Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0319; (850)413-5654

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NOS.:	RULE TITLES:
69I-69.001	Definitions
69I-69.002	Statement of Revenues, Expenditures and Allocation of Funds
69I-69.003	Additional Auditing Procedures
69I-69.004	Priority for Allocation of Funds

PURPOSE AND EFFECT: Section 29.0085, F.S., requires counties to annually submit to the Chief Financial Officer (CFO) a statement of revenues and expenditures that identifies the total county expenditures on each service outlined in Sections 29.008 and 29.0085, F.S., authorizes the CFO to prescribe the form and manner of the statement. Counties are also required to submit a statement of compliance from their independent certified public accountant certifying that the statement of expenditures is in compliance with Sections 29.008 and 29.0085, F.S. The proposed rule amendments implement the CFO's duties under Sections 29.008 and 29.0085, F.S., and adopt the Statement of County Funded Court-Related Functions form.

SUBJECT AREA TO BE ADDRESSED: Annual statement of county funded court-related functions.

RULEMAKING AUTHORITY: 17.29, 29.0085(3) FS.

LAW IMPLEMENTED: 29.008, 29.0085 FS.

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

DATE AND TIME: May 10, 2010, 3:00 p.m.

PLACE: Room 430, Fletcher Building, 101 E. Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Justin Young (850)413-5712 or Justin.Young@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Justin Young, Financial Administrator, Bureau of Local Government, 200 East Gaines Street, Tallahassee, FL 32399-0354, (850)413-5712 or Justin.Young@myfloridacfo.com. http://www.myfloridacfo.com/LegalServices/RuleHearing/

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

Section II
Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CITRUS

RULE NO.:	RULE TITLE:
20-48.005	Program Requirements

PURPOSE AND EFFECT: Amendment updating rules to reflect new location information of the Florida Department of Citrus.

SUMMARY: Official location information of the Florida Department of Citrus.

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: 601.15 FS.

LAW IMPLEMENTED: 601.15 FS.

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

DATE AND TIME: June 9, 2010, 1:30 p.m.

PLACE: Hyatt Regency Coconut Point, 5001 Coconut Road, Bonita Springs, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 9010, Bartow, Florida 33831-9010 or awiggins@citrus.state.fl.us or www.fdocgrower.com under Legal

THE FULL TEXT OF THE PROPOSED RULE IS:

20-48.005 Program Requirements.

A Targeted VAP may be established in one of two ways:

(1) through (2) No change.

(3) Upon establishing a promotional agreement with a retailer, the shipper will notify the Department of Citrus by submitting the appropriate Targeted VAP Agreement Form, incorporated herein by reference:

(a) No change.

(b) Targeted VAP Agreement Form CIT/MKTG/153/EFF.10/20/99 for a media/demo promotion, incorporated herein by reference, to the Department of Citrus Bartow ~~Lakeland~~ office VAP Administrator. All promotions established by participant require 10 days lead time.

Rulemaking ~~Specific~~ Authority 601.15 FS. Law Implemented 601.15 FS. History–New 11-17-97, Amended 12-6-98, 2-3-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth O. Keck, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth O. Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

DEPARTMENT OF CITRUS

RULE NO.:	RULE TITLE:
20-68.002	Inspection of Official Tables

PURPOSE AND EFFECT: Amendment updating rules to reflect new location information of the Florida Department of Citrus.

SUMMARY: Official location information of the Florida Department of Citrus.

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: 601.10(1),(7), 601.11, 601.25 FS.

LAW IMPLEMENTED: 601.02(4),(5), 601.10(7), 601.11, 601.25 FS.

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

DATE AND TIME: June 9, 2010, 1:30 p.m.

PLACE: Hyatt Regency Coconut Point, 5001 Coconut Road, Bonita Springs, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 9010, Bartow, Florida 33831-9010 or awiggins@citrus.state.fl.us or www.fdocgrower.com under Legal

THE FULL TEXT OF THE PROPOSED RULE IS:

20-68.002 Inspection of Official Tables.

An official copy of the table adopted by Section 20-68.001 is on file in the office of the Secretary of State and at the headquarters office of the Florida Department of Citrus, Bartow ~~Lakeland~~, Florida, and may be inspected by any interested person during business hours.

Rulemaking ~~Specific~~ Authority 601.10(1),(7), 601.11, 601.25 FS. Law Implemented 601.02(4),(5), 601.10(7), 601.11, 601.25 FS. History–Formerly 105-1.36(2), Revised 1-1-75, Formerly 20-68.02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth O. Keck, Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth O. Keck, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

DEPARTMENT OF CITRUS

RULE NOS.:	RULE TITLES:
20-100.001	Statement of Agency Organization and Operation
20-100.003	Management and Indexing of Final Orders
20-100.004	Official Forms Used by Agency

PURPOSE AND EFFECT: Amendment updating rules to reflect new location information of the Florida Department of Citrus.

SUMMARY: Official location information of the Florida Department of Citrus.

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: 120.54(5), 120.53, 601.10(1), (15) FS.

LAW IMPLEMENTED: 120.54(5), 120.53, 601.10(15) FS.

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

DATE AND TIME: June 9, 2010, 1:30 p.m.

PLACE: Hyatt Regency Coconut Point, 5001 Coconut Road, Bonita Springs, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department

of Citrus, P. O. Box 9010, Bartow, Florida 33831-9010 or awiggins@citrus.state.fl.us or www.fdocgrower.com under Legal

THE FULL TEXT OF THE PROPOSED RULES IS:

20-100.001 Statement of Agency Organization and Operation.

The Department of Citrus operates under the specific authority of Chapter 601, Florida Statutes. A Statement of Agency Organization and Operation is available to any person upon request by contacting the Agency Clerk at the Department of Citrus headquarters office 605 E. Main Street ~~1115 East Memorial Boulevard~~, Post Office Box 9010 ~~148~~, Bartow ~~Lakeland~~, Florida 33831-0910 ~~33802-0148~~, phone (863)537-3999 (~~941)499-2500~~.

Rulemaking ~~Specific~~ Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History–Adopted 12-18-74, Effective 12-31-74, Formerly 20-100.01, Amended 2-2-98,_____.

20-100.003 Management and Indexing of Final Orders.

(1) through (4) No change.

(5) The Agency Clerk of the Florida Citrus Commission shall be responsible for publishing, maintaining and indexing of final orders and shall assist the public in obtaining information pertaining to final orders, between 8 a.m. and 5 p.m., Monday – Friday except on holidays, at the headquarters of the Department of Citrus, at 605 E. Main Street ~~1115 E. Memorial Blvd.~~ in Bartow ~~Lakeland~~, Florida.

Rulemaking ~~Specific~~ Authority 120.53 FS. Law Implemented 120.53 FS. History–New 6-15-92, Formerly 20-102.007, Amended 2-2-98,_____.

20-100.004 Official Forms Used by Agency.

In its licensing, regulatory, taxation, marketing and other operational functions the Florida Department of Citrus requires use of the forms listed below. All of these forms are available for inspection by any interested party during regular business hours at the headquarters office located at 605 E. Main Street, ~~1115 East Memorial Boulevard~~, Bartow ~~Lakeland~~, Florida or may be received upon request by writing the Florida Department of Citrus, P. O. Box 9010 ~~148~~, Bartow ~~Lakeland~~, Florida 33831-9010 ~~33802-0148~~ or by telephone (863)537-3999 (~~863)499-2500~~.

(1) through (52) No change.

Rulemaking ~~Specific~~ Authority 601.10(1), (15) FS. Law Implemented 601.10(15) FS. History–New 1-1-75, Amended 8-31-83, 2-26-84, Formerly 20-102.05, Amended 12-20-95, Formerly 20-102.005, Amended and Transferred 12-6-98, Amended 5-28-00, 9-20-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth O. Keck, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth O. Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.101 Care of Inmates

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that inmates are permitted to wear authorized athletic shoes, such as canteen-purchased athletic shoes, as part of the Class A uniform except for the purposes of visitation.

SUMMARY: The proposed rule clarifies that inmates are permitted to wear authorized athletic shoes, such as canteen-purchased athletic shoes, as part of the Class A uniform except for the purposes of visitation.

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: 944.09, 945.215 FS.

LAW IMPLEMENTED: 944.09, 945.215 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.101 Care of Inmates.

(1) Each institution shall provide a canteen to be operated within the institution for the convenience of the inmates in obtaining items which are not furnished ~~them~~ by the Department of Corrections, but which are allowable within the institution through canteen purchase. Proceeds from the operation of the canteen shall be deposited in the general revenue fund as provided by law. These profits shall be used as provided in Rule 33-203.101, F.A.C. Such canteen operation shall be subject to audit, as other institutional operations are audited. Institutions with a cashless canteen shall restrict canteen purchases to those inmates with proper identification. Alternate purchase procedures shall be established for those inmates with temporary ID cards. These alternate procedures shall ensure at least a weekly opportunity to make canteen purchases.

(2) Inmates shall at all times wear the regulation clothing and identification card in accordance with Department rules, procedures, and institution policy.

(a) Class Uniforms will be as follows:

1. The male Class A uniform shall require the following:

a. through g. No change.

h. Footwear (including authorized athletic shoes, state issued canvas shoes, work boots, or approved medically necessary footwear). Authorized athletic shoes may not, however, be worn for visitation.

2. The female Class A uniform shall require the following:

a. through d. No change.

e. Footwear (including authorized athletic shoes, state issued canvas shoes, work boots, or approved medically necessary footwear). Authorized athletic shoes may not, however, be worn for visitation.

3. through 5. No change.

(b) General Clothing Regulations: The following general clothing regulations will not supersede the clothing or uniform requirements or allowances for inmates in Maximum Management, Close Management, Disciplinary Confinement, Administrative Confinement, Work Release or Community Release inmates contained in other rules. Work release inmates shall wear civilian clothing as required by Rule 33-601.602, F.A.C.

1. through 5. No change.

6. Inmates shall wear either shorts or, pants~~, (or females may wear a dress or pajamas with a robe fully buttoned)~~ any time inmates are not in their beds, except that females may wear a dress or pajamas with a robe fully buttoned. Pants shall be completely buttoned before exiting the dormitory. The waist of pants and shorts shall be worn above the buttocks, around the natural waist.

7. through 8. No change.

9. No hats shall be worn inside, except as stated for religious reasons, and shall be removed from the head when passing through any gate area. Skull caps of any kind are prohibited.

10. No change.

(c) through (h) No change.

(i) Institutional clothing is the property of the State of Florida and must be returned to the Department ~~department~~ upon an inmate's release from incarceration. Institutional clothing shall not be worn by an inmate being released from incarceration.

(j) through (k) No change.

(3) The warden or Officer-in-Charge shall give each inmate a receipt for any personal clothing in his possession other than that allowed by the Department of Corrections. In addition, inmates shall be permitted to send such clothing to their families, residences or other persons approved by the warden or Officer-in-Charge at no expense to the Department of Corrections. Enclosed with such clothing sent from the institution shall be an itemized list thereof, a signed copy of the inmate's written request that it be sent to the addressee to whom the clothing is forwarded. A copy of such list and a signed copy of such written request shall be placed in the inmate's record jacket, along with a notation showing the date of mailing. If the inmate does not send his clothing out of the institution or gives it to the institution within 30 days after his arrival at the institution, it shall be considered forfeited and may be placed in a "clothes closet" for later use by inmates, donated to charity, or disposed of by the institution. Notice of such forfeiture shall be given to the inmate in writing by the warden or designee and a copy of such notice shall be filed in the inmate's property file. (Also see Control of Contraband, Rule 33-602.203, F.A.C.).

(4) through (10) No change.

(11) Inmate health and comfort items shall be provided in accordance with the guidelines in the Inmate Health and Comfort Items – Issuance, Form NI1-071. Form NI1-071, Inmate Health and Comfort Items – Issuance, is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator~~, Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 10-23-06.

Rulemaking ~~Specific~~ Authority 944.09, 945.215 FS. Law Implemented 944.09, 945.215 FS. History–New 10-8-76, Amended 4-19-79, 4-24-80, 10-14-84, 1-9-85, Formerly 33-3.02, Amended 11-3-87, 10-6-88, 7-23-89, 8-27-91, 3-30-94, 11-13-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, 1-19-03, 9-23-03, 3-5-06, 10-23-06, 1-18-07, 5-13-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.:	RULE TITLE:
61C-4.023	Food Protection Manager Certification and Public Food Service Employee Training

PURPOSE AND EFFECT: The purpose of the proposed rule development is to correctly identify the location of the adopted basic food protection practices and update the adopted Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs. The effect of the proposed rule development is to comply with the statutory requirement to adopt standards consistent with the standards

adopted by the Conference for Food Protection and ensure food manager certification programs meet the current standards.

SUMMARY: The proposed rule corrects the reference to the adopted food protection practices required for food manager certification and updates the accreditation standards for organizations providing food manager certification by adopting the 2008 version of the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs.

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: 509.032, 509.039, 509.049 FS.

LAW IMPLEMENTED: 509.039, 509.049 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1012, telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(1) All managers who are responsible for the storage, preparation, display, and serving of foods to the public shall have passed a certification test approved by the division demonstrating a basic knowledge of food protection practices as adopted by the division ~~in this chapter~~. Those managers who successfully pass an approved certification examination shall be issued a certificate by the certifying organization, which is valid for a period of five years from the date of issuance. Each licensed establishment shall have a minimum of one certified food protection manager responsible for all periods of operation. The operator shall designate in writing the certified food protection manager or managers for each location. A current list of certified food protection managers shall be available upon request in each establishment. When four or more employees, at one time, are engaged in the storage, preparation or serving of food in a licensed establishment, there shall be at least one certified food protection manager present at all times when said activities are taking place. The certified food protection manager or managers need not be present in the establishment during those periods of operation when there are three or fewer employees engaged in the storage, preparation, or serving of foods. It shall be the responsibility of the certified food protection manager or managers to inform all employees under their supervision and control who engage in the storage, preparation, or serving of food, to do so in accordance with acceptable sanitary practices as described in this chapter.

(2) No change.

(3) The Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, as adopted by the Conference for Food Protection on August 4, 2008 ~~April 12, 2000~~ and herein adopted by reference, shall be the division standard for the recognition of certifying organizations who provide food manager certification examinations. A copy of the Standards for Accreditation of Food Protection Manager Certification Programs is available on the Conference for Food Protection website at www.foodprotect.org. The Division of Hotels and Restaurants shall accept all certification examinations approved by the Conference for Food Protection. Certifying organizations that are accredited by a Conference for Food Protection sanctioned accreditor shall be recognized by the division as approved providers of a Food Protection Manager Certification Program.

(4) No change.

Rulemaking ~~Specific~~ Authority 509.032, 509.039, 509.049 FS. Law Implemented 509.039, 509.049 FS. History–New 2-21-91, Amended 5-12-92, Formerly 10D-13.037, 7C-4.023, Amended 3-31-94, 10-9-95, 1-18-98, 2-7-01, 8-12-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill L. Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Interim Secretary, Department of Business and Professional Regulation

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE NO.: RULE TITLE:

61G19-5.004 Final Orders

PURPOSE AND EFFECT: The purpose of this proposed rule change is to remove the requirement that the Chair sign all final orders.

SUMMARY: The rule will remove the requirement that the Chair sign all final orders

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: 468.606 FS.

LAW IMPLEMENTED: 455.225, 455.227, 468.621 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: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-5.004 Final Orders.

(1) Final orders shall be effective upon filing with the Clerk of the Board.

~~(2) The Chair of the Board shall sign all final orders.~~

(2)~~(3)~~ Administrative fines shall be paid within thirty (30) days of the final order at the Board address listed in subsection 61G19-1.002(1), F.A.C.

(3)~~(4)~~ In cases where the Board imposes a civil penalty for violation of Chapter 455 or Part XIII of Chapter 468, F.S., or of the rules promulgated thereunder, the penalty shall be paid within thirty (30) days of its imposition by order of the Board, unless a later time for payment is specified in the Board's Order. Moreover, unless otherwise addressed by the Board at hearings held pursuant to Section 120.57(2), F.S., whenever a fine is levied at said hearing the respondent who is fined shall have all certification to practice suspended with the imposition of the suspension being stayed for thirty (30) days. If the ordered fine is paid within said thirty (30) day period, the suspension imposed shall not take effect. Upon payment of the fine after the thirty (30) days, the suspension imposed shall be lifted. If the certificate holder does not pay the fine, within said period, then immediately upon expiration of the stay, he shall surrender his certificate(s) to an investigator of the Department of Business and Professional Regulation or shall mail said certificate(s) to the Board offices.

(4)~~(5)~~ Failure to pay the penalty within the time specified in this rule or in the Board's Order shall constitute grounds for disciplinary action against the certificate holder.

(5)~~(6)~~ An action against any certificate issued within the purview of the board affects all certificates issued by the board.

(6)~~(7)~~ The Board may reinstate a suspended certificate, or recertify a person whose certificate has been revoked, after review pursuant to Rule 61G19-5.005, F.A.C.

Rulemaking ~~Specific~~ Authority 468.606 FS. Law Implemented 120.59, 455.224, 455.227, 468.621 FS. History–New 5-23-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 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 ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-302.400	Classification of Surface Waters, Usage, Reclassification, Classified Waters
62-302.530	Table: Surface Water Quality Criteria

PURPOSE AND EFFECT: On July 20, 2009, the Department of Environmental Protection (Department) received a petition to initiate rulemaking from the Florida Stormwater Association to establish a more refined surface water classification system. The existing surface water classification system has been in effect for over three decades. The Department initiated rulemaking and conducted four public workshops: August 18, 2009; November 18, 2009; January 7, 2010; and February 22, 2010 to receive comments from the public regarding the revision of the existing surface water classification system. The proposed revisions establish a new sub-classification of Class III waters titled Class III-Limited that is intended to recognize that some artificial or altered waters cannot fully support a Class III use due to human-induced physical or habitat conditions. No waters are reclassified as part of this rulemaking nor are there any changes to water quality criteria.

SUMMARY: The Department is amending Chapter 62-302, F.A.C., to revise the existing surface water classification system by adding a new sub-classification under Class III waters titled Class III-Limited. The new Class III-Limited sub-classification is intended to address some artificial or altered waters that cannot fully support a Class III use due to physical or habitat conditions. Any future reclassification of a waterbody to the new Class III-Limited use will require a Use Attainability Analysis as well as the relevant Site Specific Alternative Criteria appropriate for that waterbody. Reclassification requirements are described in Rule 62-302.400, F.A.C., and the document "Process for

Reclassifying the Designated Uses of Florida Surface Waters" (DEP-SAS-001/10), which is incorporated by reference into the rule. Petitioners for a reclassification to Class III-Limited must demonstrate that existing uses of both the reclassified water and downstream water are fully protected, and no classification action or change in designated use shall result in degradation of water quality in Outstanding Florida Waters or Outstanding National Resource Waters.

Chapter 62-302 and Rule 62-302.400, F.A.C., are referenced by a number of other rules. The proposed amendments will have no effect on the following referenced rules, other than to authorize the Department to create a Class III-Limited sub-classification for surface waters to which alternative surface water quality criteria for certain limited parameters may apply in the future: Rules 62-4.242, 62-4.246, 62-25.001, 62-25.025, 62-25.080, 62-29.050, 62-40.120, 62-40.210, 62-113.200, 62-301.100, 62-302.300, 62-302.400, 62-303.100, 62-303.200, 62-303.430, 62-304.310, 62-304.335, 62-304.500, 62-312.050, 62-312.340, 62-312.816, 62-312.819, 62-330.100, 62-330.200, 62-341.486, 62-341.490, 62-341.494, 62-346.051, 62-346.301, 62-528.610, 62-528.630, 62-600.120. 62-600.200, 62-600.300, 62-600.400, 62-600.430, 62-600.440, 62-600.500, 62-600.520, 62-610.200, 62-610.300, 62-610.310, 62-610.650, 62-610.670, 62-610.850, 62-611.110, 62-611.200, 62-611.450, 62-611.500, 62-611.600, 62-611.650, 62-611.700, 62-620.320, 62-620.400, 62-620.620, 62-620.800, 62-624.800, 62-625.300, 62-673.340, 62-673.610, 62-701.200, 62-701.300, 62-709.500, 62-711.540, 62-761.200, 62-762.201, 62-770.200, 62-771.100, 62-777.150, 62-777.170, 62-780.200, 62-782.200, 62-785.200, and 62B-49.012, F.A.C.

Rule 62-302.530, F.A.C., is referenced by a number of other rules. The proposed amendments will have no effect on the following referenced rules other than to authorize the Department to create a Class III-Limited sub-classification for surface waters to which alternative surface water quality criteria for certain limited parameters may apply in the future: Rules 62-302.244, 62-302.200, 62-302.400, 62-302.500, 62-302.530, 62-303.320, 62-303.330, 62-303.370, 62-661.500, 62-611.600, and 62B-49.008, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: This rule establishes a new sub-classification of waters (Class III-Limited) and describes the requirements for waterbody reclassifications. This rule establishes the classification structure and process for moving a waterbody into a Class III-Limited classification, but it does not actually move any waters from their existing classification. Because no waters are reclassified under this rulemaking, the proposed rule does not have any direct economic effect on small businesses or any other regulated entities. Any subsequent rulemaking to reclassify waters to a lower classification would also not be expected to have any net adverse economic effect on small counties, small businesses, or any regulated entity that applies for a reclassification because reclassifications will only be sought when there would be an economic advantage to do so. The Department has been advised by industry representatives that any regulated entity, after conducting a cost-benefit analysis, would not seek reclassification unless the short term cost of the reclassification process was offset by the long term economic benefits of the resulting regulatory relief. Reclassifications will also not have any adverse economic impacts on small counties, small businesses, or other entities that use the waters addressed by a reclassification because reclassifications will not be allowed to lower existing water quality or remove existing uses in the reclassified water or downstream waters. The Department prepared a SERC to evaluate the potential future costs associated with future rulemaking triggered by a petition for reclassification (e.g., costs for water quality sampling, hiring a consultant, applying for a Site Specific Alternative Criterion).

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: 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804 FS.

LAW IMPLEMENTED: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708 FS.

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

DATE AND TIME: Thursday, May 20, 2010, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, 3900 Commonwealth Blvd., Conference Room A, Tallahassee, FL

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: Eric Shaw at (850)245-8429. 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: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us. Copies of the draft rule as well as further information also may be obtained from the Department's internet site at: http://www.dep.state.fl.us/secretary/designateduse.htm. (OGC No. 09-3372)

THE FULL TEXT OF THE PROPOSED RULES IS:

62-302.400 Classification of Surface Waters, Usage, Reclassification, Classified Waters.

(1) All surface waters of the State have been classified according to designated uses as follows:

CLASS I	Potable Water Supplies
CLASS II	Shellfish Propagation or Harvesting
CLASS III	Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
CLASS III-Limited	Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Maintenance of a Limited Population of Fish and Wildlife
CLASS IV	Agricultural Water Supplies
CLASS V	Navigation, Utility and Industrial Use

(2) Classification of a waterbody ~~water body~~ according to a particular designated use or uses does not preclude use of the water for other purposes.

(3) The specific water quality criteria corresponding to each surface water classification are listed in Rules 62-302.500 and 62-302.530, F.A.C.

(4) Water quality classifications are arranged in order of the degree of protection required, with Class I water having generally the most stringent water quality criteria and Class V the least. However, Class I, II, and III surface waters share water quality criteria established to protect fish consumption, recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

(5) Class III-Limited surface waters share the same water quality criteria as Class III except for any site specific alternative criteria that have been established for the waterbody under Rule 62-302.800, F.A.C. Class III-Limited waters are restricted to waters with human-induced physical or habitat conditions that prevent attainment of Class III uses and do not include waterbodies that were created for mitigation purposes. Class III-Limited waters are restricted to:

(a) Wholly artificial waterbodies that were constructed consistent with regulatory requirements under Part I or Part IV of Chapter 373 or Part V of Chapter 403, F.S.; or

(b) Altered waterbodies that were dredged or filled prior to November 28, 1975. For purposes of this section, "altered waterbodies" are those portions of natural wetlands and other surface waters that were dredged or filled prior to November 28, 1975, to such an extent that they exhibit separate and distinct hydrologic and environmental conditions from any waters to which they are connected.

(6)~~(5)~~ No change.

(7)~~(6)~~ Any person regulated by the Department or having a substantial interest in a surface waterbody ~~this Chapter~~ may seek reclassification of waters of the State by filing a petition with the Department in accordance with Rule 28-103.006, F.A.C. ~~Secretary in the form required by Section 120.57, F.S.~~

(8)~~(7)~~ A petition for reclassification shall reference and be accompanied by the information necessary to support the affirmative findings required in this s~~S~~ection, as described in the DEP document titled, "Process for Reclassifying the Designated Uses of Florida Surface Waters" (DEP-SAS-001/10), incorporated by reference herein. Copies of the Process document may be obtained from the Department's internet site at http://www.dep.state.fl.us/water or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400 ~~to support the proposed reclassification~~.

(9)~~(8)~~ All reclassifications of waters of the State shall be adopted, after public notice (including notification to affected local governments and sovereign American Indian tribes) and public hearing, only upon ~~an~~ affirmative findings by the Environmental Regulation Commission that:

(a) The proposed reclassification will establish the present and future most beneficial use of the waters; ~~and~~

(b) Such a reclassification is clearly in the public interest after considering public input, including special consideration of input submitted by elected city or county governing bodies and sovereign American Indian tribes, who represent the public interest where the waters, and affected upstream and downstream waters, are located;

(c) The proposed reclassification does not allow for the lowering of existing water quality nor result in the nonattainment of water quality standards in downstream waters;

(d) The demonstrations required under subsections (10)-(12) below are met as applicable; and

(e) The requirements contained in Rule 62-302.400, F.A.C., are satisfied.

(10)~~(9)~~ Reclassification of waters of the State which establishes more stringent criteria than presently established by this c~~C~~hapter shall be adopted, only upon additional affirmative finding by the Environmental Regulation Commission that the proposed designated use is attainable, upon consideration of environmental, technological, social, economic, and institutional factors. The assessment of attainability shall address upstream effects of reclassification.

(11) If rulemaking is initiated for a less stringent classification, the petitioner or the Department shall include in the reclassification documentation appropriate and scientifically defensible water quality, biological, hydrological, and habitat studies and analyses, as well as environmental, technological, social, and economic studies, including costs to

small businesses and local governments, as necessary to establish the present and future most beneficial use by demonstrating that:

(a) No existing uses are being removed and the less stringent criteria associated with the designation will not result in the nonattainment of water quality standards in downstream waters;

(b) The designated uses being removed cannot be attained by implementing effluent limits required by sections 301(b) and 306 of the Federal Clean Water Act in conjunction with implementation of cost-effective and reasonable best management requirements for nonpoint source pollution control; and

(c) One or more of the following situations occur:

1. Concentrations of naturally occurring substances prevent the attainment of the use;

2. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met;

3. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

4. Dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use;

5. Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pool, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or

6. Controls more stringent than those required by sections 301(b) and 306 of the Federal Clean Water Act would result in substantial and widespread economic and social impact.

(12) The petition for a Class III-Limited classification shall include appropriate Site Specific Alternative Criteria proposals that are protective of the most beneficial use as determined by the demonstration in subsection (9) above. Site Specific Alternative Criteria established to support the Class III-Limited designated use are restricted to numeric criteria for any or all of the following parameters: nutrients (including nutrient response variables), bacteria, dissolved oxygen, alkalinity, specific conductance, transparency, turbidity, biological integrity, or pH. Site Specific Alternative Criteria for these parameters shall not be set at levels less stringent than water quality conditions at the time of reclassification. Proposed Site Specific Alternative Criteria for other parameters must fully protect Class III uses.

(13) Nothing contained in subsections (8) through (12) above shall be deemed to pre-empt or prohibit the regulatory implementation, adoption, continuation or enforcement of more stringent criteria that are established by a local government through a local pollution control program.

(14)~~(10)~~ The surface waters of the State of Florida are classified as Class III – Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife, except for certain waters which are described in subsection 62-302.400(16), F.A.C. ~~Rule 62-302.400(12), F.A.C.~~ A waterbody ~~water body~~ may also be designated as an Outstanding Florida Water or an Outstanding National Resource Water ~~in addition to being classified as Class I, Class II, or Class III~~. Outstanding Florida Waters and Outstanding National Resource Waters are not designated use classifications. A waterbody ~~water body~~ may also have special standards applied to it. However, notwithstanding any provision of this section, no classification action or change in designated use shall result in degradation of water quality in Outstanding Florida Waters or Outstanding National Resource Waters. Outstanding Florida Waters and Outstanding National Resource Waters are listed in Rule 62-302.700, F.A.C.

(15)~~(11)~~ No change.

(16)~~(12)~~ Exceptions to Class III:

(a) No change.

(b) The following listed waterbodies ~~water bodies~~ are classified as Class I, Class II, Class III-Limited, or Class V:

1. through 67. No change.

Rulemaking ~~Specific~~ Authority 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708 FS. History–Formerly 28-5.06, 17-3.06, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83, Formerly 17-3.081, Amended 4-25-93, Formerly 17-302.400, Amended 12-26-96, 8-24-00, 12-7-06, _____.

62-302.530 Table: Surface Water Quality Criteria.

The following table contains both numeric and narrative surface water quality criteria to be applied except within zones of mixing. The left-hand column of the Table is a list of constituents for which a surface water criterion exists. The headings for the water quality classifications are found at the top of the Table. Applicable criteria lie within the Table. The individual criteria should be read in conjunction with other provisions in water quality standards, including Rule 62-302.500, F.A.C. The criteria contained in Rule 62-302.500, F.A.C., also apply to all waters unless alternative or more stringent criteria are specified in Rule 62-302.530, F.A.C. Unless otherwise stated, all criteria express the maximum not to be exceeded at any time. In some cases, there are separate or additional limits, which apply independently of the maximum not to be exceeded at any time. For example, annual average (denoted as “annual avg.” in the Table) means the maximum concentration at average annual flow conditions (see

subsection 62-302.200(2), F.A.C.). In applying the water quality standards, the Department shall take into account the variability occurring in nature and shall recognize the statistical variability inherent in sampling and testing procedures. The Department's assessment methodology, set forth in Chapter 62-303, F.A.C., accounts for such natural and statistical variability when used to assess ambient waters pursuant to sections 305(b) and 303(d) of the Federal Clean Water Act.

Criteria for Surface Water Quality Classifications							
				Class III and Class III-Limited (see Note 4)~~: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife~~			
Parameter	Units	Class I~~: Potable Water Supply~~	Class II~~: Shellfish Propagation or Harvesting~~	Predominantly Fresh Waters	Predominantly Marine Waters	Class IV~~: Agricultural Water Supplies~~	Class V~~: Navigation, Utility, and Industrial Use~~
(1) through (70) No change.							

Notes**:** (1) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of $CaCO_3$. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is < 25 mg/L and set at 400 mg/L if actual hardness is > 400 mg/L; (2) This criterion is protective of human health not of aquatic life. (3) For application of dissolved metals criteria see paragraph 62-302.500(2)(d), F.A.C. (4) Class III-Limited waters have at least one Site Specific Alternative Criterion as established under Rule 62-302.800, F.A.C.

Rulemaking ~~Specific~~ Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History–New 1-28-90, Formerly 17-3.065, Amended 2-13-92, 6-17-92, Formerly 17-302.540, 17-302.550, 17-302.560, 17-302.570, 17-302.580, Amended 4-25-93, Formerly 17-302.530, Amended 1-23-95, 1-15-96, 5-15-02, 7-19-04, 12-7-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Brooks

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-302.800 Site Specific Alternative Criteria

PURPOSE AND EFFECT: On January 30, 2009, the Department received a petition from Buckeye Florida, L.P. (Buckeye) to establish Site Specific Alternative Criteria (SSAC) for transparency in the lower Fenholloway River and near-shore waters, pursuant to Rule 62-302.800(2) of the Florida Administrative Code. All of the waters covered in the petition are classified as Class III marine waters with a designated use of "recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife" (Rule 62-302.400, F.A.C.) The proposed SSAC for transparency establishes alternative transparency criteria to protect both phytoplankton and submerged aquatic vegetation and fully protect the designated use of the waters.

SUMMARY: The Department is amending Rule 62-302.800, F.A.C., to establish Site Specific Alternative Criteria for transparency in the lower Fenholloway River and near-shore waters. The SSAC fully protects the designated use of the waters and will replace the default transparency criteria in Rule 62-302.530, F.A.C., for these waters.

Chapter 62-302 or Rule 62-302.800, F.A.C., is referenced by a number of other rules. The proposed amendments will have no effect on the following referenced rules other than to allow a discharger to meet a less stringent criterion for transparency than the criterion listed in the Table in Rule 62-302.530, F.A.C.: Rules 62-4.246, 62-25.001, 62-25.025, 62-25.080, 62-29.050, 62-40.120, 62-40.210, 62-110.106, 62-113.200, 62-301.100, 62-302.300, 62-302.500, 62-302.800, 62-303.100, 62-303.200, 62-303.430, 62-304.310, 62-304.335, 62-304.500, 62-312.050, 62-312.340, 62-312.816, 62-330.100, 62-330.200, 62-341.486, 62-346.051, 62-346.301, 62-528.610, 62-528.630, 62-600.120. 62-600.200, 62-600.300, 62-600.400, 62-600.430, 62-600.440, 62-600.500, 62-600.520, 62-610.200, 62-610.300, 62-610.310, 62-610.650, 62-610.670, 62-610.850, 62-611.200, 62-611.450, 62-611.500, 62-611.600, 62-611.650, 62-611.700, 62-620.320, 62-620.400, 62-620.620, 62-620.800, 62-624.800, 62-625.300, 62-673.340, 62-673.610, 62-701.200, 62-701.300, 62-709.500, 62-711.540, 62-761.200, 62-762.201, 62-770.200, 62-771.100, 62-777.150, 62-777.170, 62-780.200, 62-782.200, 62-785.200, and 62B-49.012, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. Thus, 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: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.502 FS.

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

DATE AND TIME: Thursday, May 20, 2010, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, 3900 Commonwealth Blvd., Conference Room A, Tallahassee, FL

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: Eric Shaw at (850)245-8429. 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: Eric Shaw, Department of Environmental Protection, Bureau of Assessment and Restoration Support, MS 6511, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, (850)245-8429 or e-mail: eric.shaw@dep.state.fl.us. Copies of the draft rule as well as further information also may be obtained from the Department's internet site at: http://www.dep.state.fl.us/water/wqssp/surface.htm

THE FULL TEXT OF THE PROPOSED RULE IS:

62-302.800 Site Specific Alternative Criteria.

(1) through (4) No change.

(5) Site specific alternative criteria apply to the water bodies, or portions of the water bodies, listed below. For dissolved oxygen site specific alternative criteria, normal daily and seasonal fluctuations above the levels listed in the table below shall be maintained.

(a) through (b) No change.

Water Body and Class	Site Specific Alternative Criteria	County(s)
(c) Fenholloway River from river mile -0.1 to river mile 3.5. Class III.	The annual average compensation depth for photosynthetic activity for phytoplankton shall not be decreased greater than 44.3 percent from background conditions as determined by an annual average compensation depth of at least 0.66 meters at river mile 0.53 (station F06). This value must be based on a minimum of 12 measurements during times when the average flow at Cooey Island Bridge at river mile 7.15 measures less than 200 cubic feet per second.	Taylor
(d) Fenholloway River coastal waters (Apalachee Bay) as spatially defined by the coordinates (83° 49' 29.95" W, 29° 59' 38.70" N), (83° 45' 3.61" W, 29° 57' 22.10" N), (83° 47' 23.50" W, 29° 54' 5.01" N), and (83° 51' 45.47" W, 29° 56' 25.71" N). Class III.	The annual average down-welling light at 1 m depth at stations F10 (83° 47' 6.60" W, 29° 57' 4.20" N) and F11 (83° 48' 27.00" W, 29° 57' 38.40" N) shall be 27 percent or more of surface values based on a minimum of 12 measurements using a 2 pi sensor during times when the average flow at Cooey Island Bridge at river mile 7.15 measures less than 200 cubic feet per second.	Taylor

Rulemaking ~~Specific~~ Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.502 FS History–Formerly 17-3.05(4), Amended 3-1-79, 10-2-80, 2-1-83, Formerly 17-3.031, Amended 6-17-92, Formerly 17-302.800, Amended 5-15-02, 1-9-06, 6-28-06, 12-7-06, 8-5-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Brooks

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

DEPARTMENT OF HEALTH

Board of Massage

RULE NO.: RULE TITLE:
64B7-30.004 Citations

PURPOSE AND EFFECT: To make the timeframes for compliance with citations consistent.

SUMMARY: The rule amendment approves making timeframes for compliance with citations consistent.

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: 456.072, 456.077 FS.

LAW IMPLEMENTED: 456.072, 456.077 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: Kaye Howerton, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-30.004 Citations.

(1) through (2) No change.

(3) The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

(a) through (g) No change.

(h) First-time failure of the licensee to satisfy continuing education requirements established by the Board; Fine of $250.00, and one hour of continuing education for each hour not completed or completed late. These continuing education hours are to be completed within 90 days ~~three months~~ of the date of citation issuance.

(i) through (3)(m) No change.

(4) No change.

(5) All fines and costs imposed in a citation shall be paid within 9~~3~~0 days of the date the citation is filed.

Rulemaking ~~Specific~~ Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History–New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98, 7-18-99, 7-27-00, 10-12-03, 8-9-04, 5-1-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Medicine

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

PURPOSE AND EFFECT: The proposed Rule 64B8-9.0131, F.A.C., is intended to set forth the appropriate standards for physicians who practice in pain management clinics pursuant to Section 458.309, Florida Statutes. The proposed Rule 64B8-9.0132, F.A.C., is intended to set forth the requirements for registration and inspection or accreditation of pain clinics.

SUMMARY: The proposed Rule 64B8-9.0131, F.A.C., sets forth standards for physicians practicing in pain management clinics pursuant to Section 458.309, F.S. Specifically, the rule addresses facility operations, physical operations, infection control requirements, health and safety requirements, quality assurance requirements, patient records, training requirements, and data collection. The proposed Rule 64B8-9.0132, F.A.C., sets forth the requirements necessary to register a pain management clinic; the requirements for inspection of pain management clinics; and provisions for pain clinics accredited by nationally recognized accrediting agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board prepared two Statements of Estimated Regulatory Costs for these rules. With regard to Rule 64B8-9.0131, F.A.C., at least 968 pain management clinics will be impacted by the rule. The rule will require clinic owners to comply with facility and physical operations including signage, telephones, emergency lighting, etc. In addition, the rule requires drug testing of patients and depending on the collection and testing method utilized, there may be an increased cost associated with the required drug testing in those clinics which are not already testing as required by the proposed rule. It is estimated that the required risk management review of pain management clinics will cost approximately $2,500 per clinic. The rule also requires training and continuing education for physicians working in pain management clinics and although the training and continuing education courses have not been developed, they are expected to cost between $20 – $102 per hour, based upon currently available continuing medical education courses. With regard to Rule 64B8-9.0132, to date 968 pain management clinic applications have been received by the Department of Health. The rule requires all clinics to undergo an annual inspection by

the Department which is estimated to be $1,500 per inspection. Once accrediting agencies have been approved, it is anticipated that the number of departmental inspections will decrease as some clinics will elect national accreditation.

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: 458.309 (5) FS.

LAW IMPLEMENTED: 458.309 (4), (5) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0131 Standards of Practice for Physicians Practicing in Pain Management Clinics.

THESE RULES ARE APPLICABLE ONLY TO PHYSICIANS WHO ARE TREATING PATIENTS BY PRESCRIBING OR DISPENSING CONTROLLED SUBSTANCES FOR THE TREATMENT OF CHRONIC NONMALIGNANT PAIN AT A PAIN MANAGEMENT CLINIC. FOR PURPOSES OF THIS RULE, IT IS PRESUMED THAT THE PREVAILING STANDARD OF CARE FOR THE TREATMENT OF CHRONIC NONMALIGNANT PAIN IS A MULTI-DISCIPLINARY APPROACH AND IS NOT PRESCRIPTION-BASED ONLY.

(1) Definitions.

(a) Controlled Substance. A "controlled substance" is any substance named or described in Schedules I-V of Section 893.03, Florida Statutes.

(b) Adverse Incidents. An "adverse incident" is any incident set forth in Sections 458.351(4)(a)-(e), Florida Statutes.

(c) "Board–certified pain management physician" means a physician who possesses Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine; or Board certification in pain medicine by the American Board of Pain Medicine (ABPM).

(d) "Addiction medicine specialist" means a board certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine or an addiction medicine physician currently certified or eligible for certification by the American Society of Addiction Medicine (ASAM).

(e) "Mental health addiction facility" means a facility licensed pursuant to Chapter 394 or 397, Florida Statutes.

(2) Standards of Practice in Pain Management Clinics.

(a) Evaluation of Patient and Medical Diagnosis. A complete medical history and a physical examination must be conducted prior to commencement of any treatment and documented in the medical record. The exact components of the physical examination shall be left to the judgment of the clinician who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of prior medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written individualized treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) Informed Consent and Agreement for Treatment. The physician shall discuss the risks and benefits of the use of controlled substances including the risks of abuse/addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The physician shall employ the use of a written controlled substance agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, drug testing shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician;

2. Number and frequency of all prescription refills;

3. Patient compliance and reasons for which drug therapy may be discontinued (i.e., violation of agreement); and

4. Agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating physician unless otherwise authorized by the treating physician and documented in the medical record.

(d) Periodic Review. The patient shall be seen by the physician at regular intervals, not to exceed three months, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects and review the etiology of the pain. Continuation or modification of therapy shall depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician shall reevaluate the appropriateness of continued treatment. The physician shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of three-month intervals.

(e) Consultation. The physician shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and requires consultation with or referral to an expert in the management of such patients.

(f) Patient Drug Testing. To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, patient drug testing shall be performed in accordance with one of the collection methods set forth below and shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician. Nothing in this rule shall preclude a pain-management clinic from employing additional measures to assure the integrity of the urine specimens provided by patients.

1. Referral to an outside laboratory. A physician shall send the patient to a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory;

2. Specimen collected in the pain-management clinic and sent to an outside laboratory for testing. A physician shall collect in the office the patient specimen to be used for drug testing in a device that measures pH, specific gravity, and temperature and then the specimen shall be sent to a CLIA-certified laboratory. The physician shall follow the collection procedures required by the agreement the pain-management clinic has entered into with the CLIA-certified laboratory it uses.

3. Specimen collected and tested in office. A physician shall collect and test in the office the specimen to be used for drug testing using CLIA-waived point-of-care test or CLIA-certified test that uses a device that measures the pH, specific gravity, and temperature. Results of the drug test shall be read according to the manufacturer's instructions.

(g) Patient Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence;

2. Diagnostic, therapeutic, and laboratory results;

3. Evaluations and consultations;

4. Treatment objectives;

5. Discussion of risks and benefits;

6. Treatments;

7. Medications (including date, type, dosage, and quantity prescribed);

8. Instructions and agreements;

9. Periodic reviews;

10. Drug testing results;

11. A photocopy of the patient's government issued photo identification; and

12. If a written prescription for a controlled substance is given to the patient, a duplicate of said prescription must be maintained in the patient's medical record.

13. Each pain management clinic physician's medical record shall contain the physician's full name presented in a legible manner. In addition, each clinic must maintain a log on the premises which shall contain the full name, presented in a legible manner, along with a corresponding sample signature and initials of every physician, anesthesiologist assistant, and physician assistant working in the clinic.

14. Medical records must remain current, they must be maintained in an accessible manner and readily available for review and must be in full compliance with Rule 64B8-9.003, F.A.C., and Section 458.331(1)(m), F.S.

(h) Denial or Termination of Controlled Substance Therapy.

1. If a patient's initial drug testing reflects the adulteration of the specimen or the presence of illegal or controlled substances, (other than medications with approved prescriptions) or when the testing result is questioned by either the patient or the physician, the specimen will be sent to a CLIA-certified laboratory for gas or liquid chromatography/mass spectrometry (GC or LC/MS) confirmation. If the result of the GC or LC/MS testing is positive, the physician shall refer the patient for further consultation with a board-certified pain management physician, an addiction medicine specialist, or from a mental health addiction facility as it pertains to drug abuse or addiction. After consultation is obtained, the physician shall document in the medical record the results of the consultation. The treating physician shall not prescribe or dispense any controlled substances until there is written concurrence of

medical necessity of continued controlled substance therapy provided by a board-certified pain management physician an addiction medicine specialist, or from a mental health addiction facility. If the treating physician is a board-certified pain management physician, or an addiction specialist, the physician does not need to refer the patient for further consultation. If the physician suspects diversion, then the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

2. For patients currently in treatment by the physician or any other physician in the same pain management clinic, patients with signs or symptoms of substance abuse, shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the physician is board-certified or board-eligible in pain management. Throughout the period of time prior to receiving the consultant's report, a prescribing physician shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to assure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing physician will incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record.

3. For patients currently in treatment by the physician or any other physician in the same pain management clinic, evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy and the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

(i) Facility and Physical Operations.

1. A pain management clinic shall be located and operated at a publicly accessible fixed location and shall contain the following:

a. A sign that can be viewed by the public that contains the clinic name, hours of operations, and a street address;

b. A publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four hours per day;

c. Emergency lighting and communications;

d. Reception and waiting area;

e. Restroom;

f. Administrative area including room for storage of medical records, supplies and equipment;

g. Private patient examination room(s);

h. Treatment room(s) if treatment is being provided to the patient;

i. A printed sign located in a conspicuous place in the waiting room viewable by the public disclosing the name and contact information of the clinic Medical Director or Designated Physician, and the names of all physicians practicing in the clinic;

j. Storage and handling of prescription drugs. Clinics that store and dispense prescription drug shall comply with Section 499.0121, Florida Statutes, Section 893.07, Florida Statutes, and Rule 64F-12.012, Florida Administrative Code.

2. Nothing in this subsection shall excuse a physician from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care.

(j) Infection Control.

1. The clinic shall maintain equipment and supplies to support infection prevention and control activities.

2. The clinic shall identify infection risks based on the following:

a. Geographic location, community, and population served;

b. The care, treatment and services it provides; and

c. An analysis of its infection surveillance and control data.

3. The clinic shall maintain written infection prevention policies and procedures that address the following:

a. Prioritized risks;

b. Limiting unprotected exposure to pathogen;

c. Limiting the transmission of infections associated with procedures performed in the clinic; and

d. Limiting the transmission of infections associated with the clinics use of medical equipment, devices, and supplies.

(k) Health and Safety.

1. The clinic, including its grounds, buildings, furniture, appliances and equipment shall be structurally sound, in good repair, clean, and free from health and safety hazards.

2. The clinic shall have evacuation procedures in the event of an emergency which shall include provisions for the evacuation of disabled patients and employees.

3. The clinic shall have a written facility-specific disaster plan which sets forth actions that will be taken in the event of clinic closure due to unforeseen disasters which shall include provisions for the protection of medical records and any controlled substances.

4. Each clinic shall have at least one employee on the premises during patient care hours that is certified in Basic Life Support and is trained in reacting to accidents and medical emergencies until emergency medical personnel arrive.

(l) Quality Assurance. Each pain management clinic shall have an ongoing quality assurance program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, evaluates methods to improve patient care, identifies and corrects deficiencies within the

facility, alerts the Medical Director or Designated Physician to identify and resolve recurring problems, and provides for opportunities to improve the facility's performance and to enhance and improve the quality of care provided to the public. The Medical Director or Designated Physician shall establish a quality assurance program that includes the following components:

1. The identification, investigation, and analysis of the frequency and causes of adverse incidents to patients,

2. The identification of trends or patterns of incidents,

3. The development of measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients, and

4. The documentation of these functions and periodic review no less than quarterly of such information by the medical director or designated physician.

5. The Quality Assurance program must be reviewed annually by a Florida-licensed risk manager and documentation of said annual review must be provided to the Department together with any corrective action plan within 30 days of the annual review and maintained for inspection purposes.

(m) Data Collection and Reporting.

1. Reporting of adverse incidents. The Medical Director or Designated Physician for each pain-management clinic shall report all adverse incidents to the Department of Health as set forth in Section 458.351, Florida Statutes.

2. The Medical Director or Designated Physician shall also report to the Board of Medicine/Department, in writing, on a quarterly basis the following data:

a. Number of new and repeat patients seen and treated at the clinic, including the number of those prescribed controlled substances;

b. The number of patients discharged due to drug abuse;

c. The number of patients discharged due to drug diversion;

d. The outcomes of patient referral or discharge; and

e. The number of patients treated at the pain clinic whose domicile is located somewhere other than in Florida. A patient's domicile is the patient's fixed or permanent home to which he intends to return even though he may temporarily reside elsewhere.

3. All physicians practicing in pain-management clinics shall advise the Board of Medicine/Department in writing, within 15 days of beginning or ending his or her practice at a pain-management clinic.

(n) Training Requirements.

Physicians prescribing or dispensing controlled substance medications in pain-management clinics registered pursuant to Section 458.309(4), Florida Statutes, shall be required to successfully complete 20-hours of CME addressing any of the subject areas set forth in subparagraph 6. below once every licensure biennium, and also must meet one of the following qualifications:

1. Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine;

2. Board certification in pain medicine by the American Board of Pain Medicine (ABPM);

3. Successful completion of a post graduate training program in Pain Medicine/Management accredited by the Accreditation Council for Graduate Medical Education (ACGME) within the previous three years;

4. Current staff privileges at a Florida-licensed hospital to practice pain medicine or perform pain medicine procedures;

5. Until January 2012, three (3) years of full-time practice in pain-management and within six months of the effective date of this rule, attendance and successful completion of 40 hours of in-person, live-participatory AMA Category I CME courses in pain management that include a post-course test or examination and address all the following subject areas:

a. The goals of treating both short term and ongoing pain treatment;

b. Controlled substance prescribing rules, including controlled substances agreements;

c. Drug screening or testing, including usefulness and limitations;

d. The use of controlled substances in treating short-term and ongoing pain syndromes, including usefulness and limitations;

e. Evidenced-based non-controlled pharmacological pain treatments;

f. Evidenced-based non-pharmacological pain treatments;

g. A complete pain medicine history and a physical examination;

h. Appropriate progress note keeping;

i. Comorbidities with pain disorders, including psychiatric and addictive disorders;

j. Drug abuse and diversion, and prevention of same;

k. Risk management; and

l. Medical ethics.

In addition to the CME set forth in subparagraph 5. above, physicians must be able to document hospital privileges at a Florida-licensed hospital; practice under the direct supervision of a physician who is qualified in subparagraph 1. or 2. above; or have the practice reviewed by a Florida-licensed risk manager and document compliance with all recommendations of the risk management review.

6. After January 2012, for physicians not qualifying under subparagraphs 1. through 4. above, successful completion prior to working in a pain management clinic and every 2 years thereafter, of a pain-management course that is between 80 and 120-hours offered by a Florida accredited allopathic or

osteopathic medical school that addresses the subject areas listed below. This completion of this course will satisfy the requirement for the 20 hours of CME set forth subsection (n) above. The course shall contain the following subject areas:

a. Overview

I. Definitions
II. Statistics
III. Ethical implications
IV. Societal implications

b. Anatomy and Physiology of Pain

I. Nociception
A. Inflammatory
B. Nociceptive
C. Neuropathic
II. Nociceptive pathways
A. Peripheral Nociceptor
B. Spinal cord
i. Ascending
ii. Descending modulatory
C. Brainstem
D. Supraspinal
III. Classication of Pain
A. Acute/subacute/chronic
B. Nociceptive versus neuropathic
C. Cancer related versus non-cancer related
D. Somatic versus visceral
E. Psychosomatic versus organic/physical
IV. Pain Pharmacology
A. Pharmacokinetics
B. Pharmacodynamics
V. Peripheral and Central sensitization

c. Nociceptive Time Course

I. Acute
II. Subacute
III. Chronic/Persistent

d. Common Pain Syndromes

I. Axial Neck/Back Pain
A. Mechanical
B. Discogenic
II. Radicular Pain
III. Spinal Stenosis
IV. Failed back surgical syndrome/Post-laminectomy pain
V. Headache
A. Migraine
B. Occipital
C. Cluster
D. Tension
VI. Myofascial pain and Fibromyalgia
VII. Neuropathic Pain
A. Diabetic peripheral neuropathy
B. Post-herpetic neuralgia
C. Complex regional pain syndrome
D. Idiopathic
VII. Abdominal pain
VIII. Cancer-related pain
IX. Pain Palliation – End of life

e. Treatment Goals

I. Short term
II. Long term

f. The Pain Medicine History and Physical Examination

g. Imaging

I. Xrays
II. CT
III. MRI
IV. Indications for plain and contrast images
V. Diagnostic usefulness and limitations of imaging

h. EMG/NCS

i. Rheumatologic Tests

j. Drug Testing

I. Urine
II. Serum
III. Other
IV. Usefulness
V. Limitations

k. Appropriate Documentation

l. Pharmacological Therapy

I. Opioids
A. Structural classification of opioids
B. Routes of administration
C. Pharmacokinetics
D. Mechanism of action
E. Equivalency
F. Indications
i. Short term
ii. Long term
G. Efficacy
H. Side effects
I. Interactions
II. Non-opiate analgesics
A. Acetaminophen
i. Mechanism of action
ii. Indications
(A) Short term
(B) Long term
iii. Efficacy
iv. Side effects
v. Interactions
B. Cyclooxygenase Inhibitors

i. Classification and implications of the classifications of cyclooxygenease inhibitors
(A) Carboxylic acids
(B) Pyrazoles
(C) Oxicams
(D) Coxibs
(E) Acetylsalicylic acids
(F) Acetic acids
(G) Proprionic acids
(H) Anthranilic acids
ii. Mechanism of action
iii. Indications
(A) Short term
(B) Long term
iv. Efficacy
v. Side effects
vi. Interactions
C. Mixed Serotonergic-Noradreneric and Mu Agonists
i. Mechanism of action
ii. Indications
(A) Short term
(B) Long term
iii. Efficacy
iv. Cautions and contraindications
v. Side effects
vi. Interactions
III. Membrane Stabilizers
A. Mechanism of action
B. Indications
i. Short term
ii. Long term
C. Efficacy
D. Side effects
E. Interactions
IV. Local anesthetics
A. Mechanism of action
B. Structural classification and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions
G. Pharmacokinetics
V. Tricyclic antidepressants (TCAs) / Selective Serotonin Reuptake Inhibitors (SSRIs) / Serotonin Norepinephrine Reuptake Inhibitors (SNRIs)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions
VI. Muscle relaxants
A. History
B. Structural characteristics and implications
C. Mechanism of action
D. Indications
i. Short term
ii. Long term
F. Efficacy
G. Side effects
H. Interactions
I. Benzodiazapines
VII. Viscosupplementation Agents
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
VIII. Toxins for Pain
A. Botulinum toxins
i. Type A
ii. Type B
B. Ziconotide
C. Mechanism of action
D. Indications
i. Short term
ii. Long term
E. Efficacy
F. Side affects
G. Interactions
IX. Alpha 2 Agonists
A. Alpha 2 Receptor Subtypes
B. Mechanism of action
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
X. Cannabinoids (Endogenous/Exogenous)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications

i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
XI. NMDA Antagonists
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
XII. Neurolytics
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
XIII. Glucocorticosteroids
A. Mechanism of action
B. Indications
i. Short term
ii. Long term
C. Efficacy
D. Side affects
E. Interactions
XIV. NMDA antagonists (Ketamine, dextromethorphan, memantine…)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions

m. Non-Pharmacological Approaches

I. Physical Modalities
A. Osteopathic Manipulative Treatment (OMT)
B. Chiropractic
C. Massage therapy
D. Physical therapy
E. Transcutaneous Electrical Nerve Stimulation (TENS)
II. Cognitive Modalities
A. Biofeedback
B. Pain coping skills
C. Cognitive behavioral therapy
D. Relaxation therapy
III. Integrative Modalities
A. Acupuncture
B. Laser therapy
C. Cranial electronic stimulation
D. Herbal therapies
IV. Interventional Modalities
A. Evidence for diagnostic injections
B. Evidence for therapeutic injections
C. Basics of fluoroscopy
D. Radiation safety
E. Basics of ultrasonography
F. Trigger point injections
G. Prolotherapy
H. Nerve blocks
i. Peripheral nerve blocks
ii. Medial and lateral branch nerve blocks
I. Joint injections
J. Facet joint injections
K. Epidural steroid injections (ESIs)
i. Interlaminar
ii. Transforaminal
iii. Caudal
iv. Cervical/Thoracis/Lumbar
L. Selective nerve root injections
M. Sympathic/Ganglion blocks
N. Neuraxial Adhesiolysis Procedures
O. Procedures
P. Continuous and Pulsed Radiofrequency treatments
Q. Intrathecal drug delivery
R. Spinal cord stimulators
S. Peripheral nerve stimulators
T. Diagnostic discography
U. Intradiscal electrothermal therapies
V. Percutaneous discetomy (>=4 types)
W. Neurosurgical interventions

n. Psychosocial Aspects of Pain

I. Treatment of pain in individuals with a history of substance abuse or addiction
II. Screening, evaluation, and treatment of mood disorders in individuals affected by pain
III. Assessment of risk for dependence and addiction
IV. Strategies for managing patients who develop addiction or an abusive pattern of medication use
V. Addiction in the health care professional
VI.Detoxification

o. Legal Aspects of Pain Medicine

I. Controlled substance prescribing rules

II. Controlled substance ordering rules
III. Dispensing practitioner rules
IV. Prescribing rules
V. Penalties for violations of rules
VI. Pain management agreements
VII. Requirements for reporting
VIII. Drug abuse and diversion
A. Recognition
B. Treatment
C. Termination of prescriptions
IX. Online prescribing
X. Consultation requirements
XI. Patient termination letters

At the conclusion of the course, each physician must pass a course test or examination. Completion of the course and passage of the test or examination shall be considered evidence of compliance with the educational component of this subparagraph 6. Course completion shall not be considered or held out to be a certification or attestation of a physician's specific medical skills or capabilities.

(o) After the effective date of this rule, any newly registering pain management clinic shall assure that at any time the clinic is open and patients are being seen, there is at least one board-certified pain management physician on the premises.

Rulemaking Authority 458.309(5) FS. Law Implemented 458.309(4), (5) FS. History–New _____.

64B8-9.0132 Requirement for Pain Management Clinic Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Medical Director or designated physician of a pain management clinic, as defined in Sections 458.309(4) and (5), Florida Statutes, shall register the clinic with the Department of Health. It is the Medical Director's or Designated Physician's responsibility to ensure that the clinic is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) In order to register a pain management clinic, the Medical Director or Designated Physician must comply with Department Rules 64B-4.005 and 64B-4.006, F.A.C., and provide documentation to support compliance with Rule 64B8-9.0131, F.A.C.

(c) The Medical Director or Designated Physician must notify the Department within 7 calendar days, in writing, of any changes to the registration information.

(d) Documentation of registration shall be posted in a conspicuous place in the waiting room viewable by the public.

(2) Inspection.

(a) Unless the Medical Director or Designated Physician has previously provided written notification of current accreditation by a nationally recognized accrediting agency approved by the Board the clinic shall submit to an annual inspection by the Department. All nationally recognized accrediting organizations shall be held to the same Board-determined practice standards for registering Florida pain management clinic sites.

(b) The Department shall conduct unannounced annual inspections of pain clinics pursuant to this rule.

(c) The Medical Director or Designated Physician shall cooperate with the inspector(s), make medical records available to the inspector, and be responsive to all reasonable requests.

(d) The inspector(s) shall determine compliance with the requirements of Rule 64B8-9.0131, F.A.C. This shall include review of between 25 and 50 patient records for patients who are treated for pain, selected by the inspector(s) at random for each physician practicing in the clinic or who has practiced in the clinic during the past six months.

(e) If the clinic is determined to be in noncompliance, the Medical Director or Designated Physician shall be notified and shall be given a written statement at the time of inspection. Such written notice shall specify the deficiencies. Unless the deficiencies constitute an immediate and imminent danger to the public, the Medical Director or Designated Physician shall be given 30 days from the date of inspection to correct any documented deficiencies and notify the Department of corrective action. Upon written notification from the Medical Director or Designated Physician that all deficiencies have been corrected, the Department is authorized to re-inspect for compliance. If the Medical Director or Designated Physician fails to submit a corrective action plan within 30 days of the inspection, the Department is authorized to re-inspect the office to ensure that the deficiencies have been corrected.

(f) The written results of the inspection, deficiency notice and any subsequent documentation shall be forwarded to the Department. This shall include:

1. Whether the deficiencies constituted an immediate and serious danger to the public;

2. Whether the Medical Director or Designated Physician provided the Department with documentation of correction of all deficiencies within 30 days from the date of inspection; and

3. The results of any reinspection.

(g) The Department shall review the results of the inspection(s) and determine whether action against the clinic registration is merited.

(h) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(i) If the clinic is accredited by a nationally recognized accrediting agency approved by the Board, the Medical Director or Designated Physician shall submit written

notification of the current accreditation survey of his or her office(s) in lieu of undergoing an inspection by the Department.

(j) The Medical Director or Designated Physician shall submit, within thirty (30) days of accreditation, a copy of the current accreditation survey of the clinic and shall immediately notify the Board of Medicine of any accreditation changes that occur. For purposes of initial registration, the Medical Director or Designated Physician shall submit a copy of the most recent accreditation survey of the clinic in lieu of undergoing an inspection by the Department.

(k) If a provisional or conditional accreditation is received, the Medical Director or Designated Physician shall notify the Board of Medicine in writing and shall include a plan of correction.

Rulemaking Authority 458.309(4) FS. Law Implemented 458.309(4) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Board of Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NOS.:	RULE TITLES:
64B15-14.0051	Standards of Practice for Physicians Practicing in Pain Management Clinics
64B15-14.0052	Requirement for Pain Management Clinic Registration; Inspection or Accreditation

PURPOSE AND EFFECT: The proposed Rule 64B15-14.0051, F.A.C., is intended to set forth the appropriate standards for physicians who practice in pain management clinics pursuant to Section 459.005, Florida Statutes. The proposed Rule 64B15-14.0052, F.A.C., is intended to set forth the requirements for registration and inspection or accreditation of pain clinics.

SUMMARY: The proposed Rule 64B15-14.0051, F.A.C., sets forth standards for physicians practicing in pain management clinics pursuant to Section 459.005, F.S. Specifically, the rule addresses facility operations, physical operations, infection control requirements, health and safety requirements, quality assurance requirements, patient records, training requirements, and data collection. The proposed Rule 64B15-14.0052, F.A.C., sets forth the requirements necessary to register a pain management clinic; the requirements for inspection of pain management clinics; and provisions for pain clinics accredited by nationally recognized accrediting agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board prepared two Statements of Estimated Regulatory Costs for these rules. With regard to Rule 64B15-14.0051, F.A.C., at least 968 pain management clinics will be impacted by the rule. The rule will require clinic owners to comply with facility and physical operations including signage, telephones, emergency lighting, etc. In addition, the rule requires drug testing of patients and depending on the collection and testing method utilized, there may be an increased cost associated with the required drug testing in those clinics which are not already testing as required by the proposed rule. It is estimated that the required risk management review of pain management clinics will cost approximately $2,500 per clinic. The rule also requires training and continuing education for physicians working in pain management clinics and although the training and continuing education courses have not been developed, they are expected to cost between $20 – $102 per hour, based upon currently available continuing medical education courses. With regard to Rule 64B15-14.0052, F.A.C., to date 968 pain management clinic applications have been received by the Department of Health. The rule requires all clinics to undergo an annual inspection by the Department which is estimated to be $1,500 per inspection. Once accrediting agencies have been approved, it is anticipated that the number of departmental inspections will decrease as some clinics will elect national accreditation.

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: 459.005 (4) FS.

LAW IMPLEMENTED: 459.005 (3), (4) 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: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULES IS:

64B15-14.0051 Standards of Practice for Physicians Practicing in Pain Management Clinics.

THESE RULES ARE APPLICABLE ONLY TO PHYSICIANS WHO ARE TREATING PATIENTS BY PRESCRIBING OR DISPENSING CONTROLLED SUBSTANCES FOR THE TREATMENT OF CHRONIC NONMALIGNANT PAIN AT A PAIN MANAGEMENT CLINIC. FOR PURPOSES OF THIS RULE, IT IS PRESUMED THAT THE PREVAILING STANDARD OF

CARE FOR THE TREATMENT OF CHRONIC NONMALIGNANT PAIN IS A MULTI-DISCIPLINARY APPROACH AND IS NOT PRESCRIPTION-BASED ONLY.

(1) Definitions.

(a) Controlled Substance. A "controlled substance" is any substance named or described in Schedules I-V of Section 893.03, Florida Statutes.

(b) Adverse Incidents. An "adverse incident" is any incident set forth in Sections 459.026(4)(a)-(e), Florida Statutes.

(c) "Board–certified pain management physician" means a physician who possesses Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine; or Board certification in pain medicine by the American Board of Pain Medicine (ABPM); or a Certificate of Added Qualification in Pain Management by the American Osteopathic Association (AOA).

(d) "Board-eligible in pain management" means a physician that has successfully completed the training or educational requirements to be a board certified pain management physician and can provide documentation that he or she is eligible to take the certification examination but has not done so yet.

(e) "Addiction medicine specialist" means a board certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine or an addiction medicine physician currently certified or eligible for certification by the American Society of Addiction Medicine (ASAM), or who holds a Certificate of Added Qualification in Addiction Medicine from the AOA.

(f) "Mental health addiction facility" means a facility licensed pursuant to Chapters 394 or 397, Florida Statutes.

(2) Standards of Practice in Pain Management Clinics.

(a) Evaluation of Patient and Medical Diagnosis. A complete medical history and a physical examination must be conducted prior to commencement of any treatment and documented in the medical record. The exact components of the physical examination shall be left to the judgment of the clinician who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of prior medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written individualized treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) Informed Consent and Agreement for Treatment. The physician shall discuss the risks and benefits of the use of controlled substances including the risks of abuse/addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The physician shall employ the use of a written controlled substance agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, drug testing shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician;

2. Number and frequency of all prescription refills;

3. Patient compliance and reasons for which drug therapy may be discontinued (i.e., violation of agreement); and

4. Agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating physician unless otherwise authorized by the treating physician and documented in the medical record.

(d) Periodic Review. The patient shall be seen by the physician at regular intervals, not to exceed three months, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects and review the etiology of the pain. Continuation or modification of therapy shall depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician shall reevaluate the appropriateness of continued treatment. The physician shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of three-month intervals.

(e) Consultation. The physician shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a

comorbid psychiatric disorder requires extra care, monitoring, and documentation, and requires consultation with or referral to an expert in the management of such patients.

(f) Patient Drug Testing. To assure the medical necessity and safety of any controlled substances that the physician may consider prescribing as part of the patient's treatment plan, patient drug testing shall be performed in accordance with one of the collection methods set forth below and shall be conducted and the results reviewed prior to the initial issuance or dispensing of a controlled substance prescription, and thereafter, on a random basis at least twice a year and when requested by the treating physician. Nothing in this rule shall preclude a pain-management clinic from employing additional measures to assure the integrity of the urine specimens provided by patients.

1. Referral to an outside laboratory. A physician shall send the patient to a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory;

2. Specimen collected in the pain-management clinic and sent to an outside laboratory for testing. A physician shall collect in the office the patient specimen to be used for drug testing in a device that measures pH, specific gravity, and temperature and then the specimen shall be sent to a CLIA-certified laboratory. The physician shall follow the collection procedures required by the agreement the pain-management clinic has entered into with the CLIA-certified laboratory it uses.

3. Specimen collected and tested in office. A physician shall collect and test in the office the specimen to be used for drug testing using CLIA-waived point-of-care test or CLIA-certified test that uses a device that measures the pH, specific gravity, and temperature. Results of the drug test shall be read according to the manufacturer's instructions.

(g) Patient Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence;

2. Diagnostic, therapeutic, and laboratory results;

3. Evaluations and consultations;

4. Treatment objectives;

5. Discussion of risks and benefits;

6. Treatments;

7. Medications (including date, type, dosage, and quantity prescribed);

8. Instructions and agreements;

9. Periodic reviews;

10. Drug testing results;

11. A photocopy of the patient's government issued photo identification; and

12. If a written prescription for a controlled substance is given to the patient, a duplicate of said prescription must be maintained in the patient's medical record.

13. Each pain management clinic physician's medical record shall contain the physician's full name presented in a legible manner. In addition, each clinic must maintain a log on the premises which shall contain the full name, presented in a legible manner, along with a corresponding sample signature and initials of every physician, anesthesiologist assistant, and physician assistant working in the clinic.

14. Medical records must remain current, they must be maintained in an accessible manner and readily available for review and must be in full compliance with Rule 64B15-15.004, F.A.C., and Section 459.015(1)(o), F.S.

(h) Denial or Termination of Controlled Substance Therapy.

1. If a patient's initial drug testing reflects the adulteration of the specimen or the presence of illegal or controlled substances, (other than medications with approved prescriptions) or when the testing result is questioned by either the patient or the physician, the specimen will be sent to a CLIA-certified laboratory for gas or liquid chromatography/mass spectrometry (GC or LC/MS) confirmation. If the result of the GC or LC/MS testing is positive, the physician shall refer the patient for further consultation with a board-certified pain management physician, an addiction medicine specialist, or from a mental health addiction facility as it pertains to drug abuse or addiction. After consultation is obtained, the physician shall document in the medical record the results of the consultation. The treating physician shall not prescribe or dispense any controlled substances until there is written concurrence of medical necessity of continued controlled substance therapy provided by a board-certified pain management physician, an addiction medicine specialist, or from a mental health addiction facility. If the treating physician is a board-certified pain management physician, or an addiction specialist, the physician does not need to refer the patient for further consultation. If the physician suspects diversion, then the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

2. For patients currently in treatment by the physician or any other physician in the same pain management clinic, patients with signs or symptoms of substance abuse, shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the physician is board-certified or board-eligible in pain management. Throughout the period of time prior to receiving the consultant's report, a prescribing physician shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to

assure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing physician will incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record.

3. For patients currently in treatment by the physician or any other physician in the same pain management clinic, evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy and the patient shall be discharged and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

(i) Facility and Physical Operations.

1. A pain management clinic shall be located and operated at a publicly accessible fixed location and shall contain the following:

a. A sign that can be viewed by the public that contains the clinic name, hours of operations, and a street address;

b. A publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four hours per day;

c. Emergency lighting and communications;

d. Reception and waiting area;

e. Restroom;

f. Administrative area including room for storage of medical records, supplies and equipment;

g. Private patient examination room(s);

h. Treatment room(s) if treatment is being provided to the patient;

i. A printed sign located in a conspicuous place in the waiting room viewable by the public disclosing the name and contact information of the clinic Medical Director or Designated Physician, and the names of all physicians practicing in the clinic;

j. Storage and handling of prescription drugs. Clinics that store and dispense prescription drug shall comply with Section 499.0121, Florida Statutes, Section 893.07, Florida Statutes, and Rule 64F-12.012, Florida Administrative Code.

2. Nothing in this subsection shall excuse a physician from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care.

(j) Infection Control.

1. The clinic shall maintain equipment and supplies to support infection prevention and control activities.

2. The clinic shall identify infection risks based on the following:

a. Geographic location, community, and population served;

b. The care, treatment and services it provides; and

c. An analysis of its infection surveillance and control data.

3. The clinic shall maintain written infection prevention policies and procedures that address the following:

a. Prioritized risks;

b. Limiting unprotected exposure to pathogen;

c. Limiting the transmission of infections associated with procedures performed in the clinic; and

d. Limiting the transmission of infections associated with the clinics use of medical equipment, devices, and supplies.

(k) Health and Safety.

1. The clinic, including its grounds, buildings, furniture, appliances and equipment shall be structurally sound, in good repair, clean, and free from health and safety hazards.

2. The clinic shall have evacuation procedures in the event of an emergency which shall include provisions for the evacuation of disabled patients and employees.

3. The clinic shall have a written facility-specific disaster plan which sets forth actions that will be taken in the event of clinic closure due to unforeseen disasters which shall include provisions for the protection of medical records and any controlled substances.

4. Each clinic shall have at least one employee on the premises during patient care hours that is certified in Basic Life Support and is trained in reacting to accidents and medical emergencies until emergency medical personnel arrive.

(l) Quality Assurance. Each pain management clinic shall have an ongoing quality assurance program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, evaluates methods to improve patient care, identifies and corrects deficiencies within the facility, alerts the Medical Director or Designated Physician to identify and resolve recurring problems, and provides for opportunities to improve the facility's performance and to enhance and improve the quality of care provided to the public. The Medical Director or Designated Physician shall establish a quality assurance program that includes the following components:

1. The identification, investigation, and analysis of the frequency and causes of adverse incidents to patients,

2. The identification of trends or patterns of incidents,

3. The development of measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients, and

4. The documentation of these functions and periodic review no less than quarterly of such information by the medical director or designated physician.

5. The Quality Assurance program must be reviewed annually by a Florida-licensed risk manager and documentation of said annual review must be provided to the

Department together with any corrective action plan within 30 days of the annual review and maintained for inspection purposes.

(m) Data Collection and Reporting.

1. Reporting of adverse incidents. The Medical Director or Designated Physician for each pain-management clinic shall report all adverse incidents to the Department of Health as set forth in Section 459.026, Florida Statutes.

2. The Medical Director or Designated Physician shall also report to the Board of Medicine/Board of Osteopathic Medicine/Department, in writing, on a quarterly basis the following data:

a. Number of new and repeat patients seen and treated at the clinic, including the number of those prescribed controlled substances;

b. The number of patients discharged due to drug abuse;

c. The number of patients discharged due to drug diversion;

d. The outcomes of patient referral or discharge; and

e. The number of patients treated at the pain clinic whose domicile is located somewhere other than in Florida. A patient's domicile is the patient's fixed or permanent home to which he intends to return even though he may temporarily reside elsewhere.

3. All physicians practicing in pain-management clinics shall advise the Board of Osteopathic Medicine/Department in writing, within 15 days of beginning or ending his or her practice at a pain-management clinic.

(n) Training Requirements. Physicians prescribing or dispensing controlled substance medications in pain-management clinics registered pursuant to Section 459.005(4), Florida Statutes, shall be required to successfully complete 20-hours of CME addressing any of the subject areas set forth in subparagraph 6. below once every licensure biennium, and also must meet one of the following qualifications:

1. Board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) and holds a sub-specialty certification in pain medicine; or a Certificate of Added Qualification in Pain Management by the American Osteopathic Association;

2. Board certification in pain medicine by the American Board of Pain Medicine (ABPM);

3. Successful completion of a post graduate training program in Pain Medicine/Management accredited by the Accreditation Council for Graduate Medical Education (ACGME)/American Osteopathic Association (AOA) within the previous three years;

4. Current staff privileges at a Florida-licensed hospital to practice pain medicine or perform pain medicine procedures;

5. Until January 2012, three (3) years of full-time practice in pain-management and within six months of the effective date of this rule, attendance and successful completion of 40 hours of in-person, live-participatory AMA Category I or AOA Category IA CME courses in pain management that include a post-course test or examination and address all the following subject areas:

a. The goals of treating both short term and ongoing pain treatment;

b. Controlled substance prescribing rules, including controlled substances agreements;

c. Drug screening or testing, including usefulness and limitations;

d. The use of controlled substances in treating short-term and ongoing pain syndromes, including usefulness and limitations;

e. Evidenced-based non-controlled pharmacological pain treatments;

f. Evidenced-based non-pharmacological pain treatments;

g. A complete pain medicine history and a physical examination;

h. Appropriate progress note keeping;

i. Comorbidities with pain disorders, including psychiatric and addictive disorders;

j. Drug abuse and diversion, and prevention of same;

k. Risk management; and

l. Medical ethics.

In addition to the CME set forth in subparagraph 5. above, physicians must be able to document hospital privileges at a Florida-licensed hospital; practice under the direct supervision of a physician who is qualified in subsection 1. or 2. above; or have the practice reviewed by a Florida-licensed risk manager and document compliance with all recommendations of the risk management review.

6. After January 2012, for physicians not qualifying under subparagraphs 1. through 4. above, successful completion prior to working in a pain management clinic and every 6 years thereafter, of a pain-management course that is between 80 and 120-hours offered by a Florida accredited allopathic or osteopathic medical school that addresses the subject areas listed below. This completion of this course will satisfy the requirement for the 20 hours of CME set forth paragraph (n) above. The course shall contain the following subject areas:

a. Overview

I. Definitions

II. Statistics

III. Ethical implications

IV. Societal implications

b. Anatomy and Physiology of Pain

I. Nociception

A. Inflammatory

B. Nociceptive

C. Neuropathic
II. Nociceptive pathways
A. Peripheral Nociceptor
B. Spinal cord
i. Ascending
ii. Descending modulatory
C. Brainstem
D. Supraspinal
III. Classication of Pain
A. Acute/subacute/chronic
B. Nociceptive versus neuropathic
C. Cancer related versus non-cancer related
D. Somatic versus visceral
E. Psychosomatic versus organic/physical
IV. Pain Pharmacology
A. Pharmacokinetics
B. Pharmacodynamics
V. Peripheral and Central sensitization
c. Nociceptive Time Course
I. Acute
II. Subacute
III. Chronic/Persistent
d. Common Pain Syndromes
I. Axial Neck/Back Pain
A. Mechanical
B. Discogenic
II. Radicular Pain
III. Spinal Stenosis
IV. Failed back surgical syndrome/Post-laminectomy pain
V. Headache
A. Migraine
B. Occipital
C. Cluster
D. Tension
VI. Myofascial pain and Fibromyalgia
VII. Neuropathic Pain
A. Diabetic peripheral neuropathy
B. Post-herpetic neuralgia
C. Complex regional pain syndrome
D. Idiopathic
VII. Abdominal pain
VIII. Cancer-related pain
IX. Pain Palliation – End of life
e. Treatment Goals
I. Short term
II. Long term
f. The Pain Medicine History and Physical Examination
g. Imaging
I. Xrays
II. CT
III. MRI
IV. Indications for plain and contrast images
V. Diagnostic usefulness and limitations of imaging
h. EMG/NCS
i. Rheumatologic Tests
j. Drug Testing
I. Urine
II. Serum
III. Other
IV. Usefulness
V. Limitations
k. Appropriate Documentation
l. Pharmacological Therapy
I. Opioids
A. Structural classification of opioids
B. Routes of administration
C. Pharmacokinetics
D. Mechanism of action
E. Equivalency
F. Indications
i. Short term
ii. Long term
G. Efficacy
H. Side effects
I. Interactions
II. Non-opiate analgesics
A. Acetaminophen
i. Mechanism of action
ii. Indications
(A) Short term
(B) Long term
iii. Efficacy
iv. Side effects
v. Interactions
B. Cyclooxygenase Inhibitors
i. Classification and implications of the classifications of cyclooxygenease inhibitors
(A) Carboxylic acids
(B) Pyrazoles
(C) Oxicams
(D) Coxibs
(E) Acetylsalicylic acids
(F) Acetic acids
(G) Proprionic acids
(H) Anthranilic acids
ii. Mechanism of action
iii. Indications
(A) Short term
(B) Long term

iv. Efficacy
v. Side effects
vi. Interactions
C. Mixed Serotonergic-Noradreneric and Mu Agonists
i. Mechanism of action
ii. Indications
(A) Short term
(B) Long term
iii. Efficacy
iv. Cautions and contraindications
v. Side effects
vi. Interactions
III. Membrane Stabilizers
A. Mechanism of action
B. Indications
i. Short term
ii. Long term
C. Efficacy
D. Side effects
E. Interactions
IV. Local anesthetics
A. Mechanism of action
B. Structural classification and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions
G. Pharmacokinetics
V. Tricyclic antidepressants (TCAs) / Selective Serotonin Reuptake Inhibitors (SSRIs) / Serotonin Norepinephrine Reuptake Inhibitors (SNRIs)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions
VI. Muscle relaxants
A. History
B. Structural characteristics and implications
C. Mechanism of action
D. Indications
i. Short term
ii. Long term
F. Efficacy
G. Side effects
H. Interactions
I. Benzodiazapines
VII Viscosupplementation Agents
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
VIII. Toxins for Pain
A. Botulinum toxins
i. Type A
ii. Type B
B. Ziconotide
C. Mechanism of action
D. Indications
i. Short term
ii Long term
E. Efficacy
F. Side affects
G. Interactions
IX. Alpha 2 Agonists
A. Alpha 2 Receptor Subtypes
B. Mechanism of action
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
X. Cannabinoids (Endogenous/Exogenous)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
XI. NMDA Antagonists
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions

XII. Neurolytics
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side affects
F. Interactions
XIII. Glucocorticosteroids
A. Mechanism of action
B. Indications
i. Short term
ii. Long term
C. Efficacy
D. Side affects
E. Interactions
XIV. NMDA antagonists (Ketamine, dextromethorphan, memantine…)
A. Mechanism of action
B. Structural characteristics and implications
C. Indications
i. Short term
ii. Long term
D. Efficacy
E. Side effects
F. Interactions

m. Non-Pharmacological Approaches

I. Physical Modalities
A. Osteopathic Manipulative Treatment (OMT)
B. Chiropractic
C. Massage therapy
D. Physical therapy
E. Transcutaneous Electrical Nerve Stimulation (TENS)
II. Cognitive Modalities
A. Biofeedback
B. Pain coping skills
C. Cognitive behavioral therapy
D. Relaxation therapy
III. Integrative Modalities
A. Acupuncture
B. Laser therapy
C. Cranial electronic stimulation
D. Herbal therapies
IV. Interventional Modalities
A. Evidence for diagnostic injections
B. Evidence for therapeutic injections
C. Basics of fluoroscopy
D. Radiation safety
E. Basics of ultrasonography
F. Trigger point injections
G. Prolotherapy
H. Nerve blocks
i. Peripheral nerve blocks
ii. Medial and lateral branch nerve blocks
I. Joint injections
J. Facet joint injections
K. Epidural steroid injections (ESIs)
i. Interlaminar
ii. Transforaminal
iii. Caudal
iv. Cervical/Thoracis/Lumbar
L. Selective nerve root injections
M. Sympathic/Ganglion blocks
N. Neuraxial Adhesiolysis Procedures
O. Procedures
P. Continuous and Pulsed Radiofrequency treatments
Q. Intrathecal drug delivery
R. Spinal cord stimulators
S. Peripheral nerve stimulators
T. Diagnostic discography
U. Intradiscal electrothermal therapies
V. Percutaneous discetomy (>=4 types)
W. Neurosurgical interventions

n. Psychosocial Aspects of Pain

I. Treatment of pain in individuals with a history of substance abuse or addiction
II. Screening, evaluation, and treatment of mood disorders in individuals affected by pain
III. Assessment of risk for dependence and addiction
IV. Strategies for managing patients who develop addiction or an abusive pattern of medication use
V. Addiction in the health care professional
VI. Detoxification

o. Legal Aspects of Pain Medicine

I. Controlled substance prescribing rules
II. Controlled substance ordering rules
III. Dispensing practitioner rules
IV. Prescribing rules
V. Penalties for violations of rules
VI. Pain management agreements
VII. Requirements for reporting
VIII. Drug abuse and diversion
A. Recognition
B. Treatment
C. Termination of prescriptions
IX. Online prescribing
X. Consultation requirements
XI. Patient termination letters

At the conclusion of the course, each physician must pass a course test or examination. Completion of the course and passage of the test or examination shall evidence compliance with the educational component of this subparagraph 6. Course completion shall not be considered or held out to be a certification or attestation of a physician's specific medical skills or capabilities.

(o) After the effective date of this rule, any newly registering pain management clinic shall assure that at any time the clinic is open and patients are being seen, there is at least one board-certified pain management physician or a physician board-eligible in pain management on the premises.

Rulemaking Authority 459.005(4) FS. Law Implemented 459.005(3), (4) FS. History–New _____.

64B15-14.0052 Requirement for Pain Management Clinic Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Medical Director or designated physician of a pain management clinic, as defined in Section 459.005(4) and (5), Florida Statutes, shall register the clinic with the Department of Health. It is the Medical Director's or Designated Physician's responsibility to ensure that the clinic is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) In order to register a pain management clinic, the Medical Director or Designated Physician must comply with Department Rules 64B-4.005 and 64B-4.006, F.A.C., and provide documentation to support compliance with Rule 64B15-14.012, F.A.C.

(c) The Medical Director or Designated Physician must notify the Department within 7 calendar days, in writing, of any changes to the registration information.

(d) Documentation of registration shall be posted in a conspicuous place in the waiting room viewable by the public.

(2) Inspection

(a) Unless the Medical Director or Designated Physician has previously provided written notification of current accreditation by a nationally recognized accrediting agency approved by the Board the clinic shall submit to an annual inspection by the Department. All nationally recognized accrediting organizations shall be held to the same Board-determined practice standards for registering Florida pain management clinic sites.

(b) The Department shall conduct unannounced annual inspections of pain clinics pursuant to this rule.

(c) The Medical Director or Designated Physician shall cooperate with the inspector(s), make medical records available to the inspector, and be responsive to all reasonable requests.

(d) The inspector(s) shall determine compliance with the requirements of Rule 64B15-14.0051, F.A.C. This shall include review of between 25 and 50 patient records for patients who are treated for pain, selected by the inspector(s) at random for each physician practicing in the clinic or who has practiced in the clinic during the past six months.

(e) If the clinic is determined to be in noncompliance, the Medical Director or Designated Physician shall be notified and shall be given a written statement at the time of inspection. Such written notice shall specify the deficiencies. Unless the deficiencies constitute an immediate and imminent danger to the public, the Medical Director or Designated Physician shall be given 30 days from the date of inspection to correct any documented deficiencies and notify the Department of corrective action. Upon written notification from the Medical Director or Designated Physician that all deficiencies have been corrected, the Department is authorized to re-inspect for compliance. If the Medical Director or Designated Physician fails to submit a corrective action plan within 30 days of the inspection, the Department is authorized to re-inspect the office to ensure that the deficiencies have been corrected.

(f) The written results of the inspection, deficiency notice and any subsequent documentation shall be forwarded to the Department. This shall include:

1. Whether the deficiencies constituted an immediate and serious danger to the public;

2. Whether the Medical Director or Designated Physician provided the Department with documentation of correction of all deficiencies within 30 days from the date of inspection; and

3. The results of any reinspection.

(g) The Department shall review the results of the inspection(s) and determine whether action against the clinic registration is merited.

(h) Nothing herein shall limit the authority of the Department to investigate a complaint without prior notice.

(i) If the clinic is accredited by a nationally recognized accrediting agency approved by the Board, the Medical Director or Designated Physician shall submit written notification of the current accreditation survey of his or her office(s) in lieu of undergoing an inspection by the Department.

(j) The Medical Director or Designated Physician shall submit, within thirty (30) days of accreditation, a copy of the current accreditation survey of the clinic and shall immediately notify the Board of Osteopathic Medicine of any accreditation changes that occur. For purposes of initial registration, the Medical Director or Designated Physician shall submit a copy of the most recent accreditation survey of the clinic in lieu of undergoing an inspection by the Department.

(k) If a provisional or conditional accreditation is received, the Medical Director or Designated Physician shall notify the Board of Osteopathic Medicine in writing and shall include a plan of correction.

Rulemaking Authority 459.005(3) FS. Law Implemented 459.005(3) FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Board of Osteopathic Medicine Pain Management Clinic Standards of Practice Joint Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 27, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-14.064	College Credit Dual Enrollment

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 50, December 18, 2009, 1st Notice of Change published Vol. 36, No. 2, January 15, 2010 issue of the Florida Administrative Weekly.

Rule 6A-14.064 is amended to read:

6A-14.064 College Credit Dual Enrollment.

(1) To be eligible to receive college credit through dual enrollment:

(a) Students must meet the grade point average (GPA) requirements, as specified in Section 1007.271, Florida Statutes, for the degree or certificate program selected. Procedures for determining exceptions to the GPA requirements on an individual student basis must be noted in the District Interinstitutional Articulation Agreement as required by Section 1007.235, Florida Statutes.

(b) Students must satisfy the college preparatory testing requirements of Section 1008.30(4)(a), Florida Statutes, and Rule 6A-10.0315, F.A.C., which is hereby incorporated by reference. Students who have been identified as deficient in basic competencies in one of the areas of reading, writing or mathematics, as determined by scores on a postsecondary readiness assessment identified in Rule 6A-10.0315, F.A.C., shall not be permitted to enroll in college credit courses in curriculum areas precluded by the deficiency. Students may enroll in college credit courses that are not precluded by the deficiency; however, students may not earn more than twelve (12) college credit hours prior to the correction of all deficiencies. Exceptions to the twelve (12) college credit hour limitation may be granted by the postsecondary institution provided that the dual enrollment student is concurrently enrolled in a secondary course(s) in the basic competency area(s) for which they have been deemed deficient by the postsecondary readiness assessment. In addition, the secondary student that has accumulated twelve (12) college credit hours and has not yet demonstrated proficiency in the basic competency areas of reading, writing and mathematics must be advised in writing by the school district of the requirements for associate degree completion and state university admission, including information about future financial aid eligibility and the potential costs of accumulating excessive college credit, as outlined in Section 1009.286, F.S. ~~Before accumulating more than twelve (12) credit hours, students must either meet established minimum scores on all sections of a postsecondary readiness assessment or earn a passing score on the Basic Skills Exit Test as required by Section 1008.30, Florida Statutes, and complete each of the following high school courses with a grade of C or better: Mathematics for College Success (1200410), Reading for College Success (1008350) and Writing for College Success (1009370).~~

(c) For joint dual enrollment and Advanced Placement (AP) courses, as authorized in Section 1007.272, Florida Statutes, students must comply with the add/drop policies and deadlines of the postsecondary institution. A student who elects to enroll in an AP course that is jointly offered with a dual enrollment course may not earn postsecondary credit for that course through dual enrollment.

(d) In order to remain eligible for college credit coursework, students must maintain the high school grade point average ~~GPA~~ required for initial eligibility unless otherwise noted in the District Interinstitutional Articulation Agreement.

(e) Participation of exceptional student education (ESE) students must be in accordance with statutory eligibility requirements and with the procedural guidelines and district-college responsibilities delineated in the District Interinstitutional Articulation Agreement.

(f) Districts and colleges may agree to extend dual enrollment participation in Student Life Skills (designated as SLS course prefix in the Statewide Course Numbering System) courses to students who do not meet the statutory eligibility requirements, if alternate eligibility requirements are delineated in the District Interinstitutional Articulation Agreement.

(g) In order to be considered a full-time dual enrollment early admission student, the student must enroll in a minimum of twelve (12) college credit hours but may not be required to enroll in more than fifteen (15) college credit hours.

(2) The following requirements shall apply to faculty providing instruction in college credit dual enrollment courses:

(a) All full-time or adjunct faculty teaching dual enrollment courses must meet Southern Association of Colleges and Schools Commission on Colleges' Principles of