

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: August 3, 2009, 3:30 p.m. EST  
 PLACE: 1317 Winewood Boulevard, Building 3, Room 439, Tallahassee, Florida

Written comments may also be submitted, in writing, no later than August 17, 2009 to: Renee C. Starrett, Office of Domestic Violence Program, Department of Children and Families, 1317 Winewood Boulevard, Building 3, Room 330, Tallahassee, Florida 32399-0700 or renee\_starrett@dcf.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Renee C. Starrett, renee\_starrett@dcf.state.fl.us, (850)921-4766. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Renee C. Starrett, renee\_starrett@dcf.state.fl.us; (850)921-4766

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

## Section II Proposed Rules

### DEPARTMENT OF EDUCATION

#### Florida School for the Deaf and the Blind

RULE NO.:                      RULE TITLE:  
 6D-4.003                      Business Manager

PURPOSE AND EFFECT: Repeals rule no longer needed as substance is incorporated in the Statement of Agency Organization.

SUMMARY: Repeals rule. Substance is in Statement of Agency Organization.

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

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

RULEMAKING AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(e) FS.

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

DATE AND TIME: Friday, August 21, 2009, 1:00 p.m.  
 PLACE: Center for Leadership and Development, Moore Hall, Florida School for the Deaf and the Blind, St. Augustine, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: L. Daniel Hutto, President. Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine Ocuto

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-4.003 Business Manager.

Rulemaking Specific Authority 242.331(3) FS. Law Implemented 242.331(4) FS. History—New 12-19-74, Amended 10-29-84, 9-8-85, Formerly 6D-4.03, Amended 8-26-88, 12-6-92, 5-14-02, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elaine Ocuto

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: L. Daniel Hutto, President

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2009

### DEPARTMENT OF EDUCATION

#### Florida School for the Deaf and the Blind

RULE NO.:	RULE TITLE:
6D-5.002	Principal for the Deaf and Principal for the Blind, Administrator of Instructional Programs, Curriculum and Staff Development and Administrator of Residential Programs

PURPOSE AND EFFECT: Repeals rule no longer needed as substance is incorporated in the Statement of Agency Organization.

SUMMARY: Repeals rule. Substance is in Statement of Agency Organization.

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

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

RULEMAKING AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(e) FS.

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

DATE AND TIME: Friday, August 21, 2009, 1:00 p.m.

PLACE: Center for Leadership and Development, Moore Hall, Florida School for the Deaf and the Blind, St. Augustine, Florida

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine Ocuto

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-5.002 Principal for the Deaf and Principal for the Blind, Administrator of Instructional Programs, Curriculum and Staff Development and Administrator of Residential Programs.

Rulemaking Specific Authority 242.331(3) FS. Law Implemented 242.331(6)(b) FS. History--New 12-19-74, Amended 11-9-76, 10-29-84, 9-8-85, Formerly 6D-5.02, Amended 8-26-86, 4-4-93, 12-2-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elaine Ocuto

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: L. Daniel Hutto, President

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2009

**DEPARTMENT OF EDUCATION**

**Florida School for the Deaf and the Blind**

RULE NO.: 6D-5.003                      RULE TITLE: Other Personnel

PURPOSE AND EFFECT: Repeals rule no longer needed as substance is incorporated in the Statement of Agency Organization.

SUMMARY: Repeals rule. Substance is in Statement of Agency Organization.

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

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

RULEMAKING AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(e) FS.

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

DATE AND TIME: Friday, August 21, 2009, 1:00 p.m.

PLACE: Center for Leadership and Development, Moore Hall, Florida School for the Deaf and the Blind, St. Augustine, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: L. Daniel Hutto, President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine Ocuto

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-5.003 Other Personnel.

Rulemaking Specific Authority 242.331(3) FS. Law Implemented 242.331(4) FS. History--New 12-19-74, Amended 10-9-84, 9-8-85, Formerly 6D-5.03, Amended 12-6-92, 10-26-94, 7-30-95, 4-28-97, 3-16-98, 2-26-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elaine Ocuto

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: L. Daniel Hutto, President

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2009

**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."

**PUBLIC SERVICE COMMISSION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
25-4.017	Uniform System of Accounts for Rate-of-Return Regulated Local Exchange Companies
25-4.0171	Allowance for Funds Used During Construction
25-4.0174	Depreciation Accounts for Rate-of-Return Regulation Local Exchange Companies

25-4.0175 Depreciation for Rate-of-Return Regulated Local Exchange Companies

25-4.0178 Retirement Units for Rate-of-Return Regulated Local Exchange Companies

25-4.0405 Telephone Directory Advertising Revenues

25-4.135 Annual Reports

25-4.140 Minimum Filing Requirements for Rate-of-Return Regulated Local Exchange Companies; Commission Designee

25-4.214 Tariff Filings

25-4.215 Limited Scope Proceedings

PURPOSE AND EFFECT: There are no longer any telecommunication rate-of-return regulated local exchange companies. Thus, there is no need for these rules that address such companies.

SUMMARY: Rules are repealed that relate to rate-of-return regulated local exchange companies. There are no longer rate-of-return regulated telecommunication companies. The requirements listed by the rules include accounting rules, reporting and minimum filing requirements for rate cases. Docket 090323-TP.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be no incremental costs for eliminating the rules because they are obsolete.

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

RULEMAKING AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 350.115, 364.03, 364.035, 364.037, 364.04, 364.05, 364.052, 364.058, 364.17 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dale Mailhot, Division of Regulatory Compliance, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6418

THE FULL TEXT OF THE PROPOSED RULES IS:

25-4.017 Uniform System of Accounts for Rate-of-Return Regulated Local Exchange Companies.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–Revised 12-1-68, Amended 3-31-76, 8-21-79, 1-2-80, 12-13-82, 12-13-83, 9-30-85, Formerly 25-4.17, Amended 11-30-86, 4-25-88, 2-10-92, 8-11-92, 3-10-96, 9-15-03, Repealed.

25-4.0171 Allowance for Funds Used During Construction.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.035, 364.17 FS. History–New 8-11-86, Formerly 25-4.171, Amended 11-13-86, 12-7-87, 3-10-96, Repealed.

25-4.0174 Depreciation Accounts for Rate-of-Return Regulated Local Exchange Companies.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–New 4-25-88, Amended 9-11-96, Repealed.

25-4.0175 Depreciation for Rate-of-Return Regulated Local Exchange Companies.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.03 FS. History–New 9-8-81, Amended 4-28-83, 1-6-85, Formerly 25-4.175, Amended 4-27-88, 12-12-91, 9-11-96, Repealed.

25-4.0178 Retirement Units for Rate-of-Return Regulated Local Exchange Companies.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–New 4-25-88, Repealed.

25-4.0405 Telephone Directory Advertising Revenues.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.037 FS. History–New 4-20-86, Formerly 25-4.405, Amended 4-25-88, 3-10-96, 9-15-03, Repealed.

25-4.135 Annual Reports.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.17 FS. History–New 12-27-94, Amended 3-10-96, 9-15-03, Repealed.

25-4.140 Test Year Notification.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.05(3) FS. History–New 5-4-81, Amended 10-15-84, 9-21-92, Repealed.

25-4.141 Minimum Filing Requirements for Rate-of-Return Regulated Local Exchange Companies; Commission Designee.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.05(4) FS. History–New 5-4-81, Amended 7-29-85, 6-12-86, 2-3-88, 3-10-96, 1-31-00, Repealed.

25-4.214 Tariff Filings.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.04, 364.052 FS. History–New 3-10-96, Repealed.

25-4.215 Limited Scope Proceedings.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.05, 364.052, 364.058 FS. History–New 3-10-96, Amended 11-20-08, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dale Mailhot  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 35, No. 18, May 8, 2009

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE NO.: 40B-400.051  
RULE TITLE: Exemptions

PURPOSE AND EFFECT: The purpose of the proposed rule is to update this section of Chapter 40B-400, Florida Administrative Code (F.A.C.), to maintain consistency with Section 403.813(1)(i), Florida Statutes. The effect of the proposed rule will be to include additional criteria for exemptions under this section.

SUMMARY: This proposed rule will maintain consistency with Section 403.813(1)(i), Florida Statutes, regarding the exemption for construction of private docks that are 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways.

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

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.118, 373.413, 373.416, 373.426 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Rules Coordinator, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only).

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-400.051 Exemptions.

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

(h) Construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways where construction will not violate water quality standards, impede navigation, or adversely affect flood control.

(i) through (5) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended 3-7-02, 5-15-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 29, 2009

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NOS.:	RULE TITLES:
59A-26.001	Purpose and Intent
59A-26.002	Definitions
59A-26.003	License Required
59A-26.004	Classification of Deficiencies
59A-26.005	Licensure Procedure, Fees and Exemptions
59A-26.006	Responsibilities for Operation
59A-26.007	Fiscal Standards
59A-26.008	Admission Policies and Requirements
59A-26.009	Personnel Standards
59A-26.010	Training, Habilitation, Active Treatment Professional, and Special Programs and Services
59A-26.011	Dietary Services
59A-26.012	Dental Services
59A-26.013	Psychological Services
59A-26.014	Drugs and Pharmaceutical Services
59A-26.015	Administration of Medications to ICF/DD Residents by Unlicensed Medication Assistants
59A-26.016	Requirements for Administration of Medication to Residents by Unlicensed Medication
59A-26.017	Training and Validation Required for Unlicensed Medication Assistants
59A-26.018	Plant Maintenance and Housekeeping
59A-26.019	Fire Protection, Life Safety, Systems Failure and External Emergency Communications
59A-26.020	Plans Submission and Fees Requirements

59A-26.021 Physical Plant Codes and Standards  
for ICF/DD

59A-26.022 Construction and Physical  
Environment Standards

59A-26.023 Disaster Preparedness

**PURPOSE AND EFFECT:** The Agency adopts the following licensing rules and minimum standards of program quality and adequacy of care for Intermediate Care Facilities for the Developmentally Disabled, hereafter referred to as ICF/DD in accordance with Chapter 400, Part VIII and Chapter 408, Part II, F.S. The intent of this rule is to ensure services are provided that meet the specific needs of individual residents, overcome barriers to increase independence and productive living, and result in an improved quality of life. In addition, the rule defines and limits the size and design characteristics of an ICF/DD to establish optimum environments in which service delivery occurs. This rule reflects the ability of the State of Florida to specify program requirements and residential requirements including facility and living unit size and design.

**SUMMARY:** This proposed rule will adopt licensing rules and minimum standards of program quality and adequacy of care pertaining to Intermediate Care Facilities for the Developmentally Disabled.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** Pursuant to Section 120.54(3)(b), Florida Statutes, the Agency has reviewed the regulatory impact of Chapter 59A-26, Florida Administrative Code, and prepared a Statement of Estimated Regulatory Costs. However, based on the statutory definition of "small business" in Section 288.703, Florida Statutes, and the statutory definition of "small counties" and "small cities" in Section 120.52, Florida Statutes, and based on the nature of the parties subject to the requirements of the rule, the Agency has determined that the rule's regulatory costs do not affect small businesses, counties or cities.

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

**RULEMAKING AUTHORITY:** 400.967 FS.

**LAW IMPLEMENTED:** 400.967(2) FS.

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

**DATE AND TIME:** Friday, August 14, 2009, 9:30 a.m. – 11:00 a.m.

**PLACE:** Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, 32308

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Kimberly Smoak, Agency for Health Care Administration, 2727 Mahan Drive, Building 2, Mailstop #9-A, Tallahassee, FL 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

INTERMEDIATE CARE FACILITIES FOR  
THE DEVELOPMENTALLY DISABLED

59A-26.001 Purpose and Intent.

The Agency adopts the following licensing rules and minimum standards of program quality and adequacy of care for Intermediate Care Facilities for the Developmentally Disabled, hereafter referred to as ICF/DD in accordance with Chapter 400, Part VIII and Chapter 408, Part II, F.S. The intent of this rule is to ensure services are provided that meet the specific needs of individual residents, overcome barriers to increase independence and productive living, and result in an improved quality of life. In addition, the rule defines and limits the size and design characteristics of an ICF/DD to establish optimum environments in which service delivery occurs. This rule reflects the ability of the State of Florida to specify program requirements and residential requirements including facility and living unit size and design.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2) FS. History--New \_\_\_\_\_.

59A-26.002 Definitions.

Definitions as they appear in Chapter 400, Part VIII and Chapter 408, Part II, Florida Statutes and those contained herein must apply.

(1) Active Treatment – As defined in 42 CFR 483.440 (a)(1) and (2) dated June 1988 as incorporated by reference and available at <http://www.gpoaccess.gov/cfr/index.html>, which states, "Active treatments refers to aggressive, consistent implementation of a program of specialized and generic training, treatment and health services. Active treatment does not include services to maintain generally independent residents who are able to function with little supervision or in the absence of a continuous active treatment program."

(2) Administrator – The person who is responsible for the overall management of an ICF/DD licensed under this part and certified under 42 CFR 483 Subpart I. The Administrator must be a Qualified Mental Retardation Professional (QMRP); be a licensed nursing home administrator; have a Bachelor's degree in a human services field; and at least one year of experience working with persons with developmental disabilities or related conditions; or have five years' of experience working with persons with developmental disabilities or related conditions if the individual does not have a Bachelor's degree in a human services field.

(3) Advanced Registered Nurse Practitioner (ARNP) – A person duly licensed to practice as an advanced registered nurse practitioner in accordance with Chapter 464, F.S.

(4) Age Appropriate – Services, programming, equipment and supplies that are appropriate for persons who do not have a developmental disability and who are of approximately the same chronological age as the individual.

(5) Certified Behavior Analyst – A person who is certified under the Florida Behavior Certification Program in accordance with Section 393.17, F.S.

(6) Day Program – A program that provides day services for individuals in a non-residential setting. The array of services may include pre-school, pre-vocational and vocational training, behavior management, adult education, recreation, semi-independent and independent skills development training, and individual therapies.

(7) Dental Hygienist – A person duly licensed to practice as a dental hygienist in accordance with Chapter 466, F.S.

(8) Dentist – A person duly licensed to practice dentistry in accordance with Chapter 466, F.S.

(9) Facility – The total administrative unit officially licensed and certified as an ICF/DD, which may consist of a number of living units.

(10) General Supervision – Means the responsible supervision of supportive personnel by a licensed practitioner who need not be present when such procedures are performed, but who assumes legal liability therefore. General supervision, means availability or physical presence of the licensed practitioner for consultation with and direction of the supportive personnel.

(11) Habilitation or Support Plan – A resident driven document that identifies the needs of an individual resident; the programs and services to meet those needs; is derived through a joint interdisciplinary, professional diagnosis and evaluation process; and meets the requirements in 42 Code of Federal Regulations (CFR) 483.440 as incorporated by reference, for an Individual Program Plan (IPP).

(12) Health Care Professional – A physician, physician assistant or advanced registered nurse practitioner.

(13) Interdisciplinary Team (IDT) – The resident or resident's representative, QMRP, social worker, a licensed nurse responsible for the resident, the resident's physician and other appropriate staff in disciplines determined by the individual resident's needs.

(14) Level of Care – The type of care required by a Medicaid applicant or recipient based on medical and related needs as defined by the criteria established in the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled Services Coverage and Limitations Handbook, October 2003, incorporated by reference and the Florida Medicaid Provider Reimbursement Handbook, Institutional 021, which is incorporated by reference in Rule 59G-4.200, F.A.C.

(15) Licensed Nurse – A person duly licensed to practice nursing as a licensed practical nurse, registered nurse or ARNP in accordance with Chapter 464, F.S.

(16) Licensed Practical Nurse – A person duly licensed to practice as a practical nurse in accordance with Chapter 464, F.S.

(17) Over-the-Counter Medication (OTC) – Medication that is authorized, pursuant to federal or state law, for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(18) Ophthalmic Medication – Eye solution (eye drops) or ointment to be instilled in the eye or applied around the eyelid.

(19) Oral Medication – Any medication, tablet, capsule, or liquid introduced into the gastrointestinal tract by mouth.

(20) Otic Medication – Solutions or ointments to be applied in the outer ear canal or around the outer ear.

(21) Pharmacist – A person duly licensed to practice pharmacy in accordance with Chapter 465, F.S.

(22) Physician – A person duly licensed to practice medicine in accordance with Chapter 458 or 459, F.S.

(23) Physician's Assistant – A person duly licensed to practice medicine in accordance with Chapter 458 or 459, F.S.

(24) Prescribed Medication – A drug or medication obtained pursuant to a prescription, as defined in Section 465.003, F.S.

(25) Psychologist – A person duly licensed to practice as a psychologist in accordance with Chapter 490, F.S.

(26) Qualified Mental Retardation Professional (QMRP) – A person who meets the requirements for a qualified mental retardation professional as stated in 42 CFR Subpart I, Section 483.430.

(27) Registered Dietitian – A person registered by the Commission on Dietetic Registration of the American Dietetic Association.

(28) Registered Nurse (RN) – A person duly licensed to practice as a registered nurse in accordance with Chapter 464, F.S.

(29) Resident – Any person who is in need of and/ or is receiving active treatment services and residing in an ICF/DD.

(30) Resident Representative – The person authorized or designated to act on behalf of a resident, which includes a guardian, guardian advocate, or other legally appointed representative. May also include a parent, or if unavailable, another family member.

(31) Restraint – Any device, instrument, manual or chemical method, including an enclosed crib or barred enclosure, used to limit or restrict an individual's movement or normal function of a portion of an individual's body. This definition excludes physical guidance or prompting techniques; response blocking to interrupt an undesired behavior in which physical contact is less than five seconds in duration; devices used to provide support for the achievement of functional body positions and equilibrium that have been prescribed by an appropriate health care professional; devices used as a part of a specific medical, dental or surgical procedure; and standard safety belts used to prevent an individual from falling from a stretcher, wheelchair or vehicle.

(32) Seclusion – When a person is involuntarily confined in a room or a restricted space and is prevented from leaving, or reasonably believes that he or she will be prevented from leaving, by means that include, but are not limited to:

(a) Manually, mechanically, or electronically locked doors;

(b) One-way doors, which when closed or unlocked, cannot be opened from the inside;

(c) Physical intervention of staff; or

(d) Coercive measures, such as the threat of restraint or sanctions, or the loss of privileges that the resident would otherwise have.

(33) Self-Mobile – The ability to use a walker, cane, wheelchair or other mobility device independently without human assistance, including the ability to transfer into and out of the mobility device without human assistance.

(34) Severe Maladaptive Behavior – Actions of an individual that, without environmental, behavioral, physical, or chemical intervention, result in or have the potential to damage the individual or others. Such actions require medical attention or occur with sufficient frequency, magnitude, or duration that a life-threatening situation might result.

(35) Shared Facilities and Services – Those central services or facilities such as food preparation, maintenance, laundry and management that are shared by living units within a facility or with other facilities, including day treatment programs.

(36) Unlicensed Medication Assistant (UMA) – A staff member employed in an ICF/DD who has completed the required medication administration training and has met skills validation requirements for the administration of medications to an ICF/DD resident.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2) FS. History–New \_\_\_\_\_.

#### 59A-26.003 License Required.

(1) A completed licensure application to operate an Intermediate Care Facility for the Developmentally Disabled (ICF/DD), on AHCA Form 3110-5003, Revised December 2008, must be made to and license received from the Agency before any person or entity may operate an ICF/DD. The form is incorporated by reference and is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS-33, Tallahassee, Florida 32308, or from the Agency web site at: <http://ahca.myflorida.com/Publications/Forms/HQA.shtml>. Successful completion of a licensure survey by the Agency to determine compliance with the requirements of Chapter 400 Part VIII, Chapter 408, Part II, F.S., and this rule must occur prior to issuing a license.

(2) In addition to the provisions of Chapter 400, Part VIII, Chapter 408, Part II, Chapter 409, F.S. and Chapter 59G-4, F.A.C., a license may be suspended, revoked or denied in any

case where the Agency finds that there has been substantial failure to comply with certification or re-certification requirements as a Medicaid provider.

Rulemaking Authority 400.967 FS. Law Implemented 400.962, 408.804 FS. History–New \_\_\_\_\_.

#### 59A-26.004 Classification of Deficiencies.

(1) Violations of Chapter 400, Part VIII, Chapter 408, Part II, F.S. and Chapter 59G-4, F.A.C., shall be classified according to the nature of the violation and the gravity of its probable effect on residents. The scope of a violation may be cited as an isolated, patterned, or widespread deficiency. An isolated deficiency is a deficiency affecting one or a very limited number of residents, or involving one or a very limited number of staff, or a situation that occurred only occasionally or in a very limited number of locations. A patterned deficiency is a deficiency in which more than a very limited number of residents are affected, or more than a very limited number of staff are involved, or the situation has occurred in several locations, or the same resident or residents have been affected by repeated occurrences of the same deficient practice but the effect of the deficient practice is not found to be pervasive throughout the provider. A widespread deficiency is a deficiency in which the problems causing the deficiency are pervasive in the provider or represent systemic failure that has affected or has the potential to affect a large portion of the provider's residents. The definitions of classifications in this subsection control over conflicting definitions in authorizing statutes. This subsection does not affect the legislative determination of the amount of a fine imposed under authorizing statutes. Violations shall be classified on the written notice as follows:

(a) Class “I” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of residents which the agency determines present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. The agency shall impose an administrative fine of \$5,000 for an isolated deficiency, \$7,500 for a patterned deficiency, or \$10,000 for a widespread deficiency. A fine shall be levied notwithstanding the correction of the violation.

(b) Class “II” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the residents, other than class I violations. The agency shall impose an administrative fine of \$1,000 for an isolated deficiency, \$2,500 for a patterned deficiency, or \$5,000 for a widespread deficiency.

(c) Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of residents, other than class I or class II violations. The agency shall impose an administrative fine of \$500 for an isolated deficiency, \$750 for a patterned deficiency, or \$1,000 for a widespread deficiency. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(3) FS. History--New \_\_\_\_\_.

59A-26.005 Licensure Procedure, Fees and Exemptions.

(1) Applicants for initial licensure must submit to the Agency:

(a) An approved plan review and on-site construction survey showing compliance with Chapter 400, Part VIII, F.S. and this rule conducted by the Agency and a certificate of occupancy from the local building authority.

(b) A completed licensure application as referenced in subsection 59A-26.003(1), F.A.C.

(c) Licensure fees at the rate of \$241.00 per bed by check or money order payable to Agency for Health Care Administration. The licensure fee is not refundable. A license for an initial application will not be issued until the application fee has been received by the Agency and all associated checks have cleared.

(d) If the facility is managed by an entity other than the licensee, a copy of any and all letters of intent, agreements, memoranda of understanding, or contracts between licensee and management company.

(e) An approved fire inspection report from the local fire authority completed no more than three months prior to the date of the initial licensure application receipt by the Agency.

(f) Documentation of compliance with the community residential home requirements specified in Chapter 419, F.S., if applicable.

(g) Satisfactory current proof that the applicant possesses the financial ability to operate the facility as established in Section 408.810(8), F.S.

(h) A copy of the Certificate of Need issued by the Agency for the facility to be licensed.

(i) Proof of the licensee's current right to occupy the ICF/DD building, such as, a copy of a lease, sublease agreement or deed.

(2) Applicants applying for renewal of a license must submit:

(a) A completed application as referenced in subsection 59A-26.003(1), F.A.C. The application must be postmarked no later than 60 days prior to expiration of the license. If no

postmark is available, the application must be received by the Agency 60 days prior to expiration. Failure to timely file a renewal application is punishable by a late fine as specified in Section 408.806(2)(d), F.S.

(b) Licensure fees at the rate of \$241.00 per bed by check or money order payable to the Agency for Health Care Administration. The licensure fee is not refundable. If a check for the renewal licensure fee is dishonored and returned to the Agency, the license holder will have 10 calendar days to pay the full amount plus any applicable fees as provided by law. Such payment must be made by cashier's check, or money order. Failure to pay the licensure and processing fee will result in denial of the application or revocation of the license.

(3) Applicants applying for a change of ownership must submit:

(a) An application for licensure as referenced in subsection 59A-26.003(1), F.A.C. The application must also include the licensure fees postmarked no later than 60 days prior to the date the change of ownership becomes effective. If no postmark is available, the application must be received by the Agency 60 days prior to the date the change of ownership becomes effective. Failure to timely file a change of ownership application is punishable by a late fine equal to one half the licensure fee in effect at the time of application. A license for a change of ownership application will not be issued until the application fee and any applicable late fines have been received by the Agency and all associated checks have cleared.

(b) All documents and fees required for initial licensure in subsection (1) of this rule, with the exception of paragraphs (1)(a), (e), (f), and (h).

Rulemaking Authority 400.967, 400.962 FS. Law Implemented 400.962, 408.805, 408.806, 408.807 FS. History--New \_\_\_\_\_.

59A-26.006 Responsibilities for Operation.

(1) The licensee must be in compliance with all conditions and standards in Title 42, Code of Federal Regulations sections 483.410 through 483.480, Requirements for Intermediate Care Facilities for Persons with Mental Retardation, dated June 1988 as incorporated by reference and available at <http://www.gpoaccess.gov/cfr/index.html>. The licensee must ensure compliance with state regulations in Chapter 400, Part VIII, Chapter 408, Part II, Chapter 409, F.S., and Chapter 59G-4, F.A.C., as a provider of Medicaid services to persons who are developmentally disabled or who have related conditions as stated in Title 42, Code of Federal Regulations.

(2) Within 60 days of initial licensure, the licensee must be certified in accordance with federal regulations as stated in Title 42, Code of Federal Regulations 483 Subpart I, sections, 483.410 through 483.480.

Rulemaking Authority 400.967 FS. Law Implemented 400.967 FS. History--New \_\_\_\_\_.



59A-26.007 Fiscal Standards.

The licensee must maintain fiscal records in accordance with Rule 59G-6.040, F.A.C. There must be a recognized system of accounting used to accurately reflect details of the ICF/DD operation, including residents' funds held in trust and other resident property. The fiscal and resident fund records must be supported by adequate documentation of all transactions. Documentation of quarterly reconciliation for resident fund records must be kept on file for five years and must be provided to the Agency for review when requested. The licensee must:

(1) Refund any amount or portion of prepayment in excess of the amount or portion obligated for services already furnished if a resident leaves the facility prior to the end of any prepayment period.

(2) Maintain financial and statistical records in accordance with Title 42 CFR, Sections 413.24 (a), (b), (c) and (e). The licensee is required to detail all of its costs for its entire reporting period making appropriate adjustments for determination of allowable costs as required by the Florida Title XIX Intermediate Care Facility for the Mentally Retarded and Developmentally Disabled Reimbursement Plan for Not Publicly Owned and Operated or Publicly Owned and Operated Facilities. A cost report must be prepared and submitted to the Agency using accrual basis of accounting in accordance with Generally Accepted Accounting Principles as incorporated by reference in Rule 61H1-20.007, F.A.C., except as modified by:

1. The method of reimbursement and cost finding of Title XVIII (Medicare) Principles of Reimbursement described in 42 CFR 413.5 – 413.35 and

2. Further interpreted by the Provider Reimbursement Manual CMS PUB. 15-1, as incorporated by reference in Rule 59G-6.010, F.A.C., or

3. As further modified by Reimbursement Plan.

(3) Keep complete and accurate records of all residents' funds, other effects, and property.

(4) Deposit and maintain in an interest bearing account with a financial institution on behalf of each resident, all money and interest on money held for that resident. A copy of the resident's bank account statements and expenditure detail must be provided to the resident or resident's representative within seven calendar days of written request.

(5) Protect residents' funds from theft, negligence or abuse. Should loss of a resident's funds occur, the licensee will be responsible for reimbursing the resident for the full amount of funds to which he or she is entitled within 30 calendar days of confirmation of the theft, negligence or abuse of resident funds.

(6) Make a final accounting of all personal effects and money belonging to the resident held by the licensee upon the discharge or death of a resident within 30 calendar days after the resident's discharge or death.

Rulemaking Authority 400.967, 400.960(8) FS. Law Implemented 400.967(2)(e) FS. History—New \_\_\_\_\_.

59A-26.008 Admission Policies and Requirements.

(1) The admission of an individual to an ICF/DD must be under the supervision of the administrator of the facility.

(2) Individuals shall only be admitted after completion of a written admission agreement which shall constitute a contract between the licensee and resident. The agreement must be in effect at all times while the individual is a resident of the facility. The agreement must be reviewed bi-annually for revisions by the licensee and the resident or resident's representative. Either party may initiate revision to the agreement at any time or when substantial changes in the resident's condition occur. No agreement or any provision thereof shall be construed to relieve any licensee of any requirement or obligation imposed upon it by Chapter 400, Part VIII, Chapter 408, Part II, F.S., and this rule. Such agreements must be maintained by the licensee for at least five years after each resident's discharge from the facility, and assess no additional charges, expenses or other financial liabilities in excess of the provisions included in the admission contract. All charges for services not covered by Title XIX of the Social Security Act or not covered by the basic per diem rates of the licensee, for which the resident or the resident's representative may be responsible for payment, must be specified in the admission contract. All charges must not violate state or federal law.

(3) The licensee must comply with the admission agreement. The admission agreement must include a description of the program and services to be provided, including at a minimum:

(a) The daily, weekly, or monthly rate and refund provisions for unused portions thereof;

(b) Board;

(c) Lodging;

(d) Residential and nursing services;

(e) Linen and furnishings as required;

(f) Sufficient seasonal clothing as required by the resident, and applicable to the resident's needs, when the resident, or resident's representative does not provide sufficient clothing. Sufficient seasonal clothing must be provided and include a basic wardrobe as required by the individual, including a five-day supply of sleepwear, socks, shoes, undergarments, outer clothing such as shirts, pants, or dresses, a winter coat, raingear and personal grooming and hygiene items. The licensee must maintain an inventory of the resident's clothing and provide a copy of the inventory to the resident or resident's representative within seven calendar days of a written request;

(g) Training and assistance as required with activities of daily living;

(h) The provision and maintenance of walkers, wheelchairs, dentures, eyeglasses, hearing aides and other orthotic, prosthetic or adaptive equipment as prescribed;

(i) Therapies prescribed by the resident's individual habilitation or support plan including medical and nutritional therapies;

(j) Transportation services including vehicles with lifts or other adaptive equipment when needed;

(k) Other services prescribed in the resident's individual habilitation or support plan; and

(l) Provisions for providing a duplicate of the agreement to the resident or resident's representative.

(4) The following conditions apply to admission and retention of all residents:

(a) Individuals must not be admitted to or retained in a facility if the licensee cannot provide, or arrange for the provision of, all services prescribed in the individual habilitation or support plan.

(b) Residents who have been voluntarily admitted must not be held in a facility against their will.

(c) The licensee must develop procedures to be implemented in the event that a voluntarily admitted resident should decide to leave the facility against the recommendations of the interdisciplinary team. Procedures must include:

1. Counseling by the facility social worker or QMRP with referrals made to the Agency for Persons with Disabilities and other professionals or advocates, as appropriate.

2. If a resident persists in leaving, the licensee will assist the resident in locating an appropriate alternative placement.

(5) Individuals who have a communicable disease must be evaluated by a physician prior to admission. If the physician's evaluation finds the disease would endanger other residents of the facility, the admission should be postponed until the communicable period has passed or appropriate precautions have been implemented by the facility staff.

(6) A registered nurse must assess each newly admitted resident within four hours after admission.

(7) If a pre-existing medical condition exists, if medical problems are identified by the nursing admissions assessment, or if a resident is admitted who does not have a complete medical record including medical history, positive physical findings, diagnosis, and signed physician's orders for treatment, nursing care or diets, the resident must be examined by the admitting physician within 96 hours of admission unless the registered nurse determines that the physician should examine the resident sooner.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(f) FS. History--New \_\_\_\_\_.

#### 59A-26.009 Personnel Standards.

(1) Each new staff employed by the facility to provide direct services to residents must have a medical examination at the time of employment and prior to contact with residents.

Annually thereafter, staff must submit a physician's statement that based on test results, the employee does not constitute a threat of communicating diseases to residents. If any staff is found to have or is suspected of having a communicable disease, he or she must be removed from all duties that require contact with residents until certification is received from a physician that such risk no longer exists.

(2) All staff or prospective staff of the facility that are expected to be or whose responsibilities are such that they would be considered to be a direct service provider will have a Level 2 background screening as provided in Chapter 435, F.S. Such employees may work in a probationary status up to 180 days pending the receipt of written evidence of compliance with Level 2-background screening requirements.

(3) Licensees must comply with the requirements of Chapter 435, F.S., Employment Screening per Sections 400.964 and 408.809, F.S.

(4) Regardless of the organization or design of resident living units, the minimum overall direct care staff-resident ratios must comply with those specified in 42 Code of Federal Regulations 483.430(d)(3), dated June 1988 as incorporated by reference and available at <http://www.gpoaccess.gov/cfr/index.html>.

(5) The licensee must have an administrator, sufficient licensed nurses to care for each resident's health care needs, and a sufficient number of Qualified Mental Retardation Professionals (QMRP) to ensure each resident's active treatment program is integrated, coordinated and monitored.

(6) All staff must receive training within 30 days of employment and annually thereafter on the licensee's emergency disaster procedures that include the staff's role before, during, and after the emergency.

(7) The licensee must ensure that 50% of its staff on duty at all times are certified in cardio-pulmonary resuscitation (CPR) and have received basic first aid training.

(8) All staff must receive training and demonstrate competency in the prevention and minimal use of restraint and seclusion within 30 days of employment. Competency in these methods must be demonstrated and documented annually thereafter. Training must include at a minimum:

(a) The emotional and physical effects of restraint and seclusion on residents and staff.

(b) History of trauma, impact on residents and the potential for retraumatization.

(c) Crisis prevention and intervention approaches including de-escalation strategies.

(d) Applicable legal and clinical requirements governing behavioral services, restraints and seclusion.

(e) Safe and appropriate initiation of physical contact and application and monitoring of restraints and seclusion.

(f) Approaches to facilitate the earliest possible release from restraints or seclusion.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(b) FS. History—New \_\_\_\_\_.

59A-26.010 Training, Habilitation, Active Treatment, Professional, Special Programs and Services.

(1) Programs, services, functions and the pattern of staff organization within the facility must be focused upon serving the individual needs of each resident and must provide for:

(a) Comprehensive diagnosis and evaluation of each resident as a basis for planning, programming and managing such that the assessment of each resident's abilities, preferences, needs, behavior assessment, behavior intervention plan and level of functioning is comprehensive in scope and adequately addressed in the habilitation plan or support plan.

1. The QMRP is responsible for the integration, coordination, monitoring and review of each resident's active treatment program, which may require the involvement of other personnel, including other agencies serving the resident.

2. For school age residents when services are provided by the local school district, the licensee must make regular and consistent efforts to include the school system, the resident, and resident's representative, when practicable in the habilitation planning process. The licensee's individual program plan shall be in addition to any individual education plan prepared by the school district.

(b) Freedom of movement consistent with the protection of the health, safety, and welfare of individual residents within and outside of the facility.

(c) Routine and ongoing monitoring of each resident's conditions for early detection of health or nutrition risks which, when found, must be analyzed by the interdisciplinary team to identify probable causes and to implement appropriate intervention strategies.

(d) Recognition and resolution of resident care problems through appropriate participation of professional staff and consulting personnel.

(e) Consideration of every reasonable alternative, least restrictive and most effective procedures, prior to the use of invasive treatment.

(f) Proper, routine positioning of residents who cannot position themselves in appropriate body alignment.

(g) Documented and observable evidence of progress that each resident demonstrates in attaining goals and objectives specified in the habilitation plan, support plan or individual program plans.

(h) Each resident's active treatment program plan must be reviewed and revised by the interdisciplinary team as necessary:

1. At least annually.

2. When there is a substantial reduction of active treatment or routine physical care in response to health care needs as indicated by a loss of acquired skills or significant worsening of undesirable behavior.

(i) All residents shall have the opportunity to eat orally and receive therapeutic services necessary to maintain or improve eating skills and abilities, unless this is not possible as assessed by the interdisciplinary team. For residents who receive enteral and/or parenteral feedings, the interdisciplinary team must evaluate and review these residents' potential to return to oral eating at least quarterly.

(j) Resident rights as provided in the Bill of Rights of Persons Who Are Developmentally Disabled, Sections 393.13(3)(a)-(j), F.S.

(k) Equipment essential to ensure the health, safety and welfare of each resident.

(2) Staff responsible for providing resident care must be proficient in the physical and nutritional management skills appropriate to the residents served.

(3) The licensee must provide instruction, information, assistance and equipment to help ensure that the essential physical and nutritional management of each resident is continued in educational, day treatment and acute care facilities.

(4) For facilities licensed for six beds or less, active treatment in the form of day treatment program activities must be provided in an off-site community setting unless medically contraindicated due to a resident's acute health problem or contraindicated for the resident as determined by the interdisciplinary team including the resident's physician. For facilities licensed for more than 6 beds, active treatment in the form of day program activities will be provided off-site or at a physical location other than the living unit unless medically contraindicated due to a resident's acute health problem or contraindicated for the resident as determined by the interdisciplinary team including the resident's physician. Examples of active treatment include training in personal skills essential for privacy and independence, toileting, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming and communication of basic needs.

(5) Licensed practical nurses working in an ICF/DD must be supervised by a registered nurse, ARNP or physician. Nursing physical assessments must be conducted by a registered nurse, ARNP or physician.

(6) Nursing service documentation in resident records must include a comprehensive nursing assessment and, as appropriate, medications, treatments, dietary information, and other significant nursing observations of resident conditions and responses to resident programs. For those residents with stable conditions, nursing progress summaries are adequate in lieu of shift documentation, as long as significant events are also recorded.

(7) Standing orders for medications, and pro re nata (p.r.n. or "as needed") orders are prohibited for the use of psychotropic medication including hypnotics, antipsychotics, antidepressants, antianxiety agents, sedatives, lithium, and psychomotor stimulants. The resident's physician must review

medication orders at least every 60 calendar days except for residents having a Level of Care 9, in which case medication orders must be reviewed by the physician at least every 30 calendar days.

(8) For residents using medication to manage behavior, their individual program plan must specify observable and measurable symptoms to be alleviated by the medication, intervals for re-evaluating the continued use of the medications by the interdisciplinary team and consideration of the reduction and elimination of the medication.

(9) When a psychotropic medication is initiated, based upon a recommendation by the interdisciplinary team, a physician, ARNP, registered nurse or pharmacist must assure or make provisions for the instruction of the facility staff regarding side effects and adverse effects of the prescribed medication including when to notify the physician if undesirable side effects or adverse effects are observed. The staff must document in the progress notes that these instructions have been given. Any time a psychotropic medication is initiated, changed, increased or decreased, the facility must assure the physician writes a progress note. At a minimum, the facility must assure the physician makes a progress note every 30 calendar days. The effect of the medication on targeted symptoms must be reviewed and monitored at least quarterly by the IDT.

(10) Psychologists or certified behavior analysts must provide regular consultation and in-service training to staff concerning:

(a) Principles and methods of understanding and changing behavior in order to devise the most optimal and effective program for each resident.

(b) Principles and methods of individual and program evaluation, for the purposes of assessing resident response and measuring program effectiveness.

(c) Design, implementation and monitoring of behavioral services.

(11) If a physical or mechanical restraint is used on a resident, the resident must be placed in a position that allows airway access and does not compromise respiration. Airway access and respiration must not be blocked or impeded by any material placed in or over the resident's mouth or nose. A resident must be placed in a face-up position while in restraints. Hand-cuffs or shackles must not be used for the purposes of restraints.

(a) Restraints and seclusion must not be used for the convenience of staff.

(12) The licensee must develop and implement policies and procedures to reduce, and whenever possible, eliminate the use of restraints and seclusion. Policies must include:

(a) Debriefing activities as follow-up to use of restraints and seclusion.

(b) A process for addressing resident's concerns and complaints about the use of restraint and seclusion.

(c) A process for analyzing and identifying trends in the use of restraints and seclusion.

(13) Recreation required by each resident's habilitation plan or support plan must be provided as a purposeful intervention, through activities that modify, or reinforce specific physical or social behaviors.

(14) Leisure activities for residents for whom recreation services are not a priority in the resident's individual program plan, must be provided in accordance with individual preferences, abilities, and needs, and with the maximum use of community resources.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(d), (f) FS. History--New \_\_\_\_\_.

#### 59A-26.011 Dietary Services.

(1) All dietary services must have oversight by and medical nutritional therapy must be provided by a registered dietician, employed full-time, part-time or on a consultant basis.

(2) There must be sufficient, competent staff responsible for food preparation and service.

(3) Menus must be prepared in advance, followed and made accessible to residents and staff.

(4) Menus must be approved by the registered dietitian.

(5) Each resident must receive food prepared by methods that conserve nutritive value, flavor and appearance.

(6) Each resident must receive food that is palatable, attractive and at the proper temperature.

(7) Substitutes offered must be of similar nutritive value.

(8) All matters pertaining to food service must comply with the following regulations based on the number of beds to be licensed:

(a) For facilities with 25 or more beds the provisions of Chapter 64E-11, F.A.C., Florida Hygiene Code, as enforced by the Department of Health, shall apply.

(b) For facilities with 24 beds or fewer the provisions of Chapter 64E-12, F.A.C., Community Based Residential Facilities, as enforced by the Department of Health, shall apply.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(f) FS. History--New \_\_\_\_\_.

#### 59A-26.012 Dental Services.

(1) Comprehensive dental diagnostic services must be provided to all residents and must include:

(a) Periodic, at least annual, oral prophylaxis, by a dentist or dental hygienist; and

(b) At least annually, a complete extra and intra-oral examination utilizing diagnostic aides necessary to properly evaluate each resident's oral condition.

(2) Comprehensive dental treatment services must be provided to all residents and must include:

(a) Daily oral care, as prescribed by a dentist or dental hygienist; and

(b) Emergency treatment on a 24-hour, seven days-a-week basis, by a dentist; and

(c) Treatment as prescribed by a dentist.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(f) FS. History—New \_\_\_\_\_.

#### 59A-26.013 Psychological Services.

Psychologists providing services to the residents of the facility must be licensed pursuant to Section 490.005, F.S., and have a minimum of one year of experience or training in the field of mental retardation.

Rulemaking Authority 400.967(2) FS. Law Implemented 400.967(2)(f) FS. History—New \_\_\_\_\_.

#### 59A-26.014 Drugs and Pharmaceutical Services.

(1) An ICF/DD must have a Class I Institutional Pharmacy Permit as defined in Section 465.019, F.S. All prescription medications must be compounded and dispensed by a pharmacy registered in Florida.

A consultant pharmacist must be responsible for implementation of the pharmacy program as defined by each licensee even when the consultant pharmacist is not the vendoring pharmacist.

(2) Labeling of prescription medications must be in accordance with Chapters 465 and 499, F.S. and Chapter 64B-16, F.A.C., dated November 18, 2007, as enforced by the Department of Health. Stock bottles of nonprescription drugs which are properly labeled according to the regulations related to the Drug and Cosmetic Act, Chapter 499, F.S., are permitted.

(3) All drugs including nonprescription stock drugs must be stored in a locked room or cabinet, or in a locked drug cart. External medications must be stored separately from internal and ophthalmic preparations. Poisons must be separated from all other drugs.

(4) Biologicals and other drugs must be stored in accordance with the current U.S. Pharmacopoeia. If refrigeration is required these drugs must be in a locked container.

(5) All drugs listed in Schedules II through V must be handled, used, administered and dispensed in accordance with the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C., related regulations, and Chapter 893, F.S., as enforced by the Department of Health. The Drug Abuse Prevention and Control Act can be located at the following web address: [www.usdoj.gov/dea/agency/csa.htm](http://www.usdoj.gov/dea/agency/csa.htm) or by mail at Drug Enforcement Administration Office of Diversion Control (ODLP) Washington, D.C. 20537.

(6) A count of controlled drugs listed in Schedules II-V of the Drug Abuse Prevention and Control Act, and Chapter 893, F.S., as enforced by the Department of Health, must be made

jointly between shifts by the licensed nurse beginning duty and the licensed nurse leaving duty. For facilities licensed for six beds or less, the count must be done by the supervising registered nurse on a weekly basis. For facilities licensed for more than six beds, a medication count of controlled substances must be made at every change of shift by the licensed nurse or an unlicensed medication assistant as defined in this rule. The count at shift change must be witnessed by another licensed nurse or another staff member trained in medication administration.

(7) A registry must be maintained for all drugs listed in Chapter 893, F.S., as Schedules II, III, IV, and V, as enforced by the Department of Health, for continuous reconciliation.

(8) Medicinal substances classified as controlled substances by the Drug Enforcement Administration (DEA), as provided in the Drug Abuse Prevention and Control Act of 1970 and related regulations, and the Drug Abuse Prevention and Control Act in Chapter 893, F.S., and related regulations must be disposed of in accordance with Chapter 64B-16, F.A.C., as enforced by the Department of Health.

(9) Disposal of other drugs not covered above must be made in accordance with an organized system of drug administration.

(10) All prescribed drugs dispensed for the resident while in the facility may be given to the resident or resident's representative upon discharge with the physician's written orders.

(11) An inventory of drugs released must be prepared and signed by the licensed nurse releasing the drugs and the person receiving the drugs. This inventory must be filed in the resident's medical record.

(a) All medications of deceased residents must be accounted for on an inventory list prepared by a licensed nurse and filed in the resident's record. These medications must be returned for credit or destroyed in accordance with this section.

(b) All controlled drugs not administered to a resident due to wastage, loss, or returned to the pharmacy must be documented in each resident's medical record and accounted for by two licensed nurses, and in accordance with the DEA Compliance Policy Guidelines for Disposal of Controlled Substances, CFR 21, Title 21, Section 1307.21, Disposal of Controlled Substances.

(12) All verbal orders must be written on the physician's order sheet by the licensed nurse receiving the order and countersigned by the physician within 72 hours. Verbal orders for Schedule II drugs are permitted only in emergency situations. In an emergency situation, the physician must directly contact the pharmacist and the pharmacist must receive a copy of the original or direct copy of the physician's order within 72 hours.

(13) Telephoned physician orders for medication may only be accepted by a licensed nurse, a physician's assistant or a licensed pharmacist. Telephoned orders will be immediately

recorded in the resident's medical record. Faxed physician orders are acceptable with a physician's signature. A physician's signature on the original physician's order must occur within 72 hours of receipt of the faxed order.

(14) Emergency medication kits used by facilities must adhere to the following:

(a) The physician, pharmacist, and registered nurse must select drugs and ancillary equipment to be included in the emergency medication kit.

(b) The kit must be maintained and safeguarded in accordance with federal and state laws and regulations pertaining to the specific drug items included.

(c) The kit must be secured at all times.

(d) The consultant pharmacist must be responsible to assure that all drug items have not expired and are properly labeled, controlled, and stored in a sealed container.

(e) When the seal is broken for any reason, the pharmacy must be notified immediately and must provide the facility with a new emergency medication kit, or the necessary medications to replenish the kit by the next business day. Following removal of an item from the kit, the kit must be resealed. Only the pharmacist or the licensed nurse will check the contents, replace necessary items and reseal the kit if a new kit is not provided.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(f) FS. History—New \_\_\_\_\_.

59A-26.015 Administration of Medications to ICF/DD Residents by Unlicensed Medication Assistants.

(1) It is the responsibility of the licensee to ensure that individual unlicensed medication assistants (UMA) who will be administering medication to residents meet all requirements of this rule.

(2) Unlicensed medication assistants may administer only prescribed, prepackaged, premeasured oral, topical nasal and ophthalmic medications.

(3) Unlicensed medication assistants may administer over the counter (OTC) medications including: acetaminophen, cough medicine, antihistamines or decongestants, as currently prescribed by the resident's health care professional.

(4) Unlicensed medication assistants may not administer medications by injection including intra-muscular, intravenous or subcutaneous, nor any medication administered vaginally or rectally.

(5) Unlicensed medication assistants may administer medications to a resident after the following requirements are met for that resident:

(a) A current informed consent has been signed by the resident or resident's representative. The consent must acknowledge and permit unlicensed medication assistants to administer specifically listed medications prescribed by a licensed health care professional to the resident. The informed consent must be updated and signed at least annually.

(b) A written report for the resident that indicates the resident's behavior and any past medication reactions must be documented on the Medication Administration Record (MAR). The written report and MAR must be updated if the residents behavior or medication reactions change. Information included in the written report can be provided by the resident or resident's representative, or another unlicensed medication assistant or direct care staff person who is familiar with the resident. The person administering medications must be familiar with the information included in the written report and MAR prior to administering medications to residents.

(c) A determination is made that the resident to whom medication will be administered has not been deemed capable of self administration of their medications. The determination is made by the facility through assessment and IDT review.

(6) Administration of medication by unlicensed medication assistants must be under the supervision of a registered nurse or ARNP.

(a) Supervision includes weekly monitoring of medication and 24-hour availability of a registered nurse or ARNP via telephone or paging device.

(b) Prior to assigning tasks to an unlicensed medication assistant, the supervisory nurse must verify the training and validation of the unlicensed medication assistant as required by this rule.

(c) The supervisory nurse must communicate the assignment to the unlicensed medication assistant and verify the unlicensed medication assistant's understanding of the assignment.

(d) Monitoring and supervision of the completion of the assignment must be documented by the supervising nurse.

(e) The supervising nurse must participate in performance evaluations of the unlicensed medication assistant relative to performance of medication administration.

Rulemaking Authority 400.967 FS. Law Implemented 400.9685 FS. History—New \_\_\_\_\_.

59A-26.016 Requirements for Administration of Medication to Residents by Unlicensed Medication Assistants.

(1) Requirements governing administration of medication by UMA include:

(a) Outdated medication must be properly destroyed by the supervising nurse. The disposal will be witnessed by one other staff of the facility and a record of the medication disposal must be maintained by the facility and signed by the supervising nurse and witness.

(b) Torn, damaged, illegible or mislabeled prescription labels should be reported immediately to the dispensing pharmacy or pharmacist.

(c) Residents must not miss medications due to delays in refilling a prescription. It shall be the responsibility of the supervising nurse to ensure that refills are ordered and obtained in a timely manner.

(d) No resident shall be administered a prescription or over the counter (OTC) medication or treatment, except upon the written order of the resident's prescribing health care professional.

(2) When administering medications to residents; the unlicensed medication assistant must:

(a) Wash his or her hands with soap and water prior to administration of medication, or supervising the self-administration of medication to residents. Unlicensed assistive staff will also wash their hands between the administration of medication to each resident and when there is a change in route of administration.

(b) Prepare medications for one individual resident at a time, in a quiet location that is free from distraction.

(c) Administer medications to one resident at a time. To complete a resident's medication process, the medication of one resident must be returned to the portable or permanent medication storage unit and documentation of the medication administration record before administering medications to, or supervising the self-administration of medication for another resident.

(d) Administer medications to each resident, at the time, with the dosage, and by the route prescribed by the resident's health care professional. Each time medication is administered:

1. Conduct a triple-check of the dosage and time of administration against the original medication container label and the MAR before administering or supervising the self-administration of the medication;

2. Confirm the resident to whom the medication is to be administered is the same resident for whom the medication has been prescribed or ordered;

3. Administer as prescribed and via the route instructed by the resident's prescribing health care professional;

4. Do not crush, dilute or mix medications without written directions or instructions from the resident's prescribing health care professional.

5. Check the expiration date before administering each medication. Medications with an expiration date preceding the current date must not be administered.

6. Facilitate the correct positioning and use any adaptive equipment or techniques required for that resident for the proper administration of medications.

(e) Ensure the oral medication administered or supervised during self-administration has been completely ingested before leaving the resident. Directly observe the resident for a period of at least twenty minutes following the administration of a new medication ordered by the resident's prescribing health care professional. This observation period is to immediately detect and react to possible side effects of the medication or to document the effectiveness of the medication. Unlicensed medication assistants must review the MAR for special

instructions regarding required observation of medications and the unlicensed medication assistant must continually monitor for side effects and effectiveness of all administered drugs.

(f) Immediately record the administration of the medication in the MAR.

Rulemaking Authority 400.967 FS. Law Implemented 400.9685 FS. History--New \_\_\_\_\_.

59A-26.017 Training and Validation Required for Unlicensed Medication Assistants.

(1) Required medication administration training must include criteria to ensure that competency is demonstrated through validation of the qualification of the unlicensed medication assistant and all requirements of unlicensed medication assistants specified in this rule.

(2) Medication administration training will be conducted by a registered nurse, ARNP or physician for unlicensed medication assistants and will be provided by the ICF/DD licensee. Any person providing medication administration training sessions or conducting skills validation tests must first complete a trainer orientation session, which includes requirements of this rule and information to be covered during medication administration training sessions. Documentation of the trainer's completed orientation will be provided to each unlicensed medication assistant that he or she trains or validates.

(3) Medication administration training must include the following topics:

(a) Basic knowledge and skills necessary for medication administration charting on the Medication Administration Record (MAR).

(b) Roles of the physician, nurse, pharmacist and direct care staff in medication supervision.

(c) Procedures for recording/charting medications.

(d) Interpretation of common abbreviations used in administration and charting of medications.

(e) Knowledge of facility medication system.

(f) Safety precautions used in medication administration.

(g) Methods and techniques of medication administration.

(h) Problems and interventions in administration of medications.

(i) Observation and reporting of anticipated side effects, adverse effects and desired positive outcome.

(j) Each duty of unlicensed medication assistants as required in this rule.

(4) Validation of competency of the training is required for each unlicensed medication assistant to assess that competency has been achieved after completion of required training. To become validated, the unlicensed medication assistant must be able to successfully demonstrate, in a practical setting, his or her ability to correctly administer or supervise the self-administration of medications to resident's in a safe and

sanitary manner and to correctly and accurately document actions related to the administration of medications, in accordance with the requirements of this rule. At completion of the training, an unlicensed medication assistant must attain an overall score of 100% on knowledge tests that cover the training and facility specific questions. The unlicensed medication assistant will have three attempts to achieve a 100% score, if after the third attempt a score of 100% is not achieved, the unlicensed medication assistant must repeat the training and may not administer medication to residents until such time as a score of 100% is achieved. Additionally, an unlicensed medication assistant must be able to state the purpose, common side effects, and signs and symptoms of adverse reactions for a list of commonly used medications from memory or demonstrate how they obtain that information and maintain it for easy access.

(5) Validation of competency will be conducted by an RN, physician, or ARNP. The ICF/DD licensee will maintain documentation containing the following information:

(a) The name and address of the validator;

(b) Validation date, with expiration date of 365 days from the validation;

(c) Printed name and signature of the validating health care professional, as it appears on his or her license; and

(d) Validating health care professional's license number, with license expiration date.

(6) All training curricula, handouts, testing materials, and documents used to comply with the medication administration training and skills requirements of this rule will be kept on file for five years in the ICF/DD facility.

(7) The following must be validated for each unlicensed medication assistant:

(a) Demonstration of the ability to read and follow medication instructions on a prescription label, physician's order or MAR.

(b) Demonstration of the ability to write legibly, complete required documentation, and convey accurate and discernable information.

(c) Demonstration of the ability to perform as required in this rule.

(8) Unlicensed medication assistants and the ICF/DD licensee must maintain a copy of the unlicensed medication assistant's current skills validation document, and documentation of orientation for their medication administration trainer and validator. Unlicensed medication assistants are responsible for maintaining a copy of these documents and providing copies to the ICF/DD licensee if requested.

(9) Unlicensed medication assistants will have available a copy of their signed skills validation documentation to provide to the resident or resident's representative if requested. Unlicensed medication assistants will also have available if

requested a copy of their annual skills revalidation documentation, within five working days of the revalidation date.

(10) Unlicensed medication assistants who have not successfully renewed their validation prior to the expiration date will not be eligible to administer medications to residents until medication administration retraining and revalidation of skills have been successfully completed.

Rulemaking Authority 400.967 FS. Law Implemented 400.9685 FS. History—New \_\_\_\_\_.

#### 59A-26.018 Plant Maintenance and Housekeeping.

(1) The facility must maintain the interior and exterior of buildings accessible to residents and all equipment, furniture, and furnishings in a clean and good working condition such that resident safety and well-being are not jeopardized.

(2) Each licensee must establish written policies designed to maintain the physical plant and overall ICF/DD environment in such a manner that the safety and well-being of residents are ensured. The building and mechanical maintenance program must be under the supervision of a qualified person, as determined by the facility. All mechanical and electrical equipment must be maintained in working order, and must be accessible for cleaning and inspecting. All mechanical systems must be tested, balanced and operated prior to being placed into service and maintained in good working order. The facility must have an effective written plan for maintenance, including record keeping, sufficient staff, appropriate equipment and adequate supplies. The licensee must:

(a) Maintain the building in good repair, safe and free of the following: cracks in the floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile, linoleum or vinyl; loose handrails or railings; loose or broken window panes and screens; and other similar hazards.

(b) Maintain all electrical, lighting (interior and exterior), signal, mechanical, potable water supply, hot water heaters, heating, air conditioning, fire protection and sewage disposal systems in safe, clean and functioning condition.

(c) Maintain all electrical cords and appliances in a safe and functioning condition.

(d) Maintain the interior and exterior finishes of the buildings as needed to keep them attractive, clean, and safe, to include painting, washing, and other types of maintenance.

(e) Maintain all furniture and furnishings in a clean, attractive and safe condition.

(f) Maintain the grounds free from refuse, litter, insect and vermin breeding areas.

(g) Maintain screens on windows and doors in good repair, free of breaks in construction.

(3) The facility must have an effective plan for housekeeping including sufficient staff, appropriate equipment and adequate supplies. The licensee must:



(a) Keep the buildings in a clean, safe and orderly condition. This includes all rooms, corridors, attics, basements and storage areas.

(b) Keep floors clean and as non-slip as practicable to ensure resident safety.

(c) Control odors within the housekeeping staff's areas of responsibility by effective cleaning procedures and by the proper use of ventilation. Deodorants must not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.

(d) Keep attics, basements, stairways and similar areas free of accumulations of refuse, discarded furniture, discarded equipment, newspapers, magazines, boxes and other similar items.

(e) Not use bathrooms, shower stalls and lavatories for laundering, janitorial or storage purposes.

(f) Store all cleaning compounds, insecticides and all other potentially hazardous compounds or agents in locked cabinets or rooms.

(4) The licensee must have an effective written plan and must supply an adequate amount of clean linen for a resident based on the weather and climate. Linens must be in good condition to provide proper care and comfort to each resident, either through on-site laundry service or a contract with an outside service.

(a) The on-site laundry room must be maintained and operated in a clean, safe and sanitary manner.

(b) Written operating procedures must be developed and implemented to provide for the handling and storage of clean and soiled linens. These operating procedures must be available to all facility staff or Agency representatives upon request.

(c) Laundry personnel must practice good personal hygiene and grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and water before starting work, after smoking, eating, using the toilet or handling soiled linens.

(d) Clean linen must be protected from contamination during handling and storage.

(e) Soiled linen must be handled and stored in a manner that protects facility residents and personnel.

(f) If an outside laundry service is used, it must be in compliance with state and local health and environmental laws and must provide for protection of clean linens during transport back to the facility.

(g) Laundry services for residents' personal clothing, must be handled and clothing stored in a manner that will not allow contamination of clean linen by soiled linen. The licensee must ensure that the personal clothing of each resident is returned to that individual resident after laundering.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(a), (c) FS. History--New \_\_\_\_\_.

59A-26.019 Fire Protection, Life Safety, Systems Failure, and External Emergency Communications.

(1) Standards for fire prevention for the facility are those set forth in Rule 69A-3.012 dated 12/31/2008 and Chapter 69A-38, F.A.C., as incorporated by reference and available at <https://www.flrules.org>. Uniform Fire Safety Standards for Residential Facilities for Individuals with Developmental Disabilities, as applicable to the classifications of occupancy therein.

(2) The Agency must conduct an annual fire safety survey. Based upon the survey, a report of deficiencies will be provided to the facility with a specified time frame for correction.

(3) ICF/DD's providing personal care, as defined in the Life Safety Code NFPA 101 as described in Rule 69A-3.012 and Chapter 69A-38, F.A.C., will be reviewed as Residential Board and Care occupancy status under Chapter 32 or 33 of the Life Safety Code NFPA 101, as described in Rule 69A-3.012 and Chapter 69A-38, F.A.C. ICF/DD's providing services to residents that receive chronic, skilled/acute nursing or medical care or designated as a Level of Care 9 will be reviewed as Health Care Facility occupancy status under chapters 18 or 19 of the Life Safety Code NFPA 101, as described in Rule 69A-3.012 and Chapter 69A-38, F.A.C. To assure the life safety code requirements are appropriate for all residents served in an ICF/DD, each licensure survey conducted after January 1, 2010, shall establish or confirm the occupancy status. Beginning April 1, 2010, upon renewal of each ICF/DD license, the license shall display the occupancy status. The ICF/DD licensee must receive approval from the Agency, including the Office of Plans and Construction, prior to a change in the occupancy status. A resident requiring chronic, skilled/acute nursing or medical care, or designated as a Level of Care 9 resident, may not reside in an ICF/DD with a Residential Board and Care occupancy status.

(4) Each licensee must provide fire protection through the elimination of fire hazards. All portions of the facility must comply with the requirements of the National Fire Protection Association (NFPA) Life Safety Code 101, as adopted by the State Fire Marshal and described in Rule 69A-3-.012 and Chapter 69A-38, F.A.C.

(5) All fires or explosions must be reported by the licensee within 24 hours by phone to the Agency for Health Care Administration's field office and the Office of Plans and Construction. Upon notification and in accordance with NFPA 1, Fire Prevention Code, the Office of Plans and Construction must investigate the cause, origin, and circumstances of the fire or explosion. To facilitate this investigation, the licensee must complete the form "Fire Incident Report", AHCA #3500-0031, revised August 2006, incorporated herein by reference and available from the Office of Plans and Construction, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 24, Tallahassee, Florida 32308 or from the web site at

<http://ahca.myflorida.com/MCHO/Plans/pdfs/Fire.pdf>. The form must be completed by the licensee and submitted to the Agency's Office of Plans and Construction within 10 calendar days of the incident.

(6) In accordance with NFPA 101, Life Safety Code, in the event of a system failure of the fire alarm system, smoke detection system, or sprinkler system, the following actions must be taken immediately by the licensee:

(a) Notify the local fire authority and document instructions.

(b) Notify the Agency for Health Care Administration Office of Plans and Construction, and the Agency's local field office:

(c) Assess the extent of the condition and effect corrective action, with a documented period for compliance. If the corrective action will take more than four hours, the following items must be completed:

1. Implement a contingency plan containing a description of the problem, a specific description of the system failure, and the projected correction period. All staff on shifts involved must have documented in-service training for the emergency contingency.

2. Begin a documented fire watch until the system is restored. Persons used for fire watch must be trained in what to look for, what to do, and be able to expeditiously contact the fire department. To maintain a fire watch, the facility must utilize only certified public fire safety personnel, a guard service, or facility staff. If facility staff are utilized for this function, they must meet the following requirements:

a. Be off duty from their regular facility position or assigned only to fire watch duty and be excluded from counting toward the required staffing pattern.

b. Be trained and competent as determined by the licensee in the duties and responsibilities of a fire watch and;

c. Have immediate access to electronic communication.

3. If the projected correction period changes or when the system is restored to normal operation, the licensee must notify the Agency's Office of Plans and Construction, the Agency's local field office and local fire authorities.

(7) External emergency communication. Each new facility must provide for external electronic communication not dependent on terrestrial telephone lines, cellular, radio or microwave towers, such as an on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group(s). If the latter, this agreement must provide for a volunteer operator and communication equipment to be relocated into the facility in the event of a disaster until communications are restored. Other methods, which can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission, must be pre-approved by the Agency's Office of Plans and Construction.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(a) FS. History--New \_\_\_\_\_.

#### 59A-26.020 Plans Submission and Fee Requirements.

(1) All construction work, including demolition, must receive prior written approval from the Agency's Office of Plans and Construction before any work can begin. This includes all construction of new facilities and any and all additions, modifications, alternations, renovations, and refurbishing to the site, facility, equipment or systems of any facility.

(2) Approval to start construction only for demolition, site work, foundation, and building structural frame may be obtained prior to construction document approval when the following is submitted for review and has been approved by the Agency's Office of Plans and Construction:

(a) Preliminary Stage II approval letter from the Agency's Office of Plans and Construction.

(b) Construction documents, specifications and construction details for all work to be undertaken.

(c) A letter from the licensee holding the Agency harmless for any changes that may occur to the project as a result of the final construction document review.

(d) A life safety plan indicating temporary egress and detailed phasing plans indicating how the area(s) to be demolished or constructed is to be separated from all occupied areas must be submitted for review and approval when demolition or construction in and around occupied buildings is planned.

(3) Projects that have been submitted for Agency's Office of Plans and Construction review will be considered withdrawn if:

(a) Construction has not begun within one year after written approval of the construction documents from the Agency's Office of Plans and Construction;

(b) No further plans have been submitted for Agency review within one year after a project has been initiated with the Office of Plans and Construction or;

(c) Construction has been halted for more than one year. After this termination, resubmission as a new project will be required.

(4) All plans and specifications provided to the Agency as required in this section must be prepared and submitted by a Florida-registered architect and a Florida-registered professional engineer. An architectural or engineering firm not practicing as a sole proprietor may prepare and submit plans and specifications to the Agency if they are registered as an architectural or engineering firm with the Florida Department of Business and Professional Regulation.

(5) The initial submission of plans to the Agency's Office of Plans and Construction for any new project must include a completed Plan Review Application Form, AHCA Form 3500-0011, Nov. 96 revised March 02, incorporated by

reference and obtainable from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 24, Tallahassee, Florida 32308, or from the Agency's website at [http://ahca.myflorida.com/MCHO/Plans/pdfs/Info for Proj Rev Dec05.pdf](http://ahca.myflorida.com/MCHO/Plans/pdfs/Info%20for%20Proj%20Rev%20Dec05.pdf), and a valid certificate of need, pursuant to Chapter 408 F.S., if required by the Agency. This information must accompany the initial submission.

(6) Plans and specifications submitted for review shall be subject to a plan review fee. This fee is prescribed by Section 400.967(5), F.S. All fees must be paid by check made payable to the Agency for Health Care Administration, with the check noted with the Office of Plans and Construction facility log number and identified that it is for the Agency's Health Care Trust Fund. Fees will be accepted only from the ICF/DD licensee or prospective licensee.

(7) Plans and specifications must be submitted in three stages. Exceptions to the submission of all three stages shall be subject to prior approval by the Agency's Office of Plans and Construction.

(a) Stage I, schematic plans.

(b) Stage II, preliminary plans or design development drawings.

(c) Stage III, construction documents, including specifications, addenda and change orders.

(8) For each stage of submission, a program or scope of work must be submitted. It must consist of a detailed word description of all contemplated work and any required phasing to be provided in the proposed construction.

(9) For projects involving only equipment changes or system renovations, only Stage III, construction documents need be submitted. These documents must include the following:

(a) Life safety plans showing the fire/smoke compartments in the area of renovation.

(b) Detailed phasing plans indicating how the new work will be separated from all occupied areas.

(c) Engineering plans and specifications for all of the required work.

(10) Stage I, schematic plans.

(a) At a minimum, the following must be incorporated into the schematic plans:

1. Single-line drawings of each floor showing the relationship of the various activities or services to each other and the room arrangement in each.

a. The function of each room or space must be noted in or near the room or space.

b. The proposed roads and walkways, service and entrance courts, parking, and orientation must be shown on either a small plot plan or on the first floor plan.

c. Provide a simple cross-section diagram showing the anticipated construction.

d. Provide a schematic life safety plan showing smoke and fire compartments, exits, and gross areas of smoke and fire compartments.

e. Provide information as to which areas are sprinkled, both proposed and existing.

2. If the proposed construction is an addition or is otherwise related to existing buildings on the site, the schematic plans must show the facility and general arrangement of those other buildings.

3. Provide a schedule showing the total number of beds, types of bedrooms and types of ancillary spaces.

(11) Stage II, preliminary plans.

(a) At a minimum, to gain a Stage II approval, the following must be incorporated into the preliminary plans:

1. Vicinity map. For new facility construction, provide a vicinity map showing the major local highway intersections.

2. Site development plans including:

a. Existing grades and proposed improvements as required by the schematic submission.

b. Building locating dimensions.

c. Site elevations for both the 100-year flood elevations and hurricane Category 3 surge inundation elevations if the project involves the construction of a new facility or is a new addition of a wing or floor to a facility.

d. The location of the fire protection services water source to the building.

3. Architectural plans including:

a. Floor plans, 1/8-inch scale minimum, showing door swings, windows, casework and millwork, fixed equipment and plumbing fixtures. Indicate the function of each space.

b. A large-scale plan of typical new bedrooms with a tabulation of gross and net square footage of each bedroom. Tabulate the size of the bedroom window glass.

c. Typical large-scale interior and exterior wall sections to include typical rated fire and fire/smoke partitions and a typical corridor partition.

d. All exterior building elevations.

e. Identification of equipment, which is not included in the construction contract but which requires mechanical or electrical service connections or construction modifications, to ensure its coordination with the architectural, mechanical and electrical phases of construction.

f. Preliminary phasing plans indicating how the project is to be separated from all occupied areas must be provided if the project is located in an occupied facility.

4. Life safety plans including:

a. Single-sheet floor plans showing fire and smoke compartmentation, all means of egress and all exit signs. The dimension of the longest path of travel in each smoke compartment to the door(s) to the adjoining compartment, the total area of the smoke compartment in square feet, and tabulated exit in inches must also be provided.

b. All sprinkled areas, fire extinguishers, fire alarm devices and pull station locations.

c. Fully developed life safety plans must be submitted if the project is an addition or conversion of an existing building.

d. Life safety plans of the floor being renovated and the required exit egress floor(s) if the project is a renovation in an existing building.

e. A life safety plan indicating temporary egress and detailed phasing plans indicating how the area(s) to be demolished or constructed are to be separated from all occupied areas when demolition or construction in and around occupied buildings is to be undertaken.

5. Mechanical engineering plans including:

a. Single-sheet floor plans with a one-line diagram of the ventilating system with relative pressures of each space.

b. A written description and drawings of the anticipated smoke control system, passive or active, and a sequence of operation correlated with the life safety plans.

c. The general location of all fire and smoke dampers, all duct smoke detectors and firestats.

d. The location of the sprinkler system risers and the point of connection for the fire sprinkler system if the building is equipped with fire sprinklers, including the method of design for the existing and new fire sprinkler systems.

e. Locations of all plumbing fixtures and other items of equipment requiring plumbing services and/or gas services.

f. Locations of all medical gas outlets, piping distribution risers, terminals, alarm panel(s), low pressure emergency oxygen connection, isolation/zone valve(s), and gas source location(s).

g. Locations and relative sizes of major items of mechanical equipment such as chillers, air handling units, fire pumps, medical gas storage, boilers, vacuum pumps, air compressors, large storage batteries, and fuel storage vessels.

h. Locations of hazardous areas and the volume of products to be contained therein.

i. Location of fire pump, stand pipes, and sprinkler riser(s).

6. Electrical engineering drawings including:

a. A one-line diagram of normal and essential electrical power systems showing service transformers and entrances, switchboards, transfer switches, distribution feeders and over-current devices, panel boards and step-down transformers. The diagram must include a preliminary listing and description of new and existing, normal and emergency loads, preliminary estimates of available short-circuit current at all new equipment and existing equipment serving any new equipment, short-circuit and withstand ratings of existing equipment serving new loads and any new or revised grounding requirements.

b. Fire alarm zones correlated with the life safety plan.

7. Outline specifications. Outline specifications are to include a general description of the construction, including construction classification and ratings of components, interior finishes, general types and locations of acoustical material, floor coverings, electrical equipment, ventilating equipment and plumbing fixtures, fire protection equipment, and medical gas equipment.

8. Whenever an existing structure is to be converted to an ICF/DD facility, the general layout of spaces of the existing structure must be submitted with the preliminary plans for the proposed facility.

9. Whenever additions, modifications, alterations, renovations, and refurbishing to a facility are proposed, the general layout of spaces of the facility must be submitted with the preliminary plans.

(12) Stage III, construction documents.

(a) The Stage III, construction documents must be an extension of the Stage II, preliminary plan submission and must provide a complete description of the contemplated construction. Construction documents must be signed, sealed, dated and submitted for written approval to the Agency's Office of Plans and Construction by a Florida-registered architect and Florida-registered professional engineer. These documents must consist of work related to civil, structural, mechanical, and electrical engineering, fire protection, lightning protection, landscape architecture and all architectural work. At a minimum, and in addition to the requirements for Stage II submission, the following must be incorporated into the construction documents:

1. Provide site and civil engineering plans that must indicate building and site elevations, site utilities, paving plans, grading and drainage plans and details, locations of the two fire hydrants utilized to perform the water supply flow test, and landscaping plans.

2. Provide life safety plans for the entire project.

3. Provide architectural plans, including:

a. Typical large-scale details of all typical interior and exterior walls and smoke walls, horizontal exits and exit passageways.

b. Comprehensive ceiling plans that show all utilities, lighting fixtures, smoke detectors, ventilation devices, sprinkler head locations and fire-rated ceiling suspension member locations where applicable.

c. Floor/ceiling and roof/ceiling assembly descriptions for all conditions.

d. Details and other instructions to the contractor on the construction documents describing the techniques to be used to seal floor construction penetrations to the extent necessary to prevent smoke migration from floor to floor during a fire.

4. Structural engineering plans, schedules and details.

5. Mechanical engineering plans to include fire and smoke control plans, including:

a. All items of owner furnished equipment requiring mechanical services.

b. A clear and concise narrative control sequence of operations for each item of mechanical equipment including but not limited to air conditioning, heating, ventilation, medical gas, plumbing, and fire protection and any interconnection of the equipment of the systems.

c. Mechanical engineering drawings that depict completely the systems to be utilized, whether new or existing, from the point of system origination to its termination.

d. A tabular schedule giving the required air flow (as computed from the information contained on the ventilation rate table) in cubic feet per minute (cfm) for supply, return, exhaust, outdoor, and ventilation air for each space listed or referenced by note on the ventilation rate table as shown on the architectural documents. The schedule must also contain the Heating Ventilation and Air Conditioning (HVAC) system design air flow rates and the resulting space relative pressures.

e. The schedule or portion of the schedule, as applicable, which must be placed in the specifications or in the drawing set containing the spaces depicted.

6. Fire protection plans, where applicable, that must include the existing system as necessary to define the new work.

7. Electrical engineering plans that must describe complete power, lighting, alarm, communications and lightning protection systems and power system study.

8. A power study that must include a fault study complete with calculations to demonstrate that over-current devices, transfer switches, switchboards, panel boards, motor controls, transformers and feeders are adequately sized to safely withstand available phase-to-phase and phase-to-ground faults. The study must also include an analysis of generator performance under fault conditions and a coordination study resulting in the tabulation of settings for all over-current device adjustable trips, time delays, relays and ground fault coordination. This must be provided for all new equipment and existing equipment serving any new equipment. Power studies for renovations of existing distribution systems must include only new equipment and existing equipment upstream to the normal and emergency sources of the new equipment. Renovations involving only branch circuit panel boards without modifications to the feeder must not require a full power study; instead, the power study must be limited to the calculation of new and existing loads of the branch circuit panel.

9. A complete set of specifications for all work to be undertaken.

a. All project required contractor supplied testing and/or certification reports must be typed on standard forms, reviewed and accepted by the engineer of record prior to presenting to the Agency's Office of Plans and Construction for review.

b. The specifications must require a performance verification test and balance air quantity values report for a minimum of two operating conditions for each air handling unit system. One operating condition must be with the specified air filters installed in the minimum pressure drop or clean state. The second operating condition is to be at the maximum pressure drop and/or dirty state. The air quantities reported are acceptable if they are within 10 percent of the design value and the space relative pressures are maintained. This requirement must apply to any air-handling unit affected by the construction to be performed.

10. All construction documents must be well coordinated. It is specifically required that in the case of additions to facilities, the mechanical and electrical, especially existing essential electrical systems and all other pertinent conditions, must be a part of this submission.

11. All subsequent addenda, change orders, field orders and other documents altering the above must also be signed, sealed, dated and submitted in advance to the Agency's Office of Plans and Construction for written approval.

(13) The initial submission will be acted upon by the Agency's Office of Plans and Construction within 60 days of the receipt of the initial payment of the plan review fee. The Agency will either approve or disapprove the submission and shall provide a listing of deficiencies in writing. Each subsequent resubmission of documents for review on the project will initiate another 60-day response period. If the Agency does not act within 60 days of receipt of a submission, the submission will be considered approved. However, all deficiencies noted by the Agency must still be satisfactorily corrected before final approval may be obtained for the project.

(14) Additions or revisions that substantially change the original scope of the project or are submitted by different design professionals, will be required to be submitted as a new project.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2), (5) FS. History--New \_\_\_\_\_.

59A-26.021 Physical Plant Codes and Standards for ICF/DD.

(1) After January 1, 2010, all construction of new facilities or conversions and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of a facility must be in compliance with the following codes and standards:

(a) The Florida Building Code, 2004 Edition with 2006 supplements effective on December 8, 2006, as adopted by the Florida Building Commission and incorporated by reference in Rule 9B-3.047, F.A.C., by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

(b) The fire codes as adopted by the State Fire Marshal and incorporated by reference in Rule 69A-3-.012, F.A.C., by the Division of State Fire Marshal at the Department of Finance and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101.

(c) When the licensee is providing services to residents that receive chronic, skilled/acute nursing or medical care or designated as a Level of Care 9, NFPA 101, Chapter 18 (Health Care Occupancies) must be applied.

(d) When the licensee is providing personal care services, as defined in the Life Safety Code NFPA 101 as described in Rule 69A-3.012, F.A.C., NFPA 101, Chapter 32 (Residential Board and Care) must be applied.

(2) The Fire Safety Evaluation System (FSES) NFPA-101 A as adopted by the State Fire Marshal and described in Rule 69A-3.012, F.A.C., and herein incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, must not be used to meet the required codes and standards for new construction, renovations, or for conversion of an existing building to a new licensed ICF/DD.

(3) Where additions, modifications, alterations, refurbishing, renovations or reconstruction are undertaken within a facility, all such additions, modifications, alterations, refurbishing, renovations or reconstruction must comply with applicable sections of the codes for new facilities. Where major structural elements make total compliance impractical or impossible, the licensee or potential licensee must submit to the Agency's Office of Plans and Construction a request to utilize alternate materials and methods in accordance with the Florida Building Code.

(4) At a minimum, all existing facilities classified as Residential Board and Care must be in compliance with the requirements of Chapter 33, Existing Residential Board and Care Occupancy, of the National Fire Protection Association (NFPA) Life Safety Code 101, as adopted by the State Fire Marshal and described in Rule 69A-3.012, F.A.C.

(5) At a minimum all existing facilities classified as Health Care Occupancies must be in compliance with the requirements of Chapter 19, Existing Health Care Occupancies, of the NFPA Life Safety Code 101, as adopted by the State Fire Marshal and described in Rule 69A-3.012, F.A.C.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(a) FS. History--New \_\_\_\_\_.

59A-26.022 Construction and Physical Environment Standards.

After January 1, 2010, all new facilities, expected to provide services to residents that received chronic, skilled/acute nursing or medical care or designated as Level of Care 9, must be in compliance with the following minimum physical plant standards:

(1) Site requirements.

(a) Each facility must be located on a site in compliance with local zoning codes, Chapter 400, Part VIII F.S., Chapter 408 Part II, F.S., this rule, and if applicable, Chapter 419, F.S. The terrain must be such that effective drainage can be accomplished. Utilities must be commensurate with the facility's regular operational needs and emergencies. The site must be remote from uncontrolled or uncontrollable sources of insect and rodent harborage and air and water pollution.

(b) A site may include structures other than the ICF/DD facility such as storage sheds and greenhouses. Ancillary spaces may be available within the living units or in a separate on-site structure to provide services that cannot be purchased in the community or when residents are physically unable to attend community or therapy services.

(c) All new facilities or an addition of a wing or floor to a facility must be in compliance with the site requirements of this rule.

(2) Living unit requirements:

(a) Each living unit must provide for all residential functions and environmental characteristics with a home like atmosphere.

(b) Residents must have a choice of a variety of comfortable living spaces.

(c) There must be sufficient equipment and appliances to meet the programmatic needs of all residents.

(d) Each living unit must have a kitchen that is adequate for preparing all meals, cleaning and storing of food and equipment. The kitchen design, appliances, equipment, materials and finishes must convey the image of a home like kitchen.

(e) Each living unit must have a dining area.

(f) Provisions must be made to ensure meals are eaten at the dining table with appropriate positioning devices, chairs or wheelchairs for each resident as needed.

(g) Sufficient space must be provided to accommodate resident needs for indoor gross motor, fine motor and special teaching activities within the facility.

(h) Each resident living unit must have three or more bedrooms.

1. Each resident must have accessible personal space within the bedroom to accommodate an individual bed and personal furnishings, and to decorate and arrange without disturbing others. This space must also be utilized to store personal possessions.

2. Each bedroom must have a minimum of 100 square feet (9.29 square meters) of clear floor area per bed in multiple-bed rooms and 120 square feet (11.15 square meters) of clear floor area in single-bed rooms, exclusive of the space consumed by toilet rooms, closets, lockers, wardrobes, lavatories, alcoves, entrance vestibules, and the area taken up by all door swings that open into the room. For the purpose of minimum clear floor area, the entrance vestibule is defined as that floor area

located between the room entrance door and the room floor area containing any resident bed. The dimensions and arrangement of rooms must provide a minimum of three feet (0.91 meter) between the sides and foot of the bed and any wall or any other fixed obstruction or adjacent bed. In multiple-bed rooms, a clearance of 3 feet 8 inches (1.11 meters) to any fixed obstruction must be available at the foot of each bed to permit the passage of equipment and beds. Where renovation work is undertaken, every effort must be made to meet these minimum space standards. When this is not possible due to existing physical constraints, and with the prior approval of the Agency's Office of Plans and Construction, resident rooms must have no less than 80 square feet (7.43 square meters) of clear floor area per bed in multiple-bed rooms and 100 square feet (9.29 square meters) of clear floor area in single-bed rooms exclusive of toilet rooms, closets, lockers, wardrobes, lavatories, alcoves and entrance vestibules. This requirement does not limit the licensee's prerogative to exceed minimum standards in this respect, and the accessible area provided must accommodate the needs of the residents occupying the space. The maximum number of residents sharing a bedroom shall be two.

(i) Corridors must be not less than six feet in clear and unobstructed width.

(j) Doors must not be less than 48 inches in clear width for means of egress from sleeping rooms.

(k) Each living unit must provide adequate space for all residents to carry out normal bathroom functions, or for assistance in carrying out these functions, including bathing, toileting, washing and grooming. Facilities must be as comparable to normal home like standards as is appropriate to the functional level of residents. The standard range of bathroom fixtures must be provided in adequate numbers and in standard residential arrangements providing privacy for residents in performing each function. Each resident must have access to a toilet room without having to enter the general corridor area. One toilet room shall serve no more than four beds and no more than two resident rooms. The toilet room door must be side-hinged, swing out from the toilet room, and unless otherwise required by the code, be at least 32 inches (81.28 centimeters) wide.

(l) Each living unit must provide a minimum of one multi purpose staff workroom of not less than 120 square feet.

(m) Each living unit must be equipped to wash and dry the personal clothing of all residents residing in the living unit.

(n) Each living unit must provide outdoor activity spaces providing a variety of activities that are accessible to residents and provide cover and protection from the elements.

(o) Each living unit must meet the requirements of Florida Building Code Chapter 11-6.1(2) for accessibility percentage of total accessible rooms.

(3) Details and finishes.

(a) Potential hazards such as sharp corners or loose laid rugs or carpets shall not be permitted.

(b) Doors to all rooms containing bathtubs, showers, and water closets for resident use must be equipped with privacy hardware that permits emergency access without keys. When such rooms have only one entrance or are small, the doors must open outward and, if on the corridor, must open into an alcove.

(c) All interior doors, except those that automatically close upon smoke detection, must be side-hinged swinging type. Interior corridor doors, except those to small closets not subject to occupancy, shall not swing into the corridor.

(d) Operable windows must be equipped with insect screens.

(e) Threshold covers must be designed to facilitate use of wheelchairs and carts and to prevent tripping and shall provide a smooth and level transition from surface to surface.

(f) Grab bars, 1-1/2 inches (3.8 centimeters) in diameter, must be installed in all resident showers, tubs, and baths and on both sides of all resident use toilets. Wall-mounted grab bars shall provide a 1-1/2 inch (3.8 centimeters) clearance from walls and shall sustain a concentrated load of 250 pounds (113.4 kilograms).

(g) Handrails with a maximum diameter of 1-1/2 inches (3.8 centimeters) must be provided on both sides of all corridors normally used by residents. Mounting height shall be between 36 inches (91.4 centimeters) and 42 inches (106.7 centimeters). A clearance of 1-1/2 inches (3.8 centimeters) must be provided between the handrail and the wall. Rail ends shall return to the wall.

(h) Each resident hand washing facility must have a mirror for the resident unless prohibited by the interdisciplinary team. Mirror placement must allow for convenient use by both wheelchair occupants and ambulatory persons. Tops and bottoms may be at levels usable by residents either sitting or standing. Additional mirrors may be provided for wheelchair residents, or one separate full-length mirror located in the resident room may be provided to meet the needs of wheelchair residents. All mirrors must provide a distortion free image.

(i) Provisions for soap dispensing and hand drying must be included at all hand washing facilities. Hand drying provisions in resident use areas shall be paper or cloth towels enclosed to protect against dust or soil and shall be single-unit dispensing.

(j) The minimum ceiling height in occupiable rooms and habitable spaces throughout the facility must be 8 feet 0 inches (2.44 meters) above the finished floor. Ceilings in corridors, resident room entrance, vestibules and toilet rooms must be a minimum of 7 feet 6 inches (2.33 meters) above the finished floor.

(k) Only recessed soap dishes may be allowed in resident use tubs and showers. Towel bars must be provided at each bathing area.

(l) A minimum of one electric drinking fountain must be provided per facility living unit as required by the Florida Plumbing Code, described in the Florida Building Code, adopted by Rule 9B-3.047, F.A.C., and obtainable free of charge at [www.floridabuilding.org](http://www.floridabuilding.org).

(m) Floor material must be readily cleanable and appropriate for the location. If composition floor tiles are used, the interstices must be tight. In residential care and sleeping areas, a base must be provided at the floor line. Floors in areas used for food preparation and assembly must be water-resistant. Floor surfaces, including tile joints, must be resistant to food acids. In all areas subject to frequent wet-cleaning methods, floor materials must not be physically affected by germicidal cleaning solutions. Floors subject to traffic while wet, such as shower and bath areas, kitchens, and similar work areas, must have a slip resistant surface and floor-to-base intersections must be watertight. Carpet and padding in resident areas must be stretched tight, in good repair and free of loose edges or wrinkles that might create hazards or interfere with the operation of wheelchairs, walkers, or wheeled carts.

(n) Wall finishes must be washable and, if near plumbing fixtures, must be smooth and have a moisture-resistant finish. Finish, trim, walls, and floor constructions in dietary and food storage areas must be free from rodent and insect harboring spaces.

(o) Basic wall construction in areas not subject to conditioned air must be constructed of masonry, cement, plaster or moisture resistant gypsum wallboard.

(p) The finishes of all exposed ceilings and ceiling structures in the dietary facilities area must be readily cleanable with routine housekeeping equipment.

(q) All smoke partitions must be constructed prior to the construction of intervening walls.

(r) Smoke partitions must be constructed so as to provide a continuous smoke-tight membrane from exterior wall to exterior wall and from the floor to the underside of the deck above. This includes interstitial space and the area above solid fire-tested membranes. Where it is not possible to inspect smoke partitions because of the fire-tested membrane, fire-rated access panels must be installed adjacent to each side of the smoke partitions at intervals not exceeding 30 feet (9.00 meters) and in such locations as necessary to view all surfaces of the partition.

(s) Where electrical conduits, cable trays, ducts and utility pipes pass through the smoke partition, the utilities must be located so that access is maintained to adjacent wall surfaces and to all damper access panels. The details must show the studs and reinforcing half studs so that proper support is provided for the wall surfacing material. There must be a minimum clearance of six inches (15.29 centimeters) between all conduits, piping, and ductwork at corridor walls to facilitate the inspection of these walls.

(4) Mechanical system requirements:

(a) Mechanical equipment shall be defined as equipment utilized in air conditioning, heating, ventilating systems and associated electrical, electronic and pneumatic components required for the mechanical equipment to provide the function intended by the application of the equipment. New and existing equipment replacements must comply with these requirements.

(b) Mechanical equipment must be installed in a designated equipment room(s), or in a space(s) located in an attic(s). If the unit serves only one room it may be located above the ceiling and must be accessible through an access opening in accordance with the Florida Building Code. Access panels are not required for lay-in ceiling installations provided the service functions are not obstructed by other above-ceiling construction such as electrical conduits, piping, audio visual cabling and like equipment components or supports.

(c) Ventilation must be provided by mechanical means in all rooms in new facilities and in all renovated or remodeled rooms of a facility. The minimum air quantities and filtration efficiencies must be met as set forth in the Minimum Ventilation Rate Table for those spaces that are listed as required in the Florida Building Code, Chapter 4, Section 420.3.13.7.

(d) For spaces listed in the Minimum Ventilation Rate Table, central station type air handling equipment must be used. Package terminal air conditioning units or fan coils may be used to serve resident rooms and shall be provided with 20 percent filters minimum.

(e) System designs utilizing fan coil or package terminal air conditioning units must have the outdoor air ventilation damper permanently closed. The ventilation requirement must be satisfied by a central station type air handling unit provided with a 30 percent filter minimum or as required by the listed space served. Spaces designated for the exclusive use of physical plant personnel need not comply with this requirement.

(f) Administrative and other staff-only areas must be provided with outside air at the minimum rate of 20 cubic feet per minute (9.43 liters/second) per person, and the central system must have a minimum of 30 percent American Society of Heating Refrigerating and Air Conditioning Engineers, Inc. (ASHRAE), 1995 Edition dust spot efficiency filter.

(g) All filters in systems in excess of 1000 cubic feet per minute (28.32 cubic meters/minute) capacity must be installed with differential pressure gauges. The filter gauge must have the range of acceptable filter operation clearly and permanently indicated.

(h) Filter housings for 80 percent efficiency filters must be fully gasketed and sealed with mechanical latching devices capable of exerting and maintaining a continuous, uniform sealing pressure on the filter media when in the latched, closed position.



(i) The transfer of air quantities through one space to an adjacent space is not permitted except that the transfer of air to maintain space relative pressure by the under cutting of doors is permitted. The maximum allowable air quantity for door undercuts shall be 75 cubic feet per minute (35.38 liters per second) for single door widths up to 44 inches (111.7 centimeters).

(j) Space relative pressure requirements must be maintained throughout the entire system control range where variable volume systems are utilized.

(k) Spaces having exhaust hoods must have sufficient make-up supply air such that the required pressure relationship will not be affected by the operation of the hood.

(l) All supply, return and exhaust ventilation fans must operate continuously. Dietary hood, laundry area, administrative areas that are separated from all resident areas and support areas, and maintenance area supply and exhaust fans shall be exempted from continuous operation.

(m) Cooling coil condensate must be piped to a roof drain, floor drain or other approved location.

(n) Exhaust fans and other fans operating in conjunction with a negative duct system pressure must be located at the discharge end of the system. Fans located immediately within the building located at the end of all exhaust ducts shall be permitted. Existing nonconforming systems need not be brought into compliance when equipment is replaced due to equipment failure.

(o) All new facility construction must have totally ducted supply, return, exhaust and outside air systems including areas of all occupancy classifications.

(p) During a fire alarm, fan systems and fan equipment serving more than one room must be stopped to prevent the movement of smoke by mechanical means from the zone in alarm to adjacent smoke zones.

(q) Air handling and fan coil units serving exit access corridors for the zone in alarm must shut down upon fire alarm.

(r) Smoke or fire/smoke dampers must close upon fire alarm and upon manual shutdown of the associated supply, return or exhaust fan.

(s) Mixing valves used in shower applications must be of the balanced-pressure type design.

(t) The temperature of hot water supplied to resident use lavatories, showers and bath must be between 105°F (45.5°C) and 110°F (46.1°C) at the discharge end of the fixture.

(u) Wall mounted water closets, lavatories, drinking fountains and hand washing facilities must be attached to floor mounted carriers and shall withstand an applied vertical load of a minimum of 250 pounds (113.39 kilograms) to the front of the fixture and provide deep seal traps for floor drains in resident showers.

(v) Ice machines, rinse sinks, dishwashers, and beverage dispenser drip receptacles must be indirectly wasted.

(w) Each water service main, branch main, riser and branch to a group of fixtures must have valves. Stop valves must be provided for each fixture. Panels for valve access must be provided at all valves.

(x) Backflow preventers (vacuum breakers) must be installed on bedpan-rinsing attachments, hose bibs and supply nozzles used for connection of hoses or tubing in housekeeping sinks and similar applications.

(y) A backflow preventer must be installed on the facility main water source(s).

(5) Electrical requirements:

(a) All material, including equipment, conductors, controls, and signaling devices, must be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facility requirements as shown in the specifications and as indicated on the plans. All materials and equipment must be listed as complying with applicable standards of Underwriter's Laboratories, Inc., or other nationally recognized testing facilities. Field labeling of equipment and materials will be permitted only when provided by a Nationally Recognized Testing Laboratory (NRTL) that has been certified by the Occupational Safety & Health Administration (OSHA) for that referenced standard.

(b) For purposes of this section, a resident room, a resident therapy area or an examination room shall be considered a "patient care area" as described in NFPA 99 "Health Care Facilities," and Chapter 27, "Electrical Systems" of the Florida Building Code.

(c) Panels located in spaces subject to storage must have the clear working space per Chapter 27, "Electrical Systems" of the Florida Building Code, permanently marked "Electrical Access – Not For Storage" with a line outlining the required clear working space on the floor and wall.

(d) Panels and electrical equipment, other than branch circuit devices serving the corridor, must not be located in egress corridors in new construction.

(e) Lighting.

1. All spaces occupied by people, machinery and equipment within buildings, approaches to buildings and parking lots must have electric lighting.

2. Resident bedrooms must have general lighting and separate fixed night lighting. The night-light must have a switch at the entrance to each resident's room. A reading light must be provided for each resident. Resident reading lights and other fixed lights not switched at the door must have switch controls convenient for use at the luminary. Wall-mounted switches for control of lighting in resident area must be of quiet operating type.

(f) Receptacles.

1. Provide one general purpose receptacle on another wall to serve each resident and one additional receptacle at the head of the bed if a motorized bed is provided.

2. Duplex receptacles for general use must be installed in all general purpose corridors, approximately 50 feet (15.24 meters) apart and within 25 feet (7.62 meters) of corridor ends.

(g) Fire alarm systems. A fire alarm annunciator panel must be provided at a single designated 24-hour monitored location. The panel must indicate audibly and visually, the zone of actuation of the alarm and system trouble. As a minimum, devices located in each smoke compartment must be interconnected as a separate fire alarm zone. Annunciator wiring must be supervised. Annunciators must clearly indicate the zone location of the alarm. An adjacent zone location map to quickly locate alarm condition must be provided.

(h) Nurse call systems. Each facility must have a nurse call system that meets the following requirements.

1. A nurse call system must be provided that will register a call from each resident bed to the related staff work area(s) by activating a visual signal at the resident room door and activating a visual and audible signal in the clean utility, soiled utility, nourishment station, medication prep and the master station of the nursing unit or sub-nursing unit. Audible signals may be temporarily silenced provided subsequent calls automatically reactivate the audible signal. In rooms containing two or more calling stations, indicating lights must be provided for each calling station. In multi-corridor nursing units corridor zone, lights must be installed at corridor intersections in the vicinity of staff work areas.

2. An emergency calling station of the pull cord type must be provided and must be conveniently located for resident use at each resident toilet, bath or shower room but not inside the shower. The call signal must be the highest priority and shall be cancelled only at the emergency calling station. The emergency station must activate distinctive audible and visual signals immediately.

3. The nurse call master station must not block incoming resident calls. The master station control settings must not prevent the activation of the incoming audible and visual signals.

4. In multi-resident rooms, activation of an emergency call shall not cancel a normal call from the same room.

5. A corridor dome light must be located directly outside of any resident care area that is equipped with a nurse call station.

(i) Emergency electrical system.

1. A Type I essential electrical system must be provided in all ICF/DD facilities as described in NFPA 99, "Health Care Facilities." The emergency power for this system must meet the requirements of a Level 1, Type 10, Class 48 generator as described in NFPA 110, "Emergency Standby Power Systems."

2. In new construction, the normal main service equipment must be separated from the emergency distribution equipment by locating it in a separate room. Transfer switches must be considered emergency distribution equipment for this purpose.

3. Switches for critical branch lighting must be completely separate from normal switching. The devices or cover plates must be of a distinctive color. Critical branch switches may be adjacent to normal switches. Switches for life safety lighting are not permitted except as required for dusk-to-dawn automatic control of exterior lighting fixtures.

4. There must be selected life safety lighting provided at a minimum of one footcandle and designed for automatic dusk-to-dawn operation along the travel paths from the exits to the public way or to safe areas located a minimum of 30 feet (9.14 meters) from the building.

5. If a day tank is provided, it must be equipped with a dedicated low level fuel alarm and a manual pump. The alarm must be located at the generator derangement panel.

6. Transfer switch contacts must be of the open type and must be accessible for inspection and replacement.

7. If required by the facility's emergency food plan, there must be power connected to the equipment branch of the essential electrical system for kitchen refrigerators, freezers and range hood exhaust fans. Selected lighting within the kitchen and dry storage areas must be connected to the critical branch of the essential electrical system.

(6) Other general requirements.

(a) There must be at least one telephone accessible to the residents.

(b) An accessible, adequate, safe, acceptable, and potable supply of water must be provided in all facilities and must be in compliance with Chapter 64E-8, F.A.C.

(c) An adequate and safe method of sewage collection, treatment and disposal must be provided in each facility and must be in compliance with Chapter 62-600, F.A.C., Sewage Works, or Chapter 64E-6, F.A.C., Individual Sewage Disposal. Whenever a municipal or public sewer system is available to the property, such system must be used. All plans regarding wastewater collection and treatment facilities must be approved by the Department of Environmental Regulation.

(d) In all facilities, vermin must be controlled in all areas of the facility in compliance with Chapter 64E-11, F.A.C., Insecticides and rodenticides must be handled in accordance with Rules 5E-14.101-.116, F.A.C.

(e) All facilities must comply with the requirements of Chapter 64E-16, F.A.C.

(7) Physical Plant Requirements for Disaster Resistance of ICF/DD Construction.

(a) Definitions. The following definitions must apply specifically to this section:

1. Existing Facility. A facility that prior to January 1, 2010;

a. Is licensed and certified, or

b. Has received a Stage II preliminary plan approval from the Agency for a new facility.

2. New Facility. An ICF/DD licensed after January 1, 2010; or a facility that receives a Stage II Preliminary Plan approval after April 1, 2010; or an addition of a wing or floor to an existing ICF/DD, which has not received a Stage II Preliminary Plan approval pursuant to this section.

3. Net Square Footage. The clear floor space of an area excluding cabinetry and other fixed furniture or equipment.

4. During and Immediately Following. A period of 72 hours following the loss of normal support utilities to the facility.

5. Occupied Resident Area(s). The location of residents inside the new facility or in the addition of a wing or floor to an existing facility during and immediately following a disaster. If residents are to be relocated into an area of the existing facility during and immediately following a disaster, then for these purposes, that location will be defined as the "occupied resident area."

6. Resident Support Area(s). The area(s) required to ensure the health, safety and well-being of residents during and immediately following a disaster, such as a staff work area, clean and soiled utility areas, food preparation area and other areas as determined by the licensee to be kept operational during and immediately following a disaster.

7. On-site. Either in, immediately adjacent to, or on the campus of the facility, or addition of a wing or floor to an existing facility.

8. Resident(s) Served. The number of residents as determined by the licensee that will be served in the occupied resident area(s) during and immediately following a disaster, including residents from other facilities, as applicable.

(b) New Facility Construction Standards. The following construction standards are in addition to the physical plant requirements described in this rule. These minimum standards are intended to increase the ability of the new facility to be structurally capable of serving as a shelter for residents, staff and the family of residents and staff and equipped to be self-supporting during and immediately following a disaster.

1. Space standards.

a. Each new facility must provide a minimum of 30 net square feet (2.79 square meters) per resident served in the occupied resident area(s). The number of residents served is to be determined by the facility.

b. Each licensee must have space for administrative and support activities and space for use by facility staff to allow for care of residents in the occupied resident area(s).

c. As determined by the licensee, space must be provided for all staff and family members of residents and staff.

2. Site standards.

a. All new facilities and additions to existing facilities must be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation

elevation as provided by the local county emergency management office, whichever requires the highest elevation, or

b. The floor elevation of all new occupied resident area(s) and all resident support area(s) and resident support utilities, including mechanical, electrical except fuel storage as noted in sub-subparagraph 59A-26.022(7)(b)9.f., F.A.C., and food services must be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation elevations whichever requires the highest elevation, or

c. New additions or floors added to existing facilities, as determined by their site locations, must be so designed and constructed as to be in compliance with the current standards of the National Flood Insurance Program of the Federal Emergency Management Agency, incorporated by reference and available from Federal Emergency Management Agency, Federal Insurance Administration, Attn. Publications, P. O. Box 70274, Washington, D.C. 20024.

d. Where an off-site public access route is available to the new facility at or above the 100-year flood plain, a minimum of one on-site emergency access route must be provided that is located at the same elevation as the public access route.

e. New landscaping elements must be located so if damaged they will not block the on-site emergency access route to the facility. Outdoor signs and their foundations must be designed to meet the wind load criteria of the Florida Building Code.

f. New light standards and their foundations used for lighting the on-site emergency access route must be designed to meet the wind load criteria of the American Society of Civil Engineers (ASCE 7-98), 50 year recurrence interval of wind velocity with appropriate exposure category dependent on site location.

3. Structural standards. Wind load design of the building structure and exterior envelope including exterior wall systems must be designed in accordance with the Florida Building Code.

4. Roofing standards.

a. Roofing membrane material must resist the uplift forces specified in the Florida Building Code. Roof coverings must be installed according to the specifications provided by the manufacturer.

b. Loose-laid ballasted roofs are not permitted.

c. All new roof appendages such as ducts, tanks, ventilators, receivers, condensing units and decorative mansard roofs and their attachment systems must be structurally engineered to meet the wind load requirements of the Florida Building Code. All of these attachment systems must be connected directly to the underlying roof structure or roof support structure.

5. Exterior unit standards.

a. All exterior window units, skylights, exterior louvers and exterior door units, including vision panels and their anchoring systems, must be designed to resist the wind load requirements of the Florida Building Code and the debris impact requirements as specified by ss. 1626.2-1626.4.

b. Permanently attached protective systems such as shutters and baffling must be designed to meet the wind load requirements of the Florida Building Code and the debris impact requirements as specified by ss. 1626.2-1626.4.

c. Removable protective systems designed to fit intricately with the wall/window system of the facility, stored on-site at the facility, that meet the wind load requirements of the Florida Building Code and the debris impact requirements specified by ss. 1626.2-1626.4 may be used to protect the exterior units.

d. All anchoring and attachments to the building of both the permanently attached and removable protective systems must be designed to meet wind load requirements of the Florida Building Code and the impact requirements specified by ss. 1626.2-1626.4. These designs must be signed, sealed and dated by a Florida registered structural engineer.

e. The glazed openings inside or outside of the protective systems must meet the cyclical loading requirements specified by ss. 1626.2-1626.4.

f. All of the exterior impact protective systems must be designed and installed so that they do not come in contact with the glazing under uniform, impact or cyclic pressure loading. The location or application of exterior impact protective systems must not prevent required exit/egress from the building.

g. When not being used to protect the windows, the protective system must not restrict the operability (if provided) of the windows in the occupied resident bedrooms.

h. When not being used to protect the windows, the protective systems must not reduce the clear window opening below that required by the Florida Building Code for the resident room.

#### 6. Heating, Ventilation and Air Conditioning (HVAC) Standards.

a. Air moving equipment, condensing units, through-wall units and other HVAC equipment located outside of or on the roof of the facility are permitted only when either of the following are met:

i. They are located inside a penthouse designed to meet the wind load requirements of the Florida Building Code, or

ii. Their fastening systems are designed to meet the wind load requirements of the Florida Building Code and they and all associated equipment are protected, as specified in section 1626.2-1626.4, from damage by horizontal impact by a separate and independent structure that allows access to all parts of the equipment at all times.

b. All occupied resident areas and resident support areas must be supplied with sufficient HVAC as determined by the facility to ensure the health, safety and well-being of all residents and staff during and immediately following a disaster.

c. As determined by the licensee these selected HVAC systems and their associated support equipment, such as a control air compressor essential to the maintenance of the occupied resident and resident support area(s), must receive their power from the emergency power supply system(s).

d. Ventilation air change rates in occupied resident areas must be maintained as specified in this section during and immediately following a disaster.

e. Auxiliary equipment and specialties such as hydronic supply piping and pneumatic control piping must be located, routed and protected in such a manner as determined by the licensee to ensure the equipment receiving the services will not be interrupted.

#### 7. Plumbing standards.

a. There must be an independent on-site supply such as water well, or on-site storage capability such as empty water storage containers or bladders, of potable water at a minimum quantity of three gallons per resident served per day during and immediately following a disaster. Hot water in boilers or tanks must not be counted to meet this requirement.

b. There must be an independent on-site supply or storage capability of potable water at a minimum quantity of one gallon per facility staff, and other personnel in the facility per day during and immediately following a disaster. For planning purposes, the number of these personnel must be estimated by the licensee.

c. The licensee must determine what amount of water will be sufficient to provide for resident services, and must maintain an on-site supply or on-site storage of the determined amount.

d. When used to meet the minimum requirements of this rule, selected system appurtenances such as water pressure maintenance house pumps and emergency water supply well pumps must take power from the emergency power supply system.

8. Medical gas systems standards. The storage, distribution piping system and appurtenances must be contained within a protected area designed and constructed to meet the structural requirements of the Florida Building Code and debris impact requirements as specified by ss. 1626.2-1626.4.

9. Emergency electrical generator and essential electrical system standards. There must be an on-site Level I emergency electrical generator system designed to support occupied resident areas and resident support areas with at least the following support services:

a. Ice making equipment to produce ice for the residents or freezer storage equipment for the storage of ice for the residents.

b. Refrigerator units and food service equipment as required by the emergency food plan.

c. At a minimum, there must be one clothes washer and one clothes dryer for laundry service.

d. Selected HVAC systems as determined by the licensee and other systems required by the Florida Building Code.

e. An emergency generator system must be fueled by a fuel supply stored on-site sized to fuel the generator for 100 percent load for 64 hours or 72 hours for actual demand load of the occupied resident areas and resident support areas and resident support utilities during and immediately following a disaster, whichever is greater.

f. Fuel supply located below ground or contained within a protected area that is designed and constructed to meet the structural requirements of the Florida Building Code and debris impact requirements as specified by ss. 1626.2-1626.4. If an underground system is used, it must be designed so as to exclude the entrance of any foreign solids or liquids.

g. Fuel lines supporting the generator system that are protected with a method designed and constructed to meet the structural requirements of the Florida Building Code and debris impact requirements as specified by ss. 1626.2-1626.4.

h. Panel boards, transfer switches, disconnect switches, enclosed circuit breakers or emergency system raceway systems required to support the occupied resident area(s), resident support area(s) or support utilities which are contained within a protected area(s) designed and constructed to meet the structural requirements of the Florida Building Code and debris impact requirements as specified by ss. 1626.2-1626.4, and that do not rely on systems or devices outside of this protected area(s) for their reliability or continuation of service.

i. An emergency generator(s) that is air or self-contained liquid cooled and which along with, other essential electrical equipment is installed in a protected area(s) designed and constructed to meet the structural requirements of the Florida Building Code and debris impact requirements as specified by ss. 1626.2-1626.4.

j. If the facility does not have a permanent on-site optional standby generator to operate the normal branch electrical system, there shall be a permanently installed pre-designed electrical service entry for the normal branch electrical system that will allow a quick connection to a temporary electrical generator. This quick connection shall be installed inside of a permanent metal enclosure rated for this purpose and may be located on the exterior of the building.

10. Fire protection standards. If the facility requires fire sprinklers as part of its fire protection, one of the following must be met:

a. On-site water storage capacity to continue sprinkler coverage, in accordance with the requirements of NFPA 13, "Sprinkler Systems," fire watch, conducted in accordance with the requirements of NFPA 601.

b. If the facility provides a fire watch in lieu of water storage to continue sprinkler coverage, then one 4-A type fire extinguisher or equivalent must be provided for every three or less 2-A fire extinguishers required by NFPA 10, "Portable Extinguishers" for the area served. These additional extinguishers must be equally distributed throughout the area they are protecting.

11. External Emergency Communication. Each new facility must provide for an external electronic communication not dependent on terrestrial telephone lines, cellular, radio or microwave towers, such as on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group(s). This agreement must provide for a facility volunteer operator and communication equipment to be re-located into the facility in the event of a disaster until communications are restored. Other methods that can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission must be pre-approved by the Agency's Office of Plans and Construction.

Rulemaking Authority 400.967 FS. Law Implemented 400.967(2)(a) FS. History—New \_\_\_\_\_.

#### 59A-26.023 Disaster Preparedness.

(1) Each licensee must have a written plan with procedures to be followed in the event of an internal or externally caused disaster or emergency event. The initiation, development, and maintenance of this plan must be the responsibility of the facility administrator, and must be reviewed and approved by the County Emergency Management Agency. The plan must be reviewed and approved annually and include, at a minimum, the following:

(a) Basic information concerning the facility to include:

1. Name of the facility, address, telephone number, 24 hour contact number if different from the facility number, emergency contact telephone number, and fax number.

2. Name of the licensee of the facility, address, telephone number.

3. The year facility was built, including type of construction.

4. Name of administrator, address, work, home and other available telephone numbers.

5. Name, address, work, home and other available telephone numbers of persons implementing the provisions of this plan, if different from the administrator.

6. An organizational chart showing all positions with key emergency positions identified by title, name and telephone numbers at home and work and other available telephone numbers.

7. An organizational chart, if different from the previous chart required, identifying the hierarchy of authority in place during emergencies, and all positions on a day to day basis.

8. A description of the potential hazards that the facility is vulnerable to such as hurricanes, tornadoes, flooding, fires, hazardous materials incidents or transportation accidents, proximity to a nuclear power plant, power outages during severe cold or hot weather, including procedures for each of these hazards. Indicate past history and lessons learned.

9. Provide a copy of the Fire Safety Plan as stated in the Life Safety Code 2003 edition.

(b) Site specific information concerning the facility to include:

1. Number of facility beds and maximum number of residents on site.

2. Type of residents served by the facility to include, but not limited to, residents with seizure disorders, residents requiring special equipment such as wheelchairs, crutches, braces or other ambulatory assistance; residents with behavior or psychiatric disorders that may require one-to-one supervision; residents with special care needs such as oxygen, dialysis, or tube feeding.

3. Identification of the flood zone within which the facility is located as indicated on a Flood Insurance Rate Map.

4. Identification of the hurricane evacuation zone within which the facility is located.

5. Proximity of the facility to a railroad or major transportation artery (per hazardous materials incidents).

6. Whether the facility is located within the 10 or 50-mile emergency planning zone of a nuclear power plant. The 10 mile zone is called the Emergency Planning Zone (EPZ) and the 50 mile zone is called the Ingestion Pathway Zone (IPZ).

(c) Definition of management functions for emergency operations:

1. Identify by name and title, who is in charge during an emergency, and one alternate, should that person be unable to serve in that capacity.

2. Identify the chain of command to ensure continuous leadership and authority in key position.

3. Provide the procedures to ensure timely activation and staffing of the facility in emergency functions including any provisions for emergency workers' families.

4. Provide the operational and support roles for all facility staff. This may be accomplished through the development of standard operating procedures which must be attached to this plan.

5. Procedures to ensure the following are supplied:

a. Food, water and sleeping arrangements.

b. The type of emergency power, natural gas, diesel or other. If natural gas, identify alternate means should loss of power occur that would affect the natural gas system. Specify the capacity of the emergency fuel system.

c. Transportation of residents, staff and supplies.

d. Seventy-two hour supply of all essential supplies and resident medications.

e. 24-hour staffing on a continuing basis until the emergency has abated.

6. Procedures for the facility to receive timely information on impending threats and the alerting of facility decision makers, staff and residents to potential emergency conditions.

a. Define how the facility will receive warnings, to include, evenings, nights, weekends, and holidays.

b. Identify the facility 24-hour contact number, if different than the number listed in the introduction.

c. Define how key staff will be alerted.

d. Provide the procedures and policy for reporting to work for key workers.

e. Define how residents will be alerted and the precautionary measures that will be taken.

f. Identify primary notification and the alternative means of notification should the primary system fail for on duty and off duty staff.

g. Identify procedures for notifying the resident's representative that the facility is being evacuated, including contact information for continued communication.

7. Provide the policies, responsibilities and procedures for the evacuation of residents from the facility.

a. Identify the individual responsible for implementing facility evacuation procedures.

b. Identify and provide transportation arrangements through mutual aid agreements that will be used to evacuate residents. These agreements must be in writing, and copies of these agreements must be submitted during plan review.

c. Describe transportation arrangements for logistical support to include moving records, medications, food, water, equipment and other necessities. Provide copies of agreements if transportation is provided by other than the licensee.

d. Identify the pre-determined locations to which residents will be evacuated.

e. Provide a copy of the mutual aid agreement that has been entered into with a facility to receive residents. It must include name, address, telephone number and contact person for the host facility. It must include the number of evacuees to be sheltered, including residents, staff and family members.

f. Provide evacuation routes, maps, written instructions and secondary routes that will be used should the primary route be impassable.

g. Specify the amount of time it will take to evacuate all residents successfully to the receiving facility.

h. Provide the procedures that ensure facility staff will accompany evacuating residents.

i. Provide the procedures to include a log system that will be used to keep track of residents once they have been evacuated.

j. Determine the items and supplies and the amount of each that should accompany each resident during the evacuation. Provide for a minimum 72-hour stay, with provisions to extend this period of time if needed.

k. Provide procedures for notifying resident representatives of evacuation.

l. Provide procedures for ensuring all residents are accounted for and are out of the facility.

m. Describe when the facility will begin the pre-positioning of necessary medical supplies and provisions.

n. Describe when and at what point the mutual aid agreements for transportation and the notification of alternative facilities will begin.

8. Provide the procedures that specify prerequisites needed and the process for residents to re-enter the facility.

a. Identify the responsible person for authorizing re-entry to occur.

b. Provide procedures for inspecting the facility to ensure it is structurally sound.

c. Identify how residents will be transported from the receiving facility back to their home facility and how the facility staff will receive accurate and timely data on re-entry operations.

9. If the facility is to be used as a receiving facility for an evacuating facility, describe the sheltering or hosting procedures that will be used once the evacuating residents arrive.

a. Describe the receiving procedures for residents arriving from the evacuating facility.

b. Identify where the additional residents will reside. Provide a floor plan, which identifies the room area where residents will be housed, room size, and number of residents per room or area.

c. Identify provision of additional food, water and medical needs of residents being hosted for a minimum of 72 hours.

d. Describe the procedures for ensuring 24-hour operations.

e. Describe procedures for providing shelter for family members of key workers.

f. Provide procedures for tracking additional residents sheltered within the facility.

10. Identify the procedures for increasing employee awareness of possible emergency situations and provide training on the emergency roles before, during and after an emergency, and on an annual basis.

a. Identify how key workers will be instructed in their emergency roles during non-emergency times.

b. Provide a training schedule for all employees and identify the providers of the training.

c. Identify the provisions for training new employees regarding their disaster related roles.

d. Provide the schedule for exercising all or portions of the emergency plan on an annual basis with all staff and all shifts.

11. If the licensee evacuates, the licensee must immediately, but within no more than 24 hours upon completion of evacuation, report to the Agency's Long Term Care Unit in Tallahassee at (850)488-5861, the location and number of residents evacuated, and contact information for continued communication for the duration of the evacuation. In the event the Long Term Care Unit is unavailable to receive such information, contact the appropriate Agency field office.

Rulemaking Authority 400.967(2) FS. Law Implemented 400.967(2)(g) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kimberly Smoak, Agency for Health Care Administration,  
2727 Mahan Drive, Building 2, Mailstop #9-A, Tallahassee,  
FL 32308

NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Holly Benson, Secretary, Agency for  
Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 8, 2008

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE NO.: 60BB-8.204  
RULE TITLE: Uniform Attendance Policy for  
Funding the VPK Program

PURPOSE AND EFFECT: The purpose of the proposed rule development is to revise the Agency's Rule 60BB-8.204, Florida Administrative Code, in response to recent statutory changes.

SUMMARY: The proposed rule addresses the new legislation by ensuring that no more than 20 percent of the payment made for each student is for absences and requires providers to submit class schedules to ensure accuracy of payment.

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

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

RULEMAKING AUTHORITY: 1002.79(2) FS.

LAW IMPLEMENTED: 1002.71(6)(d) FS.

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

DATE AND TIME: August 18, 2009, 1:30 p.m. – 3:30 p.m. or until business is concluded

PLACE: 107 East Madison Street, Tallahassee, Florida 32399-4128, or (888)808-6959 Conference Code 921-3193

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kristin R. Harden, Assistant General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 60BB-8.204 follows. See Florida Administrative Code for the present text.)

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

(1) Attendance and Absences.

(a) For payment purposes, a private provider or school district shall report that a student attended all of the instructional hours offered for a day if the student attends any portion of the day whether the private provider or school district is determined to be in compliance or out of compliance with all VPK statutes and rules for the day.

(b) A private provider or school district may not receive payment for a student prior to the student's first day of attendance or after the student's last day of attendance.

(2) Monthly Payment and Final Reconciliation. Each early learning coalition shall pay private providers or school districts on a monthly basis for each VPK classroom in accordance with this rule unless a private provider or school district chooses to accept advance payments under Rule 60BB-8.205, F.A.C. Early learning coalitions shall make monthly payments by the last day of the month following the month for which the provider is receiving payment. Each early learning coalition shall calculate and reconcile monthly classroom payments using the Agency's statewide information system.

(a) Monthly payments shall be equal to the sum of the following calculation for each student who has attended the VPK class: the county's allocation per full-time equivalent student (calculated in accordance with Section 1002.71(3)(b), F.S.) divided by the number of hours for the VPK program type multiplied by the lesser of:

1. The sum of the hours within the month which each student attends the VPK program divided by .8; or

2. The hours the student is enrolled in the class for the month.

(b) The total program payment shall be equal to the sum of the following calculation for each student who has attended the VPK class except that the school district's payment shall be rounded in accordance with Section 1002.71(3)(d), F.S.: the county's allocation per full-time equivalent student divided by the number of hours for the VPK program type multiplied by the lesser of:

1. The sum of all the hours the student attends the program with the provider divided by .8.

2. The hours the student is enrolled with the provider for the program type.

(c) If the sum of the monthly payments made to the private provider or school district under paragraph (2)(a) is:

1. Less than the total program payment to the private provider or school district, the early learning coalition shall make a final reconciliation payment to the provider equal to the total program payment minus the sum of the monthly payments.

2. Greater than the total program payment to the private provider or school district, the difference shall be deemed an overpayment.

(d) If a private provider or school district disputes the calculation of the total program payment based on inaccurate attendance or absence reporting or calculation, it must submit a request for an adjustment of a prior no later than the last day of the month following the calendar month in which it receives payment.

(3) Establishing VPK Class Schedules. To ensure that private providers or school districts receive accurate payment for a student's attendance and absences when permissible under this rule, a private provider or school district shall submit a VPK class schedule for each VPK class to its early learning coalition in writing no later than the time the provider submits its class application. Private providers and school districts are not eligible to receive payment for hours of services unless the services are rendered during hours indicated on the VPK class schedule. A VPK class schedule shall:

(a) Be comprised of 540 hours for the school-year VPK program and 300 hours for the summer VPK program.

(b) Indicate the dates and times which instructional hours will be offered.

(c) For the school-year program:

1. Not begin instruction more than 14 days before Labor Day or, if the uniform date fixed by a district school board under Section 1001.42(4)(f), F.S., for the opening of public schools for regular school programs occurs in a county more than 14 days before Labor Day, a school-year program in the county may not begin instruction before the uniform date.

2. Complete instruction by June 30.

(d) For the summer program, not begin instruction before May 1 and complete instruction before the uniform date fixed by the district school board under Section 1001.42(4)(f), F.S., for the opening of public schools for regular school programs in the county.

(4) Modifying VPK Class Schedules.

(a) A private provider or school district may modify its schedule up to two times for any reason other than a temporary closure caused by emergency circumstances as described in subsection (5). A private provider or school district may modify its schedule as frequently as necessary to restore instructional days lost as a result of a temporary closure caused by emergency circumstances.



(b) To modify a VPK class schedule, a private provider or school district shall submit notice in writing to the coalition.

1. If the modification of the class schedule results from a closure other than a temporary closure caused by emergency circumstances, as described in subsection (5), a private provider or school district shall submit:

a. An initial notification of the closure before the coalition's close of business on the first day of the closure. Initial notification shall indicate the provider's name and address, the date(s) of the closure, the VPK class(es) affected by the closure, and, if available, an estimate of the date upon which the affected VPK class(es) will resume instruction.

b. A notification of schedule modification no later than two business days following resumption of VPK instruction. Notification of schedule modification and resumption of instruction shall indicate the provider's name and address, the class(es) resuming instruction, the date(s) which each VPK class did not offer instruction as previously scheduled, and a revised class schedule which indicates the date(s) and times added to the schedule as revised to restore the hours lost as a result of the closure.

2. If the modification of the class schedule results from a temporary closure caused by emergency circumstances, the private provider or school district shall submit a notification of schedule modification as described in sub-subparagraph (4)(b)1.b.

(c) If a private provider or school district fails to modify a VPK class schedule as required in this rule or fails to comply with the deadlines established for submission of notifications, the private provider or school district shall be ineligible to receive payment for those closures and shall forfeit the opportunity to revise its class schedule to restore the lost instructional hours for those closures.

(5) Closures.

(a) Temporary Closures Caused by Emergency Circumstances.

1. A student is considered to have attended all VPK program hours offered during a temporary closure caused by emergency circumstances for a combined total of five (5) instructional days for each VPK class if the private provider or school district submits notification in writing to the coalition the dates which the provider was closed.

a. A closure is temporary if the provider resumes instruction following the closure.

b. A closure is caused by emergency circumstances when a state of emergency is declared by federal, state or local officials for the area in which the provider is located.

2. A temporary closure caused by emergency circumstances is not payable for any student who does not attend a VPK instructional day following the closure.

3. A private provider or school district shall revise its class schedule to restore VPK instructional days which are lost due to temporary closures caused by emergency circumstances in excess of a total of five (5) instructional days for a VPK class.

4. A private provider or school district may revise its class schedule to restore the instructional days lost as a result of a temporary closure caused by emergency circumstances instead of accepting payment for a temporary closure.

(b) Temporary Closures Caused by Other Circumstances. A temporary closure is not payable unless it is caused by emergency circumstances. A private provider or school district shall revise its VPK class schedule and receive payment for days it restores in accordance with subsection (4) following a closure.

(6) Overpayment.

(a) If the coalition determines that a private provider or school district received payment in an amount greater than the amount earned by the provider, resulting in a negative reconciliation payment calculation, the coalition shall make reasonable efforts to collect the overpayment from the provider. Reasonable efforts may include but are not limited to informing the provider of the full amount owed, making written requests for repayment, offering to negotiate a repayment schedule, and offsetting the overpayment against any future payments for early learning programs.

(b) If the coalition is unable to arrange for collection of the overpayment within ninety (90) calendar days of determining that the provider has received an overpayment and after making a reasonable effort, as determined by the Agency, the coalition shall provide all information necessary for the Agency to act to collect the overpayment. The Agency retains the ability to require the coalition to make continued efforts toward recovery of the overpayment or to consider the overpayment to be a disallowed expenditure of the coalition.

Rulemaking Specific Authority 1002.79(2) FS. Law Implemented 1002.71(6)(d) FS. History—New 8-17-06, Amended 5-24-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Kristin R. Harden  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia R. Lorenzo  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-20.001  
 RULE TITLE: Definitions

PURPOSE AND EFFECT: To revise the definition of Board approved engineering programs.

SUMMARY: The Board proposes to revise the definition of Board approved engineering programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 471.008, 471.013(1)(a)3., 471.015(7) FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.001 Definitions.

As used hereinafter in this chapter the following words or phrases shall be defined as follows:

(1) "Year" shall mean 12 months of full-time employment or a full-time academic year of graduate or undergraduate college education.

(2) "Board approved engineering programs" shall mean:

(a) Engineering programs accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc. (EAC/ABET), or

(b) In the case of an applicant who did not graduate from an approved program as set forth in paragraph (2)(a) above, and who holds a baccalaureate degree from an engineering program that is not accredited by EAC/ABET, provided the applicant meets the educational requirements set forth in subsection 61G15-20.007(1), F.A.C., or

(c) In the case of an applicant who holds a post-baccalaureate degree from a school or college in the United States which has an EAC/ABET accredited engineering program in a related discipline at the baccalaureate level, provided the applicant meets the educational requirements set forth in subsection 61G15-20.007(1), F.A.C., or

(c) Programs which have been approved by the Board of Professional Engineers under the provisions of Section 455.11(3), F.S.

Rulemaking Specific Authority 471.008, 471.013(1)(a)3., 471.015(7) FS. Law Implemented 471.013(1)(a), 471.015 FS. History—New 1-8-80, Amended 4-15-80, 7-7-83, 9-13-83, Formerly 21H-20.01, Amended 4-20-86, 8-3-86, 5-20-92, 2-2-93, Formerly 21H-20.001, Amended 11-19-03, 3-13-05, 4-9-07, 1-31-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2008

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-20.007 RULE TITLE: Demonstration of Substantial Equivalency

PURPOSE AND EFFECT: To revise the list of approved evaluators.

SUMMARY: The Board proposes to revise the list of approved evaluators.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 471.008, 471.013(1)(a)3., 471.015(7) FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.007 Demonstration of Substantial Equivalency.

(1) through (2) No change.

(3) The applicant with an engineering degree from a foreign institution must request an evaluation of substantial equivalency of his or her credentials to EAC/ABET standards through either ~~Engineering Credentials Evaluation International, 111 Market Place, #171, Baltimore, Maryland 21202;~~ Center for Professional Engineering Education

Services, P. O. Box 720010, Miami, Florida 33172; or Joseph Silny & Associates, Inc., P. O. Box 248233, Coral Gables, Florida 33124. The applicant with an engineering degree from a domestic engineering program not accredited by EAC/ABET must request such an evaluation from Josef Silny & Associates, Inc., or Center for Professional Engineering Education Services.

(4) Any applicant whose only educational deficiency under subsection (2) involves humanities and social sciences shall be entitled to receive conditional approval to take the Fundamentals examination. Such an applicant shall not become eligible for the Principles and Practice examination until satisfactory completion and documentation of the necessary hours in humanities and social sciences as provided in subsection (2).

~~Rulemaking Specific~~ Authority 471.008, 471.013(1)(a)3., 471.015(7) FS. Law Implemented 471.013, 471.015 FS. History—New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, 1-6-02, 6-13-02, 6-30-02, 10-2-03, 6-16-04, 3-13-05, 5-1-05, 6-11-06, 1-29-07, 4-9-07, 1-31-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2008

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-1.003                      RULE TITLE: Chairperson  
PURPOSE AND EFFECT: The Board proposes the rule amendment in order to remove the language concerning the number of board members required to constitute a quorum because the requirements are set by statute.  
SUMMARY: Language concerning what constitutes a quorum will be deleted due to the fact that the requirements are already set by statute.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.  
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
RULEMAKING AUTHORITY: 475.614 FS.  
LAW IMPLEMENTED: 455.207, 475.613 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas W. O’Bryant, Jr., Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-1.003 Chairperson.

The chairperson is the chief officer of the board and presides at all hearings and conferences, when present. In the absence of the chairperson, the vice chairperson presides. The chairperson and vice chairperson shall be elected by the members of the board at the first meeting of each year. ~~Four members of the board shall constitute a quorum to do business.~~

~~Rulemaking Specific~~ Authority 475.614 FS. Law Implemented 455.207, 475.613 FS. History—New 10-15-91, Formerly 21VV-1.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Appraisal Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 26, 2009

**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 CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE NO.: 65A-4.203                      RULE TITLE: Personal Care of a Disabled Family Member  
PURPOSE AND EFFECT: The proposed rule amendment adopts changes in the federal final rule reauthorizing the Temporary Assistance for Needy Families Program. School attendance by a disabled family member is no longer a factor when assessing whether alternative care exists for the approval of a need for care exclusion under 45 C.F.R. §261.2(n)(2)(i). The proposed rule amendment also revises CF-ES 2094, allows the caregiver to provide either a verbal or written statement regarding their need to provide care and to a lack of alternative care, removes the requirement to document attempts to get alternative care and removes the full-time care

requirement. Included in this proposed rule amendment are some wording changes and technical changes of a non-substantive nature improving the overall content of the rule.

SUMMARY: The proposed rule addresses the time limit and work exemption for participation in the cash assistance program by an individual responsible for providing care for a disabled family member.

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

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

RULEMAKING AUTHORITY: 414.45, 414.065(4)(g) FS.

LAW IMPLEMENTED: 414.105(9) FS.

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

DATE AND TIME: August 17, 2009, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room, 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.203 Personal Care of a Disabled Family Member.

(1) Family Member. ~~A family member is defined as any individual related to any member of the assistance group by blood or marriage. The disabled family member must reside in the home with the caregiver. The family member with the disability can may be a child or any adult member of the family, whether or not this person is a Temporary Temporary Cash Assistance (TCA) recipient participant.~~

(2) Disability. In order for an individual to receive an exemption to program time limits due to their an individual's responsibility to for care for of a disabled family member to be granted, the disability must be verified. Acceptable vVerification is satisfied when the family member's receipt of member receives temporary or permanent disability benefits issued by a government or private source, or a statement by a physician or licensed or certified psychologist certifying that the family member is disabled or Part B of. ~~Verification of the family member's disability may be provided on the Statement of the Need for Care, CF-ES 2094, 06/2009, Apr. 07 incorporated by reference.~~

(3) Need for Personal Care. The disabled family member must require the physical presence of the individual to provide care, supervision, or arrange services, typically during the family member's waking hours. Personal care of the family member includes the provision of daily care services, supervision of care, and transportation. Verification of the family member's need for personal care ~~must may be provided verbally or in writing or by completing Part A of the on the Statement of the Need for Care, CF-ES 2094.~~ Any of the following will also be accepted as verification of disability and the need for personal care services:

- (a) Receipt of hospice services;
  - (b) Receipt of Home and Community Based Services' waiver assistance (~~HCBS~~);
  - (c) Receipt of Home Care for the Elderly (~~HCE~~) or Home Care for Disabled Adults (~~HCDA~~);
  - (d) A statement by a physician licensed under Chapter 458 or 459, F.S., which includes a diagnosis of disability necessitating ~~full-time~~ care and a prognosis estimating the length of the disability;
  - (e) A Comprehensive Assessment and Review for Long-Term Care Services (~~CARES~~) disability approval prepared by Department of Elder Affairs' staff;
  - (f) A ~~Multi-Handicapped Multiple Handicap~~ Assessment Team (~~MHAT~~) evaluation from Department of Health, Children's Medical Services' staff;
  - (g) Receipt of Multiple Disciplinary Development Services; and
  - (h) Verification by a children's mental health or substance abuse provider certifying that a child meets the criteria for serious emotional disturbance or psychoactive substance use disorder, and a statement by a licensed psychiatrist indicating the need for ~~full-time~~ care or supervision of the child that includes a DSM-IV diagnosis, recommended treatment for the child and ~~caregiver caretaker~~, and prognosis indicating the estimated length of time ~~such care is may be~~ needed.
- (4) Alternative Care. The caregiver must indicate a lack of alternative care in both the local community and from other family members verbally or in writing or by completing Part A of the CF-ES 2094. ~~Depending upon the nature of the disability, documentation of attempts to provide alternative care must be provided. Alternative care might may not be available because the service to meet a specific need does not exist in the community or the cost of the service is prohibitive. Full-time school attendance by a disabled family member will be considered an alternative care arrangement, and as such, a parent or caretaker relative will not receive a time limit exemption. Full-time school attendance is defined by the educational institution. A parent or caretaker relative may receive a time limit exemption during a summer school break if no other alternative care arrangement is available.~~

(5) Co-existing Conditions. Each of the conditions detailed in subsections ~~65A-4.203(2)~~ through (4) above; F.A.C., must exist in order for an exemption from assistance time limits due to the provision of care for a disabled family member to be granted.

(6) Welfare Transition Employment and Training. Care of a family member with a disability is an exemption from considered good cause for not meeting program work activity requirements. Individuals meeting the criteria for an exemption from the time limits are not required to work register. ~~A parent or caretaker relative of a disabled family member who attends school full time will be considered to be work eligible in accordance with 45 C.F.R. §261.2(n)(2)(i), will not meet the criteria for an exemption from the time limit, and must work register.~~

(7) Two Parent Families. When two or more able-bodied parents live in the household with the disabled family member, only one parent will be allowed an exemption to program time limits due to responsibility for care of a disabled family member.

(8) Periodic Evaluation of Exemption. The exemption from time limits will be reevaluated annually for TCA temporary cash assistance.

(9) A copy of the CF-ES 2094 ~~is available. Statement of the Need for Care may be obtained~~ from the ACCESS Florida Headquarters Office Department of Children and Family Services, ACCESS Florida, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700 or on the Department's web site at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormSearch.aspx>.

Rulemaking Specific Authority 414.45, 414.065(4)(g) FS. Law Implemented 414.105(9) FS. History--New 4-27-99, Amended 9-3-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Nathan Lewis  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2008

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF STATE**

**Division of Library and Information Services**

RULE NO.:                      RULE TITLE:  
1B-2.011                      Library Grant Programs

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. 35, No. 20, May 22, 2009 issue of the Florida Administrative Weekly.

The rule has been changed to delete three specific authority references. The rule also incorporates by reference guidelines and forms relating to the State Aid to Libraries Grant Program. Changes have been made to the guidelines and forms for the State Aid to Libraries Grant Program in response to comments received. Copies of the full text of the changes may be obtained by contacting Marian Deeney by mail at R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399, by phone at (850)245-6620, or by e-mail at mdeeney@dos.state.fl.us;

THE FULL TEXT OF THE RULE IS:

1B-2.011 Library Grant Programs.

(1) This rule provides procedures for library grant programs administered by the Division of Library and Information Services (Division). Each program shall be governed by guidelines which contain information on eligibility requirements, application review procedures, evaluation and funding criteria, grant administration procedures, if applicable, and application forms. All grant awards shall be subject to final approval by the Secretary of State.

(2) Applicants for grants shall meet the eligibility and application requirements as set forth in the following guidelines for each grant program:

(a) The State Aid to Libraries Grant Guidelines and Application, effective 4-1-98, amended 11-20-01, amended 12-28-03, amended 2-21-07, amended xx-xx-xxxx, which contain guidelines and application forms, State Aid to Libraries Grant Application (Form DLIS/SA01), effective 4-1-98, amended 12-28-03, amended xx-xx-xxxx; State Aid to Libraries Grant Application – Multicounty Library (Form DLIS/SA02), effective 4-1-98, amended 12-28-03, amended xx-xx-xxxx; Grant Agreement, effective 12-28-03, amended xx-xx-xxxx; Certification of Credentials – Single Library Administrative Head (Form DLIS/SA03), effective 4-1-98, amended 12-28-03, amended xx-xx-xxxx; State Aid to Libraries Grant Application – Summary Financial Report (Form DLIS/SA04), effective 4-1-98, amended 12-28-03, amended xx-xx-xxxx; State Aid to Libraries Required Documents Checklist (Form DLIS/SA05), effective xx-xx-xxxx.

(b) The Library Construction Grant Guidelines and Application, effective 4-1-98, amended 2-14-99, amended 1-9-03, amended 2-21-07, which contain instructions, grant application (Form DLIS/PLC01), effective 4-1-98, amended 2-14-99, amended 4-4-00, amended 12-18-00, amended 1-9-03; Payment Request #1 (Form DLIS/PLC02) effective