

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to determine whether there are circumstances in which a CPA, licensed in another state, would not be required to obtain a temporary license to perform a specific engagement in Florida.

SUBJECT AREA TO BE ADDRESSED: Temporary License.  
 RULEMAKING AUTHORITY: 473.304, 473.305, 413.314 FS.

LAW IMPLEMENTED: 473.314, 473.315 FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

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

**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."

## Section II Proposed Rules

**DEPARTMENT OF LEGAL AFFAIRS**  
**Division of Victim Services and Criminal Justice Programs**  
 RULE NO.:                      RULE TITLE:

2A-3.002                      Application and Payment Procedures  
 PURPOSE AND EFFECT: To clarify procedures and documentation for payment of forensic sexual assault examinations.

SUMMARY: This rule provides the documentation requirements and procedures for claims for payment of the initial forensic medical examination for victims of alleged sexual offenses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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: 960.045(1)(b) FS.  
 LAW IMPLEMENTED: 960.28 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gwen Roache, Chief, Bureau of Victim Compensation, Office of the Attorney General, PL-01, The Capitol, Tallahassee, FL 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-3.002 Applicant and Payment Procedures.

~~Application and payment procedures for sexual assault examinations are provided on the form entitled "Sexual Battery Claim Form," DVS 201, (Rev. 07/07), effective 1/16/08, which is incorporated in this rule by reference.~~

(1) Application for payment of the initial forensic sexual assault examination shall include the following:

- (a) Patient Information: Name, date of birth, and gender of the individual being examined.
- (b) Forensic Facility Information: Name of facility, federal identification number, mailing address and telephone number.
- (c) Date of the offense (if known), and
- (d) Date of the examination.

(2) The examination must be administered by a person authorized in Section 960.28(2), F.S., for whom the following must be provided:

- (a) Typed or legible printed name of the forensic examiner,
- (b) Examiner's title and license number,
- (c) Examiner's signature, and
- (d) Date of signature.

(3) The application must be witnessed (signed and dated) by another individual employed with the facility as verification the examination was performed. The witness' name should be typed or printed below their signature.

(4) Application for payment must be accompanied by an itemized bill (CMS, HCFA, or UB health insurance form or other standardized invoice). The itemized bill must include the following:

- (a) Name of the facility used for the examination,
- (b) Date of the examination,
- (d) Patient's name,
- (e) Examination code V71.5 and any of the CPT codes noted below.

(5) Payment for the examination is limited to the International Classification of Disease (ICD-9) code for examination of the victim of sexual battery (V71.5), and some or all of the following:

- (a) Physician/ARNP office or other outpatient services; emergency department services – CPT codes 99201, 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215, 99281, 99282, 99283, 99284, 99285.

(b) Venipuncture for the collection of whole blood samples – CPT codes 36406, 36415.

(c) Laboratory tests for baseline sexually transmitted disease and pregnancy – CPT codes, 81025, 84702, 84703, 86280, 86317, 86592, 86593, 86631, 86781, 87070, 87081, 87110.

(d) Use of medical facility for the initial forensic physical evidence collection examination – CMS/HCFR Revenue Code 450 or 510.

(e) Forensic evidence collection kit – CMS/HCGA Revenue Code 270.

(6) Applications must be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, Florida 32399-1050 or faxed to (850)487-1595, (850)487-2625, or (850)414-5779 within 120 days after the date of the initial forensic physical examination.

(7) Corrections or technical defects in an application shall not result in a change to the original filing date for purposes of complying with the filing deadline.

(8) A victim shall not be required to file a claim for the initial physical examination with a health or disability insurance carrier.

Rulemaking Specific Authority 960.045(1) FS. Law Implemented 960.28 FS. History—New 11-1-92, Amended 9-13-94, 9-26-95, 6-19-96, 9-24-97, 2-3-00, 3-17-03, 1-16-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gwen Roache

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Bill McCollum

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 7, 2010

**DEPARTMENT OF TRANSPORTATION**

RULE NOS.:	RULE TITLES:
14-90.002	Definitions
14-90.004	Bus Transit System Operational Standards
14-90.0041	Medical Examinations for Bus Transit System Drivers
14-90.006	Operational and Driving Requirements
14-90.007	Vehicle Equipment Standards and Procurement Criteria
14-90.009	Bus Safety Inspections
14-90.010	Certification
14-90.012	Safety and Security Inspections and Reviews

PURPOSE AND EFFECT: Rule Chapter 14-90, F.A.C., is being amended to incorporate updated federal standards, as well as clarify safety and procedural requirements for bus transit systems. Guidelines for the use of wireless communications devices are established.

SUMMARY: Definitions, medical examination certificates, and driver safety issues for bus transit systems are being amended.

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: 334.041(3), 334.031, 334.044(2), 334.061 FS.

LAW IMPLEMENTED: 119.071(3), 334.044(12), 334.044(28), 341.041(3), 341.061 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: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-90.002 Definitions.

Terms used in this Rule Chapter shall mean as defined in Section 341.031, F.S. In addition:

(1) “Bus” means any motor vehicle, other than a taxicab, which is designed or constructed, and used for the public transport of persons for compensation and. ~~For purposes of this rule chapter, a bus means a public sector bus which~~ is owned, operated, leased, or controlled by a bus transit system. Buses are designated in two categories:

(a) Type I ~~means:~~ Over 22 feet in length, including bumpers.

(b) Type II ~~means:~~ 22 feet or less in length, including bumpers and. ~~This category shall include~~ paratransit type vehicles, such as minibuses, standard vans, modified vans, station wagons, and sedans.

(2) “Bus Transit System” means a community transportation coordinator; a public transit provider; or a private contract transit provider which owns, operates, leases, or controls buses or taxicabs where such transportation consists of continuous or recurring transportation under the same contract; or a privately owned or operated transit provider that receives operational or capital funding from the Department

and owns, operates, leases, or controls buses, other than nonpublic sector buses, ~~defined in Section 316.003, F.S., that provides~~ provide transportation services available for use by the general riding public.

(3) "Community Transportation Coordinator" means a provider of transportation services or an entity that ensures such services are provided by another bus transit system.

(4) "Department" means the ~~State of~~ Florida Department of Transportation.

(5) "Drive" or "Operate" ~~means are terms which include~~ all time spent at the controls of a bus in operation.

(6) "Driver" means any person trained and designated to drive a bus on a street or highway ~~which is~~ being used for the public transport of persons for compensation.

(7) "FMVSS" means the Federal Motor Vehicle Safety Standards in effect at the time the bus or component is manufactured.

(8) "For Compensation" means for money, property, or ~~of~~ anything else of value whether paid, received, or realized, directly or indirectly.

(9) "Manufacturer" means the original producer of the chassis, the producer of any type of bus, or the producer of equipment installed on any bus for the purpose of transporting individuals with disabilities.

(10) "Off-Duty" means any time the driver is not on duty, required to be in readiness to work, or under any responsibility to perform work. Such time shall not be counted towards the maximum allowed on-duty hours within a 24-hour period.

~~(11)(40)~~ "On-Duty" means the status of the driver from the time he or she begins work, or is required to be in readiness to work, until the time the driver is relieved from work and all responsibility for performing work. "On-Duty" includes all time spent by the driver as follows:

(a) Waiting to be dispatched at bus transit system terminals, facilities, or other private or public property, unless the driver has been completely relieved from duty by the bus transit system.

(b) Inspecting, servicing, or conditioning any vehicle.

(c) Driving.

(d) Remaining in readiness to operate a vehicle (stand-by).

(e) Repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle.

~~(12)(41)~~ "Passenger" means a person who is on board, boarding, or alighting from a bus for the purposes of public transport.

(13) "Paratransit" means those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the provider of the service. Paratransit service is provided by taxis,

limousines, "dial-a-ride" buses, and other demand-responsive operations that are characterized by their nonscheduled, non-fixed route nature.

~~(14)(42)~~ "Safe Condition" means a condition where hazards are reduced to the lowest level feasible and through the most effective use of available resources and where substantial compliance exists with all safety rules, regulations, and requirements.

~~(15)(43)~~ "Safety Review" means an on-site assessment to determine if a bus transit system has adequate safety management controls in place and functioning in accordance with the that meet safety standards provided and incorporated by reference in this rule chapter.

~~(16)(44)~~ "Security" means freedom from harm resulting from intentional acts against passengers, employees, equipment, and facilities.

~~(17)(45)~~ "Security Program Plan" or "SPP" (~~"SSPP"~~) means a document developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures for the protection and defense of the system and persons from intentional acts of harm.

~~(18)(46)~~ "Security Review" means an on-site assessment to determine if a bus transit system has security management controls in place and functioning in accordance with the that meet security requirements provided in this rule chapter.

~~(19)(47)~~ "System Safety Program Plan" or "SSPP" (~~"SSPP"~~) means a document developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures against injuries or damage.

~~(20)(48)~~ "Taxicab" means any motor vehicle of nine passenger capacity or less, including the driver, engaged in the general transportation of persons for compensation ~~on occasional trips, not on a regular schedule, or between fixed termini, or over regular routes, where such vehicle does not provide transportation services as a result of a contractual agreement with a bus transit system.~~

~~(21)(49)~~ "Trailer Bus" means a trailing or towed vehicle designed or used for the transportation of more than 10 persons, e.g., tram buses.

(22) "Twenty-four Hour Period" or "24-Hour Period" means the consecutive time beginning at 12:00.01 a.m. to 12:00.00 a.m.

~~(23)(20)~~ "Unsafe Condition" means anything ~~or circumstance~~ which endangers human life or property.

(24) "Personal wireless communications device" means an electronic or electrical device that was not provided by the bus transit system for business purposes.

(25) "Use of a wireless communications device" means use of a mobile telephone or other electronic or electrical device, hands-on or hands-free, to conduct an oral communication; to place or receive a telephone call; to send or read electronic mail or a text message; to play a game; to navigate the Internet; to play, view, or listen to a video; to play,

view, or listen to a television broadcast; to play or listen to music; or to execute a computational function. Use of an electronic or electrical device that enhances the individual's physical ability to perform, such as a hearing aid, is not included in this definition.

(26) "Wireless communication device" means an electronic or electrical device capable of remote communication. Examples include cell phones, personal digital assistants (PDAs) and portable computers (commonly called laptop computers).

Rulemaking Specific Authority 334.044(2), 341.061(2)(a), ~~341.041(3), 341.031~~ FS. Law Implemented 341.041(3), 341.061(2) FS. History--New 9-7-87, Amended 11-10-92, 8-7-05, \_\_\_\_\_.

#### 14-90.004 Bus Transit System Operational Standards.

(1) Each bus transit system shall develop and adopt an SSPP that complies with or exceeds the, ~~at a minimum,~~ with established safety standards set forth in this rule chapter.

(a) The SSPP shall address the following safety elements and requirements:

1. Safety policies and responsibilities.
2. Vehicle and equipment standards and procurement criteria.
3. Operational standards and procedures.
4. Bus driver and employee selection.
5. Driving requirements.
6. Bus driver and employee training. As part of the driver training program, specific procedures and training shall be implemented to instruct the driver on how to safely approach and depart from a transit bus stop to avoid contact with pedestrians and other hazards.
7. Vehicle maintenance.
8. Investigations of events described under subsection 14-90.004(5), F.A.C.
9. Hazard identification and resolution.
10. Equipment for transporting wheelchairs.
11. Safety data acquisition and analysis.

12. A wireless communication plan and procedure that provides for the safe operation of the bus transit vehicle. The wireless communication plan and procedure shall assure that:

- a. The use of a personal wireless communication device is prohibited while the transit vehicle is in motion, and
- b. All personal wireless communications devices are turned off with any earpieces removed from the operator's ear while occupying the driver's seat.

13. A policy on the use of a wireless communications device issued to the operator by the bus transit system for business related purposes. Policies developed shall assure that:

- a. Guidelines are developed that allow for the use of a wireless communications device in emergency situations, and
- b. The use of a wireless communications device does not interfere with the operator's safety related duties.

14. The Bus Transit System shall develop a driver educational training program addressing:

- a. The proper use of a wireless communications device issued to the operator by the Bus Transit System while in the performance of their safety related duties, and
- b. The hazards associated with driving and utilizing a wireless communications device.

~~15.42-~~ Safety standards for private contract bus transit system(s) that provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.

(b) Each bus transit system shall implement and comply with the SSPP during the operation of the system.

(c) Each bus transit system shall require that all operable transit buses be inspected at least once per year ~~annually~~ in accordance with established standards.

(d) Each bus transit system shall ~~annually~~ submit an annual a safety certification to the Department verifying the following:

1. Adoption of an SSPP, which meets or exceeds the ~~in accordance, at a minimum, with~~ established standards set forth in this rule chapter.

2. Compliance with its adopted SSPP and that safety inspections have been performed at least once a year ~~annually~~ on all buses operated by the bus transit system, by persons meeting the requirements set forth in ~~of~~ Rule 14-90.009, F.A.C.

(e) Bus transit systems shall immediately suspend affected system service operations if, at any time, continued operation of the system, or a portion thereof, ~~is unsafe for passenger service or poses~~ an immediate a potential danger to public safety.

(2) Each bus transit system shall develop and adopt an SPP that meets or exceeds the ~~complies, at a minimum, with~~ security requirements set forth in this rule chapter. The SPP shall be adopted separately from the SSPP.

(a) The SPP shall address the following security requirements:

1. Security policies, goals, and objectives.
2. Organization, roles, and responsibilities.
3. Emergency management processes and procedures for mitigation, preparedness, response, and recovery.
4. Procedures for investigation of events described under subsection 14-90.004(5), F.A.C.
5. Procedures for the establishment of interfaces with emergency response organizations.
6. Procedures for interagency coordination with local law enforcement jurisdictions.
7. Employee security and threat awareness training programs.
8. Security data acquisition and analysis.
9. ~~Conduct and participate in~~ Emergency preparedness drills and exercises.

10. ~~Security R~~requirements for private contract transit providers ~~provider(s)~~ that engage in provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.

11. Procedures for SPP maintenance and distribution.

(b) Each bus transit system shall implement and comply with the SPP during the operation of the system.

(c) Bus transit systems that engage in a contract with a private contract transit ~~provider provider(s)~~ shall:

1. Establish minimum security requirements which apply to private contract transit ~~providers provider(s)~~.

2. Monitor and assure that each private contract transit provider complies with established security requirements during the term of the contract.

(d) ~~Disclosure~~. Bus transit systems are prohibited by Section 119.071(3)(a), Florida Statutes, from publicly disclosing the SPP or the security portion of the SSPP, as applicable, under any circumstance.

(3) Bus transit systems shall establish criteria and procedures for the selection, qualification, and training of all drivers. The criteria shall include the following:

(a) Driver qualifications and background checks meeting ~~with~~ minimum hiring standards.

(b) Driving and criminal background checks for all new drivers.

(c) Verification and documentation of valid driver licenses for all employees who drive buses.

(d) Training and testing to demonstrate and ensure adequate skills and capabilities to safely operate each type of bus or bus combination before driving on a street or highway unsupervised. As a minimum requirement. ~~At a minimum~~, drivers shall be given explicit instructional and procedural training and testing in the following areas:

1. Bus transit system safety and operational policies and procedures.

2. Operational bus and equipment inspections.

3. Bus equipment familiarization.

4. Basic operations and maneuvering.

5. Boarding and alighting passengers.

6. Operation of wheelchair lifts and other special equipment ~~and driving conditions~~.

7. Defensive driving.

8. Passenger assistance and securement.

9. Handling of emergencies and security threats.

10. Security and threat awareness.

11. Driving conditions.

(e) Bus transit systems shall provide written operational and safety procedures to all bus drivers before driving on streets or highways ~~a street or highway~~ unsupervised. At a minimum, ~~These procedures and instructions shall address, at a minimum,~~ the following:

1. Communication and handling of unsafe conditions, security threats, and emergencies.

2. Familiarization and operation of safety and emergency equipment, wheelchair lift equipment, and restraining devices.

3. Application and compliance with all applicable federal and state laws, rules, and regulations.

(f) The provisions in paragraphs (d) and (e), above, shall not apply to personnel licensed and authorized by the bus transit system to drive, move, or road test a bus in order to perform repairs or maintenance services when where it has been determined that such temporary operation does not create ~~an~~ unsafe operating conditions condition or create a hazard to public safety.

(g) Bus transit systems shall maintain the following records for at least four years:

1. Records of bus driver background checks and qualifications.

2. Detailed descriptions of training administered and completed by each bus driver.

3. A record of each bus driver's duty status which shall include total days worked, on-duty hours, driving hours, and time of reporting on and off duty each day.

(h) Each bus transit system shall establish a drug-free workplace policy statement in accordance with 49 C.F.R. Part ~~32~~ 29 and a substance abuse management and testing program in accordance with 49 C.F.R. Parts 40 and 655, October 1, ~~2009~~ 2004, hereby incorporated by reference.

(i) Bus transit systems shall require that drivers write and submit a daily bus inspection report pursuant to Rule 14-90.006, F.A.C.

(4) ~~Bus Maintenance~~. Bus transit systems shall establish a maintenance plan and procedures for preventative and routine maintenance for all buses operated. The maintenance plan and procedures shall assure that:

(a) ~~That All~~ buses operated, and all parts and accessories on such buses, including those specified in Rule 14-90.007, F.A.C., and any additional parts and accessories which may affect safety of operation, including frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems, are regularly and systematically inspected, maintained, and lubricated to standards that meet or exceed in accordance with the standards developed and established, at a minimum, according to the bus manufacturer's recommendations and requirements.

(b) ~~A~~ ~~That~~ a recording and tracking system is established for the types of inspections, maintenance, and lubrication intervals ~~documenting including~~ the date or mileage when these services are due. Required maintenance inspections shall be more comprehensive than daily inspections performed by the driver.

(c) ~~That~~ ~~P~~proper preventive maintenance is performed when a bus is assigned away from the system's regular maintenance facility; or when maintenance services are performed under contract.

(d) ~~That~~ ~~R~~ecords are maintained and provide written documentation of preventive maintenance, regular maintenance, inspections, lubrication, and repairs performed for each bus under their control. Such records shall be maintained by the bus transit system for at least four years and, at a minimum, provide ~~include at a minimum,~~ the following information:

1. Identification of the bus, the ~~including~~ make, model, and license number, or other means of positive identification and ownership.

2. Date, mileage, description, and each type of inspection, maintenance, lubrication intervals, or repair performed.

~~3. Date, mileage, and description of each inspection, maintenance, and lubrication intervals performed.~~

~~3.4.~~ If not owned by the bus transit system, the name of any person ~~or lessor~~ furnishing a ~~any~~ bus.

~~4.5.~~ The name and address of any entity or contractor performing an inspection, maintenance, lubrication, or repair.

(5) Each bus transit system shall investigate, or cause to be investigated, any event involving a bus or taking place on bus transit system controlled property resulting in a fatality, injury, or property damage as follows:

(a) A fatality, where an individual is confirmed dead within 30 days of a bus transit system related event, excluding suicides and deaths from illnesses.

(b) Injuries requiring immediate medical attention away from the scene for two or more individuals.

(c) Property damage to bus transit system buses ~~bus(es)~~, non-bus transit system vehicles, other bus system property or facilities, or any other property, ~~except~~ The bus transit system shall have the discretion to investigate events resulting in property damage less than \$1,000.

(d) Evacuation of a bus due to a life safety event where there is imminent danger to passengers on the bus, excluding evacuations due to operational issues.

(6) Each investigation shall be documented in a final report that includes a description of investigation activities, identified causal factors, and any identified corrective action plan.

(a) Each corrective action plan shall identify the action to be taken by the bus transit system and the schedule for its implementation.

(b) The bus transit system shall ~~must~~ monitor and track the implementation of each corrective action plan.

(7) Investigation reports, corrective action plans, and related supporting documentation shall be maintained by the bus transit system for a minimum of four years from the date of completion of the investigation.

Rulemaking Authority 334.044(2), 341.061(1)(a), ~~341.061(2)~~ FS. Law Implemented 119.071, 341.041(3), 341.061(1)(b), ~~341.061(2)~~, 341.061(2)(a) FS. History—New 9-7-87, Amended 11-10-92, 8-7-05, 6-24-08, \_\_\_\_\_.

#### 14-90.0041 Medical Examinations for Bus Transit System Drivers.

(1) Bus transit systems shall establish medical examination requirements for all applicants to ~~for~~ driver positions and for existing drivers. The medical examination requirements shall include a pre-employment examination for applicants, an examination at least once every two years for existing drivers, and a return to duty examination for any driver prior to returning to duty after having been off duty for 30 or more days due to an illness, medical condition, or injury.

(2) Medical examinations shall ~~may~~ be performed and recorded according to qualification standards adopted by the bus transit system, provided the medical examination qualification standards adopted by the bus transit system meet or exceed those provided in Department Form Number 725-030-11, Medical Examination Report for Bus Transit System Driver, Rev. 05/09 ~~Rev. 07/05~~, hereby incorporated by reference. Copies of Form Number 725-030-11 are available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450 or on-line at: www.dot.state.fl.us/transit.

(3) Medical examinations shall be performed by a Doctor of Medicine or Osteopathy, Physician Assistant, or Advanced Registered Nurse Practitioner licensed or certified by the State of Florida. If medical examinations are performed by a Physician Assistant or Advanced Registered Nurse Practitioner, they must be performed under the supervision or review of a Doctor of Medicine or Osteopathy.

(a) An ophthalmologist or optometrist licensed by the State of Florida may perform as much of the medical examination as pertains to visual acuity, field of vision, and color recognition.

(b) Upon completion of the medical examination, the examiner shall complete, sign, and date the medical examination certificate and maintain the original at his or her office report.

(c) Upon completion of the medical examination, the examiner shall complete, sign, and date the medical examination certificate and provide a copy to the driver's employer. If the transit agency decides to adopt qualification standards other than those listed in Department form 725-030-11, the adopted standard's medical examination

certificate or a signed letter from the medical examiner attesting to the completion of a medical examination, shall be given to the transit agency in lieu of the Department's medical examination certificate. The adopted standards medical certification or letter must provide all information as required on the Department's medical examination certificate.

(d) Upon completion of the medical examination the driver shall provide their driver license number, signature, and date on the medical examination certificate.

~~(4) Bus transit systems shall have on file proof of a medical examination, i.e., a completed and signed medical examination certificate report for each bus driver, dated within the past 24 months. Medical examination reports/certificates of employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.~~

(a) Medical examination certificates of employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.

(b) Bus Transit Systems shall not allow a driver to operate a transit bus without having on file a completed medical examination certificate dated within the past 24 months.

Rulemaking Authority 334.044(2), ~~341.061(1)(a), 341.061(2)(a)~~ FS. Law Implemented 334.044(12), 341.041(3), ~~341.061(1)(a), 341.061(1)(b), 341.061(2)~~ FS. History—New 11-10-92, Amended 8-7-05, 6-24-08, \_\_\_\_\_.

#### 14-90.006 Operational and Driving Requirements.

(1) Bus transit systems shall not permit a driver to drive a bus when such driver's license has been suspended, cancelled, or revoked. Bus transit systems shall require a driver who receives a notice that his or her license to operate a motor vehicle has been suspended, cancelled, or revoked to notify his or her employer of the contents of the notice immediately, no later than the end of the business day following the day he or she received the notice.

(2) Buses shall be operated at all times in compliance with applicable traffic regulations, ordinances, and laws of the jurisdiction in which they are being operated.

(3) A driver shall not be permitted or required to drive more than 12 hours in ~~a any~~ 24-hour period, or drive after having been on duty for 16 hours in ~~a any~~ 24-hour period. A driver shall not be permitted to drive until the requirement of a minimum eight consecutive hours of off-duty time has been fulfilled. A driver's work period shall begin from the time he or she first reports for duty to his or her employer. A driver is permitted to exceed his or her regulated hours in order to reach a regularly established relief or dispatch point, provided the additional driving time does not exceed one hour.

(4) To ensure uniform interpretation of subsections 14-90.002(10), 14-90.002(11), 14-90.002(22), and 14-90.006(3), F.A.C., the following practical applications are provided:

(a) A driver is required to drive from 4 a.m. – 8 a.m., off-duty from 8 a.m. – 3 p.m., then required to drive from 3 p.m. – 11 p.m. Driving hours and on-duty hours are the same. 4 hours + 8 hours = 12 hours driving. This driver has met the maximum allowed driving hours within a 24-hour period and cannot be permitted or required to drive until a minimum eight consecutive hours off-duty has been fulfilled. This driver cannot be permitted or allowed to drive before 7 a.m.

(b) A driver is required to drive from 4 a.m. – 8 a.m., off-duty from 3 p.m. – 11 p.m., then required to be on-duty, not driving, from 11 a.m. – 11 p.m. Driving hours = 4 hours and on-duty not driving hours = 12 hours for a total of 16 hours on-duty. This driver has met the maximum allowed on-duty hours within a 24-hour period and cannot be permitted or required to drive until a minimum eight consecutive hours off-duty has been fulfilled. This driver cannot be permitted or allowed to drive before 7 a.m.

(c) A driver is required to be on-duty, not driving, from 4 a.m. – 8 a.m., off-duty from 8 a.m. – 11 a.m., then on-duty, not driving from 11 a.m. – 11 p.m. On-duty not driving hours = 4 hours + 12 hours for a total of 16 hours on-duty. This driver has met the maximum allowed on-duty hours within a 24-hour period and cannot be permitted or required to drive until a minimum eight consecutive hours off-duty has been fulfilled. The driver cannot be permitted or allowed to drive before 7 a.m.

(d) A driver is required to be on-duty, not driving, from 4 a.m. – 8 a.m., then off-duty from 8 a.m. – 11 a.m., then on-duty, driving, from 11 a.m. – 11 p.m. On-duty, not driving hours = 4 hours and on-duty driving hours = 12 hours for a total of 16 hours on-duty. This driver has met the maximum allowed driving and on-duty hours within a 24-hour period and cannot be permitted or required to drive until a minimum eight consecutive hours off-duty has been fulfilled. This driver cannot be permitted or allowed to drive before 7 a.m.

(5) A driver shall not be permitted or required to be on-duty more than 72 hours in any period of seven consecutive days; however, any 24 consecutive hours of off-duty time shall constitute the end of any such period of seven consecutive days. A driver who has reached the maximum 72 hours of on-duty time during the seven consecutive days shall be required to have a minimum 24 consecutive hours off-duty prior to returning to on duty status.

(6) A driver is permitted to drive for more than the regulated hours for the safety and protection of the public when ~~due to~~ conditions such as adverse weather, disaster, security threat, a road or traffic condition, medical emergency, or an accident occur.

(7) Bus transit systems shall not permit or require any driver to drive a bus when his or her ability is impaired, or likely to be impaired, by fatigue, illness, or other causes, likely as to create an make it unsafe condition for the driver to begin or continue driving.

(8) Bus transit systems shall require pre-operational or daily inspection and reporting of all defects and deficiencies likely to affect safe operation or cause mechanical malfunctions.

(a) An inspection or test shall be made of the following parts and devices to ascertain that they are in safe condition and in good working order:

1. Service brakes.
2. Parking brakes.
3. Tires and wheels.
4. Steering.
5. Horn.
6. Lighting devices.
7. Windshield wipers.
8. Rear vision mirrors.
9. Passenger doors.
10. Exhaust system.
11. Equipment for transporting wheelchairs.
12. Safety, security, and emergency equipment.

(b) Bus transit systems shall review daily inspection reports and document corrective actions taken as a result of any deficiencies identified by daily inspections.

(c) Bus transit systems shall retain records of daily bus inspections and any corrective action documentation a minimum of two weeks.

(9) A bus with any passenger doors in the open position shall not be operated with passengers aboard. The doors shall not be opened until the bus is stopped. A bus with any inoperable passenger door doors shall not be operated with passengers aboard, except to move a bus to a safe location.

(10) During darkness, interior lighting and lighting in stepwells on buses shall be sufficient for passengers to enter and exit safely.

(11) Passengers Passenger(s) shall not be permitted in the stepwells stepwell(s) of any bus while the bus is in motion, or to occupy an area forward of the standee line.

(12) Passengers Passenger(s) shall not be permitted to stand on buses not designed and constructed for that purpose.

(13) Buses shall not be refueled in a closed building. The fueling of buses when passengers are being carried shall be reduced to the minimum number of times necessary during such transportation.

(14) ~~The B~~ bus transit systems system shall require the driver to be properly secured to the driver's seat with a restraining belt at all times while the bus is in motion.

(15) Buses shall not be left unattended with passenger(s) aboard for longer than 15 minutes. The parking or holding brake device shall must be properly set at any time the bus is left unattended.

(16) Buses shall not be left unattended in an unsafe condition with passengers passenger(s) aboard at any time.

Rulemaking Authority 334.044(2), 341.041(3), 341.061(2)(a) FS. Law Implemented ~~341.041(3)~~, 341.061(2) FS. History—New 9-7-87, Amended 5-31-89, 11-10-92, 8-7-05, 6-24-08, \_\_\_\_\_.

14-90.007 Vehicle Equipment Standards and Procurement Criteria.

(1) Every bus transit system shall ensure that buses procured and operated meet the following minimum standards; ~~at a minimum, as applicable~~:

(a) The capability and strength to carry the maximum allowed load and not exceed the manufacturer's gross vehicle weight rating (GVWR), gross axle weighting, or tire rating.

(b) Structural integrity that mitigates or minimizes the adverse effects of collisions.

(c) Federal Motor Vehicle Safety Standards (FMVSS), 49 C.F.R. Part 571, Sections 102, 103, 104, 105, 108, 207, 209, 210, 217, ~~220, 221, 225~~, 302, 403, and 404, October 1, 2008 ~~2004~~, hereby incorporated by reference.

(2) Proof of strength and structural integrity tests on new buses procured shall be submitted by manufacturers or bus transit systems to the Department.

(3) In addition to the above, every bus operated in this state shall be equipped as follows:

(a) Mirrors. There shall must be two exterior rear vision mirrors, one at each side. The mirrors shall be firmly attached to the outside of the bus and ~~so~~ located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. Each exterior rear vision mirror, on Type I buses, shall have a minimum reflective surface of 50 square inches. Neither the mirror nor the mounting shall protrude farther than the widest part of the vehicle body except to the extent necessary to produce a field of view meeting or exceeding the requirements of this section. All Type I buses shall, in addition to the above requirements, be equipped with an inside rear vision mirror capable of giving the driver a clear view of seated and or standing passengers. Buses having a passenger exit door that is located inconveniently for the driver's visual control shall be equipped with additional interior mirror(s) to enable enabling the driver to view the passenger exit door. ~~The exterior right (curbside) rear vision mirror and its mounting on Type I buses may be located lower than 80 inches from the ground, provided such buses are used exclusively for paratransit services, as defined in Section 341.031, Florida Statutes.~~ In lieu of interior mirrors, trailer buses and articulated buses may be equipped with closed circuit video systems or adult monitors in voice control with the driver.

(b) Wiring and Batteries Battery. Electrical wiring shall be maintained so as not to come in contact with moving parts, ~~or~~ heated surfaces, or be subject to chafing or abrasion which may cause insulation to become worn. Every Type I bus manufactured on or after February 7, 1988, shall be equipped with a storage battery battery(ies) electrical power main disconnect switch. The disconnect switch shall be practicably located in an accessible location adjacent to or near to the



~~battery battery(ies)~~ and be legibly and permanently marked for identification. Every storage battery on a each public-sector bus shall be mounted with proper retainment devices in a compartment which provides adequate ventilation and drainage.

(c) Brake Interlock Systems. All Type I buses having a rear exit door shall be equipped with a rear exit door/brake interlock that automatically applies the brake brake(s) upon driver activation of the rear exit door to the open position. Brake interlock brake application shall remain activated until deactivated deactivation by the driver and the rear exit door returns to the closed position. The rear exit door brake interlock on such buses shall be equipped with an identified override switch enabling emergency release of the brake interlock function. The override switch, which shall not be located within reach of the seated driver. Air pressure application to the brake brake(s) during brake interlock operation, on buses equipped with rear exit door/brake interlock, shall be regulated at the equipment's original ~~equipment~~ manufacturer's specifications.

(4) Standee Line and Warning. Every bus designed and constructed to allow standees shall be plainly marked with a line of contrasting color at least two inches wide, or be equipped with some other means to indicate that all any passengers are passenger is prohibited from occupying a space forward of a perpendicular plane drawn through the rear of the driver's seat and perpendicular to the longitudinal axis of the bus. A sign shall be posted at or near the front of the bus stating that it is a violation for a bus to be operated with passengers occupying an area forward of the line.

(5) Handrails and Stanchions. Every bus designed and constructed to allow standees shall be equipped with overhead handrails grab rails for standee passengers. Overhead handrails handgrab rails shall be continuous, except for a gap at the rear exit door, and terminate into vertical stanchions or turn up into a ceiling fastener. Every Type I and Type II bus designed for carrying more than 16 passengers shall be equipped with handrails grab handles, stanchions, or bars at least 10 inches long and installed to permit safe on-board circulation, seating and standing assistance, and boarding and alighting unboarding by elderly and handicapped persons. Type I buses shall be equipped with a safety bar and panel directly behind each entry and exit stepwell.

(6) Flooring, Steps, and Thresholds. Flooring, steps, and thresholds on all buses shall have slip resistant surfaces without protruding or sharp edges, lips, or overhangs, in order to prevent tripping hazards. All step edges and thresholds shall have a band of color(s) running the full width of the step or edge which contrasts with the step tread and riser, either light-on-dark or dark-on-light.

(7) Doors. Power activated doors on all buses shall be equipped with a manual device designed to release door closing pressure.

(8) Emergency Exits. All buses shall have an emergency exit door, or in lieu thereof, shall be provided with emergency escape push-out windows. Each emergency escape window shall be in the a form of a parallelogram with dimensions ~~of~~ not less than 18" by 24", and each shall contain an area of not less than 432 square inches. There shall be a sufficient number of ~~such~~ push-out or kick-out windows in each vehicle to provide a total escape area equivalent to 67 square inches per seat, including the driver's seat. No less than 40% of the total escape area shall be on one side of the vehicle. Emergency escape kick-out or push-out windows and emergency exit doors shall be conspicuously marked with by a sign or light and shall always be kept in good working order so that they may be readily opened in an emergency. All such windows and doors shall not be obstructed, by bars or other such means located either inside or outside, so as to hinder escape. Buses equipped with an auxiliary door for emergency exit shall be equipped with an audible alarm and light indicating to the driver when a door is ajar or opened while the engine is running. Supplemental security locks operable by a key are prohibited on emergency exit doors unless these security locks are equipped and connected with an ignition interlock system or an audio visual alarm located in the driver's compartment. Any supplemental security lock system used on emergency exits shall be kept unlocked whenever a bus is in operation.

(9) Tires and Wheels. Tires shall be properly inflated in accordance with manufacturer's recommendations.

(a) No bus shall be operated with a tread groove pattern depth:

1. Less than 4/32 (1/8) of an inch, measured at any point on a major tread groove for tires on the steering axle of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

2. Less than 2/32 (1/16) of an inch, measured at any point on a major tread groove for all other tires of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

(b) No bus shall be operated with recapped, regrooved, or retreaded tires on the steering axle.

(c) Wheels shall be visibly free from cracks and distortions distortion and shall not have missing, cracked, or broken mounting lugs.

(10) Suspension. The suspension system of all buses, including springs, air bags, and all other suspension parts ~~as applicable~~, shall be free from cracks, leaks, or any other defect which ~~would or~~ may cause its impairment or failure to function properly.

(11) Steering and Front Axle. The steering system of all buses shall have no indication of leaks which would or may cause its impairment to function properly, and shall be free from cracks and excessive wear of components that ~~would or~~ may cause excessive free play or loose motion in the steering system or above normal effort in steering control.

(12) Seat Belts. Every bus shall be equipped with an adjustable driver's restraining belt in compliance with the requirements of FMVSS 209, "Seat Belt Assemblies" (49 C.F.R. 571.209), October 1, 2008, and FMVSS 210, "Seat Belt Assembly Anchorages" (49 C. F. R. 571.210), October 1, 2008, hereby incorporated by reference.

(13) Safety Equipment. Every bus shall be equipped with one fully charged dry chemical or carbon dioxide fire extinguisher, having at least a 1A:BC rating, and bearing the label of Underwriter's Laboratory, Inc. The fire extinguishers shall be maintained as follows:

(a) Each fire extinguisher shall be securely mounted on the bus in a conspicuous place or in a clearly marked compartment and be readily accessible.

(b) Each fire extinguisher shall be maintained in efficient operating condition and be equipped with some means of determining if it is fully charged.

(c) Every Type I bus shall be equipped with portable red reflector warning devices in compliance with Section 316.300, F.S.

(14) Persons with Disabilities. Buses used for the purpose of transporting persons with disabilities shall meet the requirements set forth in 49 C.F.R. Part 38, October 1, 2008 ~~2004~~, hereby incorporated by reference, as well as ~~and~~ the following:

(a) Installation of a wheelchair lift or ramp shall not cause the manufacturer's GVWR, gross axle weight rating, or tire rating to be exceeded.

(b) Except in locations within 3 1/2 inches of the bus floor, all readily accessible exposed edges or other hazardous protrusions of parts of wheelchair lift assemblies or ramps that are located in the passenger compartment shall be padded with energy absorbing material to mitigate injury in normal use and in case of a collision. This requirement shall also apply to parts of the bus associated with the operation of the lift or ramp.

(c) The controls for operating the lift shall be at a location where the bus driver or lift attendant has a full view, unobstructed by passengers, of the lift platform, its entrance and exit, and the wheelchair passenger, either directly or with partial assistance of mirrors. Lifts located entirely to the rear of the driver's seat shall not be operable from the driver's seat, but shall have an override control at the driver's position that can be activated to prevent the lift from being operated by the other controls (except for emergency manual operation upon power failure).

(d) The installation of the wheelchair lift or ramp and its controls and the method of attachment in the bus body or chassis shall not diminish the structural integrity of the bus nor cause a hazardous imbalance of the bus. No part of the assembly, when installed and stowed, shall extend laterally beyond the normal side contour of the bus, nor vertically beyond the lowest part of the rim of the wheel closest to the lift.

(e) Each wheelchair lift or ramp assembly shall be legibly and permanently marked by the manufacturer or installer with the following ~~minimum~~ information:

1. The manufacturer's name and address.

2. The month and year of manufacture.

3. A certificate that the wheelchair lift or ramp securement devices, and their installation, conform to State of Florida requirements applicable to accessible buses.

(15) Wheelchairs. Wheelchair lifts, ramps, securement devices, and restraints shall be inspected and maintained as required by ~~in~~ this rule chapter. Instructions for normal and emergency operation of the lift or ramp shall be carried or displayed in every bus.

Rulemaking Authority 334.044(2), 341.041(3), 341.061(2)(a) FS. Law Implemented ~~341.041(3)~~, 341.061(2)(a) FS. History—New 9-7-87, Amended 11-10-92, 8-2-94, 8-7-05, 6-24-08, \_\_\_\_\_.

#### 14-90.009 Bus Safety Inspections.

(1) Each bus transit system shall require that all buses operated by such bus transit system, and all buses operated by a private contract transit provider, be inspected at least annually in accordance with bus inspection procedures set forth in this rule.

(2) It shall be the bus transit system's responsibility to ensure that each individual performing a bus safety inspection is qualified as follows:

(a) Understands the requirements set forth in this rule chapter; and can identify defective components.

(b) Is knowledgeable of and has mastered the methods, procedures, tools, and equipment used when performing an inspection.

(c) Has at least one year of training and/or experience as a mechanic or inspector in a vehicle maintenance program, and has sufficient general knowledge of buses owned and operated by the bus transit system to recognize deficiencies or mechanical defects.

(3) Each bus receiving a safety inspection shall be checked for compliance with the ~~safety devices and equipment~~ requirements for safety devices and equipment, as referenced or specified herein. Specific operable equipment and devices as required by this rule chapter, include the following (as applicable to Type I and II buses ~~bus(es)~~):

(a) Horn.

(b) Windshield wipers.

(c) Mirrors.

(d) Wiring and batteries ~~battery(ies)~~.

(e) Service and parking brakes.

(f) Warning devices.

(g) Directional signals.

(h) Hazard warning signals.

(i) Lighting systems and signaling devices.

(j) Handrails and stanchions.

- (k) Standee line and warning.
- (l) Doors and brake interlock devices.
- (m) Stepwells and flooring.
- (n) Emergency exits.
- (o) Tires and wheels.
- (p) Suspension system.
- (q) Steering system.
- (r) Exhaust system.
- (s) Seat belts.
- (t) Safety equipment.
- (u) Equipment for transporting wheelchairs.
- (v) Working speedometer.

(4) A safety inspection report shall be prepared by the individual(s) performing the inspection and ~~which~~ shall include the following:

- (a) Identification of the individual(s) performing the inspection.
- (b) Identification of the bus transit system operating the bus.
- (c) The date of the inspection.
- (d) Identification of the bus inspected.
- (e) Identification of the equipment and devices inspected, including the identification of equipment and devices found deficient or defective.
- (f) Identification of corrective action(s) for any deficient or defective items found and date(s) of completion of corrective action(s).

(5) Records of annual safety inspections and documentation of any required corrective actions shall be retained a minimum of four years by the bus transit system for compliance review.

Rulemaking Specific Authority 334.044(2), 341.041(3), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, 8-7-05, \_\_\_\_\_.

14-90.010 Certification.

(1) Each bus transit system shall annually submit a safety and security certification to the Department. The certification shall be submitted no later than February 15, ~~annually~~ for the prior calendar year period. The certification shall attest to the following:

- (a) The adoption of an SSPP and an SPP in accordance, ~~at a minimum,~~ with established standards set forth in this rule chapter.
  - (b) Compliance with its adopted SSPP and SPP.
  - (c) Performance of safety inspections on all buses operated by the system in accordance with this rule chapter.
  - (d) Reviews of the SSPP and SPP have been conducted to ensure they are up to date.
- (2) The certification shall include:

(a) The name and address of the bus transit system; and the name and address of the entity(ies) ~~performing the~~ who performed ~~(have) which has (have) performed~~ bus safety inspections and security assessments during the prior calendar year, if different from that of the bus transit system.

(b) A statement signed by an officer or person directly responsible for management of the bus transit system attesting to compliance with this rule chapter.

Rulemaking Specific Authority 334.044(2), 341.041(3), 341.061(1)(a)(2)(a) FS. Law Implemented 334.044(28), 341.041(3), 341.061(1), 341.061(2) FS. History—New 9-7-87, Amended 8-7-05, \_\_\_\_\_.

14-90.012 Safety and Security Inspections and Reviews.

(1) The Department, ~~or its contractor, shall or its designee, is authorized to~~ conduct safety and security reviews of bus transit systems to ascertain compliance with the provisions of this rule chapter.

(2) The Department, ~~or its contractor, shall or its designee, is authorized to may~~ conduct a safety and security reviews ~~review(s)~~ of any bus transit system ~~which~~ the Department believes to be in noncompliance with its SSPP or SPP, ~~and~~ or providing passenger service operations in an unsafe manner, or if there is evidence of an immediate danger to public safety. The Department shall prepare and submit a report of the review to the affected bus transit system. The report shall be submitted to the bus transit system within three business days of completion of the review and shall contain the following:

- (a) Identification of the findings, including a detailed description of any deficiency ~~the deficiency(ies).~~
- (b) Required corrective action ~~action(s)~~ and a schedule for implementation of the corrective action to be taken for each deficiency action(s).
- (c) Any required ~~requirements for~~ suspension of bus transit system service, should the Department determine the continued operation of the service, or a portion thereof, poses an immediate danger to public safety.

(3) The Department shall initiate the following actions to suspend the affected bus transit system service if any deficiency ~~specific deficiency(ies)~~ or unsafe condition ~~condition(s)~~ exists, to the extent that the continued operation of the system, or a portion thereof, poses an immediate ~~is not safe for passenger service or is posing a potential~~ danger or threat to public safety.

(a) Immediately notify the affected bus transit system of the unsafe condition ~~condition(s)~~, followed by a certified letter describing the deficiency ~~specific deficiency(ies)~~ or unsafe condition ~~conditions~~. The notification shall include the following:

- 1. The rRequired corrective actions for the deficiency ~~specific deficiency(ies)~~ or unsafe condition ~~condition(s).~~

2. ~~The r~~Requirements for the bus transit system to certify, in writing to the Department, ~~the~~ of completion of ~~the~~ required corrective ~~action~~ ~~action(s)~~ in accordance with an established implementation schedule.

(b) Conduct an on-site review of the bus transit system to verify ~~the~~ correction of ~~the deficiency~~ ~~specific deficiency(ies)~~ in accordance with this rule and the established implementation schedule.

(c) Suspend affected passenger service operations if the bus transit system fails to correct ~~the deficiency~~ ~~specific deficiency(ies)~~ in accordance with this rule and the established implementation schedule.

~~Rulemaking Specific Authority 334.044(2), 341.041(3), 341.061(2)(a) FS. Law Implemented 334.044(28), 341.041(3), 341.061(1)(d), 341.061(2)(c), 316.610 FS. History—New 11-10-92, Amended 8-7-05, \_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Marion Hart, State Public Transportation and Modal Administrator

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 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."

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-4.021	Definitions
40D-4.051	Exemptions

PURPOSE AND EFFECT: The purpose of the proposed revisions is to create a new environmental resource permitting (ERP) exemption for activities that involve less than 4,000 square feet of impervious or semi-impervious surface subject to vehicular traffic in uplands and activities that involve less than 9,000 square feet of total impervious or semi-impervious surface in uplands. Concurrent with these rule revisions, the District is proposing revisions to Rule 40D-400.475, F.A.C. that delete the 4,000 and 9,000 square foot threshold requirements from the permit criteria of this NGP. The revisions also incorporate a new definition for "semi-impervious" to clarify the types of surfaces that will contribute to the new exemption threshold area. The effect of the proposed revisions, if adopted, will allow the regulated

public to conduct minor activities that the District has determined have minimal individual or cumulative impacts to the water resources without applying to the District for confirmation that a proposed activity qualifies for either an exemption or NGP and paying the applicable fee.

SUMMARY: The proposed revision creates a new ERP exemption that incorporates the 4,000 and 9,000 square foot threshold requirements included in Rule 40D-400.475, F.A.C., that the District is concurrently amending, and adds a new definition of semi-impervious to the District's list of definitions in Rule 40D-4.021, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule revisions will add an additional ERP exemption that should reduce the number of case-by-case exemption determinations and exempt some activities that would otherwise require a Noticed General Permit. There will be no increase in the number of individuals or entities required to obtain an Environmental Resource Permit (ERP) and certain Noticed General Permit applicants could instead avail themselves of the proposed exemption. The proposed rule revisions should reduce the District's processing costs for Noticed General Permits and case-by-case exemption confirmations and should not result in any increases in implementation and enforcement costs or reductions in revenues to state or local governments. There will be no increase in transactional costs and those who can avail themselves of the new exemption will save a minimum of \$100 to \$250 in transaction costs. There will be no adverse impacts on small businesses, cities or counties. Small businesses, cities and counties will benefit from the same transaction cost reductions as other entities and individuals if they qualify for the proposed exemption.

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, 373.149, 373.171, 373.414(9) FS.

LAW IMPLEMENTED: 373.079(4)(a), 373.083(5), 373.403, 373.406, 373.413, 373.414, 373.414(9), 373.416 FS.

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

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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.

state.fl.us. 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 RULES IS: Barbara Martinez, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660 (OGC #2009059)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.021 Definitions.

When used in this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) through (14) No change.

(15) "Semi-impervious" means land surfaces which partially restrict the penetration of water; included as examples are porous pavements, limerock, and other compacted materials.

(15) through (21) renumbered (16) through (22) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.079(4)(a), 373.083(5), 373.403, 373.413 FS. History-Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, 2-27-02, 9-26-02, 2-19-04, 2-6-07, 1-8-08, 9-29-08, 11-2-09,\_\_\_\_\_.

40D-4.051 Exemptions.

The District will exempt from regulation under Section 373, Part IV, F.S., those activities that the District determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the District.

The following activities are exempt from permitting under this chapter:

(1) through (14) No change.

(15) Construction, alteration, operation or abandonment of a stormwater management system meeting the following criteria:

(a) The proposed activities are not conducted within twenty-five feet of wetlands or other surface waters;

(b) The proposed activities include no more than 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;

(c) The proposed activities include no more than 9,000 square feet of total impervious or semi-impervious area;

(d) The proposed activities, including placement of fill, encompass no more than one-half acre of total project area;

(e) The proposed activities do not include filling in floodways, 100-year floodplains or water conveyance features such as ditches or swales and do not adversely affect offsite properties by altering overland sheetflow;

(f) The system does not directly discharge into an Outstanding Florida Water, as listed in Rule 62-302-700, F.A.C.;

(g) The proposed activities are not conducted as part of a larger common plan of development or sale regulated under Part IV of Chapter 373, F.S.;

(h) The proposed activities are not conducted within the geographic limits of an existing permit issued pursuant to Part IV of Chapter 373, F.S.; and

(i) The proposed activities, considered separately or in combination with other activities conducted pursuant to this exemption, do not cumulatively exceed any of the thresholds indicated above.

(16)(15) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9), 373.416 FS. History-Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01, 4-9-02, 2-19-04, 6-30-05, 11-26-07, 9-29-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Clark Hull, Jr., ERP Program Director, Resource Regulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 2010

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-400.475 RULE TITLE: General Permit for Minor Activities

PURPOSE AND EFFECT: The purpose and effect of the proposed revision to Rule 40D-400.475, Florida Administrative Code (F.A.C.), is to delete the 4,000 and 9,000 square foot threshold requirements from the permit criteria of this Noticed General Permit. These threshold requirements are included in revisions the District is proposing to Rule 40D-4.051, F.A.C., to create a new environmental resource permitting (ERP), exemption for minor activities. The effect of the amendments to Rule 40D-400.475, F.A.C., together with the amendments of Rules 40D-4.051 and 40D-4.021, F.A.C., will allow the regulated public to conduct minor activities that the District has determined have minimal individual or cumulative impacts to the water resources without applying to the District for confirmation that a proposed activity qualifies for either an exemption or NGP and paying the applicable fee. SUMMARY: The proposed revision to Rule 40D-400.475, Florida Administrative Code (F.A.C.), deletes the 4,000 and 9,000 square foot threshold requirements from the permit criteria of this Noticed General Permit. These threshold

requirements are included in revisions the District is proposing to Rule 40D-4.051, F.A.C., to create a new environmental resource permitting (ERP), exemption for minor activities. The District is also proposing to amend Rule 40D-4.021, F.A.C., to add a definition of "semi-impervious" to clarify the types of surfaces that will contribute to the new exemption threshold area. The new exemption will include activities that involve less than 4,000 square feet of impervious or semi-impervious surface subject to vehicular traffic in uplands and activities that involve less than 9,000 square feet of total impervious or semi-impervious surface in uplands.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The proposed rule revisions will add an additional ERP exemption that should reduce the number of case-by-case exemption determinations and exempt some activities that would otherwise require a Noticed General Permit. There will be no increase in the number of individuals or entities required to obtain an Environmental Resource Permit (ERP) and certain Noticed General Permit applicants could instead avail themselves of the proposed exemption. The proposed rule revisions should reduce the District's processing costs for Noticed General Permits and case-by-case exemption confirmations and should not result in any increases in implementation and enforcement costs or reductions in revenues to state or local governments. There will be no increase in transactional costs and those who can avail themselves of the new exemption will save a minimum of \$100 to \$250 in transaction costs. There will be no adverse impacts on small businesses, cities or counties. Small businesses, cities and counties will benefit from the same transaction cost reductions as other entities and individuals if they qualify for the proposed exemption.

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:** 373.413, 373.414, 373.416, 373.419 FS.

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

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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.

state.fl.us. 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:** Barbara Martinez, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660 (OGC #2009059)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-400.475 General Permit for Minor Activities.

(1) A general permit is hereby granted for the construction, alteration, maintenance, operation, abandonment and removal of the following minor systems:

(a) Piling supported structures of less than 1,000 square feet over wetlands or other surface waters which are not designated Outstanding Florida Waters;

(b) Piling supported structures of less than 500 square feet over wetlands or other surface waters in an Outstanding Florida Water;

(c) Dredging or filling of less than 100 square feet of wetlands or other surface waters; or

~~(d) Less than 4,000 square feet of impervious surface in uplands, that is subject to vehicular traffic such as roads, parking lots and driveways and less than 9,000 square feet total of impervious surface in uplands;~~

~~(d)(e)~~ Maintenance dredging of 50 cubic yards or less of material from surface waters other than wetlands; provided the dredged material is placed in uplands and turbidity control measures are employed to prevent return water from causing a violation of water quality standards; or

~~(e)(f)~~ A single family residence that is not part of a larger plan of common development proposed by the applicant, including the associated residential improvements such as a driveway, garage and an on-site sewage disposal system, provided:

1. This paragraph shall not apply to property which was part of a tract of land that was divided into two or more parcels after July 1, 1994;

2. This paragraph shall not apply to construction or alteration in surface waters other than isolated wetlands or any wetlands in an Area of Critical State Concern;

3. Dredging and filling of isolated wetlands shall be limited to only those areas required for siting the portions of the residence and associated residential improvements which cannot be sited in uplands because there is an insufficient unrestricted area of uplands within the contiguous ownership of the applicant on which the residence and associated residential improvements can be located. On-site sewage disposal systems shall be constructed in uplands unless there is an insufficient unrestricted area of uplands within the contiguous ownership of the applicant on which such disposal

system can be located. For the purposes of this paragraph, "unrestricted area of uplands" means an area of uplands which is not restricted by easement, deed restriction, local government regulation, or similar restriction which would prevent the activities authorized under this paragraph and which is configured such that all or part of the residence and associated residential improvements can be constructed in the uplands. An area of uplands will only be considered restricted if all available variance or waiver procedures have been exhausted; and

4. The total area of dredging or filling in isolated wetlands for the residence and associated residential improvements shall not exceed 4000 square feet; and the total area of clearing in wetlands (including the dredging and filling for the residence and associated residential improvements) shall not exceed 6000 square feet on the contiguous property owned by the applicant.

(2) through (7) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History--New 10-3-95, Amended 2-19-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Clark Hull, Jr., ERP Program Director, Resource Regulation  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 2010

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NO.: 40E-3.035  
RULE TITLE: Agreements

PURPOSE AND EFFECT: To amend Rule 40E-3.035, Florida Administrative Code, to incorporate by reference, the following documents: 1) the water well delegation agreements with Lee County and the Broward, Glades, Highlands, Miami-Dade, Orange, Osceola, Polk, and Palm Beach County Health Departments to delegate the implementation of the water well regulatory program; 2) the first amendments to the delegation agreements with the City of Cape Coral, Collier County, and the Hendry, Martin, Okeechobee, Osceola, and St. Lucie County Health Departments to reaffirm and update the permitting, compliance and enforcement responsibilities; and, 3) the second amendments to the delegation agreements with the Martin, Okeechobee, and St. Lucie County Health Departments to include a provision concerning legal support.

SUMMARY: To incorporate by reference the Delegation Agreements of the Water Well Regulatory Program.

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, 373.171 FS.

LAW IMPLEMENTED: 373.103, 373.308, 373.309, 373.323, 373.324, 373.326, 373.329, 373.333 FS.

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

DATE AND TIME: July 15, 2010, 9:00 a.m.

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

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: The South Florida Water Management District Clerk at 1(800)432-2045, ext. 2087 or (561)682-2087. 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: James Harmon, Director, Water Use Regulation Division, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, Telephone 1(800)432-2045, ext. 6777 or (561)682-6777, email: jharmon@sfwmd.gov, or Lindy Cerar, Senior Hydrogeologist, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, Telephone 1(800)432-2045, ext. 2886 or (561)682-2886, email: lcerar@sfwmd.gov. For procedural questions or to obtain copies of the materials incorporated by reference, contact: Kathie Ruff, Paralegal, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, Telephone 1(800)432-2045, ext. 6320 or (561)682-6320, email: kruff@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents, which are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 2087, or (561)682-2087:

(1) “Delegation Agreement between South Florida Water Management District and Lee County,” dated September 13, 2005. “Agreement between Lee County and South Florida Water Management District dated January 9, 1985.

(2) “Delegation Agreement between South Florida Water Management District and Miami-Dade County Health Department,” dated August 10, 2005. “Agreement between Dade County and South Florida Water Management District,” dated January 31, 1985.

(3) “Agreement between Collier County and South Florida Water Management District,” dated February 5, 1985; “Amendment to the Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Collier County,” dated May 11, 2005.

(4) “Agreement between the City of Cape Coral and South Florida Water Management District,” dated October 10, 1986; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and the City of Cape Coral,” dated August 10, 2005.

(5) “Agreement between the Martin County Health Department and South Florida Water Management District,” dated June 12, 1998; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Martin County Health Department,” dated April 18, 2005; “Second Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Martin County Health Department,” dated May 13, 2010.

(6) “Agreement between the Osceola County Health Department and South Florida Water Management District,” dated February 11, 1999; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Osceola County Health Department,” dated April 18, 2005.

(7) “Agreement between the St. Lucie County Health Department and South Florida Water Management District,” dated April 13, 2000; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and St. Lucie County Health Department,” dated May 11, 2005; “Second Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and St. Lucie County Health Department,” dated May 13, 2010.

(8) “Agreement between the Hendry County Health Department and South Florida Water Management District,” dated September 14, 2000; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Hendry County Health Department,” dated April 18, 2005.

(9) “Agreement between the Okeechobee County Health Department and South Florida Water Management District,” dated April 11, 2002; “Amendment to the Water Well Construction Permit Program Delegation Agreement between South Florida Water Management District and Okeechobee County Health Department,” dated April 18, 2005; “Second Amendment to the Water Well Permit Program Delegation Agreement between South Florida Water Management District and Okeechobee County Health Department,” dated May 13, 2010.

(10) “Water Well Construction Permit Program Delegation Agreement between the South Florida Water Management District and Glades County Health Department,” dated May 11, 2005.

(11) “Delegation Agreement between the South Florida Water Management District and Orange County Health Department,” dated May 11, 2005.

(12) “Delegation Agreement between South Florida Water Management District and Osceola County and Polk County Health Departments,” dated May 11, 2005.

(13) “Delegation Agreement between South Florida Water Management District and Palm Beach County Health Department,” dated May 11, 2005.

(14) “Delegation Agreement between South Florida Water Management District and State of Florida Department of Health, Broward County Health Department,” dated June 8, 2005.

(15) “Delegation Agreement between South Florida Water Management District and Highlands County Health Department,” dated May 13, 2010.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103, 373.308, 373.309, 373.323, 373.324, 373.326, 373.329, 373.333 FS. History—New 3-16-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Harmon, Director, Water Use Regulation Division  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2010

**INTERLOCAL AGENCIES**

**Lake Apopka Natural Gas District**

RULE NO.: 54C-1.001                      RULE TITLE: Tariff

PURPOSE AND EFFECT: The purpose is to amend existing Rule 54C-1.001, F.A.C., the tariff of Lake Apopka Natural Gas District (District), modifying the rate schedules for residential sales service, commercial sales service, interruptible sales service, and transportation service by increasing the fees and



charges of the District, and updating the District’s address and contact information. All classes of customers will experience an increase in the cost of gas. Otherwise, the tariff will remain as it currently exists.

**SUMMARY:** The rate schedules for all gas sales and transportation service are modified by increasing the fees and charges of the District, and the District’s address and contact information is updated, in Rule 54C-1.001, F.A.C.

**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:** Section (12), Chapter 99-454, Laws of Florida, 1999.

**LAW IMPLEMENTED:** Chapter 99-454, Laws of Florida, 1999.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** June 28, 2010, 10:00 a.m.

**PLACE:** The office of Lake Apopka Natural Gas District at 1320 Winter Garden-Vineland Road (CR 535), Winter Garden, Florida 34787

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: Mr. Samuel Davis, Jr., General Manager, Lake Apopka Natural Gas District, 1320 Winter Garden-Vineland Road (CR 535), Winter Garden, Florida 34787; Telephone: (407)656-2734, Facsimile: (407)656-9371. 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:** Mr. Samuel Davis, Jr., General Manager, Lake Apopka Natural Gas District, 1320 Winter Garden-Vineland Road (CR 535), Winter Garden, Florida 34787; Telephone: (407)656-2734, Facsimile: (407)656-9371

**THE FULL TEXT OF THE PROPOSED RULE IS:**

54C-1.001 Tariff.

The full text of the ~~tariff proposed rule~~ is set forth in Resolution number ~~2010-02 0606~~ adopted by the Board of Commissioners of Lake Apopka Natural Gas District on ~~April 26, 2010, June 26, 2006~~, which is hereby incorporated herein in its entirety by reference.

**Rulemaking Specific Authority** Section (12), Chapter 99-454, Laws of Florida, 1999 Law Implemented Chapter 99-454, Laws of Florida, 1999 History–New 8-11-99, Amended 5-13-01, 2-11-04, 10-2-06,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**  
The Board of Commissioners of Lake Apopka Natural Gas District

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** The Board of Commissioners of Lake Apopka Natural Gas District

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** April 26, 2010

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** May 7, 2010

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

**RULE NO.:**  
59G-4.070

**RULE TITLE:**  
Durable Medical Equipment and Medical Supplies

**PURPOSE AND EFFECT:** The purpose of the amendment to Rule 59G-4.070, F.A.C., is to incorporate by reference the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2010.

**SUMMARY:** The amendment updates the Florida Medicaid Durable Medical Equipment and Supply Services Coverage and Limitations Handbook. The handbook is intended for use by Durable Medical Equipment (DME) and medical suppliers who provide services to Medicaid recipients. Florida Medicaid is expanding coverage of disposable incontinence supplies that were not previously covered under the DME program. The rule will set policy and criteria to qualify for this new coverage.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A SERC has been prepared by the Agency. The Agency has determined that this rule will have an impact on small business. Florida Medicaid’s Durable Medical Equipment program intends to expand coverage to include medically necessary diapers, briefs, protective underwear, pull-ons, liners, shields, guards, pads, and undergarments for children ages 4 to 20. It is estimated there will be no cost to the Agency and no transactional costs are likely to be incurred by individuals and local government entities. The impact on small business will be a result of the expansion in services provided by businesses enrolled as Durable Medical Equipment providers that provide services to Medicaid enrolled children. There will be a reduction in services provided by businesses enrolled as Florida Medicaid waiver providers that provide disposable incontinence supplies to children enrolled in Medicaid waivers, as these services will now be provided to children 4 to 20 only through the Durable Medical Equipment program. Some businesses may provide services under both the

Durable Medical Equipment program and the waiver programs. In that situation, there would be minimal impact to the small businesses.

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: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 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:

DATE AND TIME: Monday, June 28, 2010, 2:30 p.m. – 3:30 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, Florida 32308-5407

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: Dan Gabric at the Bureau of Medicaid Services, (850)412-4209. 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: Dan Gabric, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4209, e-mail: dan.gabric@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.070 Durable Medical Equipment and Medical Supplies.

(1) No change.

(2) All durable medical equipment and medical supply providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2010 2008, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center at (800)289-7799 and selecting Option 7.

(3) No change.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—New 8-26-92, Formerly 10C-7.070, Amended 5-23-94, 1-7-96, 3-4-99, 10-18-00, 4-30-01, 10-1-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dan Gabric

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 29, 2010

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Construction Industry Licensing Board

RULE NO.: 61G4-16.005

RULE TITLE:

Duration of Validity

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the language for the duration of validity of a passing grade.

SUMMARY: The rule amendment will modify the language for the duration of validity of a passing grade.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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: 455.217(2) FS.

LAW IMPLEMENTED: 455.217(2), 489.113(1) 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: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-16.005 Duration of Validity.

For the purpose of certification, a passing grade shall be valid only for a period of four (4) ~~three (3)~~ years from the date the list of successful candidates is approved by the Board.

Rulemaking Specific Authority 455.217(2) FS. Law Implemented 455.217(2), 489.113(1) FS. History—New 1-6-80, Formerly 21E-16.05, Amended 12-17-85, 8-11-92, Formerly 21E-16.005, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Construction Industry Licensing Board  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Construction Industry Licensing Board  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 12, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 7, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-36.004  
RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify violations and penalties.

SUMMARY: Violations and penalties will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules 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: 455.2273 FS.

LAW IMPLEMENTED: 455.2273, 473.323(l)(m) 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: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-36.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1)(a) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 473, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 473, F.S. The disciplinary guidelines are based upon a single count violation of each provision listed. The brief description of each violation is provided for quick reference and is not meant to convey all elements of any given statutory provision; the full language of each statutory provision cited must be

consulted in order to determine the conduct involved. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion.

(b) No change.

(2) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MAXIMUM	MINIMUM

(a) through (d) No change.

(e) Fraudulent, false, deceptive or misleading advertising (Section 473.323(1)(f), F.S., Rule 61H1-24.001, F.A.C.)	\$250 fine. Letter of Guidance	Reprimand, one (1) year probation and \$5000 fine.
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(f) through (g) No change.

(h) Negligence or misconduct	\$250 fine. Letter of Guidance	Reprimand and one (1) year probation (continuing education and review of practice at licensee's expense and limited areas of practice)
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1. through 3. No change.

4. Client records disposition (Rule 61H1-23.002, F.A.C.)	\$250 fine. Letter of Guidance	Suspension until records are returned.
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(i) through (z) No change.

(aa) Failure to timely report being convicted or found guilty of, or entering a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction (more than 30 days late) (455.227(1)(t), F.S.)	Reprimand.	Suspension and \$5,000 fine.
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(3) No change.

Rulemaking Specific Authority 455.2273 FS. Law Implemented 455.2273, 473.323(l)(m) FS. History—New 1-7-87, Amended 9-16-87, 8-25-88, 6-18-91, 12-30-91, Formerly 21A-36.004, Amended 12-7-93, 5-23-94, 8-16-99, 1-31-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Accountancy  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-36.005  
RULE TITLE: Citations  
PURPOSE AND EFFECT: The Board proposes the rule amendment to update statutory references and to clarify violations and fines.  
SUMMARY: Violations and fines will be clarified. Statutory references will be updated.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules 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: 455.224, 455.225, 473.304 FS.  
LAW IMPLEMENTED: 455.224 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: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-36.005 Citations.

(1) Pursuant to Section 455.224, F.S. (1994), the Board sets forth in subsection (3) of this rule those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) No change.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) through (e) No change.

<u>(f) Failure to timely report being convicted or found guilty of, or entering a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction (up to 30 days late) (455.227(1)(t), F.S.)</u>	<u>\$250 fine.</u>
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(4) through (5) No change.

Rulemaking Specific Authority 455.224, 455.225, 473.304 FS. Law Implemented 455.224 FS. History—New 12-30-91, Formerly 21A-36.005, Amended 12-7-93, 5-23-94, 8-16-99, 5-11-03, 7-23-06,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Accountancy  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-36.0055  
RULE TITLE: Minor Violation, Notice of Non-Compliance  
PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.  
SUMMARY: Language concerning the certified public accountant will be clarified.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules 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: 455.225(3), 473.304 FS.  
LAW IMPLEMENTED: 455.225, 473.3101 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: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-36.0055 Minor Violation, Notice of Non-Compliance.

(1) Pursuant to Section 455.225(3), F.S., the Department may issue a notice of non-compliance to a certified public accountant licensee for an initial offense of a minor violation. Failure of the person to whom a notice of non-compliance is issued to take corrective action which is set forth in the notice of violation within 15 days of the receipt of the notice may result in further disciplinary action.

(2) through (3) No change.

Rulemaking Specific Authority 455.225(3), 473.304 FS. Law Implemented 455.225, 473.3101 FS. History—New 10-15-97, Amended 7-16-98, 8-16-99, 7-23-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

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

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-12.0155  
 RULE TITLE: Fee for Registered Chiropractic Assistants

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to incorporate an updated application form.

SUMMARY: An updated application form will be incorporated into the rule.

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: 460.405, 460.4166 FS.

LAW IMPLEMENTED: 460.4166 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: Sharon Guilford, Acting Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-12.0155 Fee for Registered Chiropractic Assistants.

(1) Any person desiring to become a registered chiropractic assistant (RCA) shall make application to the Board on board approved form DH-MQA 1150 (Rev ~~04/10~~ ~~11/08~~), Application for Registered Chiropractic Assistant (RCA), which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, accompanied by the required fees.

(2) through (5) No change.

Rulemaking Authority 460.405, 460.4166 FS. Law Implemented 460.4166 FS. History—New 9-24-96, Formerly 59N-12.0155, Amended 5-10-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-12.022  
 RULE TITLE: Medical Faculty Certificate Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to incorporate an updated application form.

SUMMARY: An updated application form will be incorporated into the rule.

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: 456.013(2), 460.405, 460.4062(1), (3) FS.

LAW IMPLEMENTED: 456.013(2), 460.4062(1), (3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Guilford, Acting Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Guilford, Acting Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-12.022 Medical Faculty Certificate Fees.

(1) Any chiropractic physician desiring to obtain a chiropractic medicine faculty certificate shall make application to the Board on board approved form DH-MQA 1146, (Rev 04/10 ~~11/08~~), Application for Chiropractic Medical Faculty Certificate which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, accompanied by the required fees.

64B2-18.002 Application for Certification as a Chiropractic Physician’s Assistant.

(1) Any person desiring to be certified as a chiropractic physician’s assistant shall file an application with the Department on board approved form DH-MQA 1148, (Rev 04/10 ~~11/08~~), Application for Certified Chiropractic Physicians Assistant (CCPA), which is hereby incorporated by reference, and may be obtained from the Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, and submit the required fees.

(2) through (4) No change.

(2) through (7) No change.

Rulemaking Authority 456.013(2), 460.405, 460.4062(1), (3) FS. Law Implemented 456.013(2), 460.4062(1), (3) FS. History—New 12-4-07, Amended 5-10-09,\_\_\_\_\_.

Rulemaking Authority 460.405, 460.4165(6), (9) FS. Law Implemented 460.4165(3), (5), (6), (9) FS. History—New 11-25-81, Formerly 21D-18.02, 21D-18.002, 61F2-18.002, 59N-18.002, Amended 6-7-98, 4-25-05, 7-11-07, 4-23-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Chiropractic Medicine

Board of Chiropractic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2010

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

**DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

**Board of Pharmacy**

RULE NO.: 64B2-18.002  
RULE TITLE: Application for Certification as a Chiropractic Physician’s Assistant

RULE NO.: 64B16-26.1032  
RULE TITLE: Influenza Immunization Administration Certification Application

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to incorporate an updated application form.

PURPOSE AND EFFECT: The Board proposes the rule promulgation to provide an application for influenza immunization certification.

SUMMARY: An updated application form will be incorporated into the rule.

SUMMARY: An application for influenza immunization certification will be included in the rule.

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.

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.

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: 460.405, 460.4165(6), (9) FS. LAW IMPLEMENTED: 460.4165(3), (5), (6), (9) FS.

RULEMAKING AUTHORITY: 465.005 FS. LAW IMPLEMENTED: 465.189 FS.

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

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: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1032 Influenza Immunization Administration Certification Application.

All applications for immunization certification shall be made on board approved form DH-MQA 1125, "Immunization Administration Certification Application," effective 02/10, which is hereby incorporated by reference. To obtain an application, contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850)488-0595, or download the application from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee as set forth in Rule 64B16-26.1001, F.A.C.

Rulemaking Authority 465.005 FS. Law Implemented 465.189 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE NO.:	RULE TITLE:
69W-600.0011	Effect of Law Enforcement Records on Applications for Registration as Dealer, Issuer/Dealer, or Investment Adviser

PURPOSE AND EFFECT: Section 517.1611(2), F.S., requires the Financial Services Commission to adopt registration disqualifying periods for applicants and their relevant persons based upon criminal convictions, pleas of nolo contendere, or pleas of guilt, regardless of whether adjudication was withheld. The statute imposes a disqualifying period of 15 years for certain felonies and 5 years for certain misdemeanors. The statute provides that the rule may also address mitigating factors, an additional waiting period based upon dates of imprisonment or community supervision, an additional waiting period based upon commitment of multiples crimes, and other factors reasonably related to the consideration of an applicant's

criminal history. The proposed rule implements these requirements for dealers, issuer/dealers, and investment advisers, including their relevant persons. Relevant persons include: any member, principal, or director of the applicant or any person having similar status or performing similar functions; any person directly or indirectly controlling the applicant; direct owners, principals, or indirect owners that are required to be reported on behalf of the applicant on Form BD (Uniform Application for Broker-Dealer Registration) or Form ADV (Uniform Application for Investment Registration) pursuant to Section 517.12(15), F.S.

SUMMARY: The rule makes a general classification of crimes into two classes: Class A and Class B. Class A crimes address felonies involving fraud, dishonesty or any other act of moral turpitude; and Class B crimes address misdemeanors involving those same issues. Under the proposed rule, the disqualification period for a Class A crime is 15 years. For Class B crimes, the disqualification period is 5 years. The rule provides that the disqualification period will be extended if the applicant or relevant person has multiple Class A or B crimes, and it provides that mitigating factors may be considered to reduce disqualifying periods. The disqualifying periods established in the rule do not give an applicant a right to registration after any set period of time. Regardless of the expiration of any disqualifying period imposed by the rule, the burden to prove entitlement to registration remains on the applicant. Other factors related to the consideration of the applicant's or relevant person's criminal history are also addressed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. The possible impact associated with the implementation of this rule is that certain relevant persons associated with an applicant firm may cause the applicant firm to be disqualified from approval for registration due to the existence of a criminal history. There are no transactional costs associated with the implementation of this rule. The rule does not impose any additional costs on the Office. No other state or local agencies will be impacted by the proposed rule. There are no anticipated effects on state or local revenues.

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: 517.1611(2) FS.

LAW IMPLEMENTED: 517.12, 517.161 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: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial

Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-600.0011 Effect of Law Enforcement Records on Applications for Registration as Dealer, Issuer/Dealer, or Investment Adviser.

(1) General Procedure Regarding Law Enforcement Records. For purposes of this rule, an “applicant” is any Dealer, Issuer/Dealer or Investment Adviser seeking registration in Florida. Any member, principal, or director of the applicant or any person having similar status or performing similar functions; any person directly or indirectly controlling the applicant; direct owners, principals, or indirect owners that are required to be reported on behalf of the applicant on Form BD or Form ADV pursuant to subsection 517.12(15), F.S. shall be referred to collectively as “relevant persons”. As part of the application review process for each Dealer, Issuer/Dealer, or Investment Adviser, submitted on Form BD or Form ADV, the Office is required to consider all relevant persons law enforcement records when deciding whether to approve an application for registration. When conducting this review, the Office reviews the criminal history information derived from the fingerprint check, any responses made by the applicant or relevant person, and information from other resources such as the Financial Industry Regulatory Authority. In the event of a question regarding the relevant person’s criminal history, the Office may request additional information from the applicant to determine the status of a criminal event, the specific facts and circumstances surrounding a criminal event, or to address other issues determined relevant to the review of the law enforcement record. The Office will notify the applicant of any specific documents that it requires in order to complete its review of the relevant person’s law enforcement record. Documentation that is typically requested includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable.

If the requested documentation cannot be obtained, the applicant shall submit evidence of that fact in order for the application to be deemed complete. Evidence that documentation cannot be obtained shall consist of a written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that

agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced.

(2) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The omission of any part of a law enforcement record required to be disclosed is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 517.161(1)(b), Florida Statutes.

(b) If the Office discovers the applicant’s failure to disclose any part of a law enforcement record required to be disclosed regarding a relevant person on the application after a registration has been granted, the Office will suspend or revoke each registration currently held by the applicant as follows:

1. Suspension for 12 months if, had the application been accurate, the application would have been granted, based upon the statutes and rules applicable to the application at the time the Office granted registration.

2. Revocation if, had the application been accurate, the application would have been denied, based upon the statutes and rules applicable to the application at the time the Office granted registration.

(3) Classification of Crimes.

(a) The Office makes a general classification of crimes into two classes: A and B, as listed in subsections (14) and (15), of this rule.

(b) These classifications reflect the Office’s evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) For purposes of this rule, “trigger date” means the date on which an applicant was found guilty, or pled guilty, or pled nolo contendere to a crime.

(e) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(4) Relevant Person(s) With a Single Crime. The Office finds it necessary to implement the following standards for an applicant with relevant person(s) whose law enforcement record includes a single crime, subject to the mitigating factors set forth elsewhere in this rule before registration. All disqualifying periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant will not be granted a registration until 15 years have passed since the trigger date.



(b) Class B Crime. The applicant will not be granted a registration until 5 years have passed since the trigger date.

(5) Relevant Person(s) With Multiple Crimes.

(a) The Office construes Section 517.161, Florida Statutes, to require that an applicant with relevant person(s) whose law enforcement record includes multiple Class A or Class B crimes, or any combination thereof, wait longer than those whose law enforcement record includes only a single crime before becoming eligible for registration in order to assure that such relevant person's greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances before registration can safely be granted. Accordingly, where the relevant person has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(c) Classification as "Single Crime" versus "Multiple Crimes." For purposes of this rule, two (2) or more offenses are considered a single crime if they are based on the same act or transaction or on two (2) or more connected acts or transactions.

(6) Mitigating Factors.

(a) The disqualifying period for a Class "A" or "B" crime or crimes shall be shortened upon proof of one or more of the following factors. Where more than one factor is present the applicant is entitled to add together all the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the relevant person's probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the relevant person would pose no significant threat to public welfare if registered.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the relevant person's prosecuting attorney or probation officer.

3. One year will be deducted if the relevant person was under age 21 when the crime was committed and there is only one crime in the relevant person's law enforcement record.

4. One year is deducted if the applicant furnishes proof that the relevant person was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed

doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the relevant person and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the applicant believes should decrease the disqualifying period before registration is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the registration decision.

(b) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(7) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of pleas, e.g., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results wherein the relevant person was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) The Office finds that subjective factors involving state of mind have no mitigating weight.

(8) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of registration as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny registration, unless a Florida court specifically stays the Office's adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of registration.

(9) Pre-Trial Intervention. If at the time of application a relevant person is participating in a pre-trial intervention program based upon a charge of criminal conduct that would authorize denial of a registration under Section 517.161(1), F.S., the Office will deny the application for registration. The

Office considers participation in a pre-trial intervention program to be a pending criminal prosecution under Section 517.161(6), F.S., and finds it necessary to the public welfare to wait until final disposition of all charges of criminal conduct that would authorize denial of a registration under Section 517.161(1), F.S., before an application for registration may be considered.

(10) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding for a relevant person, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally a relevant person will have a matter sealed or expunged after the applicant submits an application, but before an application decision is made by the Office. In such situations the Office policy is as follows:

1. If the applicant properly revealed the law enforcement record relating to the relevant person on the application, and thereafter the record is sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the applicant did not reveal the law enforcement record relating to the relevant person on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Section 517.161(1)(b), Florida Statutes.

(11) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

6. Nolle prosequere; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(12) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not register any applicant under Chapter 517, Florida Statutes, while any relevant person of the applicant is imprisoned, under arrest, or serving a sentence for any crime. Further, the Office shall not register any applicant with a relevant person who has been released from imprisonment until the later of the period otherwise set out in these rules or five (5) years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least five (5) years on good behavior, before registration can be granted without undue risk to the public welfare.

(b) Community Supervision. The Office shall not grant registration to an applicant who at the time of application or at any time during the pendency of the application has a relevant person who is under supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of the courts, paroling authorities, correctional agencies, or other criminal justice agencies for any felony crime or any misdemeanor crime involving fraud, dishonest dealing, or moral turpitude.

(13) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give an applicant a right to registration after any set period of time. Regardless of the expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to registration remains on the applicant.

(14) Class "A" Crimes include felonies involving an act of fraud, dishonesty, or a breach of trust, or money laundering, and the Office finds that such crimes constitute crimes of moral turpitude. The Office finds the following list of crimes are Class "A" crimes. Crimes similar to the crimes on this list may also be considered Class "A" crimes, and no inference should be drawn from the absence of any crime from this list.

(a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

(m) Any type of forgery or uttering a forged instrument.

(n) Misuse of public office.

- (o) Racketeering.
- (p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.
- (q) Treason against the United States, or a state, district, or territory thereof.
- (r) Altering public documents.
- (s) Witness tampering.
- (t) Tax evasion.
- (u) Impersonating or attempting to impersonate a law enforcement officer.
- (v) Money laundering.
- (w) Murder in all degrees.
- (x) Arson.
- (y) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.
- (z) Aggravated Assault (e.g., as with a deadly weapon).
- (aa) Aggravated Battery (e.g., as with a deadly weapon).
- (bb) Rape.
- (cc) Sexually molesting any minor.
- (dd) Sexual battery.
- (ee) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.
- (ff) Kidnapping.
- (15) Class "B" Crimes any misdemeanor that involves fraud, dishonest dealing or any other act of moral turpitude.
- (16) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:
  - (a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;
  - (b) The degree of penalty associated with the same or similar crimes in the United States; and
  - (c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States; for example, the right of a defendant to a public trial, the right against self-incrimination, the right of notice of the charges; the right to confront witnesses, the right to call witnesses, and the right to counsel.
- (17) Form BD and Form ADV are incorporated by reference in subsection 69W-301.002(7), F.A.C.
- (18) For purposes of this rule, "certified" means that there must be a certification or attestation by the issuer of the record that the document is a true copy of a record contained in the issuer's office and the issuer's seal, if any.

Rulemaking Authority 517.1611(2) FS. Law Implemented 517.12, 517.161 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: IS-2.0091	RULE TITLE: Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification
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**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 17, April 30, 2010 issue of the Florida Administrative Weekly.

The changes have been made in response to written comments submitted by the staff of the Joint Administrative Procedures Committee and the provider of information technology services to the supervisors of elections.

1. Subsection (2)(a)3. shall now read:
  - 3.4. Had not ever previously signed a petition form containing the identical initiative which had been verified as valid.
2. Subsection (2)(b) shall now read:
  - (b) The Supervisor shall not verify as valid a signature on an initiative petition form unless all of the following information is contained on the petition form:
    1. The voter's name,
    2. The voter's ~~residential~~ street address (including city and county),
    3. The voter's date of birth or voter registration number,
    4. The voter's original signature, and
    5. The date the voter signed the petition, as recorded by the voter.
3. Subsections (6) and (7) shall now read:
  - ~~(6)(7)~~ Limitation on Use of Verified Signatures. Verified signatures used successfully to place a proposed amendment by initiative on the ballot that subsequently fails to be approved by the electors at the general election shall not be used again in