

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69H-1.003 Certificate and Other Forms Adopted.

(1) The Department hereby adopts and incorporates by reference a Certificate of Coverage and the other forms in paragraphs (a) through (i), below, for use in the State Risk Management Trust Fund, State Property Claims.

(a) Form DFS-D0-850, Coverage Request Form, rev. _____.

(b) through (i) No change.

(2) No change.

Rulemaking Specific Authority 284.17 FS. Law Implemented 255.03(1), 284.01 FS. History--New 7-29-72, Formerly 4-29.04, 4-29.004, Amended 1-7-92, 10-3-94, 12-27-95, 6-21-01, Formerly 4H-1.003, Amended 7-23-06, _____.

**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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

Rule No.:	RULE TITLE:
40D-1.6051	Timeframe for Providing Requested Information for Permit Applications and Denial of Incomplete Applications

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to amend the District's current process for staff-issued notices of denial of incomplete permit applications consistent with a recent District Order delegating authorization to the Executive Director to take final action on permit applications and denials of permit applications.

SUMMARY: In June 2010, the District Governing Board issued an order delegating authority to the Executive Director and designated staff to take agency action on all environmental resource permits, and on all water use permits unless referred to the Governing Board for action by the Executive Director. The order rescinds a similar order enacted last year as the result of legislation concerning delegation of permitting authority for water management districts. Minor amendments are proposed to Rule 40D-1.6051, F.A.C., to make the process for denials of incomplete applications as described in the rule consistent with the denial process outlined in the new Governing Board order. Rule 40D-1.6051, F.A.C., provides that, for applications being

processed for denial, staff will advise the applicant of the opportunity to request referral to the Governing Board for agency action on the application. Amendments provide that applications not referred to the Board for agency action will be denied by staff through issuance of a notice of final agency action as opposed to a notice of proposed agency action. Prior to issuance of final action notice, applicants will still be able to withdraw or amend their application or request referral to the Board. Following issuance, applicants will still have 21 days from receipt to file a petition objecting to the agency action.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Statement of Estimated Regulatory Costs identified approximately 44 permit applications that were denied between January 2005 and October 2009 that had been pending for one year or longer. Additionally, 99 ERP applications and 29 WUP applications received from January 2004 through June 2009 and still pending were identified as incomplete. Very few applications are denied as incomplete, which means that the number of individuals and entities likely to be required to comply with the rule is very low. Most permit applicants having applications that are incomplete for an extended period of time either withdraw their applications or make modifications to their plans. The proposed changes constitute a minor change in procedure and are not substantive. The proposed revisions are not expected to pose any additional costs to the District or other state and local governments. There are no anticipated negative impacts to state or local revenues. There will be no additional transactional costs to permit applicants. Small businesses, counties and cities will not be adversely impacted by the proposed changes.

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), 373.044, 373.113, 373.118, 373.4135, 373.4136, 373.414 FS.

LAW IMPLEMENTED: 120.54(5), 120.60, 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.229, 373.2295, 373.308, 373.309, 373.323, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.426 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District, Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@

swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4660 (OGC #2010028)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.6051 Timeframe for Providing Requested Information for Permit Applications and Denial of Incomplete Applications.

(1) No change.

(2) If requested information is not submitted to the District within the time limits set forth in subsection (1) above, or if an application remains incomplete for more than 365 days and no further extension will be granted, District staff shall issue to the applicant a notice advising of staff's intent to deny the application and that the applicant may request referral of the application to the Governing Board for final action. Upon such request and provided the request is made in sufficient time for proposed agency action to occur within the time limits required by Chapter 120, F.S., or other applicable law, the application will be referred to the Governing Board for final action. Applications not referred to the Governing Board will be denied by staff issuance of a notice of final action to deny the permit application for lack of completeness. ~~The proposed application denial shall become final 21 days after receipt of written notice, as defined in paragraph 40D-1.1010(2)(b), F.A.C., or 14 days after receipt of written notice for a consolidated application concurrently reviewed pursuant to Section 373.427, F.S., unless prior to that date: the application is amended as provided in subsection 40D-1.603(7), F.A.C.; the application is withdrawn; a petition for administrative hearing is filed; or a written request to refer the application to the Governing Board for agency action is submitted by the applicant.~~

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.118, 373.4135, 373.4136, 373.414 FS. Law Implemented 120.54(5), 120.60, 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.229, 373.2295, 373.308, 373.309, 373.323, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.426 FS. History--New 7-2-98, Formerly 40D-1.1020, Amended 9-1-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2010

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-1.607	Permit Processing Fee
40D-1.659	Forms and Instructions

PURPOSE AND EFFECT: The purpose and effect of amendments to Rule 40D-1.607, F.A.C., are to clarify that with respect to the application fee specified for public highway projects having less than 10 acres of project area and less than 2 acres of new impervious surface area, any new semi-impervious area is to be included in the acreage of new impervious surface area. The purpose and effect of amendments to Rule 40D-1.659, F.A.C., are to include in the listing of all District-adopted forms a revised Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP (6/10).

SUMMARY: Environmental resource permitting rules have certain exemptions, limitations or requirements that are based on the amount of impervious surface either proposed or existing for a project. Long-standing District practice has been to include semi-impervious materials with impervious materials when addressing such provisions. Recently, the District adopted a specific definition of "semi-impervious," which made the continued inclusion of semi-impervious material in requirements for impervious material unclear in some rules. The proposed amendments are part of a rulemaking package that includes Chapters 40D-4 and 40D-40, F.A.C., and is intended to eliminate any uncertainty concerning how semi-impervious material is to be addressed. The Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP (6/10) is revised to clarify that information on semi-impervious material is to be included with information submittals relating to impervious material.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC addresses adding the term, "semi-impervious" to all appropriate sections of the Environmental Resource Permitting Information Manual, rules and application forms where limitations, restrictions or requirements are specified concerning impervious material. In February 2010, the Governing Board approved amendments to add a separate definition of "semi-impervious" to subsection 40D-4.021(15), F.A.C. A definition for "impervious" already existed. The intent was to confirm inclusion of both impervious and semi-impervious areas in calculations relating to impervious surfaces. However, by adding a definition of "semi-impervious," the earlier rulemaking makes the continued like treatment of semi-impervious and impervious materials unclear in some rules. The proposed revisions will not pose any additional implementation, monitoring or enforcement costs to the District or any other state or local governments. No individuals or entities will incur additional

transactional costs as a result of the proposed changes. The proposed rule language is a non-substantive change. Small businesses, counties and cities will not be impacted by these proposed changes in rule language.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.083, 373.0831(3), 373.083(5), 373.109, 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.421(2), 668.50 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District, Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwdm.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dianne Lee, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4657

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-1.607 Permit Processing Fee.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. These fees are assessed in order to defray the cost of evaluating, processing, advertising, mailing, compliance monitoring and inspection, required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to qualify for a permit with a lower fee or not require a permit. Failure to pay the application fees established herein is grounds for the denial of an application or revocation of a permit. The District's permit application processing fees are as follows:

(1) Environmental Resource or Management and Storage of Surface Waters Permit Applications,

(a) The fee for a permit application for activities reviewed pursuant to Chapters 40D-4, 40D-40, and 40D-400, F.A.C., are as follows:

1. through 11. No change.

12. Application for general permit for a public highway project, which has less than 10 acres of project area and has less than 2 acres of new impervious and semi-impervious surface area \$ 316.00

13. Application for permit modification for a public highway project, which has less than 10 acres of project area and has less than 2 acres of new impervious and semi-impervious surface area \$158.00

(14) No change.

(b) through (d) No change.

(2) through (12) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.109, 373.421(2) FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 7-21-77, Formerly 16J-0.111, Amended 10-1-88, 1-22-90, 12-27-90, 11-16-92, 1-11-93, 3-23-94, Formerly 40D-0.201, Amended 12-22-94, 10-19-95, 3-31-96, 7-23-96, 10-16-96, 10-26-00, 3-15-01, 9-26-02, 8-7-03, 6-5-05, 2-6-07, 5-12-08, 12-30-08, 12-7-09, 6-30-10, _____.

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District's website at www.watermatters.org.

(1) No change.

(2) Surface Water.

(a) JOINT APPLICATION FOR: ENVIRONMENTAL RESOURCE PERMIT/AUTHORIZATION TO USE STATE OWNED SUBMERGED LANDS/FEDERAL DREDGE AND FILL PERMIT, FORM 547.27/ERP (6/10) (~~4/09~~), incorporated by reference in paragraph 40D-4.101(1)(b), F.A.C.

(b) through (n) No change.

(3) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.0831(3), 373.083(5), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Clark Hull, ERP Program Director
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Southwest Florida Water Management
District Governing Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 29, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 9, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.: RULE TITLES:
40D-3.101 Content of Application
40D-3.411 Well Completion Report

PURPOSE AND EFFECT: The purpose of this rulemaking is to adopt and incorporate by reference a revised State of Florida Permit Application to Construct, Repair, Modify or Abandon a Well, to be numbered as District Form No. LEG-R.040.01 (6/10) and a revised Well Completion Report, to be numbered as District Form No. LEG-R.005.02 (6/10). The effect will be to make the District-adopted forms identical to revised forms proposed for statewide use by the Department of Environmental Protection.

SUMMARY: The proposed rulemaking is to adopt standardized forms for well construction permit applications and well completion reports which are submitted to document the well construction work. The District-adopted forms are the same as forms used by all water management districts and delegated agencies for the administration of well construction permitting and were initially designed by the Florida Department of Environmental Protection (DEP) as statewide forms adoptable by each district. DEP has prepared new forms for use by the water management districts in administering the well construction permitting program. DEP anticipates adopting these forms for statewide use.

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

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.109, 373.308, 373.309, 373.313, 373.316 FS.

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dianne Lee, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4657

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-3.101 Content of Application.

(1) Applications for permits required by this chapter shall be submitted to the District. All permit applicants shall submit the form entitled "State of Florida Permit Application to Construct, Repair, Modify or Abandon a Well," Form No. LEG-R.040.01~~0~~ (6/10 4/09), incorporated herein by reference. Except for replacement and domestic use wells, all applications to construct a well within the Most Impacted Area of the Southern Water Use Caution Area, as set forth in subparagraph 40D-2.801(3)(b)2., and Figure 2.1, F.A.C., shall include the form entitled "Well Verification for all Non-Domestic Use Wells Located in the Most Impacted Area of the Southern Water Use Caution Area," Form No. LEG-R.016.01 (4/09), incorporated herein by reference. Copies of all forms incorporated in this rule can be obtained from the District's website at www.watermatters.org or from the District offices.

(2) No change.

(3) No change.

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.109, 373.308, 373.309, 373.313, 373.316 FS. History—Readopted 10-5-74, Formerly 16J-3.07, Amended 7-1-90, 9-30-91, 12-31-92, 4-11-94, 10-19-95, 2-26-07, 8-19-08, 8-30-09,_____.

40D-3.411 Well Completion Report.

(1) Well completion reports are required for the construction, repair, modification or abandonment of all wells. The District's receipt of a well completion report raises the rebuttable presumption that all work under the permit has been completed or has ceased.

(a) The water well contractor or any individual permittee shall submit to the District the form entitled "Well Completion Report," Form No. LEG-R.005.02~~1~~ (6/10 4/09), incorporated

herein by reference, within 30 days of the expiration of the permit. Copies of the Well Completion Report form can be obtained from the District’s website at www.watermatters.org or from District offices.

(b) If no work is performed or if the well is not completed, a completion report shall be filed within 30 days of the expiration of the permit stating that no well construction was performed or completed under the permit.

(c) The District shall require a record of the well construction at any time prior to the submittal of the completion report if any drilling problems are encountered during well construction. The District may request a record either orally or in writing. The water well contractor or individual permittee shall provide the record within 7 seven days of receipt of the District’s request.

(d) The record of the well construction shall include the depth of the well, the depth of the well casing, the amount of grout material used, and a description of the geologic material and any drilling problems encountered during the well construction.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.308, 373.309, 373.313 FS. History—Readopted 10-5-74, Amended 10-24-76, Formerly 16J-3.09, 16J-3.14, Amended 7-1-90, 9-30-91, 12-31-92, 10-19-95, 1-1-01, 2-26-07, 8-19-08, 8-30-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tony Gilboy, Well Construction Regulation Manager

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2010

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-4.051	Exemptions
40D-4.091	Publications, Forms and Agreements Incorporated by Reference
40D-4.101	Content of Application

PURPOSE AND EFFECT: The purpose of this rulemaking is to add the term, “semi-impervious” to the environmental resource permit rules and portions of the Environmental Resource Permitting Manual Part B, Basis of Review, which set forth permitting exemptions, limitations or requirements that are based upon the amount of impervious surface existing or proposed for a project. The effect will be to clarify that semi-impervious material is to be included in requirements relating to impervious material. Historically, impervious and

semi-impervious materials have been treated the same in District rules. However, recent rulemaking involving adoption of a separate definition of “semi-impervious” made the continued inclusion of semi-impervious material in calculations relating to impervious material unclear.

SUMMARY: Environmental resource permitting rules have certain exemptions, limitations or requirements that are based on the amount of impervious surface either proposed or existing for a project. Longstanding District practice has been to include semi-impervious materials with impervious materials when addressing such provisions. Recently, the District adopted a specific definition of “semi-impervious,” which made the continued inclusion of semi-impervious material in requirements for impervious material unclear in some rules. The amendments proposed in this rulemaking will eliminate any uncertainty concerning how semi-impervious material is to be addressed. Subsection 40D-4.051(3), F.A.C., which sets forth an exemption from environmental resource permitting for surface water management systems for agricultural or silvicultural activities, is amended to clarify that the area of impervious and semi-impervious surface must not equal or exceed 2 acres in order to be exempt under this provision. Subsection 40D-4.091(1), F.A.C., is amended to incorporate by reference a revised Environmental Resource Permitting Information Manual Part B, Basis of Review, various sections of which are amended to include the word “semi-impervious” in provisions relating to impervious surface materials. The definition of “impervious” is also amended to eliminate overlap with the definition of “semi-impervious.” The Joint Application for Environmental Resource Permit/Authorization to Use State-Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP, is revised to include the term, “semi-impervious” in application information requirements relating to impervious surface material. Rule 40D-4.101, F.A.C., is amended to incorporate by reference the revised form, with an effective date of 6/2010.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC addresses adding the term, “semi-impervious” to all appropriate sections of the Environmental Resource Permitting Information Manual, rules and application forms where limitations, restrictions or requirements are specified concerning impervious material. In February 2010, the Governing Board approved amendments to add a separate definition of “semi-impervious” to subsection 40D-4.021(15), F.A.C. A definition for “impervious” already existed. The intent was to confirm inclusion of both impervious and semi-impervious areas in calculations relating to impervious surfaces. However, by adding a definition of “semi-impervious,” the earlier rulemaking makes the continued like treatment of semi-impervious and impervious materials unclear in some rules. The proposed revisions will not pose any additional implementation, monitoring or enforcement costs to the District or any other state or local

governments. No individuals or entities will incur additional transactional costs as a result of the proposed changes. The proposed rule language is a non-substantive change. Small businesses, counties and cities will not be impacted by these proposed changes in rule language.

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

RULEMAKING AUTHORITY: 373.044, 373.046, 373.113, 373.149, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.042, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District, Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to: ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dianne Lee, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4657

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.051 Exemptions.

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

The following activities are exempt from permitting under this chapter:

- (1) through (2) No change.
- (3) The construction, alteration, or operation of a surface water management system for agricultural or silvicultural activities which satisfies the following requirements:
 - (a) No change.
 - (b) The area of impervious and semi-impervious surfaces will not equal or exceed 2 acres;
 - (c) through (j) No change.

(4) through (15) No change.

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

40D-4.091 Publications, Forms and Agreements Incorporated by Reference.

The following documents are hereby incorporated by reference and are applicable to this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) Environmental Resource Permitting Information Manual Part B, Basis of Review, Environmental Resource Permit Applications within the Southwest Florida Water Management District, _____ ~~December 9, 2009~~. This document is available from the District's website at www.watermatters.org or from the District upon request.

(2) through (6) No change.

Rulemaking Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-22-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07(1), 9-25-07(4), 11-26-07, 5-12-08, 5-20-08, 6-22-08, 5-12-09, 5-17-09, 8-30-09, 11-2-09, 11-3-09, 12-9-09,_____.

40D-4.101 Content of Application.

(1) Applications for Environmental Resource Permits required by this chapter shall be filed with the District in accordance with the requirements of this chapter and Chapter 40D-1, F.A.C. The application shall consist of all of the following:

- (a) The information required in Section 373.413(2), F.S.;
- (b) Five copies of the Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form No. 547.27/ERP (6/10) 547.27/ERP (4/09), incorporated herein by reference, with applicable supplements, sections A through K, copies of which can be obtained from the District's website at www.watermatters.org or from the District offices.;
- (c) Five copies of drawings, calculations, environmental and construction information, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed.;
- (d) The appropriate fee as specified in Chapter 40D-1, F.A.C.; ~~and~~
- (e) Such other information as is reasonably necessary to determine that the surface water management system meets the conditions of this chapter.

(2) through (5) No change.

(6) If the application involves activities located in, on, or over wetlands or other surface waters the District shall forward a copy of the notice of application to and request comments from both agencies listed below:

(a) The Florida Fish and Wildlife Conservation Commission; ~~and~~

(b) The Florida Department of State, Division of Historical Resources.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History—Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1), (2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97, 2-27-03, 9-10-08, 8-30-09, _____.

Environmental Resource Permitting Information Manual Part B, Basis of Review

1.7.7 “Directly Connected Impervious Areas.”

Unless otherwise specifically stated in the Basis of Review, directly connected impervious areas as considered in the calculation of volumes for treatment systems are those impervious and semi-impervious areas hydraulically connected to the treatment system directly or by pipes or ditches.

1.7.20 “Impervious.”

Land surfaces which do not allow, or minimally allow, the penetration of water; examples are buildings, nonporous concrete and asphalt pavements, ~~and some fine grained soils such as clays.~~

2.4 Water Management Areas.

Such areas shall be shown on construction plans and, when appropriate, legally reserved for that purpose by dedication on the plat, deed restrictions, easements, etc., so that subsequent owners or others may not remove such areas from their intended use. Management areas, including maintenance easements, shall be connected to a public road or other location from which operation and maintenance access is legally and physically available. ~~Impervious Areas~~ designed for purposes such as roads, parking lots, sidewalks, or public access shall not be used as water management areas if the level or duration of standing or flowing water on these areas is a potential risk to vehicular traffic or pedestrian use.

5.2 Retention, Detention Criteria.

a. No change.

b. Detention with Effluent Filtration System (Manmade Underdrains).

1. A detention with effluent filtration system shall treat the runoff from the first one inch of rainfall; or as an option for projects or project subunits with drainage areas less than 100 acres, the first one-half inch of runoff. In determining the runoff from one inch of rainfall, the applicant must provide calculations determining runoff from the directly connected impervious and semi-impervious areas separately from any other contributing area.

2. through 7. No change.

c. On-line treatment system

1. An on-line treatment system shall treat the runoff from the first one-inch of rainfall; or as an option for projects or project sub-units with drainage areas less than 100 acres, the first one-half inch of run-off. In determining the runoff from one-inch of rainfall, the applicant must provide calculations determining runoff from the directly connected impervious and semi-impervious areas separately from any other contributing area.

2. through 3. No change.

d. Off-line treatment system

1. Off-line treatment system shall treat the runoff from the first one-inch of rainfall; or as an option for projects or project sub-units with drainage areas less than 100 acres, the first one-half inch of runoff. In determining the runoff from one-inch of rainfall, the applicant must provide calculations determining run-off from the directly connected impervious and semi-impervious areas separately from any other contributing area.

2. No change.

e. No change.

f. Off-site treatment volumes shall be the total runoff from one-inch of rainfall over the contributing off-site area. The runoff from the directly connected impervious and semi-impervious contributing areas shall be determined separately from the runoff from the other contributing areas.

6.1 Discharge Structures.

a. through d. No change.

e. Discharge structures for water quality systems shall include a “baffle” system to encourage discharge from the center of the water column rather than the top or bottom. Discharge structures from areas with greater than 50 percent impervious and semi-impervious area or from systems with inlets in paved areas shall include a baffle, skimmer, or other mechanism suitable for preventing oil and grease from discharging from detention and on-line treatment systems.

f. through h. No change.

6.6 Impervious Areas.

Runoff shall be discharged from impervious and semi-impervious surfaces into retention areas, or through detention devices, filtering and cleansing devices, or subjected to some type of Best Management Practice (BMP) prior to discharge from the project site. For projects, which include substantial paved areas, such as shopping centers, large highway intersections with frequent stopped traffic, and high density developments, provisions shall be made for the removal of oil, grease and sediment from storm water discharges.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Clark Hull, ERP Program Director
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Southwest Florida Water Management
District Governing Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 29, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 9, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-40.301
RULE TITLE: Conditions for Issuance of General Permits for Minor Surface Water Management Systems

PURPOSE AND EFFECT: The purpose of this rulemaking is to add the term, “semi-impervious” to the conditions for issuance of general environmental resource permits that are based upon the amount of impervious material proposed for a project. The effect will be to clarify that any such limitations concerning impervious surfaces are intended to include semi-impervious material. Historically, impervious and semi-impervious materials have been treated the same in District rules. However, recent rulemaking that included adoption of a separate definition of “semi-impervious” made the continued inclusion of semi-impervious materials in these rule provisions unclear.

SUMMARY: Rule 40D-40.301, F.A.C., sets forth conditions for issuance of general permits for minor surface water management systems. One of the conditions is that the area of impervious surface not exceed 2 acres. Historically, impervious and semi-impervious materials have been treated the same in District rules. However, recent rulemaking that included adoption of a separate definition of “semi-impervious” made the continued inclusion of semi-impervious materials in this condition unclear. Therefore, the condition is amended to provide that the area of impervious and semi-impervious surfaces shall not exceed 2 acres.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC addresses adding the term, “semi-impervious” to all appropriate sections of the Environmental Resource Permitting Information Manual, rules and application forms where limitations, restrictions or requirements are specified concerning impervious material. In February 2010, the Governing Board approved amendments to add a separate definition of “semi-impervious” to subsection 40D-4.021(15), F.A.C. A definition for “impervious” already existed. The intent was to confirm inclusion of both impervious and semi-impervious areas in calculations relating to impervious surfaces. However, by adding a definition of “semi-impervious,” the earlier rulemaking makes the continued like treatment of semi-impervious and impervious materials unclear in some rules. The proposed revisions will

not pose any additional implementation, monitoring or enforcement costs to the District or any other state or local governments. No individuals or entities will incur additional transactional costs as a result of the proposed changes. The proposed rule language is a non-substantive change. Small businesses, counties and cities will not be impacted by these proposed changes in rule language.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.427 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District, Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dianne Lee, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4657

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-40.301 Conditions for Issuance of General Permits for Minor Surface Water Management Systems.

(1) To obtain this general permit, an applicant must provide reasonable assurance that all of the following conditions are met and certify that:

(a) Except for minor residential subdivisions meeting the criteria in subsection (2), the total land area does not equal or exceed 10 acres.;

(b) Except for minor residential subdivisions meeting the criteria in subsection (2), the area of impervious and semi-impervious surfaces shall not exceed 2 ~~two~~ acres.;

(c) The proposed activities will occur in, on or over less than 100 square feet of wetlands or other surface waters. Road or driveway crossings of ditches constructed in uplands will not be counted against the 100 square foot limit.;

(d) The activities will not utilize pumps for storm water management.;

(e) The activities will not utilize storm drainage facilities larger than one 24-inch diameter pipe, or its equivalent.;

(f) Discharges from the site will meet state water quality standards.;

(g) The proposed building floors will be above the 100 year flood elevation.;

(h) The proposed activities do not cause significant adverse impacts to occur individually or cumulatively.;

(i) The surface water management system can be effectively operated and maintained.;

(j) The surface water management system will meet the applicable water quality design criteria in the ERP Basis of Review incorporated by reference in subsection 40D-4.091(1), F.A.C. Alternatively, individual lots in minor residential subdivisions may meet the applicable criteria in subsection (2).

(2) Additional criteria for minor residential subdivisions:

(a) Roadways within the subdivision shall consist of paved or unpaved stabilized roads with an unyielding subgrade.;

(b) The drainage system shall not act in a manner that would divert and channelize large areas of overland sheet flow, thereby creating point source discharges that will adversely affect ~~effect~~ wetlands, or areas beyond the applicant's perpetual control.;

(c) Point discharges shall not exceed the capacity of receiving waters.;

(d) All terminal discharge structures shall be designed to withstand the 25-year, 24-hour post-development discharge without functional failure.;

(e) The proposed post-development impervious and semi-impervious surfaces will not exceed a five percent (5%) increase over pre-developed conditions.;

(f) Proposed or projected construction shall maintain a minimum 75 foot vegetated buffer, which includes a 25 foot perpetually undisturbed buffer upland of all wetlands and other surface waters. Only the 25 foot perpetually undisturbed buffer shall be required adjacent to an isolated wetland entirely located within an individual residential lot.;

(g) Proposed or projected construction shall maintain a minimum 75 foot buffer adjacent to all project boundaries.;

(h) The applicant's demonstration of compliance with this subsection shall include provision of a typical lot layout showing proposed driveways, buildings, and other impervious and semi-impervious areas and the anticipated percentage of impervious and semi-impervious surfaces resulting from projected construction on individual residential lots.;

(i) The boundaries of the surface water management system, wetlands, surface waters and buffers shall be recorded in plats or easements and included in any declaration of covenants, conditions, easements and restrictions and shall be identified in all sales contracts by the developer. These recorded documents shall be perpetual and applicable to all future sales of property within the development. Language

shall also be contained in the recorded documents notifying all individual lot owners that permits are required if any of the following items are proposed:

1. Alteration to the surface water management system.;
2. Encroachment into the wetlands, wetland buffers, or adjacent off-site property line buffers.
- (3) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.427 FS. History—New 3-1-88, Amended 10-3-95, 10-16-96, 9-26-02, 2-1-05, 2-26-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Clark Hull, ERP Program Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2010

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-8.002	Definitions
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0086	Denial, Suspension, Revocation of License and Imposition of Fines
59A-8.0095	Personnel
59A-8.0185	Personnel Policies
59A-8.020	Acceptance of Patients or Clients
59A-8.0215	Plan of Care and Service Provision Plan
59A-8.022	Clinical Records and Service Records
59A-8.0245	Advance Directives
59A-8.027	Emergency Management Plans

PURPOSE AND EFFECT: The purpose is to provide new rules for oversight by the director of nursing and the use of a recent unannounced licensure survey related to a licensure application for a change of ownership as required in Sections 400.497(5) and (6), F.S.; to provide a rule on the submission of the quarterly report required in Section 400.474(6)(f), F.S.; to update the statutory references in the rule and forms referenced to conform to current statutes, and remove items that are now in Florida Statutes and Chapter 59A-35, F.A.C.; to revise personnel rules to conform to state practice act rules for included professions; to clarify the wording of the rule on health statements and refer to communicable disease that can be spread by casual contact; to require a photo identification

tag for staff that have contact with patients in order to protect patients and avoid persons wrongfully representing themselves as someone they are not; to remove rubber stamped signatures for physicians to prevent fraud; and to include minimum requirements for home health aide, certified nursing assistant, homemaker and companion client records and service provision plans which are less than the requirements for clinical records and plans of care for patients receiving nursing and therapy.

SUMMARY: Rule 59A-8.002, F.A.C., adds the definition of temporary basis used in the definition of staffing in Section 400.462, F.S., and deletes two definitions that are now covered in state law.

Paragraph 59A-8.003(6)(c), F.A.C., adds that changes of ownership will demonstrate compliance with state laws by an unannounced inspection as required in Section 400.497(6), F.S. Subsection 59A-8.003(14), F.A.C., adds how home health agency quarterly reports are submitted to the Agency for Health Care Administration. Rule 59A-8.003, F.A.C., also clarifies that satellite offices are expected to meet the law and rule requirements of home health agency offices and that training of home health agency staff may be done at drop-off sites.

Rule 59A-8.004, F.A.C., removes the application forms and licensing procedures, including background screening, and refers to Rules 59A-35.060 and 59A-35.062, F.A.C., and Section 408.809, F.S. that now contain uniform health care licensing procedures for the Agency. A form for attestation of compliance with the 10-mile distance requirement in Section 400.471(7), F.S., is added.

Rule 59A-8.008, F.A.C., adds that when a home health agency provides staffing services, the staff are assigned to patients and supervised by the requesting facility or entity.

Rule 59A-8.0086, F.A.C., on denial, suspension, revocation of licenses and imposition of fines is proposed to be repealed since the contents are now in state law. Fine amounts are now in Sections 400.474 and 400.484, F.S. Denial, suspension, and revocation of licenses are now in Sections 408.806(3), 400.474, 400.484, 408.813, 408.814, and 408.815, F.S.

Rule 59A-8.0095, F.A.C., updates and adds to the requirements for various types of personnel. The administrator shall be responsible for the overall operation of the home health agency. Additional oversight by the director of nursing is added as required in Section 400.497(5), F.S. The home health aides and certified nursing assistants section adds patient care tasks that can be done related to elimination, adds that client records include the tasks performed and any changes observed in the client, and clarifies that demonstration cardiopulmonary resuscitation can still be performed is required when renewing CPR certification. The nurses, physical therapist and occupational therapist sections add that services will be provided in compliance with the state practice acts and rules. The physical therapist and occupational therapist sections

clarify supervisory requirements for therapy assistants. The one year of experience requirement for physical therapists and physical therapist assistants is removed. For homemakers and companions minimum requirements for work records are added and clients may be verbally reminded to take their medications. Each home health agency will have a process to verify that services were provided.

Rule 59A-8.0185, F.A.C., clarifies that personnel policies also apply to contracted staff and independent contractors, not just employees. The health statement requirement is updated to clarify that persons are to be free from communicable disease that can be casually transmitted. The requirement for a biennial course on HIV and AIDS is replaced with a one-time course since the state law changed. A photo identification tag that identifies the employee, independent contractor and contracted staff is required.

Rule 59A-8.020, F.A.C., deletes that the written agreement can be the service provision plan required in Section 400.491(2), F.S. since the written agreement does not have sufficient information.

Rule 59A-8.0215, F.A.C., adds the minimum content for the service provision plan for clients that are only receiving home health aide, certified nursing assistant, homemaker, or companion services; and permits the client to participate in the planning of his or her services and receive a copy of the plan. The rule also adds that plans of care and service provision plans must be individualized based on each patient or client's needs, strengths, limitations and goals.

Rule 59A-8.022, F.A.C., adds the minimum content required in service records. Home health agencies that provide services under contract for patients admitted by another agency should have a copy of the records for the visits made by their staff and a copy of the plan of care or services provision plan. Rubber stamp signatures for physicians can no longer be used.

Rule 59A-8.0245, F.A.C., revises the date and web site address for the "Health Care Advance Directives – The Patients' Right to Decide."

Rule 59A-8.027, F.A.C., updates the emergency management plan format to include the title "safety liaison" as the primary contact per Section 408.821, F.S. and include caregivers remaining with patients at special needs shelters per the Department of Health.

Other minor changes are made to update the Agency's web site address and licensing unit name, and update the numbering of law sections to conform to law changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs has been prepared and is available from the proposed rule contact person below. The following is a summary of the SERC:

As of May 20, 2010, there were 2,349 licensed home health agencies in Florida. These agencies will be required to comply with the rule as well as any new agencies that are licensed in

the coming years. The cost to each home health agency will be minimal. The Agency for Health Care Administration will incur the cost of rulemaking, as well the costs associated with enforcing the proposed changes. There is no cost to local government for the revisions in this rule since none of these changes affect local government entities.

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

RULEMAKING AUTHORITY: 400.497 FS.

LAW IMPLEMENTED: 400.497(5)(6), 400.474(6)(f) 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: Anne Menard, Supervisor, Home Care Unit, Bureau of Health Facility Regulation, Anne.Menard@ ahca.myflorida.com, (850)412-4385

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-8.002 Definitions.

(1) "Accrediting organization" means the Community Health Accreditation Program, The Joint Commission, or the Accreditation Commission for Health Care ~~or the Joint Commission on Accreditation of Healthcare Organizations.~~

(2) through (8) No change.

~~(9) "Direct employee" means an employee for whom one of the following entities pays withholding taxes: a home health agency; a management company that has a contract to manage the home health agency on a day-to-day basis; or an employee leasing company that has a contract with the home health agency to handle the payroll and payroll taxes for the home health agency.~~

(10) through (29) renumbered (9) through (28) No change.

~~(30) "Providing one service directly" means the agency must provide one service, in part, by direct employees, as defined in Section 400.462, F.S.~~

(31) through (37) renumbered (29) through (35) No change.

(36) "Temporary basis", as used in the definition of "staffing" in Section 400.462, F.S., means short-term, such as for employee absences, short-term skill shortages, or seasonal workloads.

~~(37)(38)~~ "Treatment orders" means written orders signed by a physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, which authorizes the provision of care or treatment to a patient in his place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, Speech Therapists, or Dietitians/ Nutritionists.

~~Rulemaking Specific Authority 400.497 FS. Law Implemented 400.462, 400.487 FS. History—New 4-19-76, Formerly 10D-68.02, Amended 4-30-86, 8-10-88, 5-30-90, 5-27-92, Formerly 10D-68.002, Amended 4-27-93, 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, _____.~~

59A-8.003 Licensure Requirements.

(1) The issuance of an initial license shall be based upon compliance with Chapter 400, Part III, F.S., and this rule as evidenced by a signed and notarized, complete and accurate home health agency application, as referenced in subsection 59A-8.004(1), F.A.C., and the results of a survey conducted by an accrediting organization pursuant to Section 400.471, F.S., and Rule 59A-8.002, F.A.C ~~the AHCA.~~

(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806(2), F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home health agencies that apply for renewal of their licenses will be surveyed by AHCA or an accrediting organization as defined in Rule 59A-8.002, F.A.C., pursuant to Sections 408.811 and 400.471, F.S., based on the extent of compliance on previous surveys and complaint investigations with these rules and state laws. Home health agencies will be surveyed on an unannounced basis at least every 36 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(3) Surveys of Accredited Home Health Agencies:

(a) It is the responsibility of the home health agency to request exemption from state licensure surveys pursuant to Section 400.471(9), F.S., by submitting documentation of accreditation by an approved accrediting organization and the most recent survey from the accrediting organization to the AHCA Home Care Licensed Home Health Programs ~~Unit.~~

(b) Home health agencies that complete (a) will not be subject to licensure surveys by AHCA except under the following circumstances:

1. The HHA has been denied accreditation or has received a provisional or conditional accreditation report from the accrediting organization on its most recent survey, or

2. The HHA has received full accreditation but has not authorized the release of the report to the AHCA, or has not ensured that AHCA has received the accrediting organization's report.

(4) AHCA will conduct investigations of complaints regarding licensure violations. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the administrator of the nature of the complaint. An exit

conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation.

(5) In addition to any other penalties imposed pursuant to this rule, ~~AHCA the agency~~ may assess costs related to an investigation that results in a successful prosecution, pursuant to Section 400.484(3), F.S. The prosecution can be resolved by stipulation settlement or final hearing. The following costs may apply: travel costs related to the investigation; investigative time by AHCA's surveyor or surveyors including travel time; processing time by AHCA's professional staff and administrative support staff of Field Operations, and processing time for administrative support staff and professional staff of the AHCA Home Care Unit in Tallahassee. The costs related to AHCA's professional staff and support staff will be determined according to the hourly rate of pay for those positions.

(6) An application package for a change of ownership shall be made on a form prescribed by AHCA, as referenced in subsection 59A-8.004(1), F.A.C.

(a) The buyer or lessee must make application to AHCA for a new license at least 60 days before the date of the transfer of ownership as required by Section 408.807(1) and (2), F.S.

(b) At the time of the transfer of ownership all patient or client records held by the current licensee shall be transferred to the applicant.

(c) An application for a change of ownership license will not be approved if a home health agency has not demonstrated compliance with the requirements in Chapter 408, Part II, and Chapter 400, Part III, F.S., through a recent unannounced inspection, pursuant to Section 400.497, F.S.

1. The inspection may be done by an accrediting organization. However, if the home health agency being sold is accredited or was licensed July 1, 2008 or later, the inspection must be done by an accrediting organization as required in Section 400.471, F.S.

2. The inspection may be conducted in conjunction with an unannounced Medicare or Medicaid certification survey.

3. The unannounced inspection must have been completed within 18 months prior to submission of the change of ownership application to AHCA.

~~(d)(e)~~ Failure to apply for a change of ownership of a licensed home health agency as required by Sections 408.806(2)(b) and 400.471, F.S., shall result in a fine set and levied by AHCA pursuant to Section 400.474(1), (2)(a) 400.471(8), F.S. This is also applicable to owners who incorporate and do not report this change of ownership to the home health agency.

(7) A licensed home health agency may operate a satellite office. A satellite office must be located in the same county as the agency's main office. Supplies and records can be stored at a satellite office and phone business can be conducted the same as in the main office. The satellite office shares administration

with the main office and is not separately licensed. It must meet the requirements in state law and rules for home health agencies. Signs and advertisements can notify the public of the satellite office location. If the agency wants to open an office outside the county where the main office is located, the second office must be separately licensed.

(8) A licensed home health agency may operate a drop-off site in any county within the geographic service area specified on the license. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency's existing patients or clients. Prospective patients or clients cannot be contacted and billing cannot be done from this location. The drop-off site is not a home health agency office, but merely a work station for direct care staff in large areas where the distance is too great for staff to drive back frequently to the home health agency office. Training of home health agency staff can be done at a drop-off site. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(9) If a change of address is to occur, or if a home health agency intends to open a satellite office, the home health agency must provide ~~14 days advance~~ notice in writing to the AHCA Home Care Licensed Home Health Programs Unit in Tallahassee and the AHCA area office as required in Rule 59A-35.040, F.A.C. The home health agency must submit to the AHCA Home Care Licensed Home Health Programs Unit a certificate of occupancy, certificate of use, or evidence that the location is zoned for a home health agency business for the new address and evidence of legal right to the property in accordance with Section 408.810(6), F.S. ~~Failure to notify AHCA within the time frame will result in a \$500 fine, pursuant to Sections 408.813 and 400.474(1), F.S. Emergency relocations must be reported within seven days, with the reason for the relocation documented, to avoid a penalty assessment. An emergency relocation can be due to any of the following situations: 1) an eviction notice; 2) environmental conditions on or near the site which are not conducive to the health and well being of staff and clients, including a fire or flooding; 3) an element near the site which would make the premises harmful or dangerous; 4) circumstances arising from or caused by weather conditions and/or a natural disaster; or 5) a change in property zoning that requires the home health agency to move.~~

(10) through (13) No change.

(14) The home health agency shall submit the quarterly report required in Section 400.474, F.S. This rule applies to each home health agency required to be licensed by AHCA pursuant to Chapter 400, Part III, F.S.

(a) During each quarterly submission period each home health agency shall submit the data required by the form AHCA 3110-1027, based on the data as it existed on the last day of the prior calendar quarter.

(b) A separate form AHCA 3110-1027, shall be submitted electronically for each home health agency required to be licensed by AHCA.

(c) For purposes of form AHCA 3110-1027, data includes “0” or “None,” if there were no instances of the specified data item.

(d) The quarterly submission periods are from 12:01 a.m. of the first (1st) day of the period through 12:00 a.m., midnight of the fifteenth (15th) day of the period, Eastern Standard Time or Eastern Daylight Time, as applicable:

1. January 1 through January 15.
2. April 1 through April 15.
3. July 1 through July 15.
4. October 1 through October 15.

(e) For example, if the home health agency was required to be licensed at any time during the period from January 1 through March 31, then pursuant to this rule the home health agency shall submit data for the January 1 through March 31 calendar quarter to AHCA during the April 1 through April 15 submission period.

(f) All filings shall be submitted electronically to <https://weblics.fdhc.state.fl.us/datamart/mainMenu.do>, the portal to AHCA's data collection system, as adopted by this rule, by using the interactive electronic form AHCA 3110-1027.

(g) In order to submit the data through form AHCA 3110-1027 electronically, the home health agency must input a User ID and password. A User ID and password must be obtained from AHCA by e-mail from HQAHomeHealth@ahca.myflorida.com or by writing to the Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308. A request for a User ID and password must not be submitted to AHCA later than the tenth (10th) day of a quarterly submission period. A new User ID and password does not need to be obtained for each calendar quarterly submission period.

(h) Form AHCA 3110-1027 is adopted and incorporated by this reference.

(i) A copy of form AHCA 3110-1027 may be obtained from AHCA's website at <https://weblics.fdhc.state.fl.us/datamart/mainMenu.do>, or from AHCA's Home Care Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308.

(j) The home health agency must click the “Submit” button on the screen titled “Quarterly Report – Application Summary” in order to submit the data required by form AHCA 3110-1027 to AHCA.

(k) Following the submission of the data required by form AHCA 3110-1027, by clicking the “Submit” button, form AHCA 3110-1027 will display a submittal acknowledgement

screen titled “Application Summary” which the home health agency may wish to print. In any proceeding with AHCA, the form AHCA 3110-1027, “Application Summary” screen will be conclusive evidence of submittal of data during the quarterly submission period.

(l) Failure to submit the data required by form AHCA 3110-1027 during each quarterly submission period will subject the home health agency to the penalties specified at Section 400.474(6), F.S.

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.464, 400.471, 400.474, 400.484, 400.497 FS. History—New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, _____.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form prescribed by the AHCA in Rule 59A-35.060, F.A.C.: ~~Home Health Agency Application for Initial Licensure, form number, AHCA 3110-1001, Revised July 2005; Application for Renewal of Licensure, form number, AHCA 3110-1011, January 2006; and Application for Change of Ownership, form number AHCA 3110-1012, July 2005, is all incorporated by reference. This~~ These forms may be obtained at the AHCA web site, http://ahca.myflorida.com/licensing_cert.shtml, ~~<http://ahca.myflorida.com>~~ under “Licensing & Certification” and then under “Home Health Agency”. ~~If the requestor is unable to obtain the documents from the web site, the forms may be obtained from the AHCA Licensed Home Health Programs Unit by contacting (850)414-6010, and sending a check or money order to cover the Agency's costs for the copying and mailing.~~

(2) The applicant shall identify its legal name, its business name, and the names and addresses of corporate officers and directors, the name and address of each person having at least a 5% equity interest in the entity and other information as required in Section 408.806(4), F.S. For initial and change of ownership applications and corporate name changes, a current certificate of status or authorization pursuant to Chapter 607, F.S., is required.

(3) If the applicant is a partnership, the name and address of each partner, its legal name, and the business name and address must be identified. For initial and change of ownership applications and partnership name changes, a current certificate of status or authorization for limited partnerships, pursuant to Chapter 620, F.S., is required. For initial and change of ownership applications and for name changes for general partnerships, a current certificate of status or authorization or an affidavit of fictitious name must be submitted.

(4) If the applicant is a limited liability company, the name and address of each member, its legal name, and the business name and address must be identified. For initial and change of

ownership applicants and name changes, a current authorization for the limited liability company from the Department of State, the operating agreement and the articles of organization pursuant to Chapter 608, F.S., must be submitted.

~~(5)(4)~~ For initial and change of ownership applications and name changes, an affidavit of fictitious name is required when the home health agency chooses to operate under a name other than the name of the partnership, ~~or~~ corporation, or limited liability company pursuant to Section 865.09, F.S.

~~(6)(5)~~ For initial applications, including changes of ownership, the applicant must submit proof of financial ability to operate, pursuant to Sections 400.471(~~3~~), 408.810 and 408.8065, F.S. The compliance is demonstrated by completion of AHCA Form 3100-0009 pursuant to Rule 59A-35.062, F.A.C 3110-1013, December 2004. Applications for changes of ownership and applications for initial licensure from agencies that failed to renew their licenses before expiration are not required to submit Schedule 1 of AHCA Form 3100-0009 3110-1013, December 2004.

(7) An applicant for initial license shall sign the form AHCA 3110-1026, Attestation of Compliance with Distance Requirements, pursuant to Section 400.471, F.S. The authorized representative signing this form attests no officer or controlling interest of the applicant agency are officers or controlling interests of another home health agency located within 10 miles of the applicant agency and is in the same county.

~~(8)(6)~~ An applicant for renewal of licenses shall not be required to provide proof of financial ability to operate, unless the applicant has demonstrated financial inability to operate, as defined in subsection 59A-8.002(16), F.A.C. If a licensee has shown signs of financial instability at any time, pursuant to Section 408.810(8), F.S., AHCA shall require proof of financial ability to operate, by submitting schedules 2 through 7 of AHCA Form 3100-0009 3110-1013, December 2004, described in subsection ~~(6)(5)~~ above, and documentation of correction of the financial instability, to include evidence of the payment of any bad checks, delinquent bills or liens. If complete payment cannot be made, evidence must be submitted of partial payment along with a plan for payment of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal, state, or district court, an accepted plan of repayment must be provided.

~~(7)~~ The applicant shall submit a signed affidavit with the application and annually thereafter as required in Sections 400.512 and 435.04(5), F.S., from the administrator affirming that the administrator, the financial officer, and all direct and contract personnel who enter the home in the capacity of their employment have been screened. This Affidavit of Compliance with Screening Requirements, form number AHCA 3110-1014, Revised December 2006, incorporated by reference, also

confirms that all remaining personnel, who enter the home in the capacity of their employment, have worked continuously for the home health agency since before October 1, 2000.

~~(8)~~ New administrators and financial officers may work on probationary status, once they have submitted the documents described in subsection (9) below, including a signed and notarized copy of the Affidavit of Compliance with Background Screening Requirements, AHCA 3100-0008, December 2006, incorporated by reference, pending a determination of compliance with minimum standards set forth in Chapter 435, F.S. New direct or contract personnel who enter the home in the capacity of their employment may work on probationary status, once they have submitted the documents described in subsection (10) below, including a signed and notarized copy of the Affidavit of Good Moral Character, AHCA 3110-0001, Revised December 2006, incorporated by reference, pending a determination of compliance with minimum standards set forth in Chapter 435, F.S.

(9) Background screening for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in Section 408.809, F.S. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from the Agency for Health Care Administration, Home Care Licensed Home Health Programs Unit, by calling (850)412-4403 414-6010 or sending a request by fax to (850)922-5374. The completed fingerprint card should be submitted with a check or money order to cover the cost of the screening to the Agency for Health Care Administration, Home Care Licensed Home Health Programs Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308.

~~(10)~~ Level ~~2~~ background ~~Screening for good moral character for employees and all personnel, including contractors, who enter the home shall be done as required in Rule 59A-35.090, F.A.C. and Section 408.809, F.S. consist of: Submission of the Request for Level 1 Criminal History Check, AHCA form 3110-0002, July 2005, incorporated by reference. The FDLE form can be submitted either through AHCA's Background Screening Unit, directly to FDLE, or through a third party vendor that obtains the statewide criminal history through the FDLE. The address for submission to AHCA's Background Screening Unit is AHCA Background Screening Unit, Mail Stop 40, 2727 Mahan Drive, Tallahassee, Florida 32308. The address for submission through FDLE is FDLE, Crime Information Bureau, Post Office Box 1489, Tallahassee, Florida 32302. The form may be obtained at the Agency for Health Care Administration web site, <http://ahea.myflorida.com>, at the Background Screening page. The cost of processing the screening request must be paid by the home health agency or the employee being screened. The check must accompany the screening request and be made payable to~~

~~AHCA if the request is submitted to AHCA, to the FDLE if the request is submitted to the FDLE, or to the home health agency's agent, if one is used for FDLE screening.~~

(11) Employees who have direct patient or client contact and are found to have a disqualifying offense cannot continue patient or client contact unless they obtain an exemption. Administrators and financial officers who have a disqualifying offense cannot continue in those positions unless they obtain an exemption. Exemptions can be requested as defined in Section 400.512(1), F.S.

~~(12) If the home health agency provides staffing to nursing homes, any staff who have not lived in Florida for the past five years must have level 2 screening as required by Section 400.215, F.S.~~

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.471, 400.512, 408.810 FS. History–New 4-19-76, Formerly 10D-68.04, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, 10-6-91, Formerly 10D-68.004, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, _____.

59A-8.008 Scope of Services.

(1) In cases of patients requiring only nursing, or in cases requiring nursing and physical, respiratory, occupational or speech therapy services, or nursing and dietetic and nutrition services, the agency shall provide case management by a licensed registered nurse directly employed by the agency.

(2) In cases of patients receiving only physical, speech, respiratory or occupational therapy services, or in cases of patients receiving only one or more of these therapy services and home health aide services, case management shall be provided by the licensed therapist, who is a direct employee of the agency or a contractor.

(3) In cases of patients receiving only dietetic and nutrition services, case management shall be provided by the licensed dietitian/nutritionist who is a direct employee of the agency or an independent contractor.

(4) The agency's application for licensure shall state explicitly what services will be provided directly by agency employees or by contracted personnel, if services are provided by contract. The home health agency shall provide at least one service directly to patients or clients.

(5) A home health agency that provides home health services to which directly contracts with a resident of an assisted living facility or adult family care home ~~to provide home health services~~ shall coordinate with the facility or home regarding the resident's condition and the services being provided in accordance with the policy of the facility or home and if agreed to by the resident or the resident's representative. The home health agency shall retain responsibility for the care and services it provides and it shall avoid duplication of services by not providing care the assisted living facility is obligated, by resident contract, to provide ~~to the patient~~.

(6) If a home health agency occupies space within a licensed assisted living facility, and this space is not licensed as a home health agency, the home health agency must notify AHCA, in writing, whether the space is a satellite office or a drop-off site, as defined in Rule 59A-8.002, F.A.C.

(7) When a home health agency provides staffing services to a health care facility, school or other business entity, pursuant to Section 400.476, F.S., and defined in Section 400.462, F.S., the facility, school or business entity shall be responsible for the assignment and supervision of the staff.

Rulemaking Specific Authority 400.487, 400.497, ~~400.509~~ FS. Law Implemented ~~400.462, 400.497, 400.487~~ FS. History–New 4-19-76, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, _____.

59A-8.0086 Denial, Suspension, Revocation of License and Imposition of Fines.

Rulemaking Specific Authority 400.497 FS. Law Implemented 120.59, 400.474, 400.484 FS. History–New 10-27-94, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, Repealed _____.

59A-8.0095 Personnel.

(1) Administrator.

(a) The administrator of the agency shall:

1. Meet the criteria as defined in Section 400.462(1), F.S.

2. The administrator shall be responsible for the overall operation of the home health agency to include all provisions of Chapter 400, Part III, F.S. and Chapter 59A-8, F.A.C.

~~3.2.~~ Designate, in writing a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract, pursuant to Section 468.520, F.S., that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the on-site alternate administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet qualifications as stated in Section 400.462(1), F.S.

(b) If an agency changes administrator or alternate administrator the agency shall notify AHCA Home Care Unit office in Tallahassee prior to or on the date of the change. Notification shall consist of submission of the person's name, professional resume, professional license, if applicable, and a copy of the Affidavit of Good Moral Character. The administrator also must submit level 2 screening, pursuant to subsection 59A-8.004(9), F.A.C., or inform the Home Care Unit that level 2 screening was previously submitted.

(2) Director of Nursing.

(a) The director of nursing of the agency shall:

1. Meet the criteria as defined in Section 400.462(10), F.S.;
2. Supervise or manage, directly or through qualified subordinates, all personnel who provide direct patient care;
3. Ensure that the professional standards of community nursing practice are maintained by all nurses providing care;
4. Maintain and adhere to agency procedure and patient care policy manuals;
5. Ensure that home health aides and certified nursing assistants are trained or evaluated to determine competency to provide personal care and other tasks as required in subsection 59A-8.0095(5), F.A.C.; and

(b) If the administrator is not a physician or registered nurse, the director of nursing shall:

1. Establish service policies and procedures in compliance with Chapter 64E-16, F.A.C., and state health statutes and administrative rules pursuant to Section 381.0011(4), F.S., which generally conform to recommended Centers for Disease Control (CDC) and Occupational Safety and Health Agency (OSHA) guidelines for safety, universal precautions and infection control procedures;
2. Employ and evaluate nursing personnel;
3. Coordinate patient care services; and
4. Set or adopt policies for, and keep records of criteria for admission to service, case assignments and case management.
5. Establish a process to verify that services were provided. The home health agency must be able to validate that patient or client care was provided as ordered and specified in the plan of care or service provision plan. The surveyor may request a certified report that verifies the services were provided by a specified direct service staff person or contracted staff person for a specified time period as permitted in Section 400.497(5)(b), F.S.

(c) The director of nursing shall establish, ~~and~~ conduct, and document an ongoing quality assurance program. The program shall include at least quarterly, the review of the care and services of a sample of both active and closed clinical records by the director of nursing. In large agencies, the director of nursing may delegate some of the record review to registered nurses. The quality assurance program is to assure that which assures:

1. The home health agency accepts patients whose home health service needs can be met by the home health agency;
- ~~2. Case assignment and management is appropriate, adequate, and consistent with the plan of care, medical regimen and patient needs. Plans of care are individualized based on the patient's needs, strengths, limitations and goals;~~
- ~~3. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with plans of care. Services provided are consistent with professional~~

practice standards in Chapter 464, F.S., and Chapter 64B-9, F.A.C. Notes of case conferences for information sharing, and coordination are included in the patient record;

~~4. Patients are helped to attain and maintain their highest practicable functional capacity. Goals in the plan of care for anticipated patient outcomes are appropriate to the diagnosis, plan of care, services provided and patient potential. All services and outcomes are completely and legibly documented, dated and signed in the clinical service record;~~

5. Home health agency policies and procedures are followed;

- ~~6. Confidentiality of patient data is maintained; and~~
- ~~7. Findings of the quality assurance program are used to improve services. The findings are documented and an action plan is prepared to follow up on the findings. A record is kept to show that the action plan is carried out.~~

~~(d) In an agency with less than a total of 10 full-time equivalent employees and contracted personnel, the director of nursing may also be the administrator.~~

(3) Registered Nurse.

(a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and:

1. Be the case manager in all cases involving nursing or both nursing and therapy care.
2. Be responsible for the clinical record for each patient receiving nursing care; and
3. Assure that progress reports are made to the physician, physicians assistant or advanced registered nurse practitioner that established the treatment orders for patients receiving nursing services when the patient's condition changes or there are deviations from the plan of care.

4. Provide nursing services in compliance with standards of nursing practice in Chapter 464, F.S., and Chapter 64B-9, Florida Administrative Code.

(b) A registered nurse may assign selected portions of patient care to licensed practical nurses and home health aides but always retains the full responsibility for the care given and for making supervisory visits to the patient's home.

(4) Licensed Practical Nurse.

(a) A licensed practical nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and provide nursing care assigned by and under the direction of a registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the nurse's training and experience. Supervisory visits will be documented in patient files. Provision shall be made in agency policies and procedures for annual evaluation of the LPN's performance of duties by the registered nurse.

(b) A licensed practical nurse shall:

1. Prepare and record clinical notes for the clinical record;

2. Report any changes in the patient's condition to the registered nurse with the reports documented in the clinical record;

3. Provide care to the patient including the administration of treatments and medications in compliance with standards of nursing practice for licensed practical nurses in Chapter 464, F.S., and Chapter 64B-9, Florida Administrative Code; and

4. Other duties assigned by the registered nurse, pursuant to Chapter 464, F.S.

(5) Home Health Aide and Certified Nursing Assistant.

(a) A home health aide or a certified nursing assistant (CNA) shall provide personal care services assigned by and under the supervision of a registered nurse. When only physical, speech, or occupational therapy is furnished, in addition to home health aide ~~or CNA~~ services, supervision of the home health aide can be supplied by a licensed therapist directly employed by the home health agency or by an independently contracted employee.

(b) through (k) No change.

(l) Home health aides and CNA's must receive in-service training each calendar year, pursuant to Section 400.497(1), F.S. HIV educational requirements are listed in paragraph 59A-8.0185(2)(b), F.A.C. Training must be provided to obtain and maintain a certificate in cardiopulmonary resuscitation; including an in-person demonstration to a qualified instructor to show that cardiopulmonary resuscitation can be performed. Medicare and Medicaid agencies should check federal regulations for additional in-service training requirements.

(m) Responsibilities of the home health aide and CNA shall include:

1. The performance of all personal care activities contained in a written assignment by a licensed health professional employee or contractor of the home health agency and which include assisting the patient or client with personal hygiene, ambulation, eating, dressing, shaving, physical transfer, and other duties as assigned.;

2. Maintenance of a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas, washing the patient's or client's dishes or laundry, and such tasks to maintain cleanliness and safety for the patient or client.;

3. Other activities as taught by a licensed health professional employee or contractor of the home health agency for a specific patient or client and are restricted to the following:

a. Assisting with ~~the change of a colostomy bag,~~ reinforcement of dressing,

b. Assisting with tasks associated with elimination:

i. Toileting.

ii. Assisting with the use of the bedpan and urinal.

iii. Providing catheter care including changing the urinary catheter bag.

iv. Collecting specimens.

v. Emptying ostomy bags, or changing bags that do not adhere to the skin.

~~c.b.~~ Assisting with the use of devices for aid to daily living, such as a wheelchair or walker,

~~d.e.~~ Assisting with prescribed range of motion exercises,

~~e.d.~~ Assisting with prescribed ice cap or collar,

~~f.e.~~ Doing simple urine tests for sugar, acetone or albumin,

~~g.f.~~ Measuring and preparing special diets,

~~h.g.~~ Measuring intake and output of fluids, and

~~i.h.~~ Measuring temperature, pulse, respiration or blood pressure.;

4. Keeping records by date and time for filing in the client's record of personal health care activities; ~~and other tasks performed for each client.~~ Each home health agency will demonstrate a process to verify that services were provided.

5. Observing appearance and gross behavioral changes in the patient or client, ~~and~~ reporting to the registered nurse; and making a note of the changes.

6. Supervision of self-administered medication in the home is limited to the following:

a. Obtaining the medication container from the storage area for the patient or client,

b. Ensuring that the medication is prescribed for the patient or client,

c. Reminding the patient or client that it is time to take the medication as prescribed, and

d. Observing the patient or client self-administering the medication.

(n) through (s) No change.

(6) Physical Therapist and Physical Therapist Assistant.

(a) The physical therapist shall be currently licensed in the state, pursuant to Chapter 485, F.S., ~~with at least 1 year of experience in physical therapy.~~ The physical therapist assistant shall be currently licensed in the state, pursuant to Chapter 485, F.S., ~~with at least 1 year of experience under the supervision of licensed physical therapist.~~

1. Services provided by the physical therapist and physical therapy assistant shall be in compliance with the standards of physical therapy practice in Chapter 485, F.S., and Chapter 64B17-6, Florida Administrative Code.

2. Services provided by the physical therapist assistant will be provided under the general supervision of a licensed physical therapist and shall not exceed any of the duties in the state rules for physical therapy assistants in Chapter 64B17-6, Florida Administrative Code outlined in this section.

a. General supervision means the supervision of a physical therapist assistant shall not require on-site supervision by the physical therapist. The physical therapists shall be accessible at all times by electronic telecommunication and shall be within

the same geographic location as the assistant ~~two-way communication~~, which enables the physical therapist to be readily available for consultation during the delivery of care.

b. The physical therapist should be readily available to the physical therapist assistant with emphasis placed on directing the assistant through reporting, both verbal and written, and observations of the care rendered to the patient.

i. The specific frequency of supervision between the therapist and assistant may vary by the complexity of patient needs and skills of the assistant. More frequent supervision is needed when the needs of the patient are changing and complex. It is the responsibility of the therapist and assistant to recognize when supervision is needed to ensure safe and effective therapy service delivery.

ii. Methods of supervision may include direct, face to face contact and indirect contact including phone conversations, written correspondence, and electronic exchanges.

(b) The responsibilities of the physical therapist are:

1. To provide physical therapy services as prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice, which can be safely provided in the home and assisting the physician, physician assistant, or advanced registered nurse practitioner in evaluating patients by applying diagnostic and prognostic muscle, nerve, joint and functional abilities test;

2. To observe and record activities and findings in the clinical record and report to the physician, physician assistant, or advanced registered nurse practitioner the patient's reaction to treatment and any changes in patient's condition, or when there are deviations from the plan of care;

3. To instruct the patient and caregiver in care and use of physical therapy devices;

4. To instruct other health team personnel including, when appropriate, home health aides and caregivers in certain phases of physical therapy with which they may work with the patient; and

5. To instruct the caregiver on the patient's total physical therapy program.

(7) Speech Pathologist. No change.

(8) Occupational Therapist and Occupational Therapist Assistant.

(a) The occupational therapist shall be currently licensed in the state, pursuant to Chapter 468, F.S., with one year of experience in occupational therapy and the occupational therapist assistant shall be currently licensed in the state, pursuant to Chapter 468, F.S., with one year of experience under the supervision of a licensed occupational therapist. Duties of the occupational therapist assistant shall be directed by the licensed occupational therapist and shall not exceed those in the state rules for occupational therapy assistants in Chapter 64B11, Florida Administrative Code outlined in this section.

(b) The duties of the occupational therapist are:

1. To provide occupational therapy services as prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice, which can be safely provided in the home and to assist the physician, physician assistant, or advanced registered nurse practitioner in evaluating the patient's level of function by applying diagnostic and therapeutic procedures;

2. To guide the patient in the use of therapeutic, creative and self-care activities for the purpose of improving function;

3. To observe and record activities and findings in the clinical record and to report to the physician, physician assistant, or advanced registered nurse practitioner the patient's reaction to treatment and any changes in the patient's condition, or when there are deviations from the plan of care; and

4. To instruct the patient, caregivers and other health team personnel, when appropriate, in therapeutic procedures of occupational therapy.

(c) Services provided by the occupational therapist and occupational therapy assistant shall be in compliance with the standards of occupational therapy practice in Chapter 64B11, Florida Administrative Code.

(d) Supervision of the occupational therapy assistant by the occupational therapist shall be provided as required in Section 468.203, F.S.

i. The specific frequency of supervision between the therapist and assistant may vary by the complexity of patient needs and skills of the assistant. More frequent supervision is needed when the needs of the patient are changing and complex. It is the responsibility of the therapist and assistant to recognize how and when supervision is needed to ensure safe and effective therapy service delivery.

ii. Methods of supervision may include direct, face to face contact and indirect contact including phone conversations, written correspondence, and electronic exchanges.

(9) Respiratory Therapist. No change.

(10) Social Worker. No change.

(11) Dietitian/Nutritionist. No change.

(12) Homemakers and Companions.

(a) The homemaker shall:

1. Maintain the home in an optimum state of cleanliness and safety depending upon the client's ~~patient's~~ and the caregiver's resources;

2. Perform the functions generally undertaken by the customary homemaker, including such duties as preparation of meals, laundry, shopping, household chores, and care of children;

3. Perform casual, cosmetic assistance, such as brushing the client's hair and assisting with make-up, filing and polishing nails but not clipping nails;

4. Stabilize the client when walking, as needed, by holding the client's arm or hand;

5. Report to the appropriate supervisor any incidents or problems related to his work or to the caregiver and make a note in the work record;

6. Report any unusual incidents or changes in the client's ~~patient's~~ behavior to the case manager; and

7. Maintain chronological appropriate work records by time and date to be filed in the client's record. Each home health agency will demonstrate a process to verify that services were provided.

8. If requested by the client or his responsible party, the homemaker may verbally remind the client that it is time to for the client to take his or her medicine.

(b) The companion shall:

1. Provide companionship for the client patient;

2. Accompany ~~Provide escort service such as accompanying the client patient~~ to doctor appointments, recreational outings, or shopping;

3. Provide light housekeeping tasks such as preparation of a meal or laundering the client's patient's personal garments;

4. Perform casual, cosmetic assistance, such as brushing the client's hair and assisting with make-up, filing and polishing nails but not clipping nails;

5. Stabilize the client when walking, as needed, by holding the client's arm or hand;

6. Maintain a chronological written record of services; by time and date to be filed in the client's record. Each home health agency will demonstrate a process to verify that services were provided; and

7. Report any unusual incidents or changes in the client's ~~patient's~~ behavior to the case manager.

8. If requested by the client or his responsible party, the companion may verbally remind the client that it is time for the client to take his or her medicine.

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.462, 400.471, ~~400.476~~, 400.487, 400.488, 400.497 FS. History—New 1-20-97, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06, _____.

59A-8.0185 Personnel Policies.

(1) The agency shall have written policies and procedures to ensure the provision of acceptable, adequate and appropriate services.

(2) Personnel policies for all full and part-time employees, independent contractors, and contracted staff shall include the following:

(a) Requirement that, prior to contact with patients or clients the new employee, independent contractor, or contracted staff must submit a statement from a health care professional licensed under Chapter 458 or 459, F.S., a physician's assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under

Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician.;

1. The health statement shall be based on an exam by the health care professional within the last six months.;

2. The statement shall say that the employee is in reasonably good health and appears to be free from apparent signs or symptoms of a communicable disease that could be casually transmitted, including tuberculosis, ~~pursuant to Section 381.0011(4), F.S.~~

3. It is the responsibility of the agency to ensure that employees continue to appear to be in good health. If any employee is later found to have, or is suspected of having, a communicable disease, he shall be removed from duties until the administrator determines that such condition no longer exists.

4. A new employee, who has been an employee of another licensed home health agency, may provide a copy of his health care statement from the files of the former employer provided that the statement was not issued more than 2 years prior and that the employee has not had a break in service of more than 90 days.

5. Medical information is confidential and must not be disclosed without the specific consent of the person to whom it pertains. The written request to release medical information must be kept on file.

(b) Requirement that records are maintained of training for non-licensed direct care personnel which demonstrates that they have received a one-time continuing educational course ~~biennially~~ on HIV and AIDS pursuant to Section 381.0035, F.S.

(c) Plan for orientation of all health personnel to the policies and objectives of the agency;

(d) Job descriptions for all employees; and

(e) Compliance with requirements of Title VI of the Civil Rights Act of 1964.

(f) Requirement for an identification tag to be worn by each employee, independent contractor, and contracted staff who has direct contact with patients or clients on behalf of the home health agency. The tag will include the person's full name; the person's health profession and license or certification number, if any; a photograph of the person; and the name of the home health agency. The size of the lettering on the tag for the person's name and name of the home health agency must be at least 16 point font size or larger. When the employee, independent contractor, or contracted staff works as a home health aide, homemaker or companion, the tag will state this instead of the profession and license number. When a home health agency contracts with another home health agency or other entity to provide some of the services to a patient or client, the employee or independent contractor who works for the contracted agency or entity may wear the identification tag of the contracted agency.

(3) The agency shall maintain a file for all employees and independent contractors which shall include:

(a) ~~N~~ame and address of employee, name and address of next of kin or guardian, evidence of qualifications, licensure or registration if applicable a signed and notarized Affidavit of Good Moral Character, AHCA Form 3110-0001, December 2004, for any newly hired employee working in a probationary status pending the results of the background screening;

(b) ~~R~~esults of background screening, and dates of employment and separation from the agency; and

(c) Evidence of ~~continuing education~~, in-service training, and the training required in subsection (2);

(4) The information required in this section shall be available for inspection by AHCA within three hours of request.

(5) Each employee and independent contractor's file shall be retained by the agency for at least one year after the employee has separated from the agency.

~~(6)(4)~~ The agency shall maintain a record of the employment or contractual history of all agency personnel, both employed or under contract, and shall make submission of such history a condition of employment or contract.

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.471, 400.497 FS. History—New 10-27-94, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

59A-8.020 Acceptance of Patients or Clients.

(1) When a home health agency accepts a patient or client for service, there shall be a reasonable expectation that the services can be provided safely to the patient or client in his place of residence. This includes being able to communicate with the patient or client, or with another person designated by the patient or client, either through a staff person or interpreter that speaks the same language, or through technology that translates so that the services can be provided. The responsibility of the agency is also to assure that the patient or client receives services as defined in a specific plan of care, for those patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner's treatment orders, or in the service provision plan ~~a written agreement~~, as described in Rule 59A-8.0215, F.A.C. subsection (3) below, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner's orders. This responsibility includes assuring the patient or client receives all assigned visits.

(2) At the start of services a home health agency must establish a written agreement between the agency and the patient or client or the patient's or client's legal representative, including the information described in Section 400.487(1), F.S. This written agreement must be signed and dated by a representative of the home health agency and the patient or

client or the patient's or client's legal representative. A copy of the agreement must be given to the patient or client and the original must be placed in the patient's or client's file.

~~(3) The written agreement, as specified in subsection (2) above, shall serve as the home health agency's service provision plan, pursuant to Section 400.491(2), F.S., for clients who receive homemaker and companion services or home health aide services which do not require a physician, physician assistant, or advanced registered nurse practitioner's treatment order. The written agreement for these clients shall be maintained for one year after termination of services.~~

~~(3)(4)~~ When the agency terminates services for a patient or client needing continuing home health care, as determined by the patient's physician, physician assistant, or advanced registered nurse practitioner, for patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner's treatment order, or as determined by the client or caregiver, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner's treatment order, a plan must be developed and a referral made by home health agency staff to another home health agency or service provider prior to termination. The patient or client must be notified in writing of the date of termination, the reason for termination, pursuant to Section 400.491, F.S., and the plan for continued services by the agency or service provider to which the patient or client has been referred, ~~pursuant to Section 400.497(6), F.S.~~ This requirement does not apply to patients paying through personal funds or private insurance who default on their contract through non-payment. The home health agency should provide social work assistance to patients to help them determine their eligibility for assistance from government funded programs if their private funds have been depleted or will be depleted.

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.487 FS. History—New 4-19-76, Formerly 10D-68.20, Amended 4-30-86, 8-10-88, Formerly 10D-68.020, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06,_____.

59A-8.0215 Plan of Care and Service Provision Plan.

(1) A plan of care shall be established for patients receiving skilled services in consultation with the physician, physician assistant, or advanced registered nurse practitioner, pursuant to Section 400.487, F.S., and the home health agency staff who are involved in providing the care and services required to carry out the physician, physician assistant, or advanced registered nurse practitioner's treatment orders. The plan must be included in the clinical record and available for review by all staff involved in providing care to the patient. The plan of care shall contain a list of individualized specific goals for each skilled discipline that provides patient care, with implementation plans addressing the level of staff who will provide care, the frequency of home visits to provide direct care and case management.

(2) Home health agency staff must follow the physician, physician assistant, or advanced registered nurse practitioner's treatment orders that are contained in the plan of care. If the orders cannot be followed and must be altered in some way, the patient's physician, physician assistant, or advanced registered nurse practitioner must be notified and must approve of the change. Any verbal changes are put in writing and signed and dated with the date of receipt by the nurse or therapist who talked with the physician, physician assistant, or advanced registered nurse practitioner's office.

(3) A service provision plan shall be prepared for clients that receive only services from a home health aide, certified nursing assistant, homemaker or companion and do not receive skilled services as required in Section 400.491, F.S. When the client or patient also receives skilled services, a plan of care is done that includes all services and a service provision plan is not done.

(4) The service provision plan shall include, but is not limited to, the following:

(a) The frequency of visits as agreed to by the client or his or her responsible party. The plan may include a statement that additional or fewer visits will be arranged at the direction of the client. When clients have personal care needs that are dependent on home health aide or certified nursing assistant visits at specific times of the day, the plan will include the specified times for the visits with the frequency.

(b) A description or list of the tasks to be performed for the services provided during the visit.

(c) Whether a home health aide, certified nursing assistant, homemaker or companion will provide the services.

(5)(3) The patient or client, caregiver or guardian must be informed by the home health agency personnel that:

(a) He has the right to be informed of the plan of care or service provision plan;

(b) He has the right to participate in the development of the plan of care or service provision plan; and

(c) He may have a copy of the plan of care or service provision plan if requested.

(6) All plans of care and service provision plans are individualized based on each patient or client's needs, strengths, limitations and goals.

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.487, 400.491 FS. History--New 10-27-94, Amended 1-17-00, 7-18-01, 8-15-06, _____.

59A-8.022 Clinical Records and Service Records.

(1) A clinical record must be maintained for each patient receiving nursing or therapy services that includes all the services provided directly by the employees of the home health agency and those provided by contracted individuals or agencies. A service record must be maintained for each client

receiving home health aide, certified nursing assistant, homemaker or companion services that does not also receive nursing or therapy services.

(2) No information may be disclosed from the patient's or client's file without the written consent of the patient or client or the patient's or client's guardian. All information received by any employee, contractor, or AHCA employee regarding a patient or client of the home health agency is confidential and exempt from Chapter 119, F.S.

(3) If the patient or client transfers to another home health agency, a copy of his record must be transferred at his request.

(4) All clinical records and service records must be retained by the home health agency as required in Section 400.491, F.S. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys as required in Section 408.811, F.S.

(5) Clinical records for patients receiving nursing and therapy services must contain the following:

(a) Source of referral;

(b) Physician, physician assistant, or advanced registered nurse practitioner's verbal orders initiated by the physician, physician assistant, or advanced registered nurse practitioner prior to start of care and signed by the physician, physician assistant, or advanced registered nurse practitioner as required in Section 400.487(2), F.S.

(c) Assessment of the patient's needs;

(d) Statement of patient or caregiver problems;

(e) Statement of patient's and caregiver's ability to provide interim services;

(f) Identification sheet for the patient with name, address, telephone number, date of birth, sex, agency case number, caregiver, next of kin or guardian;

(g) Plan of care or service provision plan and all subsequent updates and changes and the written agreement required in Section 400.487, F.S.;

(h) Clinical and service notes, signed and dated by the staff member providing the service which shall include:

1. Initial assessments and progress notes with changes in the person's condition;

2. Services rendered;

3. Observations;

4. Instructions to the patient and caregiver or guardian, including administration of and adverse reactions to medications;

(i) Home visits to patients for supervision of staff providing services;

(j) Reports of case conferences;

(k) Reports to physicians, physician assistants, or advanced registered nurse practitioners;

(1) Termination summary including the date of first and last visit, the reason for termination of service, an evaluation of established goals at time of termination, the condition of the patient on discharge and the disposition of the patient.

(6) Service records for clients receiving only home health aide, certified nursing assistant, homemaker and companion services must contain, at a minimum, the following:

(a) Identification sheet for the client with name, address, telephone number, date of birth, sex, caregiver, next of kin or guardian;

(b) Service provision plan and all subsequent updates and changes and written agreement required in Section 400.487, F.S.;

(c) Service notes, signed and dated by the staff member providing the service which shall include the information in subsection 59A-8.0095(5) or (12), F.A.C., depending on the services provided;

(d) Home visits to clients for supervision of staff providing services, if such visits are made;

(e) Termination summary including the date of last visit and the reason for termination of service.

(7) Home health agencies that provide services under contract to patients or clients admitted by another home health agency are expected to have a copy of the records of visits made by their staff and a copy of the plan of care or service provision plan created by the admitting agency for each patient or client.

~~(8)~~(6) The following applies to signatures in the clinical record:

(a) Facsimile Signatures. The plan of care or written order may be transmitted by facsimile machine. The home health agency is not required to have the original signature on file. However, the home health agency is responsible for obtaining original signatures if an issue surfaces that would require certification of an original signature.

(b) Alternative Signatures.

1. Home health agencies that maintain patient or client records by computer rather than hard copy may use electronic signatures. However, all such entries must be appropriately authenticated and dated. Authentication must include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has reviewed and approved the entry. The home health agency must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system breakdown.

~~2. Home health agencies may accept a physician's rubber stamp signature. The individual whose signature the stamp represents must place in the administrative offices of the home health agency a signed statement attesting that he/she is the only one who has the stamp and uses it.~~

Rulemaking Specific Authority 400.497 FS. Law Implemented 400.491, 400.494, 400.497 FS. History—New 4-19-76, Amended 2-2-77, Formerly 10D-68.22, Amended 4-30-86, 8-10-88, Formerly 10D-68.022, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07,_____.

59A-8.0245 Advance Directives.

(1) No change.

(2) The home health agency's policy shall include:

(a) Providing each adult patient, in advance of receiving services, with a copy of "Health Care Advance Directives – The Patients' Right to Decide", as prepared by the Agency for Health Care Administration, revised ~~April 2006~~ ~~February, 2004~~, and available at <http://www.floridahealthfinder.gov/reports-guides/advance-directives.shtml> ~~http://www.fdhc.state.fl.us/MCHQ/Health_Facility_Regulation/HC_Advance_Directives~~, which is hereby incorporated by reference, or with a copy of a document drafted by a person or organization other than AHCA which is a written description of Florida's state law regarding advance directives;

(b) through (c) No change.

(d) A home health agency shall be subject to revocation of their license and a fine of not more than \$500 per incident, or both, pursuant to Section 400.474(~~4~~), F.S., if the home health agency, as a condition of treatment or admission, requires an individual to execute or waive an advance directive, pursuant to Section 765.110, F.S.

(3) Pursuant to Section 400.487(~~7~~), F.S., a home health agency may honor a DNRO as follows:

(a) Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid Do Not Resuscitate Order (DNRO) is present, executed pursuant to Section 401.45, F.S.

(b) Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a Do Not Resuscitate Order (DNRO) and rules adopted by the agency, pursuant to Section 400.487(~~7~~), F.S. Any licensed professional home health agency personnel, who, in good faith, obeys the directives of an existing DNRO, executed pursuant to Section 401.45, F.S., will not be subject to prosecution or civil liability for his/her performance regarding patient care.

Rulemaking Specific Authority 400.487, 765.110 FS. Law Implemented 400.487, 400.497, 765.110 FS. History—New 10-27-94, Amended 1-17-00, 9-22-05,_____.

59A-8.027 Emergency Management Plans.

(1) Pursuant to Section 400.492, F.S., each home health agency shall prepare and maintain a written comprehensive emergency management plan, in accordance with criteria shown in the "Comprehensive Emergency Management Plan (CEMP)," AHCA Form 3110-1022, Revised May 2010

~~December 2006~~, incorporated by reference. This document is available from the Agency for Health Care Administration at http://ahca.myflorida.com/licensing_cert.shtml. ~~http://ahca.myflorida.com~~ and shall be used as the format for the home health agency's emergency management plan. The plan shall describe how the home health agency establishes and maintains an effective response to emergencies and disasters.

(2) through (17) No change.

Rulemaking Specific Authority 400.492, 400.497 FS. Law Implemented 400.492, 400.497 FS. History--New 7-18-01, Amended 8-15-06, 3-29-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Anne Menard

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009, December 11, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE NO.: RULE TITLE:

61G3-15.016 Time for Payment of Civil Penalties

PURPOSE AND EFFECT: The Board proposes the substantial rewrite of the rule to add new language to clarify the time for payment of civil penalties.

SUMMARY: The substantial rewrite of the rule will add new language to clarify the time for payment of civil penalties.

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: 476.064(4), 455.227(2), 476.204 FS.

LAW IMPLEMENTED: 455.227(2), 476.204 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, Barbers' Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 61B3-15.016 follows. See Florida Administrative Code for present text.)

61G3-15.016 Time for Payment of Civil Penalties.

(1) In cases where the Board imposes a civil penalty for violation of Section 455.227 or 476.194, F.S., or of the rules promulgated thereunder, the penalty shall be paid within 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 civil penalty is levied at said hearing the respondent who is disciplined shall have all licensure to practice contracting suspended with the imposition of the suspension being stayed for thirty (30) days. If the ordered civil penalty is paid within said thirty (30) day period, the suspension imposed shall not take effect. Upon payment of the civil penalty after the thirty (30) days, the suspension imposed shall be lifted. If the licensee does not pay the civil penalty, within said period, then immediately upon expiration of the stay, the licensee shall surrender his/her licensure to an investigator of the Department of Business and Professional Regulation or shall mail said license to the Board offices.

(2) Failure to pay the civil penalty within the time specified in this rule or in the Board's Order shall constitute grounds for further disciplinary action against the licensee.

(3) For purposes of this rule, the term civil penalty shall include the assessment of any fines and costs associated with investigation and prosecution of the complaint.

Rulemaking Specific Authority 476.064(4), 455.227(2), 476.204 FS. Law Implemented 455.227(2), 476.204 FS. History--New 7-16-80, Formerly 21C-15.16, Amended 5-31-93, Formerly 21C-15.016, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Barbers' Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 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 HEALTH

Board of Nursing

RULE NO.: 64B9-2.016
 RULE TITLE: Forms

PURPOSE AND EFFECT: The purpose of this amendment is to adopt forms necessary to implement the 2009 amendments to Section 464.019, F.S., by adopting a form that prescribes the format for approval of nursing programs and an annual report.

SUMMARY: The purpose of this amendment is to adopt forms necessary to implement the 2009 amendments to Section 464.019, F.S. by adopting a form that prescribes the format for approval of nursing programs and an annual report.

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: 464.006 FS.

LAW IMPLEMENTED: 456.013, 464.008, 464.009 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: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-2.016 Forms.

The following forms are incorporated by reference, and may be obtained from the Board office or on the Board's website: www.doh.state.fl.us/mqa/nursing:

(1) through (8) No change.

(9) Application for New Nursing Program DH-MQA 1211, 03/10 (rev.).

(10) Annual Report for Programs in Nursing DH-MQA 1096, 05/10.

Rulemaking Authority 464.006 FS. Law Implemented 456.013, 464.008, 464.009 FS. History--New 6-22-09, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

Section III
Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.600
 RULE TITLE: Tampa Bay Basin TMDLs
 NOTICE OF CHANGE

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

62-304.600 Tampa Bay Basin TMDLs.

(1) Allen Creek (tidal). The fecal coliform TMDL for Allen Creek (tidal) is 43 ~~400~~ counts/100mL and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater sources is not applicable,

(b) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2000 to 2007 ~~2008~~, will require a 71 ~~77~~ percent reduction of sources contributing to exceedances of the criteria,

(c) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2000 to 2007 ~~2008~~, will require a 71 ~~77~~ percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class II ~~III~~ criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will