

Section II  
Proposed Rules

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE NO.: 5E-14.117  
 RULE TITLE: Application for Examination for Department Applicator Credentials

PURPOSE AND EFFECT: The purpose of these rule changes is to define requirements for individuals seeking the Limited Commercial Wildlife Management Certificate for individuals wishing to control commensal rodents in Florida.

SUMMARY: Limited Commercial Wildlife Management Certificate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 482.051, 482.1562 FS.  
 LAW IMPLEMENTED: 482.131, 482.132, 482.141, 482.151, 482.152, 482.051, 482.156, 482.1562, 482.157 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)617-7997

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.117 Application for Examination for Department Applicator Credentials for Pest Control Operator's Certificate and Special Identification Card and Limited Certificate for Urban Landscape Commercial Fertilizer Application.

(1) through (18) No change.

(19) Applicants for limited certification for commercial wildlife management shall submit an examination fee of \$150 with their completed application using the form entitled, Limited Certification for Commercial Wildlife Management, DACS 13685, (rev. 09/11), which may be obtained by visiting <http://www.flrules.org/Gateway/reference>. Certificate holders

shall submit an annual renewal fee of \$75.00 with their completed Renewal Notice Limited Commercial Wildlife Management, DACS 13684, (rev. 12/11), which may be obtained by visiting <http://www.flrules.org/Gateway/reference>.

~~(20)(19)~~ All forms and filing specifications contained in this rule are hereby adopted and incorporated by reference and may be obtained by contacting ~~visiting the department's website at <http://www.flaes.org/aes-ent/formsandpubl.html>; or from the Florida Department of Agriculture and Consumer Services, Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961; (850)921-4177 617-7997; or by visiting the department's website at <http://www.doacs.state.fl.us/onestop/aes/pesteont.html>.~~

Rulemaking Specific Authority 482.051, 482.1562 FS. Law Implemented 482.131, 482.132, 482.141, 482.151, 482.152, 482.156, 482.1562, 482.157 FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.117, Amended 8-11-93, 7-5-95, 5-28-98, 4-29-02, 7-11-07, 2-24-09, 5-12-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Anderson H. Rackley, Director of Agricultural Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 4, 2011

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE NO.: 5E-14.142  
 RULE TITLE: Responsibilities and Duties – Records, Reports, Advertising, Applications

PURPOSE AND EFFECT: Professional liability insurance requirements for licensees performing wood-destroying organisms inspections as provided by Section 12 of Chapter 2011-206, Laws of Florida.

SUMMARY: This is a new rule implementing changes in the law set forth in Section 12 of 2011 HB 7215, amending Section 482.226(6), F.S., which was enacted into law on July 1, 2011. This rule increases the minimum financial responsibility for errors and omissions insurance coverage for performing wood destroying organism inspections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 482.051 FS.

LAW IMPLEMENTED: 482.021(21), 482.061, 482.071, 482.091, 482.111(5), (9), 482.161(1)(g), (h), 482.226(1), (6) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Tallahassee, Florida 32301-2961, (850)617-7997, Michael.Page@freshfromflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) through (5) No change.

(6) Any licensee who performs wood-destroying organism inspections in accordance with Sections 482.226(1) and (6), F.S., shall show proof of meeting minimum financial responsibility at the time of license application or renewal thereof. Documented proof shall be in the form of an insurance certificate showing coverage for professional liability (errors and omissions), specifically covering wood-destroying organism inspection reports, in an amount no less than ~~\$500,000~~ ~~\$50,000~~ in the aggregate and ~~\$250,000~~ ~~\$25,000~~ per occurrence or proof of bond on a form issued by the insurer in an amount no less than ~~\$500,000~~ ~~\$50,000~~ in the aggregate and ~~\$250,000~~ ~~\$25,000~~ per occurrence or a certified public accountant’s notarized statement that a review or audit was performed on the licensee within one year of the license application and that the licensee’s net worth or equity on the date of the audit or review was no less than ~~\$500,000~~ ~~\$100,000~~. No licensee shall perform wood-destroying organism inspections in accordance with Sections 482.226(1) and (6), F.S. without meeting the required financial responsibility.

(7) through (8) No change.

Rulemaking Specific Authority 482.051 FS. Law Implemented 482.021(21), 482.061, 482.071, 482.091, 482.111(5), (9), 482.161(1)(g), (h), 482.226(1), (6) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03, 6-2-04, 6-1-06, 7-23-08, 9-17-08, 9-17-08, 1-4-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Anderson H. Rackley, Director of Agricultural Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 11, 2011

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE NO.: 5E-14.149  
 RULE TITLE: Enforcement and Penalties

PURPOSE AND EFFECT: Revising criteria for the issuance of Department credentials to felons.

SUMMARY: The proposed rule is being developed to adequately address changes to subsections (6) and (9) of the rule relating to denial, suspension or revocation of licensure, that will implement the changed in the law set forth in Section 3 of 2011 SB 146, amending Section 112.011, F.S., which was enacted into law and will become effective January 1, 2012.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 482.051, 570.07(23) FS.

LAW IMPLEMENTED: 112.011, 482.161, 482.163 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)617-7997

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.149 Enforcement and Penalties.

(1) through (5) No change.

(6) Denial. The Department will deny application for licensure if:

(a) A person fails to comply with the licensing and/or permit requirements of Chapter 482, F.S., or Chapter 5E-14, F.A.C., or

(b) All outstanding fines owed to the Department are not paid in full unless the person seeking licensure has entered into a written settlement agreement with the Department to pay the fine, which has been filed with the agency clerk, and the person has made the payments timely as provided in the settlement agreement, or

(c) A person has been convicted of a crime any felony under state or federal law that is directly related to standards determined by the Department, for which denial of licensure is necessary and reasonably related to the protection of the public health, safety, and welfare for the structural pest control business, including the following: involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure. If civil rights have been restored, the Department will not deny licensure based on conviction for these crimes.

1. A felony or first degree misdemeanor under any state or federal law involving dishonesty, violence, destruction of property or sexual misconduct within the past three years.

2. A felony or first degree misdemeanor under any state or federal law, which is more than three (3) years old, involving dishonesty, violence, destruction of property or sexual misconduct and has not completed any sentence imposed by the court, unless the person has been released on probation and has complied with all the terms and conditions of probation.

3. A felony or first degree misdemeanor at any time under any state or federal law involving sexual misconduct with a minor child under the age of fourteen (14) years and the person has been classified as a sexual offender as defined in Section 943.0435, Florida Statutes.

4. A felony or first degree misdemeanor at any time under state or federal law and the person has been classified as a sexual predator pursuant to Section 775.21, Florida Statutes.

(7) through (8) No change.

(9) Suspension and Revocation.

(a) Suspension will be imposed when:

1. through 4. No change.

5. A person has obtained licensure of any kind The licensee, certificate holder, permit holder or applicator has obtained licensure under Chapter 482, F.S., and the Department subsequently determines that the person that is the holder of the licensure falls into any of the categories set forth in paragraph (6)(c) above that would be cause for denying licensure. licensee, certificate holder, permit holder or

~~applicator is or has been convicted in any state or federal court of a felony involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure, unless civil rights have been restored.~~

6. through 7. No change.

~~(b) Revocation will be imposed when: a violator does not comply with a suspension order, or if a licensee or certificate holder has been suspended twice in three years.~~

1. A violator does not comply with a suspension order, or if a licensee or certificate holder has been suspended twice in three years.

2. A person has obtained licensure of any kind and the Department subsequently determines that the person that is the holder of the licensure falls into any of the categories set forth in paragraph (6)(c) above that would be grounds for denying licensure but suspension would not be an adequate remedy because the grounds for denying licensure could not be corrected or removed within a period of two years.

(10) through (14) No change.

Rulemaking Specific Authority 482.051, 570.07(23) FS. Law Implemented 112.011, 482.161, 482.163 FS. History--New 7-13-06, Amended 7-11-07, 8-4-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Anderson H. Rackley, Director of Agricultural Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 4, 2011

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE NO.: 5E-14.150  
RULE TITLE: Customer Contact Centers

PURPOSE AND EFFECT: Establish a license for the operation of pest control customer contact centers.

SUMMARY: The proposed rule will delineate the requirements for the application of a Customer Contact Centers license, delineate the requirement for records keeping of a Customer Contact Centers license, establish the cost for a Customer Contact Centers license and renewal, establish a form for the application of a Customer Contact Centers license, and establish a late fee and grace period for renewal of a Customer Contact Centers license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 482.051, 482.072 FS.

LAW IMPLEMENTED: 482.072 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Bureau of Entomology and Pest Control, (850)617-7997, 1203 Governors Square Boulevard, Tallahassee, Florida 32301-2961, Michael.Page@freshfromflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.150 Customer Contact Centers.

(1) Customer Contact Center business license application: In accordance with Section 482.072(2)(a), F.S., an applicant for a customer contact center business license shall submit a completed Pest Control Customer Contact Center License Application form, DACS 13686 (09/11), and application fee of \$600 in the form of a check or money order payable to the Florida Department of Agriculture and Consumer Services (FDACS) to the address indicated on the form. Form DACS 13686 (09/11), is hereby adopted and incorporated by reference and may be obtained by visiting <http://www.flrules.org/Gateway/reference>.

(2) In accordance with Section 482.072(3)(a), F.S., the following requirements and procedures for recordkeeping and monitoring of customer contact center operations are established.

(a) Each licensed customer contact center shall maintain a digital audio, compact disk, or tape recording of inbound and outbound telephone calls between the customer contact center and consumers located in Florida. These records must be retained for a minimum period of 6 months and are subject to inspection by Department representatives upon request.

(b) A licensed customer contact center premises shall be made available to Department representatives upon request for inspection purposes during normal business hours and to monitor live calls from consumers located in Florida.

(c) A licensed customer contact center shall have a procedure in place to identify a specific telephone call by consumer name, date of call, or customer address and identify which customer contact center employee handled a telephone call with a specific consumer identified by a Department representative.

(d) A licensed customer contact center shall have a procedure in place to provide records relating to customer contacts and the required procedures set forth in subparagraphs (a), (b), and (c) above to Department representatives upon request and provide an accounting of inbound and outbound calls with Florida consumers and identify the number of outbound center initiated calls.

(e) Each licensed customer contact center shall designate a "Primary Contact Person" at the licensed location for purposes of communication with the Department. The name, email address (if any), and telephone number of the primary contact person shall be provided to the Department as part of the license application for adopted by subsection (1). If the Primary Contact person changes prior to license renewal, the new contact information shall be submitted to the Department by calling (850)617-7997.

(3) A Customer Contact Center License Renewal date shall be two years from the date of the original license issuance or renewal thereof. The renewal fee for each original license shall be \$600.

(4) After a grace period of 30 days following the renewal date, a late fee of \$150 shall be assessed in addition to the renewal fee.

Rulemaking Authority 482.051, 482.072 FS. Law Implemented 482.072 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Anderson H. Rackley, Director of Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 4, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.0252  
 RULE TITLE: Use of Prescribed Pancreatic Enzyme Supplements

**PURPOSE AND EFFECT:** The purpose of this new rule is to address self-administration of pancreatic enzyme medication by students diagnosed with pancreatic insufficiency or cystic fibrosis enrolled in the public school system. The effect will be the implementation of specific procedures by school districts regarding student administration of pancreatic enzymes.

**SUMMARY:** This new rule was developed in cooperation with the Florida Department of Health to address self-administration of pancreatic enzyme medication by students diagnosed with pancreatic insufficiency or cystic fibrosis.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on past Agency experiences with the implementation of rules of this nature, and the adverse impact or regulatory impact or regulatory cost, if any, do not exceed, nor would be expected to exceed, any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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:** 1002.20(3)(k) FS.

**LAW IMPLEMENTED:** 1002.20(3)(k) FS.

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

**DATE AND TIME:** January 25, 2012, 8:00 a.m.  
**PLACE:** Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, K-12 Public Schools, Department of Education, 325 West Gaines Street, Room 1502, Tallahassee, Florida 32399, (850)245-0509

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

6A-6.0252 Use of Prescribed Pancreatic Enzyme Supplements.

(1) Definitions.

(a) Pancreatic Insufficiency. Pancreatic insufficiency is a disorder of the digestive system. Pancreatic insufficiency includes the diagnosis of cystic fibrosis, a disease that affects the lungs and digestive system.

(b) Self-Administration. Self-administration shall mean that a student diagnosed with cystic fibrosis or pancreatic insufficiency is able to self-manage prescribed pancreatic enzyme therapy in the manner directed by the licensed healthcare provider without additional assistance or direction.

(2) Written authorization is required from the prescribing practitioner and parent for a student diagnosed with pancreatic insufficiency or cystic fibrosis to carry and self-administer prescribed pancreatic enzymes in accordance with Section 1002.20 (3)(k), Florida Statutes.

(3) The student's individualized health care plan (IHCP) shall include provisions for child-specific training in accordance with Section 1006.062(4), Florida Statutes, to protect the safety of all students from the misuse or abuse of prescribed pancreatic enzyme supplements. The IHCP shall include an emergency action (EAP) component for anticipated health emergency(ies) when the student needs assistance or is unable to self-administer pancreatic enzymes as prescribed.

Rulemaking Authority 1002.20(3)(k) FS. Law Implemented 1002.20(3)(k) FS. History--New.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Pam Stewart, Chancellor, K-12 Public Schools

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Gerard Robinson, Commissioner, Department of Education

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 13, 2011

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** October 21, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.0970  
 RULE TITLE: John M. McKay Scholarship for Students with Disabilities Program

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to incorporate legislative revisions to include students who have 504 Plans as eligible for the program and to extend the number of days a student may be in a Department of Juvenile Justice detention center without forfeiting the scholarship. The effect will be a rule that is consistent with the governing statute.

**SUMMARY:** The proposed rule amendment adds language to include, as eligible students, those who have a 504 accommodation plan issued with a duration of more than six months. It also extends the number of days a student may be in

a Department of Juvenile Justice detention center without forfeiting the scholarship, from less than 15 days to no more than 21 days.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

This rule amendment is for the purpose of accounting for changes to scholarship eligibility requirements, and is not expected to require legislative ratification pursuant to Section 120.541(3)(a)1., F.S., as there will be no impact on economic growth, job creation or employment, private-sector investment, or business competitiveness. Any increase in regulatory costs would not approach the statutory thresholds for legislative ratification.

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: 1002.39 FS.

LAW IMPLEMENTED: 1002.39 FS.

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

DATE AND TIME: January 25, 2012, 8:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)245-0502

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0970 John M. McKay Scholarship for Students with Disabilities Program.

The John M. McKay Scholarship for Students with Disabilities Program will be implemented as required by Section 1002.39, F.S., in an effective and equitable manner that will maintain the integrity of the program.

(1) through (b)2. No change.

3. Meets one (1) of the following requirements:

a. Is a current public school student with a disability and has an individual education plan or a 504 accommodation plan, unless the accommodation plan has a duration of six (6) months or less; or

b. Is not a current public school student but filed a notice of intent while a public school student, and was a student with a disability and individual education plan or 504

accommodation plan, unless the accommodation plan has a duration of six (6) months or less, at the time he or she left the public school.

(2) through (3)(a)1. No change.

2. Notwithstanding subparagraph (3)(a)1., the following situations are not a return to public school:

a. Admission to a residential hospital for medical reasons.

b. Entry into a Department of Juvenile Justice detention center for a period of no more than twenty-one (21) less than fifteen (15) days.

c. through (9) No change.

Rulemaking Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History—New 1-18-07, Amended 4-21-09, 11-12-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-20.023	José Martí Scholarship Challenge Grant Fund

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule based on statutory changes and to revise the priority rankings for distribution of scholarship funds. The effect will be a rule which is consistent with governing law.

SUMMARY: The proposed rule removes administrative requirements in the language that are not authorized in Florida Statutes, updates priority rankings for distribution of scholarship funds, and updates language per the 2010 Florida legislative amendment to Section 1009.72, Florida Statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for SERC was triggered under

Section 120.541(1), F.S., and 2) based on past experiences with scholarship programs and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed, nor would be expected to exceed, any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

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: 1001.02(1), 1009.72(1) FS.

LAW IMPLEMENTED: 1009.40, 1009.72 FS.

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

DATE AND TIME: January 25, 2012, 8:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Theresa Antworth, Director, State Programs, Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Suite 1314, Tallahassee, Florida 32399-0400, (850)410-5185

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-20.023 José Martí ~~Jose Marti~~ Scholarship Challenge Grant Fund.

(1) General eligibility criteria. To receive aid, a student shall meet the provisions of Sections 1009.40, 1009.42, and 1009.72, F.S., Rules 6A-20.001, 6A-20.003, and 6A-20.0371, F.A.C., and:

(a) Be a Hispanic-American or a person of Spanish culture who was born in, or whose natural parent was born in, either Mexico, or a Hispanic country of the Caribbean, Central America or South America, regardless of race.

(b) Complete and submit annually, a need analysis form ~~specified by the Department~~ in time to be processed error-free by May 15.

(c) Have been a bona fide Florida resident for twelve (12) months prior to the first day of classes for the fall term of the academic year for which funds are being requested pursuant to Section 1009.21, F.S., and Rule 6A-20.003, F.A.C.

(d) Be a United States citizen or permanent resident pursuant to regulations established by the U.S. Congress or the U.S. Department of Education for the receipt of federal financial assistance.

(e) Be enrolled in a degree program in a state university or Florida ~~community~~ college authorized by Florida law, or any Florida ~~college~~, university, or ~~community~~ college which is accredited by an association whose standards are comparable to the minimum standards required to operate a postsecondary institution at that level in Florida.

(f) through (2) No change.

(3) Eligibility for renewal awards. Eligibility for renewal of an award shall be evaluated at the end of the second semester or third quarter of each academic year. A renewal award may be made to an applicant who used one (1) or more terms of eligibility for an award during the academic year immediately preceding the academic year for which applying, and who:

(a) Meets the general eligibility requirements in subsection (1) of Rule 6A-20.023, F.A.C.

(b) Has earned, at the last institution attended, a minimum cumulative grade point average of 3.0 on a 4.0 scale.

(c) For undergraduate study, has earned during the previous ~~summer and~~ two (2) semesters or three (3) quarters, at least twelve (12) credit hours per term or the equivalent for the number of terms for which the award was received. For graduate study, has earned during the previous ~~summer and~~ two (2) semesters or three (3) quarters, at least nine (9) credit hours per term or the equivalent for the number of terms for which the award was received. An undergraduate or graduate student who does not earn the required credits shall be ineligible to continue on the program, except as provided in subsections (7) and (8) ~~(5)~~ of Rule 6A-20.023, F.A.C.

(4) Probationary awards. A student who has received funds through this program and who fails to earn a minimum grade point average of 3.0 on a 4.0 scale may be granted a probationary award for one (1) academic year, not to exceed two (2) semesters or three (3) quarters. A student who does not earn a 3.0 grade point average on a 4.0 scale by the end of the spring semester or third quarter of the probationary academic year shall be ineligible to continue for one (1) academic year under this program.

(5) Reinstatement. A student who met the requirements for an award but did not receive an award during the first full year of eligibility and wishes to re-establish use of the scholarship must apply for reinstatement no later than April 1. A student who applies for reinstatement must also complete a need analysis ~~form specified by the Department~~ in time to be processed error-free by May 15.

(6) Restoration. A student who failed to meet the requirements for renewal of a probationary award is eligible to apply for restoration after one (1) academic year if the student has earned a minimum cumulative grade point average of 3.0 on a 4.0 scale as of the end of the second semester or third quarter of the academic year preceding the year the award is sought. A student who applies for restoration must also complete a need analysis in time to be processed error-free by May 15.

~~(7)(6)~~ Appeals. A student who receives state student aid and subsequently fails to meet state academic progress requirements described in paragraphs (3)(b) and (c) of Rule 6A-20.023, F.A.C., ~~or fails to apply for reinstatement~~, due to

verifiable illness or other emergencies may be granted an exception from the academic requirements, pursuant to Section 1009.40(1)(b)4., F.S.

~~(8)(7)~~ Maximum terms of eligibility.

(a) through (c) No change.

~~(9)(8)~~ Amount of awards. The amount of each annual award is two thousand (2,000) dollars.

~~(10)(9)~~ Award distribution. The Department shall make awards based on the annual appropriation and the amount of contributions received by the Department. Priority in the distribution of funds will be as follows:

(a) Eligible renewal applicants shall be first given priority,

(b) Second priority for awards will be given to initial undergraduate applicants who shall first be ranked by the least family contribution as determined by the nationally recognized need analysis report,

~~1.(e)~~ Then by high school grade point average,

~~2.(d)~~ And, if necessary, by the postmarked or electronic receipt date of Form FFAA-1,

(c) Third priority for awards will be given to reinstatement applicants. If the number of awards remaining is insufficient to award all such applicants, they will be ranked and selected first by the least family contribution as specified on the need analysis report and second by the earliest postmark or electronic receipt date of Form FFAA-1. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection.

(d) Fourth priority for awards will be given to restoration applicants. If the number of awards remaining is insufficient to award all such applicants, they will be ranked and selected first by the least family contribution as specified on the need analysis report and second by the earliest postmark or electronic receipt date of Form FFAA-1. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection.

(e) From funds remaining, initial graduate applicants shall be ranked and awarded, based on the least family contribution and then by undergraduate grade point average and, finally, on the postmark date of the Form FFAA-1.

~~(11)(10)~~ Institutional responsibilities. Participating institutions shall verify the continued eligibility of awarded students, provide for the disbursement of funds to students, and comply with the Department's reporting requirements. Within thirty (30) days of the end of the regular registration period each term, the institution shall notify the Department of the eligibility status of each awarded student. The institution shall remit refunds and submit accompanying documentation to the Department within sixty (60) days of the end of the institution's regular registration period. For supplemental awards, the institution will notify the Department of the eligibility status of awarded students within thirty (30) days of the date that the warrant was mailed by the Department.

Refunds and accompanying documentation shall be received by the Department within sixty (60) days of the date that the warrant was mailed by the Department.

~~(11) Reserve funds for renewal awards. The Department shall reserve in the trust fund sufficient state and matching dollars to ensure the availability of funds to renew each eligible applicant for the necessary number of years to complete the educational objective stated on the initial application, Form FFAA-1.~~

(12) No change.

(13) Contributions from private sources. Scholarship contributions to the José Martí ~~Jose Martí~~ Scholarship Challenge Grant Fund from private sources may be accepted by the Department and deposited in the State Student Financial Assistance ~~Jose Martí Scholarship Challenge Grant~~ Trust Fund.

Rulemaking Specific Authority 1001.02(1), 1009.72(1) FS. Law Implemented 1009.40, 1009.72 FS. History—New 12-28-86, Amended 5-16-90, 2-15-95, 10-15-02, 9-22-08, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Champion, Deputy Commissioner, Division of Finance and Operation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-20.028  
 RULE TITLE: Florida Bright Futures Scholarship Program

PURPOSE AND EFFECT: The purpose of this new rule is to clarify the governing statutes, Sections 1009.53, 1009.531, 1009.532, 1009.533, 1009.534, 1009.5341, 1009.535, 1009.536, and 1009.538, Florida Statutes, by establishing standards and procedures relating to the Florida Bright Futures Scholarship Program. The effect will be a rule which is consistent with governing law.

SUMMARY: The proposed new rule clarifies student requirements and administrative procedures authorized in Florida Statutes relating to the Florida Bright Futures Scholarship Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:



The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with scholarship programs and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

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: 1001.02(1), 1009.53(3) FS.

LAW IMPLEMENTED: 1009.40, 1009.53, 1009.531, 1009.532, 1009.533, 1009.534, 1009.5341, 1009.535, 1009.536, 1009.538 FS.

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

DATE AND TIME: January 25, 2012, 8:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Theresa Antworth, Director, State Programs, Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Suite 1314, Tallahassee, Florida 32399-0400, (850)410-5185

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-20.028 Florida Bright Futures Scholarship Program.

(1) General eligibility requirements. To receive an initial or renewing Florida Bright Futures Scholarship Program award a student shall, in addition to any other applicable statutory or regulatory requirements:

(a) Not have previously received a recognized baccalaureate degree. A degree is recognized if it is acceptable for purposes of transferring credits to a Bright Futures-eligible institution.

(b) File annually a complete and error-free Free Application for Federal Student Aid (FAFSA) (<http://www.fafsa.ed.gov/>) which results in a valid Expected Family Contribution (EFC), in accordance with Section 1009.531(7), Florida Statutes.

(c) Be enrolled in an eligible Florida postsecondary institution in a degree, certificate, or applied technology program of study.

(d) Be enrolled in a minimum of six (6) credit hours, or equivalent clock hours, per term.

(2) Military and public service assignment. For purposes of eligibility, in accordance with Section 1009.531(1)(b)2., Florida Statutes:

(a) Military assignment is defined as active duty assignment.

(b) Public service assignment is defined as the occupational assignment of a Florida resident employed by the United States Government or State of Florida, who as a condition of employment is relocated to work outside the State of Florida. A student whose parent or guardian is on public service assignment may reside with either a natural parent or another adult designated by either natural parent or guardian.

(3) Initial eligibility requirements.

(a) Information about the scholarship program is made available via the Florida Department of Education (FDOE), Office of Student Financial Assistance (OSFA) website (<http://www.floridastudentfinancialaid.org>).

(b) For purposes of eligibility, in accordance with Section 1009.531(1)(e), Florida Statutes, a student is not eligible to receive a Bright Futures Scholarship if the student has been found guilty of a felony charge by a plea, jury verdict or a judge, or pled nolo contendere to a felony charge but has had adjudication of guilt withheld. However, a student is not deemed to have been found guilty of, or entered a plea of nolo contendere to, a felony charge if the student:

1. Has been tried in juvenile court for a felony charge, or

2. Has been tried as an adult for a felony charge, but adjudicated delinquent in a juvenile proceeding, or

3. Has had his or her criminal record expunged or sealed by a court order.

(c) For the purposes of initial eligibility, in accordance with Section 1009.531(1), Florida Statutes:

1. A Florida public or private high school graduate, GED recipient, or home-educated student whose high school graduation date is no later than August 31 will be initially eligible for the fall term after the spring of the year of graduation.

2. The student must file the FFAA-1, Florida Financial Aid Application for Students, as incorporated by reference in Rule 6A-20.019, F.A.C., and meet all Bright Futures academic requirements provided in Florida Statutes.

3. A student's initial year of eligibility is defined as the first academic year immediately following high school graduation or its equivalent, whether funded or not.

(d) A home-educated student must complete community service hours that meet the following requirements during high school and by high school graduation:

1. Community service hours may not be hours that benefitted the student financially or materially, or be service to family members defined as: parents, grandparents, siblings, aunts, uncles, cousins, nieces, nephews, and spouses, including aforementioned step relations.

2. The agencies where the community service hours were earned must provide on agency letterhead documentation of the number of hours and dates of service completed.

3. The documented hours must be submitted by the student's district where the student is registered for the 11th and 12th grades as a home-educated student.

(e) A candidate for initial eligibility for the scholarship may be evaluated following the seventh semester in high school based on his/her grade point average (GPA) in completed courses and in courses in progress as specified in Rule 6A-1.09441, F.A.C. If this student is found eligible, the student will not be re-evaluated for the same award and will not lose the award unless the student does not earn a standard high school diploma or its equivalent from a Florida public or FDOE registered private high school. An eligible seventh semester student will be re-evaluated on an eighth semester final transcript to validate high school graduation with a standard diploma and only may improve his/her award if applicable upon eighth semester information.

(f) GED and home-educated candidates for initial eligibility for the scholarship may be evaluated following the eighth semester in high school based on a cumulative GPA in all required courses that have been completed prior to GED testing or high school graduation, as specified in Rule 6A-1.09441, F.A.C.

(g) Initial Academic Criteria:

1. For the purposes of student eligibility, in accordance with Sections 1009.534(1)(a) and 1009.535(1)(a), Florida Statutes, coursework must include a minimum of four (4) credits in English, four (4) credits in mathematics, three (3) credits in science, three (3) credits in social science, and two (2) credits in the same foreign language.

a. Required coursework, as listed in the Course Code Directory, as incorporated in Rule 6A-1.09441, F.A.C., and, therefore, approved by the State Board of Education for initial eligibility for the Florida Academic Scholars or Florida Medallion Scholars awards, includes the minimum college preparatory academic courses as required for state university system admissions and outlined in the Florida Counseling for Future Education Handbook ([http://facts23.facts.org/florida/facts/Home\\_Page/Counselors\\_and\\_Educators/Advising\\_Manuals/Counseling\\_for\\_Future\\_Education\\_Handbook/](http://facts23.facts.org/florida/facts/Home_Page/Counselors_and_Educators/Advising_Manuals/Counseling_for_Future_Education_Handbook/)).

b. A student may use up to two (2) additional academic college preparatory course credits from the Course Code Directory, as incorporated in Rule 6A-1.09441, F.A.C., and/or from fine arts courses in Advanced Placement, International Baccalaureate, or Advanced International Certificate of Education programs to raise the GPA.

c. The GPA on a 4.0 scale shall be computed to two (2) decimals and shall not be rounded. Additional weighting is applied for all courses in level three (3) and above as outlined in the Course Code Directory.

d. A student must earn at least the minimum standardized Critical Reading and Math scores on the SAT Reasoning Test or equivalent combined composite, excluding the writing section, or the minimum standardized scores on the ACT, either administered at a national test site by January 31st for seventh semester evaluation and by June 30th for eighth semester evaluation of the student's last year in high school, as identified for each award level specified in Section 1009.531(6), Florida Statutes. ACT scores are rounded up for scores with .5 and higher; SAT scores do not require rounding. Sections of the SAT or ACT from different test dates may be used to meet the test criteria, but test types cannot be mixed.

2. For purposes of meeting the requirements of a passing score on the college entry level placement test or its equivalent, in accordance with Section 1009.536, Florida Statutes, a student applying for the Florida Gold Seal Vocational Scholars award must earn at least the minimum qualifying subtest scores from CPT, SAT, or ACT, as specified in Rule 6A-10.0315, F.A.C. Sections of the CPT, SAT, or ACT from different test dates may be used to meet the test criteria, but test types cannot be mixed.

(h) For the purposes of student eligibility, in accordance with Section 1009.531(5), Florida Statutes, a student who wishes to qualify for any Bright Futures Scholarship award but does not meet all of the requirements may receive the award if the principal of the student's school or the district superintendent verifies on letterhead that deficiencies are caused by school personnel error of inaccurate or incomplete information. The principal or school district will allow the student to correct the deficiencies and the principal or school district will provide an updated high school transcript if necessary. The student is required to submit official postsecondary transcript(s) to the FDOE with any postsecondary coursework taken to satisfy deficiencies. The FDOE must receive all required documentation of deficiencies for re-evaluation by December 31 of the student's high school graduation year.

(4) Academic Top Scholars awards.

(a) Eligibility for the Academic Top Scholars award, in accordance with Section 1009.534(4), Florida Statutes, will be determined during the first term of the academic year following the student's initial eligibility determination for a Florida Academic Scholars award.

(b) To be designated an Academic Top Scholar, a student must have:

1. Attended any FDOE public or registered private high school, or be home-educated or a GED student who has completed the minimum required coursework as listed in

subparagraph (3)(g)1., of this rule, and earned a standard high school diploma, or the equivalent, during the last year of high school.

2. Met eligibility requirements for an initial Florida Academic Scholars award; and

3. Received funding for an initial Florida Academic Scholar award at an eligible Florida postsecondary institution during the first term of the academic year in which the student was initially eligible; and

4. Been the highest ranked Florida Academic Scholars award recipient in the Florida school district where the student last attended and graduated from high school. For this determination, Florida Academic Scholars award recipients will be ranked by the FDOE on the basis of the product of their Florida Bright Futures cumulative GPA, calculated on the minimum college preparatory academic courses as listed in subparagraph (3)(g)1., of this rule and their best combined SAT or composite ACT test score as reported for their Florida Academic Scholars eligibility.

(c) In the event of a tie, the FDOE shall apply the following criteria in the following order to students who are tied in the same school district, until the tie is broken:

1. The product of each student's weighted Bright Futures GPA and best combined SAT, or equivalent ACT score, at a single administration of the test;

2. The product of each student's weighted Bright Futures GPA and best combined SAT, or equivalent ACT score, at the earliest single administration of the test;

3. The higher of the total number of high school credits earned;

4. The earlier date and time stamp for filing the FFAA.

(5) Renewing Academic Criteria.

(a) After an initial year of eligibility, a student may become eligible for the award as a renewed student, a reinstated student, or a restored student, who are defined as:

1. A renewed student is a student who received the award in the previous academic year and met specific program eligibility requirements.

2. A reinstated student is a student who was eligible for the program and did not receive an award for the previous academic year and wishes to re-establish use of the scholarship.

3. A restored student is a student who lost eligibility for the program but earned the requirements in a subsequent academic year.

(b) Academic eligibility criteria for a renewed award, in accordance with Section 1009.532, Florida Statutes, shall be evaluated based on an institutional cumulative GPA and cumulative hours earned at the end of the academic year, which for this purpose shall be defined as the end of the second semester or third quarter of each academic year, which is the end of the spring term, or is the end of the summer term for students in the Program for the Spring and Summer Terms in

accordance with Section 1009.215, Florida Statutes. Students in this cohort class will hereafter be referred to as spring/summer students.

1. Florida Academic Scholars renewal award requires a 3.0 unweighted and unrounded GPA on a 4.0 scale and a minimum of twelve (12) semester hours earned per term funded for a full-time student, nine (9) to eleven (11) hours per term funded for a three-quarter time student, and six (6) to eight (8) hours per term funded for a half-time student, or the equivalent in clock hours. If a Florida Academic Scholar earns a GPA less than a 3.0 but equal to or greater than a 2.75, he/she renews as a Florida Medallion Scholar.

2. Florida Medallion Scholars renewal award requires a 2.75 unweighted and unrounded GPA on a 4.0 scale and a minimum of twelve (12) semester hours earned per term funded for a full-time student, nine (9) to eleven (11) hours per term funded for a three-quarter time student, and six (6) to eight (8) hours per term funded for a half-time student, or the equivalent in clock hours.

3. Florida Gold Seal Vocational Scholars renewal award requires a 2.75 unweighted and unrounded GPA on a 4.0 scale and a minimum of twelve (12) semester hours earned per term funded for a full-time student, nine (9) to eleven (11) hours per term funded for a three-quarter time student, and six (6) to eight (8) hours per term funded for a half-time student, or the equivalent in clock hours.

4. The cumulative GPA required to renew any Florida Bright Futures Scholarship Program award as referenced in Sections 1009.534, 1009.535, and 1009.536, Florida Statutes, shall be determined by the institution where the student is enrolled as degree- or certificate-seeking as the student's institutional cumulative GPA. The GPA shall be computed to two (2) decimals and shall not be rounded.

5. For the purposes of eligibility, in accordance with Section 1009.40(1)(b)4., Florida Statutes, a student who does not earn either the required renewal GPA or hours for renewed status may still be renewed if granted an exception from the academic requirements. A student must submit an institutional appeal at the institution where the student did not meet the renewal requirements for renewed status and provide documentation as required by the institution within thirty (30) days of the ineligibility notice or institutional deadline, whichever is later.

(c) Academic eligibility criteria for a reinstated award shall be determined if the student did not receive scholarship funding for the last academic year during which the student was eligible. The student must submit Form FFAA-1, Florida Financial Aid Application for Students, as incorporated by reference in Rule 6A-20.019, F.A.C., by May 30 of the year the student is seeking funding.

(d) Academic eligibility criteria for a restored award shall be evaluated at the end of the summer or second semester/third quarter each academic year thereafter.

1. For the student who graduated high school in 2008-09 or earlier, an award may be restored for the student with insufficient GPA and insufficient hours. The student must submit Form FFAA-1, Florida Financial Aid Application for Students, as incorporated by reference in Rule 6A-20.019, F.A.C., by May 30 of the year the student is seeking funding. A student may earn and be funded in an eligible restored status one time only. In addition to applying for restoration, the student is responsible for ensuring submission of verification from the last institution attended as a degree- or certificate-seeking student. The institutional cumulative GPA and hours earned, as defined in subparagraph (5)(b) of this rule, as reported by the last institution attended, will determine the student's eligibility to be restored based on the minimum academic program renewal requirements.

2. For the student who graduated high school in 2009-10 and thereafter, the award may be restored for the student with insufficient GPA after the first year of funding only. The student must submit Form FFAA-1, Florida Financial Aid Application for Students, as incorporated by reference in Rule 6A-20.019, F.A.C., by May 30 of the year the student is seeking funding. A student may earn and be funded in an eligible restored status one time only. In addition to applying for restoration, the student is responsible for ensuring submission of verification from the last institution attended as a degree- or certificate-seeking student. The institutional cumulative GPA, as defined in subparagraph (5)(b) of this rule, as reported by the last institution attended, will determine the student's eligibility to be restored based on the minimum academic program renewal requirements.

(6) Awards. Awards are made under all programs in this section in accordance with Sections 1009.215, 1009.53, 1009.531, 1009.532, 1009.533, 1009.534, 1009.5341, 1009.535, 1009.536, and 1009.538, Florida Statutes. 3. A Florida Medallion Scholar who initially was awarded as a Florida Academic Scholar who earns a GPA of 3.0 or above, may restore as a Florida Academic Scholar utilizing the one-time only restoration.

(a) Awards under this program are based on the amount as specified in the General Appropriations Act. If funds appropriated are not adequate to provide the maximum allowable award to each eligible applicant, awards must be prorated with an equitable percentage reduction in all terms after term 1.

(b) Annual awards are defined as awards made in fall through spring terms unless the Legislature appropriates summer term funding.

1. If summer funds are made available in an annual General Appropriations Act, the funds will be distributed to the institution that enrolls the student during that current academic year summer term.

2. The funding institution must determine the student award amount and report summer disbursements and grade and hours to the FDOE.

(c) A spring/summer student, referenced in subparagraph (5)(b) of this rule, is not eligible for fall funding at any institution. Students funded in the fall prior to their initial enrollment in the spring/summer cohort class, will be limited to two (2) semesters, fall plus spring or summer funding, during their first cohort year.

(d) The student must be funded from his/her home institution. The home institution may also fund the student for courses enrolled at another eligible institution in eligible credits applicable toward a student's degree or certificate program of study. The student is responsible for notifying the home institution at the beginning of the term of his/her enrollment of credit hours and payment due, and then at the end of the term of his/her cumulative GPA and hours earned at another institution. The award amount is calculated based on the total number of fundable hours per institution type where enrolled, multiplied by the award per credit hour, per the General Appropriation Act amounts.

(e) The student is required to refund to the postsecondary institution the cost of dropped or withdrawn Bright Futures funded courses; non-payment of such courses will result in future year program ineligibility. Students may not repay unearned hours after the completion of the term in order to regain their scholarship.

(7) Program Length.

(a) The student must receive award funding in at least one (1) term within the first three (3) academic years following his/her high school graduation to be eligible for maximum program funding.

(b) A student who graduated from high school in 2009-10 and earlier may receive funding up to seven (7) years from high school graduation or a first baccalaureate degree, whichever comes first. A student who graduates from high school in 2010-11 and thereafter may receive funding up to five (5) years from high school graduation or a first baccalaureate degree, whichever comes first.

(c) An early admission student under Section 1009.531(1)(b)1., Florida Statutes, repealed 2008, determined initially eligible prior to January 1, 2008, has seven (7) years from his or her initial eligible year to receive funding for the scholarship or a first baccalaureate degree, whichever comes first.

(d) In accordance with Section 1009.535, Florida Statutes, a Florida Academic Scholar or Florida Medallion Scholar who has earned a first baccalaureate degree within seven (7) semesters or 105 credit hours of funding, may receive Bright Futures funding for one (1) semester up to fifteen (15) of the student's unused hours, at the undergraduate rate, for up to seven (7) or five (5) years after high school graduation,

dependent upon his or her high school graduation year, if the student enrolls in a graduate degree program at a Bright Futures-eligible institution.

(8) Institutional responsibilities.

(a) Participating postsecondary institutions shall comply with Rules 6A-20.002 and 6A-20.0021, F.A.C., and

(b) Verify, prior to disbursement each term, each recipient's graduation from a Florida high school, Florida residency, which includes U.S. citizenship or eligible non-citizenship, the number of non-remedial hours enrolled, degree- or certificate-seeking status, eligible maximum program hours, default status, repayment status and completion of an error-free FAFSA.

(c) Forgiveness hours, those credit hours that the institution allows a student to retake for forgiveness of quality points and that are part of the student's program of study, are to be funded. Once funded, course hours successfully completed in forgiveness courses must be reported as hours earned in the FDOE, OSFA Grade and Hours Report consistent with Rule 6A-20.002, F.A.C.

(d) Florida public school districts shall:

1. Pursuant to Section 1009.531(4), Florida Statutes, submit transcripts for all students in ninth through twelfth grade to the FDOE High School transcript database three (3) times a year in order to annually provide complete and accurate Florida Bright Futures Scholarship evaluation information.

2. Submit transcript and eligibility criteria data by deadlines established by the FDOE, including, but not limited to, community service hours required of initial Bright Futures applicants.

(e) Florida eligible non-public secondary schools must, in order to annually maintain eligibility to participate in the Florida Bright Futures Scholarship Program:

1. Register as a non-public high school via the Private Annual School Survey ([http://www.floridaschoolchoice.org/Information/Private\\_Schools/annual\\_survey\\_info.asp](http://www.floridaschoolchoice.org/Information/Private_Schools/annual_survey_info.asp)) with the FDOE.

2. Submit scholarship required courses and other eligibility criteria data as requested for all students in ninth through twelfth grades to the FDOE, via the Online Transcript Entry and Evaluation System (<http://www.floridastudentfinancialaid.org>), to include but not limited to community service hours required of initial Bright Futures applicants.

Rulemaking Authority 1001.02(1), 1009.53(3) FS. Law Implemented 1009.40, 1009.41, 1009.42, 1009.43, 1009.53, 1009.531, 1009.532, 1009.533, 1009.534, 1009.5341, 1009.535, 1009.536, 1009.537, 1009.538 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Linda Champion, Deputy Commissioner, Division of Finance and Operation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**REGIONAL PLANNING COUNCILS**

**East Central Florida Regional Planning Council**

RULE NO.: 29F-21.001  
RULE TITLE: Strategic Regional Policy Plan

PURPOSE AND EFFECT: Review and refinement of the regional goals and policies within the Council's Strategic Regional Policy Plan (2060 Plan) which are intended to assist local decision making on planning, development and growth issues in Brevard, Lake, Orange, Osceola, Seminole and Volusia Counties in a manner that encourages implementation of the Central Florida Regional Vision adopted by representatives of all 93 communities that participated in an eighteen month regional visioning process involving approximately 20,000 citizens.

SUMMARY: Amendment of the East Central Florida Strategic Regional Policy Plan as required by Section 186.507, Florida Statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 186.505, 120.54 FS.

LAW IMPLEMENTED: 186.507 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. George Kinney, Interim Executive Director, (407)262-7772 or [gkinney@ecfrpc.org](mailto:gkinney@ecfrpc.org)

THE FULL TEXT OF THE PROPOSED RULE IS:

29F-21.001 Strategic Regional Policy Plan.

There is hereby adopted, for the east Central Florida region, the Amended Strategic Regional Policy Plan, dated November 16, 2011 ~~January 1998~~, which is incorporated herein by reference.

Copies are available at the offices of the East Central Florida Regional Planning Council at 309 Cranes Roost Blvd., Suite 2000, Altamonte Springs, Florida 32701 ~~1-011 Wymore Road, Suite 105, Winter Park, Florida 32789~~ between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

Rulemaking Specific Authority 186.508(1) FS. Law Implemented 120.535(1), 186.507, 186.508(1) FS. History–New 8-3-98, Amended 11-16-11, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. George Kinney, Interim Executive Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. George Kinney, Interim Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 14, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Auctioneers**

RULE NO.:                    RULE TITLE:  
61G2-4.005                Funds Received by Apprentice

PURPOSE AND EFFECT: The Board proposes to repeal the rule after a comprehensive rule review in accordance with executive orders. Fla. Exec. Order No. 11-211 (Oct. 19, 2011), superseding Fla. Exec. Order No. 11-72 (Apr. 8, 2011), superseding Fla. Exec. Order No. 11-01 (Jan. 4, 2011).

SUMMARY: This rule is being repealed because it is duplicative of an existing statute, §468.388(10), Fla. Stat. (2011) and is unnecessary.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 468.384(2) FS.

LAW IMPLEMENTED: 468.382(3), 468.385 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-4.005 Funds Received by Apprentice.

Rulemaking Specific Authority 468.384(2) FS. Law Implemented 468.382(3), 468.385 FS. History–New 10-13-93, Amended 10-2-95, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Auctioneers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Auctioneers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Auctioneers**

RULE NOS.:                    RULE TITLES:  
61G2-5.003                Client Funds and Sale Proceeds  
61G2-5.004                Advertising

PURPOSE AND EFFECT: The Board proposes to repeal the rules after a comprehensive rule review in accordance with executive orders. Fla. Exec. Order No. 11-211 (Oct. 19, 2011), superseding Fla. Exec. Order No. 11-72 (Apr. 8, 2011), superseding Fla. Exec. Order No. 11-01 (Jan. 4, 2011).

SUMMARY: Both rules are duplicative of existing statutes and unnecessary. §§ 468.388 (10), (11), Fla. Stat. (2011).

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 468.384(2) FS.  
 LAW IMPLEMENTED: 468.388(6), 468.389(1)(c), (d), (e), (h), (j) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-5.003 Client Funds and Sale Proceeds.

Rulemaking ~~Specific~~ Authority 468.384(2) FS. Law Implemented 468.389(1)(c), (e), (h) FS. History—New 5-6-87, Formerly 21BB-5.003, Amended 10-12-93, 10-2-95, Repealed.

61G2-5.004 Advertising.

Rulemaking ~~Specific~~ Authority 468.384(2) FS. Law Implemented 468.388(6), 468.389(1)(d), (j) FS. History—New 10-19-87, Formerly 21BB-5.004, Amended 10-12-93, 4-9-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Auctioneers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Auctioneers**

RULE NO.: 61G2-7.060  
 RULE TITLE: Restitution

PURPOSE AND EFFECT: The Board proposes to repeal the rule after a comprehensive rule review in accordance with executive orders. Fla. Exec. Order No. 11-211 (Oct. 19, 2011), superseding Fla. Exec. Order No. 11-72 (Apr. 8, 2011), superseding Fla. Exec. Order No. 11-01 (Jan. 4, 2011).

SUMMARY: This rule is being repealed because the subject area of the rule is covered by § 368.395, Fla. Stat. (2011). The rule is unnecessary.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess

of \$200,000 in the aggregate within 1 year after implementation of the rule. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.389 FS.

LAW IMPLEMENTED: 468.389 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-7.060 Restitution.

Rulemaking ~~Specific~~ Authority 468.389 FS. Law Implemented 468.389 FS. History—New 10-2-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Auctioneers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-24.017  
 RULE TITLE: Board Business

PURPOSE AND EFFECT: The Board proposes this rule amendment to delete a subsection that contradicts Section 456.011, F.S., and a subsection unnecessary because it states a requirement already mandated by statutes.

Summary: This rule amendment deletes a subsection that contradicts Section 456.011, F.S., and a subsection unnecessary because it states a requirement already mandated by statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.011(4) FS.

LAW IMPLEMENTED: 456.011(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-24.017 Board Business.

(+) For the purposes of Section 456.011(4), F.S., the Board defines "other business involving the Board" as,

(1)(a) All regularly scheduled meetings of Board committees, and

(2)(b) Whenever a board member has been requested by the State Surgeon General or the Department staff to participate in a meeting or in the preparation, administration, or grading of the examination.

(3)(e) Meetings or business at the direction or request of the Board.

~~(2) Meetings or participation by telephone do not constitute other board business.~~

~~(3) Documentation of requests, authorizations, or notices for meetings under the terms of this rule shall be kept at the Board office.~~

Rulemaking Specific Authority 456.011(4) FS. Law Implemented 456.011(4) FS. History—New 10-13-81, Formerly 21L-24.17, 21L-24.017, Amended 1-9-95, Formerly 61G11-24.017, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: April 21, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-25.004  
 RULE TITLE: Endorsements

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate the required language regarding obtaining the application form and restructure the rule for clarity.

SUMMARY: This rule amendment incorporates the required language regarding obtaining the application form and restructures the rule for clarity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.013(2), 480.035(7), 480.041(4)(c) FS.

LAW IMPLEMENTED: 456.013(2), 480.041(4)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-25.004 Endorsements.

(1) The Department shall issue a license by endorsement to a person who:

(a) No change.

(b) Submits a completed application on form DH-MQA 1115, "Application For Licensure," (Rev. 10/10), adopted and incorporated by reference in Rule 64B7-25.001, F.A.C.; The form and attached instructions may be obtained from the Board office at 4052 Bald Cypress Way, Bin C-6, Tallahassee, FL 32399-3265 or from the web site located at [http://www.doh.state.fl.us/mqa/massage/ma\\_lic\\_req](http://www.doh.state.fl.us/mqa/massage/ma_lic_req); and

(c) Is currently licensed and has practiced massage under the laws of another state, and was required, in order to be so licensed, to meet standards of education or apprenticeship



training substantially similar to, equivalent to, or more stringent than those required for licensure by Florida law and these rules; ~~and~~

(d) Demonstrates that his or her out-of-state license was issued upon the satisfactory completion of an examination comparable to the examinations approved by the Board; ~~and~~

(e) Has no outstanding or unresolved complaints filed against his or her license ~~him or her~~ in the jurisdiction of licensure; ~~and-~~

(f) Completes a current ~~curriculum~~ course or courses from a Board approved school or a Board approved continuing education provider in the following subjects: covering the Florida Statutes and rules related to massage therapy.

1. Florida Statutes and Rules relating to massage therapy including Chapters 456 and 480 and Rule 64B7, F.A.C. for a minimum of ten (10) hours;

~~2.(g) Completes the HIV/AIDS course required by s. 456.033 and requirement in Rule 64B7-25.0012, F.A.C., for a minimum of three (3) hours; and~~

~~3.(h) Completes a course relating to the Prevention of medical errors as required by Section 456.013(7), F.S., for a minimum of two (2) hours.~~

(2) No change.

Rulemaking Authority 456.013(2), 480.035(7), 480.041(4)(c) FS. Law Implemented 456.013(2), 480.041(4)(c) FS. History--New 11-27-79, Amended 7-9-80, 8-29-83, 10-9-85, Formerly 21L-25.04, Amended 6-12-88, 8-15-89, 2-11-93, Formerly 21L-25.004, Amended 9-15-94, 1-9-95, 8-18-96, 1-29-97, Formerly 61G11-25.004, Amended 6-22-99, 12-6-06, 3-31-08, 6-15-09, 7-21-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: April 21 and October 21, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-26.001 RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to delete a rule subsection that repeats the language of the statute.

SUMMARY: This rule amendment is to delete a rule subsection that repeats the language of the statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.043(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-26.001 Definitions.

(1) No change.

~~(2) The term “establishment” means a site or premises, or portion thereof, wherein a licensed massage therapist practices massage for compensation.~~

~~(2)(3)~~ The term “business name” means the name under which the owner applies for the establishment license to provide massage therapy, if different from the name of the owner.

Rulemaking Specific Authority 480.035(7) FS. Law Implemented 480.043(7) FS. History--New 7-16-98, Amended 8-5-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-27.100      RULE TITLE: Fees

PURPOSE AND EFFECT: The Board proposes this new rule to consolidate the fees into one rule, delete obsolete fees rules and reduce the reactivation rule for massage therapists and the initial licensure fee for massage establishments.

SUMMARY: This new rule to consolidate the fees into one rule, delete obsolete fees rules and reduce the reactivation rule for massage therapists and the initial licensure fee for massage establishments.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013(2), 456.025(1), 456.036(7), (8), 456.065(3), 480.035(7), 480.044 FS.

LAW IMPLEMENTED: 456.013(2), 456.025(1), 456.036(4), 456.065(3), 480.043(7), 480.044 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.100 Fees.

(1) Fees applicable to massage therapists:

(a) Application fee for applicants graduating from a board-approved massage program: \$50.00

(b) Application fee for applicants completing an apprenticeship program: \$100.00.

(c) Initial licensure fee: \$100.00.

(d) Renewal fee (active or inactive license): \$100.00.

(e) Delinquent license fee: \$100.00.

(f) Reactivation fee: \$100.00.

(g) Change in status fee: \$50.00.

(h) Retired status fee: \$50.00.

(2) Fees applicable to massage establishments:

(a) Application fee: \$150.00.

(b) Initial licensure fee: \$100.00.

(c) Renewal fee: \$100.00.

(d) Change of business application fee: \$25.00.

(e) Transfer of location application fee: \$125.00.

(3) Other fees:

(a) Duplicate license fee: \$25.00.

(b) Unlicensed activity fee: \$5.00.

Rulemaking Authority 456.013(2), 456.025(1), 456.036(7), (8), 456.065(3), 480.035(7), 480.044 FS. Law Implemented 456.013(2), 456.025(1), 456.036(4), 456.065(3), 480.043(7), 480.044 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-28.008      RULE TITLE: Display of Licenses

PURPOSE AND EFFECT: The Board proposes this rule amendment to implement 456.072(1)(t) in a manner that will assist the Department investigators in determining unlicensed practice of massage therapy.

Summary: This rule amendment to implement 456.072(1)(t) in a manner that will assist the Department investigators in determining unlicensed practice of massage therapy.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 456.072(1)(t), 480.043(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.008 Display of Licenses.

(1) Each licensed practitioner shall conspicuously display a current license issued by the Department, or photo copy thereof, at each location at which he or she practices. Effective on October 1, 2012, the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

(2) Each apprentice shall conspicuously display his or her apprentice certificate issued by the Board office, in the establishment for which it has been issued. Effective on October 1, 2012, the licensee must attach to the displayed license a 2 inch by 2 inch photograph of the individual whose name appears on the certificate which was taken within the previous two years.

(3) The owner of each massage establishment shall conspicuously display a current establishment license issued by the Department on the premises.

Rulemaking Specific Authority 480.035(7) FS. Law Implemented 456.072(1)(t), 480.043(1) FS. History—New 4-21-86, Formerly 21L-28.008, 61G11-28.008, Amended 1-26-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: April 21 and October 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-28.0095  
 RULE TITLE: Continuing Education for Pro Bono Services

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate the forms developed for the pro bono method of achieving the required biennial continuing education.

SUMMARY: This rule amendment will incorporate the forms developed for the pro bono method of achieving the required biennial continuing education.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.013, 480.0415 FS.

LAW IMPLEMENTED: 456.013, 480.0415 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.0095 Continuing Education for Pro Bono Services.

(1) Up to 6 hours of continuing education per biennium in satisfaction of the live classroom hours that include instruction, demonstration and/or hands on practice in Rule paragraph 64B7-28.009(3)(a), F.A.C., may be awarded for the performance of pro bono services to the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigence

shall be that recognized by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services.

(2) In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval on form DH-MQA 1243 "Request for Pro Bono Services (rev. 10/10), which must include the following information:

- (a) through (d) No change.
- (3) through (4) No change.

Rulemaking Specific Authority 456.013, 480.0415 FS. Law Implemented 456.013, 480.0415 FS. History—New 5-5-04, Amended 12-6-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
 DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-29.001  
 RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate in the definition of "direct supervision" the generally accepted standard of the boards regulating health care professionals.

SUMMARY: This rule amendment is to incorporate in the definition of "direct supervision" the generally accepted standard of the boards regulating health care professionals.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 480.035(7), 480.041(4)(b) FS.

LAW IMPLEMENTED: 480.041(4)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-29.001 Definitions.

(1) through (3) No change.

(4) "Direct supervision" means the presence on the premises of the qualified massage establishment of the sponsoring massage therapist while an apprentice is participating in the apprentice program control, direction, instruction and regulation of an apprentice at a "qualified massage establishment" during the working hours of the establishment.

(5) No change.

Rulemaking Specific Authority 480.035(7), 480.041(4)(b) FS. Law Implemented 480.041(4)(b) FS. History—New 11-27-79, Amended 12-18-84, Formerly 21L-29.01, Amended 4-7-86, 12-22-92, Formerly 21L-29.001, 61G11-29.001, Amended 10-27-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
 DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.: 64B7-32.001  
 RULE TITLE: Definitions

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate the forms developed for the pro bono method of achieving the required biennial continuing education.

SUMMARY: This rule amendment will incorporate the forms developed for the pro bono method of achieving the required biennial continuing education.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 456.013, 480.0415 FS.

LAW IMPLEMENTED: 456.013, 480.0415 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-32.001 Definitions.

For the purposes of this rule chapter a “classroom hour” shall be defined as no less than 50 minutes of any one clock hour during which the student participates in a learning activity of the school. For the coursework required in paragraph 64B7-32.003(1)(b), F.A.C., the participation must be in the physical presence of a member of the faculty of the school.

Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b) FS. History—New 3-25-86, Formerly 21L-32.001, 61G11-32.001, Amended.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.:	RULE TITLE:
64B7-32.002	Documentation of Graduation from a Board Approved Massage School

PURPOSE AND EFFECT: The Board proposes this rule amendment to simplify and reduce the documentation necessary from Board approved massage programs regarding the documentation for the programs’ graduates.

SUMMARY: This rule amendment will simplify and reduce the documentation necessary from Board approved massage programs regarding the documentation for the programs’ graduates.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:**

During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.033(9), 480.041(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Anthony Jusevitch, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-32.002 Documentation of Graduation from a Board Approved Massage School.

In order to be acknowledged as a graduate of a Board approved massage school as referred to in subsection 480.033(9), F.S., the Board’s administrative office must receive a list of graduates sent electronically in a method designed by the Board office or an official transcript which indicates that an applicant has met all educational and institutional requirements indicating the start date and the date

~~of graduation an official transcript documenting the applicant's training. Such transcript must document to the satisfaction of the Board that the applicant has successfully completed a course of study in massage which met the minimum standards for training and curriculum as delineated in this rule chapter. A transcript indicating passing grades in all courses, and including dates of attendance, and stating the date of successful completion of the entire course of study, is evidence of successful completion. If the transcript does not specifically state that the student successfully completed the entire course of study, the transcript must be accompanied by a diploma or certificate of completion indicating the dates of attendance and completion.~~

Rulemaking Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b) FS. History--New 3-25-86, Formerly 21L-32.002, Amended 2-13-95, 2-21-96, 61G11-32.002, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING RULE: Board of Massage Therapy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
 DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2011

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-9.017  
 RULE TITLE: Optional Informed Consent for Cataract Surgery

PURPOSE AND EFFECT: The proposed rule sets forth an optional informed consent form which physicians may use as their consent form for cataract surgery.

SUMMARY: The proposed rule sets forth an optional informed consent form which physicians may use as their consent form for cataract surgery and other requirements for the use of said form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

RULEMAKING AUTHORITY: 458.351 FS.

LAW IMPLEMENTED: 458.351 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.017 Optional Informed Consent for Cataract Surgery.

Pursuant to Section 458.351, Florida Statutes, for those physicians who choose to use it, the Board has approved form DOH-MQA 1255 (10/11), entitled "Florida Board of Medicine and Florida Board of Osteopathic Medicine Approved Informed Consent Form for Cataract Operation With or Without Implantation of Intraocular Lens's website at <http://www.doh.state.fl.us/mqa/medical/>. The Board-approved informed consent form is not executed until:

(1) The physician performing the surgery has explained the information in the consent form to the patient. Such physician is prohibited from delegating this responsibility to another person. The physician performing the surgery is also required to sign the informed consent form;

(2) The patient or the person authorized by the patient to give consent is required to sign the informed consent form; and

(3) A competent witness is also required to sign the informed consent form.

Rulemaking Authority 458.351 FS. Law Implemented 458.351 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Osteopathic Medicine Ophthalmology Informed Consent Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-14.012  
 RULE TITLE: Optional Informed Consent for Cataract Surgery

PURPOSE AND EFFECT: The proposed rule sets forth an optional informed consent form which physicians may use as their consent form for cataract surgery.

SUMMARY: The proposed rule sets forth an optional informed consent form which physicians may use as their consent form for cataract surgery and other requirements for the use of said form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 459.026 FS.

LAW IMPLEMENTED: 459.026 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.012 Optional Informed Consent for Cataract Surgery.  
Pursuant to Section 459.026, Florida Statutes, for those physicians who choose to use it, the Board has approved form DOH-MQA 1255 (10/11), entitled "Florida Board of Medicine and Florida Board of Osteopathic Medicine Approved Informed Consent Form for Cataract Operation With or Without Implantation of Intraocular Lens's website at <http://www.doh.state.fl.us/mqa/osteopath/index.html>. The Board-approved informed consent form is not executed until:

(1) The physician performing the surgery has explained the information in the consent form to the patient. Such physician is prohibited from delegating this responsibility to another person. The physician performing the surgery is also required to sign the informed consent form;

(2) The patient or the person authorized by the patient to give consent is required to sign the informed consent form; and

(3) A competent witness is also required to sign the informed consent form.

Rulemaking Authority 459.026 FS. Law Implemented 459.026 FS. History--New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine and Osteopathic Medicine Ophthalmology Informed Consent Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2011

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Worker's Compensation**

RULE NO.: 69L-5.201  
 RULE TITLE: Definitions

PURPOSE AND EFFECT: The original intent of the definition in Rule 69L-5.201, F.A.C., was to avoid the complexities of an affiliated self-insurer structure where a parent company was able to, but did not wish to, hold the self-insurance authorization. If the parent company instead wanted to execute a parental guaranty under Rule 69L-5.215, F.A.C., it would be precluded from doing so under the current language of subsection 69L-5.201(2), F.A.C. The added language will allow an affiliated self-insurer structure backed by the financial strength of a parent company (that may or may not operate in Florida) for purposes of providing a parental guaranty for affiliated self-insurers under Rule 69L-5.215, F.A.C., where the parent company elects not to hold the self-insurance authorization itself.

SUMMARY: The proposed change amends the definition of "affiliated self-insurer" to provide consistency with the parental guaranty rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: There is neither a cost nor an exemption from cost associated with this rule. The clarification of language and amended definition should reduce the regulatory burden on the private sector by providing an additional option to becoming recognized as an affiliated self-insurer.

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: 440.38(1), (2), (3), 440.385(6), 440.591 FS.

LAW IMPLEMENTED: 440.38(1), (2), (3), 440.385(1), (3), (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: Wednesday, January 25, 2012, 9:30 a.m.

PLACE: Room 102, Hartman Building, 2012 Capital Circle Southeast, 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: Pam Macon @ Pamela.Macon@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: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, (850)413-1708 or Pamela.Macon@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-5.201 Definitions.

When used in these rules, the following words or terms shall mean:

(1) No change.

(2) "Affiliated Self-Insurer" – Two or more entities affiliated by common majority ownership, as discussed in Rule 3, R13, D., of the NCCI Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance, which either do not have a parent company to hold the self-insurance authorization or provide a parental guaranty in accordance with Rule 69L-5.215, F.A.C., and which are approved by the Department to fund their workers'

compensation liabilities as prescribed in Section 440.38(1)(b), F.S. The NCCI Experience Rating Plan Manual for Workers' Compensation and Employers Liability, 2003 Edition including updates through October 2008, is hereby incorporated by reference. A copy of the Manual may be obtained from the National Council on Compensation Insurance, Inc., Customer Service Center, 901 Peninsula Corporate Circle, Boca Raton, FL 33487, telephone 1(800)622-4123. A copy of the manual is also available for viewing at the Division of Workers' Compensation, Bureau of Monitoring and Audit, Self-Insurance Section, 2012 Capital Circle, S.E., Hartman Building, Tallahassee, FL 32399-4224.

(3) through (28) No change.

Rulemaking Authority 440.38(1), (2), (3), 440.385(6), 440.591 FS. Law Implemented 440.38(1), (2), (3), 440.385(1), (3), (6) FS. History–New 3-9-10, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2011

### Section III Notices of Changes, Corrections and Withdrawals

#### WATER MANAGEMENT DISTRICTS

##### St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-2.101	Publications Incorporated by Reference
40C-2.331	Modification of Permits
40C-2.900	Forms and Instructions

#### 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. 37, No. 33, August 19, 2011 issue of the Florida Administrative Weekly.

40C-2.101 Publications Incorporated by Reference

(1) The Governing Board hereby adopts by reference Parts I, II and III, the "Water Conservation Public Supply" requirements in Appendix I, and "Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District" in Appendix L of the document entitled "Applicant's Handbook, Consumptive Uses of