

Section II Proposed Rules

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:	RULE TITLES:
15-1.001	Agency Composition
15-1.002	Internal Department Organization
15-1.003	Division of Florida Highway Patrol
15-1.004	Division of Driver Licenses
15-1.005	Division of Motor Vehicles
15-1.006	Division of Administrative Services
15-1.007	Public Records, Inspection
15-1.008	Public Access to Proceedings
15-1.009	Applications for Employment
15-1.010	Statutory Chapters and Rules
15-1.011	Affirmative Action Plan
15-1.013	Forms; Division of Administrative Services
15-1.014	Forms; Division of Driver Licenses
15-1.015	Forms; Division of Florida Highway Patrol
15-1.016	Forms; Division of Motor Vehicles
15-1.017	Volunteers

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: These rules were identified during the comprehensive rule review as containing provisions that are no longer applicable, are antiquated, or are duplicative, and, thus, are appropriate for repeal.

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: The Agency has determined that these proposed rules are not expected to require legislative ratification because they are being repealed to reduce unnecessary regulation.

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

RULEMAKING AUTHORITY: 120.53(1)(a), 322.02, 110.503(2) FS.

LAW IMPLEMENTED: 120.53(1)(a), 110.501-.505 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: September 10, 2012, 2:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902

THE FULL TEXT OF THE PROPOSED RULES IS:

15-1.001 Agency Composition.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History--New 11-1-78, Formerly 15-1.01, Repealed.

15-1.002 Internal Department Organization.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History--New 11-1-78, Formerly 15-1.02, Repealed.

15-1.003 Division of Florida Highway Patrol.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History--New 11-1-78, Formerly 15-1.03, Repealed.

15-1.004 Division of Driver Licenses.

Rulemaking Specific Authority 322.02 FS. Law Implemented 120.53(1)(a) FS. History--New 11-1-78, Formerly 15-1.04, Amended 11-19-92, Repealed.

15-1.005 Division of Motor Vehicles.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History--New 11-1-78, Formerly 15-1.05, Amended 6-6-93, Repealed.

15-1.006 Division of Administrative Services.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History–New 11-1-78, Formerly 15-1.06, Repealed.

15-1.007 Public Records, Inspection.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History–New 11-1-78, Formerly 15-1.07, Repealed.

15-1.008 Public Access to Proceedings.

Rulemaking Specific Authority 322.02 FS. Law Implemented 120.53(1)(a) FS. History–New 11-1-78, Formerly 15-1.08, Amended 11-19-92, Repealed.

15-1.009 Applications for Employment.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History–New 11-1-78, Formerly 15-1.09, Repealed.

15-1.010 Statutory Chapters and Rules.

Rulemaking Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History–New 11-1-78, Formerly 15-1.10, Repealed.

15-1.011 Affirmative Action Plan.

Rulemaking Specific Authority 120.53(1)(a), 110.112 FS. Law Implemented 120.53(1)(a), 110.112 FS., Art. I, S. 2, Fla. Const. History–New 2-12-80, Formerly 15-1.11, Repealed.

15-1.013 Forms; Division of Administrative Services.

Rulemaking Specific Authority 120.53(1)(b) FS. Law Implemented 120.53(1)(b) FS. History–New 11-11-81, Formerly 15-1.13, Repealed.

15-1.014 Forms; Division of Driver Licenses.

Rulemaking Specific Authority 322.02 FS. Law Implemented 120.53(1)(b) FS. History–New 11-11-81, Formerly 15-1.14, Amended 11-19-92, Repealed.

15-1.015 Forms; Division of Florida Highway Patrol.

Rulemaking Specific Authority 322.02 FS. Law Implemented 120.53(1)(b) FS. History–New 11-11-81, Formerly 15-1.15, Amended 11-19-92, Repealed.

15-1.016 Forms; Division of Motor Vehicles.

Rulemaking Specific Authority 322.02 FS. Law Implemented 120.53(1)(b) FS. History–New 11-11-81, Formerly 15-1.16, Amended 11-19-92, Repealed.

15-1.017 Volunteers.

Rulemaking Specific Authority 110.503(2) FS. Law Implemented 110.501-.505 FS. History–New 12-5-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Richard Brown, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:

- 15-2.001
- 15-2.002
- 15-2.003
- 15-2.004
- 15-2.005
- 15-2.006
- 15-2.007
- 15-2.008
- 15-2.009
- 15-2.010

RULE TITLES:

- Procedure
- Designation of the Agency Clerk
- Disputes on Bidding or the Letting of Contracts
- Designation of Official Reporter Authority
- Purpose
- Indexing, Listing and Numbering
- Final Orders Required to be Indexed
- Listing of Final Orders
- Numbering of Final Orders

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: These rules were identified during the comprehensive rule review as containing provisions that are no longer applicable, are antiquated, or are duplicative, and, thus, are appropriate for repeal.

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.

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RULEMAKING AUTHORITY: 120.53(1)(a), 322.02, 110.503(2) FS.

LAW IMPLEMENTED: 120.53(1)(a), 110.501-.505 FS.

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DATE AND TIME: September 10, 2012, 2:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902

THE FULL TEXT OF THE PROPOSED RULES IS:

15-2.001 Procedure.

Rulemaking Specific Authority 20.05(5), 120.53(1)(c), (d), 120.565 FS. Law Implemented 120.53(1)(c), 120.53(1)(d), 120.565 FS. History–New 2-3-80, Formerly 15-2.01, Repealed.

15-2.002 Designation of the Agency Clerk.

Rulemaking Specific Authority 20.05(5), 120.53(1)(a), (b), 120.59(1), 120.52(9) FS. Law Implemented 120.52(9), 120.53(1)(a), (b), 120.59(1) FS. History– New 2-3-80, Formerly 15-2.02, Repealed.

15-2.003 Disputes on Bidding or the Letting of Contracts.

Rulemaking Specific Authority 120.53(5) FS. Law Implemented 120.53(5) FS. History–New 2-1-82, Formerly 15-2.03, Amended 3-17-86, 9-24-90, Repealed.

15-2.004 Designation of Official Reporter.

Rulemaking Specific Authority 120.533(1) FS. Law Implemented 120.53(4) FS. History–New 3-8-93, Repealed.

15-2.005 Authority.

Rulemaking Specific Authority 120.53, 120.533 FS. Law Implemented 120.53(2)-(4) FS. History–New 3-8-93, Repealed.

15-2.006 Purpose.

Rulemaking Specific Authority 120.53, 120.533 FS. Law Implemented 120.53(2)-(4) FS. History–New 3-8-93, Repealed.

15-2.007 Indexing, Listing and Numbering.

Rulemaking Specific Authority 120.533 FS. Law Implemented 91-30, Section 10, Laws of Florida, 120.53(2)(a) FS. History–New 3-8-93, Repealed.

15-2.008 Final Orders Required to be Indexed.

Rulemaking Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)3., (d) FS. History–New 3-8-93, Repealed.

15-2.009 Listing of Final Orders.

Rulemaking Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)4. FS. History–New 3-8-93, Repealed.

15-2.010 Numbering of Final Orders.

Rulemaking Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History–New 3-8-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:	RULE TITLES:
15-4.001	Definitions
15-4.002	Policies and Procedures

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

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RULEMAKING AUTHORITY: 120.53(1)(a), 322.02, 110.503(2) FS.

LAW IMPLEMENTED: 120.53(1)(a), 110.501-.505 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902

THE FULL TEXT OF THE PROPOSED RULES IS:

15-4.001 Definitions.

Rulemaking Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History--New 12-6-81, Formerly 15-4.01, Amended 11-19-92, Repealed.

15-4.002 Policies and Procedures.

Rulemaking Specific Authority 255.25, 255.249 FS. Law Implemented 255.249(2)(j), (k), (3), 255.25(2)(b), (7) FS. History--New 12-6-81, Formerly 15-4.02, Amended 11-19-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:	RULE TITLES:
15-6.001	Policy Statement
15-6.002	Definition of Sexual Harassment

15-6.003	Training Requirements
15-6.004	Disciplinary Action
15-6.005	Designation of Persons to Receive and Investigate Complaints
15-6.006	Procedure for Filing Complaint
15-6.007	Investigation Procedure and Complaint Disposition
15-6.008	Time Limitations for Intake, Investigation, Formal and Informal Disposition
15-6.009	Complainant's Right to Seek Remedy Outside of the Department

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THE FULL TEXT OF THE PROPOSED RULES IS:

15-6.001 Policy Statement.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.01, Repealed.

15-6.002 Definition of Sexual Harassment.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.02, Repealed.

15-6.003 Training Requirements.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.03, Repealed.

15-6.004 Disciplinary Action.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.04, Repealed.

15-6.005 Designation of Persons to Receive and Investigate Complaints.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.05, Repealed.

15-6.006 Procedure for Filing Complaint.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.06, Repealed.

15-6.007 Investigation Procedure and Complaint Disposition.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.07, Repealed.

15-6.008 Time Limitations for Intake, Investigation, Formal and Informal Disposition.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.08, Repealed.

15-6.009 Complainant’s Right to Seek Remedy Outside of the Department.

Rulemaking Specific Authority 120.53(1), 110.201(2) FS. Law Implemented 110.112, 110.201(2), 110.227(1), 23.161, 23.167 FS. History–New 4-18-83, Formerly 15-6.09, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:	RULE TITLES:
15-12.001	Application of Rules
15-12.002	Membership of Florida Cabinet
15-12.003	Meetings and Notice
15-12.004	Presiding Officer
15-12.005	Quorum
15-12.006	Agendas
15-12.007	Distribution of Agendas
15-12.008	Recording of Proceedings
15-12.009	Minutes
15-12.010	Order of Procedure
15-12.011	Quarterly Reports
15-12.012	Agency Action
15-12.013	Voting
15-12.014	Amendment to Rules
15-12.015	Parliamentary Matters

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THE FULL TEXT OF THE PROPOSED RULES IS:

15-12.001 Application of Rules.

Rulemaking Specific Authority 120.53(1), 120.54(9), 20.24 FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.01, Repealed _____.

15-12.002 Membership of Florida Cabinet.

Rulemaking Specific Authority 120.53(1), 120.54(9), 20.24 FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.02, Repealed _____.

15-12.003 Meetings and Notice.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.03, Repealed _____.

15-12.004 Presiding Officer.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.04, Repealed _____.

15-12.005 Quorum.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.05, Repealed _____.

15-12.006 Agendas.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.06, Repealed _____.

15-12.007 Distribution of Agendas.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.07, Repealed _____.

15-12.008 Recording of Proceedings.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.08, Repealed _____.

15-12.009 Minutes.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.09, Repealed _____.

15-12.010 Order of Procedure.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.10, Repealed _____.

15-12.011 Quarterly Reports.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.11, Repealed _____.

15-12.012 Agency Action.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.12, Repealed _____.

15-12.013 Voting.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.13, Repealed _____.

15-12.014 Amendment to Rules.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.14, Repealed _____.

15-12.015 Parliamentary Matters.

Rulemaking Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History--New 6-9-75, Formerly 15-12.15, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NOS.:	RULE TITLES:
15-13.001	Definitions
15-13.002	Purpose and Scope
15-13.003	Goal
15-13.004	Procedures

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: These rules were identified during the comprehensive rule review as containing provisions that are no longer applicable, are antiquated, or are duplicative, and, thus, are appropriate for repeal.

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: The Agency has determined that these proposed rules are not expected to require legislative ratification because they are being repealed to reduce unnecessary regulation.

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

RULEMAKING AUTHORITY: 120.53(1)(a), 322.02, 110.503(2) FS.

LAW IMPLEMENTED: 120.53(1)(a), 110.501-.505 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: September 10, 2012, 2:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, RichBrown@flhsmv.gov, (850)617-2902

THE FULL TEXT OF THE PROPOSED RULES IS:

15-13.001 Definitions.

Rulemaking Specific Authority 287.0947(2) FS. Law Implemented 287.0947 FS. History--New 8-8-88, Repealed.

15-13.002 Purpose and Scope.

Rulemaking Specific Authority 287.0947(2) FS. Law Implemented 287.0947, 287.0945(1), 287.042(4)(f)(1) FS. History--New 8-8-88, Amended 6-10-92, Repealed.

15-13.003 Goal.

Rulemaking Specific Authority 287.0947(2) FS. Law Implemented 287.0947, 287.042(4)(f)(1) FS. History--New 8-8-88, Amended 6-10-92, Repealed.

15-13.004 Procedures.

Rulemaking Specific Authority 287.0947(2) FS. Law Implemented 215.422(1), (2), (3), 255.05(1)(a), 287.0947(2), 288.705 FS. History--New 8-8-88, Amended 6-10-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Florida Highway Patrol

RULE NOS.:	RULE TITLES:
15B-2.013	Approved Speed Measuring Devices
15B-2.016	Tests to Determine Accuracy of Laser Speed Measuring Devices

PURPOSE AND EFFECT: The purpose of the proposed rule action is to amend the current rule to incorporate those speed measuring devices that have been approved since the last revision to Rule 15B-2.013, F.A.C. In addition, changes are being made to Rule 15B-2.016, F.A.C., in order to reflect a revision to form DHSMV 61071 – Laser Speed Measuring Device Certification – to remove any reference to “Max. Limit 300 uW”.

SUMMARY: Changes are being made to the Department’s rule on Approved Speed Measuring Devices so that speed measuring devices that have been approved, since the last revision, could be incorporated into Rule 15B-2.013, F.A.C. Likewise, a revision to form DHSMV 61071, removing any reference to “Max. Limit 300 uW” requires a change to Rule 15B-2.016, F.A.C., as DHSMV 61071 is referenced in this section.

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: The Agency has determined that these proposed rules are not expected to require legislative ratification because they are being repealed to reduce unnecessary regulation.

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: 316.1905 FS.

LAW IMPLEMENTED: 316.1905, 316.1906 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: September 10, 2012, 2:30 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, 2900 Apalachee

Parkway, Room A315, Tallahassee, Florida 32399, RonCastleberry@flhsmv.gov, (850)617-2939. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A315, Tallahassee, Florida 32399, RonCastleberry@flhsmv.gov, (850)617-2939

THE FULL TEXT OF THE PROPOSED RULES IS:

15B-2.013 Approved Speed Measuring Devices.

The following speed measuring devices have been approved for use in this State by the Department pursuant to this rule Chapter.

(1) Radar units acquired for use in this State after August 1, 1982, are listed below. Additional radar units will be approved by the Department based on conformance to these rules. Evidence of approval of additional units shall be by a Certificate of Approval Form HSMV 60013 (Rev. 7/03), which is available by contacting the Florida Highway Patrol, Neil Kirkman Building, Tallahassee, Florida 32399-0500, or by disseminating the listing of additional units on the Florida Crime Information Center (FCIC) computer system, or by listing on the Division of Florida Highway Patrol website.

(a) Applied Concepts, Inc., formerly known as Applied Concepts Marketing

1. through 8. No change.

9. Stalker Patrol.

(b) No change.

(c) Decatur Electronics, Inc.

1. through 10. No change.

11. Scout.

(d) through (e) No change.

(f) M.P.H. Industries, Inc., or CMI/MPH or CMI/MPH Industries, Inc.

1. through 11. No change.

12. Ranger EZ.

(g) No change.

(2) through (4) No change.

(5) Laser speed measuring devices (LSMD) – Evidence of approved LSMD shall be by a certificate or listing on the FCIC computer, or by a listing on the Division of Florida Highway Patrol website, as set forth in subsection (1) of this rule. In addition, the following LSMDs are approved for use in this State:

(a) Kustom Electronics, Inc., or Kustom Signals, Inc. – Model Prolaser II; Model Prolaser III; Pro-Lite Plus; Model Prolaser IV;

(b) Laser Technology, Inc. – Model Marksman/LTI 20-20, Model Ultralyte LTI 20/20 Lidar, Model Ultralyte 100LR and 200LR, Model Ultralyte LRB; Model LTI 20/20 TruSpeed; Model LTI 20/20 TruSpeed S;

(c) Applied Concepts, Inc. – Model Stalker Lidar; Stalker LR; and

(d) Laser Atlanta Optics, Inc. or Laser Atlanta, LLC – Model Speed Laser, Model Speed Laser B Model Speed Laser R, Model Speed Laser S; and-

(e) DragonEye Technology, LLC – Laser Ally.

Rulemaking Authority 316.1905 FS. Law Implemented 316.1905, 316.1906 FS. History–New 1-1-90, Amended 11-16-92, 10-18-94, 10-2-95, 5-23-04, 1-1-09, 6-6-10, _____.

15B-2.016 Tests to Determine Accuracy of Laser Speed Measuring Devices.

(1) No change.

(2)(a) through (c) No change.

(d) Each test shall be recorded on form HSMV 61071 (Rev. 05/12) (~~1/09~~) which is incorporated by reference. Blank forms are available by contacting the Department at the address described in subsection 15B-2.0082(1), F.A.C.

(e) No change.

Rulemaking Specific Authority 316.1905 FS. Law Implemented 316.1905, 316.1906 FS. History–New 10-18-94, Amended 5-23-04, 1-1-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Lieutenant Ronald W. Castleberry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2012

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-103.002	Inmate Grievances – Terminology and Definitions
33-103.005	Informal Grievance
33-103.006	Formal Grievance – Institution or Facility Level
33-103.007	Appeals and Direct Grievances to the Office of the Secretary
33-103.011	Time Frames for Inmate Grievances
33-103.014	Reasons for Return of Grievance or Appeal Without Processing
33-103.015	Inmate Grievances – Miscellaneous Provisions
33-103.016	Follow Through on Approved Grievances

33-103.018 Evaluation of the Grievance Procedure

33-103.019 Inmate Grievances – Forms
 PURPOSE AND EFFECT: The purpose of the rulemaking is to update the inmate grievance rules and to implement Section 944.241, Florida Statutes, concerning grievances over the restraint of pregnant inmates. Form DC1-306 is revised for conformity with the rule and Department titles are changed. The effect of the rulemaking is to promote efficiency by specifying matters for which an inmate may proceed directly to a formal grievance or to the Office of Secretary without first having to submit an informal grievance. The rulemaking provides a new grievance procedure, including a time extension, for grievances relating to restraint of pregnant inmates. Rule 33-103.019, F.A.C., which is a forms list, is repealed because all of the forms are currently incorporated within rule text.

SUMMARY: The rulemaking updates the inmate grievance rules and implements Section 944.241, Florida Statutes, providing a new grievance procedure concerning the restraint of pregnant inmates. Form DC1-306 is revised and Department titles are changed. The rulemaking specifies the circumstances under which an inmate may proceed directly to a formal grievance or to the Office of Secretary without first submitting an informal grievance. Rule 33-103.019, F.A.C., is repealed.

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: Upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as 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: 944.09, 944.241 FS.

LAW IMPLEMENTED: 944.09, 944.241 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

(1) through (9) No change.

(10) Grievance of Sentence Structure (Release Date Calculations): Complaints concerning the manner in which the Department records and executes the judgment and sentence of the court. This category of appeal involves the calculation of the release date but does not include the determination of monthly gain time awards. Included are questions relating to the length of sentence, whether the court imposed mandatory or special sentencing provisions, credit for time served, date of imposition of sentence, sentence chaining (concurrent or consecutive), and forfeitures arising from judicial or Parole Commission revocations (not forfeitures through the administrative disciplinary process).

~~(11)(10)~~ HIPAA: The Health Insurance Portability and Accountability Act of 1996.

~~(12)(11)~~ Informal Grievance: ~~This is An initial statement of complaint filed on an Form DC6-236, Inmate Request, with the staff member who is responsible in the particular area of the problem. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. The effective date of the form is 6-12.~~

~~(13)(12)~~ Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Policy Management and Inmate Appeals or his or her representative, ~~the Bureau Chief of Classification or his or her representative,~~ and the Library Services Administrator or his or her representative.

~~(14)(13)~~ Recipient: A person or office receiving an inmate grievance for processing.

~~(15)(14)~~ Reviewing Authority: A staff member authorized to sign grievances or appeals as the final authority for review, e.g., warden, assistant warden, deputy warden, or the Secretary’s representative.

(a) Informal Grievance:

Staff member designated by the warden who is responsible for the issue grieved.

(b) through (d) No change.

~~(16)(15)~~ Response: The information provided to the inmate relative to the decision to approve, deny, or return the grievance and the reasons for the approval, denial, or return.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00, 1-2-03, 9-16-03, 2-9-05, 3-25-08, 5-27-12,_____.

33-103.005 Informal Grievance.

(1) Inmates shall utilize the informal grievance process prior to initiating a formal grievance. Inmates may skip this step and initiate the process at the formal institutional level for issues pertaining to the following: grievance of an emergency nature, grievance of reprisal, grievance alleging violations of the Americans with Disabilities Act, medical grievance, grievance involving gain time governed by Rule 33-601.101, F.A.C. Incentive Gain Time, grievance challenging placement in close management or subsequent reviews, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., grievances regarding disciplinary action (does not include corrective consultations) governed by Rules 33-601.301-314, F.A.C. In the case of an emergency grievance, a grievance of reprisal, a grievance alleging violation of the Americans with Disabilities Act, a medical grievance, a grievance involving admissible reading material, a grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time, a grievance challenging placement in close management and subsequent reviews, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., or a grievance involving disciplinary action (does not include corrective consultations) governed by Rules 33-601.301-314, F.A.C., an inmate may utilize the formal grievance process governed by Rule 33-103.006, F.A.C., directly, bypassing the informal grievance process. An inmate shall utilize the direct grievance process Inmates may proceed directly to the Office of the Secretary on the following issues as governed by subsection 33-103.007(6), F.A.C., ~~for~~ grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA), rather than initiating an informal or formal grievance of emergency nature, grievance of reprisal, protective management, admissible reading material, sentence structure issues (release date calculations), and inmate banking issues.

(a) through (c) No change.

(2) through (5) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 3-30-94, 4-17-94, 4-10-95, 8-10-97, 12-7-97, 2-17-99, Formerly 33-29.005, Amended 8-1-00, 2-9-05, 3-25-08, 1-31-10, 5-27-12,_____.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) No change.

(2) Procedural Requirements.

(a) through (b) No change.

(c) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate

writes his complaint anywhere other than within the boundaries of Part A or on the 2 allowable attachment pages, his grievance shall be returned for non-compliance.

(d) through (i) No change.

(3) The following types of grievances may be filed directly with the reviewing authority as defined in paragraph 33-103.002(15)(14)(b), F.A.C., by-passing the informal grievance step, and may be sent in a sealed envelope through routine institutional mail channels:

(a) through (f) No change.

~~(g) Grievance involving sentence structure.~~

~~(g)(h)~~ Grievance challenging placement in close management or subsequent review.

~~(h)(i)~~ Grievance alleging violation of the Americans with Disabilities Act.

~~(i)(j)~~ Grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.

(4) through (10) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended 8-1-00, 10-11-00, 2-9-05, 10-28-07, 3-25-08, 5-27-12,_____.

33-103.007 Appeals and Direct Grievances to the Office of the Secretary.

(1) No change.

(2) Procedural Requirements.

(a) No change.

(b) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate writes his complaint anywhere other than within the boundaries of the Part A Box or on the 2 allowable attachment pages, his grievance shall be returned for non-compliance;

(c) through (f) No change.

(3) through (4) No change.

(5) Grievance appeals – If the grievance appeal is not a direct grievance to the Office of the Secretary, the inmate shall:

(a) Attach a copy of his formal grievance and response, except when appealing issues regarding requests for protective management, admissible reading material, sentence structure (release date calculations), inmate banking, emergencies or allegations of reprisal. (These may be filed directly to the Office of the Secretary);

(b) Attach a copy of his informal grievance and response, except when appealing issues regarding medical, Americans with Disabilities Act, gain time governed by Rule 33-601.101, F.A.C. Incentive Gain Time, placement in close management and subsequent reviews, return of incoming mail governed by subsection 33-210.101(14) F.A.C., disciplinary action (does not include corrective consultations) governed by Rule 33-601.314, F.A.C. grievances on inmate bank issues, sentence

structure, disciplinary action (excluding corrective consultations), medical issues, admissible reading material, placement in close management and subsequent reviews, violation of the American with Disabilities Act, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., or grievances involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time.

(c) through (e) No change.

(6) Direct Grievances.

(a) Emergency grievances, grievances of reprisals, protective management, admissible reading material, grievances concerning sentence structure (release date calculations), or inmate banking issues may be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. The following shall apply:

1. The inmate shall state at the beginning of Part A of Form DC1-303 that the grievance concerns either an emergency or is a grievance of a reprisal. When alleging HIPAA violations, the inmate shall state that the grievance concerns HIPAA at the beginning of Part A of Form DC1-303.

2. through 3. No change.

(b) No change.

(c) Grievances filed directly with the Office of the Secretary that are grievances of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA shall be responded to according to established time frames.

(d) Upon receipt of the direct grievance and following review of the same, if it is determined that the grievance is not an emergency grievance, a grievance of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA, the grievance shall be returned to the inmate with the reasons for return specified advising the inmate to resubmit his or her grievance at the appropriate level. The other applicable procedures in Rule 33-103.007, F.A.C., governing the processing of appeals to the Office of the Secretary shall apply to these four types of grievances.

(7) through (8) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 10-7-98, 2-17-99, Formerly 33-29.007, Amended 8-1-00, 6-29-03, 2-9-05, 8-21-06, 3-25-08,_____.

33-103.011 Time Frames for Inmate Grievances.

When determining the time frames for grievances in all cases, the specified time frame shall commence on the day following the date of the incident or response to the grievance at the previous level. For example, if an incident occurred on December 1, fifteen days from that date would be December 16.

(1) Filing of Grievances.

(a) Informal Grievances – Must be received within 20 days of when the incident or action being grieved occurred unless the inmate has requested in writing and received approval for a 45 day extension to file an informal grievance about being physically restrained during pregnancy, labor or post-partum recovery pursuant to Rule 33-602.211, F.A.C. The request for an extension must be submitted on Form DC6-236, Inmate Request, and received within 20 days of the application of restraints.

(b) through (d) No change.

(2) through (5) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.011, Amended 2-9-05, 3-25-08, 5-27-12,_____.

33-103.014 Reasons for Return of Grievance or Appeal Without Processing.

(1) The informal grievance, formal grievance, direct grievance, or grievance appeal, hereafter referred to as “grievance,” may be returned to the inmate without further processing if, following a review of the grievance, one or more of the following conditions are found to exist. The reasons listed below are the only reasons for returning a grievance without a response on the merits.

(a) through (j) No change.

~~(k) The inmate is being advised to re file an informal grievance with a specific staff member.~~

~~(k)(+) The inmate has written his or her complaint outside of the boundaries of the space provided on the grievance form or request form.~~

~~(l)(+) The inmate has used multiple copies of grievance forms rather than attachments as continuation sheets.~~

~~(m)(+) A decision has already been rendered to an inmate by a particular office on the issue currently being grieved before it.~~

~~(n)(+) The inmate is grieving a matter beyond the control of the Department as described in subsection 33-103.001(4), F.A.C.~~

~~(o)(+) The inmate is raising allegations and charges in a grievance appeal that have not been raised below at the previous level. (Since this is an appellate review process and not a fact-finding process, it is not appropriate to raise new allegations, charges, and facts that the previous decision maker has not had an opportunity to investigate and respond to.)~~

~~(p)(+) The inmate has filed more than one appeal of a grievance. This would not include the situation where an inmate wishes to appeal the denial of his grievance as well as allege non-compliance with the grievance process. Since these are two separate issues, they would have to be raised in separate grievances.~~

~~(q)(+) The inmate has filed a supplement to a grievance or appeal that has already been accepted. An exception will be made when the supplement contains relevant and determinative information that was not accessible to or known by the inmate at the time the original grievance or appeal was filed.~~

~~(r)(+) Complaints are raised by an inmate regarding incidents that do not affect the inmate personally.~~

~~(s)(+) The inmate filed a grievance at the institutional level that should have been filed directly with the Office of the Secretary.~~

~~(t)(+) The inmate used more than two (2) additional narrative pages.~~

~~(u)(+) The inmate filed an informal grievance in excess of 20 days from the time the event being grieved occurred.~~

~~(v) The inmate is using the grievance process to ask questions or seek information, guidance or assistance.~~

~~(w) The inmate is filing an informal grievance about being physically restrained pursuant to Rule 33-602.211, F.A.C. either beyond the initial required timeframe without first requesting and obtaining an extension, or has filed beyond an approved 45 day extension.~~

(2) An inmate who has a grievance returned to him for reasons stated in subsection (1) above [excluding paragraph (1)(d), (e), (h), (i), ~~(m)(+)~~, ~~(n)(+)~~, ~~(p)(+)~~, ~~(q)(+)~~, ~~(r)(+)~~, ~~(u)~~, ~~(v)~~ or ~~(w)~~] may refile utilizing the proper procedure or correct the stated deficiency and refile if upon receipt of this notification the filing is within time frames allowable. When a grievance is returned to an inmate for being improperly filed, the inmate shall be told why the grievance was returned and told that in order to receive administrative review of his complaint he must correct the defects and re-submit the grievance within the time frames set forth in Rule 33-103.011, F.A.C., unless instructed otherwise in the grievance response. Instructions to resubmit are not necessary if a grievance is returned for reasons stated in paragraph (1)(d), (e), (h), (i), ~~(m)(+)~~, ~~(n)(+)~~, ~~(p)(+)~~, ~~(q)(+)~~, ~~(r)(+)~~, ~~(u)~~, ~~(v)~~ or ~~(w)~~.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, 5-10-98, Formerly 33-29.014, Amended 6-29-03, 2-9-05, 6-13-12,_____.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) through (11) No change.

(12) Staff shall respond to inquiries made by the Bureau of Policy Management and Inmate Grievance Appeals by the close of business on the seventh day after the request.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02, 1-2-03, 2-9-05, 9-4-05, 10-28-07, 5-27-12, _____.

33-103.016 Follow Through on Approved Grievances.

(1) Formal Grievance – Institution or Facility Level. All formal grievances that are approved at the institution or facility level shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of Form DC1-306, Grievance Approval Action Form. Form DC1-306 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399 <http://www.flrules.org/Gateway/reference.asp?No-Ref-01224>. The effective date of the form is 08-01-00.

- (b) through (f) No change.
- (2) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 4-10-95, Amended 12-7-97, Formerly 33-29.0155, Amended 8-1-00, 1-1-01, 8-21-06, 3-25-08, _____.

33-103.018 Evaluation of the Grievance Procedure.

The grievance procedure shall be reviewed at each institution through operational reviews conducted by the Regional Directors of Institutions Office of Internal Audit. This evaluation shall include information obtained from a survey of staff and inmates, review of employees’ and inmates’ comments on the effectiveness and credibility of the procedure, on-site visits to institutions and facilities by staff of the Bureau of Policy Management and Inmate Appeals, Bureau of Internal Audit and from requested reports prepared by the Bureau of Policy Management and Inmate Appeals.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.017, Amended 2-9-05, 5-27-12, _____.

33-103.019 Inmate Grievances – Forms.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 4-10-95, 12-7-97, Formerly 33-29.018, Amended 8-1-00, 10-11-00, 2-9-05, 12-17-06, 6-18-07, 8-27-07, 10-19-09, 5-27-12, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michelle Pyle, Deputy Assistant Secretary of Planning and Program Analysis
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 12, 2012
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2012

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.311
 RULE TITLE: Inmate Discipline – Miscellaneous Provisions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide for the transfer of an inmate awaiting a disciplinary hearing. Where circumstances dictate, an inmate may be immediately transferred before disciplinary hearings are held. The amendment recognizes that, although it is preferable to hold a hearing on disciplinary action prior to transfer, this is not always possible in a dynamic prison setting. The change allows the department flexibility to properly utilize available prison space in the most cost efficient manner.

SUMMARY: The rule amendment allows the department the flexibility to transfer an inmate, even though the inmate may be awaiting a disciplinary hearing, where circumstances dictate this action in order to properly utilize available prison space in the most cost efficient manner.

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: Upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as 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: 944.09 FS.
 LAW IMPLEMENTED: 20.315, 944.09, 944.719, 945.04 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: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

- 33-601.311 Inmate Discipline – Miscellaneous Provisions.
- (1) through (2) No change.
- (a) No change.

(b) If it becomes necessary to transfer an inmate who is awaiting disciplinary action, the team hearing should be held prior to the transfer. Exceptions to this shall be made ~~only in extreme circumstances, for example, strikes or disturbances~~ where the situation dictates immediate transfer before the disciplinary hearings can be held. A memorandum explaining the circumstances precluding the scheduling of the hearing shall be sent with the inmate record at the time of the transfer. The sending institution shall complete the heading section, identifying the inmate and charge, and statement of facts, of the disciplinary report. The disciplinary investigation report shall be completed by the sending institution if time permits, and forwarded to the receiving institution. The receiving institution shall complete the inmate notification, the disciplinary investigation report and the designating authority review, if not completed prior to transfer. The Team/Hearing Officer Findings and Action, shall be completed by the receiving institution after the hearing and approved by the warden.

(c) No change.

(3) through (5) No change.

~~Rulemaking Specific~~ Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.719, 945.04 FS. History—New 3-12-84, Formerly 33-22.11, Amended 12-30-86, 5-24-90, 10-1-95, Formerly 33-22.011, Amended 5-21-00, 2-11-01, 7-8-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

James Upchurch, Director, Office of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: July 13, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: July 27, 2012

DEPARTMENT OF CORRECTIONS

RULE NO.:

RULE TITLE:

33-602.220

Administrative Confinement

PURPOSE AND EFFECT: The primary purpose of this rulemaking is to amend Form DC4-650, Observation Checklist, to provide for a tear resistant instead plastic covered mattress. The proposed rule also strikes the forms list and, instead, incorporates each form in the substantive rule text.

SUMMARY: The primary purpose of this rulemaking is to amend Form DC4-650, Observation Checklist. The proposed rule also strikes the forms list and, instead, incorporates each form in the substantive rule text.

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: Upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as 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: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 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: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.220 Administrative Confinement.

(1) through (3)(c)1. No change.

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision. Form DC6-203 is hereby incorporated by reference ~~in subsection (1) of this rule~~. A copy of this form is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 1-19-03. The inmate shall complete Form DC6-203 and return it to the housing supervisor for submission to the ICT along with the inmate's written request.

3. through 4. No change.

5. The State Classification Office (SCO) shall determine within five working days whether protection is necessary based upon the investigation and any follow-up they deem appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall be documented in the electronic classification contact log in OBIS. If the SCO determines that a need for protection exists, they shall direct that the inmate shall be placed in a protective management unit or transferred to resolve the inmate's need for protection. If a decision is made to transfer the inmate for housing in a protective management unit or to

resolve the inmate’s need for protection at the inmate’s current location, the inmate shall be kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO’s decision by the ICT. At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate’s acknowledgement of being informed of the SCO denial and the inmate’s decision on whether or not to appeal shall be documented on the electronically produced Notification of Protective Management Disapproval, Form DC6-137, and the electronic contact log. Form DC6-137 is hereby incorporated by reference in subsection (11) of this rule. A copy is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 1-19-03. The inmate shall remain in administrative confinement until the appeal process is complete.

6. through (6)(e) No change.

(f) Any inmate who has demonstrated behavior that is or could be harmful to him or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is hereby incorporated by reference. A copy is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is _____. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C. ~~Form DC4-650 is incorporated by reference in subsection (11) of this rule.~~

(g) through (10) No change.

~~(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of Research, Planning and Support Services, Department of Corrections, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.~~

~~(a) Form DC4-650, Observation Checklist, effective date 4-8-08.~~

~~(b) Form DC6-203, Protection Waiver/Appeal Decision, effective date 1-19-03.~~

~~(c) Form DC6-137, Notification of Protective Management Disapproval, effective 1-19-03.~~

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04, 3-5-06, 10-31-06, 4-8-08, 6-25-08, 6-8-09, 7-5-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Director, Office of Institutions
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2012
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2012

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.041
 RULE TITLE: Minimum Flows

PURPOSE AND EFFECT: This rule will amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the Lower Myakka River, pursuant to Section 373.042, F.S. The establishment of the minimum flows will ensure that the minimum hydrologic requirements of the water resources and ecology of the Lower Myakka River are maintained.

SUMMARY: Section 373.042, F.S., requires the District to establish minimum flows and levels for water bodies located within the District. The District is required to maintain and submit a priority list of water bodies to the Florida Department of Environmental Protection indicating the schedule for the establishment of minimum flows and levels. This rulemaking will establish minimum flows for the Lower Myakka River, one of the water bodies on the priority list. For purposes of this rule, the Lower Myakka River extends from the outlet of Lower Myakka Lake to the mouth of the river at Charlotte Harbor.

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 are no costs to the regulated public as a result of

the proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require a Statement of Estimated Regulatory Costs or 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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 FS.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sonya White, Office of General Counsel, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (4660) (OGC #2008069)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) through (5) No change.

(6) Minimum Flows for Myakka River.

(a) Upper Myakka River.

(a) through (c) renumbered 1. through 3. No change.

(b) Lower Myakka River.

1. The Minimum Flows are necessary to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the Lower Myakka River are met. The Lower Myakka River extends from the outlet of Lower Myakka Lake to the mouth of the river at Charlotte Harbor.

2. The Lower Myakka River receives flows from the Upper Myakka River sub-basin at the location of the USGS gage Myakka River near Sarasota No. 02298830 (the "Myakka Gage") that are in excess of the naturally occurring flows. The

District will remove the excess flows at rates between 0 and 130 cfs in the upper river sub-basin in order to restore natural flows.

3. The Minimum Flow for the Lower Myakka River at the Myakka Gage is 90% of the adjusted flow, when the adjusted flow exceeds 400 cfs. The adjusted flow at the Myakka Gage shall be calculated by adding the flows measured at the Myakka Gage and the excess flows removed by the District from the Upper Myakka River.

(7) through (15) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421 FS. History--Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09, 3-23-10, 3-28-10, 7-12-10, 8-2-10 (8), 8-2-10 (15),_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sid Flannery, Chief Environmental Scientist

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2012

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:

RULE TITLE:

59G-5.020

Provider Requirements

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-5.020, F.A.C., is to incorporate by reference the Florida Medicaid Provider General Handbook, July 2012. The handbook is updated to add policy relating to special services necessary for children and detailing the direction on requesting these services; give providers direction on requesting non-emergency out-of-state services by providing general guidelines, adding non-emergency out-of-state services, and requiring a new form; add policy regarding enrollment of cross-over only providers; reflect Medicaid Qualified Medicare Beneficiary (QMB) cost-sharing requirements and Medicaid cost-sharing for Medicare Part A and Part C services; and increase the oversight of the Medicaid program through the provision of general guidelines on termination, suspensions, and administrative sanctioning of Medicaid providers as directed by legislation.

SUMMARY: Overall, the amendment updates policy, clarifies existing policy, updates forms, and updates fiscal agent information. Existing policies have been clarified and updated to ensure a better understanding of policy requirements.

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: A checklist was prepared by the Agency to determine the need for a SERC. Based on this information at the time of the analysis and pursuant to Section 120.541, F.S., the rule will not require 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: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905, 409.906, 409.907, 409.908, 409.9081, 409.910, 409.912, 409.913 FS.

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

DATE AND TIME: Monday, September 10, 2012, 1:00 p.m. – 3:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, Florida 32308-5407

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Arabella Reeves at the Bureau of Medicaid Services, (850)412-4240. 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: Arabella Reeves, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4240, e-mail: arabella.reeves@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.020 Provider Requirements.

(1) All Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, July 2012 ~~July 2008~~, which is incorporated by reference and available from the fiscal agent's Web site Portal at www. http://mymedicaid-florida.com. ~~Select Click on~~ Public Information for Providers, then ~~on~~ Provider Support, and then

~~on~~ Provider Handbooks. A paper copy of the handbook may be obtained by calling the Provider Services Contact Center at 1(800)289-7799 and selecting Option 7.

(2) The following forms are is incorporated by reference: Medicare Part C-Medicaid CMS-1500 Crossover Invoice AHCA Form 5000-3527, June 2012; Medicare Part C-Medicaid UB-04 Crossover Invoice AHCA Form 5000-3528, June 2012; and Medicaid Out-of-State Prior-Authorization Request Form AHCA Med Serv Form 2000-0016. The forms are available from the fiscal agent's Web site at www. mymedicaid-florida.com. Select Public Information for Providers, then Provider Support, and then Forms. Paper copies of the forms may be obtained by calling the Provider Services Contact Center at 1(800)289-7799 and selecting Option 7. AHCA Form 2200-0004, July 2008, Medicaid Provider Change of Address Form, one page. The form is available from the Medicaid fiscal agent's Web Portal at http://mymedicaid-florida.com. Click on Secure Information for Providers. The form may also be obtained from the Medicaid fiscal agent by calling the Provider Contact Center at 1(800)289-7799 and selecting Option 7.

~~(3) The following forms that are included in the Florida Medicaid Provider General Handbook are incorporated by reference. In Chapter 3, Temporary Emergency Medicaid Identification Card, July 2008; one page; CF-ES 2681, Feb 2003, Notice and Proof of Presumptive Eligibility for Medicaid for Pregnant Women, one page; CF-ES Form 2014, Feb 2003, Authorization for Medicaid/Medikids Eligibility, one page; AHCA Form 5240-006, Unborn Activation Form, January 2007, one page; CF-ES 2039, Sep 2002, Medical Assistance Referral, two pages. In Chapter 4, the AHCA-Med Serv 038, July 2008, Crossover with TPL Claim and/or Adjustment Form, one page. The CF-ES forms are available from the Department of Children and Family Services. The other forms are available from the Medicaid fiscal agent's Web Portal at http://mymedicaid-florida.com. Click on Public Information for Providers, then on Provider Support, and then on Forms. Paper copies of the forms may be obtained by calling the Provider Contact Center at (800)289-7799 and selecting option 7.~~

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.9081, 409.910, 409.912, 409.913 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00, 4-24-01, 8-6-01, 10-8-03, 1-19-05, 5-24-07, 2-25-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Arabella Reeves

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 3, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: 61G4-18.001
 RULE TITLE: Continuing Education Requirements for Certificateholders and Registrants

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify language to clarify the continuing education requirements for certificate holders and registrants.

SUMMARY: The rule amendment will modify language to clarify the continuing education requirements for certificate holders and registrants.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 455.213(6), 455.2177, 455.2178, 455.2179, 489.108, 489.115 FS.

LAW IMPLEMENTED: 455.2123, 455.213(6), 455.2177, 455.2178, 455.2179, 455.271(6), 489.115, 489.116 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: Drew Winters, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32399-5257

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-18.001 Continuing Education Requirements for Certificateholders and Registrants

(1) through (2) No change.

(3) The content of Board approved courses must be business, trade, workers' compensation, laws and rules related to the construction industry, or safety topics relevant to the construction industry. For purposes of this rule:

(a) Business practice topics include bookkeeping and accounting practices; managing cash flow; estimating and bidding jobs; negotiating and interpreting contracts and agreements; processing change orders; controlling purchasing; scheduling; controlling expenses; insurance and bonding related to construction; complying with payroll and sales tax laws; interpreting financial statements and reports related to construction; complying with Florida laws and rules related to construction, and Chapter 682, F.S., Arbitration Code, Chapter 713, F.S. Florida Construction Lien Law, and Chapter 553, F.S., Building Construction Standards Chapter 713, Part I, F.S.

(b) through (f) No change.

(4) through (10) No change.

(11) A person is not required to complete any of the above continuing education requirements while his or her license is in an inactive status. However, registrants and certificateholders who change licensure status from inactive to active must show proof of completion of fourteen (14) hours of continuing education as required for active renewal for the biennium previous to the requested license activation for each inactive biennium (including one hour each of a workplace safety class, a business standards class, and a workers' compensation class for each license renewal cycle).

(12) No change.

Rulemaking Specific Authority 455.213(6), 455.2177, 455.2178, 455.2179, 489.108, 489.115 FS. Law Implemented 455.2123, 455.213(6), 455.2177, 455.2178, 455.2179, 455.271(6), 489.115, 489.116 FS. History--New 12-2-93, Amended 5-19-94, 8-16-94, 10-12-94, 1-18-95, 2-4-98, 5-11-99, 7-12-99, 1-23-00, 2-1-00, 12-27-00, 3-25-01, 7-26-04, 9-1-05, 9-27-06, 9-1-07, 11-15-07, 11-17-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2012

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-26.003
 RULE TITLE: Licensure of Florida Certified Public Accountant Firms

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove the requirement that firms provide branch office information during biennial renewal.

SUMMARY: The requirement that firms provide branch office information during biennial renewal will be removed.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 473.304, 473.3101 FS.

LAW IMPLEMENTED: 473.3101 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: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-26.003 Licensure of Florida Certified Public Accountant Firms.

Every Florida firm and non-Florida firm required to be licensed pursuant to Section 473.3101(1)(a), F.S., shall be certified for licensure by the Board on a biennial basis, and shall furnish its firm name, addresses and telephone numbers of main office and any branch offices in Florida as well as the names of all licensed professional staff and all non-licensed owners. Said firms must also disclose whether any non-certified public accountant owners have convictions or findings of guilt, regardless of adjudication, of a crime in any jurisdiction and judgment or settlements of civil lawsuits, or having been acted against including denial of licensure by any regulatory agency by a court or regulatory agency and any

other matters which show a lack of good moral character. (good moral character is defined in Section 473.308(6)(a), F.S.).

Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-26.03, Amended 6-4-86, Formerly 21A-26.003, Amended 2-3-94, 12-30-97, 1-26-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2012

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-27.0041 RULE TITLE: One Year of Work Experience

PURPOSE AND EFFECT: The Board proposes the rule amendment to revise the requirements of the one year of work experience required for licensure.

SUMMARY: The requirements of the one year of work experience will be revised.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 473.304(1), 473.308(4) FS.

LAW IMPLEMENTED: 473.308(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 IS: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-27.0041 One Year of Work Experience.

With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, an applicant must document one year of work experience as follows:

~~(1) Definitions. Within the context of this rule, the following definitions apply:~~

~~(a) "Applicant." An applicant is a person who has met Florida's educational requirements for licensure and intends from the outset of the supervised experience to meet the supervised experience requirement for licensure.~~

~~(b) "Supervised" and "supervision" the subsection of the applicant, during employment, to oversight, guidance and evaluation by a supervisor who had the right to control and direct the applicant as to the result to be accomplished by the work and also as to the means by which the result was to be accomplished.~~

~~(1)(c) "Supervisor Verifying Certified Public Accountant." A verifying certified public accountant supervisor is either a licensed certified public accountant in good standing with any regulating body or a chartered accountant recognized by the International Qualifications Appraisal Board (IQAB), both during the applicant's one year of work experience and at the time of verification.~~

(2) One year of work experience shall be held and understood to mean the provision of any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills rendition of services such as are customarily performed by full time, regularly employed staff employees of a certified public accountant during the normal workweek as verified required by the verifying employing certified public accountant, commencing after the completion of 120 semester or 160 quarter hours from an accredited college or university with a concentration in accounting and business courses or after the applicant has passed the licensure examination in another state or territory of the United States and has either been licensed as a certified public accountant or has met licensing requirements for that state or territory the educational requirements set forth in subsection 61H1-27.002(3), F.A.C. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more

than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The verifying certified public accountant supervisor, in her or his report to the Department, shall verify ~~certify~~ that the applicant rendered such services ~~as are customarily performed by full-time, regularly employed staff employees~~ for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year.

(3) No change.

(4) Documentation of the one year of work experience shall be made using the Verification Certification of Work Experience form (DBPR Form CPA 32/Revised 07/01/2012 ~~40/09~~), which is hereby incorporated by reference, a copy of which may be obtained from the Board office located at 240 N. W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

Rulemaking Authority 473.304(1), 473.308(4) FS. Law Implemented 473.308(4) FS. History--New 3-3-09, Amended 5-3-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2012

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-10.022 RULE TITLE: Office

PURPOSE AND EFFECT: The amendments brings the rule into compliance with new statutory changes.

SUMMARY: The amendment deletes Rule 61J2-10.024, F.A.C., because the rule no longer exist.

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: During discussion of this rule at its Commission meeting, the Commission, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Commission 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 these rules. The rule amendments will not require ratification by the Legislature. A Statement of Estimated Regulatory Cost will not be prepared.

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

RULEMAKING AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.22 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-10.022 Office.

The required office, pursuant to Section 475.22(1), Florida Statutes, may be in a residential location, if not contrary to local zoning ordinances, provided the minimum office requirements are met and the required broker's sign is properly displayed, pursuant to Section 475.22(1), Florida Statutes, ~~and Rule 61J2-10.024, Florida Administrative Code~~. Sales associates must be registered from and work out of an office maintained and registered in the name of the employer.

Rulemaking Specific Authority 475.05 FS. Law Implemented 475.22 FS. History—New 1-1-80, Formerly 21V-10.22, Amended 7-20-93, Formerly 21V-10.022, Amended 12-30-97, 2-4-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2012

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NOS.:	RULE TITLES:
61J2-24.001	Disciplinary Guidelines
61J2-24.002	Citation Authority

PURPOSE AND EFFECT: The amendments brings these rules into compliance with new statutory changes.

SUMMARY: Rule 61J2-24.001, F.A.C., deletes subsection (aa). Paragraph 61J2-24.002(2)(a), F.A.C., strikes the first part of the violation “a nonresident failed to file irrevocable consent form”.

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: During discussion of these rules at its Commission meeting, the Commission, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Council 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 these rules. These rules amendments will not require ratification by the Legislature.

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

RULEMAKING AUTHORITY: 455.2273, 475.05 FS.

LAW IMPLEMENTED: 455.224, 455.227, 455.2273, 475.22, 475.24, 475.25, 475.25(1), 475.42, 475.453 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-24.001 Disciplinary Guidelines.

(1) through (2) No change.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to subsection (4). The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION	PENALTY RANGE FIRST VIOLATION	SECOND AND SUBSEQUENT VIOLATIONS
(a) through (z) No change.		
(aa) Section 475.42(1)(e), F.S. A violation of any order or rule of the Commission	(aa) \$250 to \$1,000 administrative fine and 30 day suspension to 5-year suspension	(aa) \$1,000 to \$5,000 administrative fine and suspension to revocation
(aa)(bb) Section 475.42(1)(g), F.S. Makes false affidavit or affirmation or false testimony before the Commission	(aa)(bb) \$250 to \$1,000 administrative fine and suspension to revocation	(aa)(bb) \$1,000 to \$5,000 administrative fine and suspension to revocation
(bb)(ee) Section 475.42(1)(h), F.S. Fails to comply with subpoena	(bb)(ee) \$250 to \$1,000 administrative fine and suspension	(bb)(ee) \$1,000 to \$5,000 administrative fine and suspension to revocation
(cc)(dd) Section 475.42(1)(i), F.S. Obstructs or hinders the enforcement of Chapter 475, F.S.	(cc)(dd) \$250 to \$1,000 administrative fine and suspension to revocation	(cc)(dd) \$1,000 to \$5,000 administrative fine and suspension to revocation
(dd)(ee) Section 475.42(1)(j), F.S. No broker or sales associate shall place upon the public records any false, void or unauthorized information that affects the title or encumbers any real property	(dd)(ee) \$250 to \$2,500 administrative fine and suspension to revocation	(dd)(ee) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ee)(ff) Section 475.42(1)(k), F.S. Failed to register trade name with the Commission	(ee)(ff) \$250 to \$1,000 administrative fine	(ee)(ff) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ff)(gg) Section 475.42(1)(l), F.S. No person shall knowingly conceal information relating to violations of Chapter 475, F.S.	(ff)(gg) \$250 to \$1,000 administrative fine and suspension	(ff)(gg) \$1,000 to \$5,000 administrative fine and suspension to revocation
(gg)(hh) Section 475.42(1)(m), F.S. Fails to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year	(gg)(hh) \$250 to \$1,000 administrative fine and suspension	(gg)(hh) \$1,000 to \$5,000 administrative fine and suspension to revocation
(hh)(ii) Section 475.42(1)(n), F.S. Licensee fails to disclose all material aspects of the resale of timeshare period or timeshare plan and the rights and obligations of both buyer or seller	(hh)(ii) \$250 to \$1,000 administrative fine and suspension	(hh)(ii) \$1,000 to \$5,000 administrative fine and suspension to revocation
(ii)(jj) Section 475.42(1)(o), F.S. Publication of false or misleading information; promotion of sales, leases and rentals	(ii)(jj) \$250 to \$1,000 administrative fine and suspension to revocation	(ii)(jj) \$1,000 to \$5,000 administrative fine and suspension to revocation

(ll)(kk) Section 475.451, F.S. School teaching real estate practice fails to obtain a permit from the department and does not abide by regulations of Chapter 475, F.S., and rules adopted by the Commission	(ll)(kk) \$250 to \$1,000 administrative fine and suspension	(ll)(kk) \$1,000 to \$5,000 administrative fine and suspension to revocation
(kk)(hh) Section 475.453, F.S. Broker or sales associate participates in any rental information transaction that fails to follow the guidelines adopted by the Commission and Chapter 475, F.S.	(kk)(hh) \$250 to \$1,000 administrative fine and suspension	(kk)(hh) \$1,000 to \$5,000 administrative fine and 90-day suspension to revocation
(ll)(mm) Section 475.5015, F.S. Failure to keep and make available to the department such books, accounts, and records as will enable the department to determine whether the broker is in compliance with the provisions of this chapter	(ll)(mm) \$250 to \$1,000 administrative fine and suspension to revocation	(ll)(mm) \$1,000 to \$5,000 administrative fine and 90-day suspension to revocation
(mm)(nn) Section 455.227(1)(s), F.S. Failing to comply with the educational course requirements for domestic violence	(mm)(nn) \$250 to \$1,000 administrative fine and suspension to revocation	(mm)(nn) \$1,000 to \$5,000 administrative fine and suspension to revocation
(nn)(oo) Section 455.227(1)(t), F.S. Failing to report in writing to the Commission within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction.	(nn)(oo) \$250 to \$1,000 administrative fine and suspension to revocation	(nn)(oo) \$1,000 to \$5,000 administrative fine and suspension to revocation
(oo)(pp) Section 455.227(1)(u), F.S. Termination from a treatment program for impaired practitioners as described in Section 456.076 for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program	(oo)(pp) \$250 to \$1,000 administrative fine and suspension to revocation	(oo)(pp) \$1,000 to \$5,000 administrative fine and suspension to revocation

(4) through (6) No change.

Rulemaking Authority 455.2273, 475.05 FS. Law Implemented 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.453 FS. History—New 11-24-86, Amended 10-13-88, 4-20-89, 5-20-90, 12-29-91, 11-8-92, 6-28-93, Formerly 21V-24.001, Amended 11-16-93, 2-29-96, 12-30-97, 11-29-98, 1-18-00, 2-5-04, 1-30-06, 12-25-07, 7-21-10,_____.

61J2-24.002 Citation Authority.

(1) No change.

(2) The following violations with accompanying fine or other conditions may be disposed of by citation:

VIOLATION

FINE

- (a) Section 475.180(2)(a), F.S. – a ~~nonresident failed to file the required irrevocable consent form;~~ a resident licensee who failed to notify the Commission of becoming a nonresident as prescribed
- (b) through (jj) No change.
- (3) through (5) No change.

\$300.00

Rulemaking Authority 475.05 FS. Law Implemented 455.224, 475.25(1) FS. History—New 12-29-91, Amended 4-16-92, 1-20-93, 6-28-93, Formerly 21V-24.002, Amended 8-23-93, 4-7-94, 4-12-95, 7-5-95, 2-13-96, 6-5-96, 7-23-96, 1-22-97, 3-30-97, 11-10-97, 3-24-98, 7-1-98, 10-25-98, 1-19-99, 1-18-00, 10-15-00, 2-21-02, 2-5-04, 1-30-06, 7-20-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Commission
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Florida Real Estate Commission
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: July 17, 2012
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: June 29, 2012

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-13.004
 RULE TITLE: Continuing Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to update language concerning the requirements when renewing a license; to provide continuing education opportunities for participation as an examiner/grader for the National Board of Chiropractic Examiners.

SUMMARY: Language concerning requirements when renewing an inactive license will be updated; continuing education opportunities will be provided for participation as an examiner/grader for the National Board of Chiropractic Examiners.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 456.025(7), 460.408(3) FS.
 LAW IMPLEMENTED: 456.013(6), 456.025(7), 456.036(10), 460.408 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: Bruce Deterding, Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-13.004 Continuing Education.

(1) For the purpose of renewing ~~or reactivating~~ a license, an applicant must demonstrate to the Board that he or she participated in at least forty (40) classroom hours of continuing chiropractic education, ~~during all bienniums during which the license was inactive, or for purposes of renewal during the past two years, of which at least three hours shall be in the area of~~ with regard to risk management. With Two of these three risk management hours shall specifically relateing to the laws and rules of the board and the regulatory agency under which the Board operates. For the purpose of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing or eliminating identifiable risks. The laws and rules of the Board and the regulatory agency under which the Board operates include Chapters 456 and 460, F.S., and Rule Chapter 64B2, F.A.C.

(2) Only those classroom hours earned at Board approved continuing education courses or under the provisions of this rule are acceptable. ~~Beginning April 1, 2008, in addition to hours in risk management, S~~six (6) hours of the forty (40) shall be in the area of record keeping/documentation and coding; and two (2) hours of the forty (40) must be in the area of ethics and boundaries.

(3) through (4) No change.

(5) ~~Beginning April 1, 2008, W~~when attending an approved course, a licensee must provide a photo identification and sign in and out each time they enter or exit the meeting site and the licensee's attendance must be certified by the course's registrar and submitted to the Board as verification.

(6) through (13) No change.

(14) In addition to the continuing chiropractic education credits authorized above, any Florida licensee who participates as an examiner/grader for the National Board of Chiropractic Examiners (NBCE) shall receive seven (7) hours of general continuing chiropractic education for each examination administration in which he/she participates, up to a maximum of fourteen (14) hours per biennium.

~~(15)~~(14) No change.

Rulemaking Authority 456.025(7), 460.408(3) FS. Law Implemented 456.013(6), 456.025(7), 456.036(10), 460.408 FS. History—New 1-10-80, Amended 11-25-80, 1-13-82, Formerly 21D-13.04, Amended 6-22-86, 7-5-87, 1-25-88, 10-17-90, 10-15-92, Formerly 21D-13.004, Amended 10-26-93, Formerly 61F2-13.004, Amended 3-16-95, 7-18-95, 6-11-96, Formerly 59N-13.004, Amended 6-24-98, 8-4-99, 7-11-02, 11-30-03, 4-17-05, 11-14-06, 11-13-07, 7-1-09, 5-17-10, 8-22-11,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 22, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 20, 2012

DEPARTMENT OF HEALTH

**Board of Clinical Social Work, Marriage and Family
Therapy and Mental Health Counseling**

RULE NO.: 64B4-3.0035
RULE TITLE: Demonstrating Knowledge of Laws
and Rules for Licensure

PURPOSE AND EFFECT: The Board proposes the rule
amendment to clarify language concerning applicants’
submittal of continuing education to the Board.

SUMMARY: Language concerning applicants’ submittal of
continuing education to the Board will be clarified.

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: 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 Costs (SERC) was not necessary and
that the rule will not require ratification by the Legislature. No
person or interested party submitted additional information
regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 491.004(5) FS.

LAW IMPLEMENTED: 491.005(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE IS: Sue Foster, Executive Director, Board
of Clinical Social Work, Marriage and Family Therapy and
Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin
#C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-3.0035 Demonstrating Knowledge of Laws and
Rules for Licensure.

An applicant for licensure in Clinical Social Work, Marriage
and Family Therapy or Mental Health Counseling shall
demonstrate knowledge of the laws and rules for licensure in
the following manner:

(1) through (2) No change.

(3) Upon completion of the course, the applicant shall
receive a certificate of completion and submit a copy of the
original certificate of completion to the Board.

(4) through (6) No change.

Rulemaking Specific Authority 491.004(5) FS. Law Implemented
491.005(1)(e) FS. History–New 12-28-99, Amended 8-9-00,
10-16-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Social Work, Marriage and Family Therapy
and Mental Health Counseling

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Clinical Social Work, Marriage
and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: April 26, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 20, 2012

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NOS.: 64B15-19.007
64B15-19.008
RULE TITLES: Citations
Mediation

PURPOSE AND EFFECT: The proposed rule amendments are
intended to address additional violations which are appropriate
for mediation and violations which are appropriate for the
issuance of citations.

SUMMARY: The proposed rule amendments address
additional violations which are appropriate for mediation and
violations which are appropriate for the issuance of citations.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 456.073, 456.077, 456.078 FS.

LAW IMPLEMENTED: 456.073, 456.077, 456.078 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: 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 RULES IS:

64B15-19.007 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) No change.

(b) Failure to keep current mailing or practice address on file with the Board. The fine shall be \$250.

(c) No change.

(d) Failure First time failure of the licensee to satisfy continuing education hours. The fine shall be \$75 \$150 for each hour not completed or completed late. In addition, the licensee shall make up all hours not completed, and such hours shall not be counted toward the current renewal cycle shall be required to take 1 additional hour of continuing education for each hour not completed or completed late.

(e) through (h) No change.

(i) Failure to timely provide medical records, upon request to a of only one patient or a patient's legal representative. The fine shall be \$500.

(j) Charging Excessively charging copying fees for patient records in violation of as specified in Rule 64B15-15.003, F.A.C. The fine shall be \$750.

(k) through (o) No change.

(p) Failure to pay fine or costs imposed by Board Order within 30 days of the due date of the fine or costs. The fine shall be \$1,000.

(q) Negligently failing to file a report or record required by state or federal law. The fine shall be \$500.

(4) No change.

~~(5) Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected.~~

~~(5)(6) No change.~~

~~(7) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.225, F.S., shall apply.~~

Rulemaking Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History—New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00, 1-29-03, 7-13-03, 5-12-05, 4-15-10,_____.

64B15-19.008 Mediation.

(1) The provisions set forth in subsection (2) below shall qualify for mediation only when the violation can be remedied by the licensee and there is no intentional misconduct. “Mediation” means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and non-adversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) The Board board finds that the following offenses may be mediated if the offense meets the criteria of Section 456.078, F.S.:

(a) False, deceptive or misleading Section 459.015(1)(d), F.S., false advertising not involving intentional misconduct;

(b) Failure to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint; Section 459.015(1)(g), F.S., failure to perform a statutory or legal obligation, with regard to violation of medical director clinic responsibilities;

(c) Failure Section 459.015(1)(pp), F.S., violating any provision of this chapter or Chapter 456, F.S., or any rules adopted pursuant thereto, with regard to failure to provide, upon request, release patient records to a patient or a patient's legal representative;

(d) Negligently failing to file a report or record required by state or federal law; Section 459.015(1)(r), F.S., improper advertising of pharmacy; promoting or advertising on any prescription form of a community pharmacy unless the form shall also state “This prescription may be filled at any pharmacy of your choice.”

(e) Falsely certifying compliance with required continuing medical education hours for the purpose of renewing a license or certification; Section 459.015(1)(x), F.S., failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being

acceptable under similar conditions and circumstances, provided that it does not result in patient harm or the performance of any surgical procedure.

~~(f) Failure Section 459.015(1)(g), F.S., failure to perform any statutory or legal obligation placed upon a licensed osteopathic physician; through a violation of Section 456.072(1)(w), F.S., by failing to verify profile information or failure to comply with the requirements for profiling and credentialing;-~~

~~(g) Failure to notify the Department of change of practice or mailing address;~~

~~(h) Charging copying fees for patient records in violation of Rule 64B15-15.003, F.A.C.; and~~

~~(i) Failure to pay the fines or costs imposed by Board order.~~

~~(3) If a licensee is no longer eligible for mediation or if mediation fails, the above-referenced violations shall be eligible for the issuance of a citation pursuant to Rule 64B15-19.007, F.A.C.~~

~~Rulemaking Specific Authority 456.078 FS. Law Implemented 456.078 FS. History–New 11-30-94, Formerly 59W-19.008, Amended 5-3-05, 7-29-08,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 6, 2012

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.2032
RULE TITLE: Pharmacy Intern Registration Internship Requirements (U.S. Pharmacy Students/Graduates)

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove the requirement that a pharmacist may only supervise one intern.

SUMMARY: Due to the rule amendment, pharmacists may supervise more than one intern.

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: 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 Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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: 465.005 FS.

LAW IMPLEMENTED: 465.003(12), 465.007, 465.0075, 465.013 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: Mark Whitten, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.2032 Pharmacy Intern Registration Internship Requirements (U.S. Pharmacy Students/Graduates).

A U.S. pharmacy student or graduate is required to be registered with the Department of Health as an intern before being employed as an intern in a pharmacy in Florida.

(1) through (5) No change.

(6) An internship program at college or school of pharmacy accredited by the ACPE shall assure that community or institutional pharmacies utilized for the obtaining of internship experience meet the following minimum requirements:

(a) through (d) No change.

~~(e) No pharmacist may be responsible for the supervision of more than one intern at any one time.~~

(7) through (15) No change.

Rulemaking Authority 465.005 FS. Law Implemented 465.003(12), 465.007, 465.0075, 465.013 FS. History–New 4-1-07, Amended 7-7-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2012

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NOS.: RULE TITLES:
 65A-1.603 Food Assistance Program Income and Expenses
 65A-1.716 Income and Resource Criteria

PURPOSE AND EFFECT: The proposed rule amendment decreases the standard utility allowance, the basic utility allowance and the telephone standard used in the calculation of benefits for the Food Assistance Program and amends language for the Food Assistance Program standard utility allowance used in the Medicaid eligibility determination process.

SUMMARY: The amendment decreases Food Assistance Program standard utility allowances.

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: The Department considered the factors in Section 120.541, F.S. The proposed rule is not expected to exceed the criteria in paragraph 120.541(2)(a), F.S., therefore, legislative ratification is not required under subsection 120.541(3), 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: 409.919, 414.45 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919, 414.31 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: September 12, 2012, 1:30 p.m.
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Cindy Keil. 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: Cindy Keil, Economic Self-Sufficiency Program, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700, cindy_keil@dcf.state.fl.us, (850)717-4113

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.603 Food Assistance Program Income and Expenses.

- (1) No change.
- (2) Standard Utility Allowance. A standard utility allowance (SUA) of ~~\$338~~ ~~\$343~~ must be used by AGs who incur or within the eligibility ~~certification~~ period expect to incur heating or cooling expenses separate and apart from their rent or mortgage and by AGs who receive direct or indirect assistance authorized under the Low Income Home Energy Assistance Act of 1981. Actual utility expenses are not allowed. Any additional utility expenses, including the telephone standard, are not used.

(3) Basic Utility Allowance. A basic utility allowance (BUA) of ~~\$278~~ ~~\$284~~ must be used by AGs who do not incur heating or cooling expenses, but do incur utility expenses such as electricity, fuel, water, sewerage, or garbage pickup, separate and apart from their rent or mortgage. Actual utility expenses are not allowed. Any additional utility expenses, including the telephone standard, are not used.

(4) Telephone Standard. A telephone standard of ~~\$40~~ ~~\$43~~ must be used by AGs who incur only a telephone expense. Actual telephone expenses are not allowed. Any additional utility expenses, including the SUA or BUA, are not used.

- (5) No change.

Rulemaking Authority 414.45 FS. Law Implemented 414.31 FS. History—New 1-31-94, Formerly 10C-1.603, Amended 1-12-99, 5-25-03, 8-22-05, 2-17-09, 12-13-09, 11-1-10, 12-25-11, _____.

65A-1.716 Income and Resource Criteria.

- (1) through (5)(c)3. No change.
- 4. Food Assistance Program Standard Utility Allowance. ~~The amount specified in Rule 65A-1.603, F.A.C. \$343.~~
- 5. through (e) No change.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History—New 10-8-97, Amended 12-9-99, 2-15-01, 11-25-01, 7-28-02, 4-1-03, 9-10-03, 8-30-04, 8-10-06, 4-15-12, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeri Flora

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David E. Wilkins

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 13, 2012

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE NOS.: 65E-20.010 65E-20.011	RULE TITLES: Transportation Receipt of Commitment Orders and Required Documentation
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PURPOSE AND EFFECT: This purpose of this rulemaking activity is to update two rules in this Chapter to reflect current standards.

SUMMARY: Rule 65E-20.010, F.A.C., will be amended to update standards on the transportation of residents in state mental health treatment facilities. This driver’s license required by employees providing transportation will be aligned to current Florida licensure classifications. This rule will also be amended to permit transportation of forensic clients residing in civil mental health treatment facilities in the same vehicle as non-forensic residents, thereby reducing costs on the facility without loss of safety for the residents. Rule 65E-20.011, F.A.C., will be amended to update contact information for the Forensic Admission Coordinator in the Program Office and the Mentally Retarded Defendants program at Florida State Hospital.

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: 916.1093(2) FS.

LAW IMPLEMENTED: 916.107(10) 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 D. McCoy, Ph.D., ABPS, Psychological Services Director, 1317 Winewood Boulevard, Building 6, Room 219, Tallahassee, Florida 32399-0700

THE FULL TEXT OF THE PROPOSED RULE IS:

65E-20.010 Transportation.

(1) No change.

(2) All transportation provided shall be consistent with the needs of clients and the condition of clients being transported, as specified by the sending facility. Any company contracting with the governing board of a county to transport forensic

clients shall comply with requirements to ensure the safety and dignity of the client. Such requirements shall be specified in the contract and shall include, but not be limited to the following:

(a) All transport vehicles will be equipped with a type 1A10BC fire extinguisher, seat belts, and two-way communication radio.

(b) Staff having the responsibility for transporting clients shall be trained, experienced, and otherwise qualified to transport mentally ill persons. This training shall include, but not be limited to, the training approved by the department for law enforcement officers involved with the care and handling of clients under Chapter 394, F.S.

(c) A minimum of two staff members shall be used in the transporting of clients.

(d) Staff members transporting forensic clients shall not wear firearms in the vehicle.

(e) The length of time for transporting clients shall not exceed 12 hours per day.

(f) Rest stops shall be made at regular intervals during the transporting of clients.

(g) Clients shall be dressed in appropriate seasonal attire.

(h) Nutritious meals shall be provided at appropriate times during the transporting of clients.

(i) Physical restraints, such as canvas cuffs, shall be used only when necessary to protect the clients from injury to themselves or others.

(j) All staff members who accompany clients shall have knowledge of techniques in handling volatile clients.

(k) Any driver of a vehicle used in transporting mental health clients shall have a valid Florida Class E (non-commercial) chauffeur’s license when operating a vehicle designed to transport 15 or fewer individuals including the driver. The Class C commercial license will be needed when operating a vehicle with a Gross Vehicle Weight Rating of less than 26,001 pounds designed to transport more than 15 persons including the driver. When passengers are transported in a vehicle with a Gross Vehicle Weight Rating of 26,001 pounds or more a Class B commercial license with a Passenger endorsement will be needed. All drivers will be responsible for ensuring they have the appropriate licenses and endorsements.

(l) Any vehicle used in transporting clients shall be maintained and operated in accordance with Chapter 916, F.S., and in a manner that protects the clients’ rights, dignity, and physical safety.

(m) The number of persons in any vehicle used in transporting clients shall not exceed the manufacturer’s recommended seating capacity.

(n) Any unusual incidents occurring during the client transport process shall be reported immediately upon arrival at the treatment facility to the sheriff’s department, an originating receiving or treatment facility, if applicable, and the governing board of the county.

(o) The transport company shall ensure the confidentiality of the transport record.

(p) Civil patients committed under Part I of Chapter 394, F.S., and forensic clients committed under Chapter 916, F.S., who are assigned to reside in secure facilities, shall be transported separately. Forensic clients who reside in civil facilities may be transported with civil patients.

Rulemaking Specific Authority 916.1093(2) FS. Law Implemented 916.107(10) FS. History—New 9-29-86, Amended 7-1-96, Formerly 10E-20.010, Amended 9-29-98,_____.

65E-20.011 Receipt of Commitment Orders and Required Documentation.

(1) Commitment orders pertaining to any person committed to the Department of Children and Family Services pursuant to the provisions of Chapter 916, F.S., shall be sent to the Department of Children and Family Services for review and determination of an appropriate facility placement for the client. The order shall be accompanied by documentation specified in Florida Rules of Criminal Procedure 3.212 and 3.217. The complete commitment package shall be mailed to one of the following addresses:

For mentally ill forensic clients:

Forensic Admission Coordinator,
Mental Health Program Office
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
(850)487-3471 (850)487-2920, SC 277-2920

For mentally retarded forensic clients:

Mentally Retarded Defendant Program
P. O. Box 1000
Chattahoochee, FL 32324
(850)663-7512 (805)663-7373

Upon receipt of each commitment package the department shall review the package for completeness.

(a) If complete, the date of receipt shall be recorded. The statutory 15 day period set forth in Section 916.107(1)(a), F.S. (1985), will commence on this day.

(b) If the package is incomplete the appropriate authority will be notified of the missing items, and advised that the official date of receipt of the commitment package will be delayed until all missing items are received.

(2) through (4) No change.

Rulemaking Specific Authority 916.1093(2) FS. Law Implemented 916.13, 916.15 FS. History—New 9-29-86, Amended 7-1-96, Formerly 10E-20.011, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sally Cunningham, Director, Mental Health Treatment Facilities, 1317 Winewood Boulevard, Building 6, Room 224, Tallahassee, Florida 32399-0700

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Wilkins, Secretary, Department of Children and Families, 1317 Winewood Boulevard, Building 1, Room 202, Tallahassee, Florida 32399-0700

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2012

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-59.001	Purpose and Intent
67-59.005	Definitions
67-59.010	Programs
67-59.020	Eligibility for UMAP or UMAP/MLRP
67-59.030	Eligibility for MLRP Only
67-59.040	Application
67-59.050	Form of Assistance
67-59.060	Partial Payment
67-59.070	Quarterly Reviews

PURPOSE AND EFFECT: The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall develop eligibility criteria, administer the Application process, determine loan amounts and make mortgage loans for existing homeowners. The Rule Development workshop will be held to receive comments and suggestions from persons relative to the development of eligibility and program requirements for the Hardest Hit Fund Program.

SUMMARY: Florida Housing Finance Corporation (“Florida Housing” or “Corporation”) received Hardest Hit Funds from the United States Department of Treasury to create and administer foreclosure prevention assistance programs that address the unique issues of the state of Florida.

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: 420.507(33) FS.

LAW IMPLEMENTED: 420.507(33) FS.

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

DATE AND TIME: September 14, 2012, 10:00 a.m.

PLACE: Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301. The hearing will be accessible via phone at 1(888)808-6959, Conference Code #9884197.

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: Blake Carson-Polston, (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David R. Westcott, Director of Homeownership Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-59.001 Purpose and Intent.

In 2010, the United States Department of the Treasury (“US Treasury”) created the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets (“Hardest Hit Fund”) and allocated funds under the Emergency Economic Stabilization Act of 2008 (“EESA”) to Florida and other states. Florida Housing was directed by US Treasury to create and administer foreclosure prevention assistance programs and to use a portion of these funds specifically for targeted unemployment programs that provide temporary assistance to eligible homeowners. Florida Housing’s use of these funds is governed by written agreements with US Treasury. The Agreements, FHHF-01, Rev 7/12, are hereby adopted and incorporated by reference. Copies may be obtained at no cost, by contacting Florida Housing, HHF program at (850)488-4197.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.005 Definitions.

(1) “Applicant” means a person who has applied for Hardest Hit Fund assistance.

(2) “Florida Housing” means the Florida Housing Finance Corporation as defined in Section 420.503, Florida Statutes.

(3) “Hardest Hit Fund” means the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets as established by the US Treasury.

(4) “Programs” mean the Unemployment Mortgage Assistance Program (UMAP) and the Mortgage Loan Reinstatement Program (MLRP) created under the Hardest Hit Fund.

(5) “US Treasury” means the United States Department of the Treasury.

(6) “Unencumbered Assets” means assets including savings, checking and money market accounts, certificates of deposit, stocks, bonds, mutual funds, taxable investment accounts and cash, but does not include qualified retirement accounts such as an IRA, 401(k), 403(b) and 457 and Keough Accounts. It also does not include qualified education accounts such as a Florida Prepaid College Plan, 529 accounts and Coverdell Education Savings Accounts.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.010 Programs.

The following Programs are available under the Hardest Hit Fund:

(1) Unemployment Mortgage Assistance Program (UMAP) will provide up to the lesser of 12 months or \$24,000 in payments to the mortgage servicer to assist eligible unemployed or underemployed Applicants with their first mortgage until they can resume payments on their own.

(2) Mortgage Loan Reinstatement Payment (MLRP) Program will provide up to \$25,000 (\$18,000 when used in conjunction with UMAP) towards mortgage arrearages for eligible Applicants.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.020 Eligibility for UMAP or UMAP/MLRP.

To be eligible for assistance under the UMAP Program or the MLRP Program when used in conjunction with the UMAP Program:

(1) The Applicant must document that he or she is a borrower or co-borrower on the mortgage loan and document that he or she:

(a) Has suffered a temporary employment-related hardship through no fault of his or her own;

(b) Is a Florida resident;

(c) Occupies the property as his or her primary residence;

(d) Has a total household income, adjusted for household size, that is below 140% of the county area median income. The Area Median Income List, AMI-01, Rev. 7/12, for counties in Florida is hereby adopted and incorporated by reference. Copies may be obtained at no cost, by contacting Florida Housing, HHF program at (850)488-4197.

(e) Does not have Unencumbered Assets in excess of \$5,000 or three times the amount of their monthly payment of principal, interest, taxes, insurance and association dues (PITIA), whichever is greater;

(f) Has a total monthly housing debt greater than 31% of the gross monthly household income;

(g) Does not have a bankruptcy that has not been discharged or dismissed;

(h) Has not been convicted of a mortgage related felony in the last ten years; and

(i) Does not own more than one property other than their primary residence.

(2) The Applicant must document that his or her primary residence:

(a) Is located in Florida;

(b) Is a single family home, a townhouse, a condominium where financial reporting for the condominium association, pursuant to Section 718.111(13), F.S., for the most recent two years is provided by the Applicant, a 1 to 4 family home where the owner occupies one unit or a mobile or manufactured home on a permanent foundation;

(c) Is not abandoned, vacant or condemned;

(d) Is not the subject of any pending litigation, except for a mortgage foreclosure action by the first mortgage servicer.

(3) The Applicant must document that the mortgage loan for his or her primary residence:

(a) Is serviced by a regulated financial institution, Habitat for Humanity, the United States Department of Agriculture or other servicer whose servicing activities are regulated by the State of Florida or the United States Government;

(b) Has an outstanding principal balance that does not exceed \$400,000; and

(c) Is in first lien position.

(4) Procedures for determining eligibility are detailed in the Florida Hardest Hit Fund Procedures Manual, HHFM-01, Rev. 6/12, which is hereby adopted and incorporated by reference. Copies may be obtained at no cost, by contacting Florida Housing, HHF program at (850)488-4197.

(5) Should it be determined at any time that an Applicant has provided false or misleading information in an attempt to improperly obtain Hardest Hit Fund assistance, the Applicant will be deemed ineligible for all Programs and the matter will be referred to the US Treasury and other authorities, as appropriate.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History—New _____.

67-59.030 Eligibility for MLRP Only.

To be eligible for assistance under the MLRP Program:

(1) The Applicant must document that he or she is a borrower or co-borrower on the mortgage loan and document that he or she:

(a) Has suffered a temporary employment-related hardship through no fault of his or her own, from which he or she has now recovered;

(b) Is a Florida resident;

(c) Occupies the property as his or her primary residence;

(d) Has a total household income, adjusted for household size, that is below 140% of the county area median income. The Area Median Income List, AMI-01, Rev. 7/12, for counties in Florida is hereby adopted and incorporated by reference. Copies may be obtained at no cost, by contacting Florida Housing, HHF program at (850)488-4197.

(e) Does not have Unencumbered Assets in excess of \$5,000 or three times the amount of their monthly payment of principal, interest, taxes, insurance and association dues (PITIA), whichever is greater;

(f) Has a total monthly housing debt less than 31% of the gross monthly household income;

(g) Does not have a bankruptcy that has not been discharged or dismissed;

(h) Has not been convicted of a mortgage related felony in the last ten years; and

(i) Does not own more than one property other than their primary residence.

(2) The Applicant must document that the property:

(a) Is located in Florida;

(b) Is a single family home, a townhouse, a condominium where financial reporting for the condominium association, pursuant to Section 718.111(13), F.S., for the most recent two years is provided by the Applicant, a 1 to 4 family home where the owner occupies one unit or a mobile or manufactured home on a permanent foundation;

(c) Is not abandoned, vacant or condemned;

(d) Is not the subject of any pending litigation, except for a mortgage foreclosure action by the first mortgage servicer.

(3) The Applicant must document that the mortgage loan:

(a) Is serviced by a regulated financial institution, Habitat for Humanity, the United States Department of Agriculture or other servicer whose servicing activities are regulated by the State of Florida or the United States Government;

(b) Has an outstanding principal balance that does not exceed \$400,000; and

(c) Is in first lien position.

(4) Procedures for determining eligibility are detailed in the Florida Hardest Hit Fund Procedures Manual, HHFM-01, Rev. 6/12, which is hereby adopted and incorporated by reference. Copies may be obtained at no cost, by contacting Florida Housing, HHF program at (850)488-4197.

(5) Should it be determined at any time that an Applicant has provided false or misleading information in an attempt to improperly obtain Hardest Hit Fund assistance, the Applicant will be deemed ineligible for all Programs and the matter will be referred to the US Treasury and other authorities, as appropriate.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History—New _____.

67-59.040 Application.

(1) Applicants may apply online at www.flhardesthithelp.org. Applicants without internet access may call 1(877)863-5244 for assistance.

(2) Applicants will be assigned to a Florida Housing-approved third party advisor agency that will work with the Applicant and collect the information necessary to make a preliminary eligibility determination.

(3) An Applicant whom an advisor agency determines to be preliminarily eligible for one or more Programs will be submitted to Florida Housing for review and underwriting of the preliminary determination of eligibility.

(4) An Applicant deemed ineligible will be issued a letter specifying the reason(s) for ineligibility and provided information on how to dispute the determination.

(5) Upon confirmation of the preliminary determination that an Applicant has met the eligibility criteria, Florida Housing will offer to make payments to the Applicants mortgage servicer pursuant to the terms of the applicable Program. Should the Applicant’s mortgage servicer decline to participate in the Hardest Hit Fund Programs or decline to accept payments on the Applicant’s loan, then Florida Housing will be unable to provide any assistance to the Applicant. Applicants will be notified if they have been declined by their mortgage servicer.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.050 Form of Assistance.

(1) Eligible Applicants who have not been declined by their mortgage servicer will receive assistance under the applicable Program(s) in the form of a forgivable loan. Applicants must execute Hardest Hit Fund loan documents before any assistance is provided. Assistance will be paid by Florida Housing directly to the Applicant’s mortgage servicer.

(2) The assistance provided will be in the form of a 0% interest, non-recourse, deferred payment, forgivable loan. The loan will be forgiven over a five year period, starting at month 18, at a rate of 20% per year. If the home is sold or refinanced prior to the maturity date and there are sufficient funds to the Applicant out of the transaction, then the balance of the loan that has not been forgiven must be repaid.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.060 Partial Payment.

(1) Eligible Applicants who receive assistance under the UMAP Program will be required to make a partial monthly payment of 25% of their monthly household income towards their mortgage during the period of assistance.

(2) Applicants must have an active deposit account that is capable of being electronically debited by Florida Housing for the partial payment amount. Applicants must execute the documents allowing for such debit at the time of their Hardest Hit Fund loan closing.

(3) Should Applicant fail to make the partial payment as required, Florida Housing will terminate Applicant’s participation in the Program.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

67-59.070 Quarterly Reviews.

(1) Eligible Applicants who receive assistance under the UMAP Program will be required to certify on a quarterly basis that they are still eligible for UMAP assistance and provide all necessary documentation.

(2) Should Applicant fail to provide all of the information necessary to verify his or her continued eligibility in the UMAP Program, Florida Housing will terminate Applicant’s participation in the Program.

Rulemaking Authority 420.507(33) FS. Law Implemented 420.507(33) FS. History–New _____.

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NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Len Tylka, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 37, No. 51, December 22, 2011

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

DEPARTMENT OF STATE

RULE NOS.:	RULE TITLES:
1-1.008	Rule Numbering and Rule Titles
1-1.009	Definitions
1-1.010	Style and Form for Filing Rules; Certification Accompanying Materials
1-1.011	Publication of Notices in the Florida Administrative Register (FAR)