

East Gaines Street, Tallahassee, FL 32399-0361; (850)413-4984; shropshired@MyFloridaCFO.com. Direct any request for rule development workshop to Mr. Shropshire.

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-23.003
RULE TITLE: Renewal of direct disposer licenses
PURPOSE AND EFFECT: To establish procedures, forms, and a schedule for biennial renewal of direct disposer licenses. This is mandatory rulemaking pursuant to changes made to Section 497.603(2), F.S., by s. 27 of Chp. 2010-125, Laws of Florida.
SUBJECT AREA TO BE ADDRESSED: Procedures, forms, and a schedule for biennial renewal of direct disposer licenses.
RULEMAKING AUTHORITY: 497.103(5); 497.603(2) FS.
LAW IMPLEMENTED: 497.603(2) FS.

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

DATE AND TIME: January 25, 2011, 8:00 a.m.
PLACE: Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Douglas Shropshire, Executive Director, (850)413-4984; shropshired@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361; (850)413-4984; shropshired@MyFloridaCFO.com. Direct any request for rule development workshop to Mr. Shropshire
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
 Proposed Rules**

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE NO.: 9N-1.001
RULE TITLE: State Building Code Adopted
PURPOSE AND EFFECT: To adopt the 2010 Edition of the Florida Building Code.

SUMMARY: This rule represents the third triennial update to the Florida Building Code. The Florida Building Commission has selected the 2009 edition of the model codes developed by the International Code Council as the foundation for this edition of the Florida code. The Commission has reviewed local amendments to the code, proposals for modifying the foundation code and has compiled those items obtaining a 75% majority vote of the Commission together with amendments and modifications previously adopted by the Commission as a supplement to the foundation codes. The supplement and the foundation codes are available for review via the Commission website, www.floridabuilding.org.

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: 553.73(1), (2), (6), (7) FS., Sections 21, 32, 33, 34, 36, 44, 46, 48, Chapter 2005-147, Laws of Florida., Section 1, Chapter 2006-65, Laws of Florida., Section 10, Chapter 2007-1, Laws of Florida.

LAW IMPLEMENTED: 553.72, 553.73(2), (3), (6), (7), (9) FS., Sections 21, 32, 33, 34, 36, 44, 46, 48, Chapter 2005-147, Laws of Florida, Section 1, Chapter 2006-65, Laws of Florida., Section 10, Chapter 2007-1, Laws of Florida.

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

DATE AND TIME: February 1, 2011, 8:30 a.m. or as soon thereafter as the matter in brought before the Commission in accord with its agenda

PLACE: Embassy Suites-USF, 3705 Spectrum Blvd., Tampa, Florida 33612

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, Program Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, 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 RULE IS: Mo Madani, Program Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)921-2247

THE FULL TEXT OF THE PROPOSED RULE IS:

9N-1.001 State Building Code Adopted.

(1) The Florida Building Code, 2010 ~~2004~~ Edition, as updated by the Florida Building Commission on _____ ~~July 1, 2005, and as amended by the Commission on December 11, 2005, December 8, 2006, May 21, 2007, and June 9, 2009,~~ incorporated herein by reference is hereby adopted as the building code for the State of Florida ~~until February 28, 2009.~~

~~(2) Effective March 1, 2009, the Florida Building Code, 2007 edition, as updated by the Florida Building Commission, and as approved by the Commission on August 21, 2007, and amended by the Commission on December 10, 2008, and June 9, 2009, incorporated herein by reference is hereby adopted as the building code for the State of Florida.~~

~~(2)(3)~~ No change.

Rulemaking Specific Authority 553.73(1), (2), (6), (7) FS., Sections 21, 32, 33, 34, 36, 44, 46, 48, Chapter 2005-147, Laws of Florida, Section 1, Chapter 2006-65, Laws of Florida, Section 10, Chapter 2007-1, Laws of Florida. Law Implemented 553.72, 553.73(2), (3), (6), (7), (9) FS., Sections 21, 32, 33, 34, 36, 44, 46, 48, Chapter 2005-147, Laws of Florida, Section 1, Chapter 2006-65, Laws of Florida, Section 10, Chapter 2007-1, Laws of Florida. History—New 7-18-90, Amended 3-30-93, 10-17-93, 8-28-95, 9-24-96, 12-26-96, 4-27-97, 10-5-97, 10-14-97, 9-7-00, 11-28-00, 2-7-01, 12-16-01, 6-30-03, 4-3-05, 12-11-05, 12-8-06, 5-21-07, 10-1-08, 2-17-09, 10-1-09, Formerly 9B-3.047, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mo Madani, Program Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, 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: December 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010, November 19, 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."

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-2.009
 RULE TITLE: Ineligible or Disqualified Jai Alai Player or Racing Animal

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement Florida Statutes pertaining to the entry of an ineligible or disqualified jai alai player or racing animal.

SUMMARY: This proposed rule addresses amendments relating to eligibility requirements for racing animals due to owners' license status and responsibility of the Racing Secretary to ensure owners are currently licensed prior to entry.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business and will not increase regulatory costs by \$200,000 in the aggregate within one year. 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: 550.0251(3), 550.105(2)(b) FS.

LAW IMPLEMENTED: 550.0251, 550.105, 550.235 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: February 1, 2011, 2:00 p.m. – 5:00 p.m.

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-2.009 Ineligible or Disqualified Jai Alai Player or Racing Animal.

(1) No person shall ~~willfully~~ enter or cause to be entered, or start, a jai alai player or racing animal which ~~is he knows or believes to be~~ ineligible or has been disqualified.

(2) Any animal whose owner or owners do not possess an occupational license shall be ineligible to participate in any race in this state.

(3) Any person who does not possess a current occupational license shall be ineligible to enter any racing animal in any race in this state.

(4) The racing secretary or his/her designee shall be responsible for ensuring that owners of racing animals are licensed prior to allowing the entry of any racing animal into a scheduled pari-mutuel race.

Rulemaking Specific Authority 550.0251(3), 550.105(2)(b) FS. Law Implemented 550.0251, 550.105, 550.235 FS. History—New 10-20-96, Amended 4-12-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Milton Champion, Director, Division of Pari-Mutuel Wagering
 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: December 16, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-3.001	Hearings Before Stewards/Judges
61D-3.002	Appeal Procedures
61D-3.003	Stay of Steward/Judge’s Penalty
61D-3.004	Payment of Fines

PURPOSE AND EFFECT: The purpose and effect of the proposed rules will be to implement Florida Statutes pertaining to the conduct of proceedings before the judges and stewards officiating races at pari-mutuel facilities, and procedures pertaining to appeals of orders of judges and stewards.

SUMMARY: These proposed rules address amendments relating to hearing and appeal procedures.

OTHER RULES INCORPORATING THIS Rule 61D-13.002 incorporates Rule 61D-3.001.

EFFECT ON THOSE OTHER RULES: Rule 61D-13.002, F.A.C., requires stewards to hold hearings in accordance with the provisions of Rule 61D-3.001, F.A.C. Where this rule changes those provisions, stewards will be required to follow the new provisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business and will not increase regulatory costs by \$200,000 in the aggregate within one year. 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: 120.80(4)(a), 550.0251, 550.054(9)(b), 550.1155, 550.2415(12) FS.

LAW IMPLEMENTED: 120.80(4)(a), 550.0251, 550.054, 550.1155, 550.2415 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: February 1, 2011, 2:00 p.m. – 5:00 p.m.
 PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULES IS:

61D-3.001 Hearings Before Stewards/Judges.

~~(1) Each jai alai permitholder shall establish a panel of judges consisting of a division representative, players’ manager, and the fronton general manager. Jai Alai game~~ Game infractions shall be decided by the court judges. Any alleged violation of Chapter 550, F.S., at a jai alai fronton will be governed by Sections 120.569 and 120.57, F.S.

(2) Alleged violations of Chapter 550, F.S., or Chapter 61D, F.A.C., in horseracing shall be heard by a board of stewards. Each horseracing, ~~harness racing, and greyhound racing~~ permitholder shall establish a board of three stewards/~~judges~~, at least one of whom shall be the state/division steward/~~judge~~ selected and hired by the division.

(3) Alleged violations of Chapter 550, F.S., or Chapter 61D, F.A.C., in greyhound racing shall be heard by the division judge.

~~(4)(3)~~ All ~~stewards' and judges'~~ hearings on alleged violations set forth in Section 120.80(4)(a), F.S., Florida Statutes, which are to be heard by the stewards or division judge, judges or panel of judges must be conducted pursuant to the following procedures set forth in subsections ~~(6)-(20)~~ ~~(5)-(17)~~ below when the purpose of the hearing is to impose a fine or suspend a license. For purposes of review of a decision of the division judge judges or stewards or panel of judges as provided in subsection 61D-3.002(6), Florida Administrative Code, the division ~~Division~~ is hereby designated a proper party.

~~(5)(4)~~ All proceedings involving violations other than those described in Section 120.80(4)(a), F.S., 420.633, Florida Statutes, which are to be heard by the stewards or division judge, judges or panels of judges shall be conducted in accordance with the applicable provisions of Chapter 120, F.S., Florida Statutes.

~~(6)(5)~~ Initiation of Proceedings.

(a) Proceedings before stewards and the division judge judges shall be made by written document entitled "Notice of Violation and Hearing."

(b) Each Notice of Violation and Hearing shall contain the name and address of the respondent, a statement of the statute(s) and/or rule(s) alleged to have been violated and a brief statement of the underlying facts and the date, time, and place of the hearing on the charges.

~~(7)(6)~~ Prior to a hearing for an alleged medication or drug violation, where redistribution of the purse may be involved, the stewards or division judge judges shall give at least five business days ~~timely~~ notice to each owner who may be adversely affected by the purse redistribution of the date, time, and location of the hearing.

~~(8)(7)~~ Documents. Upon request to the stewards or division judge judges, any respondent shall be entitled to obtain copies of all audio and video recordings tapes, witness statements, and laboratory analyses analysis. A respondent requesting production shall pay the actual cost of production of such material. A respondent shall also be entitled to the names and addresses of all witnesses and investigators with information relevant to the matter(s) to be heard by the stewards or division judge judges.

~~(9)(8)~~ Subpoenas.

(a) Subpoenas to compel the attendance of witnesses at hearing shall be issued by the division upon the request of a party, the stewards or division judge judges. All requests for the issuance of subpoenas shall be directed to the stewards and division judge judges and such requests shall be forwarded to the division for issuance. The respondent requesting the subpoena shall arrange for their own service and pay all costs for the service services of each subpoena.

(b) No change.

~~(10)(9)~~ Witnesses. All witnesses shall be sworn and subject to examination and cross-examination.

~~(11)(10)~~ Conduct of Hearing/Evidence.

(a) Oral testimony shall be taken only on oath or affirmation. Stewards and the division judge judges shall administer oaths and examine witnesses.

(b) through (c) No change.

~~(12)(11)~~ Recordation. The stewards and division judge judges shall assure that a record of the proceedings is preserved. Proceedings shall be recorded on whatever media is available ~~by audio tape~~. Any respondent to a hearing may, at his/her own expense, provide a certified court reporter. Any respondent who wishes to make a written transcript of the recorded taped ~~recorded~~ testimony shall request a copy of the recorded taped ~~recorded~~ testimony and transcribe the same at his/her own expense.

~~(13)(12)~~ Representation. A respondent in any proceeding conducted before stewards and the division judge judges may be represented by an attorney admitted to practice law in Florida or by any qualified representative as defined in Rule 28-106.106, F.A.C., 28-5.1055, Florida Administrative Code, who agrees to comply with the requirements of Rule 28-106.107, F.A.C., 28-5.1056, Florida Administrative Code. After written notice of appearance that a respondent is being represented by an attorney or qualified representative, all communications to a respondent concerning the case shall ~~also~~ be made to the respondent's attorney or representative, and the respondent's attorney or representative shall be entitled to exercise the rights granted to the respondent under these rules.

~~(14)(13)~~ Service of Notices of Violation and Hearing.

(a) The stewards and division judge judges shall set the time and place for all hearings and written notice thereof shall be served on all respondents, counsel, or other qualified representatives by personal service when possible, otherwise in accordance with Section 120.60, F.S., or by Certified Mail, return receipt requested, to the respondent's last known address or by written notice prominently posted at the respondent's principal workplace if such is at a pari-mutuel facility. At least five ~~(5)~~ days notice shall be given for the hearing, unless otherwise agreed by the respondent.

(b) Any respondent who is served with a Notice of Violation and Hearing and does not appear at a hearing before the stewards or division judge, either in person or through representation, judges or panel of judges requested by the party waives the right to the hearing.

~~(15)(14)~~ Service of Papers. Unless the stewards or division judge judges otherwise order, every paper filed in a proceeding, except Notices of Violation and Hearing (as provided for in subsection ~~(14)(13)~~ above) and requests for witness subpoenas, shall be served on each respondent. Service shall be made upon the respondent or respondent's his representative by hand delivering a copy or in accordance with Rule 28-106.110, F.A.C. by mailing it to the last known address.

~~(16)~~(15) Continuances. The stewards or division judge judges shall grant a continuance of a hearing for good cause shown. In deciding whether good cause is shown, the division judge judges and stewards must consider whether the reason given by the licensee for requesting a continuance is an event out of the licensee's control, such as the death of an immediate family member. Requests for continuance shall be made in writing.

~~(17)~~(16) Computation of Time. In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act from which the designated period of time begins to run shall not be included. Five days shall be added to prescribed time limits when service is made by mail.

~~(18)~~(17) Disqualification. Unless good cause is shown, all motions for disqualification of stewards or the division judge judges shall be made to the division in writing at least five days prior to the date scheduled for hearing. In deciding whether good cause is shown, the division must consider whether the reason given by the licensee for not meeting the five-day limitation is an event out of the licensee's control, such as the death of an immediate family member.

~~(19)~~(18) Orders.

(a) In the event the stewards or division judge determine a statute or rule has been violated and a penalty of a license suspension of 60 days or less, or a fine not to exceed \$1,000 is sufficient to address the violation, the stewards or division judge shall enter an order shall be entered by the stewards or judges within fourteen (14) days after the hearing. The order shall include a caption, time and place of the hearing, findings of fact facts, statement of rules or statutes violated, and a ruling stating the length of any suspension and the amount of the fine imposed for each violation.

(b) In the event the stewards or division judge determine a statute or rule has been violated and a penalty of a license suspension of greater than 60 days, or a fine of greater than \$1,000 should be imposed for the violation, the stewards or division judge shall forward a recommendation to the division stating their findings of fact, statement of statutes or rules violated, and recommended penalty within 14 days after the hearing. The recommendation shall be served to each party at the time it is forwarded to the division. A party shall have 14 days from the date the recommendation is issued in which to file a response with the division prior to the entry of a final order.

(20) Conflict of Interest. The permitholder shall not employ a steward in any other capacity or assign duties of other employees to a steward.

(21) No person other than a party in a noticed proceeding shall attempt to influence the decision of the stewards or division judge regarding any case pending before them under

this rule. This rule shall not prohibit the stewards or division judge from consulting with counsel regarding a matter pending before them.

(22) A steward or judge employed by the division shall not sit in judgment of a matter pending before the permit holders' stewards or judges that is based solely upon any rule of the permitholder.

Remaking Specific Authority 120.80(4)(a), 550.0251, 550.1155 FS. Law Implemented 120.80(4)(a), 550.0251, 550.1155 FS. History—New 10-20-96, Amended 12-15-97, 4-12-06,_____.

61D-3.002 Appeal ~~Hearing~~ Procedures.

(1) The stewards and division judge, judges, or panel of judges shall include in their decision a notice to the licensee of the licensee's right to an appeal hearing before the division director or his/her designee. In addition, the stewards and division judge, judges, or panel of judges shall provide the licensee with the procedures and time limits for invoking the right to an appeal. All requests for an appeal hearings must be submitted in writing or on Form DBPR PMW-3100, Request for Appeal of Stewards'/Judges' Ruling, effective 3-4-07, adopted herein by reference, and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035 and incorporated by Rule 61D-10.001, Florida Administrative Code. The appeal shall state in writing the reason the licensee believes the judge's or stewards' order should be reversed. The request for hearing must provide the reason for the request and be signed by the requesting party. The requesting party, however, is not barred from raising issues on appeal not included on Form DBPR PMW-3100.

(2) Failure of the licensee to file a request for an appeal hearing within 10 days of the decision of the stewards or division judge, judges, or panel of judges constitutes a waiver of the right to an appeal hearing. The request for an appeal shall state in writing the reason the licensee believes the judges' or stewards' order should be reversed.

(3) Upon receipt of an appeal, the division shall review the appeal and the record to determine whether a legitimate issue of law has been presented that would require an appeal hearing to be scheduled. The division shall not substitute its judgment for the judgment of the stewards or division judge as to a finding of fact or the weight and credibility of evidence in the record. The division shall issue an order affirming the stewards or division judge if an appeal that merely disputes findings of fact based upon evidence is received by the stewards or division judge. Appeal hearings shall may be conducted either in person, by telephone, or by other electronic means or telephonically.

(4) In the event the stewards or division judge, judges, or panel of judges make a determination that there is a reasonable suspicion to believe that a violation of Section 550.2415,

Florida Statutes, has occurred, or in the event of a positive test for a substance prohibited under Section 550.2415, Florida Statutes, any purse money in question which has not been disbursed shall be placed on account with the permitholder's comptroller. In the event that any purse money has been distributed, all individuals to whom the purse money has been directly distributed shall place monies equal to the amount received from the purse in a segregated interest bearing account in a recognized financial institution, and shall notify the division of the location of the account. The monies shall remain in the account until final disposition of the case, at which time control of the monies shall be returned to the original individuals; or if a violation is proved, the monies shall be transmitted to the permitholder for redistribution.

~~(5) Failure to appear for an appeal hearing scheduled and noticed shall constitute a waiver of the right to such a hearing.~~

~~(5)(6) Nothing in this rule shall divest the division of its authority to initiate action for alleged violations of Chapter 550, Florida Statutes. If the division determines that the division judge or stewards or the judges have exceeded their jurisdiction, ~~or~~ departed from the essential requirements of law, or incorrectly applied law to facts, it shall void their decision and either enter a decision for the licensee or shall prosecute the alleged violation itself with the respondent receiving rights to an administrative hearing pursuant to Section 120.57, F.S. Florida Statutes.~~

(6) No appeal shall be filed solely for the purpose of delaying imposition of a penalty through a stay pending appeal pursuant to Rule 61D-3.003, F.A.C. If it becomes apparent that an appeal was sought solely to obtain a stay and delay the imposition of a penalty, the division shall issue an order dismissing the appeal and referring the case to the stewards or division judge to determine whether additional penalties should be imposed.

~~(6)(7) Upon conclusion of the appeal hearing, the division director shall affirm or reverse the decision of ~~may remand the matter~~ to the stewards/division judge judges with directions for an appropriate disposition of the case under the pari-mutuel statutes or rules.~~

Rulemaking Specific Authority 120.80(4)(a), 550.0251, 550.054(9)(b), 550.1155 FS. Law Implemented 120.80(4)(a), 550.0251, 550.054, 550.1155 FS. History--New 10-20-96, Amended 1-5-98, 4-12-06,_____.

61D-3.003 Stay of Stewards'/Judge's ~~Judges'~~ Penalty.

(1) A request for an appeal hearing following a stewards'/judge's judges' ruling shall not automatically stay the decision of the stewards/judge judges regarding the penalty imposed. Any request for a stay of the penalty imposed shall specify the reasons supporting the issuance of a stay. The licensee's request for a stay must be in writing or on Form DBPR PMW-3090, Request for Stay, effective 3-4-07, adopted herein by reference, and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the

Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, and incorporated by Rule 61D-10.001, Florida Administrative Code. The division, however, shall not give less than seven (7) days notice of hearing unless waived by the licensee requesting the appeal.

(2) Any party desiring a stay of stewards'/judge's judges' ruling shall first seek the stay from the stewards/judge judges, who shall grant the stay unless:

(a) The stewards or division judge enter a suspension of 60 days and refer the matter to the division with a recommendation for entry of an emergency suspension pursuant to Section 120.60(6), F.S., or an order of summary suspension pursuant to Section 550.2415(3)(c), F.S.; or or deny the stay based on the following considerations: the severity of the violation, prior disciplinary history, the likelihood of the requesting party prevailing on appeal, the safety of the public, and the safety of the pari-mutuel wagering participants and racing animals. If the order appealed has the effect of suspending a license, a stay shall be granted as a matter of right upon reasonable conditions, unless the stewards determine that a stay of penalty would constitute a probable danger to the state's regulation of the pari-mutuel industry.

(b) The stewards or division judge find after a hearing with notice to the party seeking the stay that the stay is being sought solely for the purpose of delaying a penalty.

(3) The decision of the stewards/judge judges shall be in writing and shall be transmitted to the division and the parties within five 5 days from the date the request for stay is received by the stewards/judge judges.

~~(4)(3) If the stewards/judge deny the request for a stay or judges do not issue a written decision as required under subsection (3) grant a stay of the penalty, the party is entitled to seek a stay from the division. After reviewing the decision of the stewards or division judge, the request for stay, and the record, the division shall grant or deny the stay.~~

The division shall grant or deny the stay based on the following considerations: the severity of the violation, the number of times the party requesting the stay has violated the same rule or statutory provision, the likelihood of the requesting party prevailing on appeal, the safety of the public, and the safety of the pari-mutuel wagering participants and racing animals. If the order appealed has the effect of suspending a license, a stay shall be granted as a matter of right upon reasonable conditions, unless the division determines that a stay of penalty would constitute a probable danger to the state's regulation of the pari-mutuel industry.

Rulemaking Specific Authority 120.80(4)(a), 550.0251(3), 550.1155(4) FS. Law Implemented 120.80(4)(a), 550.0251, 550.1155 FS. History--New 10-20-96, Amended 1-5-98, 4-12-06,_____.

61D-3.004 Payment of Fines.

All civil penalties imposed by the stewards/division judge judges must be paid within 15 days of the ruling unless the

~~ruling is appealed and a stay has been entered pursuant to Rule 61D-3.003, F.A.C. The fine must be paid within 15 days of the resolution of the appeal. However, the period of time for payment may be extended only by the stewards/judges, for no more than 15 days for good cause shown (herein defined as a showing of inability to meet the above mentioned deadline due to pecuniary distress). If an appeal is requested, the conditions for a stay set forth in subsection 61D-3.003(2), Florida Administrative Code, must be met.~~

~~Rulemaking Specific Authority 120.80(4)(a), 550.0251(3), 550.054(9)(b), 550.1155(1), (2), 550.2415(12)(7) FS. Law Implemented 120.80(4)(a), 550.0251, 550.054, 550.1155, 550.2415 FS. History—New 10-20-96, Amended 1-5-98, 4-12-06, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Milton Champion, Director, Division of Pari-Mutuel Wagering
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: December 16, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-6.006	Procedures Relating to Split Samples
61D-6.007	Permitted Medications for Racing Greyhounds

PURPOSE AND EFFECT: The purpose and effect of the proposed rules will be to implement Florida Statutes pertaining to split sample procedures and permitted medications for greyhounds by establishing threshold levels for certain Class III and IV medications.

SUMMARY: Rule 61D-6.006, F.A.C., addresses an internal procedure change that requires the Office of Operations to handle split sample requests rather than the Office of Investigations. Rule 61D-6.007, F.A.C., addresses the establishment of threshold levels for certain Class III and IV medications commonly found in greyhounds.

OTHER RULES INCORPORATING THIS RULE: None.

EFFECT ON THOSE OTHER RULES: None.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business and will not increase regulatory costs by \$200,000 in the aggregate within one year. 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: 120.80(4)(a), 550.0251(3), (11), 550.2415(5), (13), (16) FS.

LAW IMPLEMENTED: 120.80(4)(a), 550.0251, 550.2415 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: February 1, 2011, 1:00 p.m. – 2:00 p.m.
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULES IS:

61D-6.006 Procedures Relating to Split Samples.

The following procedures shall be followed when requesting a portion of an official sample for analysis at another laboratory:

- (1) through (2) No change.
- (3) Failure to request a split sample or failure to select and make arrangements, including payment for services, with an approved laboratory within 10 calendar days after receiving written notification from the Office of Operations Investigations, stewards or judges, of the results from the laboratory under contract with the division shall constitute a waiver of the right to a split sample.
- (4) Whenever a split sample is requested, the stewards or judges shall promptly notify the Office of Operations Investigations, which in turn shall notify the laboratory under contract with the division of the request, identifying only the number on the sample container from which the split sample is to be taken, and the laboratory which has been selected. The laboratory under contract with the division shall send the split sample to the laboratory selected within 10 calendar days of receiving the request.
- (5) through (6) No change.

Rulemaking Specific Authority 120.80(4)(a), 550.0251(3), (11), 550.2415(5), (13) FS. Law Implemented 120.80(4)(a), 550.0251, 550.2415 FS. History—New 10-20-96, Amended 12-15-97, 4-12-06, _____.

61D-6.007 Permitted Medications for Racing Greyhounds. The following medications are permitted to be administered to racing greyhounds in the dosages and under the conditions listed below:

(1) through (2) No change.

(3) ~~The following permitted medications shall not be reported by the racing laboratory to the division as a violation of Section 550.2415, F.S.: The detection of caffeine at a urinary concentration less than 200 nanograms per milliliter and/or its metabolites, theophylline and theobromine at a urinary concentration less than 400 nanograms per milliliter shall not be reported by the racing laboratory to the division as a violation of Section 550.2415, Florida Statutes.~~

(a) The detection of caffeine at a urinary concentration less than or equal to 200 nanograms per milliliter;

(b) The detection of theophylline and theobromine at a urinary concentration less than or equal to 400 nanograms per milliliter;

(c) The detection of procaine at a urinary concentration less than or equal to 2 micrograms per milliliter; and

(d) The detection of flunixin at a urinary concentration less than or equal to 250 nanograms per milliliter.

(4) No change.

Rulemaking Specific Authority 120.80(4)(a), 550.0251(3), (11), 550.2415(13), (16) FS. Law Implemented 120.80(4)(a), 550.0251, 550.2415 FS. History—New 10-20-96, Amended 6-6-00, 6-6-04, 4-12-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Milton Champion, Director, Division of Pari-Mutuel Wagering

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: December 15, 2010

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-6.011	Penalty Guidelines for Class I-V Drug Violations in Horses
61D-6.012	Penalty Guidelines for Class I-V Drug Violations in Greyhounds

PURPOSE AND EFFECT: The purpose and effect of the proposed rules will be to implement Florida Statutes which grant the Division authority to adopt rules establishing penalty guidelines for Class I, II, III, IV, and V drug violations in horses and greyhounds.

SUMMARY: These proposed rules implement Florida Statutes necessary to establish penalty guidelines for Class I, II, III, IV, and V drug violations in horses and greyhounds.

OTHER RULES INCORPORATING THIS RULE: None.

EFFECT ON THOSE OTHER RULES: None.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

The agency has determined that this rule will not have an adverse impact on small business and will not increase regulatory costs by \$200,000 in the aggregate within one year. 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: 455.2273, 550.0251(3), 550.2415(12) FS.

LAW IMPLEMENTED: 550.0251, 550.1155, 550.2415 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: February 1, 2011, 2:00 p.m. – 5:00 p.m.

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 61D-6.011 follows. See Florida Administrative Code for present text.)

61D-6.011 Penalty Guidelines for Class I-V Drug Violations in Horses.

(1) The penalties in this rule shall be imposed when the stewards or the division finds that the following substances have been identified by the state laboratory in a urine sample or blood sample collected from a horse participating in a pari-mutuel event:

(a) Any medication listed in subsection 61D-6.008(8), F.A.C.

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| <u>1. First violation</u> | <u>\$500 to \$1,000 fine and suspension of license up to 15 days;</u> |
| <u>2. Second violation within 12 months of a previous violation</u> | <u>\$1,000 to \$2,500 fine and suspension of license up to 60 days, or revocation of license;</u> |
| <u>3. Third violation within 24 months of a second violation, or a fourth or any subsequent violation without regard to the time past since the third violation</u> | <u>\$2,500 to \$5,000 fine and suspension of license up to 180 days, or revocation of license.</u> |

(b) Any medication that:

1. Is not approved for veterinary use in the United States by the Food and Drug Administration;
2. Cannot be detected by the state laboratory in a urine or blood sample unless the medication was administered within 24 hours of the race; or
3. Is detected in urine or blood concentrations that indicate a level of dosage that would constitute a threat to the health and safety of the horse.

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|------------------------------------|--|
| <u>a. First violation</u> | <u>\$1,000 to \$2,500 fine and suspension of license up to one year, or revocation of license;</u> |
| <u>b. Any subsequent violation</u> | <u>\$2,500 to \$5,000 fine and revocation of license.</u> |

(2) The penalty for any medication or drug which is not described in subsection (1) above shall be based upon the classification of the medication or drug found in the Uniform Classification Guidelines for Foreign Substances, revised January 2010, as promulgated by the Association of Racing Commissioners International, Inc., which is hereby incorporated and adopted by reference. A copy of this document may be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035. The penalty schedule shall be as follows:

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| <u>(a) Class I impermissible substances:</u> | |
| <u>1. First violation</u> | <u>\$1,000 to \$3,000 fine and suspension of license up to one year, or revocation of license;</u> |
| <u>2. Second violation</u> | <u>\$3,000 to \$5,000 fine and suspension of license of no less than one year, or revocation of license.</u> |
| <u>3. Third or subsequent violation</u> | <u>\$3,000 to \$5,000 fine and revocation of license.</u> |
| <u>(b) Class II impermissible substances:</u> | |

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| <u>1. First violation</u> | <u>\$250 to \$1,000 fine and suspension of license up to 180 days;</u> |
| <u>2. Second violation within 36 months of a previous violation</u> | <u>\$500 to \$1,000 fine and suspension of license of no less than 180 days, or revocation of license;</u> |
| <u>3. Third violation within 36 months of a second violation, or a fourth or any subsequent violation without regard to the time past since the third violation</u> | <u>\$1,000 to \$5,000 fine and suspension of license of no less than one year, or revocation of license.</u> |
| <u>(c) Class III impermissible substances:</u> | |
| <u>1. First violation</u> | <u>\$300 to \$500 fine;</u> |
| <u>2. Second violation within 12 months of a previous violation</u> | <u>\$500 to \$750 fine and suspension of license up to 30 days, or revocation of license;</u> |
| <u>3. Third violation within 24 months of a second violation, or a fourth or any subsequent violation without regard to the time past since the third violation</u> | <u>\$750 to \$1,000 fine and suspension of license up to 180 days, or revocation of license.</u> |
| <u>(d) Class IV or V impermissible substances:</u> | |
| <u>1. First violation</u> | <u>\$100 to \$250 fine;</u> |
| <u>2. Second violation in a 12-month period</u> | <u>\$250 to \$500 fine and suspension of license up to 10 days;</u> |
| <u>3. Third or subsequent violation in a 12-month period</u> | <u>\$500 to \$1,000 fine and suspension of license up to 60 days.</u> |

(3) Absent mitigating circumstances, the stewards or the division shall order the return of any purse, prize, or award from any pari-mutuel event for redistribution when a positive test for a drug or medication described in paragraph (1)(a), (1)(b), (2)(a), or (2)(b) is reported by the state laboratory and confirmed through the hearing process.

(4) The stewards or the division shall specify in writing the reasons for requiring the return of any purse, prize, or award for redistribution when the positive test of a drug or medication reported by the state laboratory is not described in paragraph (1)(a), (1)(b), (2)(a), or (2)(b) of this rule.

(5) Nothing in this rule modifies the provisions of Rule 61D-6.008 or 61D-3.002, F.A.C., or rules promulgated under Section 550.2415, F.S.

Rulemaking Specific Authority 550.0251(3), 550.2415(12) FS. Law Implemented 550.0251, 550.1155, 550.2415 FS. History—New 1-5-98, Amended 2-8-01, 3-4-07,_____.

61D-6.012 Penalty Guidelines for Class I-V Drug Violations in Greyhounds.

(1) The penalties in this rule shall be imposed when the division finds that the following substances have been identified by the state laboratory in a urine sample or blood sample collected from a greyhound participating in a pari-mutuel event:

(a) Any drug or medication that:

1. Is not approved for veterinary use in the United States by the Food and Drug Administration;
2. Cannot be detected by the state laboratory in a urine or blood sample unless the medication was administered within 24 hours of the race; or

3. Is detected in urine or blood concentrations that indicate a level of dosage that would constitute a threat to the health and safety of the greyhound.

- a. First violation \$1,000 to \$2,500 fine and suspension of license up to one year, or revocation of license;
- b. Any subsequent violation \$2,500 to \$5,000 fine and revocation of license.

(2) The penalty for any medication or drug which is not described in subsection (1) above shall be based upon the classification of the medication or drug found in the Uniform Classification Guidelines for Foreign Substances, revised January 2010, as promulgated by the Association of Racing Commissioners International, Inc., which is hereby incorporated and adopted by reference. A copy of this document may be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035. The penalty schedule shall be as follows:

- (a) Class I impermissible substances:
 - 1. First violation \$500 to \$1,000 fine and suspension of license up to one year, or revocation of license;
 - 2. Any subsequent violation \$1,000 to \$5,000 fine and suspension of license no less than one year, or revocation of license.
- (b) Class II impermissible substances:
 - 1. First violation \$100 to \$1,000 fine and suspension of license up to 30 days;
 - 2. Second violation within 36 months of a previous violation \$250 to \$1,000 fine and suspension of license no less than 30 days, or revocation of license;
 - 3. Third violation within 36 months of a second violation, or a fourth or any subsequent violation without regard to the time past since the third violation \$500 to \$1,000 fine and suspension of license no less than 60 days, or revocation of license.
- (c) Class III impermissible substances:
 - 1. First violation \$50 to \$500 fine;
 - 2. Second violation within 12 months of a previous violation \$150 to \$750 fine and suspension of license up to 30 days;
 - 3. Third violation within 24 months of a second violation, or a fourth or any subsequent violation without regard to the time past since the third violation \$250 to \$1,000 fine and suspension of license up to 60 days.
- (d) Class IV or V impermissible substances:
 - 1. First violation \$50 to \$250 fine;
 - 2. Second violation in a 12-month period \$100 to \$500 fine;
 - 3. Third or subsequent violation in a 12-month period \$200 to \$1,000 fine and suspension of license up to 30 days.

(3) Absent mitigating circumstances, the division judge or the division shall order the return of any purse, prize, or award from any pari-mutuel event for redistribution when a positive

test for a drug or medication described in paragraph (1)(a), (1)(b), (1)(c), (2)(a), or (2)(b) is reported by the state laboratory and confirmed through the hearing process.

(4) The judges or the division shall specify in writing the reasons for requiring the return of any purse, prize, or award for redistribution when the positive test of a drug or medication reported by the state laboratory is not described in paragraph (1)(a), (1)(b), (1)(c), (2)(a), or (2)(b) of this rule.

(5) Nothing in this rule modifies the provisions of Rule 61D-6.008 or 61D-3.002, F.A.C., or rules promulgated under Section 550.2415, F.S.

Rulemaking Authority 550.0251(3), 550.2415(12) FS. Law Implemented 550.0251, 550.1155, 550.2415 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Milton Champion, Director, Division of Pari-Mutuel Wagering.

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: December 16, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 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 HEALTH	
Division of Family Health Services	
RULE NOS.:	RULE TITLES:
64F-9.001	Epilepsy Services Program (ESP) – Definitions
64F-9.002	Epilepsy Services Program (ESP) – Scope of Services
64F-9.003	Epilepsy Services Program (ESP) – Direct Client Services Administration
64F-9.004	ESP – Prevention and Education Services
64F-9.005	ESP Reporting Requirements
64F-9.006	ESP Antiepileptic Drug Program (ADP)

PURPOSE AND EFFECT: The Department proposes to amend the existing language in this chapter.

SUMMARY: Each rule was updated to recognize changes in definitions or terminology and modifying the eligibility and enrollment process.

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: 385.207(4) FS.

LAW IMPLEMENTED: 385.207 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: Nikita Wiggins, 4052 Bald Cypress Way, Bin #A-18, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 64F-9.001 follows. See Florida Administrative Code for present text):

64F-9.001 Epilepsy Services Program (ESP) – Definitions.

The following words and phrases shall have the following meanings for the purpose of this rule.

(1) “Antiepileptic Drug Program (ADP)” means a program administered by the Department of Health to promote and assist with the continued development and expansion of programs for required pharmaceuticals which will have a positive effect in the care and treatment of persons with epilepsy. Authority is given under Sections 385.207(2)(a), Florida Statutes. Eligibility for this program is subject to availability of funds. Eligible persons are able to receive up to a three month supply of his or her prescribed medication.

(2) “Direct client services” means providing case management, medical follow-up, coordinating laboratory and other testing services (EEG, MRI and CT Scan) as well as vocational assistance and psychological care as needed to epilepsy clients or ESP clients.

(3) “Epilepsy Services Program (ESP)” means a program that provides direct client services, prevention and education services according to Section 385.207, F.S., to improve access to health care services for Florida’s citizens living with epilepsy.

(4) “ESP Client” means a person who is both a resident of Florida and who either:

(a) Is suspected to have a seizure disorder or epilepsy and has applied for direct client services; or

(b) Has a confirmed diagnosis of epilepsy and is receiving direct client services.

(5) “Family” means one or more persons living in one dwelling place who are related by blood, marriage, law or conception. A pregnant woman and her unborn child or children are considered to be two or more family members. A

single adult, over 18, living with relatives is considered to be a separate family for income eligibility determination purposes. If the dwelling place includes more than one family or more than one unrelated individual, the poverty guidelines are applied separately to each family or unrelated individual and not the dwelling place as a whole.

(6) “Gross Family Income” means the sum of gross income available to a family at the time of application. Gross family income shall be based on all gross income to be earned, unearned, received or anticipated to be earned or received in the current month. Gross family income does not include Supplemental Social Security Income (SSI) or any other received by the SSI eligible individual(s) and any income received by the minor sibling(s) of the eligible individual(s). Providers are permitted to request income for up to 12 months prior to the date of application if the income received in the current month is not representative of the family’s gross income due to seasonal employment and if it is to the client’s benefit to do so. Income shall include the following:

(a) Wages, salary and self-employment income;

(b) Child support received;

(c) Alimony received;

(d) Unemployment compensation;

(e) Worker’s compensation;

(f) Veteran’s pension;

(g) Social Security;

(h) Pensions or annuities;

(i) Dividends, interest on savings or bonds;

(j) Income from estates or trusts;

(k) Net rental income or royalties;

(l) Net income from self employment;

(m) Contributions; and

(n) TANE.

(7) “Net Income” means gross family income minus Federal Tax Withholdings, Social Security and Medicare deductions.

(8) “Plan of Care (POC)” is an individualized plan relating to the client’s needs, goals, and expected outcomes to the services and responsibilities of the provider A POC is created during the intake process and is updated as necessary. The POC is reviewed at least annually to assure the client is on target with the stated goals and objectives.

(9) “Provider” means an organization or individual providing services or commodities to ESP clients in accordance with the terms of a Department of Health contract.

(10) “Poverty Guidelines” The guidelines are a simplified version of the federal poverty threshold used for administrative purposes to establish income ranges of the sliding fee scale to determine financial eligibility for medical services. The guidelines are updated annually based on the increased in the Consumer Price Index as show in the Federal Registrar by the United States Department of Health and Human Services.

(11) “Sliding Fee Scale” means a scale of charges which are less than the full cost of the service that clients shall be charged for ESP services. The fee scale for these services shall progress in increments of the full cost of services for those clients between 100 and 200 percent of the most current poverty guidelines published by the United States Department of Health and Human Services.

Rulemaking Specific Authority 385.207(4) FS. Law Implemented 385.207FS. History–New 11-1-92, Amended 4-29-96, Formerly 10D-117.003, Amended _____.

(Substantial rewording of Rule 64F-9.002 follows. See Florida Administrative Code for present text):

64F-9.002 Epilepsy Services Program (ESP) – Scope of Services Eligibility for ESP Services.

The ESP includes the following statewide programs:

(1) Direct Client Services: A program to improve access, provide care and assistance to persons with epilepsy through the delivery of a comprehensive range of services that will have a positive effect on the quality of life. Services include case management, medical service referrals, coordinating laboratory and other testing services such as EEG, CT Scan and MRI, vocational assistance and psychological care as needed.

(2) Prevention and Education: A program to reduce the stigma associated with epilepsy, increase knowledge and understanding of epilepsy. Services include awareness activities, educational seminars, and presentations to various groups to promote the early recognition, treatment, and prevention of epilepsy.

Rulemaking Specific Authority 385.207(4) FS. Law Implemented 385.207 FS. History–New 11-1-92, Amended 4-29-96, Formerly 10D-117.006, Amended _____.

(Substantial rewording of Rule 64F-9.003 follows. See Florida Administrative Code for present text):

64F-9.003 Epilepsy Services Program (ESP) – Direct Client Services Administration Individual Action Plan.

(1) Eligibility: Subject to the availability of funds, an individual is eligible for the ESP – Direct Client Services Program if:

(a) He or she is a Florida resident;

Proof of Florida residency can include any of the following:

1. Florida driver’s license or identification card;
2. Local utility bill (electric, gas, landline phone);
3. Voter registration card; or
4. Local school record (K-12) or registration certificate.

(b) Has or is suspected of having a seizure disorder or epilepsy. Diagnosis must be confirmed within 30 days of application for persons suspected of having a seizure disorder or epilepsy.; and

(c) He or she completes the following forms:

Application for services, DOH #----, 11/10.

Financial Worksheet, DOH #----, 11/10.

Both forms are incorporated by reference and are available by writing to: 4052 Bald Cypress Way, Bin #A-18, Tallahassee, Florida 32399 or at the following website: www.doh.state.fl.us/family/epilepsy/index.html.

(2) A client’s eligibility is determined annually.

(3) An individual shall be ineligible for the ESP program if he or she does not meet the aforementioned criteria in subsection 64F-9.003(1), F.A.C.

(4) Fee Assessment: Fees will only be assessed for direct client services excluding case management services. The fee shall be assessed using the total gross family income, the approved sliding fee schedule, and the financial worksheet. Providers must review proof of income for all adults in the family.

(a) All clients who are enrolled, or become enrolled, in Medicaid and all clients with a gross family income below 100 percent of the most current poverty guidelines published by United States Department of Health and Human Services and incorporated by reference and available at <http://aspe.hhs.gov/poverty/> shall be eligible for medical services provided by the ESP at no charge.

(b) When the gross family income is between 100 and 200 percent of the poverty income guidelines the client will be responsible for payment of a portion of the provider’s cost of the medical services provided based upon a sliding fee scale or schedule. The sliding scale will be applied as follows:

1. Persons with incomes at or below 100 percent of the poverty guidelines shall pay no fee.

2. Persons with incomes at 101 to 119 percent of the poverty guidelines shall pay 17 percent of the full fee.

3. Persons with incomes at 120 to 139 percent of the poverty guidelines shall pay 33 percent of the full fee.

4. Persons with incomes at 140 to 159 percent of the poverty guidelines shall pay 50 percent of the full fee.

5. Persons with incomes at 160 to 179 percent of the poverty guidelines shall pay 67 percent of the full fee.

6. Persons with incomes at 180 to 199 percent of the poverty guidelines shall pay 83 percent of the full fee.

(c) When the gross family income is at or above 200 percent of the federal poverty income guidelines the client will be responsible for 100 percent (%) of the provider’s cost of services.

(5) Disenrollment: An ESP client may be disenrolled for any of the following reasons below:

(a) The ESP client does not have a confirmed diagnosis of having a seizure disorder or epilepsy within 30 days of application.

(b) The ESP client no longer meets one of the eligibility requirements in Rule 64F-9.003, F.A.C.

(c) The ESP client does not agree and/or comply with the developed POC.

(d) The ESP client does not pay fee(s) for medical service and is unwilling to agree to a payment plan.

(e) The ESP client does not provide or complete information as requested by the provider.

(f) The ESP client is repeatedly belligerent and displays confrontational behavior towards staff.

(g) The ESP client is no longer in need of services.

(h) The ESP client request closure of their case file.

(i) The ESP client has not received services in the past 12 months.

(j) Lack of funding.

(6) Prior to disenrollment, the ESP client will receive no less than 30 days notification, in writing, of the decision to disenroll. Applicants may re-apply 30 days after receipt of notice provided the reason for disenrollment has been resolved.

Rulemaking Specific Authority 385.207(4) FS. Law Implemented 385.207, 402.33 FS. History–New 11-1-92, Amended 5-5-94, 4-29-96, Formerly 10D-117.004, Amended _____.

(Substantial rewording of Rule 64F-9.004 follows. See Florida Administrative Code for present text):

64F-9.004 ESP – Prevention and Education Services Prevention Program Activities.

Epilepsy Services Program (ESP) will disseminate information statewide through education and awareness activities to promote the early recognition, treatment, prevention and reduce stigma associated with epilepsy. Persons with epilepsy and their families, professionals and the general public will receive education. There are no eligibility requirements for participation in prevention and education services.

Rulemaking Specific Authority 385.207(4) FS. Law Implemented 385.207 FS. History–New 11-1-92, Amended 4-29-96, Formerly 10D-117.011, Amended _____.

(Substantial rewording of Rule 64F-9.005 follows. See Florida Administrative Code for present text):

64F-9.005 ESP Reporting Requirements.

A provider shall submit properly completed quarterly reports outlining the number of clients served and outcomes reached, as well as the number of education presentations and awareness activities conducted. The reports will be compiled and delivered to the Department of Health within 15 days of the end of the quarter being reported. Failure to submit reports as required will result in invoices for payment being withheld until reports are submitted.

Rulemaking Specific Authority 385.207(4) FS. Law Implemented 385.207 FS. History–New 11-1-92, Amended 4-29-96, Formerly 10D-117.011, Amended _____.

(Substantial rewording of Rule 64F-9.006 follows. See Florida Administrative Code for present text):

64F-9.006 ESP Antiepileptic Drug Program (ADP).

(1) Eligibility is subject to the availability of funds. An individual is eligible for the ADP Program if:

(a) He or she is a bona-fide Florida Resident;

(b) He or she has a diagnosis of epilepsy;

(c) He or she completes an Epilepsy Medication Request, DOH#--- , 11/10. A copy may be obtained by writing: 4052 Bald Cypress Way, Bin A-18, Tallahassee, Florida 32399 or accessing www.state.fl.us/familu/epilepsy/index.html;

(d) He or she provides a current prescription for epilepsy medications. The prescription may either be written on the Epilepsy Medication Request form or provided separately and attached to the form;

(e) He or she is uninsured or is lacking insurance that covers epilepsy medications;

(f) He or she has a gross family income at or below 100 percent (%) of the poverty guidelines. If the applicants dwelling place includes more than one family or more than one unrelated individual, the poverty guidelines shall be applied to each family or unrelated individual and not the dwelling place as a whole; and

(g) He or she has no more than \$2,500 in private funds, bank accounts, or assets other than a homestead.

(2) Disenrollment: A client may be disenrolled if:

(a) The client appears to be Medicaid eligible, or in the case of a minor the parent or guardian, and the client has been advised by the County Health Department (CHD) that he or she has three months to pursue Medicaid eligibility;

(b) Services have been provided by the CHD during the three month processing period and

(c) At the end of the period, the client has not presented evidence to the CHD showing he or she has pursued Medicaid eligibility; or

(d) Lack of funding.

(3) If the CHD has not been shown evidence that the client has pursued Medicaid eligibility, the CHD has the authority to discontinue services at the end of the three month period except for those services available to clients without income limitations as specified in Rule 64F-16.008, F.A.C.

(4) If the CHD decides to reduce or withhold services due to limitations in resources, the CHD will give clients 30 days written notice prior to disenrollment.

Rulemaking Authority 385.207(4) FS. Law Implemented 385.207 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nikita Wiggins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: State Surgeon General, Ana M. Viamonte Ros, M.D., M.P.H.

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 17, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-221.051
 RULE TITLE: Actively Engaged in Business; Place Suitably Designated; Accessible to Public

PURPOSE AND EFFECT: The proposed rule amendment revises the rule to advise Bail Bond agents and other interested persons that the rule’s referenced forms may be obtained by visiting the Department’s website. The effect of the proposed amendment is to provide a more efficient and expedient option for obtaining required forms; minor ministerial changes have also been made to the proposed rule.

SUMMARY: An amendment advising bail bond agents and other interested persons that referenced forms are available by visiting the Department’s website.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Division has prepared a Statement of Estimated Regulatory Cost which indicates that the proposed rule amendment 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: 648.26(1)(a), 648.355(1)(e) FS.

LAW IMPLEMENTED: 648.25, 648.34, 648.355, 648.387, 648.44(6) 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: Monday, January 31, 2011, 10:30 a.m.
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brinkley, (850)413-5654 or Richard.Brinkley@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brinkley, Government Analyst II, Bureau of Investigation, Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0319; (850)413-5654

69B-221.051 Actively Engaged in Business; Place Suitably Designated; Accessible to Public.

Every bail bond agent must be actively engaged in the bail bond business; in a building suitably designated as a bail bond agency, which must be maintained open and accessible to the public to render service during reasonable business hours.

(1) Each bail bond agency, and each branch office, shall be in the active full-time charge of a licensed and appointed primary bail bond agent as required by Section 648.387, F.S., and shall be designated on form DFS-H2-1541 (07/02) “Designation or Deletion of Primary Bail Bond Agent for Bail Bond Agency and Filing of Business Names”, which is adopted and incorporated herein by reference. This form is available from the Division of Agents and Agency Services, Department of Financial Services at <http://www.myfloridacfo.com/Agents/Licensure/Forms/index.htm> ~~from the Bail Bond section.~~

(2) through (3) No change.

(4)(a) A temporary bail bond agent must be employed full-time and shall be physically accompanied by the supervising bail bond agent or bail bond agent from the same agency as required by Sections 648.25(8)(9) and 648.355(8), F.S. As used in this rule, the term “full-time” means that the temporary bail bond agent must work at least 1,540 hours during 12 months of employment as a temporary bail bond agent. This will result in an average of slightly less than 30 hours per week. Each employer of a temporary bail bond agent must provide the temporary bail bond agent the opportunity to work at least 30 hours a week during the period of employment and may allow the temporary bail bond agent to work more than 30 hours per week.

(b) No change.

(c) The supervising bail bond agent shall file monthly a certified report under oath on form DFS-H2-1543, (~~rev. 07/02~~), “Temporary Bail Bond Agent Employment Report”, which is adopted and incorporated herein by reference; ~~with the Department of Financial Services, Bail Bond Section, 200 East Gaines Street, Tallahassee, Florida 32399-0320. This~~ All forms ~~is referenced in this rule chapter~~ are available at this address from the Division of Agents and Agency Services, Department of Financial Services at <http://www.myfloridacfo.com/Agents/Licensure/Forms/index.htm>.

Rulemaking Specific Authority 648.26, 648.355(1)(e) FS. Law Implemented 648.25, 648.34, 648.355, 648.387, 648.44(6) FS. History—Repromulgated 12-24-74, Amended 7-27-78, 12-23-82, Formerly 4-1.04, 4-1.004, Amended 4-14-97, 7-2-98, 1-22-03, Formerly 4-221.051, Amended 8-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brinkley, Government Analyst II, Bureau of Investigation, Division of Insurance Agent & Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief of Financial Officer, Department of Financial Services
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 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."

EXECUTIVE OFFICE OF THE GOVERNOR

Florida Energy and Climate Commission

RULE NO.: 27N-3.001 RULE TITLE: State ENERGY STAR Appliance Rebate Program

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 35, September 3, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.206 RULE TITLE: Emergency Management

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. 44, November 5, 2010 issue of the Florida Administrative Weekly.

33-602.206 Emergency Management.

(1) Definitions.

(a) Incident ~~Command System (ICS)~~ – where used herein, any assault, bomb threat, employee strike, escape, evacuation, fire, hazardous material or chemical spill or leak, hostage situation, medical emergency, natural or man-made disaster, pandemic, riot or disorder, or any other significant event requiring departure from normal operations a standard operating procedure that can be employed in establishing command in a correctional setting during any incident or event outside of normal operations and that provides a means for the effective management of personnel and resources that respond to the incident as it escalates.

(b) Incident commander – the individual assuming and having responsibility for the management of all incidents ~~and events outside of normal operations.~~

(c) Emergency Action Center (EAC) refers to the unit located in the central office charged with receiving reports regarding incidents from Department of Corrections’ facilities and reporting the information to the proper authorities. This unit also receives requests for criminal histories, warrant confirmations, and offender location requests from law enforcement agencies throughout the United States National Incident Management System (NIMS) — a system created under Homeland Security Directive #5 (February 2003) that directs the comprehensive, national approach to incident management by federal, state, territorial, tribal, and local responders.

~~(2) The department will respond to all emergencies using ICS in conjunction with NIMS.~~

~~(2)(3)~~ The department will ensure that there are ~~critical~~ incident response plans in place at each facility that houses inmates.

~~(3)(4)~~ Upon determining that ~~an a-critical~~ incident has occurred or is about to occur, the incident commander shall immediately notify the department’s Emergency Action Center, the appropriate prison inspector, and then the regional director. The regional director or designee shall in turn immediately notify the Office of the Secretary, and the Secretary or designee shall notify the Office of the Governor and appropriate central office personnel. Notification shall include the essential facts of the situation, and persons notified shall be kept informed of new developments as they occur by the same process.

(5) The following tactical priorities shall govern the measures taken to resolve ~~an a-critical~~ incident:

(a) Provide for the safety, accountability, and welfare of the public, personnel, and inmates. This priority is ongoing throughout the incident.

(b) Stabilize, isolate, and contain the incident and provide for preservation of life, property, and order.

(c) Remove endangered persons and obtain treatment for the injured.

(d) Conserve expenses and damage to property.

(e) Resolve the incident and return the institution to normal operations.

(f) Ensure the identification, arrest, and prosecution of persons violating the law.

(6) Force may be used to restore order subject to the provisions of Rule 33-602.210, F.A.C.. No personal weapons or ammunition of any kind will be used except as specifically authorized by the incident commander.

(7) Until order is restored no employee shall give any information to the news media without the authority of the incident commander, regional director, or Secretary. News media representatives shall not be allowed to enter any area