clinical Laboratory Personnel Training Programs  
RULE NOS.: 64B3-3.001

Curriculum Requirements for Clinical Laboratory Personnel Training Programs 64B3-3.003

PURPOSE AND EFFECT: The Board proposes to amend requirements for clinical laboratory personnel programs and curriculum requirements, and include molecular pathology.

SUMMARY: The proposed rules will add a molecular pathology subcategory to curriculum requirements and training programs.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.800, 483.809, 483.811 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-3.001 General Requirements of Clinical Laboratory Personnel Training Programs.

(1) through (4) No change.

(5) Each training program shall:

(a) through (p) No change.

(q) In the category of molecular pathology, a minimum of six months of instruction.

~~(r)(e)~~ No change.

(6) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History—New 12-28-94, Amended 7-12-95, 4-24-96, Formerly 59O-3.001, Amended 1-11-99, 11-15-99, 9-29-02, 2-2-04, 12-5-04, \_\_\_\_\_

64B3-3.003 Curriculum Requirements for Clinical Laboratory Personnel Training Programs.

(1) through (8) No change.

(9) For the category of molecular pathology, technologist level program shall at a minimum include instructions in the following competencies:

(a) Applies knowledge of basic and special laboratory procedures, sources of error, fundamental characteristics of molecular theory, molecular biology, and molecular genetics.

(b) Selects appropriate courses of actions for method and test requested.

(c) Selects and prepares appropriate methods, instruments, reagents, controls and appropriate procedures to verify test results.

(d) Calculates results and assesses test results by correlating laboratory data with clinical data, quality control data, and physiological process to validate results and procedures.

(e) Evaluates laboratory data to recognize health and disease states, make identifications, verify test results, resolve inconsistent results and sources of error, take corrective actions, and recognize the need for additional testing.

(9) through (10) renumbered (10) through (11) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History—New 5-9-95, Amended 12-4-95, 4-24-96, Formerly 590-3.003, Amended 3-19-98, 9-20-98, 1-11-99, 10-30-02, 7-18-04,

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLES:	RULE NOS.:
Supervisor	64B3-5.002
Technician	64B3-5.004
Director; Limitations and Qualifications	64B3-5.007

PURPOSE AND EFFECT: The Board proposes amendments for the academic qualifications of clinical laboratory personnel supervisors, technicians, and directors with regard to the category of molecular pathology and diagnostics.

SUMMARY: The proposed rules will add molecular pathology to supervisor technician and director qualifications.

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

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

SPECIFIC AUTHORITY: 483.051, 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.041(5), 483.051(1), 483.800, 483.809, 483.811(2), 483.815, 483.823, 483.823(1), 483.824 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-5.002 Supervisor.

Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a supervisor, an applicant shall be licensed or meet the requirements for licensure as a technologist and complete a Board approved examination or complete 25 hours of Board approved continuing education in the area of administration and supervision, which includes examination(s) accumulated over no longer than five years prior to application for licensure, shall have one hour of Board approved HIV/AIDS continuing education, a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety, and one of the following:

(a) through (g) No change.

(h) In the category of molecular pathology, have a minimum of a baccalaureate degree, with eight semester hours each of academic biological and chemical science included in a total of 24 semester hours of academic science and/or medical laboratory technology, and five years of pertinent clinical laboratory experience in molecular pathology.

(2) In lieu of one year of experience required by paragraphs 64B3-5.002(1)(b), ~~and (c)~~, and (h), F.A.C., an applicant may use Board certification obtained by examination in one or more of the laboratory specialties through the Board of Registry of the ASCP, National Credentialing Agency of Laboratory Personnel, National Registry of Clinical Chemistry, American Academy of Microbiology, American Medical Technologists, American Board of Bioanalysts, American Board of Clinical Chemistry, American Board of Medical Microbiology, American Board of Medical Genetics, American Board of Medical Laboratory Immunology, or American Board of Histocompatibility and Immunogenetics. This certification shall not substitute for the one year of pertinent clinical laboratory experience in an individual category for which licensure is sought.

(3) through (4) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, 9-19-01, 5-23-02, 10-14-02, 9-16-03, 4-20-04, \_\_\_\_\_.

64B3-5.004 Technician.

(1) General Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university, or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a laboratory technician, which includes the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, histology, molecular genetics, andrology and embryology, an applicant shall have one hour of Board approved HIV/AIDS continuing education, a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety, a minimum of a high school diploma or a high school equivalency diploma and one of the following:

(a) through (f) No change.

(g) Qualifications for Molecular ~~Pathology Genetics~~ Technician. To be licensed as a molecular ~~pathologist genetics~~ technician, an applicant shall have a minimum of a high school diploma or high school equivalent, and be licensed as a clinical laboratory technologist or technician in any specialty area.

(h) No change.

(2) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, 4-29-02, 10-29-02, 2-11-03, 4-20-04, \_\_\_\_\_.

64B3-5.007 Director; Limitations and Qualifications.

(1) through (4) No change.

(5) Approved examinations for licensure as a director: An applicant who qualifies for licensure as a director herein is required to pass a supervision and administration examination covering the subject matter of subsection 64B3-3.003(7), F.A.C., the Clinical Laboratory Director examination administered by the National Credentialing Agency for Laboratory Personnel (NCA), the examination for High Complexity Laboratory Director (HCLD) or one of the following:

(a) through (e) No change.

(f) In the specialty of molecular ~~pathology genetics~~, the specialty examination in molecular ~~diagnostics genetics~~ prepared by the American Board of Medical Genetics.

(g) and (h) No change.

(6) No change.

Specific Authority 483.051, 483.805(4) FS. Law Implemented 483.041(5), 483.051(1), 483.809, 483.811(2), 483.823(1), 483.824 FS. History—New 6-6-85, Formerly 10D-41.67, Amended 3-11-90, Formerly 10D-41.067, Amended 7-1-97, Formerly 590-5.007, Amended 5-26-98, 3-2-99, 3-24-02, 10-14-02, 4-20-04, \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Scope of Practice Relative to Specialty

RULE NO.:

of Licensure 64B3-10.005

PURPOSE AND EFFECT: The Board proposes to amend the rule to add language with regard to the scope of practice relative to specialty licenses held by clinical laboratory personnel.

SUMMARY: The proposed rule outlines scope of molecular pathology specialty.

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

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

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

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

The following rules are not intended to prevent collection and storage of specimens or the performance of manual pretesting procedures by persons who are exempt by statute or statutorily authorized within their scope of practice. Clinical laboratory personnel qualified as a physician director, a licensed director, supervisor, technologist or technician in the specialty or specialties indicated can perform testing identified as being within the specialty. Tests which are not yet classified shall be assigned by the Board upon review.

(1) through (11) No change.



(12) The purpose of the specialty of cytology is to process and interpret cellular material derived from the human body delineating data regarding human cytopathological disease. Cytology includes: (a) review and interpretation of gynecological cytology preparations in accordance with the provisions of Rule Chapter 64B3-7, F.A.C.; (b), and screening of non-gynecological cytology preparations where final review and interpretation is the responsibility of a qualified physician; and (c) process, perform, review and correlate diagnostic techniques ancillary to liquid based cytology.

(13) No change.

(14) The purpose of the specialty of molecular pathology is the use of molecular techniques for the characterization of gene expression (protein, RNA), genetic lesions (DNA) in cells, gene products (proteomics) and analysis genetics is to perform an analyses on human DNA, RNA and chromosomes to detect heritable or acquired disease-related genotypes, mutations, and phenotypes ~~for clinical purposes. It includes the study of how the changes found lead to the disease process, monitoring of the effectiveness of therapy, and detection of residual disease. Techniques included are but not limited to immunohistochemistry, in situ hybridization, mutational analysis, protein analysis, polymerase chain reactions, cell culture and isolation, expression profiling, blotting and microarrays. Such purposes would include predicting risk of disease; identifying carriers; and establishing prenatal or clinical diagnoses or prognoses in individuals, families, or populations.~~

(15) through (19) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History—New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 590-10.005, Amended 3-19-98, 1-28-99, 11-24-99, 2-15-01, 2-20-02, 10-30-02, 4-27-04,\_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2005

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Disciplinary Guidelines

RULE NO.: 64B3-12.001

PURPOSE AND EFFECT: The Board proposes to amend the rule to add disciplinary fines for clinical laboratory personnel who are terminated from a treatment program for impaired practitioners, fail to comply without good cause with the terms

of a monitoring or treatment contract entered into by the licensee, or fail to successfully complete any drug-treatment or alcohol treatment program.

SUMMARY: The proposed rules amend guidelines to comply with Chapter 456, F.S.

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: 456.079, 483.805(4) FS.

LAW IMPLEMENTED: 456.079, 483.825, 483.827 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-12.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. For applicants, all violations are sufficient for refusal to certify an application for licensure. For registrants or licensees, the imposition of probation as a penalty shall ordinarily require compliance with conditions such as restitution, continuing education and/or training, indirect or direct supervision by a Board-approved monitor, restrictions on practice, submission of reports, appearances before the Board, and/or hours of community service. As appropriate, such conditions of probation also shall be required following any period of suspension. In addition to any other discipline imposed, the Board shall assess the actual costs related to the investigation and prosecution of a case. In imposing discipline 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 as authorized by Section 456.072(2), F.S., within the range corresponding to the violations set forth below. Offense identifications are descriptive only; the full language of each statutory provision must be considered in order to determine the conduct included.

(a) through (x) No change.

(y) Section 456.072(1)(gg), F.S.: Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant, as described in Section 456.076, F.S., for failure to comply without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing

any drug-treatment or alcohol treatment program – from a minimum fine of \$500 to \$1000 and suspension until complaint up to revocation.

(3) through (6) No change.

Specific Authority 456.079, 483.805(4) FS. Law Implemented 456.079, 483.825, 483.827 FS. History–New 8-3-93, Formerly 61F3-12.002, 59O-12.002, Amended 4-10-01, 9-9-02, 2-24-04, \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2005

DATE NOTICED OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2005

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: RULE NO.:

Disciplinary Guidelines 64B5-13.005

PURPOSE AND EFFECT: The Board proposes the substantial rewriting of the rule to bring the disciplinary guidelines up to date as it has not been reviewed in ten or more years.

SUMMARY: The amendments to the rule brings it up to date as it has not been reviewed in ten or more years.

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: 456.079(1) FS.

LAW IMPLEMENTED: 456.072(2), 456.079(1), 466.028 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B5-13.005 follows. See Florida Administrative Code for present text.)

64B5-13.005 Disciplinary Guidelines.

(1) When the Board finds an applicant, licensee, or certificate holder whom it regulates under Chapter 466, F.S., has committed any of the acts set forth in Section 456.072(1), F.S., or Section 466.028, F.S., it shall issue a final order

imposing appropriate penalties as recommended in these disciplinary guidelines. For any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per count or offense. The use of terms to describe the offenses herein within the individual guidelines is intended to be only a generally descriptive use of the terms. For an accurate description of the actual offenses, the reader should refer to the statutory disciplinary provisions. The maximum penalties set forth in any individual offense guideline include all of the less severe penalties that would fall in between the maximum and the minimum penalties stated:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) <u>Attempting to obtain, obtaining or renewing a license by bribery, fraudulent misrepresentations or error of the Board.</u> (466.028(1)(a), 456.072(1)(h)) <u>First Offense.</u>	Denial \$500 fine and referral to State Attorney's office if not Licensed	Denial/Revocation \$10,000 fine and referral to State Attorney's office if not Licensed
<u>Second Offense.</u>	Probation with Conditions \$500 fine	Revocation \$10,000 fine Permanent denial and revocation
(b) <u>Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.</u> (466.028(1)(b), 456.072(1)(f)) <u>First Offense.</u>	\$1000 fine	Suspension/ denial until the license is unencumbered and active in the jurisdiction in which the disciplinary action was originally taken, or up to five years followed by probation and \$10,000 fine or revocation
<u>Second Offense.</u>	Imposition of discipline which would have been imposed if the substantive violation occurred in Florida. Probation and \$1000 fine	Revocation until the license is unencumbered in the jurisdiction in which disciplinary action was taken and \$10,000 fine
<u>Third Offense.</u>	One year suspension followed by probation and \$5000 fine	Revocation and Permanent denial and \$10,000 fine
(c) <u>Guilt of a crime directly relating to practice or ability to practice.</u> (466.028(1)(c), 456.072(1)(c)) <u>First Offense.</u>	\$1000 fine	Denial or 2 years suspension, 2 years probation with

		<u>conditions and \$10,000 fine, or revocation</u>	<u>First Offense.</u>	<u>\$1000 fine</u>	<u>2 years probation with conditions and up to suspension, and \$10,000 fine</u>
<u>Second Offense.</u>	<u>One year suspension followed by probation and \$1000 fine</u>	<u>Denial or revocation and \$10,000 fine, conditions</u>	<u>Second Offense.</u>	<u>1 year probation with conditions, Reprimand and \$3000 fine</u>	<u>Suspension, 1 year probation with conditions, and \$10,000 fine</u>
<u>Third Offense.</u>	<u>Revocation and \$2500 fine</u>	<u>Revocation and \$10,000 fine</u>	<u>Third Offense.</u>	<u>1 year suspension, Reprimand and \$5000 fine</u>	<u>Revocation and \$10,000 fine</u>
<u>(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form (466.028(1)(d))</u>			<u>(i) Failing to perform any statutory or legal obligation placed upon a licensee. (466.028(1)(i), 456.072(1)(k))</u>		
<u>First Offense.</u>	<u>\$500 fine</u>	<u>1 year probation with conditions and \$10,000 fine</u>	<u>First Offense.</u>	<u>\$500 fine</u>	<u>2 year probation with conditions and \$10,000 fine</u>
<u>Second Offense.</u>	<u>1 year probation with conditions and \$3000 fine</u>	<u>1 year suspension, 2 years probation with conditions and \$10,000 fine</u>	<u>Second Offense.</u>	<u>1 year probation conditions and \$1000 fine</u>	<u>2 year probation with conditions and \$10,000 fine</u>
<u>Third Offense.</u>	<u>2 year probation with conditions and \$5000 fine</u>	<u>Revocation and \$10,000 fine</u>	<u>Third Offense.</u>	<u>2 year probation with conditions and \$2000 fine</u>	<u>1 year suspension and \$10,000 fine</u>
<u>(e) Advertising, practicing, or attempting to practice under a name other than one's own. (466.028(1)(e))</u>			<u>(j) Making or filing a false report, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing. (466.028(1)(j), 456.072(1)(l))</u>		
<u>First Offense.</u>	<u>\$1000 fine</u>	<u>1 year suspension and \$10,000 fine</u>	<u>First Offense.</u>	<u>\$1000 fine</u>	<u>1 year probation with conditions and up to suspension, and \$10,000 fine</u>
<u>Second Offense.</u>	<u>Probation with conditions and \$3000 fine</u>	<u>Denial or revocation and \$10,000 fine</u>	<u>Second Offense.</u>	<u>1 year probation with conditions and \$2500 fine</u>	<u>Suspension, probation with conditions and \$10,000 fine</u>
<u>Third Offense.</u>	<u>Probation with conditions and \$5000 fine</u>	<u>Revocation and \$10,000 fine</u>	<u>Third Offense.</u>	<u>2 year probation with conditions and \$5000 fine</u>	<u>Denial/Revocation and \$10,000 fine</u>
<u>(f) Failing to report any person in violation of this chapter or of the rules of the department or the board. (466.028(1)(f), 456.072(1)(i))</u>			<u>(k) Sexual battery, as defined in Chapter 794, upon a patient. (466.028(1)(k), 456.072(1)(u))</u>		
<u>First Offense.</u>	<u>\$500 fine</u>	<u>1 year probation with conditions and \$1000 fine</u>	<u>First Offense.</u>	<u>6 month suspension followed by probation and \$2500 fine</u>	<u>Denial/or Revocation and \$10,000 fine</u>
<u>Second Offense.</u>	<u>1 year probation with conditions, and \$1000 fine</u>	<u>6 months suspension, 1 year probation with conditions and \$3000 fine</u>	<u>Second or Subsequent Offense.</u>	<u>5 year suspension followed by probation with conditions and \$5000 fine</u>	<u>Denial/Revocation \$10,000 fine</u>
<u>Third Offense.</u>	<u>1 year probation with conditions and \$3000 fine</u>	<u>1 year suspension, 1 year probation with conditions and \$5000 fine</u>	<u>(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry. (466.028(1)(l), 456.072(1)(a))</u>		
<u>(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene. (466.028(1)(g), 456.072(1)(j))</u>			<u>First Offense.</u>	<u>\$1000 fine</u>	<u>6 month probation with conditions and \$10,000 fine</u>
<u>First Offense.</u>	<u>\$1000 fine</u>	<u>6 months suspension, 1 year probation with conditions and \$10,000 fine</u>	<u>Second Offense.</u>	<u>1 year probation with conditions and \$1000 fine</u>	<u>6 month suspension and \$10,000 fine</u>
<u>Second Offense.</u>	<u>1 year suspension, 2 years probation with conditions and \$5000 fine</u>	<u>2 years suspension, 2 years probation with conditions and \$10,000 fine</u>	<u>Third Offense.</u>	<u>2 years probation with conditions and \$2500 fine</u>	<u>Revocation and \$10,000 fine</u>
<u>Third Offense.</u>	<u>2 years suspension followed by 2 years probation with conditions and \$10,000 fine</u>	<u>Denial/Revocation and \$10,000 fine</u>	<u>(m) Failing to keep written records and history justifying the course of treatment of the patient. (466.028(1)(m))</u>		
<u>(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry. (466.028(1)(h))</u>			<u>First Offense.</u>	<u>\$500 fine</u>	<u>Probation with conditions and \$7,500.00 fine</u>
			<u>Second Offense.</u>	<u>Probation with conditions and \$1000 fine</u>	<u>Suspension and \$10,000 fine</u>
			<u>Third Offense.</u>	<u>Probation with conditions and \$2500 fine</u>	<u>Revocation and \$10,000 fine</u>
			<u>(n) Failing to make available to a patient or client, copies of documents which relate to the patient or client.</u>		

(466.028(1)(n)) First Offense.	\$500 fine	Probation with conditions and \$7500 fine	the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$5000 fine	\$10,000 fine
Second Offense.	\$1000 fine	Probation with conditions and \$10,000 fine	Denial, or suspension until licensee petitions the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$10,000 fine	
Third Offense.	\$2500 fine	Revocation and \$10,000 fine	Third Offense.	Revocation and \$10,000 fine
(o) Performing professional services which have not been authorized by the patient or client (466.028(1)(o)) First Offense.	\$1000 fine	Probation with conditions and \$8000 fine	(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene. (466.028(1)(t)) First Offense.	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine	Second Offense.	Probation with conditions and \$8000 fine
Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine	Third Offense.	Suspension followed by probation and \$10,000 fine
(p) Prescribing a legend drug, other than in the course of the professional practice of the dentist. (466.028(1)(p)) First Offense.	\$500 fine	Probation with conditions, \$10,000 fine and up to suspension	(u) Failure to provide and maintain reasonable sanitary facilities and conditions. (466.028(1)(u)) First Offense.	Revocation and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine	Second Offense.	Probation with conditions and \$3000 fine
Third Offense.	Suspension followed by probation and \$5000 fine	Revocation and \$10,000 fine	Third Offense.	Probation with conditions and \$8000 fine
(q) Prescribing any medicinal drug scheduled in Chapter 893, to herself or himself. (466.028(1)(q)) First Offense.	\$500 fine	Suspension followed by probation with conditions and \$10,000 fine	(v) Failure to provide adequate radiation safeguards. (466.028(1)(v)) First Offense.	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine	Second Offense.	Probation with conditions and \$3000 fine
Third Offense.	Suspension followed by probation and \$5000 fine	Revocation and \$10,000 fine	Third Offense.	Probation with conditions and \$8000 fine
(r) Prescribing any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug, pursuant to Chapter 893. (466.028(1)(r)) First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine	(w) Performing any procedure which would constitute experimentation on human subjects, without first obtaining full, informed, and written consent. (466.028(1)(w)) First Offense.	Revocation and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine	Second Offense.	Probation with conditions and \$3500 fine
Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine	Third Offense.	Suspension followed by probation and \$5000 fine
(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. (466.028(1)(s), 456.072(1)(y)) First Offense.	Denial, or suspension until licensee petitions the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$5,000 fine	Suspension followed by probation and \$10,000 fine	(x) Being guilty of incompetence or negligence, including, but not limited to, being guilty of dental malpractice. (466.028(1)(x)) First Offense.	Probation with conditions and \$8000 fine
Second Offense.	Denial, or suspension until licensee petitions	Suspension followed by probation and	Second Offense.	Suspension and \$10,000 fine
			Third Offense.	Revocation and \$10,000 fine
			(y) Practicing beyond the scope that she or he is competent to perform. (466.028(1)(y), 456.072(1)(o))	

First Offense.	\$500 fine	Probation with conditions and \$10,000 fine	the purpose of muscle building or to enhance athletic performance. (466.028(1)(ee))		
Second Offense.	Probation with conditions and \$1000 fine	Suspension and \$10,000 fine	First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Third Offense.	\$2500 fine	Revocation and \$10,000 fine	Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine
(z) Delegating or contracting for professional responsibilities to a person who is not qualified to perform them. (466.028(1)(z), 456.072(1)(p))			Third Offense.	\$5000 fine	Suspension and \$10,000 fine
First Offense.	\$2500 fine	Probation with conditions, \$10,000 fine and suspension	(ff) Operating a dental office such as to result in dental treatment that is below minimum acceptable standards of performance for the community. (466.028(1)(ff))		
Second Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation and \$10,000 fine	First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$7500 fine	Revocation and \$10,000 fine	Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Any violation of Section 466.028(1)(z), Florida Statutes, will result in a minimum licensure suspension of six months, in addition to any other penalty authorized for this violation, except where revocation is imposed.			Third Offense.	Probation with conditions and \$4000 fine	Revocation and \$10,000 fine
(aa) The violation of a lawful order of the Board, or failure to comply with subpoena of the Board or department. (466.028(1)(aa), 456.072(1)(q))			(gg) Administering anesthesia in a manner which violates rules of the Board. (466.028(1)(gg))		
First Offense.	\$1000 fine	Suspension until compliant with order or subpoena, probation with conditions and \$10,000 fine.	First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension until compliant with order or subpoena followed by probation with conditions and \$10,000 fine	Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Third Offense.	Suspension until compliant with order or subpoena, followed by probation and \$5000 fine	Revocation and \$10,000 fine	Third Offense.	Probation with conditions and \$4000 fine	Revocation and \$10,000 fine
(bb) Conspiring with another licensee or with any person to commit an act which would tend to coerce, intimidate, or preclude another licensee from advertising services. (466.028(1)(bb))			(hh) Failing to report any licensee under Chapter 458 or Chapter 459 who the dentist knows has violated the grounds for disciplinary action. (466.028(1)(hh))		
First Offense.	\$ 1,000 fine	\$10,000 fine	First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine	Second Offense.	\$2500 fine	\$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine	Third Offense.	\$3500 fine	\$10,000 fine
(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication. (466.028(1)(cc))			(ii) Failing to report to the Board, within 30 days action has been taken against one's license to practice dentistry in another state, territory, or country. (466.028(1)(ii))		
First and any subsequent offense.	Suspension until adjudged competent by same court.	Suspension until adjudged competent by same court	First Offense.	\$ 1,000 fine	Denial, revocation and \$8000 fine
(dd) Presigning blank prescription forms.			Second Offense.	Probation and \$1500 fine	Denial, revocation and \$10,000 fine
First Offense.	\$ 500 fine	Probation with conditions and \$500 fine	Third Offense.	Suspension followed by probation and \$3000 fine	Denial, revocation and \$10,000 fine
Second Offense.	\$1000 fine	Probation with conditions and \$7500 fine	(jj) Advertising specialty services in violation of this chapter. (466.028(1)(jj))		
Third Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine	First Offense.	\$1000 fine	\$7500 fine
(ee) Prescribing growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for			Second Offense.	\$2500 fine	Probation with conditions and \$10,000 fine
			Third Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation and \$10,000 fine
			(kk) Allowing any person to interfere with a dentist's clinical judgment. (466.028(1)(kk))		
			First Offense.	\$1000 fine	\$5000 fine
			Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine
			Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine

(ll) Violating any provision of Chapter 456, 466, or any rules adopted pursuant thereto. (466.028(1)(ll), 456.072(1)(b), 456.072(1)(cc))			Third Offense.	Suspension followed by probation with conditions and \$3000 fine	Revocation and \$10,000 fine
First Offense.	\$750 fine	Probation with conditions and \$10,000 fine	(rr) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. (456.072(1)(r))		
Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$10,000 fine	First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine	Second Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine
(mm) Failing to comply with the educational course requirements for HIV. (456.072(1)(e))			Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000
First Offense.	\$500 fine	Probation with conditions and \$1500 fine	(ss) Failing to comply with the educational course requirements for domestic violence. (456.072(1)(s))		
Second Offense.	\$1000 fine	Probation with conditions and \$5000 fine	First Offense.	\$500 fine	Probation with conditions and \$2500 fine
Third Offense.	\$1500 fine	Probation with conditions and \$7500 fine	Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$4000 fine
(nn) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (456.072(1)(g))			Third Offense.	\$2500 fine	Probation with conditions and \$8000 fine
First Offense.	\$1000 fine	Probation with conditions and \$8000 fine	(tt) Failing to comply with ss. 381.026 and 381.0261, patient rights and how to file a patient complaint. (456.072(1)(t))		
Second Offense.	\$3500 fine	Probation with conditions and \$10,000 fine	First Offense.	\$500 fine	Probation with conditions and \$2500 fine
Third Offense.	Probation with conditions and \$5,000 fine	Suspension and \$10,000 fine	Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$4000 fine
(oo) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. (456.072(1)(m))			Third Offense.	\$2500 fine	Probation with conditions and \$8000 fine
First Offense.	\$1000 fine	Probation with conditions and \$8000 fine	(uu) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1). (456.072(1)(u))		
Second Offense.	\$3500 fine	Probation with conditions and \$10,000 fine	First Offense.	\$2500 fine	Revocation or probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine	Second Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation with conditions or revocation, and \$10,000 fine
(pp) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party. (456.072(1)(n))			Third Offense.	Suspension followed by probation with conditions and \$8000 fine	Revocation and \$10,000 fine
First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine	(vv) Failing to report to the Board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (456.072(1)(v))		
Second Offense.	\$10,000 fine	Suspension and \$2500 fine	First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$3500 fine	Revocation and \$10,000 fine	Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$10,000 fine
(qq) Wrong patient, wrong-site procedure, a wrong procedure, medically unnecessary. (456.072(1)(aa))			Third Offense.	Suspension followed by probation with conditions and \$2500 fine	Revocation and \$10,000 fine
First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine	(ww) Using information about people involved in motor vehicle accidents which has been derived from accident reports.		
Second Offense.	Probation with conditions and \$2000 fine	Suspension followed by probation with conditions and \$10,000 fine			

<p>(456.072(1)(x)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(xx) Leaving a foreign body in a patient. (456.072(1)(bb)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(yy) Testing positive for any drug, on any preemployment or employer-ordered drug screening. (456.072(1)(z)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(zz) Intentionally submitting a personal injury protection claim required by s. 627.736, statement that has been "upcoded" as defined in s. 627.732. (456.072(1)(dd)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(aaa) Intentionally submitting a personal injury protection claim required by s. 627.736, for services that were not rendered. (456.072(1)(ee)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(bbb) Engaging in a pattern of practice of prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients. (456.072(1)(ff)) First Offense.</p> <p>Second Offense.</p> <p>Third Offense.</p> <p>(ccc) Failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program.</p>	<p>\$500 fine</p> <p>\$1000 fine</p> <p>\$2500 fine</p> <p>\$1000 fine</p> <p>Probation with conditions and \$2500 fine</p> <p>Probation with conditions and \$5000 fine</p> <p>\$500 fine</p> <p>\$1000 fine</p> <p>\$2500 fine</p> <p>\$500 fine</p> <p>\$1000 fine</p> <p>\$2500 fine</p> <p>\$500 fine</p> <p>\$1000 fine</p> <p>\$2500 fine</p> <p>\$1500 fine</p> <p>Probation with conditions and \$3000 fine</p> <p>\$5000 fine</p>	<p>Probation with conditions and \$5000 fine</p> <p>Probation with conditions and \$8000 fine</p> <p>Suspension followed by probation and \$10,000 fine</p> <p>Probation with conditions and \$10,000 fine</p> <p>Suspension followed by probation with conditions and \$10,000 fine</p> <p>Probation with conditions and \$8000 fine</p> <p>Probation with conditions and \$10,000 fine</p> <p>Suspension followed by probation with conditions and \$10,000 fine</p> <p>Probation with conditions and \$8000 fine</p> <p>Suspension and \$10,000 fine</p> <p>Revocation and \$10,000 fine</p>	<p>(456.072 (1) (gg)) First Offense.</p> <p>Second or subsequent Offense.</p> <p>(2) Based upon consideration of aggravating or mitigating factors, present in an individual case, except for explicit statutory maximum and minimum penalty requirements, the Board may deviate from the penalties recommended in subsections (1) above and (3) below. The Board shall consider as aggravating or mitigating factors the following:</p> <p>(a) The length of time the licensee has practiced;</p> <p>(b) The actual damage, physical or otherwise, caused by the violation and the reversibility of the damage;</p> <p>(c) The deterrent effect of the penalty imposed;</p> <p>(d) The effect of the penalty upon the licensee;</p> <p>(e) Efforts by the licensee towards rehabilitation;</p> <p>(f) The actual knowledge of the licensee pertaining to the violation;</p> <p>(g) Attempts by the licensee to correct or stop the violation or refusal by the licensee to correct or stop violation;</p> <p>(h) Any other relevant mitigating or aggravating factor under the circumstances.</p> <p>(3) Penalties imposed by the Board pursuant to subsections (1) and (2) above may be imposed in combination or individually, and are as follows:</p> <p>(a) Issuance of a reprimand or letter of concern, which may be imposed in any disciplinary case, regardless of whether the penalty is referenced in any individual offense guideline;</p> <p>(b) Imposition of an administrative fine not to exceed \$10,000.00 for each count or separate offense; for any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per each count or offense, pursuant to Section 456.072(2)(d), Florida Statutes;</p> <p>(c) Restriction of the authorized scope of practice or license. In taking disciplinary action against any person, whether or not the action also involves placing a licensee on probation, or imposing any penalty, the Board may impose restrictions on the practice or the license that include, but are not limited to the following: Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, territory, or country. The usual action of the Board shall be to impose a period of probation, restriction of practice, suspension and/or revocation depending upon the conduct involved and penalties imposed by the other jurisdiction. In the case of an applicant, the Board shall deny the application.</p>	<p>Suspension, until compliant, followed by 2 years probation with conditions and \$2000 fine</p> <p>Three year suspension followed by 5 years probation with conditions and \$10,000 fine</p> <p>Suspension until compliant, followed by five years probation with conditions and \$5000.00 fine</p> <p>Revocation and \$10,000 fine</p>
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1. Requiring remedial education as a requirement of continued practice;

2. Restricting the licensee from practicing in certain settings;

3. Restricting the licensee to work in only certain settings or under designated conditions;

4. Restricting the licensee from performing or providing designated clinical and administrative services;

5. Restricting the licensee from practicing a designated number of hours;

6. Any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify:

1. Probation Term. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing probation, the period of probation will be for a period of five (5) years;

2. Probation Conditions. Probation conditions may include but not be limited to the following and may be imposed regardless of whether the term "conditions" is referenced in an individual offense guideline:

a. Requiring the licensee to attend additional continuing education courses or remedial education.

b. Requiring the licensee to pass an examination on the content and requirements of Chapters 456 and 466, Florida Statutes, and Chapter 64B5, Florida Administrative Code.

c. Requiring the licensee to work under the supervision of another licensee, including the submission of documents and reports from the supervisor and licensee.

d. Tolling of the running of the probationary period when the licensee ceases to practice in Florida, or fails to maintain compliance with the probation requirements.

e. Compliance with all terms of the order that imposes probation.

f. Evaluation by an impaired practitioners network or program and entering or maintaining compliance with a recommended impaired practitioners program contract.

g. Submitting to a continuing education audit for the next two consecutive biennial licensure renewal periods beginning with the date of the order imposing probation

h. Corrective action related to the violation, including but not limited to the repayment of any fees billed and collected from a patient or third party on behalf of the patient.

i. The licensee is responsible for all costs associated with compliance with the terms of probation.

(e) Suspension of a license. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing suspension, the period of suspension will be for a period of three years;

(f) Revocation of a license; which shall be permanent unless specified otherwise in the final order;

(g) Denial of an application for licensure, any violation of a provision of Section 456.072(1) or Section 466.028(1), Florida Statutes, may be the basis for denial or issuance of licensure with restrictions or conditions; and

(h) Costs. The licensee is responsible for payment of all costs of investigation and prosecution related to a disciplinary case. Additionally, all costs related to compliance with an order taking disciplinary action are the obligation of the licensee.

(4) The provisions of subsections (1) through (3) above are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order pursuant to Section 120.57(4), F.S.

(5) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to pursue or recommend the Agency pursue collateral civil or criminal actions when appropriate.

Specific Authority 456.079(1) FS. Law Implemented 456.072(2), 456.079(1), 466.028 FS. History—New 12-31-86, Amended 2-21-88, 1-18-89, 12-24-91, Formerly 21G-13.005, 61F5-13.005, 59Q-13.005, Amended 4-2-02, 8-25-03,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 4, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 15, 2005

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: Fees  
RULE NO.: 64B32-4.001

PURPOSE AND EFFECT: The Board proposes to amend the rule to add language for retired status fees.

SUMMARY: The proposed rule will create a fee for retired status licenses.

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: 456.025(1), 456.036(7), (8), 456.065, 468.353(1), 468.364 FS.

LAW IMPLEMENTED: 456.025(1), (6), 456.036, 456.065, 468.364 FS.

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





NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Respiratory Care  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Respiratory Care  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 14, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 23, 2005

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Agent and Agency Services**

RULE TITLES:	RULE NOS.:
Purpose	69B-231.010
Scope	69B-231.020
Definitions	69B-231.030
Calculating Penalty	69B-231.040
Prosecutorial Discretion	69B-231.070
Penalties for Violation of Section 626.611	69B-231.080
Penalties for Violation of Section 626.621	69B-231.090
Penalties for Violation of Subsection 626.9541(1)	69B-231.100
Penalties for Violation of Other Specific Provisions of the Florida Insurance Code	69B-231.110
Penalties for Violation of Other Insurance Code Provisions	69B-231.120
Penalties for Violation of Department Rules	69B-231.130
Penalties for Violation of Department Orders	69B-231.140
Criminal Proceedings	69B-231.150
Aggravating/Mitigating Factors	69B-231.160

PURPOSE AND EFFECT: The purpose of the proposed rule development is to update the rules that govern suspension and revocation of licenses of insurance agents, customer representatives, service representatives and adjusters. The rules are updated by adding new regulations adopted by the Florida Legislature and deleting laws that have been repealed. The rules are also updated by increasing penalties for violating certain laws in order to reflect the Department’s experience in dealing with the frequency and severity of these violations. The purpose of other changes is to clarify the rules.

SUMMARY: The amendment to Rule 69B-231.010, F.A.C., adds a reference to the Department’s authority that is contained in Section 626.201, F.S. Rule 69B-231.020, F.A.C., is amended to clarify which licenses are subject to the rule chapter and which are not. Rule 69B-231.030, F.A.C., is amended to correct a cross-reference. Rule 69B-231.040, F.A.C., is amended to provide that the Department may, rather than shall, impose a fine and probation in lieu of a suspension or revocation in certain circumstances. This corresponds to the law being implemented. Rule 69B-231.070, F.A.C., is amended to add specific authority and laws implemented. Rule 69B-231.080, F.A.C., is amended to increase the length of license suspension for violations of certain provisions of Section 626.611, F.S. Rule 69B-231.090, F.A.C., is amended to

increase the length of license suspension for violations of certain provisions of Section 626.621, F.S. Rule 69B-231.100, F.A.C., is amended to increase the length of license suspension for violations of certain unfair and deceptive insurance practices and to add penalties for churning by life insurance agents and for use of financial institution names or logos in advertising by insurance agents. Rule 69B-231.110 is amended to increase the length of license suspension for violations certain other provisions of the Florida Insurance Code and to repeal penalties for violating the primary agent law which has been repealed. Rules 69B-231.120 and 69B-231.130, F.A.C., contain technical changes. Rule 69B-211.140, F.A.C., is amended to provide a penalty for willful violations of a Department order. Rule 69B-211.150, F.A.C., is amended to provide that revocation of a license is immediate upon a conviction of a felony and to eliminate unnecessary provisions relating to foreign crimes. The amendments to Rule 69B-211.160, F.A.C., are technical.

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), 626.207(2) FS.

LAW IMPLEMENTED: 624.307(1), 626.308, 626.207(2), 626.611, 626.621, 626.631, 626.641, 626.681, 626.691, 626.9521, 626.9541, 626.9561, 626.9571, 626.9581 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. – 3:30 p.m., February 6, 2006

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barry Lanier, Chief of the Bureau of Investigations, Division of Agent & Agency Services, Department of Financial Services, 200 E. Gaines Street, Room 412, Larson Building, Tallahassee, FL 32399-0319, (850)413-5601

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 FULL TEXT OF THE PROPOSED RULES IS:

69B-231.010 Purpose.

The purpose of this rule chapter is to implement the Department’s duty under Sections 624.307(1) and 626.207(2), F.S., to enforce Sections 626.611, 626.621, 626.631, 626.641,

626.681, 626.691, F.S., by establishing standards for penalties described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees specified in Rule 69B-231.020, F.A.C.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.631, 626.641, 626.681, 626.691, FS. History–New 7-13-93, Amended 9-23-02, Formerly 4-231.010, Amended.

69B-231.020 Scope.

(1) This rule chapter shall apply to all resident and nonresident insurance agents, customer representatives, ~~solicitors~~, adjusters and service representatives ~~claims investigators~~ licensed under Chapter 626, F.S., who are subject to discipline under Sections 626.611 and 626.621, F.S.

(2) This rule chapter does not apply to insurance agencies, title insurance agencies, title insurance agents, insurance administrators, surplus lines agents, bail bond agents or managing general agents.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691 FS. History–New 7-13-93, Amended 8-15-00, 9-23-02, Formerly 4-231.020, Amended.

69B-231.030 Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) through (3) No change.

(4) “Crimes involving moral turpitude” means each felony crime identified in subsection 69B-211.042(21)(23), F.A.C., and each felony crime not identified in subsection 69B-211.042(21), F.A.C., that is substantially similar to a crime identified in subsection 69B-211.042(21), F.A.C.

(5) through (9) No change.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691 FS. History–New 7-13-93, Amended 9-23-02, Formerly 4-231.030, Amended.

69B-231.040 Calculating Penalty.

(1) through (2) No change.

(3) Final Penalty.

(a) The final penalty which will be imposed against a licensee under these rules shall be the total penalty, as adjusted to take into consideration any aggravating or mitigating factors; ~~provided however~~

(b) ~~T~~he Department may shall convert the total penalty to an administrative fine and probation if the licensee has not previously been subjected to an administrative penalty and the current action does not involve in the absence of a violation of Section 626.611, F.S., if warranted upon

(c) ~~T~~he Department’s will ~~consideration of~~ the factors set forth in rule subsection 69B-231.160(1), F.A.C., in determining whether to convert the penalty to an administrative fine and probation.

(d) In the event that the final penalty would exceed a suspension of twenty-four (24) months, the final penalty shall be revocation.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.641, 626.681, 626.691 FS. History–New 7-13-93, Formerly 4-231.040, Amended.

69B-231.070 Prosecutorial Discretion.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691, 626.9521, 626.9561, 626.9571, 626.9581 FS. History–New 7-13-93, Formerly 4-231.070.

69B-231.080 Penalties for Violation of Section 626.611.

If it is found that the licensee has violated any of the following subsections of Section 626.611, F.S., for which compulsory suspension or revocation of license(s) and appointment(s) is required, the following stated penalty shall apply:

(1) Section 626.611(1), F.S. – revocation ~~surrender of license~~.

(2) Section 626.611(2), F.S.

(a) Suspension 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and Department licensing rules applicable to the application at the time the Department issued the license, and the documentation in the applicant’s file at the time the Department issued the license.

(b) Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and Department licensing rules applicable to the application at the time the Department issued the license.

(3) Section 626.611(3), F.S. – revocation ~~surrender of license~~

(4) Section 626.611(4), F.S. – suspension 6 ~~3~~ months

(5) Section 626.611(5), F.S. – suspension 9 ~~6~~ months

(6) Section 626.611(6), F.S. – suspension 9 ~~6~~ months

(7) through (9) No change.

(10) Section 626.611(10), F.S. – suspension 12 ~~9~~

(11) Section 626.611(11), F.S. – suspension 6 months. This provision does not apply if the facts constitute a violation of Section 626.753, F.S.

(12) through (14) No change.

(15) Section 626.611(15), F.S. – suspension 12 ~~3~~

(16) No change.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691 FS. History–New 7-13-93, Amended 9-23-02, Formerly 4-231.080, Amended.

69B-231.090 Penalties for Violation of Section 626.621.

If it is found that the licensee has violated any of the following subsections of Section 626.621, F.S., for which suspension or revocation of license(s) and appointment(s) is discretionary, the following stated penalty shall apply:

(1) Section 626.621(1), F.S. – revocation ~~suspension 3 months~~

(2) through (5) No change.

(6) Section 626.621(6), F.S. – ~~see suspension 6 months of~~ Rule 69B-231.100, F.A.C.

(7) through (11) No change.

(12) Section 626.621(12), F.S. – suspension ~~6~~ 3 months

Specific Authority 624.308, ~~626.207(2)~~ FS. Law Implemented 624.307(1), ~~624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691~~ FS. History–New 7-13-93, Formerly 4-231.090, ~~Amended~~ \_\_\_\_\_.

69B-231.100 Penalties for Violation of Subsection ~~626.621(6)~~ ~~626.9541(1)~~.

If a licensee is found to have violated subsection 626.621(6), F.S., by engaging in unfair methods of competition or in unfair or deceptive acts or practices as defined in any of the following paragraphs of subsection 626.9541(1), F.S., the following stated penalty shall apply:

(1) through (4) No change.

(5) Section 626.9541(1)(e), F.S. – suspension 6 months; except that the penalty for a violation of Section 626.9541(1)(e)1., F.S., shall be a suspension of 12 months.

(6) through (10) No change

(11) Section 626.9541(1)(k), F.S. – suspension ~~2~~ 6 months

(12) Section 626.9541(1)(l), F.S. – suspension ~~2~~ 6 months

(13) Section 626.9541(1)(m), F.S. – suspension ~~3~~ 2 months

(14) through (26) No change.

(27) Section 626.9541(1)(aa), F.S. – suspension 9 months

(28) Section 626.9541(1)(bb), F.S. – suspension 3 months

Specific Authority 624.308, ~~626.207(2)~~ FS. Law Implemented 624.307(1), ~~624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691, 626.9541(1)~~ FS. History–New 7-13-93, Formerly 4-231.100, ~~Amended~~ \_\_\_\_\_.

69B-231.110 Penalties for Violation of Other Specific Provisions of the Florida Insurance Code.

If the licensee is found to have violated any of the following provisions of the Insurance Code, the following stated penalty shall apply:

(1) Section ~~624.318(2)~~ ~~626.041(2)~~, F.S. – suspension ~~for~~ 3 months

~~(2) Section 626.051(2), F.S. – suspension 3 months~~

~~(3) Section 626.062(2), F.S. – suspension 3 months~~

~~(2)(4) Section 626.112(2), F.S. – suspension 3 months~~

~~(3)(5) Section 626.342(1), F.S. – suspension 3 months~~

~~(4)(6) Section 626.441, F.S. – suspension 6 months~~

(5) Section 626.536, F.S. – administrative fine of \$500

~~(6)(7) Section 626.541 F.S. – suspension 2 months~~

(7)(8) Section 626.551, F.S. – administrative fine of not more than \$250 for the first violation; administrative fine of not less than \$500 for the second violation; administrative fine of not less than \$500 and suspension for 2 months for the third and subsequent violations.

~~(8)(9) Section 626.561(1), F.S. – suspension 9 months~~

~~(9)(10) Section 626.561(2), F.S. – suspension ~~3~~ 2 months~~

~~(10)(11) Section 626.572, F.S. – suspension 3 months~~

~~(11)(12) Section ~~626.591~~ ~~626.592(1)~~, F.S. – suspension ~~6~~ 3 months~~

~~(13) Section 626.592(4), F.S. – suspension 6 months~~

~~(14) Section 626.592(5), F.S. – suspension 9 months~~

~~(15) Section 626.592(6), F.S. – suspension 6 months~~

~~(16) Section 626.592(7), F.S. – suspension 3 months~~

(12) Section 626.593, F.S. – suspension 3 months

~~(13)(17) Section 626.601(2), F.S. – suspension ~~3~~ 2 months~~

~~(14)(18) Section 626.631(1), F.S. – revocation~~

~~(15)(19) Section 626.641(4), F.S. – revocation~~

(16) Section 626.7315, F.S. – suspension 3 months

~~(17)(20) Section 626.741(3), F.S. – suspension 3 months~~

~~(18)(21) Section 626.741(4), F.S. – suspension 6 months~~

~~(19)(22) Section 626.747, F.S. – suspension 3 months~~

~~(20)(23) Section 626.748, F.S. – suspension 2 months~~

~~(21)(24) Section 626.752, F.S. – suspension 3 months~~

~~(22)(25) Section 626.753, F.S. – revocation~~

(23) Section 626.7845, F.S. – suspension 3 months

~~(24)(26) Section 626.792(3), F.S. – suspension 3 months~~

~~(25)(27) Section 626.792(6), F.S. – revocation~~

~~(26)(28) Section 626.793, F.S. – suspension 2 months~~

~~(27)(29) Section 626.794, F.S. – suspension 6 months~~

~~(28)(30) Section 626.798, F.S. – suspension ~~2~~ 6 months~~

(29) Section 626.8305, F.S. – suspension 3 months

~~(30)(31) Section 626.835(3), F.S. – suspension 3 months~~

~~(31)(32) Section 626.835(6), F.S. – revocation~~

~~(32)(33) Section 626.837, F.S. – suspension 6 months~~

~~(33)(34) Section 626.8373, F.S. – suspension 6 months~~

~~(34)(35) Section 626.838, F.S. – suspension 6 months~~

~~(35)(36) Section 626.901(1), F.S. – suspension 6 months~~

~~(36)(37) Section 626.901(2), F.S. – suspension 12 months~~

(37) Section 627.4554, F.S. – suspension 12 months

(38) Section 627.901, F.S. – suspension 3 months

Specific Authority 624.308, ~~626.207(2)~~ FS. Law Implemented 624.307(1), ~~624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691~~ FS. History–New 7-13-93, Formerly 4-231.110, ~~Amended~~ \_\_\_\_\_.

69B-231.120 Penalties for Violation of Other Insurance Code Provisions.

If the licensee is found to have violated a provision of the Insurance Code, the stated penalty, unless otherwise prescribed in these rules or in the code provision violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Specific Authority 624.308, ~~626.207(2)~~ FS. Law Implemented 624.307(1), ~~624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691~~ FS. History–New 7-13-93, Formerly 4-231.120.

69B-231.130 Penalties for Violation of Department Rules.

If the licensee is found to have violated a Department rule, the stated penalty, unless otherwise prescribed in these rules or in the specific rule violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691 FS. History—New 7-13-93, Formerly 4-231.130.

69B-231.140 Penalties for Violation of Department Orders.

If a licensee is found to have violated a Department order, the stated penalty shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful, unless the penalty is prescribed in the order itself; except that if a licensee or an affiliated party knowingly transacts insurance in violation of an order of suspension, the penalty shall be revocation of license(s) and appointment(s) if the violation was willful, or shall be an additional suspension of three (3) months if the violation was nonwillful.

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691 FS. History—New 7-13-93, Formerly 4-231.140, Amended \_\_\_\_\_.

69B-231.150 Criminal Proceedings.

~~(1) If it is found that a licensee has violated either Section 626.611(14) or 626.621(8), F.S., the following stated penalty shall apply:~~

~~(1)(a) If a licensee is convicted by a court of a violation of the Insurance Code or a felony (regardless of whether or not such felony is related to an insurance license), the penalty shall be immediate revocation.~~

~~(2)(b) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which involves moral turpitude and is a crime involving breach of trust or dishonesty, the penalty shall be revocation.~~

~~(3)(c) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which involves moral turpitude or is a crime involving breach of trust or dishonesty, the penalties are as follows:~~

~~(a) If the conduct directly relates to activities involving the business of insurance an insurance license, the penalty shall be revocation a 24-month suspension.~~

~~(b) If the conduct indirectly relates to the business of insurance or involves dishonesty or breach of trust, such as theft of money or property, or mishandling or misappropriation of money, the penalty shall be a 12 month suspension.~~

~~(c) If the conduct is not related to the business of insurance and does not involve dishonesty or breach of trust license, the penalty shall be a 6 month suspension.~~

~~(4)(d) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the laws of the United States of America or of any state thereof or under the law of any other country, which does not involve moral turpitude and is not a crime involving breach of trust or dishonesty, the penalties are as follows:~~

~~(a) If the conduct directly relates to the business of insurance activities involving an insurance license, the penalty shall be a 24-month suspension.~~

~~(b) If the conduct indirectly relates to the business of insurance involves dishonesty or breach of trust such as theft of money or property, or mishandling or misappropriation of money, the penalty shall be a 12-month suspension.~~

~~(c) If the conduct is not related to the business of insurance license, the penalty shall be a 3-month suspension.~~

~~(2) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce, eliminate, or apply a waiting period:-~~

~~(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;~~

~~(b) The degree of penalty associated with the same or similar crimes in the United States; and~~

~~(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.~~

Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.601, 626.611, 626.621, 626.631, 626.631(1), 626.681, 626.691 FS. History—New 7-13-93, Amended 9-23-02, Formerly 4-231.150, Amended \_\_\_\_\_.

69B-231.160 Aggravating/Mitigating Factors.

The Department shall consider the following aggravating and mitigating factors and apply them to the total penalty in reaching the final penalty assessed against a licensee under this rule chapter. After consideration and application of these factors, the Department shall, if warranted by the Department’s consideration of the factors, either decrease or increase the penalty to any penalty authorized by law.

(1) For penalties other than those assessed under Rule 69B-231.150, F.A.C.:

(a) Willfulness of licensee’s conduct;

(b) Degree of actual injury to victim;

(c) Degree of potential injury to victim;

(d) Age or capacity of victim;

(e) Timely restitution;

(f) Motivation of licensee agent;

- (g) Financial gain or loss to licensee agent;
  - (h) Cooperation with the Department;
  - (i) Vicarious or personal responsibility;
  - (j) Related criminal charge; disposition;
  - (k) Existence of secondary violations in counts;
  - (l) Previous disciplinary orders or prior warning by the Department; and
  - (m) Other relevant factors.
- (2) No change.

Specific Authority 626.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.631, 626.681, 626.9541 FS. History—New 7-13-93, Formerly 4-231.160, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip Fountain, Assistant Director, Division of Agent and Agency Services  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Alice Palmer, Director, Division of Agent and Agency Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 7, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2005

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLES:	RULE NOS.:
Purpose and Scope	69O-213.010
Definitions	69O-213.020
Who May Appoint a Customer Representative	69O-213.040
Limits on Lines and Products the Customer Representative May Handle	69O-213.050
Appointment of Customer Representative and Designation of Supervising Agent	69O-213.060
Termination of Appointment or Supervision	69O-213.070
Duties of Appointment Agent	69O-213.080
Duties of Appointment Agency	69O-213.090
Duties of Designated Supervising Agent	69O-213.100
Customer Representative’s Duties	69O-213.110
Duty to Supervise Explained	69O-213.120
The Customer Representative’s Authority; Limitations	69O-213.130

PURPOSE, EFFECT, AND SUMMARY: To repeal Rule Chapter 69O-213, F.A.C., regulating customer representatives, which predates the reorganization of the Department of Insurance. Customer Representatives are regulated by the Department of Financial Services, not the Office of Insurance Regulation.

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: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 626.072, 626.112, 626.471, 626.561(2), 626.592, 626.734, 626.7351, 626.7352, 626.7353, 626.7354, 626.747, 626.748 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., February 1, 2006

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

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

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 above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-213.010 Purpose and Scope.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.010, Repealed \_\_\_\_\_.

69O-213.020 Definitions.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.020, Repealed \_\_\_\_\_.

69O-213.040 Who May Appoint a Customer Representative.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.040, Repealed \_\_\_\_\_.

69O-213.050 Limits on Lines and Products the Customer Representative May Handle.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.050, Repealed \_\_\_\_\_.

69O-213.060 Appointment of Customer Representative and Designation of Supervising Agent.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.060, Repealed \_\_\_\_\_.

69O-213.070 Termination of Appointment or Supervision.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.112, 626.471, 626.561(2), 626.7351, 626.7352, 626.7353, 626.7354, 626.748 FS. History—New 12-19-93, Formerly 4-213.070, Repealed.

69O-213.080 Duties of Appointing Agent.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.734, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.080, Repealed.

69O-213.090 Duties of Appointing Agency.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.592, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.090, Repealed.

69O-213.100 Duties of Designated Supervising Agent.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.734, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.100, Repealed.

69O-213.110 Customer Representative’s Duties.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354, 626.747 FS. History—New 12-19-93, Formerly 4-213.110, Repealed.

69O-213.120 Duty to Supervise Explained.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.120, Repealed.

69O-213.130 The Customer Representative’s Authority; Limitations.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.130, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steven H. Parton, General Counsel, Office of Insurance Regulation

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

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLES:	RULE NOS.:
Scope	69O-215.210
Twisting	69O-215.215
Rebating	69O-215.220
Defamation	69O-215.225
Misrepresentations	69O-215.230

PURPOSE, EFFECT, AND SUMMARY: To repeal Part III of Rule Chapter 69O-215, Code of Ethics – Life Underwriters.

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: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 626.797, 626.9541(1)(a), (b), (c), (h), (l) 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., February 1, 2006

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

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

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 above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-215.210 Scope.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.797 FS. History—Repromulgated 12-24-74, Formerly 4-9.01, 4-9.001, 4-215.210, Repealed.

69O-215.215 Twisting.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.797, 626.9541(1)(l) FS. History—Repromulgated 12-24-74, Formerly 4-9.02, 4-9.002, 4-215.215, Repealed.

69O-215.220 Rebating.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.797, 626.9541(1)(h) FS. History—Repromulgated 12-24-74, Formerly 4-9.03, 4-9.003, 4-215.220, Repealed.

69O-215.225 Defamation.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.797, 626.9541(1)(c) FS. History—Repromulgated 12-24-74, Formerly 4-9.04, 4-9.004, 4-215.225, Repealed.

69O-215.230 Misrepresentations.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.797, 626.9541(1)(a), (b) FS. History—Repromulgated 12-24-74, Formerly 4-9.05, 4-9.005, 4-215.230, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steven H. Parton, General Counsel, Office of Insurance Regulation

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

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLES:	RULE NOS.:
License Required	69O-221.001
Managing General Agents	69O-221.003
Currently Revoked, Suspended or Denied License	69O-221.005
Actively Engaged in Business; Place Suitably Designated; Accessible to Public	69O-221.051
Permanent Office Records Required	69O-221.055
Notice of Change of Address	69O-221.060
Statistical Reporting Form	69O-221.065
Build-up Funds; Reporting	69O-221.070
Power of Attorney; Penal Sum of Bond; Not Applicable to Automobile Clubs	69O-221.075
Professional Bail Bond Agent; Justification and Sufficiency of Sureties	69O-221.080
Rate Filing; Approval; Proof	69O-221.085
Soliciting Business	69O-221.095
Terms and Conditions of Contract; Surrender Form	69O-221.100
Premium Charge Only Permitted	69O-221.105
Premium Shall be Term Charge; Premium Refund; When	69O-221.110
Pre-numbered Receipt as Evidence of Payment	69O-221.115
Pre-numbered Receipt as Evidence of Collateral	69O-221.120
Collateral Security; Affidavit; Form	69O-221.125
Collateral Security; Statement; Form	69O-221.130
Collateral Security Requirements	69O-221.135
Indemnity Agreement; Form	69O-221.140
Use of Credit Cards and Cash Advance Facilities in Conjunction with Issuing Bail Bonds	69O-221.145
Department May Request Information	69O-221.150

PURPOSE, EFFECT AND SUMMARY: Rule Chapter 69O-221, F.A.C., is being repealed. The Office does not regulate bail bonds. At reorganization, this chapter was given to both the Office of Insurance Regulation (OIR) and the Department of Financial Services (DFS). The repeal will eliminate OIR's rule for which there is no statutory authority. DFS has its own rule.

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: 648.26, 648.442(8) FS.  
LAW IMPLEMENTED: 624.307(1), 626.601, 626.744, 648.25, 648.27, 648.29, 648.295, 648.30, 648.33, 648.34, 648.35, 648.355, 648.36, 648.365, 648.387, 648.388, 648.421, 648.44, 648.442, 648.4425, 648.45, 648.48, 648.50, 903.09, 903.14(1), (3) FS.

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

TIME AND DATE: 9:30 a.m., February 1, 2006  
PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

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 above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-221.001 License Required.

Specific Authority 648.26 FS. Law Implemented 648.30, 648.35 FS. History—Repromulgated 12-24-74, Formerly 4-1.06, Amended 9-10-91, Formerly 4-1.006, Amended 4-14-97, Formerly 4-221.001, Repealed.

69O-221.003 Managing General Agents.

Specific Authority 648.26 FS. Law Implemented 648.25, 648.27, 648.388, 648.48 FS. History—New 4-14-97, Amended 1-22-03, Formerly 4-221.003, Repealed.

69O-221.005 Currently Revoked, Suspended or Denied License.

Specific Authority 648.26 FS. Law Implemented 648.45(1), (2), 648.50 FS. History—Repromulgated 12-24-74, Formerly 4-1.07, Amended 9-10-91, Formerly 4-1.007, Amended 4-14-97, Formerly 4-221.005, Repealed.

69O-221.051 Actively Engaged in Business; Place Suitably Designated; Accessible to Public.

Specific Authority 648.26 FS. Law Implemented 648.25, 648.34, 648.355, 648.387 648.44(6) FS. History—Repromulgated 12-24-74, Amended 7-27-78, 12-23-82, Formerly 4-1.04, 4-1.004, Amended 4-14-97, 7-2-98, 1-22-03, Formerly 4-221.051, Repealed.

69O-221.055 Permanent Office Records Required.

Specific Authority 648.26 FS. Law Implemented 648.25, 648.34, 648.36 FS. History—Repromulgated 12-24-74, Formerly 4-1.01, Amended 9-10-91, Formerly 4-1.001, Amended 4-14-97, 1-22-03, Formerly 4-221.055, Repealed.

69O-221.060 Notice of Change of Address.

Specific Authority 648.26 FS. Law Implemented 648.421 FS. History—New 12-23-82, Formerly 4-1.17, Amended 9-10-91, Formerly 4-1.017, Amended 4-14-97, 1-22-03, Formerly 4-221.060, Repealed.



**69O-221.065 Statistical Reporting Form.**

Specific Authority 648.26 FS. Law Implemented 648.365 FS. History—New 12-23-82, Formerly 4-1.19, Amended 9-10-91, Formerly 4-1.019, Amended 4-14-97, Formerly 4-221.065, Repealed.

**69O-221.070 Build-up Funds; Reporting.**

Specific Authority 648.26 FS. Law Implemented 648.29 FS. History—New 9-10-91, Formerly 4-1.021, Amended 4-14-97, 1-22-03, Formerly 4-221.070, Repealed.

**69O-221.075 Power of Attorney; Penal Sum of Bond; Not Applicable to Automobile Clubs.**

Specific Authority 648.26 FS. Law Implemented 903.09 FS. History—Repromulgated 12-24-74, Formerly 4-1.08, Amended 9-10-91, Formerly 4-1.008, Formerly 4-221.075, Repealed.

**69O-221.080 Professional Bail Bond Agent; Justification and Sufficiency of Sureties.**

Specific Authority 648.26 FS. Law Implemented 648.25 FS. History—Amended 7-1-69, Repromulgated 12-24-74, Formerly 4-1.03, 4-1.003, Amended 4-14-97, Formerly 4-221.080, Repealed.

**69O-221.085 Rate Filing; Approval; Proof.**

Specific Authority 648.26 FS. Law Implemented 648.35(2) FS. History—Repromulgated 12-24-74, Formerly 4-1.11, Amended 9-10-91, Formerly 4-1.011, Amended 4-14-97, Formerly 4-221.085, Repealed.

**69O-221.095 Soliciting Business.**

Specific Authority 648.26(1)(a) FS. Law Implemented 648.44 FS. History—New 12-23-82, Formerly 4-1.18, Amended 11-5-89, Formerly 4-1.018, Amended 4-14-97, 1-22-03, Formerly 4-221.095, Repealed.

**69O-221.100 Terms and Conditions of Contract; Surrender Form.**

Specific Authority 648.26 FS. Law Implemented 648.4425 FS. History—Repromulgated 12-24-74, Formerly 4-1.16, Amended 9-10-91, Formerly 4-1.016, Amended 1-22-03, Formerly 4-221.100, Repealed.

**69O-221.105 Premium Charge Only Permitted.**

Specific Authority 648.26 FS. Law Implemented 648.33, 648.44(1)(i) FS. History—Amended 7-1-69, Repromulgated 12-24-74, Amended 5-22-80, Formerly 4-1.05, Amended 9-10-91, Formerly 4-1.005, Amended 4-14-97, Formerly 4-221.105, Repealed.

**69O-221.110 Premium Shall be Term Charge; Premium Refund; When.**

Specific Authority 648.26 FS. Law Implemented 624.307(1), 648.295, 648.33 FS. History—Amended 7-1-69, Repromulgated 12-24-74, Formerly 4-1.09, Amended 9-10-91, Formerly 4-1.009, Amended 4-14-97, 1-22-03, Formerly 4-221.110, Repealed.

**69O-221.115 Pre-numbered Receipt as Evidence of Payment.**

Specific Authority 648.26 FS. Law Implemented 648.295, 648.36 FS. History—Repromulgated 12-24-74, Formerly 4-1.02, Amended 9-10-91, Formerly 4-1.002, Amended 4-14-97, 1-22-03, Formerly 4-221.115, Repealed.

**69O-221.120 Pre-numbered Receipt as Evidence of Collateral.**

Specific Authority 648.26 FS. Law Implemented 648.25(9), 648.36, 648.442(2) FS. History—New 12-23-82, Formerly 4-1.021, Amended 9-10-91, Formerly 4-1.021, Amended 4-14-97, 1-22-03, Formerly 4-221.120, Repealed.

**69O-221.125 Collateral Security; Affidavit; Form.**

Specific Authority 648.26, 648.442(8) FS. Law Implemented 903.14(1), 648.36, 648.44(1)(m), 648.442, 648.45 FS. History—Repromulgated 12-24-74, Formerly 4-1.14, Amended 9-10-91, Formerly 4-1.014, Amended 4-14-97, Formerly 4-221.125, Repealed.

**69O-221.130 Collateral Security; Statement; Form.**

Specific Authority 648.26 FS. Law Implemented 903.14(3), 648.36, 648.44(1)(m), 648.442, 648.45 FS. History—New 7-1-69, Repromulgated 12-24-74, Formerly 4-1.141, Amended 9-10-91, Formerly 4-1.0141, Amended 4-14-97, Formerly 4-221.130, Repealed.

**69O-221.135 Collateral Security Requirements.**

Specific Authority 648.26 FS. Law Implemented 648.442(1) FS. History—New 12-23-82, Formerly 4-1.142, Amended 9-10-91, Formerly 4-1.0142, Amended 4-14-97, Formerly 4-221.135, Repealed.

**69O-221.140 Indemnity Agreement; Form.**

Specific Authority 648.26 FS. Law Implemented 648.442 FS. History—Repromulgated 12-24-74, Formerly 4-1.15, 4-1.015, Amended 4-14-97, 1-22-03, Formerly 4-221.140, Repealed.

**69O-221.145 Use of Credit Cards and Cash Advance Facilities in Conjunction with Issuing Bail Bonds.**

Specific Authority 648.26(1)(a) FS. Law Implemented 648.33, 648.44(1)(j) FS. History—New 11-5-89, Formerly 4-1.020, Amended 4-14-97, 1-22-03, Formerly 4-221.145, Repealed.

**69O-221.150 Department May Request Information.**

Specific Authority 648.26 FS. Law Implemented 626.601, 626.744, 648.27, 648.36 FS. History—Repromulgated 12-24-74, Formerly 4-1.10, Amended 9-10-91, Formerly 4-1.010, Amended 4-14-97, 1-22-03, Formerly 4-221.150, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steven H. Parton, General Counsel, Office of Insurance Regulation

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