

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

Table with 2 columns: RULE NOS. and RULE TITLES. Contains 10 rows of rule numbers and titles related to educational plans and procedures for students with disabilities.

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule published in Vol. 34, No. 21, May 23, 2008 issue of the Florida Administrative Weekly.

The date and time of the public hearing on Rules 6A-6.03028, 6A-6.030281, 6A-6.0331, 6A-6.03311, 6A-6.03312, 6A-6.03314, 6A-6.0333, 6A-6.0334 and 6A-6.03411 was inadvertently omitted. The public hearing will be held:

DATE AND TIME: June 17, 2008, 8:30 a.m.

PLACE: Tampa Airport Marriott, Tampa, Florida

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Table with 2 columns: RULE NO. and RULE TITLE. Contains one row: 62-304.726 Pompano Canal TMDL NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to proposed rule published in Vol. 34, No. 13, March 28, 2008 issue of the Florida Administrative Weekly.

The Notice of Proposed Rule was published as Rule 62-304.725, Southeast Coast Basin TMDLs, and has been changed to Rule 62-304.726, Pompano Canal TMDL

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

Table with 2 columns: RULE NO. and RULE TITLE. Contains one row: 64B10-11.0011 Mandatory HIV/AIDS and Prevention of Medical Education for Initial Licensure and Renewal

NOTICE OF WITHDRAWAL OF RULE DEVELOPMENT

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 12, on March 21, 2008, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

Table with 2 columns: RULE NOS. and RULE TITLES. Lists rule numbers 65E-9.001 through 65E-9.013 and their corresponding titles such as Applicability, Definitions, Licensure, etc.

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 16, April 18, 2008 issue of the Florida Administrative Weekly, and Notice of Change published in Vol. 34, No. 20, May 16, 2008.

THE PRELIMINARY TEXT OF THE PROPOSED RULE IS:

65E-9.001 Applicability.

These rules shall apply to all residential treatment centers, including therapeutic group homes under contract with the department or the agency to provide treatment services to children with an emotional disturbance or serious emotional disturbance who are admitted to services pursuant to Chapter 39 or Chapter 394, F.S. These rules shall also apply to providers that serve children through age 20 who are committed under Section chapter 985.19 223, F.S.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.002 Definitions.

(1) through (21) No change.

(22) “Multidisciplinary team” means the group of individuals brought together to plan and coordinate mental health and related services to meet the needs of the child and their family in the most appropriate, and least restrictive setting. Members of the team should include the child, unless clinically contraindicated, the child’s parent or legal guardian and other caregivers, such as: the foster parent; the child welfare service worker; the child’s therapist; the child’s behavioral analyst; the child’s Individual Education Plan surrogate; and others who have information or services to offer for the child’s treatment plan.

(22) through (27) renumbered (23) through (28) No change.

~~(28) “Residential treatment center” means a 24-hour residential program, including a therapeutic group home which provides mental health treatment and services to children as defined in Section 394.492(2) or (6), F.S., and which is a private for-profit or not-for-profit corporation, under contract with the department or the agency. This rule does not change the Chapter 419, F.S., designation of a program as a “community residential home.”~~

(28) through (38) renumbered (29) through (39) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.003 Licensure.

(1) through (3) No change.

(4) Initial license – New construction, new operation, or change of licensed operator. Applicants for an initial license shall submit ~~the most current a completed~~ AHCA Form 3180-5004, ~~June 2004~~, “Residential Treatment Centers for Children and Adolescents,” dated 1/2008, which is incorporated by reference and may be obtained from the agency. The application must be submitted to the agency at least 60 days prior to the date the facility would be available for inspection. The applicant shall provide all the information required by Sections 394.875 and 394.876, F.S., and any other information determined to be needed by the agency. The

application shall be under oath and must be accompanied by the appropriate license fee in order to be accepted and considered timely. The following information shall be submitted with the application.

(a) through (g)8. No change.

~~9. A copy of the current signed contract with the department.~~

~~9.10. For facilities that would be considered a community residential home under Chapter 419, F.S., who are being licensed for the first time or existing facilities that have changed location or ownership shall provide a completed Community Residential Home Affidavit of Compliance Form, dated August 2006 DCF Form 1786, “Community Residential Home Sponsor Form,” which is incorporated by reference and may be obtained on the agency’s website from the department.~~ http://ahca.myflorida.com/MCHQ/Long_Term_Care/Assisted_living/afc/CRH_InterimAffidavit%20afch_3.pdf. For all other residential treatment centers, being licensed for the first time or who have changed location or ownership shall provide a report or letter from the zoning authority dated within the last six months indicating the street location is zoned appropriately for its use.

~~10.11. A copy of the center’s occupational license.~~

(5) through (7)(a) No change.

(b) All applicants shall submit an application on the most current version of AHCA Form 3180-5004, dated 1/2008 June 2004, “Residential Treatment Centers for Children and Adolescents Application”, which is incorporated by reference, which is provided by the AHCA. The application is available on the agency’s web site at http://www.ahca.ahca-myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/index.shtml. The application shall include: all information required by Sections 394.875 and 394.876, F.S., and any other information determined to be needed by the agency; and

(c) through (18) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.004 Administrative Enforcement.

(1) through (3) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.005 Operating Standards.

(1) through (3)(d) No change.

(e) Fees. ~~A For children placed by the department and funded in full or in part by state, Medicaid, or local matching funds, a sliding fee schedule shall be developed consistent with the provisions Rule 65E-14.018, F.A.C. Section 394.674(4), F.S.~~ If fees are charged, the provider shall have a written policy describing the relationships between fees and services

provided and the conditions under which fees are charged or waived. This policy shall be available to any person upon request.

(f) through (9) No change.

(10) Disaster and emergency preparedness.

(a) EMERGENCY PLAN COMPONENTS. Each facility shall prepare a written comprehensive emergency management plan in accordance with CF-MH 1065, "Emergency Management Planning Criteria for Residential Treatment Facilities," dated 08/2007, which is incorporated by reference. This document is available on the Department's website at <http://www.dcf.state.fl.us/publications/eforms/mh1065>. The comprehensive emergency management plan must, at a minimum address the following: The provider shall develop and implement on an ongoing basis procedures for fire and other emergencies including bomb threats, weather emergencies such as tornadoes and hurricanes. Disaster preparedness and evacuation procedures, that address where and how children are transported during disasters, staffing, notification of families and the department, and how the provider shall obtain and provide general and specialized medical, surgical, psychiatric, nursing, pharmaceutical, and dental services, shall be reviewed and approved by the county emergency management agency where the facility is located.

1. Provision for all hazards.

2. Provision for the care of residents remaining in the facility during an emergency including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment.

3. Provision for the care of residents who must be evacuated from the facility during an emergency including identification of such residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications.

4. Provision for the care of additional residents who may be evacuated to the facility during an emergency including the identification of such residents, staffing, and supplies.

5. Identification of residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation.

6. Identification of and coordination with the local emergency management agency.

7. Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents; transportation; and reporting to the county office of emergency management the number of residents who have been relocated and the place of relocation.

8. The identification of staff responsible for implementing each part of the plan.

(b) Evacuation routes shall be posted in conspicuous places and reviewed with staff and children on a semi-annual basis. Evidence of these periodic reviews shall be maintained in the facility's files and available upon request.

(c) EMERGENCY PLAN APPROVAL. The plan shall be submitted for review and approval to the county emergency management agency.

1. Any revisions must be made and the plan resubmitted to the county office of emergency management within 30 days of receiving notification from the county agency that the plan must be revised.

2. Newly-licensed facility and facilities whose ownership has been transferred, must submit an emergency management plan within 30 days after obtaining a license.

3. The facility shall review its emergency management plan on an annual basis. Any substantive changes must be submitted to the county emergency agency for review and approval.

a. Changes in the name, address, telephone number, or position of staff listed in the plan are not considered substantive revisions for the purposes of this rule.

b. Changes in the identification of specific staff must be submitted to the county emergency management agency annually as a signed and dated addendum that is not subject to review and approval.

4. Any plan approved by the county emergency management agency shall be considered to have met all the criteria and conditions established in this rule.

(d) PLAN IMPLEMENTATION. In the event of an internal or external disaster the facility shall implement the facility's emergency management plan in accordance with Section 252.356 F.S. Section 252.36, F.S.

1. All staff must be trained in their duties and are responsible for implementing the emergency management plan.

2. If telephone service is not available during an emergency, the facility shall request assistance from local law enforcement or emergency management personnel in maintaining communication.

(e) FACILITY EVACUATION. The facility must evacuate the premises during or after an emergency if so directed by the local emergency management agency.

1. The facility shall report the evacuation to the local office of emergency management or designee and to the area Department of Children Mental Health Program Office within six hours of the evacuation order and when the evacuation is complete if the evacuation is not completed within the six hour period.

2. The facility shall not be re-occupied until the area is cleared for reentry by the local emergency management agency or its designee and the facility can meet the immediate needs of the residents.

3. A facility with significant structural damage must relocate residents until the facility can be safely re-occupied.

4. The facility is responsible for knowing the location of all residents until the resident has been relocated from the facility.

5. The facility shall provide the agency with the name of a contact person who shall be available by telephone 24-hours a day, seven days a week, until the facility is re-occupied.

6. The facility shall assist in the relocation of residents and shall cooperate with outreach teams established by the Department of Health or emergency management agency to assist in relocation efforts. Resident needs and preferences shall be considered to the extent possible in any relocation decision.

(11) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended _____.

65E-9.006 Program Standards.

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

(3) Treatment and services.

(a) Treatment shall be individualized, child and family centered, culturally competent, and based on the child’s assessed strengths, needs, and presenting problems that precipitated admission to the program.

(b) Treatment services shall be provided as part of an individualized written treatment services plan that complies with Rule 65E-9.009, F.A.C., of this rule.

(c) through (4)(g) No change.

(5) Education. The provider shall arrange for or provide an educational program for children, that complies with the State Board of Education, Rule 6A-6.0361, F.A.C., hereby incorporated by reference. Chapter 65A-15, F.A.C.

(6) through (12) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended _____.

65E-9.007 Staffing.

(1) through (2) No change.

(3) Staff Composition. The provider shall have the following staffing, any of which may be part-time, if the required equivalent full-time coverage is provide, except for those positions with a required specified staffing ratio:

(a) Psychiatrist.

1. For residential treatment centers, the provider shall have on staff or under contract a psychiatrist, licensed under Chapter 458, F.S., who is board certified or board eligible in child and adolescent psychiatry to serve as medical director for the program and such position shall oversee the development and revision of the treatment plan and the provision of mental health services provided to children. A similarly qualified psychiatrist who consults with the board certified psychiatrist

may provide back-up coverage. A psychiatrist shall be on call 24 “hours a day”, seven “days-a-week”, and shall participate in staffings. For children committed under Section 985.19.223, F.S., a psychologist as defined in paragraph 65E-9.007(3)(d), F.A.C., may be used in lieu of the medical director to oversee the development and revision of the treatment plan and the provision of mental health services provided to children.

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

(c) Registered nurse.

1. A registered nurse shall supervise the nursing staff. For residential treatment centers that use seclusion or restraint in their program, a registered nurse shall supervise the nursing staff. At a minimum, a licensed practical nurse shall be on duty 24 hours a day, 7 days a week. During the times that the children are present in the facility and normally awake, the nursing staff to child ratio shall be no less than 1:30, and during normal sleeping hours, the nursing staff to child ratio shall be no less than 1:40.

2. For therapeutic group homes residential treatment centers that do not use restraint or seclusion in their program, the provider is not required to have a registered nurse or other nursing staff on duty, but shall have definitive written agreements for obtaining necessary nursing services.

(d) through (e)4. No change.

5. While transporting residents of residential treatment centers other than group homes, the driver shall not be counted as the direct care staff providing care, assistance or supervision of the child. For therapeutic group home residents, prior to a single staff person transporting one or more children in a motor vehicle, children must be assessed to ensure the safety of the children and staff.

(f) If the provider’s program includes behavior analysis services, a certified behavior analyst, a master’s level practitioner, or professionals licensed under Chapter 490 or 491, F.S., with documented training and experience in behavior management program design and implementation shall be employed on staff or under contract, either full or part time, to provide ongoing staff training and quality assurance in the use of the behavior management techniques, which may include, but are not limited to those listed in paragraph 65E-9.007(5)4.c.(e), F.A.C.

(g) through (6) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended _____.

65E-9.008 Admission.

(1) Admission procedures subsections (3) through (6) do not apply to children placed in accordance with Section 985.19, F.S. The following admission procedures do not apply to children placed in accordance with Chapter 985, F.S.

(2) No change.

(3) Acceptance of a child for residential treatment in a residential treatment center, including therapeutic group home, ~~(excluding children placed under Chapter 985, F.S.)~~ shall be based on the assessed needs of the child, family, or guardian recommendations, and the determination that the child requires treatment of a comprehensive and intensive nature and the provider's ability to meet those needs.

(4) Children placed by the department ~~(excluding children placed under Chapter 985, F.S.)~~ and funded in full or in part by state, Medicaid, or local matching funds shall be admitted only after they have, on recommendation of the appropriate multidisciplinary team, been personally examined and assessed for suitability for residential treatment. For children in departmental custody, the assessment must be by a qualified evaluator as defined in Section 39.407(6)(b), F.S. Children in parental custody must be assessed by a clinical psychologist or by a psychiatrist licensed to practice in the State of Florida, with experience or training in children's disorders. For children currently in residential placement, recommendations of the facility treatment team may serve as authorization for placement in therapeutic group homes. The assessment must result in a report by a licensed psychologist or psychiatrist who has at least three years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center, whose written findings are that:

- (a) The child has an emotional disturbance as defined in Section 394.492(5), F.S., or a serious emotional disturbance as defined in Section 394.492(6), F.S.;
 - (b) The emotional disturbance or serious emotional disturbance requires treatment in a residential treatment center;
 - (c) All available treatment that is less restrictive than residential treatment has been considered or is unavailable;
 - (d) The treatment provided in the residential treatment center is reasonably likely to resolve the child's presenting problems as identified by the qualified evaluator;
 - (e) The provider is qualified by staff, program and equipment to give the care and treatment required by the child's condition, age and cognitive ability;
 - (f) The child is under the age of 18; and
 - (g) The nature, purpose and expected length of the treatment have been explained to the child and the child's parent or guardian and guardian ad litem.
- (5) through (7)(m) No change.

1. If a physical examination was not performed within the 90 days prior to admission and documentation of such examination was not provided, a physical examination shall be initiated within 24 hours of admission by a medical professional licensed physician. This medical professional may be a registered nurse, physician's assistant, Advanced

Registered Nurse Practitioner or medical doctor who has authority to perform physical examinations of a medical nature shall be initiated within 24 hours of admission.

- 2. through (8)(e) No change.
- (f) Provisions for treatment ~~service~~ plan reviews;
- (g) through (9)(c) No change.

Specific Authority ~~39.407, 394.875(8)(40)~~ FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.009 Treatment Planning.

- (1) through (6) No change.

Specific Authority ~~39.407, 394.875(8)(40)~~ FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.0010 Length of Stay.

- (1) through (3) No change.

Specific Authority ~~39.407, 394.875(8)(40)~~ FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.011 Discharge and Discharge Planning.

- (1) through (11) No change.
- (12) Notwithstanding subsections (1)-(11) of Rule 65E-9-001, F.A.C., Providers who serve children committed under Section 985.19 ~~223~~, F.S., shall abide by the following standards with regard to discharge planning:

(a) The provider shall finalize the discharge summary and have it approved and signed by the treatment team. At least 30 days before the proposed discharge, a copy of the discharge summary shall be sent to the child's home district. The provider and district shall coordinate with each other to assist the district in the development of the discharge plan based on the provider's recommendations for services after discharge.

(b) Once noticed by the court of a pending hearing related to child's competency to proceed, the discharge summary shall be copied to the parties identified in Section 985.19. ~~223~~, F.S.

- (c) through (13) No change.

Specific Authority ~~39.407, 394.875(8)(40)~~ FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.012 Rights of Children.

- (1) through (3)(b) No change.
- (c) The provider shall establish and implement a written procedure for the immediate protection of the alleged victim or any other potential victim and prevention of a recurrence of the alleged incident pending investigation by the department or law enforcement.
- (d) through (3) No change.
- (4) Confidentiality related to HIV-infected children. The provider shall protect the confidentiality of HIV-infected children as specified in Section 381.004, 381.400 F.S. The provider shall also ensure that:
 - (a) through (d) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.013 Restraint, Seclusion, and Time-Out.

(1) through (2) No change.

(3) Authorization of restraint or seclusion.

(a) Restraint or seclusion shall be used and continued only pursuant to an order by a board certified or board eligible psychiatrist licensed under Chapter ~~458 409~~, F.S., or licensed physician with specialized training and experience in diagnosing and treating mental disorders and who is the child’s treatment team physician. If the child’s treatment team physician is unavailable, the physician covering for the treatment team physician may meet these qualifications. Physicians allowed to order seclusion and restraint, pursuant to this rule, must be trained in the use of emergency safety interventions prior to ordering them.

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

3. The emergency safety intervention ordered, including the length of time for which the physician authorized its use, which length of time shall not exceed the time limits set forth in subsection 65E-9.013(3)(f) 1.-3. ~~(4)~~, F.A.C.

(4) through (11) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

65E-9.014 Medication Administration and Use of Psychotropic Medications

(1) through (14) No change.

Specific Authority ~~39.407~~, 394.875(8)(40) FS. Law Implemented 394.875 FS. History–New 7-25-06, Amended.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: RULE TITLE:
69O-167.004 Required Preinsurance Inspection of
Private Passenger Motor Vehicles

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 6, February 8, 2008 issue of the Florida Administrative Weekly.

1. Subsection (9) is changed as follows; An insurer may defer an inspection for thirty (30) seven ~~(7)~~ calendar days following the effective date of coverage for a new policy or the actual notice to the insurer or its agent of additional or replacement vehicle(s) to an existing policy, as permitted by Section 627.744(6), F.S. if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant. The insurance file shall contain information necessary to identify those circumstances justifying the deferral ~~resulting in serious inconvenience.~~

2. The Office’s website is corrected to read <http://www.florid.com>.

3. Forms OIR-B1-506, OIR-B1-507 and OIR-B1-508 have been revised to conform to the rule.

The remainder of the reads as previously published and as revised by the Notice of Change published April 19, 2008 in Vol. 34, No. 16 of the Florida Administrative Weekly.

**Section IV
Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF THE LOTTERY

RULE NO.: RULE TITLE:
53ER08-30 CASH 3®

SUMMARY: This emergency rule sets forth the provisions for the conduct of CASH 3®.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER08-30 CASH 3®.

(1) How to Play CASH 3®.

(a) CASH 3 is a lottery on-line game in which a player must select any two (2)- or three (3)-digit number from 000 to 999 inclusive. The digits may be the same or different; for example, 111, 122, and 123 are all valid selections.

(b) Players may choose play amounts of \$.50 or \$1.00 per play, per drawing, for a total of \$.50, \$1.00, \$1.50, \$3.00, or \$6.00, depending upon the play type selected and number of combinations covered.

(c) Players may make their CASH 3 ticket selections by marking a play slip or by telling the retailer their desired selections.

1. There are five panels on a play slip. Players electing to use a play slip to make their CASH 3 selections must mark the play type, draw time, play amount and number selection (or mark the “Quick Pick” box located at the bottom of each panel for the terminal to randomly select one (1) or more of the numbers for each panel played. If the draw time is not marked, the ticket will automatically be entered into the next available draw. A “Void” box is also located at the bottom of each panel and should be marked by the player if an error was made in his