

## Section II Proposed Rules

### DEPARTMENT OF COMMUNITY AFFAIRS

#### Florida Building Commission

RULE NOS.:	RULE TITLES:
9N-3.002	Definitions
9N-3.007	Product Approval by the Commission
9N-3.008	Approval of Product Evaluation Entities, Product Validation Entities, Testing Laboratories, Certification Agencies, Quality Assurance Agencies and Accreditation Bodies
9N-3.011	Forms

**PURPOSE AND EFFECT:** The purpose of the rule development workshop is to implement section 39, chapter 2010-176, Laws of Florida, and create an expedited method of product approval for products certified to comply with the Florida Building Code and repeal means by which the Florida Building Commission approves evaluation entities in addition to those identified in statute. To update the forms/BCIS (Building Code Information System) to update the payment screens and to add provision for approval of product by DCA

**SUMMARY:** To update the forms/BCIS (Building Code Information System) to update the payment screens and to add provision for approval of certain products by DCA subject to ratification by the Florida Building Commission.

**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:** 553.77(1)(i), 553.842(1), (8) FS.

**LAW IMPLEMENTED:** 553.842(1), (8) FS.

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

**DATE AND TIME:** Participation by communications media technology available as follows: Conference call, telephone number (888)808-6959, Conference Code: 1967168; September 21, 2010, 10:00 a.m.

**PLACE:** Room 250L, Sadowski Building, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

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 7 days before the workshop/meeting by contacting: Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)921-2247. 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:** Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)921-2247

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

9N-3.002 Definitions.

The following terms have the meanings indicated:

(1) through (14) No change.

(15) Department means Florida Department of Community Affairs.

(15) through (22) renumbered (16) through (23) No change.

(24)(23) Product Approval:

State product approval means the approval of a product or system of construction by the Commission for acceptance of a product on a state or regional basis consistent with an evaluation conducted pursuant to Rule 9N-3.005, F.A.C. In addition, this includes the approval of a product by the Department pursuant to paragraph 9N-3.007(1)(d), F.A.C.

(24) through (30) renumbered (25) through (31) No change.

(32) Technically relevant means in accordance with this rule and or the applicable provisions of the Florida Building Code.

(32) through (35) renumbered (34) through (37) No change.

Rulemaking Specific Authority 553.842(1) FS. Law Implemented 553.842(1) FS. History—New 5-5-02, Amended 9-4-03, 11-22-06, 4-10-08, Formerly 9B-72.010, Amended \_\_\_\_\_.

9N-3.007 Product Approval by the Commission.

(1) Approval of a product or system of construction for state acceptance shall be performed by the Commission through the following steps:

(a) and (b) No change.

(c) With exception to product applications submitted pursuant to paragraph 9N-3.005(1)(a), F.A.C., upon Commission acceptance of the required documentation pursuant to Rule 9N-3.005, F.A.C., and validation of compliance with the Code pursuant to Rule 9N-3.006, F.A.C.,

the Commission may approve the product for use statewide in accordance with its approval and limitations of use unless credible evidence is provided questioning the validity of the documentation submitted in support of the application for approval.

(d) Product Application that rely upon a product certification mark or listing from an approved certification agency shall be approved for use statewide in accordance with its approval and limitations of use to demonstrate compliance with the Code as follows:

1. An application of a product submitted for state acceptance pursuant to paragraph 9N-3.005(1)(a), F.A.C., shall be approved by the Department after the Program System Administrator (the Administrator" verifies that the application and required documentation as per Rule 9N-3.006, F.A.C., are complete.

2. The verification by the Administrator must be completed within 10 business days after receipt of the application.

3. Upon approval by the Department, the Administrator shall add approved products to the list of the state-approved products maintained by the BCIS. Approvals by the Department shall be reviewed and ratified by the Commission's Program Oversight Committee ("POC" except for a showing of good cause that a review by the full Commission is necessary.

4. For the purpose of curing deficiencies identified within product applications approved under this section, the following steps will be undertaken:

a. If a comment is received on a Department approved Product, the Administrator shall immediately evaluate the comment and determine whether the comment is technically relevant;

b. If the comment as determined by the Administrator is technically significant, the Administrator shall post the comment received in the comment box for the application;

c. The Administrator shall immediately notify the manufacturer of the comment received on his or her application requesting that the manufacturer respond to the comment and revise the application as deemed necessary; and

d. An outstanding comment(s) shall be subject to review and determination by the POC, except for a showing of good cause that a review and determination by the full Commission is necessary.

(d) through (g) renumbered (e) through (h) No change.

(2) Fees for state approval of products.

(a) through (3) No change.

Rulemaking Specific Authority 553.77(1)(i), 553.842(1) FS. Law Implemented 553.842(1) FS. History-New 5-5-02, Amended 9-4-03, 11-22-06, 5-21-09, 10-28-09, Formerly 9B-72.090, Amended \_\_\_\_\_.

9N-3.008 Approval of Product Evaluation Entities, Product Validation Entities, Testing Laboratories, Certification Agencies, Quality Assurance Agencies and Accreditation Bodies.

(1) through (a)1. No change.

~~2. The International Conference of Building Officials Evaluation Services (ICBO-ES);~~

~~3. The Building Officials and Code Administrators International Evaluation Services (BOCA ESI);~~

~~4. The Southern Building Code Congress International Evaluation Services (PST ESI);~~

~~2.5. The Miami-Dade County Building Code Compliance Office Product Control Division (MDCBCCOPCD);~~

~~3.6. The International Code Council, International Evaluation Services (IES); and~~

~~4.7. The International Association of Plumbing and Mechanical Officials Evaluation Service (IAPMO).~~

(b) No change.

~~(e) Evaluation entities and certification agencies accredited as meeting the requirements of ISO/IEC Guide 65, adopted by reference in Rule 9N-3.016, F.A.C., other than architects and engineers registered in this state, shall apply to the Commission for approval as an evaluation entity by submitting correspondence to the Commission substantiating accreditation and independence. Upon approval by the Commission, paragraph 9N-3.008(1)(a), F.A.C., above shall be amended to include the applicant as an evaluation entity.~~

(2) Approved Validation Entities.

(a) through (c) No change.

(3) through (6) No change.

Rulemaking Specific Authority 553.842(8) FS. Law Implemented 553.842(8) FS. History-New 5-5-02, Amended 9-4-03, 3-9-04, 11-22-06, 4-10-08, 12-9-09, Formerly 9B-72.100, Amended \_\_\_\_\_.

9N-3.011 Forms.

The following forms are adopted for use in reference to the Product Evaluation and Approval System. Copies of these forms are available from the Department of Community Affairs, Codes and Standards Section, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399, and via the Building Codes Information System on the Internet, www.floridabuilding.org.

(1) Florida Building Commission, Application for Organization/Entity Approval, Form No. 9B-72.130(1), effective \_\_\_\_\_ ~~November 10, 2009~~ (electronic version).

(2) Florida Building Commission, Application for State Product Approvals, Form No. 9B-72.130(2), effective \_\_\_\_\_ ~~November 10, 2009~~ (electronic version). New and revised applications received after January 11, 2010 shall be limited to a maximum of 150 product sequence numbers. This limitation shall not be applicable to editorial revision or affirmation of an existing application.

(3) No change.

Rulemaking Specific Authority 553.842(1) FS. Law Implemented 553.842(1) FS. History—New 5-5-02, Amended 9-4-03, 11-22-06, 4-10-08, 3-2-10, Formerly 9B-72.130, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)921-2247

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Building Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

### **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."

### **STATE BOARD OF ADMINISTRATION**

#### **Florida Prepaid College Board**

RULE NO.:                   RULE TITLE:  
19B-4.001                   Application

PURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application Form and the updated form for the Florida Prepaid College Plan Master Covenant and to incorporate by reference the new Florida Prepaid College Plan Add-a-Plan Application.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application and the Florida Prepaid College Plan Master Covenant and to incorporate by reference the new Florida Prepaid College Plan Add-a-Plan Application.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1)(a) Rule Chapters 19B-4 through 19B-13 and 19B-15, F.A.C., apply to advance payment contracts for the prepayment of postsecondary registration, local fees, tuition differential fees and/or dormitory residency fees under the Stanley G. Tate Florida Prepaid College Program, the "Program."

(b) The application period shall commence and terminate on dates set annually by the Board and published in the Florida Administrative Weekly. Applications for advance payment contracts purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order will be accepted by the Board at any time. Other applications for advance payment contracts submitted to the Board outside the annual application period will be processed for data collection and administrative purposes, but will not be accepted by the Board until the beginning of the next succeeding annual application period.

(c) The contract prices associated with applications submitted to the Board during the annual application period shall be the contract prices applicable to advance payment contracts for that annual application period. The contract prices associated with applications submitted to the Board outside the annual application period, except for those purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order, shall be the contract prices applicable to advance payment contracts for the next succeeding annual application period. After acceptance by the Board of the purchaser's application, a participation and payment schedule shall be mailed to the purchaser.

(d) The advance payment contract shall be comprised of the application, master covenant, and participation and payment schedule.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2011-01 ~~2009-10a~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1). The Florida Prepaid College Plan Master Covenant, Form No. FPCB 2011-02 ~~2010-02~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1). The Florida Prepaid College Plan Add-a-Plan Application, Form No. FPCB

2011-03, is hereby incorporated by referenced and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01, 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, 12-17-07, 11-18-08, 1-28-09, 4-5-09, 10-26-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: RULE TITLE:

19B-4.002 Contract Prices

PURPOSE AND EFFECT: The rule is amended to establish the actuarial assumptions which will be used to establish prices for the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan and to update the actuarial assumptions which will be used to establish prices for Tuition Differential Fee Plans, Local Fee Plans and the Dormitory Plan, in the Florida Prepaid College Plan.

SUMMARY: This rule change is being made to establish the actuarial assumptions which will used to establish plan prices for the various plans available in the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(2) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.002 Contract Prices.

(1) The Board will evaluate the advance payment contract prices for revision annually. All advance payment contract prices will be published annually in the Florida Administrative Weekly.

(2) The advance payment contract prices for: ~~tuition plans are based on the actuarial assumption that university tuition will rise at an average of 6.5 percent per annum, community college tuition will rise at an average of 6 percent per annum and dormitory fees will rise at an average of 6 percent per annum.~~

(a) The 4-Year Florida University Plan are based on the actuarial assumptions that Registration Fees at State Universities will rise at an average of 6.5 percent per annum, Local Fees at State Universities will rise at an average of 6.5 percent per annum, and the Tuition Differential Fee will rise annually at the maximum increase permitted pursuant to Section 1009.24(16), F.S.

(b) The 2 + 2 Florida Plan are based on the actuarial assumptions that Registration Fees at State Universities will rise at an average of 6.5 percent per annum, Local Fees at State Universities will rise at an average of 6.5 percent per annum, the Tuition Differential Fee will rise annually at the maximum increase permitted pursuant to Section 1009.24(16), F.S., the Registration Fees at Florida Colleges will rise at an average of 6 percent per annum and Local Fees at Florida Colleges will rise at an average of 6 percent per annum.

(c) The 4-Year Florida College Plan are based on the actuarial assumptions that the Registration Fees at Florida Colleges will rise at an average of 6 percent per annum and Local Fees at Florida Colleges will rise at an average of 6 percent per annum.

(d) The 2-Year Florida College Plan are based on the actuarial assumptions that Registration Fees at Florida Colleges will rise at an average of 6 percent per annum and Local Fees at Florida Colleges will rise at an average of 6 percent per annum.

(e) The Dormitory Plan are based on the actuarial assumption that dormitory fees at State Universities will rise at an average of 6 percent per annum.

(f) Local Fee Plans ~~fee plan prices~~ are based on the actuarial ~~assumption~~ assumption that the Local Fees at State Universities ~~university local fees~~ will rise at an average of 6.5 5 percent per annum and Local Fees at Florida Colleges ~~community college local fees~~ will rise at an average of 6 percent per annum.

~~(g) Tuition Differential Fee Plans The tuition differential fee plan prices are based on the actuarial assumption that the Tuition Differential Fee tuition differential fee will rise annually at the maximum increase permitted pursuant to Section 1009.24(16), F.S. an average of 8.5 percent per annum until such time as the sum of the tuition differential fee and the fees specified in Section 1009.24(16)(b)4., F.S., reaches the maximum amount permitted pursuant to Section 1009.24(16)(b)4., F.S., as determined by the Education Estimating Conference pursuant to Section 216.134(4)(a), F.S. Once the sum of the tuition differential fee and the fees specified in Section 1009.24(16)(b)4., F.S., equals the maximum amount permitted pursuant to Section 1009.24(16)(b)4., F.S., the actuarial assumption is that the tuition differential fee will rise an average of 6.5% percent per annum thereafter.~~

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(2) FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.002, Amended 5-31-95, 2-18-99, 2-8-00, 12-28-03, 12-28-04, 12-20-05, 12-17-07, 11-30-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-4.005  
RULE TITLE: Maximum Account Balance Limit

PURPOSE AND EFFECT: The rule is being amended to specify how the maximum account balance for the Florida Prepaid College Plan and the Florida College Investment Plan will apply with respect to the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, and 2-Year Florida College Plan and to revise how the maximum account balance will apply with respect to Tuition Plans, Local Fee Plans, Tuition Differential Fee Plans and Dormitory Plans.

SUMMARY: The amended rule specifies how the maximum account balance for the Florida Prepaid College Plan and Florida College Investment Plan will apply with respect to each of the plans offered through the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98, 1009.981 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.005 Maximum Account Balance Limit.

(1) No change.

(2) For purposes of the maximum account balance limit, the redemption value of an advance payment contract for:

(a) The 4-Year Florida University Plan shall be the most expensive lump-sum contract price for the 4-Year Florida University Plan, as determined annually by the Board's actuary.

(b) A 2 + 2 Florida Plan shall be the most expensive lump-sum contract price for the 2 + 2 Florida Plan, as determined annually by the Board's actuary.

(c) A 4-Year Florida College Plan shall be the most expensive lump-sum contract price for the 4-Year Florida College Plan, as determined annually by the Board's actuary.

(d) A 2-Year Florida College Plan shall be the most expensive lump-sum contract price for the 2-Year Florida College Plan, as determined annually by the Board's actuary.

(e) A Tuition Plan shall be the most expensive lump-sum price for a 4-Year University Tuition Plan, as determined by the Board's actuary in the actuarial report prepared by the Board's actuary dated August 19, 2009.

(f) A Local Fee Plan shall be the most expensive lump-sum contract price for a 4-Year University Local Fee Plan, as determined annually by the Board's actuary.

(g) A Tuition Differential Fee Plan shall be the most expensive lump-sum contract price for a 4-Year University Tuition Differential Fee Plan, as determined annually by the Board's actuary.

~~Tuition, local fee, and tuition differential fee plans shall be the most expensive lump-sum contract price for the university tuition, university local fee and university tuition differential fee plans, as determined annually by the Board's actuary.~~

(h)(b) A Dormitory Plan plans shall be the most expensive lump-sum four (4) year dormitory contract price (8 semesters), as determined annually by the Board’s actuary.

(3) No change.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98, 1009.981 FS. History–New 11-27-02, Amended 12-28-03, 7-13-06, 12-17-07, 7-9-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-5.001  
RULE TITLE: Plan Types

PURPOSE AND EFFECT: This rule is amended to: a) reflect the addition of the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan to the prepaid plans offered through the Florida Prepaid College Plan; b) provide definitions used with respect to the description of the prepaid plans offered through the Florida Prepaid College Plan; c) provide that all plans offered for sale through the Florida Prepaid College Plan are available for beneficiaries that are in the eleventh grade or below; d) reflect that Tuition Plans are no longer available for purchase; and e) revise the names and descriptions of the Tuition Plans Local Fee Plans, Tuition Differential Fee Plans and the Dormitory Plans. These changes relate to the implementation of Section 1009.98(2)(a)3. and (b)4., F.S.

SUMMARY: This rule revises the prepaid plans available through the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(2)9, (10), FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.001 Plan Contract Types.

(1) Definitions.

(a) “Florida College” means any public postsecondary educational institution in the Florida College System as defined in Section 1000.21(3), Florida Statutes.

(b) “Local Fee” means: (a) the activity and service, health, and athletic fees authorized in Section 1009.24(9)-(12), F.S., charged by a State University; or (b) the student activity fee authorized in Section 1009.23, F.S., and charged by a Florida College. The technology fee authorized in Section 1009.23(10), F.S., charged by a Florida College is also covered by Local Fee Plans purchased after July 1, 1999.

(c) “Registration Fee” means: (a) the tuition fee authorized in Section 1009.24(4), F.S., financial aid fee authorized in Section 1009.24(7), F.S., building fee authorized in Section 1009.24(8), F.S., and Capital Improvement Trust Fund fee authorized in Section 1009.24(8), F.S., charged by a State University; or (b) the tuition fee, authorized in Section 1009.23(3), F.S., the fee for capital improvements authorized in Section 1009.23(11), F.S., and the financial aid fee authorized in Section 1009.23(8), F.S., charged by a Florida College.

(d) “State University” means any university in the State University System as defined in Section 1000.21(6), Florida Statutes.

(e) “Tuition Differential Fee” means the fee charged by a State University pursuant to Section 1009.24(16), F.S.

The Florida Prepaid College Board’s advance payment contracts offer purchasers four (4) different plans: tuition, local fees, tuition differential fees and dormitory. All advance payment contracts include a tuition plan, unless the advance payment contract is an exception, pursuant to the Rules of this Chapter 19B 5, F.A.C. Purchasers may add corresponding local fee, tuition differential fee and/or dormitory plans in conjunction with or as addendums to advance payment contracts. The tuition plans cover the matriculation fee, the building fee, the capital improvement fee and the financial aid fee. Local fee plans cover the activity and service, health, and athletics fees imposed by the state universities and the student activity fee imposed by the community colleges. Local fee plans purchased after July 1, 1999 also cover the technology fee imposed by the community colleges. Tuition differential fee plans cover the supplemental fee charged by the same universities pursuant to Section 1009.24(16), F.S. The dormitory plan covers the housing rate specified by the

university for inclusion in the plan of a double occupancy, air conditioned room. The amount payable under each plan will be determined pursuant to Section 1009.98(10), F.S.

(2) The 4-Year Florida University Plan. The 4-Year Florida University Plan prepays the Registration Fees, Tuition Differential Fee and Local Fees, for 120 semester credit hours at a State University. The 4-Year Florida University Plan initially is available for purchase during 2010-2011 open enrollment period which begins on October 18, 2010. The 4-Year Florida University Plan may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the 4-Year Florida University Plan is accepted by the Board.

(3) The 2 + 2 Florida Plan. The 2 + 2 Florida Plan prepays the Registration Fees and Local Fees for 60 lower division semester credit hours at a Florida College and the Registration Fees, Tuition Differential Fee and Local Fees for 60 semester credit hours at a State University. The 2 + 2 Plan initially is available for purchase during the 2010-2011 open enrollment period which begins on October 18, 2010. The 2 + Florida Plan may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the 2 + 2 Florida Plan is accepted by the Board.

(4) The 4-Year Florida College Plan. The 4-Year Florida College Plan prepays the Registration Fees and Local Fees for 60 lower division semester credit hours at a Florida College and for 60 upper division semester credit hours at a Florida College. The 4-Year Florida College Plan initially is available for purchase during the 2010-2011 open enrollment period which begins on October 18, 2010. The 4-Year Florida College Plan may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the 4-Year Florida College Plan is accepted by the Board.

(5) The 2-Year Florida College Plan. The 2-Year Florida College Plan prepays the Registration Fees and Local Fees for 60 lower division semester credit hours at a Florida College. The 2-Year Florida College Plan initially is available for purchase during the 2010-2011 open enrollment period which begins on October 18, 2010. The 2-Year Florida College Plan may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the 2-Year Florida College Plan is accepted by the Board.

(6)(1) Tuition Plans plans consist of three (3) separate plans:

(a) 4-Yr University Tuition Plan – The purchase of a 4-Yr University Tuition Plan prepays the Registration Fees for university plan specifies that 120 credit hours at a State University state university are purchased for the benefit of the qualified beneficiary.

(b) 2-Yr FL College Tuition (formerly the Community College Plan) – The purchase of a 2-Yr FL College Tuition Plan prepays the Registration Fees for community college plan specifies that 60 lower division credit hours at a Florida College state community college are purchased for the benefit of the qualified beneficiary. For 2 Yr- FL College Plans community college plans purchased prior to the 1996-97 application period, the number of credit hours purchased through the 2-Yr FL College Tuition Plan community college plan shall be the number specified in the advance payment contract.

(c) 2 + 2 Tuition Plan (formerly the Community College Plus University Plan) – The purchase of a 2 + 2 Tuition Plan prepays the Registration Fees for community college plus university plan specifies that 60 lower division credit hours at a Florida College state community college and the Registration Fees for 60 upper division level credit hours at a State University state university are purchased for the benefit of the qualified beneficiary. For 2 + 2 Tuition Plans community college plus university plans purchased prior to the 1996-97 application period, the number of credit hours purchased through the 2 + 2 Plan community college plus university plan shall be the number specified in the advance payment contract. Tuition Plans plans do not cover Local Fees, the Tuition Differential Fee or other institutionally-imposed fees such as health, athletic, activity and service, technology, tuition differential or student activity fees. Tuition Plans are not available for purchase after January 31, 2010.

(7)(2) Local Fee Plans fee plans consist of three (3) separate plans:

(a) 4-Yr University Local Fee Plan – The purchase of a 4-Yr University Local Fee Plan prepays the Local Fees university local fee plan specifies that local fees for 120 credit hours at a State University state university are purchased for the benefit of the qualified beneficiary. The 4-Yr University Local Fee Plan may only be purchased as an addition to a 4-Yr University Tuition Plan.

(b) 2-Yr FL College Local Fee Plan (formerly the Community College Local Fee Plan) – The purchase of a 2-Yr FL College Local Fee Plan prepays the Local Fees community college plan specifies that local fees for 60 lower division credit hours at a Florida College state community college are purchased for the benefit of the qualified beneficiary. The 2-Yr FL College Local Fee Plan may only be purchased as an addition to a 2-Yr FL College Tuition Plan.

(c) 2 + 2 Local Fee Plan (formerly the Community College Plus University Local Fee Plan) – The purchase of a 2 + 2 Local Fee Plan prepays the Local Fees community college plus university plan specifies that local fees for 60 lower division credit hours at a Florida College state community college and 60 upper division level credit hours at a State University state

~~university are purchased~~ for the benefit of the qualified beneficiary. The 2 + 2 Local Fee Plan may only be purchased as an addition to the 2 + 2 Tuition Plan.

~~Local Fee Plans fee plans~~ may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the Local Fee Plan is accepted by the Board for those contract beneficiaries four (4) or more years away from their anticipated matriculation date at the time the application is filed. The Local Fee Plans do local fee plan does not include payment of the Tuition Differential Fee or other institutionally-imposed fees cover the tuition differential fee.

~~(8)(3)~~ Tuition Differential Fee Plans consist of two (2) separate plans: ~~Beneficiaries for whom advance payment contracts were in effect prior to July 1, 2007 and consist of the university tuition plan or the community college plus university tuition plan, are exempt from the tuition differential fee.~~

(a) ~~4-Yr University TDF Tuition Differential Fee Plan – The purchase of a 4-Yr University TDF Plan prepays the Tuition Differential Fee for university tuition differential fee plan specifies that 120 credit hours at a State University state university are purchased for the benefit of the qualified beneficiary. The 4-Yr University TDF Plan 120 credit hour university tuition differential fee plan may be purchased only as an addition to a 4-Yr University Tuition Plan in conjunction with a university tuition plan.~~

(b) ~~2 + 2 TDF Plan (formerly the Community College Plus University Tuition Differential Fee Plan) – The 2 + 2 TDF Plan prepays the Tuition Differential Fee for community college plus university tuition differential fee plan specifies that only 60 credit hours at a State University state university are purchased for the benefit of the qualified beneficiary. The 2 + 2 TDF Plan 60 credit hour tuition differential fee plan may be purchased only as an addition to a 2 + 2 Tuition Plan in conjunction with a community college plus university tuition plan.~~

~~Tuition Differential Fee Plans differential fee plans~~ may be purchased only for a qualified beneficiary who is in the eleventh grade or below for those qualified beneficiaries who are four (4) or more years away from their anticipated matriculation date at the time the application for the Tuition Differential Fee Plan is accepted received by the Board. Beneficiaries for whom advance payment contracts were in effect prior to July 1, 2007 and include the 4-Yr University Tuition Plan or the 2 + 2 Tuition Plan, are exempt from the tuition differential fee. Tuition Differential Fee Plans do not include payment of Local Fees or other institutionally-imposed fees.

~~(9)(4)~~ Dormitory Plan.

(a) The Dormitory Plan provides payment for a double-occupancy, air-conditioned room in a dormitory specified by the State University and approved by the Board in

which the qualified beneficiary is enrolled. Where a State University does not offer a double-occupancy, air-conditioned dormitory room, the Dormitory Plan will pay the State University, on behalf of the qualified beneficiary, the average cost of an eligible double-occupancy, air-conditioned dormitory room in the State University System.

~~(b)(a) The Dormitory Plan may be purchased only for a qualified beneficiary who is in the eleventh grade or below at the time the application for the purchase of the Dormitory Plan is accepted by the Board dormitory plan may be purchased only for those contract beneficiaries four (4) or more years away from their anticipated matriculation date at the time that the contract application is filed.~~

~~(c)(b) A Dormitory Plan which is dormitory plan purchased in conjunction with or as an addendum to the 2 + 2 Florida Plan or which is purchased as an addendum to a 2 + 2 Tuition Plan community college plus university plan may only be used is intended for use after the beneficiary is admitted to a State University state university. A Dormitory Plan dormitory plan may only be transferred for use at a Florida College community college pursuant to Rule 19B-9.004, F.A.C.~~

~~(d)(e) A purchaser may purchase a Dormitory Plan dormitory plan for a beneficiary who was adopted from the Department of Children and Family Services after May 5, 1997, without purchasing a 4-Year Florida University Plan or 2 + 2 Florida Plan or without having purchased Tuition Plan tuition plan contract for that beneficiary.~~

~~(10)(5) The advance payment contract does contracts do not cover fees and costs related to books, meals, transportation, and institutionally-imposed fees, including, but not limited to such as laboratory fees.~~

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(2), (10) FS. History–New 3-29-89, Amended 5-17-92, 8-23-92, Formerly 4G-5.001, Amended 5-31-95, 6-20-96, 10-20-96, 8-18-97, 2-18-99, 2-8-00, 8-27-02, 12-17-07, 11-30-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-5.002  
 RULE TITLE: Contract Benefits

PURPOSE AND EFFECT: This rule is amended to update the names of the prepaid plans offered through the Florida Prepaid College Plan and to delete the description of the type of dormitory rooms available through the Dormitory Plan as that provision is being transferred to Rule 19B-5.001, F.A.C.



SUMMARY: The changes to the rule revise provisions concerning usage of contract benefits under advance payment contracts in the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.002 Contract Benefits.

(1) No change.

(2)(a) To be eligible to receive Dormitory Plan ~~dormitory plan~~ benefits, qualified beneficiaries must file a complete and timely residence application with the applicable postsecondary institution. Beneficiaries must comply with all housing authority rules and regulations. The housing prepayment fee will be waived for the first housing application. Subsequent applications to alternate housing authorities will require payment by the purchaser of the appropriate prepayment fee. The Dormitory Plan ~~dormitory residence plan~~ is not available for use during the summer term.

(b) ~~The dormitory plan provides payment for a double occupancy, air conditioned room in a dormitory specified by the state university. Where a state university does not offer a double occupancy, air conditioned dormitory room, the dormitory plan will pay the university, on behalf of the qualified beneficiary, the average cost of an eligible double occupancy, air conditioned dormitory room in the State University System.~~

(3) Local Fee Plans ~~Local fee~~ and Tuition Differential Fee Plans ~~tuition differential fee plans~~ are tied to the corresponding type of Tuition Plan ~~tuition contracts~~ purchased for the qualified beneficiary for matriculation purposes. Payment for the Local Fees ~~local~~ and the Tuition Differential Fee ~~tuition differential fees~~ will be remitted with the tuition ~~tuition~~ payment for

Registration Fees, upon the receipt of an tuition ~~tuition~~ invoice for a qualified ~~qualified~~ beneficiary whose advance payment contract includes those ~~is composed of these fee plans~~.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-5.002, Amended 5-31-95, 6-20-96, 2-18-99, 1-1-07, 12-17-07, 11-30-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-5.003  
 RULE TITLE: Contract Requirements

PURPOSE AND EFFECT: This rule is amended to update the names of certain of the prepaid plans in the Florida Prepaid College Plan and clarify the requirements for usage of the contract benefits under those plans.

SUMMARY: This rule change updates names of the prepaid plans offered through the Florida Prepaid College Plan and clarifies the requirements for the use of the benefits of advance payment contracts in the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(4) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.003 Contract Requirements.

(1) through (5) No change.

(6) Contract benefits associated with advance ~~Advance~~ payment contracts that are composed of a Tuition Plan, a Local Fee Plan and a Tuition Differential Fee Plan ~~tuition, local fee and tuition differential fee plans~~ will only be paid if the Tuition Plan, Local Fee Plan and Tuition Differential Fee Plan ~~tuition plan, local fee plans and tuition differential fee plan~~ are in good standing. Payments for the contract benefits associated with Local Fee Plans and Tuition Differential Fee Plan ~~Local fee payments and tuition differential fee payments~~ shall not be remitted to pay the Registration Fees ~~tuition~~ for any beneficiary attending a State University Florida ~~public university~~ or Florida College ~~community college~~. Payments for the contract benefits associated with Local Fee Plans and Tuition Differential Fee Plans ~~Local fee payments and tuition differential fee payments~~ may be remitted to pay tuition at private and out-of-state colleges for any qualified beneficiary.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(4) FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-5.003, Amended 5-31-95, 6-20-96, 2-18-99, 6-6-99, 11-6-01, 8-27-02, 12-17-07, 1-28-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-5.004  
 RULE TITLE: Contract Purchasers

PURPOSE AND EFFECT: This rule is amended to specify the rights of purchasers and co-purchasers for 4-Year Florida University Plans, 2 + 2 Florida Plans, 4-Year Florida College Plans and 2-Year Florida College Plans. The amendment provides that the purchaser's and co-purchaser's approval is required for changes of the purchaser, co-purchaser or beneficiary for advance payment contracts which include one of those plans, the purchaser and co-purchaser of those plans each enjoy a survivorship right for each other, the purchaser and co-purchaser must authorize termination of an advance payment contract which includes one of those plans and the purchaser and co-purchaser must approve any refund request associated with a terminated advance payment contract which included one of those plans.

SUMMARY: This rule change specifies the rights of purchasers and co-purchasers of the 4-Year Florida University Plans, 2 + 2 Florida Plans, 4-Year Florida College Plans and 2-Year Florida College Plans which will be offered for sale in the enrollment period for the Florida Prepaid College Plan which will begin on October 18, 2010.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.004 Contract Purchasers.

(1) No change.

(2) For advance payment contracts that include a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan or 2-Year Florida College Plan:

(a) Co-purchasers are permitted, but are not required. When a co-purchaser is designated on an advance payment contract, the purchaser and co-purchaser each will enjoy a right of survivorship.

(b) Changes to the purchaser, co-purchaser or beneficiary designated on the advance payment contract, requests for voluntary termination of the advance payment contract, and refund requests associated with the termination of an advance payment contract must be in writing and contain the notarized signature of the purchaser and co-purchaser. All other changes to the advance payment contract must be in writing and approved by the purchaser.

(3)(2) For advance payment contracts that include a Tuition Plan for tuition plans purchased prior to February 1, 2009:

(a) Co-purchasers are permitted, and will enjoy only a right of survivorship. However, the purchaser may, without the consent or authorization of the co-purchaser, execute all contract changes, conversions, transfers, cancellations, and refund requests.

(b) Any requests to change the purchaser designated on the advance payment contract must be signed by the purchaser and notarized by a notary. Refunds shall be made payable to the purchaser only.

(c) If a purchaser terminates a contract pursuant to Rule 19B-10.002, F.A.C., the co-purchaser must be notified in writing.

(d) Purchasers may elect to change the rights of a co-purchaser to be the same as those for advance payment contracts purchased on or after February 1, 2009, by submitting a written request to the Board. The request must be signed by the purchaser and the co-purchaser and both signatures must be notarized by a notary. If a purchaser changes the rights enjoyed by the co-purchaser to those for advance payment contracts purchased on or after February 1, 2009, the change in the co-purchaser's rights is irrevocable, the provisions of paragraphs 19B-5.004(2)(a), (b) and (c), F.A.C., shall not apply to the advance payment contract and the provisions of subsection 19B-5.004(3), F.A.C., shall apply to the advance payment contract.

(4)(3) For advance payment contracts that include a Tuition Plan ~~for tuition plans~~ purchased on or after February 1, 2009:

(a) Co-purchasers are permitted, but are not required. When a co-purchaser is designated on an advance payment contract, the purchaser and co-purchaser each will enjoy a right of survivorship.

(b) Changes to the purchaser, co-purchaser or beneficiary designated on the advance payment contract, requests for voluntary termination of the advance payment contract, and refund requests associated with the termination of an advance payment contract must be in writing and contain the notarized signature of the purchaser and co-purchaser. All other changes to the advance payment contract must be in writing and approved by the purchaser.

(5)(4) The provisions of subsection 19B-5.004(3)(2), F.A.C., also apply to advance payment contracts for Dormitory Plan dormitory, Local Fee Plans local fee and Tuition Differential Fee Plans tuition differential fee plans, regardless of the date of their purchase, that are associated with Tuition Plans tuition plans that were purchased prior to February 1, 2009. The provisions of subsection 19B-5.004(4)(3), F.A.C., apply to advance payment contracts for Dormitory Plans, Local Fee Plans and Tuition Differential Fee Plans dormitory, local fee and tuition differential fee plans associated with Tuition Plans tuition plans that were ~~are~~ purchased on or after February 1, 2009.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 3-19-92, Formerly 4G-5.004, Amended 12-5-93, 6-20-96, 7-28-98, 11-27-02, 1-28-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-5.006 RULE TITLE: Limitations on Plan Option Changes

PURPOSE AND EFFECT: This rule is amended to make changes to reflect the updated names for the plans available under the Florida Prepaid College Plan and to make technical revisions to the text of the rule.

SUMMARY: This rule change updates the names of the prepaid plans available through the Florida Prepaid College Plan and makes other technical revisions.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(4) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.006 Limitations on Plan Option Changes.

(1) No change.

(2)(a) Advance payment contract purchasers may make a lump sum prepayment to fully prepay the installments payments then remaining due for any plan included in an advance payment contract ~~an installment contract~~ with no prepayment penalty.

(b) Advance payment contract purchasers may make one (1) or more partial prepayments for any plan included in the advance payment ~~on an installment~~ contract. For purposes of this Rule, a partial prepayment is a payment made on a plan on which payments are due and an installment contract which is received by the Board prior to the regularly scheduled time for a payment and ~~which~~ is less than the lump sum amount required to fully prepay the installment payments due on a plan

included in the advance payment contract at the time such payment is received by the Board. An advance payment contract purchaser shall not receive any refund or reduction of the total amount due for all of the installment payments due for any plan included in an advance payment on an installment contract, including any amount for implied interest pursuant to subsection 19B-4.003(2), F.A.C., as the result of one (1) or more partial prepayments.

(3) No plan option, including a Dormitory Plan, Local Fee Plan or Tuition Differential Fee Plan ~~dormitory, local fee or tuition differential fee plan~~, may be added or deleted except during this change period, during an open enrollment period, or by approval of the Board in cases of hardship and pursuant to the special petition procedure outlined in Rule 19B-12.001, F.A.C.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(4) FS. History--New 2-6-90, Formerly 4G-5.006, Amended 6-20-96, 3-20-97, 2-18-99, 12-17-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-6.001      RULE TITLE: Fee Schedule

PURPOSE AND EFFECT: This rule is amended to specify the fee to add a Dormitory Plan to a 4-Year Florida University Plan and 2 + 2 Florida Plan, to specify that the Termination Fee and Reinstatement Fee that will apply with respect to such plans and to revise the names of other plans in the Florida Prepaid College Plan.

SUMMARY: This rule change specifies the fees which will apply to add a Dormitory Plan to a 4-Year Florida University Plan and 2 + 2 Florida Plan, to specify that the Termination Fee and Reinstatement Fee that will apply with respect to such plans and to revise the names of other plans in the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971(4), 1009.98 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-6.001 Fee Schedule.

The following fee schedule will apply for all advance payment contract applicants and purchasers:

(1) Application Fee –

(a) through (c) No change.

(d) A fee of ten dollars (\$10.00) will be assessed for any purchaser of a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan or Tuition Plan ~~tuition plan~~ who subsequently adds a Dormitory Plan ~~dormitory plan~~ to the previously purchased 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan or Tuition Plan ~~tuition plan~~.

(e) A fee of ten dollars (\$10.00) will be assessed for any purchaser of a Tuition Plan ~~tuition plan~~ who subsequently adds the corresponding Local Fee Plan ~~local fee plan~~ to the previously purchased Tuition Plan ~~tuition plan~~.

(f) A fee of ten dollars (\$10.00) will be assessed for any purchaser of a Tuition Plan ~~tuition plan~~ who subsequently adds the corresponding Tuition Differential Fee Plan ~~tuition differential fee plan~~ to the previously purchased Tuition Plan ~~tuition plan~~.

(2) Termination Fee – Fifty percent (50%) of the amount paid into a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan or Tuition Plan ~~the tuition plan~~ up to a cap of fifty dollars (\$50.00) will be assessed upon termination of a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan or Tuition Plan ~~any tuition plan purchased~~, respectively, unless:

(a) The purchaser or beneficiary dies or is disabled; or

(b) The beneficiary receives a scholarship which renders the plan unusable; or

(c) The purchaser holds the advance payment contract for a period of at least two (2) years immediately preceding the request for termination and refund.

(3) No change.

(4) Late Fee.

(a) A late fee of ten dollars (\$10.00) will be assessed on each monthly payment received twenty (20) days past the due date. This charge shall be separate from and in addition to any termination fee that might be imposed pursuant to subsection (2) of this Rule. If Tuition Plan ~~the tuition~~, Local Fee Plan ~~local fee~~ and Tuition Differential Fee Plan ~~tuition differential fee~~ payments are received twenty (20) or more days past the due date, only the Tuition Plan ~~tuition plan~~ will be assessed a ten dollar (\$10.00) late fee. The Board will grant an additional four (4) days' grace period when a federal holiday occurs within the twenty (20) days mentioned above.

(b) When an advance payment contract is terminated, not more than seventy dollars (\$70.00) in outstanding late fees may be deducted from the refund for the advance payment contract.

(c) When an advance payment contract is paid-in-full, the Board will waive:

1. Any outstanding late fees in excess of seventy dollars (\$70.00).
  2. The outstanding late fee balance when the outstanding late fee balance is fifty dollars (\$50.00) or less.
- (5) through (6) No change.

(7) Reinstatement Fee – A fifty dollar \$50.00 fee shall be assessed for the reinstatement of a voluntarily canceled or involuntarily canceled plan. This fee shall be due ~~for on~~ each 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan, Tuition Plan, Local Fee Plan, Tuition Differential Fee Plan and Dormitory Plan ~~tuition, local fee, tuition differential fee and dormitory plan~~. The fee shall be due from the purchaser at the time the request for reinstatement is made and shall be in addition to all payments and fees required to bring a plan current.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971(4), 1009.98 FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, 8-23-92, Formerly 4G-6.001, Amended 12-5-93, 6-20-96, 12-16-97, 2-18-99, 2-8-00, 11-6-01, 11-27-02, 12-17-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-9.001      RULE TITLE: Flexibility

PURPOSE AND EFFECT: This rule is amended to: a) update references to the fees included in the contract benefits for the types of prepaid plans offered in the Florida Prepaid College Plan; b) update the example used to explain how plan benefits are converted for use at a different type of Florida state postsecondary education institution; c) specify that a Dormitory Plan may not be used at a Florida College and may not be an addendum to a 4-Year Florida College Plan, 2-Year Florida College Plan or 2-Yr FL College Tuition Plan; d) specify that a Tuition Differential Fee Plan may not be used at a Florida College and may not be an addendum to a 2-Yr FL College Tuition Plan; and e) revise references to the community college plan to the 2-Yr College FL Tuition Plan.

SUMMARY: This rule amendment updates this rule to reflect the addition of the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan to the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971, 1009.98(3), (5) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-9.001 Flexibility.

The benefits of advance payment contracts are designed to be flexible in order to allow beneficiaries to attend the postsecondary institutions of their choice regardless of the type of plans included in the advance payment ~~contract~~ contracts purchased.

(1) Plan benefits will be automatically converted upon receipt of a valid postsecondary institution invoice based upon the respective rates of tuition and/or fees included among the contract benefits for the plan or plans included in the qualified beneficiary's advance payment contract ~~tuition rate~~ at the time of the qualified beneficiaries' actual matriculation dates. For example, if the qualified beneficiary has a 2-YR FL College Tuition Plan and if the Florida College Registration Fees (the

~~benefits provided by a 2-YR FL College Tuition Plan) are community college tuition rate is two-thirds (2/3) of the State University Registration Fees university rate at the time of matriculation, three Florida College community college credit hours will be used to pay for two (2) State University university credit hours.~~

(2) A ~~Dormitory Plan may not be used at a Florida College except as provided in Rule 19B-9.004, F.A.C. and dormitory plan may not be an addendum transferred to a 4-Year Florida College Plan, 2-Year Florida College Plan or 2-Yr FL College Tuition Plan community college plan.~~

(3) A ~~Tuition Differential Fee Plan may not be used at a Florida College and tuition differential fee plan may not be an addendum transferred to a 2-Yr FL College Tuition Plan community college plan.~~

(4) For the purchaser to convert plan benefits and receive a refund, pursuant to Rule 19B-11.002, F.A.C., a written conversion/refund request must be received from the purchaser no earlier than one (1) year and before April 1 of the year of matriculation of the qualified beneficiary.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(3) FS. History—New 3-29-89, Amended 3-19-92, Formerly 4G-9.001, Amended 6-20-96, 8-18-97, 12-17-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-9.002  
RULE TITLE: Use of Benefits at In-State Private Colleges or Universities, Out-of-State Colleges and Universities and Vocational-Technical Schools

PURPOSE AND EFFECT: This rule is amended to specify the redemption rates for the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan and to clarify the redemption rate for Tuition Plans, Local Fee Plans, Tuition Differential Fee Plans and Dormitory Plan, which will apply when the benefits of one of those plans is used at an eligible educational institution, as defined in s. 529 of the Internal Revenue Code.

SUMMARY: This rule change specifies the redemption rates for the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan

and to clarify the redemption rate for Tuition Plans, Local Fee Plans, Tuition Differential Fee Plans and Dormitory Plan, which will apply when the benefits of one of those plans is used at an eligible educational institution, as defined in s. 529 of the Internal Revenue Code.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-9.002 Use of Benefits at In-State Private Colleges or Universities, Out-of-State Colleges and Universities and Vocational-Technical Schools.

(1) In the event the beneficiary matriculates to any eligible education institution, as defined in s. 529 of the Internal Revenue Code, (other than a State University in Florida or a Florida College), the redemption value will be forwarded to the institution.

(2) For purposes of the transfer of 4-Year Florida University Plans, the redemption value shall be the sum of the average amounts payable to State Universities for Registration Fees, Local Fees and Tuition Differential Fees under the beneficiary’s plan, at the time of matriculation.

(3) For purposes of the transfer of 2 + 2 Florida Plans, the redemption value shall be the sum of the average amounts payable to State Universities for Registration Fees, Local Fees and Tuition Differential Fees under the beneficiary’s plan, at the time of matriculation, and the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees under the beneficiary’s plan, at the time of matriculation.

(4) For purposes of the transfer of 4-Year Florida College Plans, the redemption value shall be the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees under the beneficiary’s plan, at the time of matriculation.

(5) For purposes of the transfer of 2-Year Florida College Plans, the redemption value shall be the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees under the beneficiary's plan, at the time of matriculation.

(6) For purposes of such transfers of Tuition Plans, Local Fee Plans and Tuition Differential Fee Plans the tuition, local fee and tuition differential fee plans, the redemption value shall be the average amount payable to State Universities for Registration Fees, Local Fees and Tuition Differential Fees of tuition, local fees and tuition differential fees, respectively, under the beneficiary's plan or plans to a state university or the average amount payable to Florida Colleges for Registration Fees and Local Fees, respectively, under the beneficiary's plan or plans community college, at the time of matriculation.

(7) For purposes of such transfers of the Dormitory Plan dormitory plan, the redemption value shall be the average of the State University state university dormitory fees payable under the beneficiary's plan to a State University state university or Florida College community college, at the time of matriculation for the number of semesters reflected in each beneficiary's Dormitory Plan dormitory plan.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Formerly 4G-9.002, Amended 2-6-90, 12-5-93, 6-20-96, 10-20-96, 2-18-99, 10-9-01, 12-17-07, 11-30-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-9.004  
RULE TITLE: Dormitory Transfer to Florida Colleges and State University-Held Residences Other than Dormitories

PURPOSE AND EFFECT: This rule amendment updates references to the Dormitory Plan and to change references from "community college" to "Florida College" for purposes of the Florida Prepaid College Plan.

SUMMARY: This rule change is being made to update references to the Dormitory Plan and to changes references from "community college" to "Florida College".

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(3), (10) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-9.004 Dormitory Transfer to Florida Community Colleges and State University-Held Residences Other than Dormitories.

(1) A Dormitory Plan dormitory plan may be transferred to a Florida College community college or Florida College community college direct-support organization that operates a residence facility for students attending the Florida College community college. Funds transferred to the Florida College community college or Florida College community college direct-support organization shall not exceed the lesser of the actual fees charged by the Florida College community college or the Florida College community college direct-support organization for dormitories or residency opportunities or the average dormitory fees payable under the beneficiary's Dormitory Plan dormitory plan for State University state university dormitories designated for inclusion in the Program.

(2) A Dormitory Plan dormitory plan may be transferred to other State University university held residences designated by a State University state university for inclusion in the Program. Funds transferred to other State University university-held residences shall not exceed the average of fees payable under the beneficiary's Dormitory Plan dormitory plan for dormitories at the State University state university that are designated for inclusion in the Program. The terms of the State University university housing contract shall take precedence over the terms of the advance payment contract for the purpose of transferring Dormitory Plans dormitory plans.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(3), (10) FS. History--New 10-20-96, Amended 1-28-09, 11-30-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-11.001      RULE TITLE: General

PURPOSE AND EFFECT: This rule is amended to specify the redemption value for death and disability refunds and scholarship refunds associated with the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan, clarify the redemption value for death and disability refunds and scholarship refunds associated with Tuition Plans, Local Fee Plans, Tuition Differential Fee Plans and Dormitory Plans, and delete obsolete text.

SUMMARY: This rule change specifies the redemption rates for purposes of death and disability refunds and scholarship refunds for the 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan and 2-Year Florida College Plan, clarifies the redemption value for death and disability refunds and scholarship refunds for Tuition Plans, Local Fee Plans, Tuition Differential Fee Plans and Dormitory Plans, and deletes obsolete text.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971 1009.98(5) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.001 General.

Except as provided herein, refunds shall not exceed the amount paid for any plan included in the advance payment contract bought by the purchaser, except for conversions pursuant to Rule 19B-11.002, F.A.C., and dormitory plan refunds due to

insufficient housing pursuant to Rule 19B-11.004, F.A.C. Termination of student status after the official drop/add period eliminates the refund option for that semester. The Board will process a refund associated with an account that was terminated pursuant to Rule 19B-10.001 or 19B-10.002, F.A.C., upon the receipt of a notarized, written request that is signed by the person or persons required pursuant to Rule 19B-5.004, F.A.C. The refund will be paid only to the purchaser ~~of the terminated account.~~

(1) For participants in the Florida Prepaid College Board Program's advance payment contracts, a scholarship is defined as a financial or in-kind award or grant given to an individual for study, training, or research, and which does not constitute compensation for personal services.

(2) Refunds may exceed the amount paid for a plan in the following circumstances:

(a) If a beneficiary is awarded a scholarship, the terms of which cover the benefits included in the beneficiary's advance payment ~~contract contracts~~, moneys paid for the purchase of the advance payment ~~contract contracts~~ shall be returned to the purchaser in semester installments coinciding with the matriculation by the beneficiary in an amount not to exceed the redemption value of the advance payment contract at the time the scholarship benefits are used. Proof of scholarship shall be given to the Board as required by the Master Covenant.

(b) In the event of death or total disability of the beneficiary, the advance payment contract may be terminated pursuant to Rule 19B-10.002, F.A.C., and the moneys paid for the purchase of an advance payment contract shall be refunded in lump sum in an amount not to exceed the redemption value of the advance payment contract at the time of the refund request. Proof of death or disability shall be in such form as required by the Board.

(3) For the purposes of refunds pursuant to paragraph 19B-11.001(2), F.A.C., the redemption value for the:

(a) 4-Year Florida University Plan shall be the sum of the average amounts payable to State Universities for Registration Fees, Local Fees and Tuition Differential Fees, under the beneficiary's plan.

(b) 2 + 2 Florida Plan shall be the sum of the average amounts payable to the State Universities for Registration Fees, Local Fees and Tuition Differential Fees, under the beneficiary's plan, and the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees, under the beneficiary's plan.

(c) 4-Year Florida College Plan shall be the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees, under the beneficiary's plan.

(d) 2-Year Florida College Plan shall be the sum of the average amounts payable to Florida Colleges for Registration Fees and Local Fees, under the beneficiary's plan.



(e) Tuition Plans, Local Fee Plans and Tuition Differential Fee Plans For purposes of refunds pursuant to paragraph 19B-11.001(2)(a) or (b), F.A.C., for tuition, local fee and tuition differential fee plans, the redemption value shall be the average amount payable to State Universities for Registration Fees of tuition, Local Fees local fees and Tuition Differential Fees tuition differential fees, respectively, payable under the beneficiary's plan or plans to the state universities or the average amount payable to Florida Colleges for Registration Fees and Local Fees, respectively, under the beneficiary's plan or plans community colleges at the time of the refund request.

(f) Dormitory Plans For purposes of refunds pursuant to paragraph 19B-11.001(2)(a) or (b), F.A.C., for the dormitory plan, the redemption value shall be the average of the State University state university dormitory fees payable under the beneficiary's Dormitory Plan dormitory plan at the time of the refund request, for the number of semesters reflected in the beneficiary's advance payment contract. For purposes of refunds pursuant to paragraph 19B-11.001(2)(c) F.A.C., for tuition differential fee plans, the redemption value shall be the average amount of tuition differential fees payable under the beneficiary's tuition differential plan to state universities in Florida at the time of the refund.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(5), (10) FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-11.001, Amended 8-18-97, 11-6-01, 12-17-07, 1-28-09, 11-30-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-11.004  
RULE TITLE: Dormitory Refund

PURPOSE AND EFFECT: This rule is amended to correct capitalization for references to the Dormitory Plan and the term "State University."

SUMMARY: This rule change corrects capitalization in references to the Dormitory Plan and the term "State University."

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971, 1009.98(5) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.004 Dormitory Refund.

If there is insufficient housing to accommodate a qualified beneficiary under the Dormitory Plan dormitory plan, the actual value of dormitory rates at the specified institution at the time of the application for dormitory space at the university will be refunded to the purchaser. Insufficient housing means that sufficient numbers of double-occupancy, air-conditioned dormitory rooms are not available for the qualified beneficiaries who attend that State University state university. If the qualified beneficiary is placed upon an university admission wait list and is therefore prohibited by university regulations from submitting a timely housing application and, as a consequence, does not receive a housing assignment, this shall constitute insufficient housing pursuant to this section. The Board shall require documentation from the university housing authority and/or admission office prior to processing a dormitory refund due to insufficient housing. If the qualified beneficiary elects not to apply for the dormitory residence, the refund will be the amount paid for the dormitory plan after assessment of the termination fee pursuant to subsection 19B-6.001(2), F.A.C. Where a State University state university does not offer a double-occupancy, air-conditioned dormitory room, the Program will refund the purchaser the average cost of an eligible double-occupancy, air-conditioned dormitory room in the State University System.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(5) FS. History--New 3-29-89, Amended 2-6-90, Formerly 4G-11.004, Amended 5-31-95, 2-18-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Prepaid College Board  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-11.005  
RULE TITLE: Other Refunds

PURPOSE AND EFFECT: This rule is amended to specify that when the beneficiary does not complete use of a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan, Tuition Plan, Local Fee Plan, Tuition Differential Fee Plan or Dormitory Plan that a pro rata refund will be available.

SUMMARY: This rule is amended to specify that a pro rata refund is available when a beneficiary of a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan, Tuition Plan, Local Fee Plan, Tuition Differential Fee Plan or Dormitory Plan does not complete use of their respective prepaid plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971, 1009.98(5) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.005 Other Refunds.

If a beneficiary does not complete a 4-Year Florida University Plan, 2 + 2 Florida Plan, 4-Year Florida College Plan, 2-Year Florida College Plan, Tuition Plan, Local Fee Plan, Tuition Differential Fee Plan or Dormitory Plan ~~Community College Plan, University Plan, or a Community College/University Plan~~ for reasons other than those specified in Rules 19B-11.001 through 19B-11.004, F.A.C., the plan account may be terminated pursuant to Rule 19B-10.002, F.A.C., and a pro-rata refund of the amount paid for the plan or plans into the

~~fund~~ is available. A refund under this rule will not include funds for any school year partially attended but not completed. A school year partially attended but not completed shall mean any one semester of a two semester school year whereby the student is enrolled at the conclusion of the official drop/add period, but withdraws before the end of such semester.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(5) FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-11.005, Amended 1-28-09,

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-11.007  
RULE TITLE: Unclaimed Refunds

PURPOSE AND EFFECT: This rule is amended to update the Board’s web address where information will be available pertaining to refunds for terminated advance payment contracts when the refund for the terminated advance payment contract has been available for six years.

SUMMARY: This rule change updates the Board’s web address where information will be available pertaining to refunds for terminated advance payment contracts when the refund for the terminated advance payment contract has been available for six years.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971, 1009.972(5), 1009.98(5) FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.007 Unclaimed Refunds.

(1) The Board will mail written notice to the purchaser of a terminated advance payment contract when a refund for the account has been available for six (6) years. Such refund will consist of any monies paid into the program minus any applicable fees due against the account. The notice will indicate the procedure which must be followed to obtain a refund of the monies held by the Board and that if a refund claim is not timely made that the funds will escheat to the Florida Prepaid College Trust Fund. An alphabetical list of the names and city of residence of such purchasers will be posted on the Board's website on the Internet ([www.myfloridaprepaid.com](http://www.myfloridaprepaid.com) ~~[www.florida529plans.com](http://www.florida529plans.com)~~). Any refund which remains unclaimed seven (7) years after an account is terminated will escheat to the Florida Prepaid College Trust Fund.

(2) through (4) No change.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.972(5), 1009.98(5) FS. History--New 6-20-96, Amended 12-29-98, 4-15-04, 1-28-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: RULE TITLE:

19B-14.001 Scope

PURPOSE AND EFFECT: This rule is amended to update and capitalize the names of various prepaid plans associated with advance payment contracts under the Florida Prepaid College Plan and to update the name of the Florida Prepaid College Board.

SUMMARY: This rule change is being made to update a reference to the former name of the Florida Prepaid College Board and to update and capitalize the names of various prepaid plans available through the Florida Prepaid College Plan.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.971 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-14.001 Scope.

These rules shall apply to the resolution of all claims, disputes or controversies related to or arising from contracts, including any extensions of contracts, entered by the Florida Prepaid ~~College Postsecondary Education Expenses~~ Board on or after the effective date of these rules. These rules shall constitute the sole procedure for the resolution of all claims under all such contracts. These rules do not apply to advance payment contracts for the prepayment of Registration Fees, Local Fees, the Tuition Differential Fee ~~postsecondary registration fees and dormitory registration fees~~.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971 FS. History--New 6-20-96, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: RULE TITLE:

19B-16.002 Application for Participation in the Program

PPURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 FS.

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

DATE AND TIME: September 20, 2010, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.002 Application for Participation in the Program.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2011-01 ~~2009-10a~~, is hereby incorporated by reference. The form may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

(3) No change.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07 11-18-08, 1-28-09, 4-5-09, 10-26-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.602 RULE TITLE: Community Release Programs

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: include language being moved from Rule 33-601.606, F.A.C.; incorporate language from Form DC6-127 directly into the rule; require that all inmates participating in a work release program pay a 55% subsistence fee; clarify the

procedure for collecting subsistence fees; and clarify the process by which inmates working at paid employment may obtain necessary clothing, tools, and equipment.

SUMMARY: The proposed rule is amended to: include language being moved from Rule 33-601.606, F.A.C., regarding eligibility and ineligibility criteria for participation in a community release program, the mechanism for placement in a program, and the procedure for removal from a program; incorporate language from Form DC6-127, Checklist for Transfers to Work Release Centers, so that the form no longer needs to be incorporated by reference in the rule; require that all inmates participating in a work release program pay a 55% subsistence fee; clarify the procedure for collecting subsistence fees in the event an inmate fails to deposit his final paycheck into his Inmate Trust Fund account; and clarify the process by which inmates working at paid employment may obtain necessary clothing, tools, and equipment.

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

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

RULEMAKING AUTHORITY: 945.091, 946.002 FS.

LAW IMPLEMENTED: 945.091, 946.002 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.602 Community Release Programs.

(1) Definitions.

(a) Center Work Assignment (CWA) – An inmate assignment to a work release center to serve in a support capacity.

(b)(a) Community Release Program – Any program ~~that~~ which allows inmates to work at paid employment or a center work assignment or to participate in education, training, or substance abuse treatment programs, or any other transitional program to facilitate re-entry into the community in a work release center, contract community work release facility, or community contract facility, or voluntary work with a public or non-profit agency in the community.

(c)(b) Community Work Release (CWR) – The portion of the community release program ~~that~~ which allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined.

~~(d)~~<sup>(e)</sup> Community Study Release – The portion of the community release program ~~that which~~ allows inmates to attend an educational or vocational facility or participate in a training program in the community while continuing as inmates of the facility where they are confined.

~~(e)~~<sup>(d)</sup> Community Volunteer Service – An activity ~~that which~~ allows inmates housed at a work release center or contract facility to voluntarily work with a governmental or nonprofit agency in the community.

~~(e) Modality II – A community based residential substance abuse treatment program for inmates.~~

~~(f) Institutional Classification Team (ICT) – For the purposes of this rule, the ICT is the team consisting of the warden or assistant warden, classification supervisor, a correctional officer chief, and other members as necessary when appointed by the warden or designee. The ICT is responsible for making work, program, housing, and inmate status decisions at a facility and for making other recommendations to the State Classification Office.~~

~~(g)~~<sup>(f)</sup> Net Earnings – Gross pay less withholding tax, social security deductions, and any legally required court ordered civil deductions.

~~(h) Non-advanceable date refers to an inmate's release date that is restricted from continuous, monthly gain time awards over the entire length of the sentence, including:~~

~~1. Tentative release date based upon offenses occurring on or after October 1, 1995;~~

~~2. Presumptive parole release date (PPRD);~~

~~3. 100% minimum service requirements, such as the Prison Releasee Re-Offender Act or Three-Time Violent Offender cases.~~

~~(i) Transition Program – The portion of the community release program that provides inmates substance abuse programming and skills necessary for employment and re-entry into their communities prior to being assigned to CWR.~~

~~(j)~~<sup>(g)</sup> State Classification Office (SCO) – ~~The office or office staff~~ ~~A staff member~~ at the central office level ~~that who~~ is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying ICT ~~or rejecting~~ Institutional Classification Team (ICT) recommendations.

~~(k)~~<sup>(h)</sup> Work Release Center – ~~Refers to a~~ ~~A~~ correctional facility ~~that houses community custody inmates participating in a community release program where a community based transition program is conducted for approved community custody inmate prior to release from custody.~~

~~(l)~~<sup>(i)</sup> Work Release Inmate Monitoring System (WRIMS) – A web site application used by work release facility staff to record information related to an inmate's participation in ~~CWR~~ ~~community work release.~~

~~(2) Eligibility and Ineligibility Criteria.~~

~~(a) An inmate is ineligible for community release programs if he has:~~

~~1. Current or prior sex offense convictions;~~

~~2. A guilty finding on any disciplinary report for escape or attempted escape within the last five years;~~

~~3. A current or prior conviction for escape covered by Section 945.092, F.S.;~~

~~4. Been terminated from CWR, a community-based residential substance abuse program, a CWA, or a transition program for disciplinary reasons during the inmate's current commitment;~~

~~5. Been incarcerated four or more times in any state or federal correctional facility;~~

~~6. Been found guilty of any disciplinary report in the 60 days prior to placement;~~

~~7. Refused to complete or has an unsatisfactory removal from a substance abuse program that the inmate was required to complete at any point during his current period of incarceration unless the refusal was based upon objections to the religious based content of the program, in which case an alternate non-deity based program will be offered and must be successfully completed. The removal of an inmate from a program for violation of program or institutional rules or for behavioral management problems constitutes an unsatisfactory removal from a program. The inmate shall remain ineligible until a comparable program is satisfactorily completed;~~

~~8. A felony, Immigration and Customs Enforcement, or misdemeanor (for other than child support) warrant or detainer;~~

~~9. A misdemeanor detainer for child support, unless it can be established by the inmate's classification officer that the detainer would be withdrawn upon payment of restitution, fines, or court ordered obligations and it appears that the inmate will earn sufficient funds to pay the obligation that has caused the detainer.~~

~~(b) In order to be eligible for a community release program, an inmate must:~~

~~1. Be community custody, or have a recommendation for community custody currently under review;~~

~~2. Be in Department custody for 60 days prior to placement;~~

~~3. For inmates with non-advanceable dates, the inmate must be within:~~

~~i. 28 months of his earliest tentative release date for the transition program, or~~

~~ii. 19 months of his tentative release date or presumptive parole release date for CWA or a community-based residential substance abuse program, or~~

~~iii. 14 months of his earliest tentative release date for CWR.~~

~~4. For inmates who do not have non-advanceable dates, the inmate must be within:~~

i. 36 months of his earliest tentative release date for the transition program, or

ii. 28 months of his tentative release date for CWA or a community-based residential substance abuse program, or

iii. 19 months of his tentative release date for CWR.

5. An inmate whose current commitment includes DUI-BUI Manslaughter, 4th DUI-BUI, Felony DUI-BUI, or DUI-BUI with Serious Injury must have successfully completed substance abuse treatment during the current commitment prior to being considered for CWA or CWR placement.

6. The Secretary of the Department or his designee, who for the purpose of this subparagraph shall be the Assistant Secretary for Institutions, shall have the authority to place an inmate who is in community custody at a work release center regardless of time constraints for the purpose of participating in a specialized work detail or program.

(c) If an inmate is otherwise eligible for a community release program, the Department will also consider the following factors to ensure community release placement is appropriate:

1. Arrest history, with particular attention to violent offenses or offenses in which the circumstances reflect that a sex act was intended, attempted, or completed;

2. Pending outside charges;

3. Disciplinary history, with particular attention to violence, escape risk, substance abuse, or sexual deviancy;

4. Substance abuse history;

5. Program needs, including re-entry;

6. Victim concerns;

7. The inmate's skills, physical ability, and overall compatibility with the specifically requested community release program.

(d) Community release placements will be made to ensure inmates are housed and managed correctly for public safety or the safety of specific individuals.

(3) Placement of Work Release Inmates.

(a) If an inmate is approved for community release program participation, the SCO shall approve the appropriate transfer with consideration to the requested locations and shall facilitate the inmate's transfer to the approved location.

(b) If the location requested has no bed capacity to accept the inmate, the inmate will be placed on a waiting list for the next available bed.

(c) Any change to the facility assignment or diversion to another community release program facility must be approved by the SCO. This review will determine that the inmate's needs can be served adequately at a different work release center.

(d) Inmates who are diverted to a community work release center which they did not request due to lack of bed space at the requested location must be successfully complying with work release program rules and requirements in order to be considered for transfer from one facility to another.

(4)(2) Inmate Conduct While on Community Release.

(a) During the inmate orientation process, which shall occur within three days of arrival at a community work release center, inmates will be instructed of the following conduct requirements. Upon completion of the orientation program, the inmate shall be given Form DC6-126, a Certificate of Orientation, ~~Form DC6-126~~. Form DC6-126 is incorporated in subsection (19)(46) of this rule. Inmates are required to:

1. through 9. No change.

10. Refrain from entering ~~Do not enter~~ into any contract without advance written approval of the correctional officer major or facility director of a contract facility.

(b) No change.

(c) Every inmate assigned to a community release facility shall immediately, upon arrival, sign Form DC6-102, a Letter of Notice, ~~Form DC6-102~~, or the inmate shall be terminated from the program. The inmate shall be furnished a copy of the Letter of Notice and must agree to abide by the conditions of the Letter of Notice. Form DC6-102 is incorporated by reference in subsection (19)(46) of this rule.

(d) The work release center classification officer or designated contract facility staff shall complete Form DC6-118A, a Personalized Program Plan for Work Release Centers, ~~Form DC6-118A~~, on all inmates assigned to the work release center within 14 days of receipt of the inmate at the center. Form DC6-118A is incorporated by reference in subsection (19)(46) of this rule. The completed personalized program plan shall be signed by the inmate, the inmate's classification officer, and the correctional officer major or the designated contract facility staff ~~counselor~~ and facility director at contract facilities. Once the personalized program plan is signed, it shall be given to the staff member assigned to work with the inmate. Any changes in the personalized program plan shall be discussed with the inmate and shall be documented on Form DC6-118B, Personalized Program Plan – Modification Plan. Form DC6-118B is incorporated by reference in subsection (19)(46) of this rule. The inmate's progress towards achieving the goals of the personalized program plan shall be reviewed monthly with the inmate. The outcome of each review shall be documented on Form DC6-118C, Personalized Program Plan – Monthly Progress Review, or shall be entered into WRIMS at those facilities at which the system is operational. A copy of the Personalized Program Plan shall be printed ~~on form WRIMS~~ and given to the inmate. Form DC6-118C is incorporated by reference in subsection (19)(46) of this rule. Staff are authorized to schedule subsequent progress reviews upon request of the inmate.

(e) When the inmate is ready for release, Form DC6-118D, a Transition Release Plan, Form DC6-118D, shall be completed in order to assist the inmate in his or her release plans or the plan information shall be entered into WRIMS at those facilities at which the system is operational. Form DC6-118D is incorporated by reference in subsection (19)(16) of this rule.

~~(5)(3)~~ Community Study Release.

(a) In order to be considered for community study release, an inmate shall submit a request on Form DC6-126, Inmate Request, to his classification officer, who shall forward the request to the SCO. After submitting Upon the request of an inmate, an inmate he or she shall be considered for participation in the community study release program providing:

1. The inmate meets all criteria outlined in this rule ~~and Rule 33-601.606, F.A.C.;~~

2. The conditions regarding ~~the~~ financial assistance, placement, ~~and~~ time constraints, and aptitude are satisfied;

3. If there are the inmate has detainers filed against the inmate him or her, he is ineligible for community study release if the detaining authority has objected must not object to the inmate's participation in the community study release program in writing; and

4. No change.

(b) through (c) No change.

(d) Any inmate considered for community study release shall have monies from one or more of the following sources for tuition, books, and clothing:

1. through 4. No change.

(e) Community study release programs shall not interfere with the inmate's employment schedule, CWA, center work assignment or participation in drug treatment programs. The inmate's attendance at classes and transportation time must be scheduled to occur during non-working hours only, unless class attendance is required as part of the inmate's employment.

(f) No change.

(g) The SCO state classification office shall have the authority to approve all requests for community study release Community Study Release, ensuring that the criteria specified in this rule are met.

~~(6)(4)~~ Center Work Assignment (CWA). Upon request of an the inmate, the inmate shall be considered for placement in a CWA center work assignment, a community residential substance abuse program, a transition program, or CWR, providing that the:

~~(a)~~ The inmate meets all criteria outlined in subsection (2) of this rule and Rule 33-601.606, F.A.C.;

~~(b)~~ The inmate meets criteria specified on Form DC6-127, Checklist for Transfers to Work Release Centers, sections A and B. Form DC6-127 is incorporated by reference in subsection (16) of this rule.

~~(5) Community Residential Substance Abuse Program.~~ The inmate shall be considered for placement into the community residential substance abuse program providing:

~~(a)~~ The inmate meets all criteria outlined in this rule;

~~(b)~~ The inmate meets criteria specified on Form DC6-127, sections A and C. The inmate shall make the request on Form DC6-236, Inmate Request, to his classification officer.

~~(a)~~ Providing the inmate meets all criteria in subsection (2) of this rule, the classification officer will enter a community release recommendation.

~~(b)~~ The ICT shall review the classification officer's recommendation and recommend approval or disapproval.

~~(c)~~ The ICT recommendation shall be forwarded to the SCO.

~~(d)~~ The SCO staff member reviewing the ICT recommendation will utilize the criteria in subsection (2) of this rule to determine the appropriateness for the inmate's placement into CWA, CWR, a transition program, or a community-based residential substance abuse program. The SCO staff member shall approve or disapprove the ICT recommendation.

~~(e)~~ The classification officer will ensure the inmate is notified of the final decision.

~~(7)(6)~~ Status Changes of Inmates in Community Release Programs Center Work Assignment, Program Participation, or Paid Employment Status Inmates at Community Residential Facilities. The SCO approving authority shall have the authority to approve all status changes for inmates in a the Community Release Program, as long as the changes are consistent with utilizing the criteria set forth in this rule ~~and in Rule 33-601.606, F.A.C., and consistent~~ with the safety and security of the public.

~~(8)(7)~~ Employment.

(a) No change.

(b) The Department department will not authorize an inmate to work at paid employment if:

1. through 5. No change.

(c) No change.

(d) The types of employment that which the Department department will approve for an inmate are those which are related to the inmate's institutional training, previous experience, and skills.

(e) Employment of an inmate with a relative is not precluded if:

1. No change.

2. The Department department determines that the relative is one who would promote the goals and objectives of the community release programs; and

3. No change.

(f) If the Department department authorizes paid employment for an inmate with a given employer and subsequently receives and verifies information that the inmate

is not being treated by the employer in a manner comparable to other employees, the correctional officer major or facility director will remove the inmate from such employment with that employer.

(g) The prospective employer shall sign Form DC6-124, an Employer's Community Work Agreement, Form DC6-124. Form DC6-124 is incorporated by reference in subsection (19)(46) of this rule. Inmates engaged in paid employment are not considered employees of the state or the Department department while engaging in or traveling to and from such employment.

(h) through (i) No change.

(j) Facility personnel shall visit the inmate's place of employment for new employers within the first five days to verify employment. Documentation of on-site employment verification shall be placed in the inmate's file by utilizing Form DC6-125, Employment Contacts, or shall be entered into WRIMS at those facilities at which the system is operational. Form DC6-125 is incorporated by reference in subsection (19)(46) of this rule.

(k) through (n) No change.

(9)(10) Clothing and Equipment.

(a) No change.

(b) Inmates working at paid employment are will be authorized to obtain tools, clothing, and equipment normally required for their employment. An inmate working at paid employment shall be permitted to receive one drop-off of necessary clothing, tools, or equipment, including one bicycle, from an individual on the inmate's approved visitor list. In order to receive a drop-off, the inmate must submit Form DC6-236, Inmate Request, to the work release classification officer or designated contract facility staff listing the requested items, the approved visitor who will bring the items, and the date the inmate would like the items to be brought. The request shall be forwarded to the correctional officer major or contract facility director, who may approve some or all of the requested items based on the inmate's need as dictated by his work assignment and the security or safety risk posed by the items. An inmate may not receive a drop-off without the approval of the correctional officer major or contract facility director.

(d) It is the responsibility of the inmate to ensure that the drop-off is executed by the individual specified on the approved Form DC6-236, on the date approved by the correctional officer major or contract facility director, and to communicate to the individual making the drop-off which items were approved.(c) The correctional officer major or contract facility director may designate a time for the drop-off other than that requested by the inmate.

(e) Dropped-off items are subject to search prior to delivery to the inmate to ensure the items:

1. Were approved by the correctional officer major or contract facility director;

2. Are needed by the inmate to perform his work assignment;

3. Do not contain or conceal contraband; and

4. Do not pose a safety or security risk.

(e) An inmate may receive one additional drop-off of necessary tools, clothing, and equipment if he changes work assignments and the items are necessary due to the new assignment. The inmate must obtain approval for the drop-off as set forth in paragraph (b) above.

(f) Work release centers are authorized to coordinate with local charitable and nonprofit organizations to obtain clothing, tools, and equipment needed for use by inmates working at paid employment.

(g) Clothing, tools, and ~~or~~ equipment required by inmates working at paid employment will not be purchased by the Department department.

(10)(9) Transportation.

(a) No change.

(b) Contract Work Release Facilities:

1. Contract work release facilities are ~~Are~~ authorized to assess a transportation fee from community release inmates not to exceed \$3.00 each way for transportation provided by the contract work release center except as provided in subparagraph (b)3. below.

2. Inmates will utilize transportation authorized in paragraph (10)(a) of this rule ~~33-601-602(9)(a), F.A.C.,~~ unless the warden over the work release center determines for public safety reasons another means of transportation is necessary.

3. Such facilities shall ~~Will~~ provide, at no cost to the Department department or the inmate, transportation within the community for medical or mental health services, religious services (if not provided at the work release center), attendance at substance abuse group meetings, or for shopping.

(c) No change.

(11)(10) Disbursement of Earnings.

(a) An inmate working at paid employment shall agree to deposit his total earnings less legally required payroll deductions, or other payroll deductions authorized by the Department department, into his account in the Inmate Trust Fund. The Department department shall have the authority to hold, disburse, or supervise the disbursement of these funds according to a prearranged plan of disbursement.

(b) No change.

(c) The inmate's plan for the disbursement of earnings shall include a provision that no less than 10% of ~~his~~ ~~their~~ net income will be placed in savings for disbursement upon ~~his~~ ~~their~~ release. The plan shall also include a provision that no less than 10% of ~~their~~ net income will go toward the support of any dependents the inmate may have.



(d) All inmates participating in community work release programs shall be required to pay 55% subsistence, which shall be computed by factoring .55 (55%) times the inmate's net earnings. The inmate shall be required to disburse such funds to pay the facility for subsistence at the following rates:

1. ~~Inmates assigned to contract facilities for paid employment shall be required to pay 55% subsistence which shall be computed by factoring .55 (55%) times the inmate's net earnings.~~

2. ~~For all other inmates the amount of subsistence to be paid will be computed by factoring .45 (45%) times the inmate's net earnings.~~

(e) Subsistence deductions will not exceed the state's actual cost to incarcerate the inmate, as computed on a per diem basis. ~~The computation of maximum subsistence deductions will be made and publicized annually by the department.~~

(f) Subsistence deductions against individual inmate's earnings will commence with the first labor compensation payment received by the inmate during his incarceration and will terminate with the last earnings deposited to the Inmate Trust Fund, regardless of the frequency of the employer's payroll cycle. However, if an inmate fails to deposit his final earnings into his Inmate Trust Fund account, a 55% subsistence deduction will be made from the Inmate Trust Fund Account for the days owed by the inmate, based on the inmate's release date, for which the State or the contract facility has not already been compensated. The assessment will be made based on the inmate's last earnings deposited.

(g) through (h) No change.

(i) While in paid employment status, the inmate shall be responsible for reimbursing the Department for costs associated with the following:

1. through 3. No change.

4. ~~Tools, equipment, and clothing needed for employment.~~

(j) through (l) No change.

~~(12)(11) Restitution.~~

(a) Unless there exist ~~exists~~ reasons not to order restitution, the Department ~~department~~ shall require inmates working at paid employment, under the provision of Section 945.091, F.S., to provide restitution to an aggrieved party for the damage or loss caused as a result of a prior or current offense of the inmate. For purposes of this rule, fines, court costs and court ordered payments shall be treated in the same manner as restitution.

(b) In those cases where the committing court orders restitution to the victim in a specific amount, the Department ~~department~~ shall require inmates working at paid employment to pay restitution to the aggrieved party in the ordered amount.

(c) In the event that the committing court fails to order restitution or orders restitution but fails to state a specific amount, the Department ~~department~~ shall require the inmate, as a condition of working in a paid employment program, to

pay restitution to the aggrieved party in an amount to be determined by the Bureau Chief of Classification and Central Records pursuant to Section 945.091, F.S. Restitution which is imposed by the Department ~~department~~ under this provision shall not be less than 10% of the inmate's net earnings.

(d) If reasons exist not to order restitution, the Department ~~department~~ shall state such reasons in writing. Reasons include:

1. through 3. No change.

4. There is insufficient information available to the Department ~~department~~ in order to make a determination as to restitution;

5. No change.

6. There are no funds remaining after all Department of ~~Corrections~~ obligations have been paid.

(e) Restitution requirements shall be recorded on Form DC6-123, Monetary Reimbursement Agreement. Form DC6-123 is incorporated by reference in subsection ~~(19)(16)~~ of this rule.

~~(16) Advance of Funds. The facility director at contract work release centers is authorized by contract to advance monies up to \$75.00 to an inmate who needs money for clothing, equipment, tools, transportation or incidental expenses in order to begin working at paid employment. The financial plan for the disbursement of the inmate's earnings prepared, as provided in subsection 33-601.602(14), F.A.C., shall provide for the repayment of any such advancement of monies from the inmate's earnings. If the inmate's employment is terminated or if for any other reason the advancement of monies is not repaid from the inmate's earnings, the advancement of monies remains a personal obligation of the inmate. Disciplinary action pursuant to Rule 33-601.314, F.A.C., shall be initiated to ensure due process for the collection of any unpaid portion of the advancement. All or part of the discharge gratuity as provided in Rule 33-601.502, F.A.C., shall be taken, but only if the Department of Corrections finds that such action will not jeopardize the inmate's ability to transition himself into the community.~~

(13) Reasons for Removal from a Community Release Program. An inmate may be removed from a CWA, a community-based residential substance abuse program, a transition program, or from CWR for any of the following reasons:

(a) The inmate violates any laws, rules, or procedures or tests positive for drugs or alcohol;

(b) Information is received concerning the inmate that is determined will adversely impact on the safety and security of the inmate, Department, or the community; or

(c) There is reason to believe that the inmate will not honor the trust bestowed upon him.

(14) Process for Removal from a Community Release Program.

(a) When an inmate is removed from a CWA, a community-based residential substance abuse program, a transition program, or from CWR for negative behavior or unsuccessful participation in the program and placed in a secure facility, the inmate shall be recommended for termination from the program by his classification officer.

(b) The ICT shall review the classification officer's recommendation and recommend approval or disapproval of the inmate's termination.

(c) The ICT recommendation shall be forwarded to the SCO, who shall approve or disapprove the termination.

(d) If the SCO disapproves the termination, the SCO shall ensure that the inmate is returned to his previous community release status.

(15) Escape from a Community Release Program.

(a) Any time an inmate cannot be located at his authorized location, a BOLO (Be On the Lookout For)/Warrant shall be requested and the inmate shall be recommended for termination from the community release program in the interest of public safety.

(b) Once located, the inmate shall be transferred to a secure facility.

(c) If, following investigation, it is determined that the inmate did not escape, as defined in Section 945.091(4), F.S., the procedures outlined in subsection (15) of this rule shall be followed in order to reinstate the inmate to a community release program.

(16)(13) Citizen Committees. The correctional officer major of a work release center or facility director of a contract facility shall establish committees of volunteer citizens in the various communities of the state to assist the Department of Corrections by:

(a) through (e) No change.

(17)(14) Program Facilities.

(a) The Department department is authorized to utilize any facility, including a contract facility, under its jurisdiction to provide community work release programs to inmates.

(b) Inmates participating in the community release programs will be housed in a work release center or contract facility.

(c) When funding is available, the Department department is authorized to enter into written agreements with any city, county, federal agency or authorized private organization for the housing of inmates on community release status in a place of confinement under the jurisdiction of such entity and for the participation of these inmates in community release.

(18)(15) Records Required. The Department department shall keep a record of the following:

(a) through (d) No change.

(19)(16) Forms. The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (h) No change.

(i) DC6-127, Checklist for Transfers to Work Release Centers, effective 4-10-08.

(i)(j) DC6-102, Letter of Notice, effective 9-2-01.

Rulemaking Specific Authority 945.091, 946.002 FS. Law Implemented 945.091, 946.002 FS. History--New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended 3-14-01, 9-2-01, 10-27-03, 3-2-04, 10-28-04, 2-7-05, 2-22-07, 7-17-07, 4-10-08, 9-30-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Redd, Assistant Secretary for Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 4, 2009

**DEPARTMENT OF CORRECTIONS**

RULE NOS.:	RULE TITLES:
33-601.713	Inmate Visiting – Definitions
33-601.714	Inmate Visiting – General
33-601.715	Visiting Application Initiation Process
33-601.716	Visiting Record Management
33-601.717	Visiting Denial
33-601.725	Permissible Items for Visitors
33-601.731	Suspension of Visiting Privileges
33-601.732	Reinstatement of Suspended Visiting Privileges
33-601.733	Visiting – Special Status Inmates
33-601.735	Non-Contact Visiting
33-601.737	Visiting – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to amend Rule 33-601.713, F.A.C., to clarify language and add a definition of “major rule violation” for the purpose of visiting privileges suspension; to amend Rule 33-601.714, F.A.C., to clarify the warden’s authority to deny or terminate a visit; to amend Rule 33-601.715, F.A.C., to correct language referring to the wrong form; to amend Rule 33-601.716, F.A.C., to clarify the circumstances under which an individual may be on the visiting list of more than one non-family inmate; to substantially reword Rule 33-601.717, F.A.C., to clarify the circumstances under which an individual may be denied visiting privileges; to amend Rule 33-601.725, F.A.C., to include a photo ID and a copy of a notarized authorization to supervise a minor as permissible items for visitors to possess; to amend Rule 33-601.731, F.A.C., to clarify the circumstances under which an individual’s visiting

privileges may be suspended and to incorporate by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; to amend Rule 33-601.732, F.A.C., to clarify the procedure for reinstatement of suspended visiting privileges; to amend Rule 33-601.733, F.A.C., to include language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; to amend Rule 33-601.735, F.A.C., to clarify that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and to amend Rule 33-601.737, F.A.C., to clarify form language.

**SUMMARY:** The proposed rules are amended as follows: the language of Rule 33-601.713, F.A.C., is clarified and a definition of “major rule violation” for the purpose of visiting privileges suspension is added; Rule 33-601.714, F.A.C., clarifies the warden’s authority to deny or terminate a visit; Rule 33-601.715, F.A.C., corrects language referring to the wrong form; Rule 33-601.716, F.A.C., clarifies the circumstances under which an individual may be on the visiting list of more than one non-family inmate; Rule 33-601.717, F.A.C., is substantially reworded to clarify the circumstances under which an individual may be denied visiting privileges; Rule 33-601.725, F.A.C., adds a photo ID and a copy of a notarized authorization to supervise a minor to the list of permissible items for visitors to possess; Rule 33-601.731, F.A.C., clarifies the circumstances under which an individual’s visiting privileges may be suspended and incorporates by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; Rule 33-601.732, F.A.C., clarifies the procedure for reinstatement of suspended visiting privileges; Rule 33-601.733, F.A.C., adds language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; Rule 33-601.735, F.A.C., clarifies that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and Rule 33-601.737, F.A.C., clarifies language on Forms DC6-111B and DC6-111D.

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

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

**RULEMAKING AUTHORITY:** 944.09, 944.23 FS.

**LAW IMPLEMENTED:** 20.315, 944.09, 944.23, 944.47, 944.8031 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.713 Inmate Visiting – Definitions.

(1) No change.

(2) “Automated Visiting Record (AVR)” refers to a computer subsystem of the Department’s electronic offender database ~~Offender Based Information System (OBIS)~~ that automates visitor facility entry and exit and records visiting information.

(3) “Emancipated Minor” refers to a visitor seventeen years of age or younger who furnishes written proof of emancipation and attaches a copy to ~~the Request for Visiting Privileges~~, Form DC6-111A, Request for Visiting Privileges. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(4) No change.

(5) “Immediate Family” for the purposes of Rules 33-601.713 through 33-601.737, F.A.C., refers to an inmate’s spouse, children, parents, brothers, sisters, grandparents, great-grandparents, grandchildren, step-brothers, step-sisters, step-parents, step-grandparents, aunts, uncles, nieces, nephews, foster parents, step-children, half brothers, half sisters, brothers-in-law, sisters-in-law, mothers-in-law, fathers-in-law, and sons and daughters-in-law.

(6) through (7) No change.

(8) “Suspension” refers to the withdrawal or voiding suspension of visiting privileges for a specified period of time for an inmate or visitor.

(9) through (12) No change.

(13) “Special Status Inmate” refers to an inmate who is not in the general population but is in a special classification status as outlined in Rule 33-601.733, F.A.C., who that shall be prohibited or restricted from ~~prohibit or restrict~~ visiting based upon the status.

(14) No change.

(15) “Indefinite Suspension” ~~“Revoked”~~ refers to the withdrawal withdrawing or voiding of visiting privileges of a visitor for an unspecified period of time.

(16) No change.

(17) “Major Rule Violation” for the purpose of Rules 33-601.713 through 33-601.737, F.A.C., refers to any assault, battery, or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting, attempting to incite, or participating in any riot, strike,

mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives, or escape paraphernalia; and any escape or escape attempt.

(18) Lewd or Lascivious Exhibition – An inmate commits a lewd or lascivious exhibition when the inmate:

(a) Intentionally masturbates;

(b) Intentionally exposes the genitals without authorization; or

(c) Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a staff member or volunteer.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03, 3-7-04, 12-6-04,\_\_\_\_\_.

33-601.714 Inmate Visiting – General.

(1) through (2) No change.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit pursuant to Rule 33-601.729, F.A.C if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and may shall subject the visitor to revocation or suspension of visiting privileges by the warden or designee and the inmate to disciplinary action.

(4) Posting of Policies.

(a) No change.

(b) The warden or designee shall display the visiting rules, procedures, and any technical instructions that do not impede the maintenance of the security of the institution in a manner that allows visitors to read them before they begin the institutional visiting entry process.

(5) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03,\_\_\_\_\_.

33-601.715 Visiting Application Initiation Process.

(1) No change.

(2) The inmate shall be given up to fifteen copies of Form DC6-111A, the Request for Visiting Privileges, ~~Form DC6-111A~~, and Form DC6-111B, Visitor Information Summary, ~~Form DC6-111B~~, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are incorporated by reference in Rule 33-601.737, F.A.C. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit Form DC6-111A, a Request for Visiting Privileges, ~~DC6-111B~~, until they reach 12 years of age.

(a) Only visitors who have not been denied ~~approved~~ pursuant to Rule 33-601.717 ~~33-601.718~~, F.A.C., shall be allowed to visit.

(b) The prospective visitor shall be required to complete a Form DC6-111A, Request for Visiting Privileges, by filling in each line or inserting “NA” (not applicable) where appropriate.

(3) through (4) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03,\_\_\_\_\_.

33-601.716 Visiting Record Management.

(1) The Bureau of Classification and Central Records shall develop and maintain computerized inmate – visiting records.

(2) Department staff shall document all requests for visits, ~~and~~ decisions made with regard to visiting, and pertinent comments on the automated visiting record.

(3) No change.

(4) Inmates shall be permitted to remove or request to add visitors to their inmate visiting records by completing Form DC6-111C, a Remove/Add Visitor Request, ~~Form DC6-111C~~, provided by institutional classification staff. Form DC6-111C is incorporated by reference in Rule 33-601.737, F.A.C. Additions to the visiting record shall be allowed at any time, up to the limit of fifteen approved visitors. Removals shall only be permitted every six months. Visitors whose visiting privileges are suspended ~~or revoked~~ shall not be removed from an inmate’s approved visiting list, ~~while in the respective status~~ and the inmate shall not be allowed to replace the visitor with another approved visitor.

(5) No change.

(6) A visitor shall ~~not~~ be permitted to be on the more than one inmate’s approved visiting record of all inmates who are unless they are immediate family as well as one non-family inmate members except as provided in subsection (7) ~~33-601.716(7)~~, F.A.C.

(7) A visitor who is approved as ~~immediate~~ family on an inmate’s visiting record shall not be considered for visitation with a non-~~immediate~~ family ~~member~~ inmate if both inmates are housed at the same institution unless:

(a) The ~~immediate~~ family member inmate is transferred to another institution or is released from incarceration.

(b) The visitor is already approved to visit a non-~~immediate~~ family inmate prior to the immediate family member inmate being received at the same institution. Visitation shall be allowed, but not on the same day.

(c) The visitor is already approved to visit a non-~~immediate~~ family ~~member~~ inmate prior to being transferred to the same institution housing ~~a an immediate~~ family member inmate. Visitation shall be allowed, but not on the same day.

(8) An approved visitor who is on the visiting list of two or more ~~immediate~~ family ~~member~~ inmates who are at the same institution may visit the inmates at the same time.

(9) A visitor approved to visit as a non-~~immediate~~ family ~~inmate~~ ~~member~~ shall not be removed from the visiting list of the inmate for purposes of visiting another non-~~immediate~~ family ~~member~~ inmate at the same institution.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 9-29-03,\_\_\_\_\_.

(Substantial Rewording of Rule 33-601.717 follows. See Florida Administrative Code for present text.)

### 33-601.717 Visiting Denial.

(1) Visitors shall not be denied visiting because of disability, race, creed, color, or national origin of the inmate or visitor. Visits shall not be denied based on the ideas or opinions held or expressed by the inmate or visitor or for any reason unrelated to security, good order, or rehabilitative objectives of the institution.

#### (2) Initial Denial of Visiting Privileges.

(a) In approving or disapproving visiting privileges, the assigned institutional classification officer shall review Form DC6-111A, Request for Visiting Privileges, and shall consider all factors related to the security, order, and effective management of the institution. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(b) Prior criminal records shall not automatically result in disapproval of visiting; the nature, extent, and recentness of criminal convictions and adjudications withheld as well as the applicant's relationship to the inmate shall be considered when approving or disapproving an application for visiting privileges. The assigned institutional classification officer shall evaluate an applicant's criminal history and visiting background using Form DC6-111D, Visitor Screening Matrix. Form DC6-111D is incorporated by reference in Rule 33-601.737, F.A.C. An application shall be denied if applicant's criminal history includes:

1. Release from incarceration in any jurisdiction for a felony conviction within the last two years unless the applicant was incarcerated at any time in the facility in which visitation is requested;

2. Release from incarceration for a felony conviction within the last five years if the applicant was incarcerated at any time in the facility in which visitation is requested. If an inmate transfer results in visitation in a facility in which an approved visitor was previously incarcerated and released within the last five years, the warden shall, on a case by case basis, determine if the approved visitor shall be allowed to visit. Factors to be considered shall include, but are not limited to, the visitor's adjustment during incarceration, the relationship of the inmate to the visitor, institutional security, and public safety;

3. Release from incarceration in any jurisdiction for a misdemeanor conviction within the last year;

4. Current community supervision status or termination from community supervision in any jurisdiction within the past year; and

5. The disposition of arrests. If the disposition of an arrest is not reflected, the disposition shall be ascertained prior to approval of the application. If additional documentation of the charge is necessary, the prospective visitor shall be responsible for providing official documentation of the disposition or circumstances of the offense in question.

(c) An application for visiting privileges shall be denied if the applicant:

1. Has possessed, introduced, or attempted to introduce contraband as defined in Section 944.47, F.S., into any facility;

2. Has committed serious or repeated violations of departmental rules or procedures during a previous visit within the past five years;

3. Is a former department employee, contract employee, or volunteer with a documented work history that raises security concerns;

4. Is a victim of an inmate's current or prior offense with consideration of the nature of the inmate's offense, the extent of the victimization, and the relationship of the victim to the inmate;

5. Is a co-defendant of the inmate in a current or prior offense;

6. Provided testimony, documentation, or physical evidence that assisted the prosecution in the inmate's conviction or incarceration;

7. Has an active protection order or injunction against the inmate to be visited or the inmate has an active protection order or injunction against the prospective visitor;

8. Is an illegal alien;

9. Is a department volunteer or intern at the institution in which visitation is requested or was a volunteer or intern at the institution at any time in the previous five years; or

10. Escaped, attempted to escape, or assisted or attempted to assist an escape or escape attempt from any facility. If visitation is denied based on this paragraph, the denial shall be permanent.

(d) Visiting privileges shall be denied if the inmate or the prospective visitor gave false or misleading information to obtain visiting privileges within the past six months, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error. Discovery of intentional falsification of visitor information after the visitor has been approved for visitation shall result in the visitor being considered for suspension of visiting privileges pursuant to Rule 33-601.731, F.A.C.

(e) In approving or denying an application for visiting privileges, the institutional classification officer shall consider all other factors related to the security, order, or effective management of the institution.

(f) The Secretary or designee, who for the purpose of this rule shall be the Assistant Secretary of Institutions, has the authority to review and modify the classification officer's approval or denial of visiting privileges.

(3) Denial of Visitation after Initial Approval of Visiting Privileges.

(a) Visiting shall be denied during a declared emergency.

(b) Upon review of Form DC6-111A, the institutional classification officer may deny visiting for individuals approved to visit who subsequently become subject to denial pursuant to any of the criteria set forth in subsection (2) of this rule prior to any official suspension pursuant to Rule 33-601.731, F.A.C.

Rulemaking Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, 6-15-06, 1-7-07, \_\_\_\_\_.

Editorial Note: Formerly 33-601.706 and 33-601.707, F.A.C.

33-601.725 Permissible Items for Visitors

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items shall be removed by the visitor at the end of the visit. Authorized items include:

(a) through (d) No change.

(e) One (1) photographic identification card.

(f)(e) Prescription medications. The department reserves the right to prohibit individuals from bringing any medication into the facility that may pose a threat to the inmate population or institutional security. Visitor requiring medical injections must leave such items secured in their vehicles and will be allowed to depart the visiting area if an injection is required. Reentry into the visiting area shall be allowed in accordance with Rule 33-601.723 subsection 33-601.723(6), F.A.C. The visitor shall not be allowed to bring needles or syringes into any department facility or dispose of them on the grounds of any department institution or facility under any circumstances.

1. through 3. No change.

(g)(f) Feminine hygiene items enclosed in the original individual wrapping may be carried into the visiting park in a small pouch or bag.

(h)(g) Hairbrush and comb.

(i) If applicable, one (1) copy of a notarized authorization to supervise a minor.

(j)(h) Visitors with authorized infants and small children shall be allowed to bring in:

1. through 4. No change.

(k)(i) Sunglasses.

(l)(j) Small unopened package of facial tissues in clear plastic.

(2) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 7-1-03, 12-30-03, 11-25-04, 3-29-07, 10-8-07, \_\_\_\_\_.

33-601.731 ~~Revocation or~~ Suspension of Visiting Privileges.

(1) Suspension of Inmate Visiting Privileges.

(a)(1) Suspension, including indefinite suspension, of an inmate's visiting privileges shall be considered by the ICT as a management tool independent of any disciplinary action taken pursuant to Rules 33-601.301 through 33-601.314, F.A.C.

(b)(2) Indefinite suspension of an inmate's visiting privileges shall be considered by the ICT Institutional Classification Team (ICT) as a management tool only when an inmate is found guilty of the following offenses:

1. Any major rule violation as defined in Rule 33-601.713, F.A.C.

(a) Possessing any firearms, dangerous weapons, explosives or explosive devices;

(b) Criminal activity, serious rule violations, repeated visiting rule or procedure infractions or security breach. A serious rule violation is a violation that subjects the violator to suspension of privileges for a minimum of two years or to revocation of visiting privileges;

2.(e) Possessing or using: a cellular telephone or other portable communication device as defined in Section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under the statute.

(c)(3) An inmate shall be subject to suspension of visiting privileges for up to two years by the ICT as a management tool when the inmate is found guilty of the following disciplinary offenses: in paragraphs (a) through (d) below. In determining the length of suspension, the ICT shall consider the extent of the sexual misconduct, the amount and type of drugs, the amount of money, the type of article or instrument, the inmate's prior disciplinary history, and the inmate's prior visiting record.

1.(a) Committing or engaging in sexual misconduct (i.e., nudity, sexual acts with or without others, willful exposure of private body parts, or soliciting sexual acts from others).

2.(b) Possessing or passing money.

3.(e) Possessing or using drugs.

4. Possessing or using intoxicating beverages.

5. Refusing to participate in a mandatory program or being removed from a mandatory program due to negative behavior.

6. Possessing a recording device.

7. Violation of visiting rules.

~~(d) Possessing any article or instrument that aids in escape or attempted escape.~~

~~(4) An inmate shall be subject to suspension of visiting privileges for three months for a first offense, six months for a second offense and two years for a third or subsequent offense, by the ICT as a management tool when an inmate is found guilty of possessing any of the following contraband or illegal items:~~

~~(a) Intoxicating beverages;~~

~~(b) Recording devices.~~

~~(5) An inmate shall be subject to suspension of visiting privileges for three months by the ICT as a management tool when an inmate is rated "unsatisfactory" for the work or program performance rating, including part-time assignment or security assessment. Such three month suspension shall begin with the month the rating was entered and run consecutively for each unsatisfactory rating.~~

~~(6) Inmates shall be suspended from receiving visits for three months beginning with the next visiting period for refusing to participate or being removed from a mandatory program due to negative behavior.~~

~~(7) The ICT shall consider suspending the inmate's visiting privileges for each subsequent offense described in subsections 33-601.731(1) through (5), F.A.C.~~

(d) The ICT shall suspend the visiting privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found guilty, the ICT shall consider indefinite suspension of the inmate's visiting privileges pursuant to paragraph (1)(b) of this Rule. If the inmate is not found guilty, the ICT shall immediately reinstate the inmate's visiting privileges.

(e) If an inmate is found guilty of an offense listed in paragraph (1)(c), the ICT shall suspend the inmate's visiting privileges for the length of time specified on Form NI1-102, Visiting Privileges Suspension Matrix. Form NI1-102 is hereby incorporated by reference. A copy of any of is available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If an inmate's visiting privileges are suspended pursuant to this Rule and the inmate receives a subsequent guilty finding for one of the offenses listed in paragraph (1)(c), the inmate is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of a guilty finding for the same offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of

suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

~~(e)(8) In lieu of suspending an inmate's visiting privileges, the ICT is authorized to consider placement of an inmate in non-contact visitation status as provided in Rule 33-601.735 paragraph 33-601.735(2)(e), F.A.C., for offenses listed in paragraph (1)(c) subsections 33-601.731(1) through (6), F.A.C.~~

~~(2)(9) Suspension of Visitor's Visiting Privileges.~~

~~(a) A visitor's visiting privileges shall be indefinitely suspended revoked by the warden or designee when the visitor:~~

~~1. through 2. No change.~~

~~3. Assists, facilitates, aids or abets an inmate to escape or attempt to escape or is found in possession of or passing or attempting to pass to an inmate any item or instrument that is capable of being used to aid in effecting or attempting an escape. Local law enforcement shall be called in this instance.~~

~~a. All visiting privileges of the escapee shall be suspended upon his or her return to department's custody.~~

~~b. Visiting privileges shall be suspended pending completion of the Inspector General's investigation if an attempted escape is alleged.~~

~~4. through 7. No change.~~

~~(b) A visitor's visiting Visiting privileges shall be suspended by the warden or designee for up to two years when the visitor:~~

~~1. Attempts to pass or passes money to an inmate,;~~

~~2. Is intoxicated or has consumed intoxicating beverages or is found in possession of intoxicating beverages on the grounds of any department facility, or is found passing or attempting to pass such items to an inmate,;~~

~~3. Violates visitor conduct standards in Rule subsection 33-601.727(1)(i) through (k), F.A.C.~~

~~4. Commits criminal activity, serious rule violations or infractions or any security breach.~~

~~5. Falsifies As a former employee, contract employee, or vendor falsifies information to obtain visiting privileges, including falsification of guardianship documents, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertant or good faith mistake, omission, or clerical error.~~

(c) If a visitor is found guilty of an offense listed in paragraph (2)(b), the warden or designee shall suspend the visitor's visiting privileges for the period of time specified on Form NI1-102, Visiting Privileges Suspension Matrix. If a

visitor's visiting privileges are suspended pursuant to this Rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NI1-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense. ~~Visitors found in violation of paragraph 33-601.717(5)(f), F.A.C. — falsifying information to obtain visiting privileges, subsections 33-601.723(3) and (5), F.A.C., falsifying information at visitor registration and falsifying documents of guardianship, subsection 33-601.724(2), F.A.C. — visitor attire, Rule 33-601.726, F.A.C. — visitor searches, or visitor conduct standards as outlined in paragraphs 33-601.727(1)(a) through (h), F.A.C., shall have visiting privileges suspended by the warden or designee supervisor for up to one year.~~

~~(3)(4)~~ The warden or designee shall have the discretion to impose a length of suspension less than the maximum allowed by rule by considering the type of violation, the impact of the violation on the overall security or safety of the institution, and prior visits without incident.

(4) Temporary suspensions. The Inspector General's Office is authorized to temporarily suspend the visiting privileges of an approved visitor who is involved in or is the subject of an ongoing investigation pending the outcome of the investigation.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, 10-4-07, 1-8-09, \_\_\_\_\_.

Editorial Note: Formerly 33-601.707 and 33-601.708, F.A.C.

33-601.732 Reinstatement of ~~Revoked or~~ Suspended Visiting Privileges.

(1) Reinstatement of Inmate Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of an inmate's suspended visiting privileges. The inmate shall submit a written request for reinstatement to the warden on Form DC6-236, Inmate Request. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(a) Reinstatement of indefinitely suspended privileges ~~suspended for more than two years~~ shall only be considered after two years from imposition of the indefinite suspension.

1. The warden or designee shall review the request, render a final decision and notify the inmate concerned.

2. Should the inmate be denied reinstatement, the inmate may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered for reinstatement for a period of one year from the imposition of the most recent suspension. Should the inmate be denied, the inmate may not make another request for six months ~~from the last decision requesting reinstatement~~.

~~(c) Early reinstatement of suspensions of one year or less shall not be considered for reinstatement until at least six months from the date of suspension. Should the inmate be denied reinstatement, the inmate may not make another request.~~

(2) Reinstatement of Visitor Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of a visitor's ~~revoked or~~ suspended visiting privileges ~~privilege~~. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the assigned institutional classification officer. The visitor for whom the reinstatement is being considered shall submit Form DC6-111A, a Request for Visiting Privileges, ~~Form DC6-111A~~, if the suspension has been for longer than six months. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(a) Reinstatement of indefinitely suspended ~~revoked~~ privileges shall only be considered after two years from imposition of the indefinite suspension.

1. No change.

2. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered for reinstatement for a period of one year from the imposition of the most recent suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~from the last decision requesting reinstatement~~.

~~(c) Early reinstatement of suspensions of one year and under shall not be considered for reinstatement until at least six months from the date of suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request.~~

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, \_\_\_\_\_.



33-601.733 Visiting – Special Status Inmates.

(1) Inmates in special statuses, except for medical reasons, are not considered inmates with regular visiting privileges and must have special approval to visit. Inmates in special statuses shall be prohibited or restricted from regular visiting due to adverse impacts on security and orderly institutional operation.

(a) No change.

(b) Inmates in administrative confinement, protective management, or disciplinary confinement status shall have visiting privileges as outlined in Rules 33-602.220, 33-602.221, and 33-602.222, F.A.C., respectively. The warden or designee shall determine whether an approved visit for inmates in one of the above statuses will be non-contact pursuant to Rule 33-601.735, F.A.C. In disciplinary confinement, administrative confinement, or protective management status, inmates shall have visiting privileges as outlined in Rules 33-602.222, 33-602.220, and 33-602.221. Rule 33-601.734, F.A.C.

(c) through (2) No change.

(3) Visitation for inmates in prolonged hospitalization or with serious medical conditions or terminal illnesses shall be allowed visits unless security or medical issues as determined by the warden and chief health officer preclude visitation. A decision shall be made on a case-by-case basis. If visitation is authorized, the warden, in consultation with the chief health officer, shall determine the visitation schedule and shall inform at least three members of the inmate’s immediate family. The regional director shall be informed in high notoriety cases before allowing visiting.

(4) through (6) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 12-25-08, \_\_\_\_\_.

Editorial Note: Formerly 33-601.704, F.A.C.

33-601.735 Non-Contact Visiting.

(1) through (4) No change.

(5) For inmates in Administrative Confinement, Protective Management, or Disciplinary Confinement, the warden or designee shall determine whether a pre-approved visit will be contact or non-contact based on one or all of the criteria set forth in subsection (2).

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, \_\_\_\_\_.

33-601.737 Visiting – Forms.

The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(1) through (3) No change.

(4) DC6-111B, Visitor Information Summary, effective 8-23-07.

(5) DC6-111C, Remove/Add Visitor Request, effective 11-18-01.

(6) DC6-111D, Visitor Screening Matrix, effective 8-23-07.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 4-29-02, 9-29-03, 3-31-05, 7-17-05, 3-21-06, 3-29-07, 8-23-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wendell Whitehurst, Assistant Secretary for Institutions  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.718  
 RULE TITLE: Review of Request for Visiting Privileges

PURPOSE AND EFFECT: The purpose and effect is to repeal the rule.

SUMMARY: Rule 33-601.718, F.A.C., will be repealed, as the subject matter in the rule is being moved to other rules within Chapter 33-601, F.A.C.

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

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

RULEMAKING AUTHORITY: 944.09, 944.23 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.718 Review of Request for Visiting Privileges.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 9-29-03, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John Hancock, Deputy Assistant Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 13, 2009

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.734  
RULE TITLE: Visiting – Disciplinary Confinement, Protective Management, and Administrative Confinement Inmates

PURPOSE AND EFFECT: The purpose and effect is to repeal the rule.

SUMMARY: Rule 33-601.734, F.A.C., will be repealed as language in the rule is moved to Rules 33-602.220, 33-602.221, 33-602.222, F.A.C.

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

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

RULEMAKING AUTHORITY: 944.09, 944.23 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23, 944.8031 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.734 Visiting – Disciplinary Confinement, Protective Management, and Administrative Confinement Inmates.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE:  
George Sapp, Deputy Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 13, 2009

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NOS.:	RULE TITLES:
59A-4.103	Licensure, Administration and Fiscal Management
59A-4.106	Facility Policies
59A-4.107	Physician Services
59A-4.1075	Medical Director
59A-4.108	Nursing Services
59A-4.109	Resident Assessment and Care Plan
59A-4.110	Dietary Services
59A-4.112	Pharmacy Services
59A-4.118	Medical Records
59A-4.122	Physical Environment and Physical Plant Maintenance
59A-4.123	Risk Management and Quality Assurance
59A-4.1235	Liability Claims
59A-4.126	Disaster Preparedness
59A-4.128	Evaluation of Nursing Homes and Licensure Status
59A-4.1285	Respite Care
59A-4.1288	Exception
59A-4.1295	Additional Standards for Homes That Admit Children 0 Through 20 Years of Age
59A-4.130	Fire Protection, Life Safety, Systems Failure and External Emergency Communications
59A-4.133	Physical Plant Codes and Standards for Nursing Homes
59A-4.134	Plans Submission and Fee Requirements
59A-4.150	Geriatric Outpatient Nurse Clinic
59A-4.165	Nursing Home Guide
59A-4.166	Nursing Home Consumer Satisfaction Survey

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate changes in the authorizing statute and revise technical errors and update references.

SUMMARY: The Agency proposes to amend Rule 59A-4.103, F.A.C., to include provisions for initial and change of ownership applications or suspension of a current license when licensure fees are returned to the Agency due to insufficient funds. This section also includes specifications regarding the issuance of partial inactive licenses for alternative uses pursuant to Section 400.0712, Florida Statutes (F.S.). Other changes to this section include the incorporation of modifications to the licensure application, technical changes clarifying the submission process for required reports to the Agency and defining days as “calendar” days. Proposed amendments to Rule 59A-4.106, F.A.C., include providing a web address for obtaining transfer and discharge forms,

deleting a reference to services provided by the Department of Children and Families, presenting criteria for a Do Not Resuscitate Order (DNRO), incorporating references to federal guidelines and providing a specific address to obtain copies of "Health Care Advance Directives." Rule 59A-4.108, F.A.C., updates statutory references for facility staffing in accordance with state law, and establishes requirements for requesting the use of licensed nurses to perform licensed nursing and certified nursing assistant duties.

Proposed amendments to Rule 59A-4.110, F.A.C., include a technical change to the position title of director of food service and replace the outdated references to the Dietary Managers training and certification process. Amendments to Rule 59A-4.112, F.A.C., include technical changes for the terminology of the Emergency Drug Kit. A proposed amendment to Rule 59A-4.122, F.A.C., includes details for the placement of a resident's bed and further defines the requirement for a closet and comfortable room temperatures. Changes to Rule 59A-4.123, F.A.C., incorporate revisions to the 1-day Adverse Incident Reporting Form, provide for electronic submission of this form and clarify when events reported to law enforcement are considered adverse incidents.

Rule 59A-4.1235, F.A.C., is amended to incorporate revisions to the Liability Claims form and provides for the electronic submission of this form. A proposed amendment to Rule 59A-4.126, F.A.C., provides language regarding the submission of the emergency management plan, testing of this plan, and procedures and notifications for evacuation, overcapacity and re-occupancy of the nursing home structure during a disaster. An amendment to Rule 59A-4.128, F.A.C., removes the measurement of deficiencies in terms of scope and severity for state licensure. The establishment of Rule 59A-4.1285, F.A.C., provides requirements for developing and implementing a respite care program for nursing home licensees that choose to provide such a service. A proposed change to Rule 59A-4.1288, F.A.C., incorporates reference to federal regulations established since 1991. Amendments to Rule 59A-4.1295, F.A.C., include technical changes, clarification of requirements for the approval to initiate, expand or suspend pediatric services, repeal staffing requirements that are in conflict with Ch. 400, F.S., and provides reference to the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 and removal of language as required by statutory changes. Proposed amendments to Rule 59A-4.130, F.A.C., provide revised language to conform to code edition changes and retain language not included in the Florida Building Code. A proposed amendment to Rule 59A-4.133, F.A.C., provides language to reference the Florida Building Code to conform to statutory changes, and deletes all other requirements. Proposed new Rule 59A-4.134, F.A.C., revises the requirements for construction plans submission to conform to codes and statutory changes. Amendments to Rule 59A-4.150, F.A.C., delete or correct several recurring or obsolete definitions and

references throughout the section. Proposed changes to Rule 59A-4.165, F.A.C., replace the reference to a 45-month reporting period in the Nursing Home Guide with language that cites the time period defined in Section 400.191, F.S. Rule 59A-4.166, F.A.C., regarding the Nursing Home Consumer Satisfaction Survey is abolished due to repeal of the statutory authority. Other revisions are made throughout the Chapter to correct technical errors and update references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been 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: 400.23 FS.

LAW IMPLEMENTED: 400.011, 400.022, 400.141, 400.142, 400.23 FS.

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

DATE AND TIME: Friday, September 24, 2010, 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terrosa Buie, Agency for Health Care Administration, 2727 Mahan Drive, M.S. #33, Tallahassee, FL 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-4.103 Licensure, Administration and Fiscal Management.

(1) The licensee or applicant must ~~prospective licensee shall~~ make application for an initial, renewal or change of ownership license to operate a nursing home facility and must ~~shall~~ provide:

(a) ~~All~~ of the information required by this rule and Chapter 400, Part II, F.S. and Part II of Chapter 408, on AHCA Form 3110-6001, July 2009, "Health Care Licensing Application – Nursing Homes" incorporated by reference. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308 or at the web address: <http://ahca.myflorida.com/>. ~~January 2002, "Application for Nursing Home Licensure." and AHCA Form 3001-6001, January 2002, Instructions for Completing Application for Nursing Home Licensure, which is incorporated by reference; and AHCA Forms 3110-0011, 3110-0011A, 3110-0011B, and 3110-0011C, and 3110-0011D, August 2001, "Controlling Interest Affidavit for Nursing Homes," which are incorporated by reference; and~~

(b) AHCA Form 3100-0009, October 2009 4332-0001, January 2002, "Proof of Financial Ability to Operate Schedule," which is incorporated by reference, available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(2) The licensure fee must shall be included with the application. A biennial An annual fee of \$100 is \$50 per bed is required as described in Section 400.062(3), Florida Statutes (F.S.), plus the resident protection fee of \$.50 \$-.25 per bed and the Data Collection and Analysis Assessment of \$12.00 \$6.00 per bed as authorized by Section 408.20(1)(b), F.S., Assessments; Health Care Trust Fund Costs of Nursing Home Statistical Unit, March 9, 1994. The Data Collection and Analysis Assessment is waived for facilities having a certificate of authority under Cehapter 651, F.S. A license for an initial or change of ownership application will be denied if the check for the application fee is dishonored. If a check for the renewal licensure fee is dishonored and returned to the Agency, the licensee will have ten business days to pay the full amount plus any applicable fees as provided by law. This payment must be received in the form of a money order or cashier's check. In the event that the fees are not paid the license may be subject to suspension.

(3) Single copies of AHCA forms incorporated by reference within this chapter may be obtained from the Agency for Health Care Administration, Long Term Care Section, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or web address: <http://ahca.myflorida.com/>. Information regarding the electronic submission of reports to the Agency may be found at: <http://ahca.myflorida.com/reporting/index.shtml>.

(4) A nursing home licensee may request an inactive license for part of a facility as specified in Section 400.0712, F.S., to use an unoccupied contiguous portion of the facility for an alternative use to meet the needs of elderly persons. Prior to providing alternative services, the facility must submit a written request to the Agency. A request may be submitted at any time during the licensure period and must include the intended use of the inactive portion; a schematic drawing of the floor plan of the building identifying the inactive area; the total number of inactive beds and the prospective date the beds will become inactive.

(a) Upon receipt of written approval by the Agency to continue with the plan for the partial inactive license, the licensee must submit to the Agency AHCA Form 3110-6001, July 2009, "Health Care Licensing Application – Nursing Homes" within 60 days of the approval and a bed change request form for beds certified through the Centers for Medicare and Medicaid Services. The appropriate licensure application for the alternative use must accompany this application, unless the space will be utilized for services authorized under the existing nursing home license.

(b) If the alternative service license is approved, a partial inactive license will be issued concurrently with the issuance of the license for the alternative use. The expiration date of the partial inactive license will coincide with the licensee's nursing home renewal. The licensee must indicate the intent to continue the partial inactive license at each nursing home licensure renewal. Licensure fees will remain at the standard rate for nursing home beds, whether active or inactive, at the time of renewal and will not be assessed for another Agency license requested for the alternative use of the inactive beds.

(c) Notification to reactivate the inactive portion of the building must be submitted to the Agency at least 30 days prior to the planned date to admit residents to the previously inactive beds. The inactive portion will be reactivated upon agency approval.

(5)(4) Administration.

(a) The nursing home licensee shall have full legal authority and responsibility for the operation of the facility.

(b) The licensee of each facility must shall designate one person, who is licensed by the Department of Health Agency for Health Care Administration, Board of Nursing Home Administrators under Cehapter 468, Part II, F.S., as administrator who oversees the day-to-day administration and operation of the facility.

(c) Each nursing home must shall be organized according to a written Table of Organization.

(d) The licensee shall submit a monthly vacant bed report which is incorporated by reference by using AHCA Form 3110-0013, January 2002 October 2008, "Nursing Home Monthly Bed Vacancy Report," as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: http://ahca.myflorida.com/.

(d)(e) Each nursing home licensee must submit to the Agency each quarter, no later than the 15th of the month following the end of the quarter, the Submit Nursing Home Staffing Report which is incorporated by reference as by using AHCA Form 3110-0012, October 2008, "Nursing Home Staffing Report" as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: http://ahca.myflorida.com/.

(e) Information required in subsections (d) may be submitted electronically to the Agency at: [ahca.myflorida.com/reporting/index.shtml](http://ahca.myflorida.com/reporting/index.shtml).

(6)(5) Fiscal Management.

(a) The licensee must shall maintain fiscal records for each nursing home it operates in accordance with the requirements of Cehapter 400, Part II, F.S., and this rule these Rules.

(b) An accrual or cash system of accounting ~~must shall~~ be used to reflect transactions of the business. Records and accounts of transactions, such as general ledgers and disbursement journals, ~~must shall~~ be brought current no less than quarterly and ~~must shall~~ be available for review by authorized representatives of appropriate ~~s~~State and ~~f~~Federal agencies.

(c) A licensee ~~must shall~~ obtain a surety bond as required by ~~C~~chapter 400, Part II, F.S. It ~~must shall~~ be based on twice the average monthly balance in the resident trust fund during the prior fiscal year or \$5,000, whichever is greater. A licensee who owns more than one nursing home may purchase a single surety bond to cover the residents' funds held in nursing homes located within the same Agency geographic region as defined in the AHCA "Nursing Home Guide Performance Measures Algorithm" dated July 2000, which is incorporated by reference. AHCA service district. A surety bond ~~must shall~~ contain substantially the same language as is found in AHCA Form 3110-6002, May 2008 July 2004, Nursing Home Patient Trust Surety Bond, which is incorporated by reference, may be obtained from the Agency or online at: <http://ahca.myflorida.com/>. The surety bond, ~~AHCA 3110-6002, July 2004, must may be obtained from and shall~~ be filed with the Agency for Health Care Administration, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(d) A self-insurance pool, which may be an interest bearing account, may be established to provide compensation to any resident suffering financial loss in accordance with the provisions of Section 400.162(5)(c), F.S., as the result of one or more of the member licensees violating any of the provisions of Section 400.162, F.S.

1. Such self-insurance pool ~~must shall~~ be administered under the direction of an elected board of trustees. The membership of the board of trustees ~~must shall~~ be composed of one representative from each participating licensee.

2. An application for establishing a self-insurance pool ~~must shall~~ be made by the trustees to the Agency AHCA. Such application ~~must shall~~ contain the following information: the names, complete addresses, and affiliation of the trustees; the name and complete address of each licensee participating in the pool; the total dollar amount of the pool; and the name and complete address of the bank in which the account is maintained, including the account number. The application ~~must shall~~ be accompanied by:

a. An individual application from each licensee applying for membership in the self-insurance pool. Such application ~~must shall~~ contain the following information: the name, telephone number, and complete address of the facility; the name, telephone number, and complete address of the licensee; the name of the facility's administrator, manager or supervisor; his or her license and renewal number; the names of all employees involved in the administration of the resident trust fund account; the average monthly balance in the resident trust

fund account during the prior year; the total dollar amount the licensee has deposited in the self-insurance pool; and the name and complete address of the bank in which the account is maintained, including the account number.

b. Prima facie evidence showing that each individual member of the pool has deposited an amount equal to twice the average monthly balance of the trust fund account or \$5,000.00 dollars, whichever is greater, in a separate account maintained by the board of trustees in the name of the self-insurance pool in a ~~chartered commercial~~ bank authorized under Chapter 658, F.S., that is a member of the Federal Reserve System, in the State of Florida to secure performance of payment of all lawful awards made against any member or members of the self-insurance pool, Section 400.162(5), F.S., and this rule these Rules.

3. After the inception date of the pool, prospective new members of the pool ~~must shall~~ submit an application for membership to the board of trustees. Such application ~~must shall~~ contain the information specified in subparagraph ~~(5)(b)2-~~(6)(d). The trustees may approve the application for membership in accordance with this rule these Rules. If so approved, the application for membership in accordance with this rule must these Rules shall be filed with the Agency AHCA. Participation in a pool by a particular licensee ~~must shall~~ be approved by the Agency if the licensee indicates in its application that it does meet the requirements of Section 400.162(5), F.S., and this rule these Rules and verification is provided to document the financial status indicated on the application.

4. The amount deposited in such an account ~~must shall~~ be maintained at all times.

(e) If, at any time during the period for which a license is issued, a licensee who has not purchased a surety bond or entered into a self-insurance agreement is requested to hold funds in trust as provided in Section 400.162(5), F.S., the licensee ~~must shall~~ notify the Agency AHCA in writing of the ~~request~~ and make application for a surety bond or for participation in a self-insurance agreement within seven business days of the request, ~~exclusive of weekends and holidays.~~ Copies of the application, along with written documentation of related correspondence with an insurance agency or group ~~must shall~~ be maintained and ~~must shall~~ be available for review. All notices required by this ~~R~~rule provision ~~must shall~~ be sent to the Agency for Health Care Administration AHCA, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

Rulemaking Specific Authority 400.062, 400.23 FS. Law Implemented 400.022, 400.062, 400.071, 400.0712074, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.147, 400.151, 400.162, 400.179, 400.18, 400.20, 400.232, 408.20 FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, 1-1-86, 11-12-89, 12-25-90, 10-6-91, Formerly 10D-29.103, Amended 4-18-94, 2-6-97, 5-5-02,\_\_\_\_\_.

## 59A-4.106 Facility Policies.

(1) Admission, retention, transfer, and discharge policies:

(a) Upon request and in a language the resident or his/~~her~~ ~~or her~~ representative understands, at the time of admission and as changes are being made, each resident ~~must will~~ receive:

1. A copy of the residents' bill of rights conforming to the requirements in Section 400.022, F.S.;
2. A copy of the facility's admission and discharge policies; and
3. Information regarding advance directives.

(b) Each resident admitted to the facility ~~must shall~~ have a contract in accordance with Section 400.151, F.S., which covers:

1. A list of services and supplies, complete with a list of standard charges, which are available to the resident but not covered by the facility's per diem or by Title XVIII and Title XIX of the Social Security Act, and the bed reservation and refund policies of the facility.

2. When a resident is in a facility offering continuing care and is transferred from independent living or assisted living to the nursing home section, a new contract need not be executed; an addendum ~~must shall~~ be attached to describe any additional services, supplies or costs not included in the most recent contract that is in effect.

(c) No resident who is suffering from a communicable disease shall be admitted or retained unless the medical director or attending physician certifies that adequate or appropriate isolation measures are available to control transmission of the disease.

(d) Residents ~~must may~~ not be retained in the facility ~~if they that~~ require services beyond those for which the facility is licensed or has the functional ability to provide as determined by the medical director and the director of nursing in consultation with the facility administrator.

(e) Residents ~~must shall~~ be assigned to a bedroom area and ~~must shall~~ not be assigned bedroom space in common areas except in an emergency. Emergencies ~~must shall~~ be documented and shall be for a limited, specified period of time.

(f) All resident transfers and discharges ~~must shall~~ be in accordance with the facility's policies and procedures, provisions of Sections 400.022 and 400.0255, F.S., this rule, and other applicable ~~s~~State and ~~f~~Federal laws and will include notices provided to residents which are incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, ~~Revised~~, May 2001, "Nursing Home Transfer and Discharge Notice," and 3120-0003, ~~Revised~~, May 2001, "Fair Hearing Request For Transfer or Discharge From a Nursing Home," and 3120-0004, ~~December 2007 Revised~~, ~~May, 2001~~, "Long-Term Care Ombudsman Council Request for Review of Nursing Home Discharge and Transfer." These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or at the web address: <http://ahca.myflorida.com/>.

~~The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.~~

(2) Each nursing home ~~licensee must facility shall~~ adopt, implement, and maintain written policies and procedures governing all services provided in the facility.

(3) All policies and procedures ~~must shall~~ be reviewed at least annually and revised, as needed with input from, at minimum, the facility administrator, medical director, and director of nursing.

(4) Each ~~licensee must facility shall~~ maintain policies and procedures in the following areas:

- (a) Activities;
  - (b) Advance directives;
  - (c) Consultant services;
  - (d) Death of residents in the facility;
  - (e) Dental services;
  - (f) Staff education, including HIV/AIDS training in accordance with Section 381.0035, F.S.;
  - (g) Diagnostic services;
  - (h) Dietary services;
  - (i) Disaster preparedness;
  - (j) Fire prevention and control;
  - (k) Housekeeping;
  - (l) Infection control;
  - (m) Laundry service;
  - (n) Loss of power, water, air conditioning or heating;
  - (o) Medical director/consultant services;
  - (p) Medical records;
  - (q) Mental health;
  - (r) Nursing services;
  - (s) Pastoral services;
  - (t) Pharmacy services;
  - (u) Podiatry services;
  - (v) Resident care planning;
  - (w) Resident identification;
  - (x) Resident's rights;
  - (y) Safety awareness;
  - (z) Social services;
  - (aa) Specialized rehabilitative and restorative services;
  - (bb) Volunteer services; and
  - (cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy ~~must shall~~ include reporting within the facility and to the Agency AHCA.
- (5) Staff Education.

(a) Each nursing home ~~licensee must shall~~ develop, implement, and maintain a written staff education plan, which ensures a coordinated program for staff education for all

facility employees. The staff education plan must shall be reviewed at least annually by the risk management and quality assurance committee and revised as needed.

(b) The staff education plan must shall include both pre-service and in-service programs.

(c) The staff education plan must shall ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:

1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness program;
4. Resident's rights;

5. Federal law, 42 CFR 483, Requirements for States and Long Term Care Facilities, October 1, 2006, which is incorporated by reference and can be found at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> and State Rules and Regulations, Chapter 400, Part II, F.S., and subsection 59A-4.106(5), F.A.C., effective May 5, 2002; and this rule;

~~6. The Florida "Right to Know" Hazardous Materials, Chapter 442, F.S.;~~

(d) The staff education plan must shall ensure that all ~~non-licensed~~ employees of the nursing home complete an ~~initial~~ educational course on HIV/AIDS in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time they are hired, they must complete the course have two hours within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. ~~All employees shall have a minimum of one hour biennially.~~

(6) Advance Directives.

(a) Each nursing home licensee must shall have written policies and procedures, which delineate the nursing home's position with respect to the state law and rules relative to advance directives. The policies must shall not condition treatment or admission upon whether or not the individual has executed or waived an advance directive. In the event of conflict between the facility's policies and procedures and the individual's advance directive, provision should be made in accordance with Section 765.1105 765.308, F.S.

(b)(7) The facility's policy must shall include:

~~1.(a)~~ Providing each adult individual, at the time of the admission as a resident, with a copy of "Health Care Advance Directives – The Patient's Right to Decide," as prepared by the Agency for Health Care Administration, Florida Center for Health Information and Policy Analysis, April 2006, effective 4-11-93, which is hereby incorporated by reference, or with a copy of some other substantially similar document which is a written description of Florida's state law regarding advance directives. A copy of the "Health Care Advance Directives – The Patient's Right to Decide." may be obtained from the Florida Center for Health Information and Policy Analysis at

2727 Mahan Drive, MS 16, Tallahassee, FL 32308, or electronically at [ahca.myflorida.com/MCHO/Health\\_Facility\\_Regulation/HC\\_Advance\\_Directives/](http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/HC_Advance_Directives/).

~~2.(b)~~ Providing each adult individual, at the time of the admission as a resident, with written information concerning the nursing home's policies respecting advance directives; and

~~3.(e)~~ The requirement that documentation of the existence of an advance directive be contained in the medical record. A nursing home licensee that which is provided with the individual's advance directive must shall make the advance directive or a copy thereof a part of the individual's medical record.

Rulemaking Specific Authority 400.141, 400.141(7), 400.142(3), 400.23, 765.110 FS. Law Implemented 400.022, 400.0255, 400.102, 400.141, 400.141(7), 400.151, 400.23, 765.110 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.106, Amended 4-18-94, 1-10-95, 2-6-97, 5-5-02, \_\_\_\_\_.

59A-4.107 Physician Services.

(1) Each nursing home licensee must facility shall retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.

(2) Each resident or legal representative, must shall be allowed to select his or her own private physician.

(3) Verbal orders, including telephone orders, must shall be immediately recorded, dated, and signed by the person receiving the order. All verbal treatment orders must shall be countersigned by the physician or other health care professional on the next visit to the facility.

(4) Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he visits a facility.

(5) All physician orders must shall be followed as prescribed, and if not followed, the reason must shall be recorded on the resident's medical record during that shift.

(6) Each resident must shall be seen by a physician or another licensed health professional acting within their scope of practice at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required. If a physician documents that a resident does not need to be seen on this schedule and there is no other requirement for physician's services that must be met due to Title XVIII or XIX, the resident's physician may document an alternate visitation schedule.

(7) If the physician chooses to designate another health care professional to fulfill the physician's component of resident care, they may do so after the required visit. All

responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

(8) Each nursing home licensee must maintain facility ~~shall have~~ a list of physicians designated to provide emergency services to residents when the resident's attending physician, or designated alternate is not available.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, ~~400.102~~, 400.141, 400.23, ~~464.012~~ FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.107, Amended 10-5-92, 4-18-94, 1-10-95, \_\_\_\_\_.

#### 59A-4.1075 Medical Director.

(1) Each nursing home licensee must ~~facility will~~ have only one physician who is designated as Medical Director.

(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, F.S., the nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.

(b) A Medical Director who does not have hospital privileges must shall be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations, the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a health Health maintenance organization licensed in Florida.

(c) A physician must have his or her principal office within 60 miles of all facilities for which he/she serves as Medical Director. The pPrincipal office is the office maintained by a physician pursuant to Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/her or her principal office at the time of becoming Medical Director. The Agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

(d) The nursing home licensee must ~~facility shall~~ appoint a Medical Director who must shall visit the facility at least once a month. The Medical Director must shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director must shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of ten nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.

(4) The Medical Director must ~~appointed by the facility shall~~ meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director must ~~appointed by the facility shall~~ participate in the development of the comprehensive care plan for the resident when he/ or she is also the attending physician of the resident.

Rulemaking Specific Authority 400.141 FS. Law Implemented 400.141(2) FS. History--New 8-2-01, Amended \_\_\_\_\_.

#### 59A-4.108 Nursing Services.

(1) The administrator of each nursing home must will designate one full-time registered nurse as a director of nursing (DON) who shall be responsible and accountable for the supervision and administration of the total nursing services program. When a director of nursing is delegated institutional responsibilities, a full-time qualified registered nurse (RN) as defined in Chapter 464, F.S., shall be designated to serve as assistant director of nursing. In a facility with a census of 121 or more residents, a registered nurse ~~an registered nursing~~ must be designated as an assistant director of nursing.

(2) Persons designated as director of nursing or assistant director of nursing must shall serve only one nursing home facility in this capacity, and shall not serve as the administrator of the nursing home facility.

(3) The director of nursing must shall designate one licensed nurse on each shift to be responsible for the delivery of nursing services during that shift.

(4) In addition to the requirements outlined in subsection 400.23(3)(a), F.S., the nursing home licensee must ~~facility shall~~ have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents in order to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. ~~The facility will staff, at a minimum;~~

~~1. An average of 1.7 hours of certified nursing assistant and 6 hours of licensed nursing staff time for each resident during a 24 hour period.~~

(5) In multi-story, multi-wing, or multi-station nursing home facilities, there must shall be a minimum of one nursing services staff person who is capable of providing direct care on duty at all times on each floor, wing, or station.



(6) No nursing services staff person shall be scheduled for more than 16 hours within a 24 hour period, for three consecutive days, except in an emergency. Emergencies must shall be documented and must shall be for a limited, specified period of time.

(7) Upon approval by the Agency, a nursing home licensee may allow a licensed nurse that performs both licensed nurse and certified nursing assistant duties during the same shift to divide the hours of patient care provided between the licensed nurse and certified nursing assistant staffing ratio requirements consistent with services provided as referenced. Approval to utilize licensed nurses to perform certified nursing assistant duties must be requested in writing. This request can be done upon license renewal on AHCA Form #3110-6001, December 2008, "Health Care Licensing Application – Nursing Homes," incorporated by reference in paragraph 59A-4.103(1)(a), F.A.C., or by letter from the facility's administrator. The licensee must document daily the time the licensed nurse performed personal care services to comply with minimum staffing requirements.

Rulemaking Specific Authority ~~400.022~~, 400.23 FS. Law Implemented ~~400.011~~, 400.022, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 8-1-85, 7-1-88, 7-10-91, Formerly 10D-29.108, Amended 4-18-94, \_\_\_\_\_.

#### 59A-4.109 Resident Assessment and Care Plan.

(1) Each resident admitted to the nursing home facility must shall have a plan of care. The plan of care must shall consist of:

(a) Physician's orders, diagnosis, medical history, physical exam and rehabilitative or restorative potential.

(b) A preliminary nursing evaluation with physician's orders for immediate care, completed upon ~~on~~ admission.

(c) A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility and every 12 ~~twelve~~ months, thereafter. The assessment must shall be:

1. Reviewed no less than once every three ~~3~~ months,

2. Reviewed promptly after a significant change in the resident's physical or mental condition,

3. Revised as appropriate to assure the continued accuracy of the assessment.

(2) The nursing home licensee must develop facility is responsible to develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the resident's highest practicable physical, mental and social well-being. The care plan must be completed within seven ~~7~~ days after completion of the resident's assessment.

(3) At the resident's option, every effort must shall be made to include the resident and family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the resident's plan of care.

(4) All staff personnel who provide care, and at the resident's option, private duty nurses or persons who are not non employees of the facility, must shall be knowledgeable of, and have access to, the resident's plan of care.

(5) A summary of the resident's plan of care and a copy of any advanced directives must shall accompany each resident discharged or transferred to another health care facility, licensed under Chapter 400, Part II, F.S., or must shall be forwarded to the receiving facility as soon as possible consistent with good medical practice.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, ~~400.102~~, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, Formerly 10D-29.109, Amended 4-18-94, 1-10-95, \_\_\_\_\_.

(Substantial rewording of Rule 59A-4.110 follows. See Florida Administrative Code for present text.)

#### 59A-4.110 Dietary Services.

(1) The licensee must have a qualified dietitian on staff or through consultation services. A qualified dietitian is one who:

(a) Is a registered dietitian as defined in subsection 468.503(11), F.S. and is currently registered with the American Dietetic Association as found online at <http://www.cdrnet.org/certifications/index.htm>, which is incorporated by reference; or

(b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, in a program accredited by Commission on Accreditation for Dietetics Education (CADE), of the American Dietetic Association as found on [www.eatright.org/cps/rde/xchg/ada/hs.xsl/CADE.html](http://www.eatright.org/cps/rde/xchg/ada/hs.xsl/CADE.html), which is incorporated by reference; has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

(2) The administrator must designate one full-time person as a director of food services. In a facility with a census of 61 or more residents, the duties of the director of food services must not include food preparation or service on a regular basis.

(3) The director of food services must be a qualified dietitian or he/she must meet one of the following requirements set forth in paragraphs 59A-4.110(3)(a) through (d), F.A.C. Effective January 1, 2011, the director of food services must be a qualified dietitian or have successfully completed an associate degree program that meets the education standard established by the American Dietetic Association, or must be a Certified Dietary Manager through the Dietary Managers Association and maintain continuing education as set forth by the certifying board.

(a) Successfully complete a dietetic assistant correspondence or class room training program, approved by the American Dietetic Association. This training program is the dietary managers' course formerly administered by the Dietary Managers Association; or

(b) Successfully complete a course offered by an accredited college or university that provided 90 or more hours of correspondence or classroom instruction in food service supervision, and has prior work experience as a dietary supervisor in a health care institution with consultation from a qualified dietitian; or

(c) Have training and experience in food service supervision and management in the military service equivalent in content to the programs described in this subsection; or

(d) Successfully complete an associate degree program that meets the education standard established by the American Dietetic Association as referenced in paragraph 59A-4.110(1)(b), F.A.C.

(4) A one-week supply of a variety of non-perishable food and supplies, which represents a nourishing diet based on generally accepted standards of proper nutrition, must be maintained in the facility.

Rulemaking Specific Authority 400.022(1)(a), (f), (g), 400.141(5), 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-1-88, 7-10-91, Formerly 10D-29.110, Amended 4-18-94, 2-6-97, \_\_\_\_\_.

#### 59A-4.112 Pharmacy Services.

(1) The nursing home licensee must facility shall adopt procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

(2) The nursing home licensee must facility shall employ, or obtain, the services of a state licensed consultant pharmacist. A consultant pharmacist is a pharmacist who is licensed by the Department of Business and Professional Regulation Department of Health, Board of Pharmacy and registered as a consultant pharmacist by the Board of Pharmacy in accordance with Rules 64B16-26.300 and 64B16-28.501 Chapter 64B16, F.A.C., and who provides consultation on all aspects of the provision of pharmacy services in the facility.

(3) The consultant pharmacist must shall establish a system to accurately record the receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(4) The consultant pharmacist must shall determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(5) Drugs and biologicals used in the facility must shall be labeled in accordance with currently accepted professional principles, Chapter 499, F.S., and Rules 64B16-28.108 and 64B16-28.502, F.A.C.

(6) Prescription Drugs and non-prescription medications requiring refrigeration must shall be stored in a refrigerator. The refrigerator must be locked or located within a locked medication room and accessible only to licensed staff in accordance with state and federal laws. When stored in a general-use refrigerator, they shall be stored in a separate, covered, waterproof, and labeled receptacle.

(7) All controlled substances must shall be disposed of in accordance with state and federal laws. All non-controlled substances may be destroyed in accordance with the facility's policies and procedures. Records of the disposition of all substances must shall be maintained in sufficient detail to enable an accurate reconciliation and a copy of the disposition must be filed in the resident's record or maintained electronically in a readily accessible format.

(8) Non-controlled substances in unit dose containers may be returned to the dispensing pharmacy for credit.

(9) If ordered by the resident's physician, the resident or his or her representative may, upon discharge, take all current prescription drugs with him or her. An inventory of the drugs released must shall be completed, shall be dated, and signed by both the person releasing the drugs and the person receiving the drugs, and must shall be placed in the resident's record.

(10) The licensee must facility shall maintain an Emergency Medication Kit, also known as the Emergency Drug Kit (EDK), the contents of which shall be determined in consultation with the medical director, director of nursing and pharmacist, and it shall be in accordance with facility policies and procedures. The kit must shall be readily available and must shall be kept sealed. All items in the kit must shall be properly labeled. The licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory of the contents of the EDK must Emergency Medication Kit shall be attached to the outside of the kit, which must include the earliest expiration date of the EDK drugs. If the seal is broken, the kit must be restocked and resealed by the next business day after use.

Rulemaking Specific Authority 400.142, 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.142, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-10-91, Formerly 10D-29.112, Amended 4-18-94, \_\_\_\_\_.

#### 59A-4.118 Medical Records.

(1) The licensee must facility shall designate a full-time employee as being responsible and accountable for the facility's medical records. If this employee is not a qualified Medical Record Practitioner, then the licensee must retain facility shall have the services of a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is certified eligible for a certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record

Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

(2) Each medical record ~~must shall~~ contain sufficient information to clearly identify the resident, his ~~or her~~ diagnosis and treatment, and results. Medical records ~~must shall~~ be complete, accurate, accessible and systematically organized.

(3) Medical records ~~must shall~~ be retained for a period of five years from the date of discharge. In the case of a minor, the record ~~must shall~~ be retained for ~~three~~ 3 years after a resident reaches legal age under state law.

(4) In the event of a change of ownership, the transferee must maintain all records concerning the care and treatment of the resident, including those originated by the transferor, as required in this subsection.

Rulemaking Specific Authority 400.23 FS. Law Implemented ~~400.022, 400.102,~~ 400.141, 400.145, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 3-2-88, Formerly 10D-29.118, Amended 4-18-94, \_\_\_\_\_.

#### 59A-4.122 Physical Environment and Physical Plant Maintenance.

(1) The ~~licensee must facility shall~~ provide a safe, clean, comfortable, and homelike environment, which allows the resident to use his or her personal belongings to the extent possible.

(2) The ~~licensee must facility shall~~ provide:

- (a) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;
- (b) Clean bed and bath linens that are in good condition;
- ~~(c) Private closet space for each resident;~~
- ~~(d) Furniture, such as a bedside cabinet, drawer space;~~
- ~~(e) Adequate and comfortable lighting levels in all areas;~~
- ~~(c)(f)~~ Comfortable and safe room temperature levels in conformance with 42 C.F.R. Section 483.15(h)(6), which is incorporated by reference and;

~~(d)(g)~~ The maintenance of comfortable sound levels. Individual radios, TVs and other such transmitters belonging to the resident will be tuned to stations of the resident's choice.

(3) Each nursing home licensee must establish written policies designed to maintain the physical plant and overall nursing home environment to assure the safety and well-being of residents.

(4) The building and mechanical maintenance programs must be supervised by a person who has knowledge in the areas of building and mechanical maintenance.

(5) All mechanical and electrical equipment must be maintained in working order, and must be accessible for cleaning and inspection.

(6) All Heating Ventilation Air Conditioning (HVAC) systems must be maintained to ensure they are operating within specified parameters to meet manufacturers' specifications. Permanent records must be maintained.

Rulemaking Specific Authority 400.23 FS. Law Implemented ~~400.102,~~ 400.141, 400.232 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.122, Amended 4-18-94, \_\_\_\_\_.

#### 59A-4.123 Risk Management and Quality Assurance.

(1) The ~~licensee must facility shall~~ maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

(2) The ~~licensee must~~ submit a report to the Agency on each incident determined to be adverse as specified in Section 400.147(5), F.S. ~~on facility shall use AHCA Form 3110-0009, Revised, January, 2002, October, 2004, October 2008, "Confidential Nursing Home Initial Adverse Incident Report – 1 Day," and AHCA Form 3110-0010, 3110-0010A, and 3110-0010B, Revised, January, 2002, "Confidential Nursing Home Complete Adverse Incident Report – 15 Day," which is~~ are incorporated by reference when reporting events as stated in Section 400.147, F.S. ~~This~~ These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. Each licensee ~~must comply with reporting timeframes and transmission requirements specified in Section 400.147, F.S.~~ These forms may be submitted through the Agency's web site in accordance with subsection 59A-4.103(3), F.A.C.

(3) ~~Each licensee that has submitted a "Confidential Nursing Home Initial Adverse Incident Report – 1 Day," report must submit a full report of each event by completing "Confidential Nursing Home Complete Adverse Incident Report – 15 Day," AHCA Form 3110-0010, October 2008, which is incorporated by reference. This form may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: http://ahca.myflorida.com/. If a thorough investigation has revealed that the event does not meet the definition of adverse incident, a statement of corrective action on "Confidential Nursing Home Complete Adverse Incident Report – 15 Day," AHCA Form 3110-0010, October 2008, is not required. Each licensee must comply with report timeframe and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency's web site in accordance with subsection 59A-4.103(3), F.A.C. Each facility shall use AHCA Form 3110-0008, and AHCA Form 3110-0008A, Revised, January 2002, "Nursing Home Monthly Liability Claim Information," which are incorporated by reference when reporting liability claims filed against it as required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.~~

(4) Events reported to law enforcement or its personnel for investigation; or resident elopement, if the elopement places the resident at risk of harm or injury are considered adverse incidents.

Rulemaking Specific Authority 400.147, 400.23 FS. Law Implemented ~~400.022, 400.102, 400.141, 400.147, 400.23 FS.~~ History—New 4-1-82, Amended 9-5-82, 4-1-84, 8-1-85, 7-10-91, Formerly 10D-29.123, Amended 4-18-94, 5-5-02,\_\_\_\_\_.

#### 59A-4.1235 Liability Claims.

Each nursing home licensee must use AHCA Form 3110-0008, October 2008, "Nursing Home Monthly Liability Claim Information," which is incorporated by reference, when reporting notices of intent to litigate and complaints filed with the Clerks of the Courts received by the licensee during the prior month as required by Section 400.147(10), F.S. If a liability claim has not been filed against the licensee in a given month, no report is required. These forms must be submitted by the tenth calendar day following the month of receipt and may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. These forms may be submitted through the Agency's web site in accordance with subsection 59A-4.103(3), F.A.C.

Rulemaking Authority 400.147, 400.23 FS. Law Implemented 400.147, 400.23 FS. History—New \_\_\_\_\_.

#### 59A-4.126 Disaster Preparedness.

(1) Each nursing home licensee must ~~facility shall~~ have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan is ~~shall be~~ the responsibility of the facility administrator, and must ~~shall~~ be accomplished in consultation with the Department of Community Affairs', ~~c~~County ~~e~~Emergency ~~m~~Management ~~a~~Agency.

(2) The plan must ~~shall~~ include, at a minimum, the following:

(a) Criteria, as shown, in Section 400.23(2)(g), F.S.; and

(b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006, March 1994, which is incorporated herein by reference and obtainable ~~available~~ from the Agency for Health Care Administration, 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308 or on the web site at <http://ahca.myflorida.com/MCHQ/Plans/index.shtml#forms>.

(3) The plan, including the "Emergency Management Planning Criteria for Nursing Homes," must be submitted annually, at the time of a change of ownership of the facility and after significant modification of the plan, to the county emergency management agency for review and approval.

(4) If the licensee is advised by the county emergency management agency of necessary revisions to the plan, those revisions must be made and the plan resubmitted to the county emergency management agency within 30 days of notification.

(5) The county emergency management agency shall be the final administrative authority for emergency plans developed by the nursing home licensee.

(6) The nursing home licensee must test the implementation of the emergency management plan annually, either in response to a disaster, an emergency, or in a planned drill. The outcome must be evaluated and documented and appropriate modifications to the plan to address deficiencies must be made within 30 days.

(7) The emergency management plan must be located in a designated area of the facility for immediate access by nursing home staff.

(8) If residents must be evacuated from the premises due to emergency conditions or a disaster, the licensee must report the location and number of residents evacuated to the Agency's Long Term Care Unit in Tallahassee by phone at (850)412-4303, by fax at (850)410-1512 or through the Emergency Status System (ESS) at: <http://ess.myflorida.com/> within 24 hours after the evacuation is completed. If the Long Term Care Unit or ESS system is unavailable to receive such information, the licensee must contact the appropriate Agency field office or designated Agency mutual aid office. The administrator or designee is responsible for knowing the location of each resident until the resident has been discharged from the facility. The licensee must inform the appropriate Agency field office of a contact person(s) who will be available 24 hours a day, seven days a week, until the facility is reoccupied.

(9) A licensee may exceed its licensed capacity to act as a receiving facility in accordance with an emergency operations plan for residents of evacuating providers from a geographic area where an evacuation order has been issued by a local authority having jurisdiction. While in an overcapacity status, each licensee must furnish or arrange for appropriate care and services including Fire/Life Safety Safeguards for all residents.

(10) The Agency must approve requests for overcapacity which last in excess of 15 days. Approvals shall be based upon approved justification, need and resident safety as provided by the receiving and sending facilities.

(11) If residents are evacuated from a nursing home during or after an emergency situation or disaster and there is no damage to the facility and all utilities and services are operating within normal parameters, the facility may be reoccupied and notice provided to the Agency within 24 hours of return to the facility. This notification may be sent to the Agency by telephone or fax. However, if there has been water intrusion, interior damage, structural damage or if the facility is unable to operate under normal electrical power a determination whether or not the facility can be reoccupied must be made by the Agency. A determination may also require the review and approval from the local authority having jurisdiction. In those cases, the facility may not be occupied until all approvals are obtained.

(12) A facility with significant structural or systems damage must relocate residents out of the damaged facility until approval is received from the Agency's Office of Plans and Construction to reoccupy the facility.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.126, Amended 8-15-94, 6-1-06,\_\_\_\_\_.

59A-4.128 Evaluation of Nursing Homes and Licensure Status.

(1) The Agency shall, at least every 15 months, evaluate and assign a licensure status to every nursing home facility. The evaluation and licensure status shall be based on the facility's compliance with the requirements contained in Chapter 400, Part II, F.S and this rule.

(2) The evaluation shall be based on the most recent licensure survey report and investigations conducted by the Agency and those persons authorized to inspect nursing homes under chapter 400, Part II, F.S.

(3) The licensure status assigned to the nursing home facility will be either conditional or standard. The licensure status is based on ~~the~~ compliance with the standards contained in Chapter 400, Part II, F.S. and this rule. Non-compliance will be stated as deficiencies measured in terms of scope and severity.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.19, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 9-26-85, 7-21-87, Formerly 10D-29.128, Amended 8-15-94, 2-28-95, 10-13-96, 5-5-02,\_\_\_\_\_.

(Substantial rewording of Rule 59A-4.1285 follows. See Florida Administrative Code for present text.)

59A-4.1285 Respite Care.

(1) Each nursing home licensee that meets the standards provided in Section 400.141(f), F.S., may develop and implement a respite care program.

(2) All sections in this rule and Chapter 400, Part II, F.S., shall apply to a nursing home licensee offering a respite care program. For each person admitted under the respite care program, the nursing home licensee must:

(a) Consider respite residents as nursing home residents to determine the nursing home minimum staffing required by Section 400.23(3)(a), F.S.

(b) Have an abbreviated plan of care developed with those items specified in paragraph 59A-4.109(1)(a), F.A.C. At a minimum, the modified plan of care must include nutritional requirements, medication orders, physicians' orders, nursing assessments and dietary preferences. The nursing or physician assessments may take the place of all other assessments required for full time residents.

(c) Have a contract which, at a minimum, must include the services to be provided to the resident including: charges for services, activities, equipment, emergency medical services

and the administration and provision of medications. If multiple respite admissions for a single person are anticipated, the original contract may be good for one year from the date of execution.

(3) Persons admitted under the respite care program are:

(a) Exempt from the requirements specified in subsection 59A-4.106(1)(f), F.A.C., for a discharge plan, discharge summary, and discharge diagnosis; however, each nursing home licensee must ensure a resident is released to his or her caregiver or an individual designated in writing by the caregiver:

(b) Entitled to resident's rights specified under Section 400.022, F.S., with the following exceptions:

1. Funds or property of the respite resident shall not be considered trust funds subject to the requirements of Section 400.022(1)(h), F.S., until the resident has been in the facility for more than 14 consecutive days. Each nursing home licensee must develop policies and procedures for handling respite care residents' funds or property, which must include access to personal funds as needed and release of all property and funds upon discharge.

2. The rights of residents as specified in Sections 400.022(1)(i) and (l), F.S., for respite residents must be addressed in the resident contract.

3. The rights of residents as specified in Sections 400.022(1)(p), (q), (u) and (v), F.S., will not apply.

(c) Allowed to use their personal medications for the respite stays if permitted under facility policy. Prescription medications brought in with the respite resident must be in a properly labeled container. Over-the-counter medications must be in the original container. The nursing home licensee must obtain physician's orders for the medications. The caregiver may provide information regarding the medications as part of the nursing assessment, which must agree with the physician's orders. Medications should be released with the resident upon discharge and in accordance with current orders. The nursing home policy may include acceptance of:

1. An attestation by the caregiver that the medications have been under his or her control prior to bringing it to the nursing home;

2. Verification by the Director of Nursing (DON), the consultant pharmacist, or provider pharmacy that the medications as packaged are the same as labeled and ordered by the physician.

(4) A person receiving respite care shall be entitled to a total of 60 days in the nursing home within a contract year or a calendar year if the contract is for less than 12 months. However, each single stay shall be limited to not more than 14 days. If a stay exceeds 14 days, the nursing home licensee must comply with all assessment and care planning requirements applicable to nursing home residents.

(5) Persons receiving respite care shall reside in a licensed nursing home bed.

(6) A prospective respite resident must provide such relevant medical information from a physician, a physician assistant, or nurse practitioner and other information from the primary caregiver as may be required by the nursing home, prior to or at the time of admission to the nursing home to receive respite care. The medical information must include a physician's order for respite care and proof of a physical examination by a licensed physician, physician assistant or nurse practitioner. The physician's order and physical examination may be used to provide intermittent respite care for up to 12 months from the date the order is written.

(7) The nursing home licensee must assume the duties of the primary care giver. To ensure continuity of care and services, the respite resident shall be entitled to retain his or her personal physician and must have access to medically necessary services such as physical therapy, occupational therapy or speech therapy as needed. The nursing home licensee must arrange for transportation to these services if necessary.

Rulemaking Specific Authority 400.141(1)(f) 400.011 FS. Law Implemented 400.141(6), 400.151 FS. History--New 7-21-87, Formerly 10D-29.1285, Amended \_\_\_\_\_.

#### 59A-4.1288 Exception.

Nursing homes licensees that participate in Title XVIII or XIX must follow certification rules and regulations found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, October 1, 2006, which are incorporated by reference September 26, 1991, and sState rRules and rRegulations, Chapter 400, Part II, F.S., and this rule. Non-certified facility licensees facilities must follow the contents of this rule and the standards contained in the Conditions of Participation found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, September 23, 1992 September 26, 1991, which is incorporated by reference with respect to social services, dental services, infection control, dietary and the therapies.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-18-94, Amended \_\_\_\_\_.

#### 59A-4.1295 Additional Standards for Homes That Admit Children 0 Through 20 Years of Age.

(1) Nursing homes licensees who accept children with a level of care of Intermediate I or II, skilled or fragile, must meet the following standards as indicated. Intermediate I and II are defined in Chapter 59G-4, F.A.C. Children considered skilled have a chronic debilitating disease or condition of one or more physiological or organ systems that generally make the child dependent upon 24-hour per day medical, nursing, or health supervision or intervention. Fragile children are medically complex and the medical condition is such that they are technologically dependent upon through medical

equipment apparatus or procedure(s) to sustain life and who can expire, without warning unless continually under observation.

(2) Each child must shall have an assessment upon admission by licensed physical, occupational, and speech therapists that are experienced in working with children. Therapies must will be administered based upon the outcome of these assessments and the orders of the child's physician.

(3) Admission criteria:

(a) The child must require intermediate, skilled or fragile nursing care and be medically stable, as documented by the physician determining level of care.

(b) For nursing facility placement, a recommendation must shall be made in the form of a written order by the child's attending physician in consultation with the parent(s) or legal guardian(s). For Medicaid certified nursing facilities, the recommendations for placement of a Medicaid applicant or recipient in the nursing facility must shall be made by the Department of Health's Children's Medical Services Children's Multi-disciplinary Assessment Team. Consideration must be given to relevant medical, emotional, psychosocial, and environmental factors.

(c) Each child admitted to the nursing home facility must shall have a plan of care developed by the interdisciplinary care plan team. The plan of care must shall consist of those items listed below.

1. Physician's orders, diagnosis, medical history, physical examination and rehabilitative or restorative needs.

2. A preliminary nursing evaluation with physician orders for immediate care, completed on admission.

3. A comprehensive, accurate, reproducible, and standardized assessment of each child's functional capability which is completed within 14 days of the child's admission to the facility and every twelve months thereafter. The assessment must shall be:

a. Reviewed no less than once every 120 days;

b. Reviewed promptly after a significant change in the child's physical or mental condition which includes the need to stop a form of treatment because of adverse consequences (e.g., adverse drug reaction) or commence a new form of treatment to deal with a problem;

c. Revised as appropriate to assure the continued usefulness of the assessment.

4. The plan of care must shall also include measurable objectives and timetables to meet the child's medical, nursing, mental and psychosocial needs identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the child's highest practicable physical, mental, social and educational well-being. The care plan must be completed within seven 7 days after completion of the child's assessments required in subsection (3) above.

5. ~~To In order to~~ enhance the quality of life of each child ages 3 years through 15 years, the facility administration must notify by certified mail the school board in the county in which the facility is located that there is a school-age child residing in the facility. Children ages 16 through 20 years must be enrolled in an education program according to their ability to participate. Program participation for each child regardless of age is predicated on his or her ~~their~~ intellectual function, physical limitations, and medical stability. Collaborative planning with the public school system and community at-large is necessary to produce integrated and inclusive settings which meet each child's needs. The failure or inability on the part of city City, county County, state State, or federal Federal school systems to provide an educational program according to the child's ability to participate shall not obligate the licensee facility to supply or furnish an educational program or bring suit against any city City, county County, state State, or federal Federal organizations for their failure or inability to provide an educational program. Nothing contained herein is intended to prohibit, restrict or prevent the parents or legal guardian of the child from providing a private educational program that meets applicable State laws.

6. At the child's guardian's option, every effort must shall be made to include the child and his or her family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the child's plan of care.

7. All employees of the facility who provide hands on care, must shall be knowledgeable of, and have access to, the child's plan of care.

8. A summary of the child's plan of care must shall accompany each child discharged or transferred to another health care facility or must shall be forwarded to the facility receiving the child as soon as possible consistent with good medical practice.

(4) The child's attending physician, licensed under Chapter 458 or 459, F.S., must shall maintain responsibility for the overall medical management and therapeutic plan of care and must will be available for face-to-face consultation and collaboration with the nursing facility medical and nursing director. At a minimum, the physician or his or her designee must shall:

(a) Evaluate and document the status of the child's condition at least monthly;

(b) Review and update the plan of care every 60 days;

(c) Prepare orders as needed and accompany them by a signed progress note in the child's medical record; and

(d) Co-sign verbal orders no more than 72 hours after the order is given. Physicians' orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he or she visits a facility. Orders transmitted via computer mail are not acceptable. Verbal orders

not co-signed within ~~seventy-two (72)~~ hours shall not be held against the licensee facility if it has documented timely, good-faith efforts to obtain such said co-signed orders.

(5) The following must be completed for each child. ~~An~~ registered nurse must RN shall be responsible for ensuring these tasks are accomplished:

(a) Informing the attending physician and medical director of beneficial and untoward effects of the therapeutic interventions;

(b) Maintaining the child's record in accordance with facility policies and procedures; and

(c) ~~Instructing instructing~~ or arranging for the instruction of the parent(s), legal guardian(s), or other caretaker(s) giver(s) on how to provide the necessary interventions, how to interpret responses to therapies, and how to manage unexpected responses ~~in order~~ to facilitate a smooth transition from the nursing facility to the home or other placement. This instruction must will cover care coordination and must will gradually pass the role of care coordinator to the parent or legal guardian, as appropriate.

(6) The licensee must facility shall provide the following:

(a) ~~A minimum of 100 square feet in a single bedroom and 80 square feet per child in multiple bedrooms;~~

(a)(b) ~~Bathroom and bathing facilities appropriate to the child's needs to allow for:~~

1. Toileting functions with privacy (~~a door to the bathroom must will~~ be provided); and

2. Stall showers and tubs.

(b)(c) ~~There must shall~~ be an indoor activities area that:

1. Encourages exploration and maximizes the child's capabilities;

2. Accommodates mobile and non-mobile children; and

3. Supports a range of activities for children and adolescents of varying ages and abilities.

(c)(d) ~~There must shall~~ be an outdoor activity area that is:

1. Secure with areas of sun and shade;

2. Free of safety hazards; and

3. Equipped with age appropriate recreational equipment for developmental level of children and has storage space for same.

(d)(e) ~~All furniture and adaptive equipment must be physically appropriate to the developmental and medical needs of the children;~~

(e)(f) ~~Other equipment and supplies must shall~~ be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(7) For ~~those nursing homes that facilities who~~ admit children age 0 through 15 years of age, the following standards apply in addition to those above and throughout Chapter 59A-4, F.A.C.

(a) Each child ~~must shall~~ have an assessment upon admission by licensed physical, occupational, and speech therapists who are experienced in working with children. Therapies ~~must will~~ be administered based upon the outcome of these assessments and the orders of ~~each the~~ child's physician.

(b) The nursing home licensee must facility shall have a contract with a board certified pediatrician who serves as a consultant and liaison between the nursing facility and the medical community for quality and appropriateness of services to children.

(c) The nursing home licensee facility must assure that pediatric physicians are available for routine and emergency consultation to meet the children's child's needs.

(d) The nursing home licensee facility must ensure that children reside in distinct and separate units from adults.

~~(e) The facility shall be equipped and staffed to accommodate no more than sixty (60) children at any given time, of which there shall be no more than 40 children of ages 0 through 15 at any given time, nor more than 40 children of ages 16 through 20 at any given time.~~

~~(e)(f)~~ The nursing home licensee facility must provide access to emergency and other forms of transportation for children.

~~(f)(g)~~ At least one licensed health care staff person with current Pediatric Advanced Life Support (PALS) Life Support certification must for children shall be on the unit where children are residing at all times where children are residing.

~~(g)(h)~~ The nursing home licensee must facility shall maintain an Emergency Medication Kit, also known as an Emergency Drug Kit (EDK) of pediatric medications, as well as adult dosages for those children who require adult doses. The contents of in the EDK Emergency Medication Kit shall be determined in consultation with the Medical Director, Director of Nursing, a registered nurse who has current experience working with children, and a Pharmacist who has pediatric expertise. The kit must shall be readily available and must shall be kept sealed. All items in the kit must shall be properly labeled. The nursing home licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory to include expiration dates of the contents of the EDK must Emergency Medication Kit shall be attached to the outside of the kit. If the seal is broken, the kit must be restocked and resealed the next business day after use.

~~(h)(i)~~ Each nursing home licensee must facility shall develop, implement, and maintain a written staff education plan that which ensures a coordinated program for staff education for all facility employees who work with children. The plan must shall:

1. Be reviewed at least annually by the quality assurance committee and revised as needed.

2. Include both pre-service and in-service programs. In-service for each department must include pediatric-specific requirements as relevant to its discipline.

3. Include Ensure that education that is conducted annually for all facility employees who work with children, at a minimum, in the following areas:

a. Childhood diseases to include prevention and control of infection;

b. Childhood accident prevention and safety awareness programs;

4. Require Ensure that all non-licensed employees of the nursing home to complete an initial educational course on HIV and AIDS, preferably pediatric HIV and AIDS, in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time he or she is they are hired, the employee they must have completed the course two hours within six months of employment. All employees shall have a minimum of one hour biennially.

~~(i)(j)~~ All facility staff must shall receive in-service training in and demonstrate awareness of issues particular to pediatric residents annually.

(8)(a) For the purposes of this rule, nursing care must shall consist of the following:

~~(a) For residents who are skilled: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants (CNAs). The child's nursing care shall be as follows:~~

1. ~~There shall be one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 3.5 hours of nursing care per patient day.~~

2. ~~In determining the minimum hours of nursing care required above, there shall be no more than 1.5 hours per patient day of certified nursing assistant (CNA) care and no less than 1.0 hours per patient day of licensed nursing care.~~

~~(b) For residents who are fragile: Registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants and must. The child's nursing care shall be as follows:~~

1. ~~One include one~~ registered nurse on duty, on-site 24 hours per day on the unit where children reside. ~~There shall be an average of 5 hours of nursing care per patient day.~~

2. ~~In determining the minimum hours per patient day required above, there shall be no more than 1.5 hours per patient day of CNA care, and no less than 1.7 hours per patient day of licensed nursing care.~~

~~(b)(e)~~ In the event that there are more than ~~forty two (42)~~ children in the facility, there must shall be no fewer than ~~two (2)~~ registered nurses on duty, on-site, 24 hours per day on the unit where the children reside.

(9) A qualified dietitian with knowledge, expertise and experience in the nutritional management of medically involved children must shall evaluate the needs and special diet of each child at least every 60 days.



(10) The pharmacist ~~must will~~ have access to appropriate knowledge concerning pediatric pharmaceutical procedures, i.e., total parenteral nutrition (TPN) infusion regime and be familiar with pediatric medications and dosages.

(11) The nursing home licensee must facility shall maintain or contract as needed for pediatric dental services.

(12) Safety equipment, such as childproof safety latches on closets; and cabinets, straps on all seating services, locks on specific storage cabinets, bumper pads on cribs, and car seats for transporting must be used whenever appropriate to ensure the safety of the child.

(13) Pediatric equipment and supplies must shall be available as follows:

(a) Suction machines, one per child requiring suction, plus one suction machine for emergency use;

(b) Oxygen, in portable tanks with age appropriate supplies;

(c) Thermometers;

(d) ~~Sphygmomanometers~~ ~~Spyhgmomanometers~~, stethoscopes, otoscopes; and

(e) Apnea monitors and pulse oximeters.

(14) Other equipment and supplies must shall be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(15) Prior to initiating or expanding services to pediatric residents, the licensee or applicant must receive written approval from the Agency. Nursing home licensees that wish to convert existing nursing home beds to pediatric beds must:

(a) Have a standard license pursuant to Section 400.062, F.S.:

(b) Submit approval from the Office of Plans and Construction based upon submission of plans and specifications of the building for approval as outlined in Rule 59A-4.133, F.A.C.

(c) Submit a revised licensure application no less than 30 days prior to the anticipated date that services will be provided. The application must include the number and configuration of beds to be used to serve pediatric residents and a listing of services that will be provided and all the information required by Chapter 400, Part II, F.S. and this rule on AHCA Form 3110-6001, July 2009, "Health Care Licensing Application – Nursing Homes" incorporated by reference in paragraph 59A-4.103(1)(a), F.A.C.

(16) Approval to provide pediatric services shall be based upon demonstration of compliance with this rule and Chapter 400, Part II, F.S.

(17) Any changes in pediatric services, including cessation of services, must be reported to the Agency in writing at least 30 days prior to the change.

Rulemaking Specific Authority 400.23(5)(2), (4) FS. Law Implemented 400.23(5)(4) FS. History–New 11-5-96, Amended 9-7-97, \_\_\_\_\_.

(Substantial rewording of Rule 59A-4.130 follows. See Florida Administrative Code for present text.)

59A-4.130 ~~Fire Prevention~~, Fire Protection, ~~and~~ Life Safety, Systems Failure and External Emergency Communications.

(1) Each nursing home licensee must provide fire protection through the elimination of fire hazards. All portions of the facility must comply with the requirements of Chapter 633.022 of the Florida Statutes for an Existing Health Care Occupancy.

(2) All fires or explosions must be reported immediately to the local fire inspection authority and the Agency's Office of Plans and Construction at (850)412-4477 or by fax at (850)922-6483. Upon notification, the Agency may investigate the cause, origin, and circumstances of the fire or explosion. To facilitate this investigation, the nursing home licensee must complete the form "Fire Incident Report," AHCA Form 3500-0031, September 2006, incorporated herein by reference and available by mail from the Agency's Office of Plans and Construction or accessible from the Agency's web site at: [ahca.myflorida.com/MCHO/Plans/index.shtml#forms](http://ahca.myflorida.com/MCHO/Plans/index.shtml#forms). This written report must be sent to the Agency's Office of Plans and Construction at 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308, within seven days of the occurrence.

(3) If a system failure of the fire alarm system, smoke detection system, or sprinkler system occurs, the following actions must be taken by the licensee:

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

(b) Notify the Agency's Office of Plans and Construction or the appropriate Agency field office.

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

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

2. Begin a documented fire watch until the system is restored. Staff performing the fire watch must be trained in appropriate observations and actions, as well as be able to expeditiously contact the fire department. To maintain a fire watch, the licensee must utilize only certified public fire safety personnel, a security guard service, or facility staff. If facility staff are used for this function, they must meet the following criteria:

a. Be off duty from their regular facility position or assigned only to fire watch duty. The licensee must maintain compliance with direct care staffing requirements at all times;

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

c. Have immediate access to two-way electronic communication.

3. If the projected correction period changes or upon restoration of the system to normal operation, the licensee must notify the appropriate Agency's field office and local fire authorities.

(4) External Emergency Communication. Each newly constructed facility that has not received a Preliminary Stage II Plan Approval from the Office of Plans and Construction on the effective date of this rule, shall provide for external electronic communication not dependent on terrestrial telephone lines, cellular, radio, or microwave towers, such as an on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group. This agreement must provide for a volunteer operator and communication equipment to be relocated into the facility in the event of a disaster until communications are restored. Other methods that can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission must be approved by the Agency's Office of Plans and Construction.

Rulemaking Specific Authority 381.031(1)(e)7-, 400.23, 400.232, 633.022, 400.191(2) FS. Law Implemented 633.022 381.031, 400.102, 400.141, 400.23, 633.05(8), 633.051 FS. History--New 4-1-82, Amended 4-1-84, 8-1-85, Formerly 10D-29.119, 59A-4.119, Amended \_\_\_\_\_.

(Substantial rewording of Rule 59A-4.133 follows. See Florida Administrative Code for present text.)

59A-4.133 Physical Plant Codes and Standards for Nursing Homes Plans Submission and Review and Construction Standards.

(1) All construction of new nursing homes and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of existing facilities must be in compliance with Chapter 553.73 of the Florida Statutes.

(2) No building shall be converted to a licensed nursing home unless it complies with the standards and codes set forth herein and with licensure requirements set forth in this Chapter.

(3) Alternative approaches to life safety may only be used for an existing licensed nursing home facility.

(4) Where additions, modifications, alterations, refurbishing, renovations or reconstruction are undertaken within an existing facility, all such additions, modifications alterations, refurbishing, renovations or reconstruction must comply with applicable sections of the codes for new facilities.

Where existing major structural elements make total compliance impractical or impossible, the licensee or potential licensee must submit to the Office of Plans and Construction a request to utilize alternate materials and methods in accordance with the Florida Building Code.

(5) In additions, modifications, alterations, refurbishing, renovations or reconstruction projects and those projects that are making additions to existing facilities, only that portion of the total facility affected by the project must comply with applicable sections of the referenced codes for new construction.

(6) A licensed nursing home and any portion of a licensed nursing home that was reviewed and approved under a previous edition of Chapter 59A-4, Florida Administrative Code and the state or local building code must remain in compliance with the rule or building code in effect at the date of licensure.

(7) All existing facilities must be maintained in a safe condition free of hazards and all existing architectural, mechanical, electrical and structural systems and appurtenances must be maintained in good working order. No architectural, mechanical, electrical, or structural system or appurtenance may be deleted or discontinued without first obtaining approval from the Agency.

(8) When a building or portion of a building is converted to a new licensed nursing home, it must comply with the requirements for a new nursing home as required by Sections 553.73 and 633.022 of the Florida Statutes. A change of ownership shall not constitute a change of occupancy.

(9) Other facilities or providers not owned or operated by the licensee of a nursing home may be fully integrated with the nursing home's physical plant only after it has been successfully demonstrated to the Agency that all areas of the facility's physical plant are designed and maintained in a manner that will ensure continued licensure compliance of the nursing home.

(10) The Agency shall conduct annual life safety inspections of nursing homes to ensure compliance with all licensing and fire safety requirements. Inspections may also be conducted by the Agency as it deems necessary to carry out the functions of the Agency for the following reasons:

(a) To ensure compliance with the licensing and life safety requirements of this Chapter;

(b) To respond to licensing, life safety, and other physical plant complaints; or

(c) To protect the public health and safety.

(11) Nothing in these standards shall be construed as restrictive to a facility that chooses to do work or alterations as part of a long-range, phased safety improvement plan. All hazards to life and safety and all areas of noncompliance with applicable codes and regulations must be corrected in accordance with a plan of correction approved in advance by the Agency's Office of Plans and Construction.

(12) Projects that have not received at least a Stage II Preliminary Plan approval from the Office of Plans and Construction on the effective date of this rule must conform to the requirements as set forth in these rules.

Rulemaking Specific Authority ~~381.031(1)(g)7~~, 400.23 FS. Law Implemented ~~381.031~~, 400.011(2), ~~400.021(1)-(17)~~, ~~400.022(1)-(4)~~, ~~400.102~~, 400.141, 400.23, 400.232, 553.79, 553.80, 633.022 FS. History—New 4-1-82, Amended 4-1-84, 4-29-92, Formerly 10D-29.120, 59A-4.120, Amended 2-6-97, 10-21-99.

#### 59A-4.134 Plans Submission and Fee Requirements.

(1) No construction work, including demolition, shall be started until prior written approval has been given by the Office of Plans and Construction. This includes all construction of new facilities and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of all existing facilities.

(2) Approval to start construction only for demolition, site work, foundation, and building structural frame may be obtained prior to construction document approval when the following is submitted for review and approval:

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

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

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

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

(3) Projects that have been submitted to the Agency for review will be considered abandoned and will be terminated after any of the following has occurred:

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

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

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

(4) When construction is planned, either for new buildings, additions, alterations or renovations to existing buildings, the plans and specifications must be prepared and submitted to the Office of Plans and Construction for approval by a Florida registered architect and a Florida registered professional engineer. An architecture or engineering firm not

practicing as a sole proprietor must also provide proof of registration as an architecture or engineering firm with the Florida Department of Business and Professional Regulation.

(5) The initial submission of plans to the Office of Plans and Construction for any new project must include a completed Plan Review Application Form, ACHA Form 3500-0011, November 2006, revised April 2009, incorporated by reference and obtainable from the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308 and a valid Certificate of Need or exemption as required by Sections 408.031-408.045 of the Florida Statutes. This information must accompany the initial submission. Approval will not be granted for any project without a Certificate of Need if required by the Agency.

(6) Plans and specifications submitted for review shall be subject to a plan review fee. This fee is prescribed by Section 400.232, F.S. All fees must be paid by check made payable to the Treasurer, State of Florida, with the check noted with the Office of Plans and Construction facility log number. Fees will be accepted only from the licensee or prospective licensee.

(7) Plans and specifications shall be submitted in three stages. These stages are as follows:

(a) Stage I, schematic plans.

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

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

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

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

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

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

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

(10) Stage I, Schematic Plans.

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

1. Single-line drawings of each floor that must show the relationship of the various activities or services to each other and each room arrangement. The function of each room or space must be noted in or near the room or space. The proposed roads and walkways, service and entrance courts, parking, and orientation must be shown on either a small plot plan or on the first floor plan. Provide a simple cross-section diagram showing the anticipated construction. Provide a schematic life safety plan showing smoke and fire

compartments, exits, exit passageways and gross areas of smoke and fire compartments. Provide information as to which areas have sprinklers, both new and existing.

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

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

(11) Stage II, Preliminary Plans.

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

1. A vicinity map showing the major local highway intersections for new nursing home construction.

2. Site development plans that:

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

b. Provide building locating dimensions.

c. Provide site elevations for both the 100 year flood elevations and hurricane category 3 surge inundation elevations if the project involves the construction of a new facility or is a new addition of a wing or floor to an existing facility.

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

3. Architectural plans that include:

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

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

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

d. All exterior building elevations.

e. Equipment that is not included in the construction contract but that requires mechanical or electrical service connections or construction modifications must be identified to assure its coordination with the architectural, mechanical and electrical phases of construction.

f. If the project is located in an occupied facility, preliminary phasing plans indicating how the project is to be separated from all occupied areas.

4. Life safety plans that include:

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

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

c. If the project is an addition or conversion of an existing building, fully developed life safety plans.

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

e. When demolition or construction in and around occupied buildings is to be undertaken, a life safety plan indicating temporary egress and detailed phasing plans indicating how the areas to be demolished or constructed are to be separated from all occupied areas.

5. Mechanical engineering plans that include:

a. Single-sheet floor plans with a one-line diagram of the ventilating system with relative pressures of each space. Provide a written description and drawings of the anticipated smoke control system, passive or active, and a sequence of operation correlated with the life safety plans.

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

c. If the building is equipped with fire sprinklers, the location of the sprinkler system risers and the point of connection for the fire sprinkler system. State the method of design for the existing and new fire sprinkler systems.

d. The locations of all plumbing fixtures and other items of equipment requiring plumbing services and/or gas services.

e. The locations of any fume, radiological or chemical hoods.

f. The locations of all medical gas outlets, piping distribution risers, terminals, alarm panels, low pressure emergency oxygen connection, isolation/zone valves, and gas source locations.

g. The locations and relative size of major items of mechanical equipment such as chillers, air handling units, fire pumps, medical gas storage, boilers, vacuum pumps, air compressors and fuel storage vessels.

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

i. The location of fire pump, stand pipes, and sprinkler risers.

6. Electrical Engineering Drawings that include:

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

b. Fire alarm zones and correlate with the life safety plan.

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

8. Whenever an existing building is to be converted to a health care facility, the general layout of spaces of the existing structure must be submitted with the preliminary plans for the proposed facility.

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

(12) Stage III, Construction Documents.

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

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

2. Life safety plans for the entire project.

3. Architectural plans.

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

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

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

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

4. Structural engineering plans, schedules and details.

5. Mechanical engineering plans to include fire and smoke control plans. Show all items of owner furnished equipment requiring mechanical services. Provide a clear and concise narrative control sequence of operations for each item of mechanical equipment including but not limited to air conditioning, heating, ventilation, medical gas, plumbing, and fire protection and any interconnection of the equipment of the systems. Mechanical engineering drawings must depict completely the systems to be utilized, whether new or existing, from the point of system origination to its termination. Provide a tabular schedule giving the required air flow (as computed from the information contained on the ventilation rate table) in cubic feet per minute (cfm) for supply, return, exhaust, outdoor, and ventilation air for each space listed or referenced by note on the ventilation rate table as shown on the architectural documents. The schedule must also contain the Heating Ventilation and Air Conditioning (HVAC) system design air flow rates and the resulting space relative pressures. The schedule or portion of the schedule, as applicable, must be placed in the specifications or in the drawing set containing the spaces depicted.

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

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

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

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

a. All project required contractor supplied testing and/or certification reports must be submitted in type written format, on standard forms, reviewed and accepted by the Engineer of Record prior to presenting to the Agency for review.

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

10. Well coordinated construction documents. In the case of additions to existing institutions, the mechanical and electrical, especially existing essential electrical systems and all other pertinent conditions must be a part of this submission.

11. Signed, sealed and dated subsequent addenda, change orders, field orders and other documents altering the above must be submitted for advance written approval from the Office of Plans and Construction.

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

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

(15) The Agency is required to archive all public record documents for a period of five years. These documents are electronically stored. Therefore, within 60 days after final approval of the project has been obtained from the Agency, the licensee and the Office of Plans and Construction must be provided with a complete set of record drawings electronically submitted as Portable Document Format (.pdf) files showing all of the construction, fixed equipment and the mechanical and electrical systems as installed. These electronically submitted .pdf files must include the life safety plans of the facility.

Rulemaking Authority 400.23, 400.232 FS. Law Implemented 400.011(2), 400.141 FS. History—New \_\_\_\_\_.

59A-4.150 Geriatric Outpatient Nurse Clinic.

(1) Definitions:

~~(a) Advanced Registered Nurse Practitioner~~—a person who holds a current active license to practice professional nursing and a current Advanced Registered Nurse Practitioner certificate issued by the Florida State Board of Nursing.

~~(a)(b) Appropriate Resources~~ – those service providers who provide most effectively and efficiently the specific services needed by the geriatric patient.

~~(c) Agency for Health Care Administration—AHCA.~~

~~(b)(d) Geriatric Outpatient Nurse Clinic~~ – a treatment room or rooms site in a nursing home used to provide treatment room for the provision of health care to geriatric patients on an outpatient basis, which is staffed by a registered nurse, advanced registered nurse practitioner (ARNP), or by a physician's assistant.

~~(c)(e) Geriatric Patient~~ – any patient who is 60 years of age or older.

~~(f) Nursing Facility~~—a facility licensed under Part I of Chapter 400, F.S.

~~(g) Physician's Assistant~~—a person who holds a current certificate issued by the Florida State Board of Medical Examiners of Florida State Board of Osteopathic Medical Examiners, to serve as a physician's assistant to function in the dependent relationship with the supervising physician. (Sections 458.135(2)(d); 459.151(2)(d), F.S.).

~~(d)(h) Pre-established Protocols~~ – a statement prepared by or with the responsible or attending physician and/or physician assistant defining the extent and limits of the medical services provided by the registered nurse. Such protocols must ~~are to~~ be reviewed at periods not to exceed one year, ~~to~~ be dated and signed by the physician, and ~~to~~ be kept readily available.

~~(i) Professional Standards of Practice~~ those measurements or guides for practice developed and/or endorsed by the respective professional disciplines.

~~(j) Registered Dietitian~~—one who meets the standards and qualifications established by the Committee on Professional Registration of the American Dietetic Association and is currently registered with the American Dietetic Association.

~~(k) Registered Nurse~~—a person who holds a current active license to practice professional nursing issued by the Florida State Board of Nursing. (Section 464.071, F.S.).

~~(e)(t) Responsible Physician~~ – the licensed physician delegated by the supervising physician as responsible for the services rendered by the registered nurse, physician's assistant or ARNP in the absence of the supervising physician.

~~(f)(m) Routine Health Care~~ – ~~the provision of~~ preventive care, detection of health problems, referral for medical care, and management of chronic illness within medical prescriptions.

~~(g)(n) Substantive Change~~ – a change in when the patient's condition indicating need for changes to such an extent that a change in treatment and/or medication orders is indicated or non-applicability of when pre-established protocols ~~are not~~ applicable.

~~(h)(6)~~ Supervising Physician – the licensed physician assuming responsibility and legal liability for the services rendered by the registered nurse, physician's assistant or ARNP. (~~Sections 458.135(2)(e); 459.151(2), (3), F.S.~~)

~~(i)(p)~~ Treatment Room – the room or suite of rooms set aside for the examination and care of patients.

(2) Applications.

(a) ~~The nursing home licensee must submit a~~ ~~A~~ letter to ~~shall be sent through~~ the local County Public Health Department and ~~unit~~ to the Agency's Long Term Care Unit AHCA by the operator of a currently licensed nursing home stating intent to establish a geriatric outpatient nurse clinic in compliance with ~~C~~chapter 400, F.S., ~~Chapter 77-401, Laws of Florida,~~ and applicable the rules ~~pertaining to these chapters~~. A copy of ~~the said~~ letter must shall be sent to the Health Program Office of the Department of Health and ~~Rehabilitative Services~~ by the local County Public Health Department ~~unit~~. This letter must shall be sent at least sixty (60) days prior to the anticipated date of establishment of the clinic. The director, ~~of the County Public Health Department Unit~~ shall provide specific recommendations for operation of the clinic when transmitting the letter.

(b) ~~The Agency must AHCA shall~~ ascertain compliance with all applicable laws, rules, regulations, and codes during the inspection and ~~by letter notify the operator of compliance or non-compliance.~~

(c) Receipt of the letter of notification stating compliance ~~shall~~ constitutes authority to operate a geriatric outpatient nurse clinic within the nursing home facility.

(d) Application for renewal of authority to operate a geriatric outpatient nurse clinic must shall be submitted in the manner described above at the same time the application for the nursing home ~~relicensure~~ is submitted.

(e) Suspension or revocation of the nursing home license automatically suspends or revokes authority to operate the geriatric outpatient nurse clinic.

~~(f) A Certificate of Need issued by the Agency required by Sections 381.493 through 381.497, F.S., is a pre-requisite to establish a geriatric outpatient nurse clinic.~~

(3) Treatment Rooms and Access Areas.

(a) Plant maintenance and housekeeping must shall be in accordance with Rule ~~59A-4.122~~ ~~59A-4.049~~, F.A.C.

(b) Every nursing home licensee ~~facility~~ conducting a geriatric outpatient nurse clinic must shall:

1. Use an existing treatment room exclusively for the examination and treatment of patients.
2. Store supplies and equipment in such a manner that safeguards patients and staff from hazards.
3. Have a waiting area that does not interfere with regular in-patient functions.
4. Provide clinic patients with the most direct route to and from the treatment room.

(4) Administration.

(a) The business and administrative management of the geriatric outpatient nurse clinic must shall be under the management control of the nursing home ~~facility~~ administrator. This must shall include, but not be limited to, maintenance of the following written records.

1. Clinic financial records must be prepared by a recognized system of accounting used to accurately reflect details of the business and include adequate documentation of all transactions identifying all income by source and describe all expenditures by category in such a manner as to be suitable by community recognized procedure.

2. An accident and incident record, containing a clear description of each accident and any other incident or hazardous or deviant behavior of a patient or staff member with names of individuals involved, description of medical and other services provided, by whom such services were provided and the steps taken to prevent recurrence.

3. Personnel records for each clinic employee and/or contractual provider. These records must will be kept updated and include current Florida license and certificate numbers. Original application for the position, references furnished and an annual performance evaluation must shall be included.

4. A record of personnel policies, including statement of policies affecting personnel and a job description for each person providing clinic services.

5. Clinic Schedule.

6. Compliance with requirements of Title VI of the Civil Rights Act of 1964, Section 2000d, effective date July 2, 1964, is incorporated by reference. A copy of this statute may be obtained at <http://www.justice.gov/crt/cor/coord/titlevistat.php>.

(b) The provision of health services through geriatric outpatient nurse clinics must shall be under the direct management control of the registered nurse, ARNP or physician's assistant providing those services. Management must control the provision of health services to shall contain the following:

1. ~~Assure~~ ensure that all health services are provided according to legal, ethical and professional practice standards to protect the health, safety and well-being of the patients.

2. ~~Maintain~~ ensure confidentiality of clinical records for each patient as required in this rule, Section 400.022(1)(m), F.S., Title 42 Code of Federal Regulation section 483.10(e), effective date October 1, 2003, Title 45 Code of Federal Regulation chapters 160, 162 and 164 with an effective date of August 14, 2002, which is found at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> which is incorporated by reference.

3. ~~Assure~~ Assure ~~Responsibility~~ for development and periodic review of written policies and protocols governing patient care, including emergency procedures.

4. ~~Assure Responsibility~~ for development and periodic review of the patient referral system.

5. ~~Assure Responsibility~~ for the administration and handling of drugs and biologicals as required in this rule, Chapter 400, Part II, F.S., Title 42 CFR 483.25(1), Title 42 CFR 483.25 (m), effective October 7, 2005 and 42 CFR 483.60, effective September 23, 1992 which is incorporated by reference and can be found at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> these Rules.

6. ~~Maintainance~~ of an individual and cumulative clinic census record.

7. ~~Coordination~~ of patient care with the attending physician and other community health and social agencies and/or facilities.

8. ~~Maintainance~~ of a safe, sanitary clinic environment.

(5) Fiscal Management.

(a) There ~~must shall~~ be a recognized system of accounting used to accurately reflect business details of the clinic operation and services kept separate from the nursing home's facility fiscal records.

(b) A reasonable fee, based on cost of operation and services, may be charged for clinic services rendered.

(c) Personnel involved in operating and/or providing clinic services ~~must shall~~ not:

1. Pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for referral of any patients to the clinic.

2. Request or accept any remuneration, rebate, gift, benefit, or advantage of any form from any vendor or other supplier because of the purchase, rental, or loan, of equipment, supplies or services for the resident, client and/or patient.

(6) Personnel Policies.

(a) Staff in the geriatric outpatient nurse clinic ~~will must~~ be governed by the personnel standards in this rule, Chapter 400.141(1)(o), Title 42 Code of Federal Regulation 483.75, effective May 5, 2002, 42 CFR 483.75, effective August 11, 2009, 42 CFR 483.30, effective October 28, 2005, which is incorporated by reference and can be found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> their Personnel Standards in Rules and Regulations governing Nursing Homes and Related Health Care Facilities Rule 59A-4.157, F.A.C.

(b) Staff in the geriatric outpatient nurse clinic ~~must shall~~ be qualified and sufficient in numbers to perform the necessary services.

(c) Services of this clinic ~~must not will in no way~~ reduce the minimum staffing standards for in-patient care.

(d) Staff in the geriatric outpatient clinic may be regularly employed or serve on a contractual basis.

(7) Personnel Functions and Responsibilities.

(a) ~~The registered nurse, ARNP or physician assistant staffing the geriatric outpatient clinic must: Registered Nurse (Sections 464.021(2)(a)1., 2., F.S.)~~

1. ~~Be responsible~~ ~~The nurse shall have the responsibility~~ for eliciting and recording a health history, observation and assessment nursing diagnosis, counseling and health teaching of patients and the maintenance of health and prevention of illness.

2. ~~Provide~~ ~~The nurse shall provide~~ treatment for the medical aspects of care according to pre-established protocols or physician's orders.

~~3.2. Note~~ ~~The nurse shall note~~ findings and activities on the clinical record.

~~4.3. Provide~~ ~~The nurse shall provide~~ progress reports to the attending physicians about patients under the physician's care when there is a substantive change in the patient's condition, there are deviations from the plan of care, or at least every sixty (60) days.

~~(b) The Advanced Registered Nurse Practitioner (Section 464.003(3)(c), F.S.):~~

1. ~~The Advanced Registered Nurse Practitioner shall perform the functions outlined for the Registered Nurse, and in addition: Provide additional services dependent upon the certification authority of the Advanced Registered Nurse Practitioner by the Florida State Board of Nursing.~~

2. ~~The Advanced Registered Nurse Practitioner shall note findings and activities on the clinical record.~~

~~(c) The Physician's Assistant (Sections 458.347(3); 459.022, F.S.):~~

1. ~~The physician's assistant shall perform health care tasks delegated by the supervising or responsible physician.~~

2. ~~The physician's assistant shall note findings and activities on the clinical record.~~

(8) Patient Eligibility Criteria.

(a) Acceptance of patients and discharge policies ~~must shall~~ include but not be limited to the following:

1. ~~(b) Patients must shall~~ be accepted for clinic services on self-referral for nursing care, or upon a plan of treatment established by the patient's attending physician.

2. ~~(e) Patients~~ ~~The patients~~ with an attending physician will be held responsible for providing the clinic with a written medical plan of treatment reviewed and signed by their physician ~~at least sixty (60) days.~~

3. ~~(d) When services are to be terminated, the patient must is to~~ be notified of the date of termination and the reason for termination that ~~must shall~~ be documented in the patient's clinical record. ~~A plan shall be developed for a R~~ referrals must be made for any continuing care required indicated.

(9) Patient's Rights.

(a) The nursing home licensee must facility shall adopt, implement and make public a statement of the rights and responsibilities of the clinic patients and ~~must shall~~ treat such



patients in accordance with the provisions of the said statement. This statement must shall be conspicuously posted and available to clinic patients in pamphlet form. The statement must ensure shall insure each patient the following:

~~1.(b)~~ The right to have private communication with any person of his or her choice.

~~2.(e)~~ The right to present grievances on behalf of himself, herself, or others to the facility's staff or administrator, to government officials, or to any person without fear of reprisal, and to join with other patients or individuals to work for improvements in patient care.

~~3.(d)~~ The right to be fully informed in writing, prior to or at the time of admission and during his or her attendance, of fees and services not covered under Title XVIII or Title XIX of the Social Security Act or other third party reimbursement options agents.

~~4.(e)~~ The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated in the written medical plan of treatment by the physician, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated in the written medical plan of treatment by the physician, and to know the consequences of such actions.

~~5.(f)~~ The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with rules as promulgated by the Agency AHCA.

~~6.(g)~~ The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records.

~~7.(h)~~ The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement of the services provided by the nursing home licensee facility.

~~(i) The right to freedom of choice in selecting a nursing home.~~

~~1. Each nursing home shall post a copy of the statement required by subsection (1) so that it is clearly evident.~~

~~(b)2-~~ Any violation of the patient's rights set forth in this section shall constitute grounds for action by the Agency under the provisions of Section 400.102, F.S.

(10) The scope Scope of services Services of the geriatric outpatient nurse clinic must include: Geriatric Outpatient Nurse Clinic

(a) Observation of signs and symptoms.

(b) Assessment of health status/progress.

(c) Nursing diagnosis and plan of care.

(d) Nursing care of patients and counseling to maintain health and prevent disease, including diet counseling.

(e) Health instruction to control progression of disease and/or disability and self care measures.

(f) Administration of medication and treatment as prescribed by a person licensed in this state to prescribe such medications and treatment.

(g) Provision of progress reports to the attending physician.

(h) Referral for additional services as needed.

(i) Follow-up on a regular basis by communication with the patient, the patient's physician, and other agencies or persons to which referrals were made.

(j) When staffed by an ARNP Advanced Registered Nurse Practitioner advanced registered nurse or physician's assistant Physician's Assistant, additional services may be provided dependent upon their respective certification authority. (Sections 458.347, 459.022, ~~464.003(3)(e)~~, F.S.).

(11) Clinical Records.

(a) The clinic must shall maintain a clinical record for every patient receiving health services that contain the following:

1. Identification data including name, address, telephone number, date of birth, sex, social security number, clinic case number if used, next of kin or guardian and telephone number, name and telephone number of patient's attending physician.

2. Assessment of problems.

3. A hHealth cCare pPlan including diagnosis diagnose, type, and frequency of services and when receiving medications and medical treatments, the medical treatment plan and dated signature of the physician or designee health professional licensed in this state to prescribe such medications and treatments.

4. Clinical notes, signed and dated by staff providing service.

a. Progress notes with changes in the patient's condition.

b. Services rendered with progress reports.

c. Observations.

d. Instructions to the patient and family.

e. Referrals made.

f. Consultation reports.

g. Case conferences.

h. Reports to physicians.

i. Termination summary which must include:

(I) Date of first and last visit.

(II) Total number of visits by discipline.

(III) Reason for termination of service.

(IV) Evaluation of achievements of previously established goals at time of termination.

(V) Condition of patient on discharge.

j. Clinical records must shall be confidential. Information may be released by the nurse, ARNP or physician's assistant responsible for clinical services only in accordance with state and federal regulations related to patient records and confidentiality.±

~~(I) When permission is granted in writing by the patient or guardian.~~

~~(II) To those persons or agencies with a legitimate professional need or regulatory authority pursuant to Section 455.241, F.S.~~

~~(III) When so ordered by the courts.~~

(12) Medications. The clinic ~~must shall~~ have policies and procedures for the administration of medications by health care professionals acting within the scope of practice defined by laws and rules of the Department of Health and the Department of Professional Regulation which ~~must shall~~ include, ~~for example,~~ the following:

(a) All prescriptions for medications ~~must shall~~ be noted on the patient's record, and include the date, drug, dosage, frequency, method or site of administration, and the authorized health care professional's signature.

(b) All verbal orders for medication or medication changes ~~must shall~~ be taken by the clinic registered nurse, ARNP or physician's assistant. Such orders must be in writing and signed by the authorized health care professional within eight (8) days and added to the patient's record.

(c) The clinic registered nurse, ARNP or physician's assistant ~~must shall~~ record and sign for each medication administered, by drug, dosage, method, time and site on patient's record.

(d) An emergency plan for reversal of drug reaction to include the nursing home licensee's pro re nata (P.R.N. or "as needed") facility's PRN standing orders for medications available in the Emergency Drug medication Kit.

(e) If there is not a separate Emergency Drug medication Kit in the clinic, the nursing home licensee's facility's Emergency Drug medication Kit ~~must shall~~ be immediately accessible for use in the outpatient clinic.

(f) A drug storage system that includes:

1. Prescribed medications for individual outpatients may be retained in the clinic. These medications ~~must shall~~ be stored separately from those of the nursing home in-patients for preventive measures and treatment of minor illnesses.

2. Multi-dose containers ~~must shall~~ be limited to medications or biologicals commonly prescribed for preventive measures and treatment of minor illnesses.

3. A list ~~must shall~~ be kept of patients receiving medication from multi-dose medication containers.

Rulemaking Specific Authority 381.493-381.497, 400.141(3), 400.23(2) FS. Law Implemented 400.33, 400.141, 400.333 FS. History—New 4-27-78, Formerly 10D-29.71, 10D-29.071, 59A-4.071, Amended 2-6-97, \_\_\_\_\_.

59A-4.165 Nursing Home Guide.

(1) Pursuant to Section 400.191 F.S., the Agency shall publish the Nursing Home guide quarterly in electronic form provide information to the public in consumer friendly printed and electronic formats (hereafter collectively the "Guide") to

assist consumers and their families in comparing and evaluating nursing home facilities. The Nursing Home guide is located on the web at <http://ahcaxnet.fdhc.state.fl.us/nhcguide/GuideIntro.aspx>.

(2) The format of the ~~printed~~ published Guide is shown in the "Nursing Home Guide Performance Measures Algorithm 2000" document, dated July 2000, which is incorporated by reference incorporated by reference herein.

(3) The format of the electronic Guide will provide the be the same as the printed Guide, but with the addition of the following:

(a) The ability to search for a nursing home facility electronically.

(b) Details of each deficiency which deficiencies the nursing home facility has been cited for over the time period specified in Section 400.191, F.S. past 45 months

(4) The data provided in the Guide shall include the following:

(a) General guidance about when a nursing home is the appropriate choice of care.

(b) General guidance about selecting a nursing home.

(c) Contact information such as phone numbers and web sites where questions can be answered, and further information obtained.

(d) A listing of all nursing home facilities in the State of Florida, including hospital based skilled nursing units. This listing shall include for each nursing home facility the following:

1. Name;

2. Address;

3. Voice and fax phone numbers;

4. Web address of facility;

5. A recognition if the nursing home licensee facility has been awarded a Gold Seal;

6. The current licensee;

7. Which calendar year the current licensee became the licensee;

8. Whether the licensee is a for-profit, or non-profit entity, and whether or not the nursing home facility is part of a retirement community;

9. Any corporate or religious affiliations;

10. The number of private, semi-private, and total beds at the nursing home facility;

11. The lowest daily charge for a semi-private room;

12. The payment forms accepted;

13. Any special services or amenities, or recreational programs provided;

14. Any non-English languages spoken by the administrator or staff of the nursing home facility; and

15. ~~A summary of the deficiencies found at the facility over a 45-month period prior to the publication of the Guide. The summarization procedure is discussed in detail below.~~

(5) The Guide will employ a procedure for summarizing the deficiencies as follows:

(a) All deficiencies cited over the most recently available time period as specified in Section 400.191, F.S., 45-month period prior to the publication of the Guide will be collected.

(b) Each citation will be assigned points based on the type of deficiency and its assigned severity and scope. For those nursing homes facilities that are not federally certified, each citation will be assigned points based on the type of deficiency and its assigned class. Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The points assigned to an N-Tag shall be those that would be assigned to the equivalent F-Tag or K-Tag, if the nursing home facility were federally certified.

(c) A score for a nursing home facility will be computed by summing the points of all of its citations, and then dividing this sum by the number of annual recertification surveys conducted at the facility in the same 45-month period as in paragraph (a) above. For those nursing homes facilities that are not federally certified, the number of annual licensure surveys will be used in place of the number of annual recertification surveys.

(d) For federally certified nursing homes facilities, the above computations will reflect any changes resulting from the Informal Dispute Resolution process, or administrative or appellate proceedings; inasmuch as the federal Centers for Medicare and Medicaid Services Health Care Financing Administration concurs with such changes.

(e) The scores for the freestanding nursing facilities will be ranked within each region. The regions are defined in the "Nursing Home Guide Performance Measures Algorithm," document, dated July 2000, incorporated by reference herein.

(f) Ranks for the hospital based skilled nursing units will be assigned the same rank as the freestanding nursing home facility in the same region with an equal or next lower score.

(g) These ranks shall be presented numerically and/or symbolically in the Guide.

(h) (b) through (g) shall be repeated for subsets of the citations. These subsets are discussed in the "Nursing Home Guide Performance Measures Algorithm," document, dated July 2000, incorporated by reference herein.

(i) Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag

or K-Tag each of the cited N-Tags is equivalent to. The sub-setting of the tags in (h) for non-certified facilities shall be accomplished by using these equivalent F-Tags and K-Tags.

(j) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., MS 33, Tallahassee, FL 32308.

(6) The electronic internet version of the guide will be available at http://ahcaxnet.fdhc.state.fl.us/nhcguide/ www.fdhc.state.fl.us and www.floridahealthstat.com.

Rulemaking Specific Authority 400.191(6) FS. Law Implemented 400.191 FS. History–New 2-15-01, Amended \_\_\_\_\_.

59A-4.166 Nursing Home Consumer Satisfaction Survey.

~~(1) Pursuant to Section 400.0225, F.S., the Agency or its contractor shall conduct consumer satisfaction surveys of all nursing homes and skilled nursing units of hospitals in the state. These nursing homes and skilled nursing units shall hereafter be referred to as "nursing facilities".~~

~~(2) The Agency or its contractor will survey family members and guardians of residents of these nursing facilities by way of mail surveys. This will require each nursing facility to provide to the Agency or its contractor, upon request, the names and addresses of at least one family member or guardian for each resident.~~

~~(3) The Agency or its contractor will interview residents of these facilities in person. This will require each nursing facility to provide to the Agency or its contractor, upon request, a list of all residents, along with each resident's room number, and each resident's birth date.~~

~~(4) The Agency or its contractor shall conduct these surveys and interviews at each nursing facility at least annually.~~

~~(5) The specific protocol for conducting these surveys and interviews is shown in the "Nursing Home and Skilled Nursing Unit Resident and Family Member Survey Project" document, dated July 2000, incorporated by reference herein.~~

~~(6) Only data summarized to the level of the facility may be released.~~

~~(7) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., Tallahassee, FL 32308.~~

Rulemaking Specific Authority 400.0225 FS. Law Implemented 400.0225 FS. History–New 2-15-01, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Molly McKinstry, Chief, Bureau of Long-Term Care Services  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold, Secretary, Agency for Health Care Administration  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: August 22, 2008

**DEPARTMENT OF MANAGEMENT SERVICES**

**Technology Program**

RULE NO.: 60FF-5.002  
 RULE TITLE: Rural County Grants

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and add new language to clarify procedures for rural county grants and to update W Form 1A, E911 Rural County Grant Program Application.

SUMMARY: The rule amendment will delete unnecessary language and add new language to clarify procedures for rural county grants and to update W Form 1A, E911 Rural County Grant Program Application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting John C. Ford, Chair, at the address listed below. The following is a summary of the SERC:

- The number of individuals and entities likely to be required to comply with the rule is 30.
- No cost to the department in implementing the proposed rule.
- No increased reporting, staffing, legal or fee requirements are anticipated.
- The proposed change is not expected to impact small business.

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

RULEMAKING AUTHORITY: 365.172(6)(a)11. FS.

LAW IMPLEMENTED: 365.173(2)(g), 365.172(9)(a), (b), (c) 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: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 160Q, Tallahassee, Florida 32399-0950

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

60FF-5.002 Rural County Grants.

The E911 Rural County Grant program is a semi-annual grant program provided for the purpose of assisting rural counties, as defined by Section 365.172(3)(y), F.S., with the installation and maintenance of an Enhanced 911 (E911) system.

- (1) No change.
- (2) General conditions.

(a) Each rural county applying for rural county grant funds shall complete and submit W Form 1A, "Application for the E911 Rural County Grant Program," effective 7/1/2010 ~~12/1/2009~~, which is incorporated herein by reference and which may be obtained from the E911 Board office at the following address:

State of Florida E911 Board  
 ATTN: Administrative Assistant  
 4050 Esplanade Way  
 Building 4030 – Suite 160  
 Tallahassee, Florida 32399-0950

The applicant must provide one the original of the pages for Application Form items 1 through 10 and the associated quotes for the grant application and seven copies postmarked or delivered ~~to the Board's Office~~ on or before March 1 or October 1 of each year, dependent on the fall or spring application period.

(b) through (c) No change.

(d) Grant applications totaling \$25,000. Or more must be accompanied by at least three written substantiated competitive quotes from different vendors. The E911 Board will compare the three quotes to any existing state contract in order to determine appropriate funding. Any county that has made a good faith effort to obtain three competitive quotes and has not been able to obtain the quotes can request E911 Board review based on substantiated proof of request for quotes or posting of the request with documentation of the limited responses.

(e) Sole source funding will be considered on a case-by-case basis. Justification for sole source funding shall ~~should~~ be provided with the this application. Sole source funding will be approved if provided in accordance with Chapter 287, F.S., or with provision of a letter from the county's purchasing department that the project is a sole source procurement based on the county's purchasing requirements. The letter should be provided with this application.

(f) No change.

(g) Equipment maintenance and warranty costs will not be funded on more than an annual basis. The E911 Board may approve funding salary requests on an annual basis.

(h) through (i) No change.

(j) Grant funds shall be deposited in a bank account maintained by the grantee county, and each grant shall be assigned a unique accounting code designation for deposits, disbursements, and expenditures. All E911 Rural County Grant funds in the account shall be accounted for separately from other grantee funds. Utilization of the earned interest funds shall be authorized through an approved Request for Change Form and expenditure documentation shall be included in the final report. Grant funds including accrued interest may be used only between the beginning and ending dates of the grant, unless an extension is requested and authorized by the E911 Board. Extension of time will not be granted unless the county has executed a contract for the grant equipment and/or

services, or demonstrates good cause for failure to execute a contract within twelve months of award. Grant extensions shall be limited to a maximum of one additional year when approved by the Board.

(k) Grantee counties must submit quarterly reports to the E911 Board, summarizing the expenditures and activities of the grant funds. The reports are due 30 days after the end of the reporting period, which ends March 31, June 30, September 30, December 31, March 31, and June 30. In lieu of submitting a signed quarterly Grant Budget/Expenditure Report form, the updated form can be e-mailed to the Board's administrative/technical staff. The quarterly and final reports will be considered late if not received by the Board Staff prior to the next scheduled Board Meeting after the due date.

(l) through (n) No change.

(o) Grant awards will be withheld for any county that has a grant with a past-due quarterly report or past-due final documentation and closeout, failure to submit final documentation and closeout of previous rural county grants.

~~(p) Responsibility for property and equipment obtained under a grant cannot be transferred under any circumstances. If a sale or transfer of such property or equipment occurs within five years after a grant ends, funds must be returned on a pro rata basis. Grant funds are not transferable to any other entity. If equipment purchased using grant funds is sold or transferred within three (3) years of the end of the grant period, the grantee county must return the grant funds to the E911 Board on a pro rata basis.~~

~~(q) The amount and availability of funds in the Trust Fund for allocation each year is subject to an annual appropriation by the Legislature. The E911 Board will adjust the funds awarded to a rural county based upon eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission. The E911 Board will adjust the funds awarded to a rural county based upon eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission.~~

(3) The Rural County Grant program will operate on the following two schedules:

(a) Spring Schedule:

1. through 4. No change.

5. Implementation period: one year from receipt of award of funds;

6. Expiration of the right to incur costs: Two years from receipt and award of funds.

(b) Fall Schedule:

1. through 4. No change.

5. Implementation period: One year from receipt of award and fund;

6. Expiration of the right to incur costs: Two years from receipt of award and funds.

~~(4) After the grants have been awarded, the E911 Board may adjust the funds awarded to a rural county, due to the changes in E911 technology, at any time within the grant period. Adjustments may be requested with an authorized Change Request Form and appropriate cost estimates from the county. Changes shall be based on a notice of subsequent extensive changes in technology that were not available at the date of grant submission. Increased system costs shall be considered based on eligible requested items that clearly demonstrate increased effectiveness of grant funds and the proposed E911 system's capabilities due to the changes in E911 technology.~~

Rulemaking Authority 365.172(6)(a)11. FS. Law Implemented 365.173(2)(g), 365.172(9)(a), (b), (c) FS. History--New 12-7-08, Amended 10-19-09, 4-15-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: E911 Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board

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

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

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of State Employees' Insurance**

RULE NO.: 60P-2.0036 RULE TITLE: Spouse Program

PURPOSE AND EFFECT: The purpose of the amendment to Rule 60P-2.0036, F.A.C., is to create rule conformity with the changes outlined by the most recent General Appropriations Act. The effect will be that the rules reflect the most recent legislative intent. The Division of State Group of Insurance decided to substantially reword the entire rule for overall clarity, but the only substantive change is that the State no longer pays the entire premium for married couples who participate in the spouse program.

SUMMARY: These rules clearly lay out how the employees can become eligible and ineligible for this program. This rule also describes what will happen to coverage should an employee become ineligible. The most substantive change is that the State will no longer pay the entire premium for married couples who participate in the spouse program.

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

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

RULEMAKING AUTHORITY: 110.123(5) FS.

LAW IMPLEMENTED: 110.123 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 7 days before the workshop/meeting by contacting: Michelle Robleto, Director, Division of State Group Insurance, telephone (850)921-4658, fax (850)488-0252. 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: Michelle Robleto, Director, Division of State Group Insurance, Department of Management Services, 4050 Esplanade Way, Tallahassee, FL 32399-0905, telephone (850)921-4658, fax (850)488-0252

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 60P-2.0036 follows. See Florida Administrative Code for present text.)

60P-2.0036 Spouse Program.

(1) The spouse program is pretax family health insurance coverage where each employee contributes to the monthly premiums as determined by the annual funding by the Legislature through the General Appropriations Account.

(2) For the purposes of this section, "Designated Agent" means an entity the Department may contract with to provide benefits administration services, but does not include an employee's agency personnel office or other employees of the employee's agency, unless so designated in writing by the Division.

(3) Participation in the spouse program is voluntary and available to any married state employee whose spouse is also a state employee. To enroll in the spouse program, married state employees must submit an application completed by both spouses to the Designated Agent within the specified timeframe for one of the following events:

(a) Within thirty-one (31) days of marriage to another state employee in accordance with Rule 60P-2.002 or 60P-2.003, F.A.C.; or

(b) Within sixty (60) days of spouse's new employment or re-employment with the State of Florida; or

(c) During the annual Open Enrollment period.

(4) In no case shall a retroactive effective date be assigned. Spouse program benefits begin the first of the month following receipt and approval by the Designated Agent of the application.

(5) Eligibility for and participation in the spouse program and state contributions shall cease, if one of the following disqualifying events occurs:

(a) One or both employees end employment with the state;  
or

(b) One or both employees go on leave without pay status;  
or

(c) The employees divorce; or

(d) The death of a spouse.

(6) All state employees participating in the spouse program shall report any above described disqualifying event to the Designated Agent to avoid any underpayment of premiums.

(7) Upon learning of ineligibility, the Designated Agent shall investigate and determine the effective end-date of participation in the spouse program and make the change, regardless of whether or not one or both spouses submitted an application to terminate participation. The effective end-date of participation in the spouse program shall be as of the date of the disqualifying event listed in subsection (5) above.

(8) Unless otherwise directed by the employee, each disqualifying event will result in the following health insurance coverage levels as follows:

(a) If one employee ends employment with the state, the remaining employee's coverage level will be changed to family coverage level.

(b) If one employee goes on leave without pay status, the remaining employee's coverage level will be changed to family coverage level.

(c) If the employees divorce, and there are eligible dependents, each remaining employee's coverage will be determined as set forth under the terms and conditions of the divorce decree.

(d) If the employees divorce, and there are no eligible dependents, each remaining employee will be changed to individual coverage.

(e) If the employees divorce, at no time will family coverage level include a former spouse.

(f) If one spouse dies, and there are eligible dependents, the remaining employee's coverage level will be family coverage.

(g) If one spouse dies, and there are no eligible dependents, the coverage level of the remaining employee will change to individual coverage.

(9) If participants in the spouse program do not timely notify the designated agent of their disqualifying event, the participants shall be financially liable for medical or

prescription drug claims incurred by the participants and their dependents, and any premiums paid by the state during the time the participants and/or their dependents were not eligible.

(10) If an ineligible spouse returns to eligible state employment, the spouse program shall only become effective upon the re-enrollment in the program by both employees in accordance with subsection (3) above.

Rulemaking Specific Authority 110.123(5) FS. Law Implemented 110.123 FS. History–New 8-22-96, Repromulgated 1-31-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michelle Robleto

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Linda H. South

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of State Employees’ Insurance**

RULE NO.:                   RULE TITLE:  
60P-6.0075                   Benefits

PURPOSE AND EFFECT: The purpose of the amendment to Rule 60P-6.0075, F.A.C., is to create rule conformity with the changes outlined by the most recent General Appropriations Act. The effect will be that the rules reflect the most recent legislative intent and the State will no longer pay 100% of the premium for health coverage for Senior Management Service or Selected Exempt Service employees.

SUMMARY: The State will no longer cover 100% of the premium payments for state group health insurance for Senior Management Service or Selected Exempt Service employees.

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: 110.161(5), 110.403(1), 110.605(1) FS.

LAW IMPLEMENTED: 110.205(2), 110.403(1)(c), 110.603(2) 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 7 days before the workshop/meeting by contacting: Michelle Robleto, Director, Division of State

Group Insurance, telephone (850)921-4658, fax (850)488-0252. 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: Michelle Robleto, Director, Division of State Group Insurance, Department of Management Services, 4050 Esplanade Way, Tallahassee, FL 32399-0905, telephone (850)921-4658, fax (850)488-0252t

THE FULL TEXT OF THE PROPOSED RULE IS:

60P-6.0075 Benefits.

(1) Subject to the limitations provided under the Internal Revenue Code to avoid discrimination, the amount of salary reduction which a participant may elect under the Pretax Premium Plan shall be the aggregate amount of employee premiums for coverage under the State Group Insurance Program.

(2) All participants’ contributions to any reimbursement account under the Program shall be made by salary reduction except in the case of certain participants of the Medical Reimbursement Account whose employment has terminated.

(3) A participant’s gross compensation shall not be affected by participation in any Plan. A participant who contributes to a deferred compensation plan or a tax sheltered annuity may be required to adjust his contributions to such programs. Employee contributions under the State University System Optional Retirement Program will be computed on the participant’s adjusted gross income automatically.

(4) ~~The Subject to the appropriation of funds the State shall pay a monthly contribution towards for the following insurance coverage for each full-time member of the Senior Management Service or Selected Exempt Service as funded annually by the Legislature through the General Appropriations Act, or otherwise absorbed within the existing budget authority of the employing agency, as follows; in addition, the State may pay 100% of the premium for an individual or family dental insurance plan, provided that premiums are funded by the Legislature through the appropriations act or otherwise absorbed within the existing budget authority of the employing agency:~~

(a) ~~The 100% of the premium for the state individual life insurance policy;~~

(b) ~~100% of the premium for the individual or family state group health insurance plan, or up to an equal dollar amount for a health maintenance organization premium; and~~

(b)(e) ~~The 100% of the premium for the state individual disability insurance policy; and~~

(c) The premium for a state group health insurance plan.

Rulemaking Specific Authority 110.161(5), 110.403(1), 110.605(1) FS. Law Implemented 110.161, 110.205(2), 110.403(1)(c), 110.603(2) FS. History–New 8-26-96, Repromulgated 4-25-02, Repromulgated as Amended 4-25-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michelle Robleto  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary of DMS Linda H. South  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE NOS.:                   RULE TITLES:  
61-36.001                   Department Closure or Termination of Deficient Applications  
61-36.002                   Department Approval of Applications Meeting Statutory and Rule Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to establish department processes for approval of applications meeting statutory and rule requirements, and termination of deficient applications when two years have elapsed from the last notice of deficiency.

SUMMARY: The subject area to be addressed in these rules is the process by which the department approves applications meeting statutory and rule requirements, and terminates deficient applications when two years have elapsed from the last notice of deficiency.

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: 455.203(5), (6), 455.2035 FS.  
LAW IMPLEMENTED: 455.203(10)(a), (b) 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: Tim Vaccaro, Director, Division of Professions, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0760, (850)488-7776

THE FULL TEXT OF THE PROPOSED RULES IS:

61-36.001 Department Closure or Termination of Deficient Applications.  
Upon determination that two (2) years have elapsed since the department notified an applicant of a deficiency in the application and that the applicant has failed to cure the deficiency, the department shall close the review and terminate

the application as deficient pursuant to Section 455.203(10), F.S. The determination regarding the two (2) year lapse in time shall be based on documentation that the department notified the applicant of the deficiency in accordance with Section 120.60, F.S. This rule does not apply to applications for licensure submitted to the Division of Real Estate pursuant to Chapter 475, Part II, Florida Statutes.

Rulemaking Authority 455.203(5), (6), 455.2035 FS. Law Implemented 455.203(10)(a) FS. History--New \_\_\_\_\_.

61-36.002 Department Approval of Applications Meeting Statutory and Rule Requirements.

Upon review of a non-deficient application for license, the department shall examine the application to determine if the applicant meets the qualifications for licensure set forth in the applicable licensing statutes. If the applicant meets all of the requirements for the license for which the applicant has applied, the department shall approve the application and issue the license.

Rulemaking Authority 455.203(5), (6), 455.2035 FS. Law Implemented 455.203(10)(b) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Vaccaro, Director, Division of Professions  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Secretary, Department of Business and Professional Regulation  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE NOS.:                   RULE TITLES:  
61G6-5.002                   Application for Certification by Examination; Reexamination  
61G6-5.003                   Requirements for Certification

PURPOSE AND EFFECT: The Board proposes to amend the rules to update the incorporated forms; to clarify the way the examination is administered; and to list the requirements for applying for certification by endorsement.

SUMMARY: The incorporated forms will be updated; the way the examination is administered will be clarified; requirements for applying for certification by endorsement will be added.

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



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

RULEMAKING AUTHORITY: 489.507(3) FS.

LAW IMPLEMENTED: 489.505(12), (21), (22), 489.511, 489.521 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: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-5.002 Application for Certification by Examination; Reexamination.

(1) An applicant for certification by examination or by endorsement shall submit the complete application form together with all supporting data (including information required to be submitted under Rules 61G6-5.004 and 61G6-5.003, F.A.C., if applicable) to the Department of Business and Professional Regulation. The application shall be accompanied by the appropriate application fee. ~~All initial applications for examination must be completed and filed with the Department at least ninety (90) days prior to the date of the Technical/Safety examination that is administered by the Department. All applications not completed by the deadline will be automatically scheduled for the next examination.~~ Any application that is not complete within one year from date of initial filing will be closed. The form is entitled "Examination Application," DBPR ECLB 4451, Effective Date: August 13, 2008 ~~November 12, 2004~~, and incorporated herein by reference. Applicants shall also complete the following forms: DBPR 0010, Master Individual Application, Revised May 2010 ~~Effective Date: November 12, 2004~~, DBPR ECLB 4454, Work Experience, Effective Date: November 12, 2004, DBPR 0050, Explanatory Information for Background Questions, Effective Date: November 12, 2004, DBPR 0060, General Explanatory Description, Effective Date: November 12, 2004 and DBPR 0030-1, Attest Statement, Effective Date: November 12, 2004, incorporated herein by reference. Copies of the application and other forms required by this rule can be obtained by contacting the Department at the following address: Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0771, or at: [http://www.state.fl.us/dbpr/pro//elboard/documents/eclb\\_exam\\_enterable.pdf](http://www.state.fl.us/dbpr/pro//elboard/documents/eclb_exam_enterable.pdf). ~~<http://www.state.fl.us/dbpr/pro/forms/elboard/index.shtml>~~

~~(2) All retake exam applications, and any other required forms and documents must be completed and filed with the Department at least forty-five (45) days prior to the date of the~~

~~Technical/Safety examination for which the individual is applying. The form is entitled "Retake Exam Application," DBPR ECLB 4457, Effective Date: November 12, 2004, and incorporated herein by reference. Copies of the application can be obtained by contacting the Department at the following address: Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0771, or at: <http://www.state.fl.us/dbpr/pro/forms/elboard/index.shtml>.~~

~~(2)(3) The initial Business Computer Based Test portion may be taken from the professional testing service at any time after the applicant has been approved to sit for the initial paper and pencil Technical/Safety examination. For re-examination on the Technical/Safety examination, a retake exam application (DBPR ECLB form number 4457, effective August 2008) with the required fee must be submitted to the Department. The retake exam application may be obtained at [http://www.myfloridalicense.com/dbpr/pro/elboard/documents/eclb-4457\\_enterable.pdf](http://www.myfloridalicense.com/dbpr/pro/elboard/documents/eclb-4457_enterable.pdf). For the second and third re-examination attempts on the Business Computer-Based Test, a retake exam application is not required to be submitted to the Department. There shall be a 21-day waiting period between retakes of the Business Computer-Based Test.~~

Rulemaking Specific Authority 489.507(3) FS. Law Implemented 489.511 FS. History—New 1-2-80, Amended 10-30-80, Formerly 21GG-5.02, Amended 10-30-88, 11-3-92, Formerly 21GG-5.002, Amended 4-5-95, 5-13-03, 1-23-05, 6-3-07, \_\_\_\_\_.

61G6-5.003 Requirements Application for Examination ~~for~~ Certification.

(1) Any person desiring ~~to take the certification by~~ examination or applying for certification by endorsement pursuant to Section 589.511(6)(a), F.S., must establish that he or she meets eligibility requirements according to one of the following criteria:

(a) No change.

1. An applicant for certification examination who is a recipient of a degree in engineering or related field from an accredited four-year college or university may substitute his or her educational background for 1 year of experience in the trade as an electrical contractor or an alarm contractor, provided that the applicant causes the college or university he or she attended to forward a copy of his or her transcript to the Department.

2. No change.

a. through c. No change.

(b) No change.

1. through 3. No change.

(c) No change.

1. through 3. No change.

(d) No change.

(2) through (4) No change.

Rulemaking Specific Authority 489.507(3) FS. Law Implemented 489.505(12), (21), (22), 489.511(2), 489.521 FS. History—New 1-2-80, Amended 4-17-80, 10-4-84, Formerly 21GG-5.03, Amended 12-24-87, 7-9-89, 3-13-90, 11-26-90, 7-8-91, Formerly 21GG-5.003, Amended 3-20-94, 11-30-94, 7-13-95, 1-18-96, 9-22-97, 10-1-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Electrical Contractors' Licensing Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2009

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: 62-204.800  
RULE TITLE: Federal Regulations Adopted by Reference

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments (OGC No. 10-0872) update, to the July 1, 2009, Code of Federal Regulations, the department's adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. Parts 60, 62, 63, and 81. The department is also correcting, as needed, citations to regulations for which enforcement is reserved to EPA and deleting previously adopted-by-reference EPA regulations at 40 C.F.R. Part 60, Subpart HHHH, which are now obsolete.

RULEMAKING AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Patricia E. Comer, Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Blvd., MS #35, Tallahassee, Florida 32399-3000

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.  
All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (8) No change.

(8) Title 40, Code of Federal Regulations, Part 60, Standards of Performance for New Stationary Sources.

(a) No change.

(b) Standards Adopted. The following Standards of Performance for New Stationary Sources contained in 40 C.F.R. Part 60, revised as of July 1, 2009 ~~July 1, 2001~~, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 60, Subpart D, Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971; ~~amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071.~~

2. 40 C.F.R. Part 60, Subpart Da, Electric Utility Steam Generators for Which Construction Is Commenced After September 18, 1978; ~~amended August 14, 2001, at 66 FR 42608; amended May 18, 2005, at 70 FR 28605; amended August 30, 2005, at 70 FR 51266; amended February 27, 2006, at 71 FR 9865; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.47Da ~~60.47a~~.

3. 40 C.F.R. Part 60, Subpart Db, Industrial-Commercial-Institutional Steam Generating Units; ~~amended August 14, 2001, at 66 FR 42608; amended October 1, 2001, at 66 FR 49830; amended February 27, 2006, at 71 FR 9865; amended November 16, 2006, at 71 FR 66681; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071;~~ except that the Secretary is not the Administrator for purposes of authorities cited at 40 C.F.R. § 60.40b(g) ~~60.49b(a)(4), 60.44b(f) and (g) and 40 C.F.R.~~

4. 40 C.F.R. Part 60, Subpart Dc, Small Industrial-Commercial-Institutional Steam Generating Units; ~~amended February 27, 2006, at 71 FR 9865; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071;~~ except that the Secretary is not the Administrator for the purposes of authorities cited at 40 C.F.R. § 60.40c(b) ~~60.48e(a)(4).~~

5. 40 C.F.R. Part 60, Subpart E, Incinerators; ~~amended October 30, 2003, at 68 FR 61759.~~

6. No change.

7. 40 C.F.R. Part 60, Subpart Eb, Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994, or for Which Modification or Reconstruction is Commenced After June 19, 1996; except that

the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. § 60.50b(n) amended July 12, 2001, at 66 FR 36473; amended November 16, 2001, at 66 FR 57824; amended May 10, 2006, at 71 FR 27324. Any municipal waste combustor plant which contains a municipal waste combustor unit subject to 40 C.F.R. 60, Subpart Eb, is subject to the permitting requirements of Chapter 62-213, F.A.C. Any municipal waste combustor plant subject to the permitting requirements of Chapter 62-213, F.A.C., solely because it is subject to 40 C.F.R. 60, Subpart Eb, shall file an application for an operation permit under the requirements of Chapter 62-213, F.A.C., ninety days before expiration of the source's construction permit, but no later than 180 days after commencing operation.

8. 40 C.F.R. Part 60, Subpart Ec, Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996; amended October 6, 2009, at 74 FR 51368; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § ~~60.56c(i)~~ 60.56(e)(i).

9. through 12. No change.

13. 40 C.F.R. Part 60, Subpart J, Petroleum Refineries; ~~amended June 24, 2008, at 73 FR 35837;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. § 60.109(b).

14. 40 C.F.R. Part 60, Subpart Ja, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007; ~~promulgated June 24, 2008, at 73 FR 35837; amended December 22, 2008, at 73 FR 78549;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. § 60.109a(b).

15. through 16. No change.

17. 40 C.F.R. Part 60, Subpart Kb, Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.117b(b). ~~amended October 15, 2003, at 68 FR 59328.~~

18. through 21. No change.

22. 40 C.F.R. Part 60, Subpart O, Sewage Treatment Plants; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.156(b).

23 through 33. No change.

34. 40 C.F.R. Part 60, Subpart AA, Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983; ~~amended February 22, 2005, at 70 FR 8523.~~

35. 40 C.F.R. Part 60, Subpart AAa, Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983; ~~amended February 22, 2005, at 70 FR 8523.~~

36. through 39. No change.

40. 40 C.F.R. Part 60, Subpart GG, Stationary Gas Turbines; ~~amended July 8, 2004, at 69 FR 41346; amended February 24, 2006, at 71 FR 9453;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.332(a)(4) ~~40 C.F.R. § 60.334(b)(2) and 40 C.F.R. § 60.335(f)(1).~~

41. through 51. No change.

52. 40 C.F.R. Part 60, Subpart VV, Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; ~~amended November 16, 2007, at 72 FR 64859; amended June 2, 2008, at 73 FR 31372;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of 40 C.F.R. § 60.482-1(c)(2) and 40 C.F.R. § 60.484.

53. 40 C.F.R. Part 60, Subpart VVa, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006; ~~promulgated November 16, 2007, at 72 FR 64859; amended June 2, 2008, at 73 FR 31372;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.482-1a(c)(2) and 40 C.F.R. § 60.484a.

54. through 55. No change.

56. 40 C.F.R. Part 60, Subpart BBB, Rubber Tire Manufacturing Industry; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.548(b).

57. through 58. No change.

59. 40 C.F.R. Part 60, Subpart GGG, Equipment Leaks of VOC in Petroleum Refineries; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.592(c) ~~amended August 2, 2001, at 66 FR 40121; amended August 6, 2003, at 68 FR 46489; amended November 16, 2007, at 72 FR 64859; amended June 2, 2008, at 73 FR 31372.~~

60. 40 C.F.R. Part 60, Subpart GGGa, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006; ~~promulgated November 16, 2007, at 72 FR 64859; amended June 2, 2008, at 73 FR 31372;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.592a(c).

61. through 62. No change.

63. 40 C.F.R. Part 60, Subpart JJJ, Petroleum Dry Cleaners; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.623.

64. 40 C.F.R. Part 60, Subpart KKK, Equipment Leaks of VOC From Onshore Natural Gas Processing Plants; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.634.

65. through 66. No change.

67. 40 C.F.R. Part 60, Subpart OOO, Nonmetallic Mineral Processing Plants; ~~amended April 28, 2009, at 74 FR 19293.~~

68. No change.

69. 40 C.F.R. Part 60, Subpart QQQ, VOC Emissions From Petroleum Refinery Wastewater Systems; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.699(b).

70. 40 C.F.R. Part 60, Subpart RRR, Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.708(b).

71. 40 C.F.R. Part 60, Subpart SSS, Magnetic Tape Coating Facilities; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.718(b).

72. 40 C.F.R. Part 60, Subpart TTT, Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.726(b).

73. No change.

74. 40 C.F.R. Part 60, Subpart VVV, Polymeric Coating of Supporting Substrates Facilities; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. § 60.748 60.743(a)(3)(v)(A) and (B), 40 C.F.R. § 60.743(e), 40 C.F.R. § 60.745(a) and 40 C.F.R. § 60.746.

75. through 77. No change.

78. 40 C.F.R. Part 60, Subpart EEEE, Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification of Reconstruction Is Commenced on or After June 16, 2006; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 60.2889(b) promulgated December 16, 2005, at 70 FR 74869; amended November 24, 2006, at 71 FR 67802. Any solid waste incineration unit subject to the permitting requirements of Chapter 62-213, F.A.C., solely because it is subject to 40 C.F.R. Part 60, Subpart EEEE, shall file an application for an operation permit under the requirements of Chapter 62-213, F.A.C., in accordance with paragraph 62-213.420(1)(a), F.A.C.

79. 40 C.F.R. Part 60, Subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines; ~~promulgated July 11, 2006, at 71 FR 39153;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.4201, 60.4202, 60.4203, and 60.4210, and 60.4215 and 60.4216.

80. 40 C.F.R. Part 60, Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines; ~~promulgated January 18, 2008, at 73 FR 3567;~~ except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.4231, 60.4232, 60.4238, 60.4239, 60.4240, 60.4241, 60.4242, and 60.4247.

81. 40 C.F.R. Part 60, Subpart KKKK, Standards for Stationary Combustion Turbines; ~~promulgated July 6, 2006, at 71 FR 38481; amended March 20, 2009, at 74 FR 11858.~~

(c) No change.

(d) General Provisions Adopted. The general provisions of 40 C.F.R. Part 60, Subpart A, revised as of ~~July 1, 2009~~ July 1, 2001; amended August 27, 2001, at 66 FR 44978; amended July 8, 2004, at 69 FR 41346; amended May 18, 2005, at 70 FR 28605; ~~amended December 16, 2005, at 70 FR 74869; amended June 1, 2006, at 71 FR 31100; amended July 6, 2006, at 71 FR 38481; amended July 11, 2006, at 71 FR 39153; amended May 16, 2007, at 72 FR 27437; amended June 13, 2007, at 72 FR 32709; amended November 16, 2007, at 72 FR 64859; amended January 18, 2008, at 73 FR 3567; amended June 24, 2008, at 73 FR 35837; amended December 22, 2008, at 73 FR 78199; amended January 28, 2009, at 74 FR 5071; amended October 6, 2009, at 74 FR 51368;~~ are adopted and incorporated by reference except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.4, 40 C.F.R. § 60.8(b)(2) and (3), 40 C.F.R. § 60.11(e)(7) and (8), 40 C.F.R. § 60.13(g), (i) and (j)(2), and 40 C.F.R. § 60.16.

(e) Appendices Adopted. The following appendices of 40 C.F.R. Part 60, revised as of ~~July 1, 2009~~ July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.

2. 40 C.F.R. Part 60, Appendix A-2, Test Methods 2G through 3C; ~~amended May 15, 2006, at 71 FR 28081; amended May 22, 2008, at 73 FR 29691; amended May 29, 2009, at 74 FR 25666.~~

3. No change.

4. 40 C.F.R. Part 60, Appendix A-4, Test Methods 6 through 10B; ~~amended May 15, 2006, at 71 FR 28081; amended May 22, 2008, at 73 FR 29691; amended May 29, 2009, at 74 FR 25666.~~

5. through 6. No change.

7. 40 C.F.R. Part 60, Appendix A-7, Test Methods 19 through 25E; ~~amended May 15, 2006, at 71 FR 28081; amended September 21, 2006, at 71 FR 55119; amended May 22, 2008, at 73 FR 29691; amended March 25, 2009, at 74 FR 12575~~ except that in Method 23, the toluene rinse concentrate may be added to the acetone and methylene chloride concentrate, the filter, and the resin in the Soxhlet apparatus specified at section 5.1.4 of the method prior to analysis, in lieu of separate analysis of the toluene rinse extract pursuant to section 5.1.6 of the method.

8. 40 C.F.R. Part 60, Appendix A-8, Test Methods 26 through 30B; ~~amended September 7, 2007, at 72 FR 51493.~~

9. 40 C.F.R. Part 60, Appendix B, Performance Specifications; ~~amended January 12, 2004, at 69 FR 1785; amended May 18, 2005, at 70 FR 28605; amended September 21, 2006, at 71 FR 55119; amended June 13, 2007, at 72 FR 32709; amended September 7, 2007, at 72 FR 51493; amended March 25, 2009, at 74 FR 12575; amended April 23, 2009, at 74 FR 18474.~~

10. through 11. No change.

12. 40 C.F.R. Part 60, Appendix F, Quality Assurance Procedures, ~~amended January 12, 2004, at 69 FR 1785; amended June 13, 2007, at 72 FR 32709; amended March 25, 2009, at 74 FR 12575.~~

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) No change.

(b) Municipal Waste Combustors. 40 C.F.R. 60, Subpart Cb, Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994, revised as of July 1, 2009, ~~July 1, 2001, amended July 14, 2004, at 69 FR 42117; amended May 10, 2006, at 71 FR 27324~~; is hereby adopted and incorporated by reference, subject to the following provisions:

1. through 8. No change.

(c) Municipal Solid Waste Landfills. 40 C.F.R. 60, Subpart Cc, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, revised as of July 1, 2009, ~~July 1, 2001~~, is hereby adopted and incorporated by reference, subject to the following provisions:

1. through 7. No change.

(d) No change.

(e) Small Municipal Waste Combustion Units. 40 C.F.R. Part 60, Subpart BBBB, Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999, revised as of July 1, 2009, ~~July 1, 2001~~, is hereby adopted and incorporated by reference subject to the following provisions:

1. through 12. No change.

(f) Commercial and Industrial Solid Waste Incineration Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before November 30, 1999, revised as of July 1, 2009, ~~July 1, 2001~~, is hereby adopted and incorporated by reference subject to the following provisions:

1. through 13. No change.

(g) No Change.

(h) Designated Facility Plan. Florida's state plan for implementing the Emission Guidelines, as approved by the Administrator pursuant to Section 111(d) of the Clean Air Act and identified at 40 C.F.R. Part 62, Subpart K, revised as of July 1, 2009, is adopted and incorporated by reference. ~~Coal Fired Electric Steam Generating Units. 40 C.F.R. Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal Fired Electric Steam Generating Units, revised as of July 1, 2005, amended June 9, 2006, at 71 FR 33388; amended October 19, 2007, at 72 FR 59190, is hereby adopted and incorporated by reference, subject to the provisions set forth at Rule 62 296.480, F.A.C.~~

(10) No change.

(11) Title 40, Code of Federal Regulations, Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) No change.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 C.F.R. Part 63, revised as of July 1, 2009, ~~July 1, 2001~~, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 63, Subpart F, Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 21, 2006, at 71 FR 76603~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.106(c)(1) through (4).

2. 40 C.F.R. Part 63, Subpart G, Organic Hazardous Air Pollutants From the Synthetic Organic Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater; ~~amended June 23, 2003, at 68 FR 37333; amended December 23, 2004, at 69 FR 76859; amended April 20, 2006, at 71 FR 20445; amended December 21, 2006, at 71 FR 76603; amended December 22, 2008, at 73 FR 78199~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.153(c)(1) through (4).

3. 40 C.F.R. Part 63, Subpart H, Organic Hazardous Air Pollutants for Equipment Leaks; ~~amended June 23, 2003, at 68 FR 37333; amended December 22, 2008, at 73 FR 78199~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.183(c)(1) through (4).

4. 40 C.F.R. Part 63, Subpart I, Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.193(c)(1) through (4).

5. 40 C.F.R. Part 63, Subpart J, Polyvinyl Chloride and Copolymers Production, ~~promulgated July 10, 2002, at 67 FR 45885~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.216(b)(1) through (5).

6. 40 C.F.R. Part 63, Subpart L, Coke Oven Batteries; ~~amended June 23, 2003, at 68 FR 37333; amended April 15, 2005, at 70 FR 19991; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.313(d)(1) through (5).

7. 40 C.F.R. Part 63, Subpart M, Perchloroethylene Dry Cleaning Facilities; ~~amended June 23, 2003, at 68 FR 37333; amended July 27, 2006, at 71 FR 42723; amended September 21, 2006, at 71 FR 55280; amended July 11, 2008, at 73 FR~~

~~39874~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.326(c)(1) through (4).

8. 40 C.F.R. Part 63, Subpart N, Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; ~~amended June 23, 2003, at 68 FR 37333; amended July 19, 2004, at 69 FR 42885; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.348(c)(1) through (4).

9. 40 C.F.R. Part 63, Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities; ~~amended November 2, 2001, at 66 FR 55577; amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.368(c)(1) through (4).

10. 40 C.F.R. Part 63, Subpart Q, Industrial Process Cooling Towers; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.407(c)(1) through (4).

11. 40 C.F.R. Part 63, Subpart R, Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations); ~~amended June 23, 2003, at 68 FR 37333; amended December 19, 2003, at 68 FR 70959; amended April 6, 2006, at 71 FR 17352; amended December 22, 2008, at 73 FR 78199~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.429(c)(1) through (4).

12. 40 C.F.R. Part 63, Subpart S, Pulp and Paper Industry; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. § 63.453(m), 40 C.F.R. § 63.457(b)(5)(iii), 40 C.F.R. § 63.457(e)(3)(ii), and 40 C.F.R. §§ 63.458(c)(1) through (4).

13. 40 C.F.R. Part 63, Subpart T, Halogenated Solvent Cleaning; ~~amended June 23, 2003, at 68 FR 37333; amended May 3, 2007, at 72 FR 25137~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.470(c)(1) through (4).

14. 40 C.F.R. Part 63, Subpart U, Group I Polymers and Resins; ~~amended July 16, 2001, at 66 FR 36924; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.507(c)(1) through (4).

15. 40 C.F.R. Part 63, Subpart W, Epoxy Resins Production and Non-Nylon Polyamides Production; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.529(c)(1) through (4).

16. 40 C.F.R. Part 63, Subpart X, Secondary Lead Smelters; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.551(c)(1) through (4).

17. 40 C.F.R. Part 63, Subpart Y, Marine Tank Vessel Loading Operations; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.568(c)(1) through (4).

18. 40 C.F.R. Part 63, Subpart AA, Phosphoric Acid Manufacturing Plants; ~~amended December 17, 2001, at 66 FR 65072; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.611(c)(1) through (4).

19. 40 C.F.R. Part 63, Subpart BB, Phosphate Fertilizers Production Plants; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.632(c)(1) through (4).

20. 40 C.F.R. Part 63, Subpart CC, Petroleum Refineries; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.655(c)(1) through (4).

21. 40 C.F.R. Part 63, Subpart DD, Off-Site Waste and Recovery Operations; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.698(c)(1) through (4).

22. 40 C.F.R. Part 63, Subpart EE, Magnetic Tape Manufacturing Operations; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.708(c)(1) through (4).

23. 40 C.F.R. Part 63, Subpart GG, Aerospace Manufacturing and Rework Facilities; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.759(c)(1) through (4).

24. 40 C.F.R. Part 63, Subpart HH, Oil and Natural Gas Production Facilities; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended January 3, 2007, at 72 FR 26; amended December 22, 2008, at 73 FR 78199~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.776(c)(1) through (4).

25. 40 C.F.R. Part 63, Subpart II, Shipbuilding and Ship Repair (Surface Coating); ~~amended June 23, 2003, at 68 FR 37333; amended December 29, 2006, at 71 FR 78369~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.789(c)(1) through (4).

26. 40 C.F.R. Part 63, Subpart JJ, Wood Furniture Manufacturing Operations; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.808(c)(1) through (5).

27. 40 C.F.R. Part 63, Subpart KK, Printing and Publishing Industry; ~~amended June 23, 2003, at 68 FR 37333; amended May 24, 2006, at 71 FR 29792~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.831(c)(1) through (4).

28. 40 C.F.R. Part 63, Subpart LL, Primary Aluminum Reduction Plants; ~~amended June 23, 2003, at 68 FR 37333; amended November 2, 2005, at 70 FR 66280; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.853(c)(1) through (4).

29. 40 C.F.R. Part 63, Subpart MM, Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills; ~~except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.868(b)(1) through (4) amended July 19, 2001, at 66 FR 37591; amended August 6, 2001, at 66 FR 41086; amended February 18, 2003, at 68 FR 7706; amended May 8, 2003, at 68 FR 24653; amended July 18, 2003, at 68 FR 42603; amended December 5, 2003, at 68 FR 67953; amended May 6, 2004, at 69 FR 25321; amended April 20, 2006, at 71 FR 20445~~.

30. 40 C.F.R. Part 63, Subpart OO, Tanks-Level 1; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.908(c)(1) through (4).

31. 40 C.F.R. Part 63, Subpart PP, Containers; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.929(c)(1) through (4).

32. 40 C.F.R. Part 63, Subpart QQ, Surface Impoundments; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.949(c)(1) through (4).

33. 40 C.F.R. Part 63, Subpart RR, Individual Drain Systems; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.967(c)(1) through (4).

34. 40 C.F.R. Part 63, Subpart SS, Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process; ~~amended July 12, 2002, at 67 FR 46257; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.992(b)(1) through (5).

35. 40 C.F.R. Part 63, Subpart TT, Equipment Leaks – Control Level 1; ~~amended July 12, 2002, at 67 FR 46257~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.1000(b)(1)(i) through (v).

36. 40 C.F.R. Part 63, Subpart UU, Equipment Leaks – Control Level 2 Standards; ~~amended July 12, 2002, at 67 FR 46257~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.1019(f)(1)(i) through (v).

37. 40 C.F.R. Part 63, Subpart VV, Oil-Water Separators and Organic-Water Separators; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1050(c)(1) through (4).

38. 40 C.F.R. Part 63, Subpart WW, Storage Vessels (Tanks) – Control Level 2; ~~amended July 12, 2002, at 67 FR 46257~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.1067(b)(1) through (5).

39. 40 C.F.R. Part 63, Subpart XX, Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations; ~~promulgated July 12, 2002, at 67 FR 46257; amended April 13, 2005, at 70 FR 19266; amended June 29, 2007, at 72 FR 35663~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.1097(b)(1) through (5).

40. 40 C.F.R. Part 63, Subpart YY, Generic Maximum Achievable Control Technology Standards; ~~amended November 2, 2001, at 66 FR 55844; amended July 12, 2002, at 67 FR 46257; amended July 12, 2002, at 67 FR 46289; amended February 10, 2003, at 68 FR 6635; amended April 13, 2005, at 70 FR 19266; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.1114(b)(1) through (5).

41. 40 C.F.R. Part 63, Subpart CCC, Steel Pickling – HCL Process Facilities and Hydrochloric Acid Regeneration Plants; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1166(c)(1) through (8).

42. 40 C.F.R. Part 63, Subpart DDD, Mineral Wool Production; ~~amended June 23, 2003, at 68 FR 37333~~; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1195(c)(1) through (4).

43. 40 C.F.R. Part 63, Subpart EEE, Hazardous Waste Combustors; ~~amended July 3, 2001, at 66 FR 35087; amended October 15, 2001, at 66 FR 52361; amended December 6, 2001, at 66 FR 63313; amended February 13, 2002, at 67 FR 6791; amended February 14, 2002, at 67 FR 6967; amended December 19, 2002, at 67 FR 77687; amended June 23, 2003, at 68 FR 37333; amended October 12, 2005, at 70 FR 59401~~;

~~amended December 19, 2005, at 70 FR 75042; amended April 20, 2006, at 71 FR 20445; amended October 25, 2006, at 71 FR 62388; amended April 8, 2008, at 73 FR 18970; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1214(c)(1) through (4).~~

44. 40 C.F.R. Part 63, Subpart GGG, Pharmaceuticals Production; ~~amended April 2, 2002, at 67 FR 15486; amended June 23, 2003, at 68 FR 37333; amended May 13, 2005, at 70 FR 25665; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. 63.1261(c)(1) through (4).~~

45. 40 C.F.R. Part 63, Subpart HHH, Natural Gas Transmission and Storage Facilities; ~~amended September 27, 2001, at 66 FR 49299; amended February 22, 2002, at 67 FR 8202; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1286(c)(1) through (4).~~

46. 40 C.F.R. Part 63, Subpart III, Flexible Polyurethane Foam Production; ~~amended June 23, 2003, at 68 FR 37333; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1309(c)(1) through (5).~~

47. 40 C.F.R. Part 63, Subpart JJJ, Group IV Polymers and Resins; ~~amended July 16, 2001, at 66 FR 36924; amended August 6, 2001, at 66 FR 40903; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1336(c)(1) through (4).~~

48. 40 C.F.R. Part 63, Subpart LLL, Portland Cement Manufacturing Industry; ~~amended April 5, 2002, at 67 FR 16613; amended July 2, 2002, at 67 FR 44371; amended July 5, 2002, at 67 FR 44766; amended December 6, 2002, at 67 FR 72580; amended June 23, 2003, at 68 FR 37333; amended December 20, 2006, at 71 FR 76517; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1358(c)(1) through (4). If a facility becomes subject to the permitting requirements of Chapter 62-213, F.A.C., solely because it is subject to the emission limiting requirements of 40 C.F.R. Part 63, Subpart LLL, the facility shall submit an application for such permit no later than October 1, 2000.~~

49. 40 C.F.R. Part 63, Subpart MMM, Pesticide Active Ingredient Production; ~~amended November 21, 2001, at 66 FR 58393; amended March 22, 2002, at 67 FR 13507; amended March 22, 2002, at 67 FR 13513; amended September 20, 2002, at 67 FR 59335; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1369(c)(1) through (4).~~

50. 40 C.F.R. Part 63, Subpart NNN, Wool Fiberglass Manufacturing; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1388(c)(1) through (4).~~

51. 40 C.F.R. Part 63, Subpart OOO, Manufacture of Amino/Phenolic Resins; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1419(c)(1) through (4).~~

52. 40 C.F.R. Part 63, Subpart PPP, Polyether Polyols Production; ~~amended June 23, 2003, at 68 FR 37333; amended July 1, 2004, at 69 FR 39862; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at §§ 40 C.F.R. §§ 63.1421(c)(1) through (4).~~

53. 40 C.F.R. Part 63, Subpart QQQ, Primary Copper Smelting; ~~promulgated June 12, 2002, at 67 FR 40477; amended July 14, 2005, at 70 FR 40672; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at §§ 40 C.F.R. §§ 63.1458(c)(1) through (4).~~

54. 40 C.F.R. Part 63, Subpart RRR, Secondary Aluminum Production; ~~amended September 24, 2002, at 67 FR 59787; amended November 8, 2002, at 67 FR 68038; amended December 30, 2002, at 67 FR 79807; amended June 23, 2003, at 68 FR 37333; amended September 3, 2004, at 69 FR 53979; amended October 3, 2005, at 70 FR 57513; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1519(c)(1) through (4).~~

55. 40 C.F.R. Part 63, Subpart TTT, Primary Lead Smelting; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1550(c)(1) through (4).~~

56. 40 C.F.R. Part 63, Subpart UUU, Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units; ~~promulgated April 11, 2002, at 67 FR 17761; amended February 9, 2005, at 70 FR 6929; amended April 20, 2006, at 71 FR 20445; except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.1578(c)(1) through (5).~~

57. 40 C.F.R. Part 63, Subpart VVV, Publicly Owned Treatment Works; ~~amended October 21, 2002, at 67 FR 64741; amended June 23, 2003, at 68 FR 37333; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1594(c)(1) through (4).~~

58. 40 C.F.R. Part 63, Subpart XXX, Ferroalloys Production: Ferromanganese and Silicomanganese; ~~amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71~~



FR 20445; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1661(c)(1) through (4).

59. 40 C.F.R. Part 63, Subpart AAAA, Municipal Solid Waste Landfills; ~~promulgated January 16, 2003, at 68 FR 2227; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.1985(c).

60. 40 C.F.R. Part 63, Subpart CCCC, Manufacturing of Nutritional Yeast; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.2191(c)(1) through (4) ~~amended April 20, 2006, at 71 FR 20445.~~

61. 40 C.F.R. Part 63, Subpart DDDD, Plywood and Composite Wood Products; ~~promulgated July 30, 2004, at 69 FR 45943; amended February 16, 2006, at 71 FR 8341; amended April 20, 2006, at 71 FR 20445; amended October 29, 2007, at 72 FR 61060;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.2291(c)(1) through (4)(5).

62. 40 C.F.R. Part 63, Subpart EEEE, Organic Liquids Distribution (Non-Gasoline); ~~promulgated February 3, 2004, at 69 FR 5038; amended April 20, 2006, at 71 FR 20445; amended July 28, 2006, at 71 FR 42897; amended July 17, 2008, at 73 FR 40977; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.2402(b)(1) through (4).

63. 40 C.F.R. Part 63, Subpart FFFF, Miscellaneous Organic Chemical Manufacturing; ~~promulgated November 10, 2003, at 68 FR 63851; amended July 1, 2005, at 70 FR 38553; amended August 30, 2005, at 70 FR 51269; amended March 1, 2006, at 71 FR 10439; amended April 20, 2006, at 71 FR 20445; amended July 14, 2006, at 71 FR 40315; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.2545(b)(1) through (4).

64. 40 C.F.R. Part 63, Subpart GGGG, Solvent Extraction for Vegetable Oil Production; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.2871(c)(1) through (5) ~~amended April 5, 2002, at 67 FR 16317; amended September 1, 2004, at 69 FR 53338; amended April 20, 2006, at 71 FR 20445.~~

65. 40 C.F.R. Part 63, Subpart HHHH, ~~National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production;~~ ~~promulgated April 11, 2002, at 67 FR 17823; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.3002(b)(1) through (4).

66. 40 C.F.R. Part 63, Subpart IIII, Surface Coating of Automobiles and Light-Duty Trucks; except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.3175(c)(1) through (4) ~~promulgated April 26,~~

~~2004, at 69 FR 22601; amended April 20, 2006, at 71 FR 20445; amended December 22, 2006, at 71 FR 76922; amended April 24, 2007, at 72 FR 20227.~~

67. 40 C.F.R. Part 63, Subpart JJJJ, Paper and Other Web Coating; ~~promulgated December 4, 2002, at 67 FR 72329; amended May 24, 2006, at 71 FR 29792;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.3420(b).

68. 40 C.F.R. Part 63, Subpart KKKK, Surface Coating of Metal Cans; ~~promulgated November 13, 2003, at 68 FR 64431; amended January 6, 2006, at 71 FR 1377; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.3560(c)(1) through (4).

69. 40 C.F.R. Part 63, Subpart MMMM, Surface Coating of Miscellaneous Metal Parts and Products; ~~promulgated January 2, 2004, at 69 FR 129; amended April 26, 2004, at 69 FR 22601; amended April 20, 2006, at 71 FR 20445; amended December 22, 2006, at 71 FR 76922;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.3980(c)(1) through (4).

70. 40 C.F.R. Part 63, Subpart NNNN, Surface Coating of Large Appliances; ~~promulgated July 23, 2002, at 67 FR 48253; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.4180(c)(1) through (4).

71. 40 C.F.R. Part 63, Subpart OOOO, Printing, Coating, and Dyeing of Fabrics and Other Textiles; ~~promulgated May 29, 2003, at 68 FR 32171; amended August 4, 2004, at 69 FR 47001; amended April 20, 2006, at 71 FR 20445; amended May 24, 2006, at 71 FR 29792;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.4370(c)(1) through (4).

72. 40 C.F.R. Part 63, Subpart PPPP, Surface Coating of Plastic Parts and Products; ~~promulgated April 19, 2004, at 69 FR 20967; amended April 26, 2004, at 69 FR 22601; amended April 20, 2006, at 71 FR 20445; amended December 22, 2006, at 71 FR 76922; amended April 24, 2007, at 72 FR 20227;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.4580(c)(1) through (4).

73. 40 C.F.R. Part 63, Subpart QQQQ, Surface Coating of Wood Building Products; ~~promulgated May 28, 2003, at 68 FR 31745; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.4780(c)(1) through (4).

74. 40 C.F.R. Part 63, Subpart RRRR, Surface Coating of Metal Furniture; ~~promulgated May 23, 2003, at 68 FR 28605; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.4980(c)(1) through (4).

75. 40 C.F.R. Part 63, Subpart SSSS, Surface Coating of Metal Coil; ~~promulgated June 10, 2002, at 67 FR 39793; amended March 17, 2003, at 68 FR 12590;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.5200(c)(1) through (4).

76. 40 C.F.R. Part 63, Subpart TTTT, Leather Finishing Operations; ~~except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.5455(c)(1) through (4) promulgated February 27, 2002, at 67 FR 9155; amended February 7, 2005, at 70 FR 6355.~~

77. 40 C.F.R. Part 63, Subpart UUUU, Cellulose Products Manufacturing; ~~promulgated June 11, 2002, at 67 FR 40043; amended June 24, 2005, at 70 FR 36523; amended August 10, 2005, at 70 FR 46683; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.5605(b)(1) through (4).

78. 40 C.F.R. Part 63, Subpart VVVV, Boat Manufacturing; ~~except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.5776(b)(1) through (4) promulgated August 22, 2001, at 66 FR 44218; amended October 3, 2001, at 66 FR 50504.~~

79. 40 C.F.R. Part 63, Subpart WWWW, Reinforced Plastic Composites Production; ~~promulgated April 21, 2003, at 68 FR 19375; amended August 25, 2005, at 70 FR 50117; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.5930(c)(1) through (4).

80. 40 C.F.R. Part 63, Subpart XXXX, Rubber Tire Manufacturing; ~~promulgated July 9, 2002, at 67 FR 45587; amended March 12, 2003, at 68 FR 11745; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for ~~the~~ purposes the authorities cited at of 40 C.F.R. §§ 63.6014(c)(1) through (4).

81. 40 C.F.R. Part 63, Subpart YYYY, Stationary Combustion Turbines; ~~promulgated March 5, 2004, at 69 FR 10511; amended August 18, 2004, at 69 FR 51184; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.6170(c)(1) through (5).

82. 40 C.F.R. Part 63, Subpart ZZZZ, ~~Hazardous Air Pollutants for~~ Stationary Reciprocating Internal Combustion Engines, ~~except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.6670(c)(1) through (5) promulgated June 15, 2004, at 69 FR 33473; amended April 20, 2006, at 71 FR 20445; amended June 23, 2006, at 71 FR 36014; amended January 18, 2008, at 73 FR 3567.~~

83. 40 C.F.R. Part 63, Subpart AAAAA, Lime Manufacturing Plants; ~~promulgated January 5, 2004, at 69 FR 393; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.7141(c)(1) through (6).

84. 40 C.F.R. Part 63, Subpart BBBB, Semiconductor Manufacturing; ~~promulgated May 22, 2003, at 68 FR 27913; amended April 20, 2006, at 71 FR 20445; amended July 22, 2008, at 73 FR 42529;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.7194(c)(1) through (4).

85. 40 C.F.R. Part 63, Subpart CCCC, Coke Ovens: Pushing, Quenching, and Battery Stacks; ~~promulgated April 14, 2003, at 68 FR 18007; amended April 22, 2003, at 68 FR 19885; amended October 13, 2004, at 69 FR 60813; amended August 2, 2005, at 70 FR 44285; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.7351(c)(1) through (6).

86. Reserved.

87. 40 C.F.R. Part 63, Subpart EEEEE, Iron and Steel Foundries; ~~promulgated April 22, 2004, at 69 FR 21905; amended May 20, 2005, at 70 FR 29399; amended April 20, 2006, at 71 FR 20445; amended February 7, 2008, at 73 FR 7210;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.7761(c)(1) through (4).

88. 40 C.F.R. Part 63, Subpart FFFFF, Integrated Iron and Steel Manufacturing Facilities; ~~promulgated May 20, 2003, at 68 FR 27645; amended April 20, 2006, at 71 FR 20445; amended July 13, 2006, at 71 FR 39579;~~ except that the Secretary is not the Administrator for ~~the~~ purposes of the authorities cited at 40 C.F.R. §§ 63.7851(c)(1) through (4).

89. 40 C.F.R. Part 63, Subpart GGGGG, Site Remediation; ~~promulgated October 8, 2003, at 68 FR 58171; amended April 20, 2006, at 71 FR 20445; amended November 29, 2006, at 71 FR 69011; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.7956(c)(1) through (4).

90. 40 C.F.R. Part 63, Subpart HHHHH, Miscellaneous Coating Manufacturing; ~~promulgated December 11, 2003, at 68 FR 69163; amended December 29, 2003, at 68 FR 75033; amended May 13, 2005, at 70 FR 25675; amended July 6, 2005, at 70 FR 38780; amended December 21, 2005, at 70 FR 75923; amended April 20, 2006, at 71 FR 20445; amended October 4, 2006, at 71 FR 58499; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.8100(b)(1) through (4).

91. 40 C.F.R. Part 63, Subpart IIIII, Mercury Emissions from Mercury Cell Chlor-Alkali Plants; ~~promulgated December 19, 2003, at 68 FR 70903; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.8264(c)(1) through (4).

92. 40 C.F.R. Part 63, Subpart JJJJJ, Brick and Structural Clay Products Manufacturing; ~~promulgated May 16, 2003, at 68 FR 26689; amended May 28, 2003, at 68 FR 31744; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.8510(c)(1) through (4).

93. 40 C.F.R. Part 63, Subpart KKKKK, Clay Ceramics Manufacturing; ~~promulgated May 16, 2003, at 68 FR 26689; amended May 28, 2003, at 68 FR 31744; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.8660(c)(1) through (4).

94. 40 C.F.R. Part 63, Subpart LLLLL, Asphalt Processing and Asphalt Roofing Manufacturing; ~~promulgated May 7, 2003 at 68 FR 24561; amended May 17, 2005, at 70 FR 28359; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.8697(b)(1) through (4).

95. 40 C.F.R. Part 63, Subpart MMMMM, Flexible Polyurethane Foam Fabrication Operations; ~~promulgated April 14, 2003, at 68 FR 18061; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.8828(c)(1) through (4).

96. 40 C.F.R. Part 63, Subpart NNNNN, Hydrochloric Acid Production; ~~promulgated April 17, 2003, at 68 FR 19075; amended April 20, 2006, at 71 FR 20445; amended April 7, 2006, at 71 FR 17738; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.9070(c)(1) through (4).

97. 40 C.F.R. Part 63, Subpart PPPPP, Engine Test Cells/Standards; ~~promulgated May 27, 2003, at 68 FR 28774; amended August 28, 2003, at 68 FR 51830; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.9370(c)(1) through (4).

98. 40 C.F.R. Part 63, Subpart QQQQQ, Friction Materials Manufacturing Facilities; ~~promulgated October 18, 2002, at 67 FR 64497; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.9560(c)(1) through (4).

99. 40 C.F.R. Part 63, Subpart RRRRR, Taconite Iron Ore Processing; ~~promulgated October 30, 2003, at 68 FR 61867; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.9651(c)(1) through (4).

100. 40 C.F.R. Part 63, Subpart SSSSS, Refractory Products Manufacturing; ~~promulgated April 16, 2003, at 68 FR 18729; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for the purposes of the authorities cited at 40 C.F.R. §§ 63.9822(c)(1) through (4).

101. 40 C.F.R. Part 63, Subpart TTTTT, Primary Magnesium Refining; ~~promulgated October 10, 2003, at 68 FR 58615; amended April 20, 2006, at 71 FR 20445;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.9941(c)(1) through (4).

102. 40 C.F.R. Part 63, Subpart YYYYY, ~~National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities;~~ ~~promulgated December 28, 2007, at 72 FR 74087; amended December 1, 2008, at 73 FR 72727;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.10691(c)(1) through (6).

103. 40 C.F.R. Part 63, Subpart ZZZZZ, ~~National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources;~~ ~~promulgated January 2, 2008, at 73 FR 225;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.10905(c)(1) through (6).

104. 40 C.F.R. Part 63, Subpart DDDDDD, ~~National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources;~~ ~~promulgated January 23, 2007, at 72 FR 2929;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11145(b)(1) through (4) 63.11145(c)(1) through (5).

105. 40 C.F.R. Part 63, Subpart EEEEE, ~~National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources;~~ ~~promulgated January 23, 2007, at 72 FR 2929; amended July 3, 2007, at 72 FR 36363;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11152(c)(1) through (5).

106. 40 C.F.R. Part 63, Subpart FFFFF, ~~National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources;~~ ~~promulgated January 23, 2007, at 72 FR 2929; amended July 3, 2007, at 72 FR 36363;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11159(c)(1) through (4).

107. 40 C.F.R. Part 63, Subpart GGGGG, ~~National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources-Zinc, Cadmium, and Beryllium;~~ ~~promulgated January 23, 2007, at 72 FR 2929;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. 63.11168(e)(1) through (4); and 40 C.F.R. §§ 63.11168(c)(1) through (5), and (d)(1) through(4).

108. 40 C.F.R. Part 63, Subpart LLLLLL, ~~National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources,~~ ~~promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at 73 FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11399(b)(1) through (4).

109. 40 C.F.R. Part 63, Subpart MMMMMM, ~~National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources, promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at 73 FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11406(b)(1) through (4).

110. 40 C.F.R. Part 63, Subpart NNNNNN, ~~National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds, promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11413(b)(1) through (4).

111. 40 C.F.R. Part 63, Subpart OOOOOO, ~~National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources, promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at 73 FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11420(b)(1) through (4).

112. 40 C.F.R. Part 63, Subpart PPPPPP, ~~National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources, promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at 73 FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11427(b)(1) through (4).

113. 40 C.F.R. Part 63, Subpart QQQQQQ, ~~National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources, promulgated July 16, 2007, at 72 FR 38863; amended March 26, 2008, at 73 FR 15923;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11434(b)(1) through (4).

114. 40 C.F.R. Part 63, Subpart RRRRRR, ~~National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources; promulgated December 26, 2007, at 72 FR 73179;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11445(c)(1) through (4).

115. 40 C.F.R. Part 63, Subpart SSSSSS, ~~National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources; promulgated December 26, 2007, at 72 FR 73179;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11460(b)(1) through (4).

116. 40 C.F.R. Part 63, Subpart TTTTTT, ~~National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources; promulgated December 26, 2007, at 72 FR 73179;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. §§ 63.11473(c)(1) through (4).

(c) No change.

(d) General Subparts Adopted. The following general subparts of 40 C.F.R. Part 63, revised as of July 1, 2009 July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 63, Subpart A, General Provisions; ~~amended February 27, 2002, at 67 FR 9156; amended April 5, 2002, at 67 FR 16581; amended February 18, 2003, at 68 FR 7706; amended April 21, 2003, at 68 FR 19375; amended May 20, 2003, at 68 FR 27645; amended May 23, 2003, at 68 FR 28605; amended May 27, 2003, at 68 FR 28774; amended May 28, 2003, at 68 FR 31745; amended May 29, 2003, at 68 FR 32171; amended May 30, 2003, at 68 FR 32585; amended November 13, 2003, at 68 FR 64431; amended December 19, 2003, at 68 FR 70959; amended January 2, 2004, at 69 FR 129; amended February 3, 2004 at 69 FR 5038; amended April 19, 2004, at 69 FR 20967; amended April 22, 2004, at 69 FR 21905; amended April 26, 2004, at 69 FR 22601; amended June 15, 2004, at 69 FR 33473; amended July 30, 2004, at 69 FR 45943; amended April 15, 2005, at 70 FR 19991; amended May 20, 2005, at 70 FR 29399; amended October 12, 2005, at 70 FR 59401; amended April 20, 2006, at 71 FR 20445; amended December 6, 2006, at 71 FR 70651; amended January 3, 2007, at 72 FR 26; amended January 23, 2006, at 72 FR 2929; amended May 16, 2007, at 72 FR 27437; amended July 16, 2007, at 72 FR 38863; amended October 29, 2007, at 72 FR 61060; amended November 16, 2007, at 72 FR 64859; amended December 26, 2007, at 72 FR 73179; amended December 28, 2007, at 72 FR 74087; amended January 2, 2008, at 73 FR 225; amended January 18, 2008, at 73 FR 3567; amended February 7, 2008, at 73 FR 7210; amended December 22, 2008, at 73 FR 78199;~~ except that the Secretary is not the Administrator for purposes of the authorities cited at 40 C.F.R. § 63.5(e), 40 C.F.R. § 63.5(f), 40 C.F.R. § 63.6(g), 40 C.F.R. § 63.6(h)(9), 40 C.F.R. § 63.6(j), 40 C.F.R. § 63.13, and 40 C.F.R. § 63.14.

2. 40 C.F.R. Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, §§ 112(g) and 112(j); ~~amended April 5, 2002, at 67 FR 16581;~~ is adopted and incorporated by reference, subject to the following provisions:

a. through f. No change.

3. 40 C.F.R. Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List, ~~revised as of July 1, 2004; amended November 29, 2004, at 69 FR 69320; amended December 19, 2005, at 70 FR 75047.~~

4. through 5. No change.

(e) Appendices Adopted. The following appendices of 40 C.F.R. Part 63, revised as of July 1, 2009 July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. Appendix A, Test Methods; ~~amended March 25, 2009, at 74 FR 12575; amended April 23, 2009, at 74 FR 18474.~~

2. through 5. No change.  
 (12) through (22) No change.

(23) Title 40, Code of Federal Regulations, Part 81, Designation of Areas for Air Quality Planning Purposes.

~~(a) The following sections and subparts of 40 C.F.R. Part 81, Subpart B, Designation of Air Quality Control Regions, §§ 81.49, 81.68, 81.91, 81.95, 81.96, and 81.97, revised as of July 1, 2009, July 1, 2005, or later as specifically indicated, are adopted and incorporated by reference:~~

~~(a) 40 C.F.R. 81, Section 81.49, Southeast Florida Intrastate Air Quality Control Region.~~

~~(b) 40 C.F.R. Part 81, Subpart C, Section 107 Attainment Status Designations, § 81.310, revised as of July 1, 2009, is adopted and incorporated by reference. 40 C.F.R. 81, Section 81.68, Mobile (Alabama) Pensacola Panama City (Florida) Southern Mississippi Interstate Air Quality Control Region.~~

~~(c) 40 C.F.R. 81, Section 81.91, Jacksonville (Florida) Brunswick (Georgia) Interstate Air Quality Control Region.~~

~~(d) 40 C.F.R. 81, Section 81.95, Central Florida Intrastate Air Quality Control Region.~~

~~(e) 40 C.F.R. 81, Section 81.96, West Central Florida Intrastate Air Quality Control Region.~~

~~(f) 40 C.F.R. 81, Section 81.97, Southwest Florida Intrastate Air Quality Control Region.~~

~~(g) 40 C.F.R. Part 81, Subpart D, Identification of Mandatory Class I Federal Areas Where Visibility Is An Important Value, § 81.407, revised as of July 1, 2009, is adopted and incorporated by reference.~~

(24) through (27) No change.

**PROPOSED EFFECTIVE DATE:** October 1, 2010

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10.

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NOS.:	RULE TITLES:
64B4-3.008	Supervision Required Until Licensure
64B4-3.0085	Intern Registration

**PURPOSE AND EFFECT:** The Board proposes the rule amendment to provide clarification concerning the definition of supervision and to provide clarification concerning a qualified supervisor.

**SUMMARY:** The definition of supervision will be clarified; a qualified supervisor will be clarified.

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

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

**RULEMAKING AUTHORITY:** 491.004(5), 491.014(4)(c), 491.005(6) FS.

**LAW IMPLEMENTED:** 491.004(5), 491.012, 491.014(4)(c), 491.0046(3) FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

64B4-3.008 Supervision Required Until Licensure.

(1) No change.

(2) All provisional licensees who practice clinical social work, marriage and family therapy and/or mental health counseling must continue in supervision as defined in Rule 64B4-2.002, F.A.C., until he or she is in receipt of a license or a letter from the Department stating he or she is licensed as a clinical social worker, marriage and family therapist, or mental health counselor. Supervision is defined as contact between the provisional licensee and the qualified supervisor during which client cases are discussed and the supervisor provides the provisional licensee with oversight and guidance in diagnosing, treating and dealing with clients in conformance with Florida laws and rules. During the period of provisional licensure, the provisional licensee and the qualified supervisor shall meet face-to-face for at least one hour per month. For the purposes of this subparagraph, supervisor is defined as a Florida licensed clinical social worker, marriage and family therapist, or mental health counselor.

**Rulemaking Specific Authority** 491.004(5), 491.014(4)(c), 491.005(6) FS. Law Implemented 491.012, 491.014(4)(c), 491.0046(3) FS. History—New 3-14-94, Formerly 61F4-3.008, 59P-3.008, Amended 10-28-98, 9-28-06, \_\_\_\_\_.

64B4-3.0085 Intern Registration.

(1) No change.

(2) An intern is required to identify a qualified supervisor by requesting that the supervisor submit a letter to the Board with the applicant's name, supervisor's name, supervisor's license number, and a statement that he or she has agreed to provide supervision while the applicant is a registered intern.

(3) Prior to changing or adding another qualified supervisor, the registered intern must:

(a) Request that the new supervisor must submit a letter to the Board with the registered intern's name, the intern's license number, the supervisor's name, the supervisor's license number, and a statement that he or she has agreed to provide supervision to the registered intern; and

(b) Receive a communication from the Board indicating its approval of the new supervisor.

(4) Experience obtained under the supervision of the new qualified supervisor will not count toward completion of the experience requirement until the registered intern has received board approval of their new qualified supervisor.

Rulemaking Authority 491.004(5) FS. Law Implemented 491.0045 FS. History--New 6-8-09, Amended 2-24-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling.

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2010

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-3.0025  
 RULE TITLE: Remedial Courses for Reexamination

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete references to repealed rules and add references to appropriate statutory educational standards.

SUMMARY: The rule deletes references to repealed rules and adds references to appropriate statutory educational standards.

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: 464.008(3) FS.

LAW IMPLEMENTED: 464.008(3) FS.

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

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

64B9-3.0025 Remedial Courses for Reexamination.  
 To meet the requirements of Section 464.008(3), F.S., remedial courses must be approved by the Board, and must meet the following requirements:

(1) ~~The education objectives, faculty qualifications, administrative procedures and clinical training shall comply with the standards in Sections 464.019(1)(a), (b), (d), (e) and (f), F.S. Rules 64B9-2.004, 64B9-2.005, 64B9-2.007 and 64B9-2.008, F.A.C.~~

(2) The curriculum shall comply with the guidelines in Sections 464.019(1)(g) and (h), F.S.:

~~(a) Comply with the guidelines in paragraphs 64B9-2.006(1)(a), (b), (c), (d) and (e), F.A.C.;~~

~~(b) Meet the content requirements in subparagraphs 64B9-2.006(2)(c)3. and (3)(a)3., F.A.C.;~~

~~(c) and shall include~~ a minimum of 80 hours didactic education and 96 hours clinical experience in a medical-surgical setting.

~~1. Content for professional nurse remedial course must include medical, surgical, obstetric, pediatric, geriatric and psychiatric nursing~~

~~2. Content of practical nurse remedial course must include medical, surgical, obstetric, pediatric and geriatric nursing~~

Rulemaking Specific Authority 464.008(3) FS. Law Implemented 464.008(3) FS. History--New 3-23-00, 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: June 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-4.002  
 RULE TITLE: Requirements for Certification

PURPOSE AND EFFECT: The Board proposes to adopt and incorporate by reference licensure application form and add the Board's website where the form can be obtained, and to approve an additional nursing specialty certifying agency.

SUMMARY: The rule amendment will adopt and incorporate by reference licensure application form and add the Board's website where the form can be obtained, and to approve an additional nursing specialty certifying agency.

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: 456.048, 464.006, 464.012 FS.

LAW IMPLEMENTED: 456.048, 464.072(1)(f), (2), 464.012, 464.018(1)(b), (2) 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:

64B9-4.002 Requirements for Certification.

(1) In accordance with the provisions of Section 464.012, F.S., any person who wishes to be certified as an Advanced Registered Nurse Practitioner shall submit a completed Application for Dual Registered Nurse (RN) and Advanced Registered Nurse Practitioner, form number DH-MQA 1124, 08/09, hereby incorporated by reference an application to the Department, on forms prescribed by it, as incorporated in subsection 64B9 4.004(1), F.A.C., demonstrating that the applicant holds a current unencumbered license to practice professional nursing in Florida. The form is available from the Board office or on the Board's website: [www.doh.state.fl.us/mqa/nursing](http://www.doh.state.fl.us/mqa/nursing).

(2) No change.

(3) Professional or national nursing specialty boards recognized by the Board include, but are not limited to:

(a) through (g) No change.

(h) Oncology Nursing Certification Corporation.

(4) through (5) No change.

Rulemaking Authority 456.048, 464.006, 464.012 FS. Law Implemented 456.048, 456.072(1)(f), (2), 464.012, 464.018(1)(b), (2) FS. History—New 8-31-80, Amended 3-16-81, 10-6-82, 6-18-85, Formerly 21O-11.23, Amended 3-19-87, 4-6-92, Formerly 21O-11.023, Amended 3-7-94, 7-4-94, Formerly 61F7-4.002, Amended 5-1-95, 5-29-96, Formerly 59S-4.002, Amended 2-18-98, 11-12-98, 4-5-00, 3-23-06, 6-4-09,\_\_\_\_\_.

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: June 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

## DEPARTMENT OF HEALTH

### Board of Nursing

RULE NO.: 64B9-4.004

RULE TITLE: Requirements for Documentation

PURPOSE AND EFFECT: The Board proposes this rule amendment to delete unnecessary language and add new language to clarify the requirements for documentation.

SUMMARY: The rule amendment will delete unnecessary language and add new language to clarify the requirements for documentation.

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, 464.012 FS.

LAW IMPLEMENTED: 464.012 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:

64B9-4.004 Requirements for Documentation.

(1) A Registered Nurse applying for initial certification as an Advanced Registered Nurse Practitioner shall submit with a completed application file ~~with the Department an "Initial Application for Certification As An Advanced Registered Nurse Practitioner," Form DOH NUR 105 (9/97), effective 4-5-00, incorporated herein by reference, and available from the Board office, and provide the Board with the following:~~

(a) Documentation acceptable to the Board that the educational program attended meets the program guidelines stipulated in subsections 64B9-4.003(1) and (2), F.A.C.

(b) Proof acceptable to the Board of satisfactory completion of the educational program which shall consist of:

1. An official Registrar’s copy of the applicant’s transcript shall be sent directly to the Board from the school and shall denote successful completion of the formal post-basic program or awarding of the masters’ degree in a nursing clinical specialty.

2. A verification form prescribed by the Board submitted by the director of the advanced nursing program indicating successful completion with the official school seal.

~~3. Documentation which demonstrates compliance with subsection 64B9-4.003(2), F.A.C.~~

~~4.3. Such other documentary proof which evidences completion.~~

(c) Documentation of national certification by a national nursing specialty board identified in subsection 64B9-4.002(3) or documentation of certification by a specialty board that meets the requirements set forth in subsection 64B9-4.002(4), by submitting: If the applicant is required to be nationally certified, one of the following shall also be submitted:

1. A notarized true and correct copy of the original or recertification specialty board certificate.

2. Such other documentary proof which evidences certification by an appropriate specialty board.

3. Verification from the specialty association of certification.

~~(2) A Registered Nurse applying for certification as an Advanced Registered Nurse Practitioner in the category of certified nurse midwife, shall file the appropriate application form with the Department and provide the Board with the following:~~

~~(a) Documentation that the specialty board meets requirements stipulated in Rule 64B9-4.002, F.A.C., or proof of certification by an appropriate specialty board recognized by the Board in subsection 64B9-4.002(4), F.A.C.~~

~~(b) Proof of certification by a specialty Board recognized by the Board shall consist of one of the following:~~

~~1. The original specialty certificate.~~

~~2. A notarized true and correct copy of the current specialty certificate.~~

~~3. Such other documentary proof specialty which evidences certification by an appropriate specialty Board.~~

~~4. Verification from the specialty association of certification.~~

~~(c) Documentation acceptable to the Board as set forth in section (1)(b) of this rule which demonstrates compliance with subsection 64B9-4.003(2), F.A.C.~~

Rulemaking Specific Authority 464.006, 464.012 FS. Law Implemented 464.012 FS. History—New 8-31-80, Amended 10-6-82, Formerly 21O-11.25, Amended 3-19-87, Formerly 21O-11.025, 61F7-4.004, Amended 5-29-96, 2-12-97, Formerly 59S-4.004, Amended 4-5-00,\_\_\_\_\_.

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: June 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF HEALTH**

**School Psychology**

RULE NO.: 64B21-504.001                      RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: To include within the rule new guidelines for specific offenses enumerated in Section 456.072, F.S., by the 2009 legislative Session.

SUMMARY: This rule adds disciplinary guideline penalties for the offenses of: termination from an impaired practitioner program; conviction or entry of a plea of guilty or nolo contendere to a misdemeanor or felony under certain Medicaid laws; failure to return an overpayment from the Medicaid program; termination from a state Medicaid program or the federal Medicare program; and conviction or entry of a plea of guilty or nolo contendere to a crime related to health care fraud.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. The agency prepared a SERC showing that those school psychologists who commit violations will be disciplined and will have to face penalties up to revocation of their license and that this is likely to affect some small businesses.

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

RULEMAKING AUTHORITY: 456.079 FS.

LAW IMPLEMENTED: 456.072, 456.079, 490.009 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: Allen Hall, Executive Director, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3205

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-504.001 Disciplinary Guidelines.

(1) When the Department finds that ~~an applicant or~~ a licensee has committed any of the acts set forth in Section 490.009(1) or 456.072(1), F.S., it shall issue a final order imposing one or more of the penalties listed in Section 456.072(2), F.S., as recommended in the following disciplinary



guidelines. For applicants, all listed violations are sufficient for refusal to certify an application for licensure. In addition to any other discipline imposed, the Department, pursuant to Section 456.072(4), F.S., shall assess the costs related to the investigation and prosecution of a case. If the violation is for fraud or making false or fraudulent representation, the Department shall impose a fine of \$10,000 per count or offense.

(a) through (aa) No change.

(bb) Section 456.072(1)(hh), F.S.: being terminated from a treatment program for impaired practitioners without good cause – a fine of \$500 up to \$5,000 and a reprimand. After the first offense, a fine of \$1,000 and suspension up to revocation.

(cc) Section 456.072(1)(ii), F.S.: being convicted of or entering a plea to any misdemeanor or felony under 18 U.S.C. s. 669, as. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to Medicaid – for a misdemeanor, a fine of \$1,000 to \$5,000 and probation up to suspension followed by two years of probation. For a felony, a fine of \$3,000 up to \$10,000 and suspension up to revocation. After the first offense, a fine of \$10,000 and revocation.

(dd) Section 456.072(1)(jj), F.S.: failing to remit the sum owed for an overpayment from the Medicaid program or pursuant to a final order, judgment, stipulation, or settlement – a fine of \$500 to \$2,500 and from a reprimand to two years of probation. After the first offense, a fine of \$1,500 to \$10,000 and probation to revocation.

(ee) Section 456.072(1)(kk), F.S.: termination from a state Medicaid program or from the federal Medicare program unless participation eligibility restored – a fine of \$500 to \$7,500 and probation to revocation. After the first offense, a fine of \$2,500 to \$10,000 and probation to revocation.

(ff) Section 456.072(1)(ll), F.S.: being convicted of or entering a plea to any misdemeanor or felony relating to health care fraud – for a misdemeanor with no intentional fraud, a fine of \$1,000 to \$5,000 and probation to revocation. For a felony, a fine of \$7,500 up to \$10,000 and from suspension to revocation. For a second offense, a fine of \$10,000 and revocation.

(2) through (3) No change.

Rulemaking Specific Authority 456.079 FS. Law Implemented 456.072, 456.079, 490.009 FS. History–New 9-11-03, Amended 7-5-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Allen Hall

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2010

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

## DEPARTMENT OF HEALTH

### Council of Licensed Midwifery

RULE NO.: 64B24-8.002  
RULE TITLE: Disciplinary Action and Guidelines  
PURPOSE AND EFFECT: To add penalty guidelines for explicit new violations for which a practitioner may be disciplined.

SUMMARY: This rule adds disciplinary guideline penalties for the offenses of: conviction or entry of a plea of guilty or nolo contendere to a misdemeanor or felony under certain Medicaid laws; failure to return an overpayment from the Medicaid program; termination from a state Medicaid program or the federal Medicare program; and conviction or entry of a plea of guilty or nolo contendere to a crime related to health care fraud.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. The agency prepared a SERC showing that those licensed midwives who commit violations will be disciplined and will have to face penalties up to revocation of their license and that this is likely to affect some small businesses.

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

RULEMAKING AUTHORITY: 456.004(5), 467.005 FS.

LAW IMPLEMENTED: 456.079, 467.203 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: Anthony Jusevitch, Executive Director, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-8.002 Disciplinary Action and Guidelines.

(1) No change.

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

(t) Section 456.072(1)(ii), F.S.: Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program – misdemeanor: from a minimum fine of \$600 and one year of probation up to a fine of \$3,000 and revocation; felony: from a minimum fine of \$1,500 and six months of suspension followed by two years of probation, up to a maximum fine of \$10,000 and revocation of license. For a subsequent offense, a fine of up to \$10,000 and revocation.

(u) Section 456.072(1)(jj), F.S.: Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or agreement – from a minimum fine of \$300 and a letter of concern to a maximum fine of \$3,500 and up to six months suspension followed by up to three years of probation. For a subsequent offense, from a minimum fine of \$1,000 and two years of probation to a maximum fine of \$10,000 and revocation.

(v) Section 456.072(1)(kk), F.S.: Being terminated from the state Medicaid program pursuant to Section 409.913, and other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored – from a minimum fine of \$500 and a letter of concern to one year suspension and a fine of \$3,000. For a subsequent offense, from a year of probation and a minimum fine of \$1,000 to revocation and a fine of \$10,000.

(w) Section 456.072(1)(ll), F.S.: Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud – misdemeanor and unintentional fraud: from a minimum fine of \$600 and one year of probation up to a fine of \$3,000 and up to three years of probation; intentional fraud or felony: from a minimum fine of \$10,000 and three months suspension followed by two years probation to a maximum fine of \$10,000 and revocation. For a subsequent offense, a fine of \$10,000 and revocation.

Rulemaking Specific Authority 456.004(5), 456.079, 467.005, 467.203(4) FS. Law Implemented 456.079, 467.203 FS. History–New 7-14-94, Formerly 61E8-8.002, 59DD-8.002, Amended 10-3-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anthony Jusevitch  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

**DEPARTMENT OF HEALTH**

**Dental Laboratories**

RULE NO.: 64B27-2.001  
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: To include within the rule new guidelines for specific offenses enumerated in Section 456.072, F.S., by the 2009 legislative Session.

SUMMARY: This rule adds disciplinary guideline penalties for the offenses of: conviction or entry of a plea of guilty or nolo contendere to a misdemeanor or felony under certain Medicaid

laws; failure to return an overpayment from the Medicaid program; termination from a state Medicaid program or the federal Medicare program; and conviction or entry of a plea of guilty or nolo contendere to a crime related to health care fraud.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency showing that the dental laboratories that commit violations will be disciplined and will have to face penalties up to revocation of their registration and this will likely affect some small businesses.

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

RULEMAKING AUTHORITY: 456.038 FS.

LAW IMPLEMENTED: 456.072, 456.079, 466.028, 466.037 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: Sue Foster, Executive Director, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B27-2.001 Disciplinary Guidelines.

(1) No change.

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

(r) Being convicted of or entering a plea to any misdemeanor or felony under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to Medicaid (Section 456.072(1)(ii), F.S.) misdemeanor: First Offense – From a minimum of one year of suspension followed by two years of probation and a fine of \$1,000 to revocation and a fine of \$10,000; felony: Revocation and a fine of \$10,000.

(s) Failing to remit the sum owed for an overpayment from the Medicaid program or from a final order, judgment, stipulation, or settlement (Section 456.072(1)(jj), F.S.) First offense – from a minimum fine of \$300 to a fine of \$1,000 and from a reprimand to two years of probation. For a second or subsequent offense – from a minimum fine of \$1,000 and six months probation to revocation and a fine of \$10,000.

(t) Being terminated from a state Medicaid program or from the federal Medicare program unless participation eligibility restored (Section 456.072(1)(kk), F.S.) First offense – from a minimum fine of \$500 and a reprimand to a maximum fine of \$5,000 and revocation. For a second or subsequent offense – from a minimum fine of \$2,000 and two years probation to revocation and a fine of \$10,000.

(u) Being convicted of or entering a plea to any misdemeanor or felony relating to health care fraud (Section 456.072(1)(l), F.S.) First offense misdemeanor with no intentional fraud – from a minimum fine of \$1,000 and two years of probation to a maximum fine of \$3,000 and revocation; felony – a fine of \$10,000 and revocation.

(3) through (5) No change.

Rulemaking Specific Authority 466.038 FS. Law Implemented 456.072, 456.079, 466.028, 466.037 FS. History–New 3-28-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sue Foster

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2010

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

### 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."

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE NO.:	RULE TITLE:
59G-4.230	Physician Services

##### 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. 18, May 7, 2010 issue of the Florida Administrative Weekly.

The amendment to Rule 59G-4.230, F.A.C., incorporates by reference the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2010.

The following section will replace the section titled "Intrathecal Baclofen Therapy" in the handbook as noticed in the proposed rule and will be inserted into the handbook in Chapter 2 between sections titled "Injectable Medication Services" and "Neonatal Critical Care Services."

#### INTRATHECAL BACLOFEN THERAPY

##### Procedure Description

Intrathecal baclofen therapy (ITB) is used to manage severe spasticity of spinal cord or cerebral origin. The drug baclofen is infused through a surgically placed neuraxial catheter to a subcutaneously implanted infusion pump designed specifically for the administration of baclofen into the intrathecal space for continued therapy.

##### Indications for ITB Eligibility

The following criteria must be met before placing a recipient on ITB therapy:

- As indicated by at least a 6-week trial, the recipient cannot be maintained on non-invasive methods of spasm control, such as oral anti-spasmodic drugs (baclofen). These methods fail to control the spasticity adequately or produce intolerable side effects.
- Prior to implantation of the pump, the recipient has to respond favorably to a trial intrathecal dose of the anti-spasmodic drug baclofen.
- The recipient must have a positive response to a test bolus (by barbotage over not less than one (1) minute) of intrathecal baclofen by spinal catheter or lumbar puncture before initiating long term therapy.
- The intrathecal baclofen must be administered via an implantable pump that has been approved by the Food and Drug Administration specifically for the administration of baclofen into the intrathecal space for continued therapy.

##### HCPCS Codes Covered by Medicaid for ITB Therapy

Medicaid covers ITB therapy for qualifying candidates when the implantation service is rendered in the outpatient hospital setting only. The HCPCS codes below are designated to cover the ITB device. The hospital provider will use one or the other of these codes to bill Medicaid for the device, on the condition that prior authorization has been obtained and the hospital has a valid prior authorization number:

- E0783 Infusion pump system, implantable, programmable (includes all components, e.g., catheter, connectors, etc.)
- E0786 Implantable programmable infusion pump, replacement (excludes implantable intraspinal catheter)

Important Note: E0786 (replacement pump) will be allowed no sooner than every 5 years.

##### Prior Authorization Required for ITB

Prior authorization from Medicaid is required before payment of the ITB device can be made to the outpatient hospital provider. The process for obtaining prior authorization is as follows:

1. The physician recommending the ITB treatment for a qualifying candidate requests prior authorization from the Medicaid office.