

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Crosley, Assistant Executive Director
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Roach, Executive Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2010
NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010, 36/44

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF TRANSPORTATION

RULE NO.: 14-15.0081 RULE TITLE: Toll Facilities Description and Toll Rate Schedule

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36 No. 42, October 22, 2010 issue of the Florida Administrative Weekly has been withdrawn.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.206 RULE TITLE: Riot and Disorder Plan

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 44, November 5, 2010 issue of the Florida Administrative Weekly.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: ~~October 8 August 10~~, 2010

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-1.706 RULE TITLE: Fees

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. 39, October 1, 2010 issue of the Florida Administrative Weekly.

Notice is hereby given that this rule has been changed to reflect comments received from the Joint Administrative Procedures Committee. When changed, the rule shall read as noted below:

TABLE 1.A. SCHEDULE OF PERMIT FEES WATER USE PERMITS

General Water Use Permits Less than 10,000 GPD-ADR per paragraph 40B-2.041(4), F.A.C.	\$100
Modification or Renewal	\$50
General Water Use Permits <u>10,000 GPD-ADR or more and less than 2,000,000 GPD-ADR</u> as per paragraph 40B-2.041(4), F.A.C.	\$230
Modification or Renewal	\$115
Individual or Conceptual Approval Water Use Permits per subsection 40B-1.703(3) and paragraph 40B-2.041(5), F.A.C.	\$530
Modification or Renewal	\$265

Please contact Linda Welch, Rules & Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida, 32060, (386)362-1001 or 1(800)226-1066 if you have questions.

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District
RULE NO.: 40B-2.025 RULE TITLE: Processing of Water Use Permit Applications

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 23, June 11, 2010 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-8.002	Definitions
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0095	Personnel
59A-8.0185	Personnel Policies
59A-8.020	Acceptance of Patients or Clients
59A-8.0215	Plan of Care
59A-8.022	Clinical Records
59A-8.0245	Advance Directives
59A-8.027	Emergency Management Plans

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. 28, July 16, 2010 issue of the Florida Administrative Weekly.

The deletion of subsection 59A-8.0185, F.A.C., is in response to written comments received from the staff of the Joint Administrative Procedures Committee. subsection

59A-8.004(4), F.A.C., is deleted because the contents are now in subsection 59A-35.060(1)(m), F.A.C. Other changes are made in response to comments from the public hearing held on September 9, 2010 and requirements in 2010-279, Laws of Florida. The Statement of Estimated Regulatory Costs is revised due to changes in this notice and previous change notices, written comments from the Small Business Regulatory Advisory Council, and Chapter 2010-279, Laws of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A revised statement of estimated regulatory costs has been prepared and is available from the proposed rule contact person, Anne Menard at Anne.Menard@ahca.myflorida.com or by fax (850)414-2444. The following is a summary of the SERC:

As of December 7, 2010, there were 2,324 licensed home health agencies in Florida. These agencies will be required to comply with the rule as well as any new agencies that are licensed in the coming years. There have been changes to the proposed rules filed in three prior change notices as well as this notice. Many items with costs, including photo identification badges and health statements, have been removed. There will be costs to home health agencies for some of the remaining rule items as estimated by the Agency for Health Care Administration in its Statement of Estimated Regulatory Costs. However, none of the remaining proposed rules will increase aggregate regulatory costs beyond the limit in Chapter 2010-279, Laws of Florida, effective November 17, 2010. The Agency for Health Care Administration will incur the cost of rulemaking, as well the costs associated with enforcing the proposed changes. There is no cost to local government for the revisions in these rules since none of these changes affect local government entities.

59A-8.004

~~(4) If the applicant is a limited liability company, the name and address of each member, its legal name, and the business name and address must be identified. For initial and change of ownership applicants and name changes, a current authorization for the limited liability company from the Department of State, the operating agreement and the articles of organization pursuant to Chapter 608, F.S. must be submitted.~~

59A-8.0095 Personnel.

(5) Home Health Aide and Certified Nursing Assistant.

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

4. Keeping records by date and time of visit for filing in the client's record of personal health care activities ~~other tasks performed for each client.~~ A checklist or other format may be used. Records may be kept electronically. Each home health agency will demonstrate a process to verify that services were provided.

(12) Homemakers and Companions.

(a) The homemaker shall:

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

7. Maintain chronological work records by time of visit and date to be filed in the client's record. A checklist or other format may be used. Records may be kept electronically. Each home health agency will demonstrate a process to verify that services were provided.

(b) The companion shall:

6. Maintain a chronological written record of services; by time of visit and date to be filed in the client's record. A checklist or other format may be used. Records may be kept electronically. Each home health agency will demonstrate a process to verify that services were provided;

59A-8.0185 Personnel Policies.

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

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

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

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

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

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

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

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

59A-8.022 Clinical Records and Service Records.

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

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

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

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

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

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

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors’ Licensing Board

RULE NO.: 61G6-5.0061
 RULE TITLE: Registration of Additional New Business Entity or Transfers

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 10, March 12, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-7.001
 RULE TITLE: Pain Management Clinic Registration Requirements

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. 38, September 24, 2010 issue of the Florida Administrative Weekly.

(1) Every clinic location that is advertising pain-management services or employing a physician who is primarily treating pain by prescribing or dispensing controlled substance medications, unless exempt under Sections 458.3265(1) or 459.0137(1), F.S., must register and maintain a valid registration with the Department. Every registered clinic location upon change of ownership must register and maintain a valid registration with the Department. To be eligible to

register with the Department, the clinic must meet the statutory requirements, which include the requirement that the clinic be fully owned by a physician or group of physicians who are currently licensed pursuant to Chapter 458 or 459 or licensed as a health care clinic with the Agency for Health Care Administration pursuant to Part X of Chapter 400, F.S. With regard to the surgical services exemption, interventional pain procedures of the type routinely billed using surgical codes are included in the term surgical services.

(2) The clinics designated physician must have a full, active, and unencumbered license, which includes:

(a) Having a clear, active license as a medical doctor or osteopathic physician under Chapter 458 or 459, F.S., that permits the physician to perform all duties authorized by holding a license without restriction.

(b) Having a license that is not designated as limited, restricted, retired, temporary, or training.

(c) Having a license with no restrictions on practice and no current disciplinary or other unsatisfied obligations imposed by the Board of Medicine, Board of Osteopathic Medicine, or the Department that limits or restricts the practice of medicine or osteopathic medicine, which includes suspension, probation, or any other restrictions on practice.

(3) Having considered the needs of small and rural clinic locations, the designated physician shall practice at the clinic location, which means retaining documentation of being physically present and practicing medicine or osteopathic medicine at that location for no less than at least 33% of the hours per week that the clinic is open for business. For clinic locations with 3 or more physicians administering, prescribing, or dispensing controlled substance medications, including the designated physician, or for those clinic locations prescribing or dispensing more than half the maximum number of controlled substance prescriptions that the boards by rule allow a clinic to issue over a 24-hour period, the designated physician must be present at least 67% of the hours per week that the clinic is open for business. When the designated physician is unable to practice at the clinic location as required by this subsection, prescribing or dispensing of controlled substance medications at the clinic must cease unless and until the name of another designated physician who meets the statutory requirements is received by the Department by mail, facsimile, or electronic mail, which may include the date of return of the former designated physician intending to resume the position if he or she is qualified to serve in that capacity and the absence from the clinic location is temporary.

(4) To register with the Department, the designated physician must submit Application for Pain Management Clinic Registration, Form #DH-MQA 1219, 10/10, incorporated herein by reference. This form can be obtained from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C-01, Tallahassee, FL 32399 or on the Board of Medicine or Board of Osteopathic

Medicine website, which can be accessed at: www.flhealthsource.com or at MQA_medicine@doh.state.fl.us. At this mail or electronic address, the clinic is responsible to provide notice to the Department of the departure of the designated physician and, within 10 days after termination, the identity of another designated physician for the clinic. At this mail or electronic address, the designated physician at a registered clinic also within 10 days of departure shall notify the board of the date of termination from employment.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:
 64B8-9.009 Standard of Care for Office Surgery
 NOTICE OF CONTINUATION OF PUBLIC HEARING

The Board of Medicine hereby gives notice of a public hearing on Rule 64B8-9.009, F.A.C., to be held on Thursday, February 3, 2011, at 3:00 p.m., or as soon thereafter as can be heard, at the Rosen Plaza Hotel, 9700 International Drive, Orlando, FL 32819. The hearing is necessary to discuss written comments submitted by the staff of the Joint Administrative Procedures Committee. The Surgical Care Committee discussed this rule at its meeting held on December 2, 2010, and determined that the hearing should be continued to its February 2011 meeting. The rule was originally published in Vol. 36, No. 41, of the October 15, 2010, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board’s Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: RULE TITLE:
 64B9-8.005 Unprofessional Conduct
 NOTICE OF PUBLIC HEARING

The Department of Health, Board of Nursing hereby gives notice that, pursuant to Section 120.54(3)(c)1., F.S., a Public Hearing will be held on Rule 64B9-8.005, F.A.C., at the time, date and place listed below:

DATE AND TIME: For Rule 64B9-8.005, at 8:30 a.m. or as soon thereafter as possible, on Friday, February 4, 2011, until business is concluded.

PLACE: Embassy Suites, USF/Busch Gardens, 3705 Spectrum Blvd., Tampa, FL 33612

GENERAL SUBJECT MATTER TO BE CONSIDERED:
 Conscious sedation

Notice of the above-referenced proposed rule was originally published in Vol. 36, No. 33, of the August 20, 2010, Florida Administrative Weekly.

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 or by emailing a request to the Board Office at MQA_Nursing@doh.state.fl.us, or by calling (850)245-4125.

All written materials will be accepted for these rules through the end of the hearing.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board’s Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1 (800) 955-8770 (Voice) and 1(800) 955-8771 (TDD).

**Section IV
 Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
 40DER10-1 Dover/Plant City Area Frost-Freeze
 SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The Dover/Plant City area is one of the largest strawberry production areas in the country. When a frost/freeze event occurs strawberry and other similar commodity farmers and aquaculture operations pump large quantities of water to protect their crops. Due to the pumping, the Floridan aquifer level drops, sinkholes occur and some local residents’ wells stop working. Depending on the freeze event numerous sinkholes occur and up to 250 dry wells have been reported. From January 3-13, 2010, temperatures in eastern Hillsborough County dropped below 34 degrees for 11 consecutive days. As a result, area farmers again pumped large quantities of groundwater to protect their crops. During this event, this combined pumping dropped the aquifer level 60 feet and caused more than 750 temporarily dry wells for neighboring homeowners. Although pumping groundwater for