



**PAM BONDI**  
**ATTORNEY GENERAL**  
**STATE OF FLORIDA**

OFFICE OF THE ATTORNEY GENERAL  
Administrative Law

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JAN 28 2014

Florida Board of Pharmacy

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## MEMORANDUM

**TO:** Tammy Collins, Acting Executive Director  
Board of Pharmacy

**FROM:** Michele Bass, Paralegal Specialist 

**RE:** Rule 64B16-30.001

**DATE:** January 24, 2013

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We are pleased to inform you that the above-referenced rule was filed for adoption on January 16, 2014, and will become effective February 5, 2014. Attached is a copy of the rule for your records.

Enclosure

cc: Jennifer Tschetter, General Counsel

CERTIFICATION OF  
BOARD OF PHARMACY ADMINISTRATIVE RULES  
FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

(a) Are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after the subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

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[ ] (g) Are filed not more than 90 days after the notice, not including the days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

[ ] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business regulatory advisory committee.

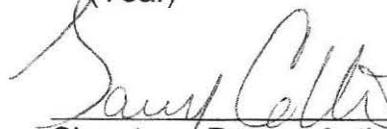
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

64B16-30.001

Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(Month) (Day) (Year)

  
\_\_\_\_\_  
Signature, Person Authorized  
To Certify Rules

Executive Director  
Title

35  
Number of Pages Certified

DEPARTMENT OF HEALTH

BOARD OF PHARMACY

ADDITIONAL STATEMENT TO THE SECRETARY OF STATE

RULE NO.:  
64B16-30.001

RULE TITLE:  
Disciplinary Guidelines; Range of  
Penalties; Aggravating and  
Mitigating Circumstances.

SUMMARY: The Board proposed the rule amendments to clarify language, to update existing penalties and to set forth additional violations and appropriate penalties.

SUMMARY OF THE HEARING ON THE RULE:

No timely request for a hearing was received and no hearing was held.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING RULE PROPOSAL:

The proposed rule amendments are necessary to clarify language, to update existing penalties, and to set forth additional violations and appropriate penalties in regard to disciplinary guidelines.

(Substantial rewrite of rule-See FAC for current text)

Rule 64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 465 or Section 828.055, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465 or Section 828.055, F.S. The term license means any permit, registration, certificate, or license, including a provisional license, issued by the Department. Penalty ranges are shown as minimum and maximum guidelines as well as for first time single count violations and for multiple or repeated violations of the same provision of Chapter 465, F.S., or the rules promulgated thereunder. If an actual range of penalties is not provided, the listed penalty shall be the guideline penalty for the violation(s) unless aggravating or mitigating factors are shown. All penalties at the upper range of the sanctions set forth in the guidelines, e.g., suspension, revocation, etc., include lesser penalties, e.g., fine, continuing education, probation, or reprimand, which may be included in the final penalty at the board’s discretion. Probation may be subject to conditions, including restriction from practice in certain settings, restricting the licensee to working only under designated conditions or in certain settings, requiring continuing or remedial education, or any other restriction found to be necessary for the protection of the public health, safety, and welfare. In addition to any other discipline imposed under these guidelines, the board shall assess costs relating to the investigation and prosecution of the case.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules. For the purposes of this rule, the descriptions of the violations are abbreviated and the full statute or rule cited should be consulted to determine the prohibited conduct.

	<u>PENALTY RANGE</u>	
<u>VIOLATION</u>	<u>MINIMUM, INCLUDING</u>	<u>MAXIMUM, INCLUDING</u>
	<u>FIRST TIME OR SINGLE</u>	<u>MULTIPLE OR</u>
	<u>COUNT VIOLATIONS</u>	<u>REPEATED VIOLATIONS</u>
		<u>OF THE SAME</u>
		<u>PROVISION</u>

(a) Obtaining a license or permit by misrepresentation, fraud, or error (Section 465.016(1)(a), F.S.) (Section 465.023(1)(a), F.S.)

1. By negligent misrepresentation on original application or renewal

\$1,000 fine and 12 hour Laws and Rules course or MPJE and 3 hour ethics course

\$5,000 fine and one (1) year suspension, to Revocation

2. By fraudulent misrepresentation on original application or renewal

\$10,000 fine for each count and Revocation

\$10,000 fine for each count and Revocation

3. By error of the Department or Board on original application or renewal

Revocation

Revocation

(b) Procuring or attempting to procure a license or permit for another person by false representation.

\$10,000 fine for each count and Revocation

\$10,000 fine for each count and Revocation

(Section 465.016(1)(b), F.S.) (Section 465.023(1)(b), F.S.)

(c) Permitting any unlicensed persons, including owner or operator of pharmacy, to practice pharmacy. (Section 465.016(1)(c), F.S.)

\$2,500 fine and 12 hour Laws & Rules course or Multistate Pharmacy Jurisprudence Exam (MPJE)

\$5,000 to \$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation

(d) Being unfit or incompetent to practice pharmacy by reason of habitual intoxication, medicinal drug abuse, or physical or mental condition that threatens public safety.  
(Section 465.016(1)(d), (m), F.S.)

\$250 fine, indefinite suspension with PRN review and board appearance

Revocation

(e) Violating laws governing the practice of pharmacy.  
(Section 465.016(1)(e), F.S.)  
(Section 465.023(1)(c), F.S.)

1. Chapter 465, F.S.:

a. Failure to supervise registered pharmacy technician.  
(Section 465.014, F.S.)

\$250 fine and one (1) year probation and 12 hour Laws and Rules course or MPJE

\$1000 fine and one (1) year suspension followed by one (1) year probation, to Revocation

b. Operating a pharmacy that is not registered.  
(Section 465.015(1)(a), F.S.)

\$500 fine per month to maximum of \$5,000 (penalty will require permittee to renew permit or cease practice)

\$10,000 fine (penalty will require permittee to renew permit or cease practice), to Revocation

<p><u>c. Operating a pharmacy where an unlicensed, unregistered, or unsupervised person practices pharmacy.</u> (Section 465.015(1)(b), F.S.)</p>	<p><u>\$5,000 fine and one (1) year probation</u></p>	<p><u>\$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u></p>
<p><u>d. Making a false or fraudulent statement to the board.</u> (Section 465.015(2)(a), F.S.)</p>	<p><u>\$10,000 fine</u></p>	<p><u>\$10,000 fine and Revocation</u></p>
<p><u>e. Practicing pharmacy as an inactive licensee.</u> (Section 465.015(2)(b), F.S.)</p>	<p><u>Fine based on length of time in practice while inactive: \$500 fine per month</u></p>	<p><u>\$10,000 fine and two (2) years suspension, to Revocation</u></p>
<p><u>f. Selling or dispensing drugs without a prescription.</u> (Section 465.015(2)(c), F.S.)</p>		
<p><u>(I) Non-scheduled legend drugs.</u></p>	<p><u>\$1,500 fine</u></p>	<p><u>\$5,000 fine and one (1) year probation, to Revocation</u></p>
<p><u>(II) Scheduled (controlled substances) legend drugs.</u></p>	<p><u>\$5,000 fine and (1) year probation</u></p>	<p><u>\$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u></p>

g. Selling samples or complimentary drugs.

(Section 465.015(2)(d), F.S.)

(I) Non-scheduled legend drugs.

\$1,500 fine and (1) year probation

\$5,000 fine and one (1) year probation, to Revocation

(II) Scheduled (controlled substances) legend drugs.

\$5,000 fine and one (1) year probation

\$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation

h. Failure to notify the board of, or failure to have, a prescription department manager or a supervising, a responsible, or a consultant pharmacist.

(Sections 465.018, .019, .0193, .0196, or .0197, F.S. and 465.022(10), (11), F.S.)

(I) Failure to notify.

(Section 465.018, F.S.)

Fine based on length of time prior to notifying board. \$500 per month

\$7,500 maximum (penalty requires notification or ceasing practice)

(II) Failure to have prescription department manager or a supervising, a responsible, or a consultant pharmacist of record.

Fine based on length of time practicing without designated pharmacist, \$750 fine per month and one (1)

\$2,000 fine per month, to Revocation

	<u>year probation</u>	
<u>i. Failure to comply with substitution of legend drug requirements.</u> (Sections 465.025(2), (3), (4), F.S.)	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$2,500 fine, 12 hour Laws &amp; Rules course or MPJE, and one (1) year probation</u>
<u>j. Failure to follow negative formulary requirements.</u> (Section 465.025(6), F.S.) (Rule 64B16-27.500, F.A.C.)	<u>\$1,000 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$2,500 fine, 12 hour Laws &amp; Rules course or MPJE, and one (1) year probation</u>
<u>k. Failure to follow emergency prescription requirements.</u> (Section 465.0275, F.S.)	<u>\$500 fine</u>	<u>\$1,000 fine and one (1) year probation</u>
<u>l. Engage in prohibited rebate scheme.</u> (Section 465.185, F.S.)	<u>\$1,500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine, 12 hour Laws &amp; Rules course or MPJE, and one (1) year probation, to <u>Revocation</u></u>
<u>m. Failure to comply with pharmacist dispensing requirements.</u> (Section 465.186, F.S.)		
<u>(I) Failure to follow procedure, but dispense drug appearing on formulary.</u> (Section 465.186(3), F.S.) (Rule 64B16-27.210, F.A.C.)	<u>\$500 fine</u>	<u>\$1000 fine and one (1) year probation to suspension of right to dispense</u>

<p><u>(II) Dispensing drug not on the formulary.</u>  <u>(Section 465.186(2), F.S.)</u>  <u>(Rules 64B16-27.220, .230, F.A.C.)</u></p>	<p><u>\$1,500 fine and 12 hour Laws &amp; Rules course or MPJE</u></p>	<p><u>\$5,000 fine and one (1) year probation to \$10,000 fine and Revocation</u></p>
<p><u>n. Failure to timely report fraudulent obtaining or attempted obtaining of controlled substances from a pharmacy.</u>  <u>(Section 465.015(3), F.S.)</u></p>		
<p><u>(I) Failure to timely report</u></p>	<p><u>\$500 fine</u></p>	<p><u>\$1,000 fine and one (1) year probation</u></p>
<p><u>(II) Failure to report</u></p>	<p><u>\$1,000 fine and one (1) year probation</u></p>	<p><u>\$5,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u></p>
<p><u>o. Violation of facsimile prescription requirements</u>  <u>(Section 465.035, F.S.)</u></p>	<p><u>\$500 fine</u></p>	<p><u>\$1,000 fine and one (1) year probation</u></p>
<p><u>p. Violation of requirements for administration of vaccines and epinephrine autoinjection.</u>  <u>(Section 465.189, F.S.)</u>  <u>(Section 465.009(6)(a), F.S.)</u></p>		

<u>(I) Failure to enter into a written protocol.</u>	<u>\$2,500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and one (1) year probation</u>
<u>(II) Failure to maintain proper insurance.</u>	<u>\$500 fine and suspension until insured</u>	<u>\$1,000 fine, suspension until insured, followed by one (1) year probation</u>
<u>(III) Failure to maintain and make available patient records.</u>	<u>\$500 fine</u>	<u>\$1,000 fine and one (1) year probation</u>
<u>(IV) Uncertified administration of vaccine.</u>	<u>\$5,000 fine and suspension until certified</u>	<u>\$7,500 fine and suspension until certified, followed by one (1) year probation, to Revocation</u>
<u>(V) Failure to submit copy of protocol or written agreement to the board.</u>	<u>\$500 fine</u>	<u>\$1,000 fine and one (1) year probation</u>

2. Chapter 499, F.S.:

a. Adulteration or misbranding of a drug.

(Section 499.005(2), (3), F.S.)

(Section 499.006, F.S.) (Section 499.007, F.S.)

(I) Adulteration of a drug.  
(Section 499.005(2) F.S.)  
(Section 499.006, F.S.)

\$1000 fine and 12 hour  
Laws & Rules course or  
MPJE

\$5,000 fine and one (1) year  
suspension followed by one  
(1) year probation, to  
Revocation

(II) Receipt or delivery of any drug  
that is adulterated or misbranded.  
(Section 499.005 (3), F.S.)

\$1000 fine and 12 hour  
Laws & Rules course or  
MPJE

\$5,000 fine and one (1) year  
probation, to Revocation

(III) Incomplete or inaccurate  
labeling.  
(Section 499.007, F.S.)  
(Rule 64B16-28.108, F.A.C.)

\$250 fine and 12 hour Laws  
& Rules course or MPJE

\$2,500 fine and one (1) year  
probation

(IV) Fraudulent misbranding of  
legend drugs.  
(Section 499.007, F.S.)

\$10,000 fine and one (1)  
year suspension followed by  
one (1) year probation

\$10,000 fine and two (2)  
years suspension followed  
by two (2) years probation,  
to Revocation

b. Failure to obtain a permit or  
registration, or operating without a  
valid permit when it is required.  
(Section 499.005(22), F.S.)

\$500 fine per month to  
maximum of \$5,000  
(penalty will require  
permittee to renew permit or

\$10,000 fine (penalty will  
require permittee to renew  
permit or cease practice), to  
Revocation

cease practice)

<u>c. Prescription drug pedigree violations.</u> <u>(Section 499.005(28), F.S.)</u> <u>(Section 499.0051, F.S.)</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>d. Recordkeeping requirement.</u> <u>(Section 499.0121, F.S.)</u> <u>(Section 499.005(18), (19), F.S.)</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>e. Storage of drugs.</u> <u>(Section 499.0121, F.S.)</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>3. Chapter 893, F.S.</u> <u>(Controlled Substances):</u>		
<u>a. Filling a written or oral prescription for controlled substances that does not meet the requirements of Chapter 893.F.S.</u> <u>(Section 893.04(1)(a), (b), (c), F.S.)</u>	<u>\$1,500 fine</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>b. Failing to retain prescription records for two (2) years.</u> <u>(Section 893.04(1)(d), F.S.)</u>	<u>\$1,000 fine</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>c. Failing to appropriately label.</u> <u>(Section 893.04(1)(e), F.S.)</u>	<u>\$250 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$2,500 fine and (1) year probation</u>
<u>d. Dispensing a Schedule II drug</u>	<u>\$5,000 fine and one (1) year</u>	<u>\$10,000 fine and one (1)</u>

<u>inappropriately with a non-written prescription.</u> <u>(Section 893.04(1)(f), F.S.)</u>	<u>probation</u>	<u>year suspension followed by one (1) year probation, to Revocation</u>
<u>e. Inappropriate refilling of Schedule III, IV, or V drugs.</u> <u>(Section 893.04(1)(g), F.S.)</u> <u>(Section 893.04(2)(e), F.S.)</u>	<u>\$1,750 fine and one (1) year probation</u>	<u>\$5,000 fine and one (1) year suspension</u>
<u>f. Receiving controlled substances without an appropriate order form.</u> <u>(Section 893.06(1), F.S.)</u>	<u>\$2,500 fine</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>g. Possession of controlled substances outside the regular course of business, occupation, profession, employment, or duty.</u> <u>(Section 893.06(2), F.S.)</u>	<u>\$2,500 fine and one (1) year probation</u>	<u>\$5,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u>
<u>h. Failure to take a biennial inventory.</u> <u>(Section 893.07(1)(a), (2), (3), (4), (5), F.S.)</u>	<u>\$1,000 fine</u>	<u>\$2,500 fine and one (1) year probation</u>
<u>i. Failure to maintain a complete and accurate record of controlled substances.</u> <u>(Section 893.07(1)(b), (2), (3), (4), (5), F.S.)</u>	<u>\$1,000 fine and one (1) year probation</u>	<u>\$5,000 fine and two (2) years probation, to Revocation</u>

<u>j. Dispensing Schedule V controlled substances in other than good faith.</u> (Section 893.08(3)(b), F.S.)	<u>\$5,000 fine and one (1) year probation</u>	<u>\$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u>
<u>k. Inappropriate selling of Schedule V controlled substance.</u> (Section 893.08(3)(c), F.S.)	<u>\$1,500 fine and one (1) year probation</u>	<u>\$5,000 fine and one (1) year suspension</u>
<u>l. Unlawful possession of controlled substance.</u> (Section 893.13, F.S.)	<u>\$5,000 fine and two (2) years probation</u>	<u>\$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
<u>4. Violation of Federal Drug Abuse Act 21 U.S.C. 821 et seq. (Manufacture, Distribution, and Dispensing of Controlled Substances)</u>	<u>\$500 fine and one (1) year probation</u>	<u>\$2,000 fine up to \$10,000 and one (1) year suspension followed by two (2) years probation, to Revocation</u>
<u>5. Violation of Food and Drug Act 21 U.S.C. 301 – 392.</u>	<u>\$2,500 fine and one (1) year suspension</u>	<u>\$7,500 fine and two (2) years suspension followed by two (2) years probation, to Revocation</u>
<u>(f) Criminal conviction related to Pharmacy.</u> (Section 465.016(1)(f), F.S.) (Section 465.023(1)(d))		

1. <u>Misdemeanor.</u>	<u>\$1,000 fine</u>	<u>\$5,000 fine, one (1) year probation, to Revocation</u>
2. <u>Felony.</u>	<u>\$5,000 fine and one (1) year suspension followed by two (2) years probation</u>	<u>\$10,000 fine and two (2) years suspension followed by three (3) years probation, to Revocation</u>
<p><u>(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in Section 465.019(6), F.S. or Section 465.025, F.S.,</u></p>	<p><u>\$250 fine without ingestion or harm, to \$500 with ingestion, and complete approved CE course in the prevention of medication errors of no less than eight (8) hours</u></p>	<p><u>\$500 fine without ingestion or harm, to \$1,000 with ingestion, complete approved CE course in the prevention of medication errors of no less than eight (8) hours, and two (2) years probation, to Revocation</u></p>
<p><u>(Section 465.016(1)(g), F.S.);</u> <u>or, compounding, dispensing or distributing legend drugs outside professional practice of pharmacy.</u></p>		
<p><u>(Section 465.016(1)(i), F.S.)</u></p>		
<p><u>(h) Filing a false report or failing to file a report required by law.</u> <u>(Section 465.016(1)(j), F.S.)</u></p>		
1. <u>Knowing violation.</u>	<u>\$10,000 fine and one (1) year probation</u>	<u>\$10,000 fine and one (1) year suspension followed by</u>

		<u>two (2) years probation, to Revocation</u>
<u>2. Negligent violation.</u>	<u>Reprimand</u>	<u>One (1) year probation and \$1,000 fine</u>
<u>(i) Failure to make prescription price information available. (Section 465.016(1)(k), F.S.)</u>	<u>\$250 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$1,000 fine and one (1) year probation</u>
<u>(j) Improperly placing returned drugs into the stock of a pharmacy. (Section 465.016(1)(l), F.S.)</u>	<u>\$1,500 fine</u>	<u>\$3,000 fine and one (1) year probation</u>
<u>(k) Violating a rule or order of the Board or Department. (Section 465.016(1)(n), F.S.)</u>		
<u>1. Rules of Board of Pharmacy.</u>		
<u>a. Rules 64B16-28.101 to 64B16- 28.1035, F.A.C. Rule 64B16-27.100, F.A.C. Rule 64B16-28.109, F.A.C. Rule 64B16-27.103, F.A.C. Rule 64B16-27.104, F.A.C. Rule 64B16-26.400, F.A.C. Rule 64B16-26.2032 F.A.C. Rule 64B16-28.1081, F.A.C. Rule 64B16-27.105, F.A.C.</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>One (1) year probation and \$2,000 fine</u>

Rule 64B16-27.211, F.A.C.

Rule 64B16-28.113, F.A.C.

Rule 64B16-28.2021, F.A.C.

Rule 64B16-28.603, F.A.C.

<u>b. Sink and running water, sufficient space, refrigeration, sanitation, equipment.</u> <u>(Rule 64B16-28.102, F.A.C.)</u>	<u>Suspension until compliance</u>	<u>\$2,000 fine and Revocation</u>
<u>c. Knowingly purchase, sell, possess, or distribute counterfeit drugs.</u> <u>(Rule 64B16-27.101, F.A.C.)</u>	<u>\$5,000 fine, one (1) year suspension followed by one (1) year probation to Revocation</u>	<u>\$10,000 fine and Revocation</u>
<u>d. Failure to remove outdated pharmaceuticals, or dispensing of same.</u> <u>(Rule 64B16-28.110, F.A.C.)</u>	<u>\$500 fine for possession, \$1,000 fine for dispensing</u>	<u>\$2,500 - \$5,000 fine and two (2) years probation, to Revocation</u>
<u>e. Violation of destruction of controlled substances.</u> <u>(Rules 64B16-28.301, and .303 F.A.C.)</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and two (2) years probation, to Revocation</u>
<u>f. Serving as consultant pharmacist without being licensed as a consultant pharmacist.</u> <u>(Rule 64B16-26.300, F.A.C.)</u>	<u>\$500 per month up to \$5,000 fine (fine based upon the length of time the person is serving as a consultant</u>	<u>\$7,500 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>

	<u>without being licensed as a consultant pharmacist)</u>	
<u>g. Violation of requirements for records maintained in a data processing system. (Rule 64B16-28.140, F.A.C.)</u>	<u>\$1,000 fine and 12 hour Laws &amp; Rules course or MPJE plus 8 hours CE course in record keeping</u>	<u>\$5,000 fine and two (2) years probation, to Revocation</u>
<u>h. Failure to properly store legend drugs. (Rule 64B16-28.120, F.A.C.)</u>	<u>\$1,000 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>i. Practicing nuclear pharmacy without being licensed as a nuclear pharmacist. (Rule 64B16-26.303, F.A.C.)</u>	<u>\$500 per month up to \$5,000 fine (fine based upon the length of time the person is practicing without being licensed as a nuclear pharmacist)</u>	<u>\$10,000 fine and one (1) year suspension, to Revocation</u>
<u>j. Failure to follow technical requirements for nuclear pharmacy. (Rules 64B16-28.901 and .902, F.A.C.)</u>	<u>One (1) year probation and \$1,000 fine, to \$2,500 fine and six (6) months suspension followed by one (1) year probation</u>	<u>\$5,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
<u>k. Failure to properly transfer prescription files and medicinal drugs when closing pharmacy. (Rules 64B16-28.202 and .203,</u>	<u>Revocation</u>	<u>Revocation</u>

F.A.C.)

l. Failure to complete the required continuing education during the biennial licensure period.

(Rule 64B16-26.103, F.A.C.)

(I) Failure to complete less than ten (10) hours.

\$500 fine and suspension until completed

\$1,500 fine and suspension until completed

(II) Failure to complete ten (10) or more hours.

\$1,000 fine. In addition, licensees shall take two (2) additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

\$2,500 fine and suspension until deficiency and penalty units are completed. In addition, licensees shall take two (2) additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.

m. Failure to retain continuing education records.

\$250 fine

\$1,500 fine and suspension of license until undocumented courses are completed and documentation is submitted to the Department.

(Rule 64B16-26.603, F.A.C.)

n. Failure to practice in accordance with established practice standards. (Rules 64B16-27.1001 and .104, F.A.C.)

<u>(I) Pharmacist</u>	<u>\$500 to \$1,000 fine and 12 hour Laws &amp; Rules course or MPJE to one (1) year probation</u>	<u>\$2500 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
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<u>(II) Pharmacy Intern</u>	<u>\$250 to \$500 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$1000 to \$5,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
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<u>(III) Permittee</u>	<u>\$500 to \$1,000 fine and 12 hour Laws &amp; Rules course or MPJE to one (1) year probation</u>	<u>\$2500 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
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<u>o. Failure to have or maintain current policies and procedures for automated pharmacy system or central fill pharmacy. (Rules 64B16-28.141 and .450, F.A.C.)</u>	<u>\$500 to \$1000 fine and 12 hour Laws &amp; Rules course or MPJE</u>	<u>\$2,500 to \$5,000 fine and suspension of license/permit until current policies and procedures are in place, to Revocation</u>
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<u>p. Failure to have or maintain standards for an institutional</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MJPE</u>	<u>\$2,500 to \$5,000 fine and suspension of license until</u>
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<p>pharmacy. (Rules 64B16-28.602, .6021, .605, .606, .702, F.A.C.)</p>		<p><u>policies and procedures are in place, to Revocation</u></p>
<p>q. <u>Failure to have or maintain standards for a special pharmacy.</u> (Rules 64B16-28.800, .810, .820, .840, .850, .860, .870, F.A.C.)</p>	<p><u>\$500 fine and 12 hour Laws &amp; Rules course or MJPE</u></p>	<p><u>\$2,500 to \$5,000 fine and suspension of license until policies and procedures are in place, to Revocation</u></p>
<p>r. <u>Failure to maintain standards for animal control shelters.</u> (Rule Chapter 64B16-29, F.A.C.)</p>	<p><u>\$500 fine and 12 hour Laws &amp; Rules course or MJPE</u></p>	<p><u>\$2,500 to \$5,000 fine and suspension of license until policies and procedures are in place, to Revocation</u></p>
<p>s. <u>Failure to comply with Board's rule on patient counseling.</u> (Rules 64B16-27.800, .810, .820, F.A.C.)</p>	<p><u>\$250 fine without ingestion or harm, to \$500 with ingestion, and complete approved CE course in the prevention of medication errors of no less than eight (8) hours</u></p>	<p><u>\$500 fine without ingestion or harm, to \$1,000 with ingestion, complete approved CE course in the prevention of medication errors of no less than eight (8) hours, and two (2) years probation, to Revocation</u></p>
<p>t. <u>Standards of practice for compounding CSPs.</u> (Rules 64B16-27.700 and .797, F.A.C.)</p>		
<p><u>(I) No harm</u></p>	<p><u>\$500 fine, 12 hour Laws &amp;</u></p>	<p><u>\$2,500 to \$10,000 fine and</u></p>

	<u>Rules course, and course governing sterile compounds, to \$2,000 fine and one (1) year probation</u>	<u>one (1) year suspension followed by two (2) years probation, to Revocation</u>
<u>(II) Harm</u>	<u>\$2,000 fine, one (1) year probation, and 12 hour Laws &amp; Rules course, to Revocation</u>	<u>Revocation</u>
<u>2. Violation of orders of the Board or Department.</u>	<u>\$2,500 fine and one (1) year probation, to suspension until compliance with order</u>	<u>\$5,000 fine and one (1) year probation, to suspension until compliance with order, to Revocation</u>
<u>(I) License disciplined by another jurisdiction for an offense that would constitute a violation of this chapter. (Section 465.016(1)(h), F.S.) (Section 465.023(1)(e), F.S.)</u>	<u>Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes</u>	<u>Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes to \$10,000 fine and Revocation</u>
<u>(m) Failing to report to the Department any Chapter 458 or 459 licensee violation. (Section 465.016(1)(o), F.S.)</u>	<u>\$500 fine and 12 hour Laws &amp; Rules course or MJPE</u>	<u>\$1,500 fine and 12 hour Laws &amp; Rules course or MJPE</u>
<u>(n) Abandoning or allowing permit to become null and void after notice of</u>	<u>Revocation</u>	<u>Revocation</u>

disciplinary proceedings.

(Section 465.018(3), F.S.)

(o) Failing to notify the Board of commencement or cessation of practice due to discipline in another jurisdiction.

(Section 465.016(1)(p), F.S.)

\$500 fine and 12 hour Laws & Rules course or MJPE

\$2,000 fine and two (2) years probation

(p) Using or releasing patient records improperly.

(Section 465.016(1)(q), F.S.)

\$1,000 fine and 12 hour Laws & Rules course or MJPE

\$2,500 fine and one (1) year probation

(q) Knowingly, or with reason to believe, dispensing based on purported prescription where patient-prescriber relationship is invalid.

(Section 465.016(1)(s), F.S.)

(Section 465.023(1)(h), F.S.)

(I) Reason to believe

\$2,000 fine, 12 hour Laws & Rules course or MJPE, and one (1) year probation

\$2,500 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation

(II) Knowingly

Revocation

Revocation

(r) Committing an error or omission during prescription drug processing.

(Section 465.016(1)(t), F.S.)

\$250 fine without ingestion or harm, to \$500 with ingestion, and complete

\$500 fine without ingestion or harm, to \$1,000 with ingestion, complete

	<u>approved CE course in the prevention of medication errors of no less than eight (8) hours</u>	<u>approved CE course in the prevention of medication errors of no less than eight (8) hours, and two (2) years probation, to Revocation</u>
<u>(s) Guilty of a felony involving moral turpitude.</u> <u>(Section 465.023(1)(d), F.S.)</u>	<u>\$1,000 fine and 12 hour Laws &amp; Rules course or MJPE</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>(t) Guilty of a crime related to health care fraud.</u> <u>(Section 465.023(1)(g), F.S.)</u>	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license</u>	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license</u>
<u>(u) Violating 456.072, F.S.</u> <u>(Section 465.016(1)(r), F.S.)</u>		
<u>1. Making misleading, deceptive, or fraudulent representation in or related to the practice of the licensee's profession.</u> <u>(Section 456.072(1)(a), F.S.)</u>	<u>\$10,000 fine and one (1) year probation</u>	<u>Revocation, and a fine of \$10,000</u>
<u>2. Intentionally violating any rule adopted by the Board or the Department.</u> <u>(Section 456.072(1)(b), F.S.)</u>	<u>\$2,500 fine and two (2) years probation</u>	<u>\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>

3. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.  
(Section 456.072(1)(c), F.S.)

a. Misdemeanor

\$1,000 fine and suspension until compliant

\$2,500 fine and suspension until compliant, followed by one (1) year probation, to Revocation

b. Felony

\$3,000 fine and one (1) year probation

\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation

4. Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome, or medical errors.  
(Section 456.072(1)(e), F.S.)  
(Rules 64B16-26.103(1)(c), (4)(e), F.A.C.)

\$500 fine

\$1,000 fine

5. Having a license or the authority to

Same penalty as imposed in

Same penalty as imposed in

practice the regulated profession  
revoked, suspended, or otherwise  
acted against, including the denial of  
licensure, by the licensing authority  
of any jurisdiction, including its  
agencies or subdivisions, for a  
violation that would constitute a  
violation under Florida law. The  
licensing authority's acceptance of a  
relinquishment of licensure,  
stipulation, consent order, or other  
settlement, offered in response to or  
in anticipation of the filing of charges  
against the license, shall be construed  
as action against the license.

(Section 456.072(1)(f), F.S.)

6. Having been found liable in a civil  
proceeding for knowingly filing a  
false report or complaint with the  
Department against another licensee.

(Section 456.072(1)(g), F.S.)

7. Attempting to obtain, obtaining, or  
renewing a license to practice a  
profession by bribery, by fraudulent  
misrepresentation, or through an error  
of the Department or the Board.

other jurisdiction or as  
closely as possible to  
penalties for similar  
violation

\$3,000 fine

\$10,000 fine and  
Revocation or denial of  
license application

other jurisdiction or as  
closely as possible to  
penalties for similar  
violation, to \$10,000 fine  
and Revocation

\$5,000 to \$10,000 fine and  
one (1) year suspension  
followed by two (2) years  
probation, to Revocation

\$10,000 fine and Revocation  
or denial of license  
application

(Section 456.072(1)(h), F.S.)

8. Except as provided in Section 465.016, F.S., failing to report to the Department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the Department or the Board.

\$500 fine and 12 hour Laws & Rules course or MJPE

\$1,500 fine and 12 hours Laws & Rules or MJPE, to one (1) year suspension or Revocation

(Section 456.072(1)(i), F.S.)

9. Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board.

\$2,000 fine and 12 hour Laws & Rules course or MJPE, to one (1) year probation

\$2,500 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation

(Section 456.072(1)(j), F.S.)

10. Failing to perform any statutory or legal obligation placed upon a licensee, including failure to repay student loans or perform scholarship service obligations.

(Section 456.072(1)(k), F.S.)

a. Generally

\$2,000 fine

\$2500 to \$10,000 fine and one (1) year suspension

followed by two (2) years  
probation, to Revocation

b. Student loans or scholarship  
service

The minimum disciplinary  
action imposed shall be a  
suspension of the license  
until new payment terms are  
agreed upon or the  
scholarship obligation is  
resumed, followed by  
probation for the duration of  
the student loan or  
remaining scholarship  
obligation period, and a fine  
equal to 10 percent of the  
defaulted loan amount

Suspension of the license  
until new payment terms are  
agreed upon or the  
scholarship obligation is  
resumed, followed by  
probation for the duration of  
the student loan or  
remaining scholarship  
obligation period, and a fine  
equal to 10 percent of the  
defaulted loan amount, to  
Revocation with a minimum  
total fine of \$10,000

11. Making or filing a report which  
the licensee knows to be false,  
intentionally or negligently failing to  
file a report or record required by  
state or federal law, or willfully  
impeding or obstructing another  
person to do so. Such reports or  
records shall include only those that  
are signed in the capacity of a  
licensee.

(Section 456.072(1)(I), F.S.)

a. Knowingly filing a false report or  
willful obstruction

\$10,000 fine and two (2)  
years probation

\$10,000 fine and one (1)  
year suspension followed by  
two (2) years probation, to  
Revocation

<u>b. Negligently failing to file a report or record</u>	<u>\$2,500 fine</u>	<u>\$5,000 fine and one (1) year probation, to Revocation</u>
<u>12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or a scheme in or related to the practice of a profession.</u>	<u>\$10,000 fine and two (2) years probation</u>	<u>\$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
(Section 456.072(1)(m), F.S.)		
<u>13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.</u>	<u>\$3,000 fine and two (2) years probation</u>	<u>\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
(Section 456.072(1)(n), F.S.)		
<u>14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.</u>	<u>\$2,000 fine and two (2) years probation</u>	<u>\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
(Section 456.072(1)(o), F.S.)		
<u>15. Delegating or contracting for the</u>	<u>\$2,000 fine and two (2)</u>	<u>\$5,000 to \$10,000 fine and</u>

performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

(Section 456.072(1)(p), F.S.)

years probation

one (1) year suspension followed by two (2) years probation, to Revocation

16. Violating any provision of Chapter 456, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

(Section 456.072(1)(dd), F.S.)

(Section 456.072(1)(q), F.S.)

\$1,000 fine and 12 hour Laws & Rules course or MPJE, to one (1) year probation

\$5,000 to \$10,000 fine and one (1) year suspension followed by one (1) year probation, to Revocation

17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(Section 456.072(1)(r), F.S.)

\$2,500 fine and two (2) years probation

\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation

<p><u>18. Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1). (Section 456.072(1)(v), F.S.)</u></p>	<p><u>\$10,000 fine and Revocation</u></p>	<p><u>\$10,000 fine and Revocation</u></p>
<p><u>19. Being unable to practice with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or as a result of any mental or physical condition (board has authority to issue order to compel examination). (Section 456.072(1)(z), F.S.)</u></p>	<p><u>\$500 fine, suspension until safe to practice with reasonable skill and safety, and appearance before the board</u></p>	<p><u>\$2,500 fine and Revocation</u></p>
<p><u>20. Failing to report to the Board, or the Department if there is no Board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (Section 456.072(1)(x), F.S.)</u></p>	<p><u>\$1,000 fine</u></p>	<p><u>\$5,000 to \$10,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u></p>
<p><u>21. Testing positive for any drug, as defined in s. 112.0455, F.S., on any confirmed preemployment or employer ordered drug screening when the practitioner does not have a</u></p>	<p><u>\$500 fine, suspension until safe to practice with reasonable skill and safety and appearance before the board</u></p>	<p><u>\$2,500 fine and Revocation</u></p>

lawful prescription and legitimate medical reason for using such drug.  
(Section 456.072(1)(aa), F.S.)

22. Being terminated from, or failing to successfully complete, an impaired practitioners treatment program.  
(Section 456.072(1)(hh), F.S.)

Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000

Revocation

23. Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.  
(Section 456.072(1)(ii), F.S.)

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license

24. Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.  
(Section 456.072(1)(jj), F.S.)

\$500 to \$5,000 fine and one (1) year probation

\$2,500 to \$5,000 fine and suspension until amount owed is remitted, followed by two (2) years probation, to Revocation

25. Being terminated from the state

\$10,000 fine and one (1)

\$10,000 fine and two (2)

Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, as a result of fraud and abuse unless eligibility to participate in the program from which the practitioner was terminated has been restored.

(Section 456.072(1)(kk), F.S.)

26. Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(Section 456.072(1)(ll), F.S.)

(v) Violation of Section 828.055, F.S. by a permitted county or municipal animal control agency or humane society

1. Using drugs for animal euthanasia for an improper use.

(Section 828.055(3)(a), F.S.)

2. Failing to take reasonable

year probation, to one (1) year suspension followed by one (1) year probation

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license

Reprimand and a fine of \$250

Reprimand and a fine of

years suspension followed by two (2) years probation, to Revocation

Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license

\$500 fine and one (1) year suspension followed by one (1) year probation, to Revocation

\$500 fine and one (1) year

<u>precautions against misuse, theft, loss, or diversion.</u> (Section 828.055(3)(b), F.S.)	<u>\$250</u>	<u>suspension followed by one (1) year probation, to Revocation</u>
<u>3. Failing to detect or to report a significant loss, theft, or inventory shortage of drugs.</u> (Section 828.055(3)(c), F.S.)	<u>Reprimand, \$500 fine, and one (1) year probation</u>	<u>\$1,000 fine and one (1) year suspension followed by two (2) years probation, to Revocation</u>
<u>4. Failing to follow the rules of the Board regarding proper storage and handling of drugs.</u> (Section 828.055(3)(d), F.S.)	<u>Reprimand and a fine of \$250</u>	<u>\$500 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u>
<u>5. Violating any provision of Section 828.055, Chapter 465, Chapter 499, F.S., or any rule adopted under those chapters.</u> (Section 828.055(3)(e), F.S.)	<u>Reprimand and a fine of \$250</u>	<u>\$500 fine and one (1) year suspension followed by one (1) year probation, to Revocation</u>

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty.

(a) Aggravating circumstances: circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.

2. In the case of negligent acts, the magnitude and scope of the damage or potential damage inflicted upon the patient or the general public by the licensee's misfeasance.

3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.

4. Harm occurred.

(b) Mitigating circumstances: circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligent acts, the minor nature of the damage or potential damage to the patient's or the public's health, safety, and welfare resulting from the licensee's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.

3. Restitution of any monetary damage suffered by the patient.

4. The licensee's professional standing among his peers.

5. Steps already taken by the licensee to insure the non-occurrence of similar violations in the future, including continuing education.

6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

(4) All fines imposed by the Board shall be paid within a period of ninety (90) days from the date of the final order entered by the Board. This time limitation may be modified by the Board for good cause shown in order to prevent undue hardship.

Rulemaking Authority 456.072, 456.079, 465.005 FS. Law Implemented 465.016, 465.023, 456.072, 456.079 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, 11-29-06, 9-26-12, 2-14-13, \_\_\_\_\_.