

MEETING OF THE GOVERNOR AND CABINET  
AS HEAD OF THE DEPARTMENT OF HIGHWAY SAFETY  
AND MOTOR VEHICLES

November 9, 2010  
AGENDA

Agency Contact: Lee Ann Korst, 850-617-3100

<http://www.flhsmv.gov/agenda/2010/11910Agenda.pdf>

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1. Respectfully submit the Minutes for August 10, 2010 Cabinet Meeting.  
  
Attachment #1.  
Recommend Approval.
2. Respectfully submit the Substantive Legislative Package for 2011 Session.  
  
Attachment #2.  
Recommend Approval.
3. Respectfully submit the Legislative Budget Request for FY 2011 – 2012.  
  
Attachment #3.  
Recommend Approval.
4. Respectfully submit the 1st Quarter Performance Report for Fiscal Year 2010-2011.  
  
Attachment #4.  
Recommend Approval.
5. Respectfully submit Rule 15-1.012, Delegation of Authority for Final Adoption in Chapter 15 of the Florida Administrative Code (F.A.C.).  
  
The proposed rule action revises the current Rule 15-1.012 by incorporating the Executive Director's authority to take action concerning planning and budgeting for the department, to enter into agreements with other governmental agencies, and to conduct rulemaking procedures.  
  
Attachment #5.  
Recommend Approval.

6. Respectfully submit Rule 15A-12, Florida Rider Training Program for Final Adoption in Chapter 15 of the Florida Administrative Code (F.A.C.).

This rule chapter sets forth the standards for the Florida Motorcycle Safety Education Program, hereafter referred to as the Florida Rider Training Program with organizations to provide motorcycle safety training, the certification of instructors hereafter referred to as Rider Coaches (RC), and regulating the conduct of these programs and courses by the Department.

Attachment #6.  
Recommend Approval.

7. Respectfully submit Rule 15C-17, Electronic Temporary Plate Transfer for Final Adoption in Chapter 15 of the Florida Administrative Code (F.A.C.).

The purpose and effect of this rule is to implement a secure electronic process for the temporary transfer of license plates.

This program allows all temporary license plate issuers to electronically report the temporary transfer of license plates to the Department in real time. Real time access to temporary license plate data provides law enforcement with critical information for roadside safety and enforcement.

Attachment #7.  
Recommend Approval.

8. Respectfully submit Rule 15C-18 Electronic Filing System for Final Adoption in Chapter 15 of the Florida Administrative Code (F.A.C.).

This rule prescribes and defines the Department's Electronic Filing System and the standards for participation, certification of service providers, system requirements and enforcement authority. The electronic filing system allows dealers to electronically submit title and registration transactions which includes the issuance of metal license plates. Real time access to this data provides law enforcement with critical information for roadside safety and enforcement.

Attachment #8.  
Recommend Approval.

9. Respectfully submit Notice of Proposed Rulemaking for Rule 15A -10, DUI Programs in Chapter 15 of the Florida Administrative Code (F.A.C.).

This rule chapter sets forth the standards for licensing Driving Under the Influence (DUI) programs, certifying personnel, violation monitoring the ignition interlock device (IID) clients and regulating the conduct of these programs and courses by the Department of Highway Safety and Motor Vehicles pursuant to ss. 322.292, 322.293, 316.193 Florida Statutes.

Attachment #9.  
Recommend Approval

10. Respectfully submit Notice of Proposed Rulemaking for Rule 15A -10.009, Program Jurisdiction in Chapter 15 of the Florida Administrative Code (F.A.C.).

The purpose of the proposed rule action is for private probation service providers to self refer (including the distributor of lists and poster displays) a client to a DUI program that is owned in whole or part by that probation service provider; also requires DUI programs to document that the probationer was advised of their right to choose a licensed DUI program.

Attachment #10.  
Recommend Approval

11. Respectfully submit Medical Advisory Board Extensions.

Attachment #11.  
Recommend Approval.

THE CABINET  
STATE OF FLORIDA

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Representing:

DIVISION OF BOND FINANCE  
FINANCIAL SERVICES COMMISSION, INSURANCE REGULATION  
DEPARTMENT OF REVENUE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before  
THE FLORIDA CABINET, Honorable Governor Crist presiding,  
in the Cabinet Meeting Room, LL-03, The Capitol,  
Tallahassee, Florida, on Tuesday, August 10, 2010,  
commencing at approximately 9:07 a.m.

Reported by:

MARY ALLEN NEEL  
Registered Professional Reporter  
Florida Professional Reporter  
Notary Public

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1 GOVERNOR CRIST: Department of Highway Safety  
2 and Motor Vehicles, Julie Jones. Good morning.

3 MS. JONES: Good morning, Governor and Cabinet  
4 members.

5 I have nine agenda items today for your  
6 consideration and approval.

7 Item Number 1, we respectfully request  
8 approval for the minutes from the March 9, 2010  
9 Cabinet meeting.

10 COMMISSIONER BRONSON: Motion for approval of  
11 Item 1.

12 ATTORNEY GENERAL McCOLLUM: Second.

13 GOVERNOR CRIST: Moved and seconded. Show the  
14 minutes approved without objection.

15 MS. JONES: Item Number 2, we request approval  
16 for proposed rulemaking for Rule 15C-17, which  
17 relates to the electronic temporary plate transfer  
18 system. The purpose of this rule is to implement a  
19 secure electronic process to temporarily transfer  
20 license plates pursuant to some legislation that  
21 passed during the '09-10 session.

22 The temporary plate transfer ensures that law  
23 enforcement has immediate real-time information.  
24 When that car leaves the lot, we know it's in the  
25 database, and if we stop that vehicle, we know who

1 the owner is and that the vehicle is properly  
2 titled.

3 There's also instances where a plate may need  
4 to be temporarily transferred pending the  
5 completion of a final sale, and that would be if  
6 you have financing that's pending or there's a  
7 question and we need to reconcile an out-of-state  
8 title.

9 GOVERNOR CRIST: Commish.

10 COMMISSIONER BRONSON: Julie, one of the  
11 things that had been brought up about this  
12 electronic transfer issue is whether or not the  
13 individuals either buying a used vehicle or in this  
14 transfer, some of the dealers charge a substantial  
15 rate above and beyond what the State is doing on  
16 this issue. And some of the concern was that the  
17 consumers be given the option of the few days it  
18 takes to do the typical transfer or the automatic  
19 transfer, because it was stated that they may find  
20 that they're paying a much higher rate to do this  
21 automatic electronic transfer than if they were to  
22 wait a few days.

23 In other words, they know when they leave the  
24 lot they have it under what you're asking for, but  
25 if they wait a few days and let the process be

1 done, it can save them a lot of money, and that --  
2 you know, there are consumer groups out there who  
3 are concerned whether the public is going to be  
4 made aware of this or get the automatic, say, \$100  
5 transfer fee.

6 MS. JONES: Yes, sir. Governor, if I may.

7 GOVERNOR CRIST: Sure.

8 MS. JONES: That issue is actually in my next  
9 rule. This one is fairly innocuous and does not  
10 speak to that issue. When I talk about the next  
11 rule, I would umbrella this rule in our proposal  
12 for the future to try to take care of the consumer  
13 issue. And so I'll talk through that issue in the  
14 next rule, if I may.

15 COMMISSIONER BRONSON: Okay. Thank you.

16 CFO SINK: Move approval of Item 2.

17 ATTORNEY GENERAL McCOLLUM: Second.

18 GOVERNOR CRIST: Moved and seconded. Show it  
19 approved without objection.

20 MS. JONES: Item Number 3, we respectfully  
21 request approval for proposed rulemaking for 15C-18  
22 that relates to electronic filing system, which  
23 I'll refer to as EFS. This is used by car dealers  
24 to license and title motor vehicles, so this is the  
25 area that I think you were talking about.

1           This system has been used since 1996, but it  
2 was governed by the Tax Collectors Service  
3 Corporation. The legislation that became effective  
4 July 1, 2010, transferred the oversight of this  
5 system to the Department and required that we  
6 promulgate rules.

7           So if you go to a car dealer and buy a new  
8 car, EFS would be used to either transfer the  
9 existing metal plate or give you a new metal plate  
10 before you walk off the lot. This rule defines the  
11 EFS system, the standards for participation,  
12 certification of service providers, and the system  
13 requirements for use.

14           So we took -- in the statute, it asks us to  
15 take the existing operating standards used by the  
16 service corp. and keep those in place until I could  
17 promulgate rules. The rules the Department are  
18 proposing go beyond the service corp. current  
19 recommendations.

20           When the Legislature originally considered the  
21 framework for both the electronic filing system in  
22 this rule and the electronic title -- the  
23 electronic transfer system that I talked about  
24 previously, they considered capping fees, and the  
25 Legislature chose not to. The thought was that the

1 market would regulate the cost through competition,  
2 and I think there has been some of that. We have  
3 had instances, though -- you're absolutely correct,  
4 Commissioner, that we've had exorbitant fees  
5 charged to an individual that were not disclosed.

6 Governor, because of comments at our first  
7 public meeting on this rule and because of input  
8 from you and your staff, we've been looking at how  
9 to regulate the fees in both these systems.

10 Initial discussion with the certified service  
11 providers that run both these programs has been  
12 very positive.

13 At this point, I'm exploring my rulemaking  
14 authority. I'm not convinced that I can actually  
15 do this, but I would like to bring solutions back  
16 the next time I come before this Cabinet in  
17 November with a final rule with options I think  
18 that the Department can bring to you, and also, if  
19 it means proposed legislation, what that would  
20 mean, and certainly, Commissioner, working with the  
21 consumer groups that have weighed in on this. I  
22 think their input, additional input is very  
23 important.

24 In the interim, though -- and this is based on  
25 some discussions we've had with General McCollum's

1 office. We have modified the proposed rule and ask  
2 that you consider this modification for us to go  
3 forward. And it would require car dealers to  
4 disclose all fees in a line item and then also make  
5 it clear that this service is optional. So I think  
6 that takes the first big step not to capping the  
7 fee, but certainly to making sure that it's  
8 transparent, the process is transparent.

9 GOVERNOR CRIST: General.

10 ATTORNEY GENERAL McCOLLUM: I have had that --  
11 we have had that discussion, Julie. And I think  
12 that since this is a notice as well, and there's  
13 plenty of time for discussion and more detail on  
14 things later, I think it's very appropriate that we  
15 approve this, and I would move Item 3.

16 GOVERNOR CRIST: Why not cap it?

17 MS. JONES: Well, first of all, I think I  
18 don't have the authority to cap it. I think I  
19 would have to go back to the Legislature. But I am  
20 going to go to the Joint Administrative Procedures  
21 Commission and ask if I have authority. If I do,  
22 then I would go back to the vendors and to the  
23 consumer advocate folks to try to figure out what  
24 those caps would be.

25 In 2009, a cap that was in the service corp

1 standards and was in the statute was removed by the  
2 Legislature, and that's what leads me to believe  
3 that I think it's going to take legislative action  
4 and not the Department. But we're going to explore  
5 all those options and bring something back to you  
6 that's solid.

7 COMMISSIONER BRONSON: Governor, if I might.

8 GOVERNOR CRIST: Yes, please.

9 COMMISSIONER BRONSON: And that's fine. I  
10 think that the fact that if it's made transparent  
11 where the buyer, instead of being in a buyer beware  
12 situation, or the old standard where what the buyer  
13 doesn't know doesn't hurt him ideology, I think if  
14 it's made transparent where that figure comes out,  
15 they know exactly what's being charged in this  
16 situation, and they have the option of either doing  
17 it quick or take your time and do it a few days  
18 slower, I don't think anybody has been arrested  
19 that I know of because their paper process was  
20 being done through the system.

21 So, you know, \$50 here, \$100 there may not  
22 sound like a lot to some, but it sounds like a lot  
23 to people trying to get their first car, especially  
24 if they're paying for it, and those issues. So as  
25 long as it's transparent, I'm fine. People can

1           make their decision.  If they go to different  
2           dealers and one dealer is at 50 and another one is  
3           at 100, it might make the deal for them.  Who  
4           knows.

5                   GOVERNOR CRIST:  Thank you.

6                   COMMISSIONER BRONSON:  So without putting a  
7           cap on it, I think just making sure that it's in  
8           the clear and people know what they're doing and  
9           it's transparent.

10                   GOVERNOR CRIST:  CFO.

11                   CFO SINK:  Let me clarify.  What you're saying  
12           is that you're going to explore the -- in the  
13           intervening time between now and November, you're  
14           going to explore all the options.  You're going to  
15           explore caps, you're going to explore what you have  
16           the authority to do legislatively or not, and then  
17           you're going to come back here to this Cabinet in  
18           November with a recommendation after the hearings  
19           have been heard; is that correct?

20                   MS. JONES:  Correct.  To clarify, CFO, we had  
21           a rule that we gave to staff, a proposal that we've  
22           workshopped thus far.  We added yesterday the  
23           additional language to disclose fees, so that is  
24           now a part of the rule if you tell me to move  
25           forward.  So the transparency part will be part of

1 the proposed rule.

2 What I will explore is my options. If I can  
3 -- in this interim workshop process, if I can put  
4 caps in, I will bring those back to you. If it  
5 takes legislation, I will report back on that.

6 CFO SINK: Okay. Thank you.

7 GOVERNOR CRIST: There's a motion?

8 ATTORNEY GENERAL McCOLLUM: Yes, I had a  
9 motion.

10 GOVERNOR CRIST: Is there a second?

11 CFO SINK: Second.

12 COMMISSIONER BRONSON: Second.

13 GOVERNOR CRIST: Moved and seconded. Show it  
14 approved without objection.

15 MS. JONES: We respectfully request approval  
16 for proposed rulemaking for 15-1.012, which relates  
17 to the Department's delegation of authority. This  
18 rule has not been updated since 1998. The proposed  
19 changes provide the Department with operating  
20 authority comparable to other Cabinet agencies,  
21 while maintaining transparency through reporting  
22 requirements.

23 COMMISSIONER BRONSON: Motion for approval of  
24 Item 4.

25 ATTORNEY GENERAL McCOLLUM: Second.

1           GOVERNOR CRIST: Show it approved without  
2           objection.

3           MS. JONES: Item 5, we request approval for  
4           proposed rulemaking for 15A-12, which relates to  
5           the Florida Rider Training Program. The Florida  
6           Rider Training Program rule sets standards for the  
7           Motorcycle Safety Education Program, including  
8           approving course curriculum and certifying  
9           instructors.

10           This program has been in place for 15 years,  
11           and we have used a contract with vendors to  
12           prescribe operating conditions and requirements.  
13           The Joint Administrative Procedures Committee,  
14           JAPC, has requested that we codify parts of the  
15           contract in rule so that it is in a rule, and this  
16           also gives us greater enforcement authority over  
17           these vendors.

18           GOVERNOR CRIST: Is there a motion on Item 5?

19           COMMISSIONER BRONSON: Motion for approval of  
20           Item 5.

21           ATTORNEY GENERAL McCOLLUM: Second.

22           GOVERNOR CRIST: Moved and seconded. Show it  
23           approved without objection.

24           MS. JONES: Item Number 6, we respectfully  
25           request approval for final adoption of Rule 15A-11,

1           which relates to commercial driving schools. This  
2           rule, also requested by JAPC, codifies what has  
3           been in the past required in the Department's  
4           contracts with commercial driving schools. It also  
5           adds requirements to protect consumers attending  
6           these schools. Typically these would be first-time  
7           drivers, which are our teenagers.

8           The changes include requiring fingerprints and  
9           background checks for driving school employees,  
10          prohibiting customer solicitation at driver's  
11          license offices, and allowing the Department to  
12          suspend or revoke driving school licenses for  
13          violation of the requirements of this rule.

14          CFO SINK: Move it.

15          ATTORNEY GENERAL McCOLLUM: Second.

16          GOVERNOR CRIST: Moved and seconded. Show it  
17          approved without objection.

18          MS. JONES: To eliminate redundancy, I would  
19          like to discuss Items Number 7 and 8 together.  
20          These are my third quarter and annual performance  
21          reports. And I'll be asking for two separate  
22          motions after I present the reports.

23          The past fiscal year presented many challenges  
24          for the Department, but I have a tremendous staff.  
25          They are dedicated. They are Johnny on the spot,

1 and they have been there to meet every challenge,  
2 and quite frankly, have created additional  
3 opportunities to serve our citizens.

4 The good news is, Florida has recorded a  
5 record low crash fatality rate for 2009 at 1.3  
6 fatalities per 100 million miles traveled. This  
7 represents a 14 percent decrease from the previous  
8 year. We attribute this to the passage of the  
9 primary seat belt law, numerous education campaigns  
10 that both the Department and DOT do simultaneously,  
11 as well as -- and I think the biggest increase is  
12 associated with strategic enforcement, and that's  
13 by the Department and all its law enforcement  
14 partners.

15 Operational gains include 60 new troopers.  
16 We've hired 60 new troopers. We're trying keep  
17 ahead of the game there, keeping troopers on the  
18 highway. We've increased the number of driver's  
19 license locations. We now offer driver's license  
20 services in 123 tax collector offices in addition  
21 to 80 state offices.

22 And lastly, we have been pushing really hard  
23 our process for emergency contact information. We  
24 now have over 3 million records in our system that  
25 keep our citizens informed and keep information for

1 us to be able to contact them in cases of  
2 emergency. That's 20 percent of all our driver's  
3 licenses now are in the emergency contact system.

4 Unfortunately, this year the patrol suffered  
5 an in-line-of-duty death with the loss of Trooper  
6 Patrick Ambroise. Trooper Ambroise was a graduate  
7 of the Patrol's 111th recruit class and assigned to  
8 Troop K on the Turnpike. He was 35 years old at  
9 the time of his death. And I think this is a very  
10 sobering reminder of the service and sometimes  
11 ultimate sacrifice that our troopers make in  
12 keeping our roadways safe. He is survived by his  
13 wife, Roberta, two young daughters, his mother, and  
14 five siblings. And I can't tell you how much,  
15 Governor, it meant that you were able to be there  
16 to support the family at the funeral. It was  
17 outstanding.

18 In terms of our performance report, one of our  
19 most challenging performance measures last year was  
20 driver's license wait times. This particular  
21 measure is influenced by two primary factors, and I  
22 call them people and process, my staffing, and then  
23 the process associated with the Real ID Act.

24 The number of customers served and wait times  
25 was not optimal because of revenue shortfalls last

1 year that created a large number of vacancies. And  
2 we have been very aggressively filling these  
3 vacancies. Since our last report, we've filled 35  
4 positions around the state and have a little over  
5 200 applications for another 30 that we're going to  
6 get filled very quickly.

7 We've strategically focused our efforts on  
8 wait time where wait times are abnormal. This is  
9 usually in very urban, very high population areas.  
10 We've relocated existing staff. We've temporarily  
11 assigned subject matter experts where we have  
12 concentrations of a particular problem that can  
13 create wait times. We've opened offices earlier,  
14 and we've kept offices open much later. In Miami,  
15 we've seen an 8 percent increase in customers  
16 served in one week due to this effort. We'll  
17 continue to relocate resources until all our  
18 vacancies are filled.

19 GOVERNOR CRIST: Julie, could you say that  
20 again? What about Miami?

21 MS. JONES: Eight percent increase in  
22 customers served in one week due to this effort.  
23 And I'll tell you, the first week that we started  
24 opening offices earlier, between 7:00 and 7:30, we  
25 served before 8:00 that first week 550 people just

1 by opening the office a little bit earlier, using  
2 existing staff, working smarter. And in the first  
3 week that we started this initiative in Dade  
4 County, we served 21,000 people, got Real ID  
5 compliant licenses for 21,000 people. The next  
6 week it was 22,000. And so we've seen -- using  
7 this approach to try to move existing resources and  
8 subject matter experts has been very successful.

9 GOVERNOR CRIST: What was the first week you  
10 did that?

11 MS. JONES: I'm into week three now, so this  
12 would be -- last week was week two.

13 GOVERNOR CRIST: Thank you very much for doing  
14 that. I appreciate it. I had a conversation with  
15 Julie. I was hearing from a lot of people in Dade  
16 County that they were having to wait an awful long  
17 time. And I said, "There's got to be a way to try  
18 to make this more convenient for folks," and she  
19 was able to get it done, so thank you very much.

20 MS. JONES: Thank you, sir.

21 CFO SINK: I'll bet you could open up at six  
22 o'clock in the morning. People get out on the road  
23 early down there and have long commutes to work, so  
24 keep an eye -- seriously, keep an eye on that.

25 MS. JONES: It's a very difficult area because

1           it's complex transactions. And we've also put --  
2           purchased benches, awnings, misting systems. So  
3           where we do have people that have to wait and they  
4           can't get in, we're working very hard to keep  
5           people comfortable while they're waiting too. But  
6           the idea is to get the wait time down.

7                     ATTORNEY GENERAL McCOLLUM: Colonel, may I  
8           raise one thing with you? I did renew my driver's  
9           license this summer, and I went through this  
10          process. And one of the things that came back to  
11          me is that it's apparent you still have a lot of  
12          folks who don't know the documents they need to  
13          bring in the first time. So part of the reason --  
14          I think I'm right -- that the waits are what they  
15          are is that you have people having to come back two  
16          or three times because they don't know with Real  
17          ID, or they don't realize before they come in the  
18          first time. They don't read -- you send them the  
19          information, but they don't read it. Am I not  
20          right about that?

21                    MS. JONES: Yes, sir.

22                    ATTORNEY GENERAL McCOLLUM: There are a lot of  
23          returns?

24                    MS. JONES: Yes, sir, you are. And that part  
25          of this strategically focusing our efforts also is

1 putting those subject matter experts outside if  
2 there's a line queued or inside at a desk reviewing  
3 everything that you've got so you don't wait in  
4 line. So we pre-screen them and can send you home  
5 for extra documents so you don't wait for 15, 20  
6 minutes, half an hour, and then step up and say,  
7 "What do you mean, I need my certified birth  
8 certificate?" Yes, sir.

9 ATTORNEY GENERAL McCOLLUM: Thank you.

10 MS. JONES: Real ID. I think we've  
11 acknowledged that there's a long-term benefit to  
12 our citizens with Real ID, but the required  
13 additional documentation to prove who you are, this  
14 is what has proved problematic. So I've talked  
15 about the people part. This is the process part.

16 We have spent a lot of time with Homeland  
17 Security, and we have successfully petitioned for  
18 exceptions to try to get more documentation into  
19 the system in order to streamline this process.  
20 And we've already got an okay to create exceptions  
21 for people that were born -- or are 75 years or  
22 older. But we've asked to be able to use a  
23 military ID for proof of Social Security.

24 And I might add, we are the first state to ask  
25 for exceptions and to push for additional

1 flexibility in order to get our folks compliant,  
2 but not be hidebound by process. We've asked for  
3 the use of an expired passport as one of two  
4 proofs. You can use your passport, but you can't  
5 use an expired passport, so we've asked for an  
6 exception to use an expired passport as one of the  
7 two proofs of identification.

8 We've also asked to be able to delegate the  
9 exceptions process to our tax collectors. We have  
10 elected officials that should be able to -- instead  
11 of bouncing this stuff back and creating a wait to  
12 ask the Department in Tallahassee, the tax  
13 collectors, who are our partners, should be able to  
14 do these exceptions.

15 Use of a birth certificate from a hospital, so  
16 it doesn't have to be a certified document from the  
17 county, a certified birth certificate from a  
18 hospital should be able -- we should be able to  
19 use, and then wedding certificates issued by  
20 churches rather than the county's document. If  
21 your church gave you a wedding certificate, we  
22 should be able to use that for proof again toward  
23 the idea of dealing with some women that have  
24 multiple marriages. We have got a tentative okay.  
25 These are not in place in every county, and we're

1 waiting for the official. We have implemented many  
2 of these in Miami, though, in a test just to make  
3 sure that we understand the use of the documents.

4 But we continue to get improvement in this  
5 measure. And I think both the Department's  
6 efforts, efforts with introducing our relationship  
7 with our tax collectors, and then our ongoing work  
8 with Homeland Security, they've been very, very  
9 positive. But it's a bureaucracy. It's  
10 Washington. So we're working very hard to make  
11 this easier for our citizens.

12 I might add, 1.9 million Real ID certified  
13 credentials have been issued since January, so  
14 there are a lot of people that are getting through  
15 the process. And we're working as hard as we can  
16 to get those folks that are missing documentation  
17 either exceptions or getting them temporary  
18 licenses until they can find their documentation.

19 So I respectfully request approval of Item 7,  
20 which is the Department's third quarter report.

21 CFO SINK: Move it.

22 GOVERNOR CRIST: Is there a motion on Item 7?

23 COMMISSIONER BRONSON: Second.

24 GOVERNOR CRIST: Moved and seconded. Show it  
25 approved without objection.

1 MS. JONES: And then additionally, I request  
2 approval of Item 8, the Department's annual report.

3 ATTORNEY GENERAL McCOLLUM: I move it.

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR CRIST: Moved and seconded. Show it  
6 approved without objection.

7 ATTORNEY GENERAL McCOLLUM: Colonel Jones,  
8 before you go, my understanding is that you did get  
9 an E-Verify hit on somebody when you went to check  
10 in your agency that was discovered to actually be  
11 illegal or not; is that correct?

12 MS. JONES: Yes, sir. We have been using  
13 E-Verify consistently. We had some computer  
14 issues. We kicked it off about a week ago, and  
15 every person that is offered employment, we run  
16 their credentialing, their information through  
17 E-Verify. And this past week we had our first  
18 tentative nonconfirmation, and that means they may  
19 or may not be authorized to work in the United  
20 States.

21 What this means is that the individual's  
22 Social Security information or information that  
23 they supplied in their employment application did  
24 not match records in Homeland Security or the  
25 Social Security Administration. So we contacted

1 the employee, and they have eight working days to  
2 verify that it was a transcribed number or if it  
3 was a mistake in the paperwork. If not, they will  
4 be denied employment based on this, if it indeed  
5 was falsification.

6 ATTORNEY GENERAL McCOLLUM: I just wanted to  
7 bring it up because we had discussed E-Verify and  
8 approved it for all the Cabinet agencies, and I  
9 thought it was interesting you had that experience  
10 at the beginning of your use of that. So hopefully  
11 it works through the process the right way, and  
12 maybe the next time up here you'll tell us the end  
13 of that saga. Thank you.

14 MS. JONES: Thank you, sir.

15 My last item is Item 9. We respectfully  
16 request approval for the Department's performance  
17 contract for fiscal year 2010-2011. There are no  
18 changes from last year's performance contract.

19 CFO SINK: Move it.

20 COMMISSIONER BRONSON: Second.

21 GOVERNOR CRIST: Moved and seconded. Show it  
22 approved without objection.

23 Julie, thank you very much.

24 MS. JONES: Thank you, sir.

25 GOVERNOR CRIST: Appreciate it.

# Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals



**Julie L. Jones, Executive Director**



## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

**Guiding Principle: We will protect our roadways.**

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Child restraint	Currently, the Florida child restraint law applies to children ages birth through 5 years. Children over age 5 are only required to use a seatbelt.	The proposed change would require children through 7 years of age to use a safety seat or booster seat.	Seatbelts are designed for adults and studies show that seatbelts can harm small children who are not tall enough for the belts to work properly.	None	s. 316.613
Motorist Services	Since the inception of the department there has been a Division of Motor Vehicles and a Division of Driver License.	The department is proposing to merge two divisions to create the Division of Motorist Services.	This change will allow the department to create efficiencies and provide better service to our customers. With a more efficient division we will create a more accurate and user-friendly database and processes for law enforcement and our customers.	Positive indeterminate	s. 20.24
Commercial drivers	Florida law in the majority of cases mirrors federal law and rules with respect to commercial driver licensing. However, in some cases minor differences exist which cause conflicts. Federal regulations create a uniform national standard for the licensing and disqualification of commercial drivers.	The suggested changes will resolve the conflicts that exist and in many cases eliminate the need for additional changes to Florida law by removing portions of the statutes and replacing those portions with the federal reference. These changes are related to the list of disqualifying offenses which if convicted result in drivers losing their privilege to drive a CMV.	Florida must comply with all federal commercial licensing laws in order to ensure continued federal funding for road projects. By referencing federal rules in Florida law, the need to continuously modify the statutes is negated.	None	s. 322.61 and s. 322.64

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Driver license applications	Currently, Florida law allows individuals who are attempting to receive permanent legal status to obtain a driver license by providing documentation that they are actively seeking a change in status. However, individuals who are not entitled to receive permanent legal status could utilize a loophole in the current law in an attempt to get a driver license.	The statutory change required to close the loophole for those seeking legal status but who are not entitled to it, includes a provision to allow the department to require additional documentation beyond simple proof of application but also proof of eligibility for legal status.	The intent of Florida law and the requirement of federal law are for driver licenses to be issued to persons legally authorized to be in the U.S. This change would allow the department additional authority to require documentation from those seeking a change in their legal status to provide proof they are entitled to that status.	None	s. 322.051 and s. 322.08
Impaired driving	Health care providers are authorized in Florida law to notify law enforcement when they become aware that a person has exceeded the allowable blood alcohol level for driving. This would occur when an individual has been involved in crash and required medical treatment.	This proposal would extend the current authorization for healthcare providers to also allow them to notify law enforcement when they become aware that a person has driven under the influence of a controlled substance.	Driving under the influence of a controlled substance is already prohibited by law however the current authority for healthcare providers only extends to alcohol.	None	s. 316.1933

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Vehicle Insurance	The department enforces the vehicle insurance laws by obtaining policy information directly from the insurance industry and matching that data to individual vehicle owners in the department's database. When policies are cancelled the department is notified and a notice is sent to the owner. Drivers are allowed 30-days to provide proof of insurance prior to their driver license being suspended which is in addition to whatever delay may have occurred between the cancelation and notification to the department. If a driver provides proof of insurance as late as day 29, there is no penalty.	The department is proposing a \$5 surcharge per day to any driver who is without insurance even if they obtain coverage prior to the suspension date. If they are ultimately suspended, then the reinstatement fee would be collected in lieu of the surcharge.	The surcharge would provide a deterrent to those individuals who intentionally purchase and then cancel automobile policies to avoid a driver license suspension.	Positive in determinant.	S. 324.0221
Airbags	Laws governing the issuance of titles for rebuilt vehicles do not currently require that airbags be replaced prior to the issuance of the title.	The proposed change would require that all airbags be replaced prior to a vehicle being titled and registered in Florida.	Airbags have proven to be an effective safety tool. Future owners of rebuilt vehicles should be assured that all airbags have been properly replaced. Unfortunately, many airbags are not replaced and owners may not be aware.	None	S. 319.14

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Driver training schools	Florida law requires driver training schools to obtain a certificate from DHSMV however there are no minimum education requirements for instructors, nor are there any minimum standards for the course being taught to new drivers.	The proposal would modify the department's rule making authority to enable the State to establish minimum instruction criteria as well as penalties for failure to comply with the law or rule.	Teenage drivers are a vulnerable and impressionable segment of our driving population. In addition, they have the highest crash rate of any segment. It is in the State's best interest to ensure they are properly trained by qualified instructors.	None	s. 488.06
Distracted Driving	The current traffic law in Florida does not address distracted driving directly.	The department is proposing the creation of a task force of law enforcement entities to review how a distracted driving law should be crafted and enforced.	Studies show that drivers who attempt to operate their vehicles while participating in other activities are causing an unnecessary danger on Florida's roadways. Previous attempts to craft traffic laws to address distracted driving have been unsuccessful due in part to questions regarding enforcement and how far reaching the law should or should not be.	None	Ch. 316

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

### Guiding Principle: We will implement technology solutions

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Commercial drivers	Federal law requires all commercial driver license holders to have a digital image on file with the department. As a result, Florida has not allowed commercial drivers to renew using a convenience method in order to convert all drivers to a digital photo.	The department is proposing to allow commercial drivers to renew online and utilize the digital image already on file for the new license.	Now that older film-based images have been eliminated and replaced by digital images, the department can proceed with allowing commercial drivers to renew online.	None	s. 322.14
Registration renewal notices	At this time the department is required to mail all registration and driver license renewal notices by U.S. Postal Service	This proposal would allow the department to send registration renewal notices via electronic mail upon request of the owner.	This could result in a cost savings over time to the tax collectors and the department.	In determinant	s. 320.95 s. 322.08 s. 322.18 s. 328.30 s. 328.80
Electronic Titles	At this time the department provides electronic titles and liens in order to prevent consumers from losing titles. When it becomes necessary to transfer ownership however the title must be printed and signatures obtained.	The department would like to begin migrating to complete electronic titles by eliminating the signature requirement for odometer verifications.	The existence of paper ownership documents creates numerous opportunities for fraud and theft. The elimination of paper will reduce those opportunities.	None	s. 319.225
Alternative license plates	Currently, all Florida license plates are made of metal and display a static number.	This proposal would allow the department to conduct a pilot project on Florida roadways using alternative license plates on state vehicles only.	New technologies are being made available to states from the private sector which the department would like to test for durability, legibility and general product improvement.	None	s. 320.06

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

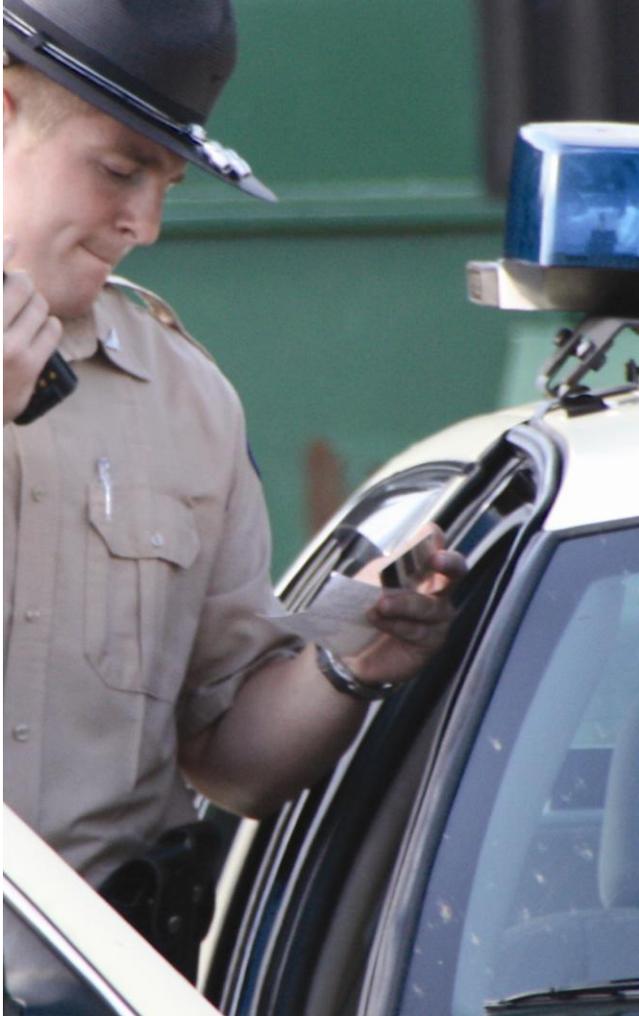
### Other Issues:

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
Technical changes	(1 ) Suspensions for failure to maintain insurance. (2) The penalty for driving on an expired driver license is incorrect. (3) Signature Requirements (4) Certificate of Repossession (5) Title application forms (6) Record retention (7) Consignments & Apportioned plates	(1 ) Insert statutory reference to vehicle definition. (2) Correct a deficiency in the current law related to driving on an expired license. (3) Remove notarized signatures for VIN verifications. (4) Remove the Certificate of Repossession form. (5) Remove outdated language. (6) Require vehicle registration records to be retained for 10-years. (7) Grammatical change	(1 ) Reference correction. (2) Current law is incorrect. (3) Notaries do not currently provide this service as a general practice. (4) Form reduction. (5) Statutes are not up to date. (6) Title records are statutorily required to be maintained for 10-years and this creates consistency. (7) Grammatical change	None	s. 316.646 s. 322.065 s. 320.02 s. 319.23 s.319.28 s. 319.323 s. 317.0016 s. 319.225 s. 316.545 s. 320.01
Voluntary check-offs	Driver license and motor vehicle applicants are allowed to make charitable contributions to specified charities while completing their transactions.	This change would allow the department to recoup administrative cost for the voluntary contributions as it already does for specialty plate organizations.	Failure to recoup administrative cost could result in the lists of the organizations being removed from renewal notices.	In determinate.	s. 320.023 s. 322.08
Motorcycle training	All motorcycle road exams have been outsourced by the DHSMV.	This change would modify the requirements that the department offer a road test for motorcycles.	This change would conform chapter 322, f.s. to other recent changes in law.	None	s. 322.12

## Department of Highway Safety and Motor Vehicles 2011 Legislative Proposals

Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
DL Restrictions	Currently, the Dept of Corrections and the Parole Commission have authority to request the DHSMV to place a restriction on a driver's license.	The change would remove the DOC and the Parole Commission's authority to request a driver license restriction.	The program authorized in law has not been used by either entity and is therefore being removed from statute.	None	s. 322.16
Custom Vehicles	Current law only references custom vehicle registrations and there is nothing referencing custom vehicles in the titling portion of law.	This change would make the titling statutes consistent with the registration statutes as they relate to custom vehicles.	Consistency within statutes.	None	s. 319.14
Address changes	Currently, vehicle owners and drivers are required to keep their address up to date on their registration and driver license.	This change would require vehicle owners to change their address on their DL if they make a change on their registration.	This proposal will allow the department a mechanism to enforce current law as it relates to address changes for driver licenses.	In determinate	s. 320.02
Temp tags	It is a violation of current law to alter a permanent license plate or decal.	Add temporary license plates to the list of documents that are unlawful to alter.	Fraud prevention.	None	s. 320.061
Dealer fees	All vehicle dealers are required by law to process title and registration applications for their customers. Fees charged by dealers for providing this service are not regulated by the State.	The proposal would create a working group to review the current dealer fees and make recommendations to the department regarding a uniform standard.	Fees charged for processing title and registration transactions are not uniform statewide.	None	s. 320.27

# Proposed Legislative Budget Request Fiscal Year 2011 – 2012



**Providing Highway Safety and Security  
through Excellence in Service, Education and Enforcement**

**Julie L. Jones, Executive Director**

**October 2010**

## What We Believe...

### OUR MISSION

Providing Highway Safety and Security through  
 Excellence in Service, Education, and Enforcement

### OUR VISION

A Safer Florida!



### OUR VALUES

WE BELIEVE IN:

- Service by exceeding expectations;
- Integrity by upholding the highest ethical standards;
- Courtesy by treating everyone with dignity and respect;
- Professionalism by inspiring confidence and trust;
- Innovation by fostering creativity; and
- Excellence in all we do!

## Fiscal Year 2010-11 Budget

Division	FTE	GR	TF	Total
Office of Executive Director and Administrative Services	219	0	17,444,465	\$17,444,465
Florida Highway Patrol	2238	15,000,000	\$188,275,999	\$203,275,999
Driver Licenses	1430	0	\$102,583,481	\$102,583,481
Motor Vehicles	405	0	\$35,153,398	\$35,153,398
Information Systems Administration	175	0	\$28,585,812	\$28,585,812
<b>TOTAL</b>	<b>4,467</b>	<b>\$15,000,000</b>	<b>\$372,043,155</b>	<b>\$387,043,155</b>

*\*excludes administered funds*

## Fiscal Year 2011 - 12 Request

	Issue	FTE	General Revenue		Trust Fund		Total
			Non-Recurring	Recurring	Non-Recurring	Recurring	
Continuation	1. Replacement of Motor Vehicles – FHP Pursuit Vehicles		25,777,076	0	0	0	25,777,076
	2. Phase II – Replace Outdated Driver License and Motor Vehicle Computer Systems				2,269,219	610,000	2,879,219
	3. Personal Protective Equipment - FHP		0	0		112,500	112,500
	4. Automated License Plate Readers					600,000	600,000
	5. Online Verification of Driver License Information					250,000	250,000
	<b>Continuation Total</b>		<b>25,777,076</b>	<b>0</b>	<b>2,269,219</b>	<b>1,572,500</b>	<b>29,618,795</b>
	Data Center Consolidation			TBD			TBD
	<b>Mandate Total</b>		<b>0</b>	<b>TBD</b>			<b>TBD</b>
FCO	Critical Repairs and Mold Remediation		0		498,000		498,000
	<b>Fixed Capital Outlay</b>				<b>498,000</b>		<b>498,000</b>
<b>TOTAL</b>		<b>0</b>	<b>25,777,076</b>	<b>0</b>	<b>2,767,219</b>	<b>1,572,500</b>	<b>30,116,795</b>

**Priority 1**

## **Replacement of Motor Vehicles – FHP Pursuit Vehicles \$25,777,076 Non-Recurring General Revenue**

Funding requested to replace older, higher mileage pursuit vehicles and provide Troopers with safe, reliable cost effective vehicles they can use to provide safety and security on the roadways of Florida.

The Florida Highway Patrol depends on safe, reliable pursuit vehicles to enforce traffic laws, deter and respond to criminal activities and provide security to everyone travelling on our roadways.

Currently, the Department of Management Services' (DMS) criterion for vehicle replacement allows police pursuit vehicles to be replaced at 80,000 miles. A report from DMS' Equipment Management Information System (EMIS) projects that more than 1,200 Florida Highway Patrol (FHP) vehicles will have been driven over 100,000 miles by June 30, 2012. The FHP currently has a \$2.8 million base budget for the acquisition of motor vehicles, which allows the FHP to replace approximately 111 vehicles per year. After utilizing the base appropriation, the FHP is projected to be operating 997 vehicles that have been driven over 100,000 miles. Three hundred four of these vehicles are older Ford models that do not possess the fire suppression option. Due to life safety concerns, these vehicles are being phased out of Department operations.



During enforcement actions, Florida Highway Patrol troopers regularly drive their police vehicles at a high rate of speed on crowded interstate highways. These older, less reliable vehicles will become increasingly unsafe to operate and will result in placing our troopers and the motoring public at risk. Additionally, as critical components in the vehicles deteriorate, the high mileage vehicles cost more to operate. Replacing these high mileage vehicles with newer, more reliable vehicles will enhance the Patrol's ability to save lives through active traffic safety enforcement, respond to calls for service in a timely manner, and patrol the highways to remove impaired or hazardous drivers and deter criminal activities.

### **COST**

The projected cost to replace 997 vehicles at \$25,855 per vehicle is \$25,777,076.

**Priority 2**

## **Funding for Phase II – Replace Outdated Driver License and Motor Vehicle Information Systems**

**\$610,000 Recurring Trust Fund, \$2,269,219 Non-recurring Trust Fund**

Funding requested to continue Phase II of Replacing Outdated Driver License and Motor Vehicle Computer Systems with more agile, cost-effective and supportable systems.

Recognizing that customer and business needs have changed, during the 2010 session the Legislature reallocated \$500,000 in Department resources to fund Phase I of Replacing the Outdated Motor Vehicle and Driver License Information systems. Phase I funded a feasibility study to determine the most cost-effective method for obtaining an agile, responsive and integrated driver license and motor vehicle system. Phase II continues the modernization process by providing funding for the next steps in acquiring or developing a new integrated Motorist Services system.

- Currently the Department operates approximately 2,000 legacy mainframe programs supporting all aspects of the agency. Many of the mainframe programs are close to 30 years old and have become extremely difficult to maintain. The programs no longer support current business processes. The Department began eliminating the mainframe programs with grant funding, but requires additional funding to complete the process. This process will be completed over a two year period. The costs for the first year total \$1,876,000 and the cost for finishing the migration in 2012-13 is \$610,000. The Department will recognize annual savings of over \$1 million after eliminating mainframe services.
- The Business Process Redesign and Functional Requirements step is critical to prepare the Department for the migration to a fully integrated Motorist Services system and service delivery operation. During this step, the Department will redesign business processes to identify the most cost-effective way to deliver services to the Department's customers. The funding needed to complete this step is \$966,000.
- The Data Requirements and Cleansing step includes documenting data business rules, providing a detailed strategy for data transformation, mapping the current data structure to the future data model and cleansing data errors. The funding needed to complete this step is \$1,656,000.
- Involvement of the business users in a Transformation Team is a critical element of success in the business process redesign. It is necessary to provide resources to backfill the positions and responsibilities of six subject matter experts that will be dedicated to the Transformation Team. The funding needed to backfill the business users is \$312,000.

The benefits of this integration and modernization effort include efficiencies gained from the elimination of duplicate data and processes, simplification of the technical environment, a more productive and responsive technical workforce, and a reduction in wait, processing and response times for services. This effort will focus on providing a single interface and a single source of data that will promote self service to the greatest degree possible while safeguarding and managing data to protect the lives and personal information of our residents.

### **COST**

The Department is requesting a non-recurring reallocation of existing resources totaling \$1,931,281, recurring funding of \$610,000 and non-recurring funding of \$2,269,219.

**Priority 3**

## **Personal Protective Equipment (PPE Kits) \$112,500 Recurring Trust Fund**

Funding requested for needed Florida Highway Patrol equipment to deliver emergency response services and ensure the safety and security of Florida's roadways.

The Florida Highway Patrol routinely provides 50% of the State's emergency response. In order to protect the roadways and respond to an emergency situation in a safe and effective manner, it is essential for the Florida Highway Patrol to utilize functional and reliable equipment. It is necessary to replace worn and outdated equipment to maintain officer safety and ensure they have the proper tools to perform their duties.

During the 2003-04 fiscal year a Federal grant was used to purchase Personal Protective Equipment (PPE) kits for all Florida law enforcement officers. These kits enable the Patrol to respond to a chemical, biological, radiological or nuclear event. The PPE kits must be replaced every five years. The State Homeland Security Grant Committee did not allocate continued funding for replacement of these kits. Currently, the Patrol operates twenty-five Quick Reaction Team units throughout the State. This funding provides each Quick Reaction Team member with a new PPE kit during the 2011-12 fiscal year. The recurring funding would replace the remaining Troopers' PPE kits on a rotating basis.

### **Cost**

This funding will replace 250 PPE kits per year at \$450 each. The total recurring funding requested is \$112,500 per year.



**Priority 4**

## **Automated License Plate Readers \$600,000 Recurring Trust Fund**

Funding requested for needed Florida Highway Patrol equipment to deliver services and ensure the safety and security of Florida's roadways.

The automated license plate reader system is a progressive infrared camera system that is capable of scanning the license plate of passing vehicles in seconds, translating the digital pictures into data and then cross-referencing that information with criminal databases. The resulting information is sent to police personnel instantaneously. When installed in patrol vehicles, these systems will be able to scan and query 1,500 license plates per hour. These systems will be capable of determining whether a vehicle is the subject of alerts including:

- Amber or Silver alert,
- Stolen tag,
- Be-On-the Look-Out
- Missing Persons,
- Wanted Persons
- Terrorist Watch List
- Expired or Suspended Tags
- Stolen Vehicles
- Sex Offenders Violating Parole
- Known or Suspected Terrorist
- Gang-Related Activities



In addition, data collected via the reader system can be cross-referenced with Department records to detect vehicles with expired registrations and owners with active suspensions on their driving records. Increased revenue may be realized by identifying drivers whose driver licenses are revoked, suspended or canceled or those who are operating a vehicle with an expired tag or suspended registration.

Because this technology can be used to track the movements of gang members, drug traffickers, sexual predators and the targets of other criminal investigations, as well as monitor compliance with licensing and registration requirements, it directly enhances the Department's mission. By leveraging state of the art technology, the Florida Highway Patrol can increase enforcement efforts to provide a safer environment for Florida's residents and visitors.

### **Cost**

Each automated license plate reader costs \$20,000. Funding is requested to allow the Patrol to purchase 30 automated license plate readers per year.

## Online Driver License Verification \$250,000 Recurring Trust Fund

Funding requested to verify alien numbers of non-citizens and social security numbers for applicants to comply with federal Real ID Act provisions.

The Systematic Alien Verification for Entitlements (SAVE) Program is a federal program to assist in determining a non-citizen applicant's immigration status. The SAVE Program provides access to information contained in the U.S. Citizenship and Immigration Services databases, which includes information on over 100 million records. The Program verifies a non-citizen applicant's immigration status, thereby ensuring only entitled non-citizen applicants receive federal, state, or local public benefits and licenses. The Department has participated in the SAVE program since 2002.

The SAVE program is a requirement of the federal Real ID Act, which became effective January 1, 2010. The provisions of Real ID, increase the number of times the SAVE program is accessed. From 2010 through 2017, every license holder must produce their lawful presence, permanent residency card, or non-immigrant documents to be scanned and processed, regardless of whether they had already shown the documents. This increase in SAVE transactions has resulted in higher costs to the Department.



In addition, the REAL ID Act requires the verification of social security numbers for the issuance of all Real ID compliant driver licenses. The American Association Motor Vehicle Administrators (AAMVA) acts as the conduit to the Social Security Administration for this purpose. This Real ID requirement has resulted in increased transactions and costs to the Department.

If this issue is not funded, the Department will not have sufficient funding to pay the U.S. Department of Homeland Security, Citizenship and Immigration Services for the increase in the number of verifications that are required by the Real ID Act.

### **COST**

Funding is requested to cover an increase in the number of alien numbers to be electronically verified through SAVE and social security numbers verified through AAMVA. The Department needs \$150,000 to cover the SAVE increase and \$100,000 to cover the increase in social security verifications.

**Priority 6  
 Fixed Capital Outlay**

**Critical Repairs and Mold Remediation  
 \$498,000 Non-Recurring Trust Fund**

Funding requested for fixed capital outlay projects necessary to continue operations and provide quality services to the residents of Florida.

**Kirkman Building Improvements** - The Kirkman Building, located in Tallahassee, was built in 1956, with additions made in subsequent years. The building is comprised of 380,836 square feet. Items included in this request are critical life safety repairs. In a May 2008 State Fire Marshal’s report of deficiencies, plumbing backflow prevention was identified as necessary to prevent backflow of non-potable water into the building system. Additionally, hot and chilled water piping in the building is insulated with asbestos containing materials, and remediation is required as valves are serviced and replaced.



**Florida Highway Patrol Facility Maintenance** - This issue requests funding for maintenance and repairs to Florida Highway Patrol facilities statewide as part of a five year plan. Due to weather events, water intrusion has caused mold and mildew problems statewide. Maintaining facilities in a safe and cost-effective manner requires the periodic repair and replacement of roofing.

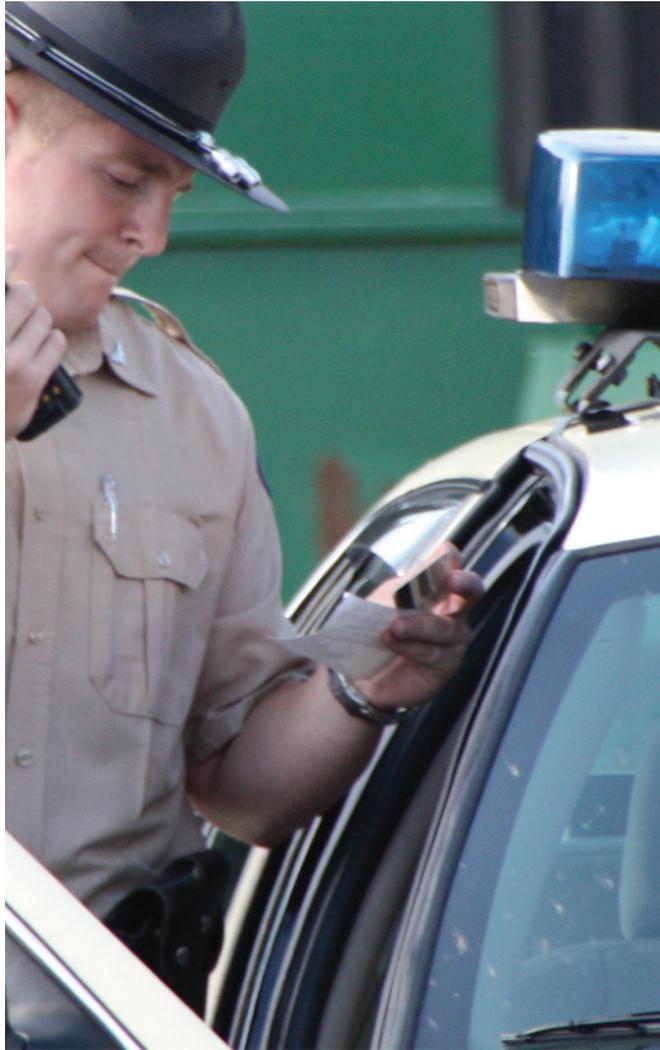
**Division of Driver Licenses Facility Maintenance** – This issue requests funding for maintenance and repairs for driver license facilities statewide. Due to weather events, water intrusion has caused mold and mildew problems statewide. Maintaining facilities in a safe and cost-effective manner requires the periodic repair and replacement of roofing.

**COST**

This issue requests \$498,000 in non-recurring funding to conduct critical repairs during the 2011-12 fiscal year.

Issue		Cost
Kirkman Building Improvements	Plumbing backflow prevention	\$60,000
	Asbestos abatement	\$75,000
Florida Highway Patrol Facility Maintenance	Roofing (Lakeland)	\$148,000
	Mold/Mildew Remediation/Duct Cleaning (Statewide)	\$50,000
Division of Driver Licenses Facility Maintenance	Roofing (Statewide)	\$90,000
	Mold and Mildew Remediation (Statewide)	\$75,000
<b>TOTAL</b>		<b>\$498,000</b>

# First Quarter Performance Report: Fiscal Year 2010 — 2011



Providing Highway Safety and Security  
Through Excellence In Service, Education, and Enforcement

Julie Jones, Executive Director

## Leading the Way to a Safer Florida

### Service Delivery – ensuring customer-driven excellence

- More than 3.6 million Floridians, representing 24 percent of driver license and identification card holders, have registered their Emergency Contact Information with the Department.
- Between July – September 2010, the Department issued more than 15 percent of its driver license and identification cards through the Internet.
- Customers completed more than 13 percent of their motor vehicle transactions through the Internet between July – September 2010.
- State and tax collector-operated driver license offices processed more than 1.9 million transactions between July – September 2010.
- Partnering with the office of U.S. Sen. George LeMieux, the Department participated in two recent, central Florida events that focused on Hispanic outreach. The events joined together different agencies to provide assistance to those struggling to obtain a Puerto Rican birth certificate. DHSMV members discussed the recent changes to the federal identification requirements needed to obtain a Florida identification card or driver license.
- As of September 2010, driver license services were offered in 71 state issuances offices and 133 tax collector offices in 47 counties. This represents a 16 percent increase from the number of tax collector offices that were delivering driver license services in September 2009. In addition, seven more counties offered driver license services in September 2010 than did in September 2009.
- The Florida Highway Patrol assisted 69,529 motorists, worked 52,090 crashes and issued 387,576 citations, warnings and faulty equipment notices between July – September 2010.



### Safety – protecting our residents through service, education and enforcement

- The Coalition for a Secure Driver's License, a Washington D.C. based nonprofit, presented its Homeland Security Award to the Department on July 19. The coalition recognized DHSMV for advances in driver license security and applying new procedures to confirm the identities of applicants that align with the federal regulations. Florida is now authorized by the Department of Homeland Security to affix the "gold star" on its driver's licenses and IDs and has issued them to more than 2 million Floridians.
- Florida's statewide safety belt use increased 2.2 percent in 2010, reaching a record 87.4 percent this year following the 2010 Click It or Ticket safety belt campaign. A joint news release with the Florida Department of Transportation credited Florida's primary safety belt law as a critical piece of the rising rate. It also speaks to the state's education and enforcement of the law, in which the Department has been heavily involved.
- On Sept. 2, DHSMV teamed up with FDOT to co-host a news conference in conjunction with the hospitals of Morton Plant Mease, law enforcement representatives and safety advocates to announce Florida's Drowsy Driving Prevention Week. The state agencies worked with State Rep. Alan Williams and Ronshay Dugans' family to launch a public education and awareness campaign coined, You Snooze, You Lose – Don't Drive Drowsy. The agencies used existing resources to develop campaign materials, to include a public service announcement, a website and more.



- Three out of four child safety seats are installed improperly in vehicles. To help more families buckle up their children properly, DHSMV hosted car seat check events during National Child Passenger Safety Week, which fell on Sept. 19 – 25. The Department used the week as a springboard to educate parents and to raise awareness of the national guidelines for putting children in the proper restraint for their age, size and weight.
- During the four-day, Independence Day and Labor Day holiday weekends, the Florida Highway Patrol took an all hands on deck approach, enlisting the support of reservists and auxiliary troopers in order to protect motorists on Florida's busy roadways. Results are provided below:

*Independence Day Holiday (July 2 – 5)*

Total Citations = 9,334  
DUI Arrests = 100  
Speeding Citations = 3,404  
Safety Belt Citations = 1,102  
Motorist Assists = 2,686

*Labor Day Holiday (Sept. 3 – 6)*

Total Citations = 13,995  
DUI Arrests = 80  
Speeding Citations = 5,741  
Safety Belt Citations = 1,509  
Motorist Assists = 3,134

The Patrol also teamed up with law enforcement agencies across the nation between Aug. 20 and Labor Day to reduce the number of drunk drivers on the road as part *Drunk Driving. Over the Limit. Under Arrest.* campaign.

During the 18-day period, Florida troopers made 431 DUI arrests.



- Between July - September 2010, FHP's contraband interdiction efforts resulted in several significant arrests and seizures. During the period, troopers made more than 638 drug-related arrests and seized eight weapons, five vehicles, \$248,144 in cash and illicit drugs with an estimated value of \$357,621.

### Workforce – valuing our members

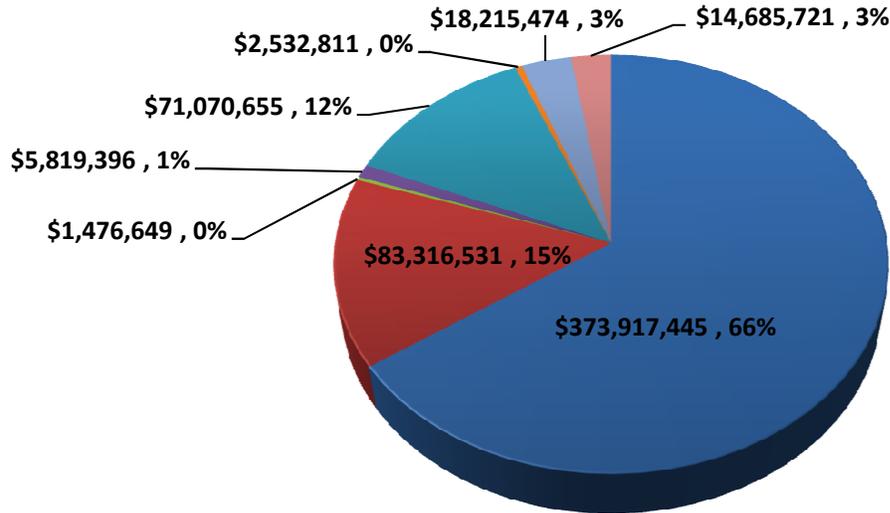
- The Department reviewed our new midpoint evaluation process, which supervisors complete in August each year. The Department's new process requires supervisors to evaluate a member's strengths, areas for improvement and accomplishments. Initial comments from supervisors and members have been extremely positive.
- Department hearing officers of the Bureau of Administrative Reviews recently received training from the prestigious National Judicial College. They received advanced instruction in the areas of due process in administrative hearings, dealing with pro se (self-represented parties), field sobriety and intoxilyzer tests, admissibility of evidence, probable cause, motions, ethics, objections and decision writing. The National Judicial College is considered the nation's premier institution for training judges and hearing officers.
- On Sept. 2, Director Julie Jones named Trooper Melissa Oman as the 2010 recipient of the *Executive Director's Award*. Oman earned the award, presented annually, for spearheading FHP's search for a new duty handgun, the GLOCK 37 GAP. Not only did Oman's team choose a gun that has been well received, but they did so at essentially no cost to taxpayers. They traded in the old Beretta pistols for the new pistols at no cost to the state, saving of nearly \$950,000.
- The Florida Cabinet and Florida Petroleum Council honored Trooper Danyen Komorek on Sept. 14 when they named her the Florida Highway Patrol's *2010 Trooper of the Year*. Komorek is assigned to Troop G in Jacksonville. Her quick actions and heroism saved a man's life.

## Revenue Information

### Revenue Generated

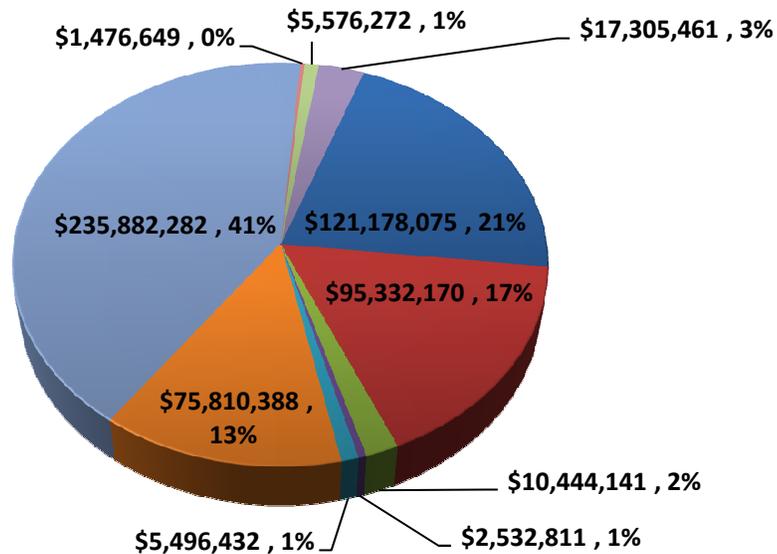
	Trust Fund	General Revenue	Total
1st Quarter	\$335,152,400	\$235,882,282	\$571,034,682

### Where the Money Comes From - 1st Quarter



- Licenses Plates and Decals
- Motor Vehicles Titles
- Motor Fuel Use Tax
- Fines and Forfeitures
- Driver Licenses
- International Registration Plan Receipts
- Driving Records/Transcript
- Other

### Where the Money Goes - 1st Quarter



- Department of Education
- HSMV Agency Funding
- Specialized Plate-Sponsor
- International Registration Plan Program
- Law Enforcement Radio TF
- Dept of Transportation
- General Revenue Funded Programs
- Fuel Use Tax
- Air Pollutions Control program
- Other

## Performance Measures

<i>Measure</i>	<i>1<sup>st</sup> Quarter 2009-10</i>	<i>1<sup>st</sup> Quarter 2010-11</i>	<i>Annual Standard</i>
<b>Service Delivery - Employ strategies that ensure customer-driven excellence.</b>			
1. Number of motorists assisted by FHP	77,016	70,758	300,000
2. Percent of driver license office customers waiting 15 minutes or less for service (1)	47%	46%	80%
3. Percent of driver license office customers waiting less than 30 minutes for service (1)	67%	63%	95%
4. Percent of customer service phone calls answered by the Customer Service Center within 2 minutes of being placed in the queue (2)	39%	23%	70%
5. Number of highway crashes investigated by FHP	54,381	54,353	235,000
6. Percent of fatal highway crashes investigated by FHP to all fatal highway crashes investigated by law enforcement in Florida	61%	63%	60%
7. Percent of highway homicide investigations completed within 90 days of crash (3)	69%	69%	80%
8. Percent of calls for service responded to within 30 minutes	70%	70%	65%
9. Percent of traffic investigation hours for FHP troopers and corporals to total duty hours for FHP troopers and corporals	24.1%	24.6%	23%
10. Percent of criminal investigation cases resolved within 30 days	43%	58%	50%
11. Percent of professional compliance investigation cases completed within 45 days (4)	77%	43%	80%
12. Number of corrections per 1,000 driver records maintained (5)	6.7	6.5	4
13. Number of driver licenses and identification cards issued (6)	1,530,191	1,286,164	6,200,000
14. Percent of vehicle/vessel titles issued without error	89%	94%	92%
15. Number of motor vehicle/manufactured home/vessel titles issued	1,225,158	1,280,258	5,750,000
16. Number of motor vehicle/manufactured home/vessel registrations issued (7)	4,851,988	3,938,281	21,300,000
17. Percent of titles issued within 3 workdays of request	100%	100%	98%
18. Percent of motor vehicle, manufactured home and recreation vehicle dealer licenses issued within 5 workdays of receipt of completed dealer application	99%	99.8%	99%
19. Percent of paper titles issued for motor vehicles, manufactured homes and vessels to all titles issued	77%	75%	80%
20. Percent of biennial motor vehicle, manufactured home and vessel registrations issued to all registrations issued eligible biennial registration participants	45%	8%	6%

## Performance Measures

<i>Measure</i>	<i>1<sup>st</sup> Quarter 2009-10</i>	<i>1<sup>st</sup> Quarter 2010-11</i>	<i>Annual Standard</i>
<b>Safety –Protect our citizens’ lives and personal security through service, education, and enforcement.</b>			
1. Florida highway fatality rate per 100 million vehicle miles traveled	Annual	Annual	1.5
2. Florida alcohol-related highway fatality rate per 100 million vehicle miles traveled	Annual	Annual	0.58
3. Florida's seat belt compliance rate	85.2%	87.4%	85%
4. Percent of preventive patrol hours for FHP troopers and corporals to total duty hours for FHP troopers and corporals	52.9%	50.2%	52%
5. Number/Percent of registered vehicles that meet Florida's minimum insurance requirements	11,613,684 95%	11,726,502 96%	95%
6. Number/percent of driving related sanctions issued to all sanctions issued	30,581 6.1%	30,215 5.4%	130,000 5.0%
7. Percent of "Driving Under the Influence" course graduates who do not have another DUI conviction within 4 years of graduation	Annual	Annual	90%
8. Percent of new manufactured home warranty complaints to new manufactured homes titled	0.8%	0.4%	0.6%
9. Number of manufactured homes inspected in plants (8)	628	832	6,000
10. Number of rebuilt salvage motor vehicles inspected	9,138	10,124	25,000
11. Number of dealer licenses issued (includes motor vehicle and manufactured home dealers, and manufacturers licenses)	Annual	Annual	12,800

<b>Workforce –Build an environment that regards our members as our most valuable resource.</b>			
12. Percent of FHP recruit graduates who passed certification exam on initial testing	N/A	91%	95%
13. Percent turnover for all FHP troopers and corporals	3.1%	3.9%	7.5%
14. Percent of administrative/training hours for FHP troopers and corporals to total duty hours for FHP troopers and corporals	23.0%	25.2%	25%

<b>Performance Management –Take an integrated approach to measure, manage, and improve our organizational performance to further the agency’s mission.</b>			
15. Agency administration and support costs as a percent to total agency costs	5.60%	4.54%	5.00%
16. Number/percent of non-driving related sanctions issued to all sanctions issued	471,559 93.9%	526,167 94.6%	2,470,000 / 95%
17. Cost per motor vehicle/manufactured home/vessel title issued	Annual	Annual	\$2.75
18. Percent of International Fuel Tax Agreement audits completed to all International Fuel Tax agreements	0.55%	0.73%	3.00%
19. Percent of International Registration Plan Agreement audits completed to all International Registration Plan agreements	0.83%	1.18%	3.00%

## Performance Measures

### PERFORMANCE EXPLANATION

(1) Percent of driver license office customers waiting 15 minutes or less for service and Percent of driver license office customers waiting less than 30 minutes for service – Three major factors contributed to longer wait times as compared to the standard:

- The Federal Real ID Act requirements negatively impacted wait times as additional time is required to review and scan multiple types of identity and residency documentation.
- The Department has closed 23 driver license offices since the inception (7/1/2008) of transitioning to Tax Collector offices. However, our state issuance offices continue to conduct more DL transactions (63%) verses Tax Collector offices (37%). More driver license customers continue to conduct transactions in DHSMV offices because the additional \$6.25 service fee is not charged in the state facilities. To facilitate the remaining DL office transitions, the Department has proposed legislation to add the \$6.25 fee to state office transactions.
- Due to budget constraints, vacant positions were held for 90 days, adversely impacting our ability to keep the offices fully staffed. Since the first quarter we are filling vacancies without a delay.

(2) Percent of customer service phone calls answered by the Customer Service Center within 2 minutes of being placed in the queue – The Department has historically had difficulty meeting this measure due to call volume exceeding the number of call takers available to handle the calls. However, the call volume increased due to the Real ID Act which further contributed to the problem. On January 1, 2010, we opened a new phone line to answer questions about the new documents which must be presented to get a driver license or ID card. On average, we are answering more than 15,000 calls per month on this line. These calls are in addition to the volume we previously handled and without increasing call takers to handle the additional volume. We have conducted a root cause analysis on the calls we receive most frequently and are taking actions and making adjustments to prevent the need for as many of these calls as possible.

(3) Percent of highway homicide investigations completed within 90 days of crash – The complexity of traffic homicide investigations has increased and the Patrol has instituted measures to ensure that the thoroughness of all traffic homicide investigations continues. For example, the abbreviated reporting format has been eliminated to ensure a more comprehensive investigation and investigators are required to maintain constant contact with victim's family and the State Attorney's Office to provide them with periodic updates on case status. Also, laboratory analysis of evidence, including DNA analysis to identify drivers, can cause delays in completing investigations. These changes have resulted in increased time required to complete investigations.

(4) Percent of professional compliance investigation cases completed within 45 days – The complexity of specific cases during this quarter necessitated additional investigation time.

(5) Number of corrections per 1,000 driver records maintained – The majority of errors made on the driver's record, which require a correction, are made by or reported by outside agencies (courts and other state motor vehicle agencies). The Department, through a Florida DOT grant, worked with five clerk of court entities to identify causes of citation data errors. Consequently, transmission clerk errors were reduced by 8.34% and the error count for the state was reduced by 7.19%. However, at least three large counties implemented new data base systems in 2009 that produced a large number of reporting errors that could not be corrected through electronic re-submission from the clerk. A two-year plan has been developed, which defined business rules and system solutions, to re-write internal systems to mitigate and reduce citation data error transmissions.

(6) Number of driver licenses and identification cards issued – In November 2009, statutory changes were made to discontinue the issuance of a driver license and identification card to the same person. Consequently, the Department has experienced a reduction in the number of identification cards issued.

(7) Number of motor vehicle/manufactured home/vessel registrations issued – Reduced public demand due to economic conditions caused fewer motor vehicles, manufactured homes and vessels to be registered.

(8) Number of manufactured homes inspected in plants – Production in mobile/manufactured home plants has continued to decrease due to reduced public demand resulting in fewer homes to be inspected in plants. The Department inspects 100% of all Florida in plant manufactured homes.

**Purchases**

**PURCHASES MADE IN EXCESS OF \$35,000.00 AND NOT IN CONJUNCTION WITH  
STATE CONTRACTS  
JULY through SEPTEMBER 2010**

<p>FHP: The recently purchased Stone Mountain Lapel Microphones will be used by the Florida Highway Patrol, as their primary communication device with their mobile radios. The newly purchased Lapel Microphones are repairable and will save the agency funds on replacement costs over the non-repairable units currently used. ITB# 001-11, Order No. A256D3.</p>	<p>Vincent Communications Inc. Fresno, CA</p>	<p>\$35,775.00</p>
<p>DDL: This software provides online address validation and identity verifications, while providing the instant ability to verify raw data such as criminal history addresses. This helps maintain security and identify and potential fraudulent persons and/or documents to ensure driver licenses/ ID cards are legitimate. Order No. DO2172123, Single Source.</p>	<p>Thomson West Eagan, MN</p>	<p>\$30,547.44</p>
<p>FHP: Media vendor provides maximum geographic coverage in target areas, (Tampa/St. Petersburg to Orlando) to reach target viewer audiences on Silver Alert Program data to spread awareness. Order No. A28D51, Single Source purchase, due to Bright House Networks being the only cable television media outlet able to provide full coverage in Central Florida (Tampa/St. Petersburg to Orlando), which is one of two targeted geographical locations of this grant funded campaign.</p>	<p>Bright House Networks Maitland, FL</p>	<p>\$100,000.00</p>
<p>FHP: Media vendor provides for maximum geographic coverage in targeted location (Treasure Coast and Sarasota area to Florida Keys, including Miami/ Ft. Lauderdale/West Palm Beach) to reach target viewer audiences based on Silver Alert Program data to spread awareness. Order No. A28D6C, Single Source purchase, due to Comcast Spotlight of South Florida being the only cable television media outlet able to provide full coverage in South Florida (Treasure Coast to the Florida Keys), which is one of two targeted geographical locations of this grant funded campaign.</p>	<p>Comcast Spotlight Miramar, FL</p>	<p>\$100,000.00</p>

**15-1.012 Delegation of Authority.**

Authority to take the following action is hereby delegated by the Governor and Cabinet acting as the head of the Department to the Executive Director of the Department of Highway Safety and Motor Vehicles or the Executive Director's designee:

- (1) To approve the transfer of appropriations pursuant to Section 216.292, F.S.
- (2) To administer personnel rules for career service employees and persons paid from OPS and to administer personnel actions for employees exempt from the career service system.
- (3) To add, delete, transfer authorized positions within each budget entity in accordance with Sections 216.262 and 216.141, F.S.
- (4) To administer travel and per diem expenses of public officers, employees and authorized persons on official business, pursuant to Section 112.061, F.S.
- (5) To negotiate, execute and enter into contracts and agreements; except as provided in subsection (8), required for operation of the Department or to carry out programs approved by the Legislature or Governor and Cabinet; except, however, this delegation shall exclude awards of commodity contracts by the Department of Management Services.
- (6) To take any action concerning planning and budgeting for the Department, as authorized pursuant to Chapter 216, F.S., or other laws, or by rules adopted by the Governor and Cabinet, or in directives issued by the Governor and Cabinet acting as the head of the Department.
- ~~(7)~~(6) To expend appropriated funds and make purchases including operating capital outlay to carry out the day-to-day operations of the Department. However, all purchases over \$~~100~~25,000 which are not made from a state contract established by the Department of Management Services shall be reported at least quarterly.
- ~~(8)~~(7) To execute contracts and orders approved by or on behalf of the Governor and Cabinet.
- ~~(9)~~(8) To contract for consultant and professional services up to \$100,000. However, selection of consultant and professional services, other than sole source, shall be by procedures set forth in the Consultants Competitive Negotiations Act or other competitive selection process established by rule.
- (10) To enter into agreements with other federal, state, and local governmental agencies when authorized by law.
- ~~(11)~~(9) To enter into lease of real property for departmental operations.
- ~~(12)~~(10) To designate appropriate officials or employees to act as custodian of the records of the Department, to accept service of process on behalf of the Department or Executive Director in accordance with law.
- ~~(13)~~(11) To bring suit in the name of the Department and in consultation with the Attorney General, or to defend suit in the name of the Department.
- (14)(12) To compromise and settle, in the best interest of the Department, subject to Section 45.062, F.S., all claims, actions, causes of action and legal proceedings, whether sounding in tort or contract, that are brought against the Department or any of its employees acting within the scope of their employment. Such compromises and settlements shall be limited to cases where the total amount paid is less than \$100,000.00, and shall be reported to the Governor and Cabinet on at least a quarterly basis.~~To settle claims, actions, causes of action and legal proceedings brought against the Department or its employees acting within the scope of his/her employment. Such settlement shall be limited to \$25,000.~~
- ~~(15)~~(13) To notify state attorneys, sheriffs or other law enforcement agencies of activity in violation of state law or department rules when such violation is beyond the capacity of the Department to halt or prosecute.
- ~~(16)~~(14) To accept donations and gifts of property or grants of money on behalf of the Department in compliance with the law, provided such gifts are unencumbered and have no impact on any other agency of the state.
- ~~(17)~~(15) To act on behalf of the agency in carrying out the provisions of Chapter 120, F.S., unless prohibited by law or by directives issued by the Governor and Cabinet acting as the head of the Department. This delegation specifically includes, but is not limited to the following:
  - (a) To initiate rulemaking by publishing a notice of rule development.
  - (b) To publish a notice of intended rulemaking, after approval of such proposed notice by the Governor and Cabinet pursuant to Section 120.54(3)(a)1, F.S.

(c) To certify that a proposed rule has been approved by the Governor and Cabinet pursuant to Section 120.54(3)(e)1., F.S.

(d) To file with the Department of State the approved rule pursuant to Section 120.54(3)(e)1., F.S.

(e) To explain in writing when appropriate why a rule development workshop is unnecessary.

(f) To issue declaratory statements pursuant to Section 120.565, F.S.

(g) To provide methods for making available a description of the agency's organization and general course of its operations, pursuant to Section 120.54(5)(b)7., F.S.

(h) To issue an immediate final order pursuant to Section 120.569(2)(n), F.S., that states the particular facts supporting a finding that there is an immediate danger to the public health, safety, or welfare.

(i) To issue a written statement pursuant to Section 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award process must be continued without delay due to an immediate and serious danger to the public health, safety, or welfare.

(j) Pursuant to Section 120.63(1)(a), F.S., to apply on behalf of the Department and certify to the Administration Commission that a proceeding required by Chapter 120, F.S., conflicts with a provision of federal law or rule.

(k) To prepare, certify, and file the rule review report mandated by Section 120.74(2), F.S., with the presiding officers and affected standing committees of the Florida Legislature.

~~(a) To initiate rulemaking by publishing a notice of intended action. However, before a notice of intended action is published, the Department must submit the proposed notice, including the proposed rule text, to the Governor and each member of the Cabinet. Upon the written request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next appropriate Cabinet meeting. If, after being given 10 working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his/her objection to such publication, the Department shall proceed to initiate rulemaking pursuant to Section 120.54(3)(a), F.S. The power to determine whether proposed rules should be approved for final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.~~

~~(b) To respond on behalf of the Department to petitions filed pursuant to Sections 120.54 and 120.57(1) and (2), F.S., and to issue declaratory statements pursuant to Section 120.565, F.S.~~

~~(c) To take final agency action in any proceedings within the scope of the Department's authority pursuant to Section 120.569, F.S.~~

~~(d) To provide methods for making available a description of the agency's organization and general course of its operations, pursuant to Section 120.54(5)(b)5., F.S.~~

~~(e) To issue a written statement pursuant to Section 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award must be continued without delay due to an immediate and serious danger to the public health, safety, or welfare.~~

~~(f) Pursuant to Section 120.63(1)(a), F.S., to apply on behalf of the Department and certify to the Administration Commission that a proceeding required by Chapter 120, F.S., conflicts with a provision of the federal law or rule.~~

~~(g) To prepare, certify, and file the rule review report mandated by Section 120.74(2), F.S., with the presiding officers and affected standing committees of the Florida Legislature.~~

~~(18)(46) To approve memberships in professional and other organizations in which state funds appropriated to the Department will be used in payments of dues pursuant to Section 216.345, F.S.~~

~~(17) To initiate rule making.~~

~~(19)(48) To perform other such functions as may be necessary to supervise, direct, conduct and administer the day-to-day duties of the Department as authorized by law or by rules and policies adopted by the Governor and Cabinet, or in directives issued by the Governor and Cabinet acting as the head of the Department.~~

~~(20)(49) To convene complaint review boards, select members of such boards, serve notice and otherwise exercise authority related to duties in Section 112.532, F.S.~~

~~(20) The Executive Director shall report to the Governor and Cabinet at least quarterly actions taken under sub sections (5), (8), (9), (11), (12), (13), (14) and (18).~~

(21) To take final agency action based on recommendations of hearings officers who conducted driver license hearings pursuant to Chapter 322, F.S.

(22) To conduct hearings and take final agency action concerning financial responsibility matters authorized by Chapter 324, F.S.

(23) To execute reciprocal agreements with appropriate authority of other states as authorized by Section 320.30, F.S.

(24) To take final agency action pursuant to Section 120.57 and Chapter 320, F.S., on manufacturer and dealer license hearings held under and pursuant to Chapters 120 and 320, F.S.

~~(25) To take final agency action pursuant to Section 120.57 and Chapter 325, F.S., on emissions control self inspector and reinspection facility licensure hearings held under and pursuant to Chapters 120 and 325, F.S.~~

*Rulemaking Specific Authority 20.05(1)(e)(5), ~~120.53(1)(a)~~, 320.011, ~~322.02(6)~~, 324.042, FS. Law Implemented 20.05(1)(b), ~~120.53(1)(a)~~, FS. History—New 6-26-80, Amended 11-6-80, Formerly 15-1.12, Amended 6-6-93, 11-17-98, \_\_\_\_\_.*

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., 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 not including days an administrative determination was pending; 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 days 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

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

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 Number:

15-1.012

Under the provisions 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: \_\_\_\_\_.

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

\_\_\_\_\_  
3  
Number of Pages Certified

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15-1.012, FAC, DELEGATION OF AUTHORITY**

**RULE NUMBERS:**

**RULE TITLE:**

**15-1.012**

**Delegation of Authority**

Summary of Rule

The proposed rule action revises the current Rule 15-1.012 by incorporating the Executive Director's authority to take action concerning planning and budgeting for the department, to enter into agreements with other governmental agencies, and to conduct rulemaking procedures.

Statement of Facts and Circumstances Justifying the Rule

The revisions to Rule 15-1.012 are necessary so as to properly reflect the authority delegated to the Executive Director by the Governor and Cabinet.

Federal Standards Statement

A Federal Standard or Rule that impacts or is affected by this rule change does not exist.

Summary of Hearing

The Notice of Proposed Rule Development was noticed in the July 9, 2010, Florida Administrative Weekly, Volume 36, Number 27, setting out a Public Workshop for July 26, 2010. No timely request for the workshop was received by the agency and no workshop was held.

The proposed rule was noticed in the August 20, 2010, Florida Administrative Weekly, Volume 36, Number 33, setting out a Public Hearing for September 20, 2010. No request for a hearing was received by the agency and no hearing was held.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses

RULE NO: RULE TITLE

15A-12.001: Purpose

15A-12.002: Definitions and Course Curriculums

15A-12.003: Exemptions

15A-12.004: Application to Become a Sponsor

15A-12.005: Additional Program Requirements

15A-12.006: Regulation of Authorized Program

15A-12.007: Personnel Certification

15A-12.008: Program Compliance

15A-12.001 Purpose.

The Florida Motorcycle Safety Education Program shall be known as the Florida Rider Training Program (FRTP). Its purpose is to provide motorcycle safety training, course curriculum and the certification of instructors. Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History–New \_\_\_\_\_.

15A-12.002 Definitions and Course Curriculum.

(1) Basic Rider Course (BRC) – Standard beginner 15 hour motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF) and required for licensure to operate a motorcycle. The course curriculum shall be that prescribed by the Motorcycle Safety Foundation (MSF) and will include the Basic Rider Course Rider Coach Guide, the Basic Rider Course Handbook and Basic Rider Course Range Cards, copies of which can be obtained by contacting the Motorcycle Safety Foundation, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, [www.msf-usa.org](http://www.msf-usa.org).

(2) Basic Rider Course – 2 (BRC-2) – Advanced motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF), designed as a skill enhancement course. The student shall use their own motorcycle. This course is not required for licensure. The curriculum shall consist of the Basic Rider Course RiderCoach Guide as adopted by the Motorcycle Safety Foundation (MSF) for RiderCoaches covering advanced rider course materials and administration, facilities and equipment, instructional planning, course teaching, classroom units, range exercises, and RiderCoach training, including the Basic Rider Course Suite (Rider Classroom Cards and RiderCoach Range and Classroom Cards), copies of which can be obtained by contacting the Motorcycle Safety Foundation,

Communications Department, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, [www.msf-usa.org](http://www.msf-usa.org).

(3) Department – The Department of Highway Safety and Motor Vehicles (DHSMV).

(4) Intern/Mentoring Program – Program for candidates seeking certification as RiderCoaches.

(5) Letter of Authorization – Letter from the Department to the Sponsor authorizing the Sponsor to conduct the Program in Florida.

(6) Motorcycle Safety Foundation (MSF) – A national, non-profit organization promoting the safety of motorcyclists with programs in rider education, operator licensing and public information.

(7) Online Data Exchange System – An online Reporting system used by Sponsors to submit student Rider Course scores to the Department.

(8) Program – Florida Motorcycle Safety Education Program or Florida Rider Training Program.

(9) Program Manager – The individual who oversees the day-to-day operation of the state motorcycle safety program for the Department. FRTP Regional Coordinators are Department employees who operate under the supervision of the Program Manager.

(10) Quality Assurance – Informational audits or on site inspections conducted by MSF or FRTP staff pursuant to a program adopted by MSF, to ensure the program and instructional quality.

(11) Range Aide – Any person 18 years of age or older who successfully completed the Basic Rider Course (BRC), and has a motorcycle endorsement.

(12) RiderCoach – FRTP Certified Rider Course Instructor, as set forth in these rules.

(13) RiderCoach Intern – Candidate/Individual who gains supervised professional experience through the Intern/Mentoring Program.

(14) RiderCoach Preparation (RCP) – Training for individual who wishes to gain national certification as a RiderCoach.

(15) RiderCoach Trainer – RiderCoach certified by MSF who trains RiderCoaches.

(16) Rules of Professional Conduct – Statement of conduct by which all FRTP certified RiderCoaches are to abide by when conducting courses, as set forth in HSMV Form 72201 (10/2006), a copy of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571.

(17) Sidecar/Trike Education Program (S/TEP) – Motorcycle course for individuals who intend to drive a motorcycle with more than two wheels or attached sidecar as adopted by the Evergreen Safety Council (ESC);

Sidecar/Trike Education program Instructor Manual, copies of which can be obtained by contacting Evergreen Safety Council, 401 Pontius Avenue North, Seattle, WA 98109, (206) 382-4090 or (800) 521-0778, or at [esc@esc.org](mailto:esc@esc.org), or visit [www.esc.org/sidecar.html](http://www.esc.org/sidecar.html).

(18) Sponsor – The individual or entity which provides or intends to provide motorcycle safety training Program services in Florida.

(19) Update –Recertification for RiderCoaches in order to maintain RiderCoach status.

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History–New \_\_\_\_\_.

15A-12.003 Exemptions

Persons holding a valid driver license that includes a motorcycle endorsement or equivalent from those states, countries or organizations listed below are not required to undergo additional motorcycle training in this state in order to obtain a motorcycle endorsement.

(1) Any State, except Alabama, unless the customer presents a valid Motorcycle Safety Foundation course completion card that is not more than one year old.

(2) United States Territories, Possessions (including Panama Canal Zone if issued prior to January 1, 2000)

(3) Canada

(4) France

(5) Germany

(6) Taiwan

(7) United States Military

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5), F.S. History–New \_\_\_\_\_.

15A-12.004 Application to Become a Sponsor.

(1) Locate a suitable area for a range. An unobstructed area of 200' x 300' is recommended. Potential alternatives can be found on the MSF website, [www.msf-usa.org](http://www.msf-usa.org). A request for any range approval shall be made electronically or in writing to FRTP to secure a letter of authorization with FRTP.

(2) Obtain a written statement from the property owner providing permission to use the property for motorcycle safety courses.

(3) Persons or entities desiring to act as Sponsors must first qualify with MSF as an entity affiliated with the FRTP that is responsible for motorcycle safety and education in which the Sponsor agrees to teach current MSF RiderCourse curricula and does so through RiderCoaches certified according to MSF and FRTP standards. MSF qualifications require completion and use of the forms listed below, which include the student course waiver and

indemnification agreement, reporting and insurance requirements and driving range layout, all of which are conditions of MSF for utilizing their course and instructor certifications. Copies are available from the MSF website, [www.msf-usa.org](http://www.msf-usa.org), Training Site Support, Rider Education Recognition Program (RERP) Forms or by contacting the FRTP, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571:

(a) Rider Education Recognition Program (RERP) Agreement, HSMV Form 77091 (10/2010).

(b) Addendum to RERP Agreement-Independent Sponsor, HSMV Form 77092 (10/2010).

(c) Rider Education Recognition Program (RERP) Application, HSMV Form 77093 (10/2010).

(d) MSF Rider Course Range Information Form, HSMV Form 77094 (10/2010).

(e) Motorcycle Safety Course Waiver & Indemnification, HSMV Form 77095 (10/2010).

(4) The Regional Coordinator will verify the range area and all forms will be sent to the FRTP Program Manager who will sign and forward them to MSF for approval.

(5) MSF will send a letter of approval to the applicant with a copy to the FRTP Program Manager.

(6) Once FRTP receives clearance from MSF, FRTP will initiate the letter of authorization process.

(7) The Letter of Authorization will be signed by the Director of the Division of Driver License or her designee and provided to the Sponsor.

(8) Only when the applicant receives both official documents, will they be able to start classes.

(9) Any change in the information provided by the applicant must be approved by FRTP. A letter of authorization shall not be transferable. The program shall notify FRTP at least 90 days prior to the effective date of a proposed change in the program's corporate structure. FRTP shall review the proposed changes and may request additional information from the program.

(10) The Sponsor shall be given Primary and Secondary signatory templates designed to designate approval authority for the motorcycle safety course classes. The Sponsor shall keep a record of Online Data Exchange System signatories, signatory ID's and clerical additions.

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History--New

#### 15A-12.005 Additional Program Requirements

(1) An organization authorized to conduct the motorcycle safety education program shall adhere to the following:

(a) All RiderCoaches must abide by the FRTP Rules of Professional Conduct, HSMV Form 72201 (10/2010), which is incorporated by reference, copies of which may be obtained from the FRTP website

(<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Florida Rider Training Program, 2900

Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571.

(b) Sponsors must attend required meetings.

(c) Sponsors must advise FRTP of organizational changes and changes in location of services.

(d) Sponsors must provide course class schedules and incident reports to FRTP.

(e) Sponsors must submit reports within three days of the conclusion of the class into the Online Data Exchange System.

(f) Sponsors must provide proper insurance coverage as required by MSF.

(g) Sponsors and RiderCoaches will cooperate with FRTP staff or representatives during program regulation visits.

(h) Sponsors shall produce and maintain specific records as identified below:

(1) Student/Client Observation/Incident Report, where applicable, HSMV Form 77008 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. The Sponsor shall submit copies of all incident reports to the Department within 30 days of occurrence.

(2) The student has one year from completion date of a Basic Rider Course to secure the endorsement on their driver license.

(i) The Sponsor, upon request, shall permit FRTP and its representatives to inspect the program, its public facilities, equipment and records that are required by these administrative rules to be maintained in the operation of the program.

(j) Sponsors must maintain training materials and equipment. All cosmetic damage to state loaned motorcycles must be repaired at least annually. Any motorcycle that has been involved in a crash will be immediately removed from service. The Sponsor must ensure that it is inspected and ridden by a RiderCoach or Certified Range Aide to ensure proper repair prior to student use.

(k) Sponsors must maintain all ranges in safe operating condition and meet applicable local ordinances and zoning requirements.

(l) The Sponsor is solely responsible for the performance of all aspects of these administrative rules. The Sponsor may subcontract aspects of these requirements but assumes full responsibility for the performance of that subcontractor.

(2) A Sponsor shall not use any name other than its registered name with the Secretary of State, for advertising or publicity purposes, nor shall a Sponsor advertise or imply that it is “recommended,” or “endorsed” by FRTP or the State of Florida.

(3) No Sponsor, RiderCoach or employee shall advertise or represent themselves to be an agent or employee of FRTP or allow the use of any advertisement which would reasonably have the effect of leading the public to believe that they are or were an employee or representative of FRTP.

(4) No Sponsor shall make a false or misleading claim in any of its advertisements.

(5) No Sponsor shall use any form of advertising which is obscene, lewd, or pornographic.

(6) The electronic Online Data Exchange System requires reports to be submitted within three days of course completion. If any portion of the documentation is incorrect or incomplete, it may be addressed via email to the Sponsor or the documentation will be returned to the Sponsor for correction and must be resubmitted by the Sponsor within 3 working days of receipt.

(7) By submission of the online reports, the Sponsor certifies their correctness. All such reports are subject to audit by the State or its designee.

(8) The Sponsor shall direct all required correspondence and reports to the Department which shall bear an original signature of the Sponsor’s designated representative.

(9) The Sponsor shall issue each student a current edition of the BRC Student Handbook or S/TEP Student Handbook, which shall be an original and not photocopied. For the BRC-2, the Sponsor shall provide a set of Rider Classroom Cards to the students for use during the program.

(10) A student who fails either the Rider Course knowledge test or skills test shall be allowed one retest. The retest shall not be on the same day as the failure. The retest shall be at no cost to the student and shall occur within 60 days of the date of the failure.

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History–New 15A-12.006 Regulation of Authorized Program.

(1) FRTP will regulate and periodically visit each Sponsor site to ensure compliance and quality assurance with these administrative rules, Florida Statutes, and compliance with all applicable MSF or ESC Agreements and course requirements. FRTP staff and contractors are authorized by MSF and ESC to act on their behalf to insure program compliance. The FRTP staff, consultants or representatives under these administrative rules shall:

(a) Conduct announced or unannounced site visits, or place unannounced rider(s) in a class.

(b) Check the range for size and safety compliance. If there is an immediate safety issue the range shall be shut down. A formal report shall be made on the Quality Assurance Audit Form, HSMV Form 92786 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under "Forms", or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571.

(c) During a site visit, all representatives of the Sponsor shall cooperate with FRTP's representative(s), and, upon request, shall exhibit all records, instructional aids, manuals, or such other materials as necessary for the review.

(2) The FRTP representative visiting the Sponsors will produce a report on the Quality Assurance Audit Form, HSMV Form 92786 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under "Forms", or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. A copy of the report shall be provided to the Sponsor.

(a) Sponsors shall be responsible for ensuring any deficiencies noted in the report are remedied and the remedy reported to FRTP in the time allotted.

(b) The Quality Assurance Audit Form, copies of which can be obtained by contacting the Motorcycle Safety Foundation, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, [www.msf-usa.org](http://www.msf-usa.org). This Form outlines the steps that will be taken by the FRTP, when the Code of Conduct or the Department "Letter of Authorization", are not adhered to.

(c) On the first observation the FRTP representative documents in a comprehensive report what they saw and why it was viewed as a problem. This report is submitted to FRTP for review. A notice will be provided to the RiderCoach and Sponsor by either the Program Manager or Regional Coordinator. The RiderCoach and Sponsor will be allowed to provide explanations and reasoning as to their actions. If the explanation and/or reasoning is/are acceptable, then no further action will be deemed necessary. If the explanations and reasoning so warrant, either the Regional Coordinator or Program Manager will advise the RiderCoach and Sponsor of the necessary corrective measure(s) to be implemented by them to correct it.

(3) In order to better facilitate site visits, the Sponsor shall provide the Department a quarterly Rider Course schedule no later than the 15th of the month preceding the new quarter, listing the dates of the classes and the names of the RiderCoaches who will be teaching on those dates. The course schedule shall be sent to FRTP-

Schedules@flhsmv.gov. The Sponsor shall notify the Department of any changes in course schedules (a monthly submission is permissible).

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History—New \_\_\_\_\_.

15A-12.007 RiderCoaches

(1) RiderCoaches, as personnel, must complete the RiderCoach Apprentice Program (RCAP), as established by the MSF, prior to being employed by any Sponsor.

(2) Prospective RiderCoaches must comply with the following:

(a) Find a Sponsor School in their area to sponsor them.

(b) Complete a Basic Rider Course.

(c) Fill out the RiderCoach Apprentice Program Application (RCAP), HSMV Form 77058 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. The Application should be submitted to the address listed on the Application.

(d) The RiderCoach will be placed in a RiderCoach Preparation Course (RCP).

(e) After successful completion of the RCP, the student will be a certified FRTP RiderCoach and certified by the MSF. The RiderCoach identification card will be sent to the RiderCoach by MSF.

(3) Continued FRTP certification is predicated upon successful completion of the automatic one-year probationary period, and the RiderCoach maintaining national Rider Course RiderCoach Certification, teach or team teach a minimum of one complete Basic Rider Course annually, and attend one FRTP RiderCoach Update in a certification period (two years). Updates will not be more than 30 months apart.

(4) RiderCoaches trained outside Florida can gain FRTP certification by doing the following:

(a) Contact Course Sponsor in the area you want to teach in and discuss the possibility of employment.

(b) If Sponsor School agrees to employment, complete a RiderCoach Personal Information Qualification Form (provided by Sponsor School), HSMV Form 77122 (10/2010), incorporated by reference for administration of the FRTP Program, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Department of Highway Safety and Motor Vehicles, Bureau of Driver Education and DUI Programs, Florida Rider Training

Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. The Form will then need to be submitted to the appropriate Regional Coordinator.

(c) The Sponsor can use the RiderCoach, with a current FRTP certified RiderCoach, for two classes before they are observed.

(d) The RiderCoach must be observed by an FRTP certified RiderCoach Trainer (RCT).

(e) The RiderCoach must attend the next available FRTP update. Updates must be within six months of observation.

(f) All new FRTP certified RiderCoaches will be placed on probationary status for one year.

(5) The Sponsors shall employ only RiderCoaches who are certified by FRTP and MSF or the ESC.

(6) RiderCoaches and Sponsors must adhere to the professional standards adopted by FRTP as established by the MSF and the ESC; FRTP Rules of Professional Conduct, HSMV Form 72201 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under "Forms", or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571.

(7) RiderCoaches trained in another state, must, prior to teaching in Florida, complete a BRC RiderCoach Information Sheet, and submit their driver's record and a copy of their MSF RiderCoach Card to the area Regional Coordinator. They must also attend a RiderCoach update within six months of evaluation.

(8) RiderCoaches must maintain their certification and a valid driver license with a motorcycle endorsement.

(9) RiderCoaches must sign and abide by the FRTP's RiderCoach Rules of Professional Conduct, teach or team teach a minimum of one complete BRC or S/TEP annually, attend one FRTP RiderCoach Update and one professional development activity or any activity that requires them to be in student or learning position, within their certification period (two years).

(10) RiderCoaches must recertify with MSF on-line every two years and must forward proof of recertification to Sponsors.

(11) RiderCoaches shall ensure that no assistance is given any student in a manner that provides unfair advantage in passing the skills and/or knowledge tests. RiderCoaches cannot conduct tests for their relatives.

(12) RiderCoaches can also gain Florida certification by completing the FRTP Intern/Mentoring Program.

(a) For RiderCoaches who were initially trained at an FRTP sponsored RiderCoach Preparation Course (RCP) or Sidecar and Trike Education program (S/TEP), certification is automatic upon completion of the Intern/Mentoring Program.

(b) RiderCoaches seeking Florida certification must complete the Intern/Mentoring Program and attend an FRTP Update. Both must be completed within 9 months of applying for FRTP certification.

(1) RiderCoach candidates will automatically be entered into the Intern/Mentoring Program when they successfully completed the RCP.

(2) Under the Intern/Mentoring Program, new RiderCoaches and those seeking Florida certification will be required to team-teach a minimum of three Basic Rider Courses (BRC) with an FRTP recognized RiderCoach.

(3) An Internship Report - RiderCoach Mentor Form, HSMV Form 77079 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under "Forms", or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. A Form will need to be completed for each class. The RiderCoach Intern will also need to complete a RiderCoach Intern Form, HSMV Form 77078 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website (<http://motorcycles.flhsmv.gov>) under "Forms", or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. This Form will need to be completed for each class. Completed forms will be sent to the e-mail or mailing address on the forms.

(4) Once FRTP receives all of the forms listed in (10)(b)(3), above, the candidate will gain full FRTP RiderCoach certification.

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History--New

#### 15A-12.008 Program Compliance

(1) Administrative non-compliance is the failure to meet applicable FRTP or MSF or ESC requirements for reporting, providing notifications, record keeping and similar acts that do not compromise testing integrity or public safety. The first occurrence requires a written reprimand and further violations within a one year period will result in suspension of the authorization to provide motorcycle safety education.

(2) Discrepancy in test procedure is the failure to properly administer a required portion of a test procedure, such as the omission of a required maneuver or to properly follow the evaluation phase of the RiderCoach Guide when conducting the BRC. The first occurrence will result in a suspension of the authorization to provide motorcycle safety education, and a repeated occurrence within a one year period will result in program termination.

(3) Fraud is defined as the abuse of authority granted under these administrative rules through the issuance of test waivers for students who have not passed a complete test or have not completed the course in its entirety. A fraud violation will result in termination from the program.

(4) The authorization to conduct motorcycle safety education will be suspended if a Sponsor refuses to allow public access to all documents subject to Chapter 119, F.S., or fails to comply with any part of these administrative rules. Subsequent violations within a one year period will result in program termination. The use of a RiderCoach who is not certified under these rules will result in program termination.

(5) Upon termination of the authorization, all loaned equipment and program materials must be returned to FRTP within 10 calendar days of the termination.

Rulemaking Authority 322.02(6) and 322.0255(6), F.S. Law Implemented 322.0255, 322.12(5)(a), F.S. History–New \_\_\_\_\_.

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., 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 not including days an administrative determination was pending; 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 days 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

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was 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 ombudsman.

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 Number:

15A-12.001

15A-12.002

15A-12.003

15A-12.004

15A-12.005

15A-12.006

15A-12.007

15A-12.008

Under the provisions 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: \_\_\_\_\_.

\_\_\_\_\_  
Julie Jones

Executive Director \_\_\_\_\_

Title

Department of Highway Safety and Motor Vehicles  
Agency

\_\_\_\_\_  
Number of Pages Certified

STATEMENT OF ESTIMATED REGULATORY COSTS  
PROPOSED AMENDMENTS FOR CHAPTER 15A-12

1. Estimate of number of individuals and entities likely to be required to comply and description of types of individuals likely to be affected.

Currently, there are 76 contracted Sponsor Schools throughout the state that provide approved motorcycle safety training. There are also approximately 1,300 RiderCoaches who are approved by the Department to act as instructors for the safety training. Both the sponsor programs and individual instructors will be affected by these rules, which will replace the current contract system now in place for implementing the safety program. The affect on the programs and instructors should be minimal from their current practices, because the substance of the new rules follows closely what they now provide through contract.

2. Estimate of cost to the agency and other government entities of implementing and enforcing the proposed rule and any anticipated effect of state or local revenues.

The cost of implementing the proposed rules will be covered within existing resources in the agency. The Department currently dedicates five full time staff within the Bureau of Driver Education and DUI programs, Division of Driver Licenses, for this program. The staffing and duties remain the same; the program requirements are now in rule form rather than in comprehensive contracts with each sponsor. The proposed rules should have no effect on state or local revenues.

3. Estimate of transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule requirements.

There is no application fee for an entity to become a Sponsor or for an individual to become a RiderCoach. Sponsors would need to comply with the normal costs associated with starting and maintaining a business office and practice range within their locality. They must also provide insurance coverage for students in their programs. Again, the proposed rule does not add or detract from costs currently incurred through the contract now used to regulate these programs.

Individuals who want to obtain the motorcycle operator endorsement to their Florida driver license are required to take the safety course. The cost of the course is not regulated by the Department and varies between \$150.00 and \$300.00. In addition, the individual would be required to pay a \$32.00 licensing fee to the Department for issuance of the driver license.

4. Analysis of the impact on small businesses and impact on small counties and cities.

The impact would be minimal due to the transition from contract to rules with no substantive program changes for what persons affected currently provide. The proposed rules affect only Florida Rider Training Program recognized Sponsor Schools and RiderCoaches.

5. Additional useful information regarding the rule.

Section 322.0255, Florida Statutes, has been implemented through a Florida Rider Training Program Contract. These rules will replace the contract and avoid the necessity for yearly contract renewals. The proposed rules retain the structural framework for the Florida Rider Training Program as written in the Sponsor School Contracts currently in place with all 76 Sponsor Schools.

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15A-12, FAC, FLORIDA MOTORCYCLE SAFETY EDUCATION PROGRAM**

**RULE NUMBERS:**

**RULE TITLE:**

**15A-12**

**Florida Motorcycle Safety Education Program  
(Florida Rider Training Program)**

Summary of Rule

The rule provides guidance for the standards for the Florida Motorcycle Safety Education Program.

Statement of Facts and Circumstances Justifying the Rule

Section 15A-12, F.A.C., guidance for the standards for the Florida Motorcycle Safety Education Program, referred to as the Florida Rider Training Program (FRTP), with organizations to provide motorcycle safety training, the certification of instructors, referred to as RiderCoaches (RC), and regulating the conduct of these programs and courses by the Department of Highway Safety and Motor Vehicles (DHSMV)/Florida Rider Training Program (FRTP), pursuant to Sections 322.0255 and 322.12(5)(a), Florida Statutes.

Federal Standards Statement

A Federal Standard or Rule that impacts or is affected by this rule change does not exist.

Summary of Hearing

A Notice of Development of Rulemaking was noticed in the November 26, 2008, Florida Administrative Weekly, Volume 34, Number 48. A second Notice of Development of Rulemaking was noticed in the December 11, 2009, Florida Administrative Weekly, Volume 35, Number 49. The Notice of Proposed Rule was noticed in the August 20, 2010, Florida Administrative Weekly, Volume 36, Number 33. No timely request for a hearing was received by the agency and no hearing was held.

CERTIFICATION OF  
MATERIALS INCORPORATED BY REFERENCE  
IN RULES FILED WITH THE DEPARTMENT OF STATE

Pursuant to Rule 1B-30.005, Florida Administrative Code, I hereby certify that the attached are true and correct copies of the following materials incorporated by reference in Rule 15A-12.

Under the provisions of subparagraph 120.54(3)(e)6., F.S., the attached materials take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.

HSMV Form 72201 – FRTP Rules of Professional Conduct

HSMV Form 77091 – MSF Rider Education Recognition Program (RERP) Agreement

HSMV Form 77092 – MSF Addendum to RERP Agreement

HSMV Form 77093 – MSF Rider Education Recognition Application

HSMV Form 77094 – MSF Rider Course Range Information Form

HSMV Form 77095 – MSF Motorcycle Safety Course Waiver & Indemnification

HSMV Form 77008 – Student/Client Observation/Incident Report

HSMV Form 92786 – Quality Assurance Audit Form

HSMV Form 77058 – RiderCoach Apprentice Program Application

HSMV Form 77122 – RiderCoach Personal Information Qualification Form

HSMV Form 77078 – RiderCoach Intern Form

HSMV Form 77079 – Internship Report – RiderCoach Mentor Form

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Signature, Person Authorized to Certify Rules

Executive Director  
Title

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15C-17, FAC, Electronic Temporary Plate Transfer**

<b>RULE NUMBERS:</b>	<b>RULE TITLE:</b>
<b>15C-17.001</b>	<b>Provider Requirements</b>
<b>15C-17.002</b>	<b>Exemptions, Restrictions and Enforcement</b>
<b>15C-17.003</b>	<b>Dealer Requirements</b>

Summary of Rule

The electronic temporary registration system (ETR) allows dealers to process temporary license plates and transfer license plates. The data from either transfer must be submitted to the department prior to the vehicle with the temporary or transferred plate leaving the dealership. Dealers can submit data through a system provided by an ETR provider which interfaces with the Department's titling and registration database. The Department contracts with ETR providers who then contract with dealers to provide their services.

Rule 15C-17.001 establishes requirements for ETR providers. Rule 15C-17.002 establishes exemptions and requirements for temporary plate transfer and enforcement provisions. Rule 15C-17.003 establishes dealer requirements.

Statement of Facts and Circumstances Justifying the Rule

Chapter 15C-16 addresses electronic temporary registrations and implements section 320.96, F.S. The 2009 Legislature authorized dealers to transfer license plates and submit the data electronically to the department. It also gave the department authority to adopt rules to administer this.

Federal Standards Statement

A Federal Standard or Rule that impacts or is affected by this rule change does not exist.

### Summary of Hearing

The proposed rule development was noticed in the April 9, 2010, Florida Administrative Weekly, Volume 36, Number 14. The proposed rule development also noticed a workshop which was held on April 27, 2010. The workshop was held as noticed.

The Governor and Cabinet approved the proposed rules for publication of the Notice of Proposed Rulemaking during the Governor and Cabinet Meeting, a public meeting, on August 10, 2010.

The proposed rule was noticed in the August 20, 2010, Florida Administrative Weekly, Volume 36, Number 33. A timely request for a public hearing was received by the agency. The Notice of Hearing was noticed in the October 1, 2010, Florida Administrative Weekly, Volume 36, Number 39 and was held on October 22, 2010.

THE FULL TEXT OF THE PROPOSED RULE IS:

RULE NUMBERS:	RULE TITLES:
15C-17.001	Provider Requirements
15C-17.002	Exemptions, Restrictions and Enforcement
15C-17.003	Dealer Requirements

**15C-17.001 Provider Requirements**

(1) Every Electronic Temporary Registration (ETR) provider pursuant to Chapter 15C-16, F.A.C., must also provide a method to issue an electronic temporary plate transfer.

(2) Providers must be authorized by the department to provide dealers with a system that allows connectivity to interface with the motor vehicle database. In order to become an ETR providers, the provider must:

(a) Enter into a contract with the department.

(b) Demonstrate to the department that the provider's system at a minimum can successfully process registration transactions, generate reports as set forth in (3) and provide information in "real-time" utilizing the interface designed by the department.

(c) Provide a performance bond or irrevocable letter of credit for \$50,000 with the department.

(3) ETR providers must ensure that their system can provide the following:

(a) Registration certificate.

(b) Provide a list to the department, by county, by dealer, of all provider authorized users of the ETR system.

(c) Inquiry capabilities subject to applicable fees as set forth in s. 320.05(3)(e), F.S.

(4) Authorized ETR providers shall:

(a) Provide support, assistance, and training to any dealer using their system.

(b) Ensure that access and data are secure and that the ETR system is only used by authorized users.

(c) Follow installation procedures as set forth by the department.

(d) Maintain all contractual agreements with dealers for a period of five fiscal years after completion or termination of the contract.

(e) Make all records available for inspection or audit at any time during normal business hours by the department.

(f) Ensure all principals and prospective users have had a criminal history check conducted by the Florida Department of Law Enforcement and maintain lists of authorized users. Proof of verification of criminal history checks by the dealer must be maintained for a period of five fiscal years.

(g) Transfer all funds collected in connection with the processing of registration transactions via electronic funds transfer to the department within five business days of the date of the transaction.

(h) Provide at its expense all equipment necessary to provide an interface between the ETR provider's server and the department's server.

*Specific Authority 320.0609(8)(c) FS. Law Implemented 320.0609(8) FS. History—New*

**15C-17.002 Exemptions, Restrictions and Enforcement**

(1) In order to be temporarily transferred, the registration must have more than 30 days of valid registration remaining. If the current registration does not meet this requirement, an electronic temporary registration must be issued pursuant to Chapter 15C-16, F.A.C.

(2) When a temporary plate transfer transaction cannot be performed due to connectivity issues, every issuer of temporary plate transfers must perform the following:

(a) Provide written documentation to the customer indicating the transfer could not take place due to a connection failure.

(b) Issue a pre-printed temporary license plate pursuant to subsection 15C-16.002(2), F.A.C.

(3) The following are prohibited acts that will result in termination of authorization as an ETR provider:

(a) Willful misrepresentation of ETR policies, procedures, contractual terms or other registration policies or procedures.

(b) Using department information for reasons other than ETR.

(c) Failure to correct errors as required by the department.

(d) Failure to execute electronic funds transfer in the specified time frame.

(e) Failure to ensure access is only provided to authorized users.

(4) The department will revoke a dealer's ability to use ETR for any violation that jeopardizes the integrity of

the system. This rule shall not prevent the department from imposing any additional sanctions or fines as allowed by other applicable laws or rules, including but not limited to, section 320.27, F.S. After revocation of the use of ETR, a dealer will only be allowed access if it can prove to the department it has taken corrective measures to no longer jeopardize the integrity of the system.

Specific Authority 320.0609(8)(c), F.S. Law Implemented 320.0609(8) F.S. History–New.

### **15C-17.003 Dealer Requirements**

(1) Every motor vehicle dealer licensed under Chapter 320 shall report all temporary plate transfers via the ETR system, a tax collector’s office, or a license plate agency prior to the license plate being placed on a newly acquired vehicle.

(2) A dealer must provide verification to the ETR provider that criminal history checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the ETR provider allowing access to the system and registering authorized users. The dealer’s principals or prospective users must have no convictions involving a felony for the last 7 years except as provided in section 112.011(1)(b), F.S. Regardless of the passage of time since the conviction and notwithstanding restoration of civil rights, anyone convicted of a felony involving dishonesty, including but not limited to, identity fraud, embezzlement or other economic crimes is not eligible to be granted authorization to use the ETR system. The convictions listed above that would prohibit authorization to use the ETR system do not include any felony convictions involving the actual operation of a motor vehicle.

(3) Dealers shall ensure that only authorized users have access to the ETR system.

(4) If a dealer charges a fee to the customer for an electronic temporary plate transfer, the fee shall be disclosed separately and in a clear and conspicuous manner in the sales agreement. Sales agreement shall mean the document that the buyer and seller sign memorializing the terms of the sale and includes, but is not limited to, a buyer’s order and a bill of sale. The dealer may not disclose or disguise the fee charged for the electronic temporary plate transfer as a State or Government fee.

(5) Any person or entity authorized to conduct temporary plate transfers shall maintain all records relating to the transfer for a period of 5 years, and such records shall be open to inspection by the department of its agents during reasonable business hours.

Specific Authority 320.0609(8)(c), F.S. Law Implemented 320.0609(8) F.S. History–New.

CERTIFICATION OF DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
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) That there is no administrative determination under Section 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 Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

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

(b) Are filed 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 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

(g) Are filed not more than 90 days after the notice, not including 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).:

**15C-17.001**

**15C-17.002**

**15C-17.003**

Under the provision of Section 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

\_\_\_\_\_  
Number of Pages Certified

**Statement of Estimated Regulatory Cost  
Chapter 15C-17, Florida Administrative Code  
April 2010**

**Rules for the Department of Highway Safety and Motor Vehicles to Implement a Secure  
Electronic Process for the Issuance of Temporary License Plates**

**1. Introduction**

Per Section 320.0609, Florida Statutes, the Department of Highway Safety and Motor Vehicles (DHSMV) shall implement an electronic system to enable license motor vehicle dealers to timely provide information regarding the transfer of a metal license plate. The department may adopt rules as necessary to implement this program.

**2. Summary of Proposed New Rules**

Electronic Temporary Registration (ETR) is a legislatively authorized program associated with issuing temporary license plates. This program allows all temporary license plate issuers to electronically report the issuance of temporary license plates to the Department. Dealerships issue temporary license plates to customers and electronically submit customer and vehicle information to the Department in real time. Real time access to temporary license plate data provides law enforcement with critical information in protecting the citizens of Florida.

The rules implemented in Chapter 15C-17, F.A.C. provides for the expansion of the ETR program to allow for an electronic temporary transfer of a metal license plate.

**3. Florida Administrative Code and Statement of Estimated Regulatory Cost**

Section 120.54 of the Florida Statutes sets out the procedures to be followed by DHSMV and the state's other regulatory agencies in the preparation, scheduling, development, public notice, and adoption of rules. The regulatory agency is expected (although generally not required, except under certain conditions) to produce a Statement of Estimated Regulatory Cost, or SERC. The purpose of a SERC is to collect and present information on the potential costs that may fall upon individuals, firms, or activities that are affected by a particular rule. In Chapter 120.541, F.S., the Legislature has identified and described the types of information a SERC is expected to present. As the required components of a SERC, shown below suggest, DHSMV and other rulemaking agencies are called on by statute to collect information on the number of people and businesses that may be affected by a proposed rule, costs to the regulated people, firms or activities, and to state, county, local, or other governments. The statute also directs the regulatory agency to consider any low-cost alternative proposals that might be submitted, and to include an explanation of why the alternative was or was not accepted.

Section 120.541, F.S., provides that anyone potentially affected by the proposed rule or revision may, within 21 days of public announcement and notification of a rule; submit a lower cost regulatory alternative to the proposed rule. The Department must then either adopt the lower cost proposal, or be able to show why the low cost proposal was not adopted.

In sections 120.541(2) (a)-(f), F. S., the Legislature has mandated that the following information should be provided in any SERC. The information requirements as they appear in the statute are cited below, with an explanation pertinent to the proposed revisions:

**A. A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.**

Implementation of Chapter 15C-17, F.A.C., will affect the approximately 12,300 motor vehicle dealers currently licensed in the State of Florida issuing temporary license plates.

**B. A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.**

Implementation of Chapter 15C-17, F.A.C., will have no measurable effect to the agency, or to any other state or local government entities. Additionally, the new rules are not anticipated to affect any state or local revenues.

**C. A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this paragraph, “transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.**

As a result of state mandated fees, small business may see a minor increase as a result of the implementation of Chapter 15C-17, F.A.C. Of the 12,300 licensed Florida dealers referenced in section A of this document, it is estimated that approximately 10,000 dealers (81% of the total dealers) process 10 or less transactions per month. If dealers contract with third party vendors, and if third party vendors charge an additional \$4.00 to \$6.00 per transaction, this would result in a \$40.00 to \$60.00 per month impact to the average dealer.

**D. An analysis of the impact on small business as defined by s.288.703, and an analysis of the impact on small counties and small cities as defined by s.120.52.**

A small business is defined in section 288.703, F.S., as “... an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.”

The cost impact to small business should be negligible, if any. Furthermore, Section 320.0609, Florida Statutes, provides statutory authority to allow motor vehicle dealers to charge a fee to recoup the costs associated with compliance with this program.

In section 120.52, F.S., “Small City” is defined as “...any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. “Small County” is defined as “...any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.”

As previously stated in section B of this document implementation of Chapter 15C-17, F.A.C., will have no measurable effect on any other state or local government entities. Additionally, the new rules are not anticipated to affect any state or local revenues.

**E. Any additional information that the agency determines may be useful.**

No additional information

**F. In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1)(a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.**

No good faith alternate proposal was submitted.

**4. Summary**

The Department finds that the regulatory costs associated with the proposed new rules are minimal, and has amended the proposed rule language where needed to clearly state the requirements and exemptions of the ETR program.

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15C-18, FAC, Electronic Filing System**

<b>RULE NUMBERS:</b>	<b>RULE TITLE:</b>
<b>15C-18.001</b>	<b>Electronic Filing System</b>
<b>15C-18.002</b>	<b>Electronic Filing System Features</b>
<b>15C-18.003</b>	<b>Tax Collector Responsibilities</b>
<b>15C-18.004</b>	<b>EFS Agent Participation Requirements</b>
<b>15C-18.005</b>	<b>Service Providers; Certification; Requirements</b>
<b>15C-18.006</b>	<b>Electronic Filing System Requirements; Disclosure to Customer</b>
<b>15C-18.007</b>	<b>Enforcement; Service Providers; EFS Agents; Tax Collectors</b>

Summary of Rule

The electronic filing system (EFS) allows authorized agents to process title and registration transactions for their customers. This is done through a system provided by a certified service provider which interfaces with the Department's titling and registration database. The Department contracts with certified service providers who then contract with EFS agents to provide their services. The title and registration work done remains under the purview of the county tax collectors, who serve as agents of the Department for titling and registration transactions. The program was previously administered by the Florida Tax Collectors Service Corporation and operated under established program standards.

The legislation requires the Department to adopt rules that replace the current program standards and include:

- Establish participation requirements
- Certification of service providers
- Electronic filing system requirements
- Enforcement authority for noncompliance

Rule 15C-18.001 provides the purpose and scope, definitions, and participation requirements.

Rule 15C-18.002 establishes the features for EFS. Rule 15C-18.003 sets forth tax collector responsibilities. Rule 15C-18.004 establishes EFS agent participant requirements. Rule 15C-

18.005 establishes certification requirements for service providers. Rule 15C-18.006 sets forth system requirements. Rule 15C-18.007 sets for the enforcement authority for service providers, EFS agents and tax collectors.

#### Statement of Facts and Circumstances Justifying the Rule

HB 971 approved by the 2010 Legislature, amended s. 320.03(10), F.S. and transferred oversight and jurisdiction of the electronic filing system (EFS) to the Department of Highway Safety and Motor Vehicles. It requires the department to adopt rules administering provisions of the law including:

- Establish participation requirements
- Certification of service providers
- Electronic filing system requirements
- Enforcement authority for noncompliance

#### Federal Standards Statement

A Federal Standard or Rule that impacts or is affected by this rule change does not exist.

#### Summary of Hearing

The proposed rule development was noticed in the June 18, 2010, Florida Administrative Weekly, Volume 36, Number 24. The proposed rule development also noticed two workshops which were held on July 8 and July 13, 2010. Both workshops were held as noticed.

The Governor and Cabinet approved the proposed rules for publication of the Notice of Proposed Rulemaking during the Governor and Cabinet Meeting, a public meeting, on August 10, 2010.

The proposed rule was noticed in the August 20, 2010, Florida Administrative Weekly, Volume 36, Number 33. No timely request for a hearing was received by the agency; however, the department held a public hearing on September 27, 2010.

THE FULL TEXT OF THE PROPOSED RULE IS:

RULE NUMBERS:	RULE TITLES:
15C-18.001	Electronic Filing System
15C-18.002	Electronic Filing System Features
15C-18.003	Tax Collector Responsibilities
15C-18.004	EFS Agent Participation Requirements
15C-18.005	Service Providers; Certification; Requirements
15C-18.006	Electronic Filing System Requirements; Disclosure to Customer
15C-18.007	Enforcement; Service Providers; EFS Agents; Tax Collectors

**15C-18.001 Electronic Filing System**

(1) Purpose and Scope. This rule prescribes and defines the Department of Highway Safety and Motor Vehicles' Electronic Filing System and the participation requirements, certification of service providers, system requirements and enforcement authority for noncompliance.

(2) Definitions. The words or terms as used in this rule shall have the following meanings:

(a) "Certified Service Provider" means a Department approved provider of electronic registration and titling or other motor vehicle, vessel, mobile home, or off-highway vehicle transactions allowed under the Electronic Filing System. The Certified Service Provider hosts an approved system for interface between EFS agents and the Department.

(b) "Department" means the Department of Highway Safety and Motor Vehicles.

(c) "Electronic Filing System" means the system under the jurisdiction of and regulated by the Department which allows authorized EFS agents to process title and registration transactions.

(d) "Electronic Filing System (EFS) agent" means an entity authorized by the Department to process title and registration transactions using the Electronic Filing System as defined in s. 320.03(10), F.S.

(e) "Indicia" means any document, validation decal, paper stock or metal license plate necessary in titling and registration transactions.

(f) "Inquiry" means accessing the Department's database for information that does not result in the issuance of a title certificate or registration credential.

(g) "Motor Vehicle" includes, for the purposes of this rule only, motor vehicles, vessels, mobile homes or off-highway vehicles.

(h) "Sales Agreement" means the document that buyer and seller sign memorializing the terms of the sale and includes, but is not limited to a buyer's order and a bill of sale.

(i) "Tax Collector" means one of the 64 state constitution or 3 charter appointed tax collectors in the 67 counties of Florida who serve as agents of the Department for the delivery of title and registration services.

(3) The Department and all Tax Collectors must allow any entity who meets the requirements set forth in this rule to participate as an EFS agent. Neither the Department nor a Tax Collector may deny an eligible EFS agent from participating. The Department, Tax Collectors, EFS agents, and Certified Service Providers shall comply with the provisions of these rules and may not add additional requirements not set forth in either the statute or these rules. *Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History—New*

**15C-18.002 Electronic Filing System Features**

(1) The Electronic Filing System allows an authorized EFS agent to process title and registration transactions for products they sell including, but not limited to:

(a) New and used motor vehicles.

(b) Direct and lease purchases.

(c) License plates transferred from one motor vehicle to another.

(d) Registration renewal for customers at the time of purchase.

(e) Inquiry capabilities subject to applicable fees as set forth in s. 320.05(3)(e), F.S.

*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History—New.*

**15C-18.003 Tax Collector Responsibilities**

(1) Tax Collectors are responsible for:

(a) Appointing EFS agents in their county after the Department notifies said Tax Collector that the entity is authorized.

(b) Referring any requests to become an authorized EFS agent to the Department.

(c) Reviewing supporting documentation from EFS transactions processed in the county. The Tax Collector shall ensure all transactions and corrections are processed in accordance with law and Department procedure.

(d) Receiving funds collected electronically from EFS transactions from the Certified Service Provider and remitting State funds in accordance with law and Department procedure.

(e) Distribution of indicia to authorized EFS agents. The Tax Collector's responsibility is limited to distribution of indicia pursuant to Department procedure.

*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History--New.*

#### **15C-18.004 EFS Agent Participation Requirements**

(1) Entities requesting authorization to become an EFS agent must meet the following requirements:

(a) Sell products that must be titled or registered.

(b) Provide title and registration services on behalf of its consumers.

(c) Enter into a contract with a Certified Service Provider.

(d) Apply to the Department on Form HSMV 82083, which is incorporated herein by reference.

(e) Have no unresolved issues regarding non-sufficient funds received by either the Department or Tax Collector.

(f) The entity's principal and all prospective users of the system must have no convictions involving a felony for the last 7 years except as provided in section 112.011(1)(b), F.S. Regardless of the passage of time since the conviction and notwithstanding restoration of civil rights, anyone convicted of a felony involving dishonesty, including but not limited to identify theft, embezzlement or other economic crimes is not eligible to become an EFS agent or have access to an EFS agent's system. This does not include any felony convictions involving the actual operation of a motor vehicle. The EFS agent must provide verification to the Certified Service Provider that background checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the Certified Service Provider allowing access to the system and registering authorized users.

(g) Must be current on all applicable tax payments.

(h) Must be current on all State and or local licenses.

(i) An entity shall have no disciplinary actions taken against it by the Department within the last two years that resulted in a suspension, revocation, or fine.

(2) EFS agents may only stock regular series license plates and registration decals.

(a) The EFS agent must ensure that all indicia is secured in a locked area during non-business hours. Indicia not being used shall also be secured in a locked area.

(b) Only those users authorized by the Certified Service Provider shall have access to indicia.

(3) Upon authorization from the Department the Tax Collector shall appoint an entity as an authorized electronic filing system agent for that county.

*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History--New*

#### **15C-18.005 Service Providers; Certification; Requirements**

(1) The Department shall certify Service Providers who meet minimum requirements as set forth in this rule.

(2) Entities requesting approval to become a Certified Service Provider must meet the following requirements prior to being approved by Department:

(a) Enter into a contract with the Department.

(b) Demonstrate to the Department that the Service Provider's system at a minimum can successfully process the following transactions: original new, original used, and transfers of title and original, transfer and renewal of registrations.

(c) Provide a performance bond for \$2 million with the Department.

(3) The Certified Service Provider shall:

(a) Provide support, assistance and training to any EFS agents using their system.

(b) Follow installation procedures as set forth by the Department.

(c) Maintain all records of electronic fund transfers, inventories and files of transactions for a period of three fiscal years.

(d) Maintain all contractual agreements for a period of five fiscal years after completion or termination of the contract.

(e) Make all records available for inspection or audit at any time during normal business hours by the Department.

(f) Ensure all EFS agent principals or prospective users have had a criminal history check conducted by the Florida Department of Law Enforcement and maintain lists of authorized users.

(g) Transfer all funds collected in connection with the processing of all registration and title transactions and other approved services via Electronic Funds Transfer to the applicable Tax Collector office within two business days of the date the transaction is electronically submitted to the Tax Collector's office.

(h) Provide at its own expense all equipment necessary to provide an interface between the Certified Service Provider's server and the Department's server.

*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History--New.*

#### **15C-18.006 Electronic Filing System Requirements; Disclosure to Customer**

(1) Certified Service Providers must provide reports as set forth below. The Electronic Filing System developed by a Certified Service Provider must at a minimum include the following reporting capabilities:

(a) Bundle reporting which includes all completed transactions from the prior business day and includes the following data: transaction ID number, owner name, number of license plate, expiration date, title number, agency fees, system control number, customer number, stock number, sales tax revenue, registration tax, title fees, total registration tax and title fees and total funds remitted.

(b) An inventory report reflecting inventory on hand, unassigned, available, issued, transmitted, damaged, missing, returned, or reserved. Such report shall include series of inventory with beginning and ending numbers.

(c) A pull ticket report which includes a control number, new owner of vehicle or vessel being purchased, VIN or hull number, make and body or vessel type. If the license plate is being transferred, the plate number shall be included.

(d) Registration certificate

(e) Title application receipt.

(f) Provide a list of license plates that have been voided, along with a reason for the void.

(g) Provide a report for each county, by authorized EFS agent, listing all current users.

(h) Provide a list to the Department of all authorized users of the Electronic Filing System.

(2) The system must provide a report of all completed transactions for the previous date.

(3) Certified Service Providers must ensure that access and data are secure. The EFS agent must ensure that access and data are only used by authorized persons.

(4) An EFS agent that desires to change its Certified Service Provider shall submit the request to the Department on Form HSMV 82083, which is incorporated herein by reference.

(5) If an EFS agent charges a fee to the customer for use of the electronic filing system in a title or registration transaction, the fee shall be disclosed separately and in a clear and conspicuous manner in the sales agreement along with the other options for titling and registration. The EFS agent may not disclose or disguise this as a State or Government fee.

*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History--New*

#### **15C-18.007 Enforcement; Service Providers; EFS Agents; Tax Collectors**

(1) Enforcement authority for compliance with the requirements of the electronic filing system with regard to the Certified Service Providers is granted to the Department. The following are prohibited and may result in the termination of certification as a service provider.

(a) Providing Electronic Filing System services to a client who is not an authorized EFS agent.

(b) Distributing indicia to a client who is not an authorized EFS agent.

(c) Willful misrepresentation of EFS policies, procedures, contractual terms or other title and registration policies or procedures.

(d) Using Department information for reasons other than authorized Electronic Filing System services.

(e) Failure to correct errors as required by the Department.

(f) Failure to execute electronic funds transfer in the specified time frame.

(2) Enforcement authority for compliance and the requirements of the electronic filing system with regard to EFS agents is granted to the Department. The Department will revoke an EFS agent's ability to use the electronic filing system for any violation that jeopardizes the integrity of the system. This rule shall not prevent the Department from imposing any additional sanctions or fines as allowed by other applicable laws or rules including but not limited to s. 320.27, F.S. Additionally, the following are prohibited:

(a) Failure to comply with Department procedures.

- (b) Unauthorized access of data by users.
  - (c) Failure to pay applicable Department records fees for information not resulting in the issuance of a title certificate or registration credential.
  - (d) Failure to comply with minimum security requirements, including failure to safeguard equipment which provides access to the Electronic Filing System.
  - (e) Failure to execute electronic funds transfer.
  - (f) Failure to remain in good standing with the Tax Collector or State, including lapse or revocation of any state or local license.
  - (g) Failure to correct errors or clear pending transactions as required by the Department.
  - (h) Charging title and registration fees in excess of those allowed by law.
  - (i) Improper security and control of license plate and decal inventory or other Tax Collector provided indicia.
- (3) Enforcement authority for non-compliance with rule 15C-18.003 is granted to the Department and will result in the Department or its authorized representative handling EFS services for that county.  
*Specific Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a) and (b) FS. History–New.*

CERTIFICATION OF MATERIALS INCORPORATED BY REFERENCE  
IN RULES FILE WITH THE DEPARTMENT OF STATE

Pursuant to Rule 1S-1.005, Florida Administrative Code, I do hereby certify that the attached are true and correct copies of the following materials incorporated by reference in Rule 15C-18.004(1)(d) and Rule 15C-18.006(4). Under the provisions of subparagraph 120.54(3)(e)6., Florida Statutes, the attached materials take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.

FORM NUMBER:	FORM TITLE:
HSMV 82083	Application to Become an Authorized Electronic Filing System Agent/Change of Certified Service Provider

\_\_\_\_\_  
Julie Jones

Executive Director  
Title

Department of Highway Safety and Motor Vehicles  
Agency

1  
Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
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) That there is no administrative determination under Section 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 Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

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

(b) Are filed 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 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

(g) Are filed not more than 90 days after the notice, not including 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):

**15C-18.001**

**15C-18.002**

**15C-18.003**

**15C-18.004**

**15C-18.005**

**15C-18.006**

**15C-18.007**

Under the provision of Section 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

**4** \_\_\_\_\_  
Number of Pages Certified



**STATE OF FLORIDA**  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES - DIVISION OF MOTOR VEHICLES  
2900 Apalachee Parkway, NEIL KIRKMAN BUILDING - TALLAHASSEE, FL 32399-0610

**APPLICATION TO BECOME AN AUTHORIZED ELECTRONIC FILING SYSTEM AGENT /  
CHANGE OF CERTIFIED SERVICE PROVIDER**

Check One:			<b>DMV USE ONLY</b>
<input type="checkbox"/> Pursuant to section 319.03(10)(a), Florida Statutes, I hereby make application to become authorized to process title and registration transactions using the Electronic Filing System.			
<input type="checkbox"/> I hereby request to change Certified Service Providers.			
Name of Entity / Business:			
Mailing address:	City:	State:	Zip:
Physical Address:	City:	State:	Zip:
License Number:	<i>If licensed as a motor vehicle, mobile home or recreational vehicle dealer.</i>		
County where physically located:	County where agent will process transactions:		
<i>If county where agent will process transactions is different than where agent is physically located, a copy of agreement between the counties must be provided.</i>			
Business Telephone Number:	Cell Number:		
E-mail Address:			
Owner / Partner / Principal Name(s):			
1.			
2.			
3.			
Certified Service Provider:			
<i>Applicant must have entered into a contract with a certified service provider prior to applying to become an EFS agent.  If applicant is changing Certified Service Providers all pending or suspended transactions with the previous provider must be complete, a contract signed with the new certified service provider and notification to the state prior to using the new provider's services.</i>			
<input type="checkbox"/> All principals and prospective users have undergone a criminal background check			
<input type="checkbox"/> Indicia shall be secure and in a locked area during non-business hours or when not being used.			

I certify that the entity above meets the requirements to become an authorized electronic filing system (EFS) agent. The entity will abide by all laws, rules, procedures and contractual obligations required as an EFS agent. All principals and authorized users have undergone a criminal background check prior to having access to the EFS and indicia as provided by the Tax Collector. All indicia will be secure and in a locked area during non-business hours or during non-use and I understand that I am responsible for any unaccounted inventory. I further certify that all applicable inquiry fees will be paid to the state and that disclosures for EFS fees as required by rule will be made to prospective buyers. I will ensure that all title and registration transactions are done in accordance with laws and Department procedure. I further certify that state and county fees collected will be remitted electronically in accordance with state law. I understand that failure to comply with any laws, rules or contractual terms shall be grounds for the Department to revoke my authorization to use the EFS.

The applicant agrees to comply with section 119.0712 (2), Florida Statutes, and the Federal Driver's Privacy Protection Act (18 U. S. C. § 2721 et seq.). The applicant agrees that all personal information governed by these statutes will be used or redisclosed by the applicant only as permitted by these statutes. Any use or redisclosure of such personal information by the applicant except as permitted by these statutes will result in DHSMV revoking applicant's ability to use the system.

Under penalty of perjury, I do swear and affirm that the information contained in this application is true and correct and that applicant will abide by all laws of Florida and all applicable rules, policies and procedures of the Department of Highway Safety and Motor Vehicles.

Signature of owner or principal: \_\_\_\_\_ Date: \_\_\_\_\_

NOTICE OF PROPOSED RULE

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses - DUI PROGRAMS

RULE NO: RULE TITLE

- [15A-10.001](#): Purpose
- [15A-10.002](#): Definitions
- [15A-10.003](#): Reciprocity
- [15A-10.004](#): Application for Licensure to Conduct a Driving Under the Influence Program
- [15A-10.005](#): Licensure: Requirements and Limitations
- [15A-10.006](#): Relinquishment of Licensure
- [15A-10.007](#): Review Board and Monitoring
- [15A-12.008](#): Organizational Structure
- [15A-10.009](#): Program Jurisdiction
- [15A-10.010](#): Operating Policies and Procedures Manual
- [15A-10.011](#): Board of Directors or Governing Board and Advisory Committee
- [15A-10.012](#): Financial Audit
- [15A-10.013](#): Financial Procedures and Reporting Requirements
- [15A-10.014](#): Cost Standards and Allocation
- [15A-10.0141](#): DUI Services Fees
- [15A-10.0142](#): Revenue Limitation
- [15A-10.015](#): Fee Waiver
- [15A-10.016](#): Ancillary Fees
- [15A-10.017](#): Personnel Policies and Procedures
- [15A-10.018](#): Client Files
- [15A-10.019](#): Client Transfers
- [15A-10.021](#): Client Conduct
- [15A-10.022](#): Personnel Certification
- [15A-10.0221](#): Clinical Supervision
- [15A-10.023](#): Education
- [15A-10.024](#): Level I Course
- [15A-10.025](#): Level II Course
- [15A-10.0251](#): Level I and Level II Combined Course
- [15A-10.026](#): Certificates of Completion and Client Status Report
- [15A-10.027](#): Client Evaluation
- [15A-10.028](#): Treatment Referral
- [15A-10.029](#): Special Supervision Services (SSS) and Statutory Eligibility
- [15A-10.030](#): SSS Application and Evaluation Process
- [15A-10.031](#): SSS Appeal
- [15A-10.032](#): SSS Case Management Plan
- [15A-10.033](#): SSS Military Leave
- [15A-10.034](#): SSS Frequency of Appointments

[15A-10.035](#): SSS Missed Appointments

[15A-10.036](#): SSS Violation of Restricted Licenses

[15A-10.037](#): SSS Transfer Procedures

[15A-10.038](#): SSS Fees

[15A-10.039](#): SSS Referrals to Treatment

[15A-10.040](#): Case Monitoring Services

[15A-10.041](#): Denial or Revocation of a DUI Program Licenses or Personnel Certification and Probationary Status of a DUI Program License

[15A-10.042](#): Complaints

[15A-10.043](#): Forms

**PURPOSE AND EFFECT:** This rule chapter sets forth the standards for licensing Driving Under the Influence (DUI) programs, certifying personnel, violation monitoring of ignition interlock device (IID) clients and regulating the conduct of these programs and courses by the Department of Highway Safety and Motor Vehicles pursuant to ss. 322.292, 322.293, 316.193 Florida Statutes.

**SUMMARY:** Compliance with these rules is required to obtain and maintain licensure and certification by the Department. Corresponding forms have been substantially reworded.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has prepared a SERC for the rule.

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

**RULEMAKING AUTHORITY:** [322.02, 322.292 FS.](#)

**LAW IMPLEMENTED:** [322.292, 322.293, 316.193 FS.](#)

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD ON THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD:**

**TIME AND DATE:** 2:00 pm, December 13, 2010

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850) 617-2505

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

Rules and Regulations of the  
 Department of Highway Safety and Motor Vehicles  
 Division of Driver Licenses  
**Chapter 15A-10**  
 DUI Programs

The rule index is as follows:

Purpose.	15A-10.001
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Reciprocity.	15A-10.003
Application for Licensure to Conduct a Driving Under the Influence Program.	15A-10.004
Licensure: Requirements and Limitations.	15A-10.005
Relinquishment of Licensure.	15A-10.006
Review Board and Monitoring.	15A-10.007
Organizational Structure.	15A-10.008
Program Jurisdiction.	15A-10.009
Operating Policies and Procedures Manual.	15A-10.010
Board of Directors <u>or Governing Board and</u> <del>or</del> Advisory Committee.	15A-10.011
Financial Audit.	15A-10.012
Financial Procedures and Reporting Requirements.	15A-10.013
Cost Standards and Allocations.	15A-10.014
<u>DUI Services Fees.</u>	15A-10.0141
Revenue Limitation.	15A-10.0142
Fee Waiver.	15A-10.015
Ancillary Fees.	15A-10.016
Personnel Policies and Procedures.	15A-10.017
Client Files.	15A-10.018
Client Transfers.	15A-10.019
<u>Client Student</u> <del>Student</del> Conduct.	15A-10.021
Personnel Certification.	15A-10.022
<u>Clinical Supervision.</u>	15A-10.0221
Education.	15A-10.023
Level I Course.	15A-10.024
Level II Course.	15A-10.025
<u>Level I and Level II Combined Course.</u>	15A-10.0251
Certificates of Completion and Client Status Report, <del>HSMV Form 77057.</del> _____	15A-10.026
Client Evaluation.	15A-10.027
Treatment Referral.	15A-10.028
Special Supervision Services (SSS) and Statutory Eligibility.	15A-10.029
SSS Application and Evaluation Process.	15A-10.030
SSS Appeal Process.	15A-10.031

SSS Case Management Plan	15A-10.032
SSS Military Leave.	15A-10.033
SSS Frequency of Appointments.	15A-10.034
SSS Missed Appointments.	15A-10.035
SSS Violation of Restricted Licenses.	15A-10.036
SSS Transfer Procedures.	15A-10.037
SSS Fees.	15A-10.038
SSS Referrals to Treatment.	15A-10.039
Case Monitoring Services.	15A-10.040
Denial, <del>Suspension</del> or Revocation of a DUI Program License or Personnel Certification <u>and Probationary Status of a DUI Program License.</u>	15A-10.041
Complaints.	15A-10.042
Forms.	15A-10.043

**15A-10.001 Purpose.**

This rule chapter sets forth the standards for licensing Driving Under the Influence (DUI) programs, certifying personnel, violation monitoring of ignition interlock device (IID) clients and regulating the conduct of these programs and courses by the Department of Highway Safety and Motor Vehicles pursuant to ss. 322.292 ~~and 322.293, 316.193~~ Florida Statutes, 15A-9 Florida Administrative Code and 42 and 45 Code of Federal Regulations (C.F.R.). Compliance with these rules is required to obtain and to maintain licensure and certification by the Department.

Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, 316.193, 322.291, F.S. History-New 1-4-95. Amended.

**15A-10.002 Definitions.**

For the purposes of this chapter, the following words and phrases, whenever used herein, shall have the meaning as is ascribed to them in this section unless where used in the context thereof shall clearly indicate to the contrary or unless otherwise defined in the section of which they are part.

(1) Administration - a system clearly delineated in a policies and procedures manual for the step-by-step execution of management procedures which include client files; selection, training, and supervision of personnel; budget preparation and control; financial procedures and records; audits and reporting; IID client violation monitoring; referral to treatment; Special Supervision Services (SSS) and such other matters as ~~may be~~ required by the Department or the Board of Directors or the Governing Board, for the effective operation of the program.

(2) Advertisement - any printed, written or electronic communication distributed to the general public by the DUI program for the purpose of competitive marketing, which identifies that particular DUI program. ~~Advisory Committee - a formally constituted group of individuals that advises a program and its Board of Directors or and exists in those instances where the program is a multi-purpose organization within a governmental entity or private non-profit corporation. Such committee shall have a formal mechanism for submitting information recommendations to the Board of Directors or and for receiving decisions made by such board.~~

(3) Advisory Committee - a formally constituted group of individuals that advises a program and its Board of Directors or Governing Board and exists in those instances where the program is a multi-purpose organization within a governmental entity or private non-profit corporation. Such

committee shall have a formal mechanism for submitting information recommendations to the Board of Directors or Governing Board and for receiving decisions made by such board. An Advisory Committee shall be formed by program licensure. Alcohol—any substance containing any amount of alcohol in any form including, but not limited to, ethanol, methanol, propanol, and isopropanol. This includes "non-alcoholic" beer or wine.

(4) Alcohol - any substance containing any amount of alcohol in any form including, but not limited to, ethanol, methanol, propanol, and isopropanol. This includes "non-alcoholic" beer or wine.  
~~Applicant—a person seeking admission into Special Supervision Services and whose driving privilege has not been reinstated.~~

(5) Ancillary Fee - a supplementary fee approved by the Department. ~~Board of Directors—a formally constituted group of individuals that directs the program, sets policies, and operates under applicable provisions of state and federal laws and regulations through an administrator.~~

(6) Assessment Fee - a fee required by Florida Statute to be collected by the DUI programs from each client at enrollment. ~~Cash Reserve—a cash reserve may be maintained by the program at a level not to exceed 50 percent of the most recently ended fiscal year's operational expenses for said program. The cash reserve shall be inclusive of all allowable reserves, such as capital reserve funds and operational reserves. Revenues received in excess of operational expenses may be placed in the cash reserve fund and expended in accordance with Rule 15A-10.0142.~~

(7) Board of Directors - a formally constituted group of individuals that directs the program, sets policies and operates under applicable provisions of state and federal laws and regulations through an administrator of the DUI program. ~~Certified Addiction Professional—an individual who holds such recognition awarded by the Certification Board for Addiction Professionals of Florida.~~

(8) Bureau - the Bureau of Driver Education and DUI Programs. ~~Certified Criminal Justice Addiction Professional—an individual who holds such recognition awarded by the Certification Board for Addiction Professionals of Florida.~~

(9) Case Management Plan- an individualized plan developed by the DUI program and the client. ~~Chemical Testing Fee—the fee charged by the laboratory and any administrative costs incurred by the DUI program when the program is responsible for the collection process. Any fee charged by the DUI program shall be based on reasonable and necessary costs and receive prior approval of the Department. If an independent laboratory does both the collection and analysis of the sample, the fee shall be limited to the amount charged by the laboratory.~~

(10) Cash Reserve - a cash reserve at a level not to exceed 50 percent of the most recently ended fiscal year's operational expenses for said program. The cash reserve shall be inclusive of all allowable reserves, such as capital reserve funds and operational reserves. Revenues received in excess of operational expenses shall be placed in the cash reserve fund and expended in accordance with Rule 15A-10.0142. ~~Client Evaluation Manual—a manual for the execution of psychosocial evaluation procedures including policies, goals, and objectives of the process. The manual shall include step by step procedures for:~~

- ~~(a) — the client interview process~~
- ~~(b) — the administration of evaluation instruments~~
- ~~(c) — the referral of clients to treatment~~
- ~~(d) — the tracking of clients.~~

(11) Certified Addiction Professional (CAP) - an individual who holds such recognition awarded by the Florida Certification Board. ~~Client File—the complete record concerning a person enrolled in a DUI program.~~

(12) Certified Criminal Justice Addiction Professional (CCJAP) - an individual who holds such recognition awarded by the Florida Certification Board. ~~Curriculum—an extensive written course of study on the problem of drinking and driving and the effects of substance use or abuse. The curriculum shall include behavioral objectives and a detailed outline of each content area, approved teaching aids, supportive materials and handouts.~~

(13) Chemical Testing Fee - the fee charged by the laboratory and any administrative costs incurred by the DUI program when the program is responsible for the collection process. Any fee charged by the DUI program shall be based on reasonable and necessary costs and receive prior approval of the Department. If an independent laboratory does both the collection and analysis of the sample, the fee shall be limited to the amount charged by the laboratory. ~~Department—the Florida Department of Highway Safety and Motor Vehicles.~~

(14) Client File - the complete record concerning a person enrolled in a DUI program. ~~Educational Manual—a written operational policy and procedures manual for the provision of educational services. The manual shall contain step by step procedures for:~~

- ~~(a) — enrollment~~
- ~~(b) — the process of certification of instructors~~
- ~~(c) — instructor responsibilities~~
- ~~(d) — requirements for course completion~~
- ~~(e) — curriculum content.~~

(15) Code of Federal Regulations (CFR) - the codification of the general and permanent rules published in the Federal Register by the agencies and executive departments of the federal government. ~~Employment (primary, occasional)—the receipt of monetary compensation for services rendered.~~

(16) Curriculum - the Department structured Level I, Level II and the Level I and Level II Combined Curriculum. ~~Experience—employment or, unpaid work, if clearly documented. Participation in twelve step or similar programs is not included. Internships or placement for educational requirements are not considered toward the required experience.~~

(17) Department - the Florida Department of Highway Safety and Motor Vehicles. ~~Fund Balance—the accumulated net profit or loss, i.e., net worth, since the inception of the program. It shall include all investments, reserves, building funds, and physical assets.~~

(18) Direct Client Services - client services that are provided while interacting directly with the client. This usually describes evaluation or treatment services that are provided face-to-face and direct services that are not face-to-face. The term “direct client services” is usually associated with the provision of human services. ~~In Kind Contributions or Donations—anything received which has a discernible value and is in a form other than cash or cash equivalent. This includes contributions or donations of materials, supplies, the rent free use of space, equipment, buildings, land and similar items for use in the program and which the DUI program would otherwise have to purchase. It also includes the receipt of such items that the program is expected to convert into cash for use in the program. Items should be recorded in the audit at estimated fair market value. The donation of services, e.g., volunteers, is not normally recorded unless it is a major portion of the organization's activity, there is a clearly measurable basis for the amount, or there are other appropriate reasons, such as for use as matching costs.~~

(19) Drug - any controlled substance as defined in Chapter 893, Florida Statutes and any chemical analogue thereof or alcohol. ~~Manager—any individual who oversees the day to day operation of a program.~~

(20) Education - substance abuse education course required by Florida Statute to inform the offender about the issues with drinking and driving. ~~Other Revenues~~—includes investment income, gains from the sale of assets, and prior year refunds.

(21) Employment (primary or occasional) - the receipt of monetary compensation for services rendered. ~~Program Fee~~—the fee charged by the DUI program for providing education, evaluation, and referral into treatment. This fee, which shall be approved by the Department, shall include all reasonable and necessary costs to provide the foregoing services. If a fee is to be routinely required of all clients, the costs for such shall be incorporated into the program fee.

(22) Evaluation - assessment to determine whether there is sufficient risk for abuse or dependence of any substance or combination of substances to warrant a referral for treatment. ~~Program License~~—an executed, completed and properly signed HSMV Form 77034, issued by the Department authorizing a DUI program to operate in the State of Florida.

(23) Experience - clearly documented employment or unpaid work. Participation in twelve-step or similar programs is not included. Internships or placement for educational requirements are not considered toward the required experience. Residence (permanent, temporary, military)—address appearing on driver's license or driver history record, or if no such address exists, the county in which the driver was convicted.

(24) Fund Balance - the accumulated net profit or loss, i.e., net worth, since the inception of the program. It shall include all investments, reserves, building funds, and physical assets. ~~Separate Fund~~—a self-balancing set of accounts recording all DUI program revenue, expenditures, cash or other resources together with all related assets, liabilities, obligations, reserves and equities.

(25) Governing Board - a formally constituted group of individuals that sets policies and operates under applicable provisions of state and federal laws and regulations through an administrator of the DUI program. ~~Transfer Fee~~—the ancillary fee charged a client who enrolled in one program and requests to transfer to another program, either a Florida-licensed program or a similar program in another state or country. Information provided to a client on the appropriate DUI program in their area shall not provide the basis for charging a transfer fee.

(26) Human Services - major or principal focus area of study includes one or more of the following: counseling, human assistance, psychology, rehabilitation counseling, criminology, criminal justice, marriage and family, substance abuse or social work. A degree in education with a major in counseling and guidance, sociology or public administration degree will be accepted if the focus area is on counseling. ~~Treatment~~—the clinical care of a client, in accordance with a plan prescribed for that purpose.

(27) Indirect Client Services - services that are provided to clients with little or no direct interaction with the client, such as an administrator or clinical supervisor of a human service organization. The term “indirect client services” is usually associated with the provision of human services. ~~Drug~~—any controlled substance as defined in Chapter 893, Florida Statutes, any chemical analogue thereof or alcohol.

(28) Ignition Interlock Device (IID) - a breath-measuring instrument approved by the Department for use in State of Florida, pursuant to 15A-9, Florida Administrative Code and 316.1938, Florida Statute. ~~Human Services~~—major or principal focus area of study includes one or more of the following: counseling, counseling and human assistance, psychology, rehabilitation counseling, criminology, criminal justice, marriage and family, substance abuse or social work. A degree in education with a major in counseling and guidance, sociology degree or public administration degree will be accepted if the focus area is on counseling.

(29) In-Kind Contributions or Donations - anything received which has a discernible value and is in a form other than cash or cash equivalent. This includes contributions or donations of materials, supplies, the rent-free use of space, equipment, buildings, land and similar items for use in the program and which the DUI program would otherwise have to purchase. It also includes the receipt of such items that the program is expected to convert into cash for use in the program. Items should be recorded in the audit at estimated fair market value. The donation of services, e.g., volunteers, is not normally recorded unless it is a major portion of the organization's activity, there is a clearly measurable basis for the amount, or there are other appropriate reasons, such as for use as matching costs. ~~Advertisement—any printed, written or electronic communication distributed to the general public by the program which identifies that particular DUI program. This shall not include any factual information provided upon request.~~

(30) Manager - any individual who oversees the day-to-day operation of a program. ~~Program—~~  
an entity licensed by the Department, which provides DUI program services and functions in the State of Florida.

(31) Mental Health/Rehabilitative Direct Client Services - Client services that involve direct interaction with the client and that are provided in a mental health/rehabilitative setting. The direct interaction is of a therapeutic nature. ~~Revocation—The permanent invalidation action by the Department of any DUI program license or personnel certification.~~

(32) Other Revenues - includes investment income, gains from the sale of assets and prior year refunds. ~~Suspension—The temporary or conditional invalidation by the Department of any DUI program license or personnel certification.~~

(33) Primary Business Office – a permanent structure that is readily accessible by public transportation where the DUI program conducts related activities, including registration. The location shall be staffed by employees of the DUI program, including an on-site manager, in a circuit where it is to operate. Such office shall remain accessible at least 40 hours per week. ~~Business Office—a location where the DUI program conducts related activities, including registration. The location shall be staffed by employees of the DUI program in a circuit where it is to operate. Such office shall remain accessible Monday through Friday, during regular business hours, 9 am to 4 pm.~~

(34) Probationary License- an executed, completed and properly signed license authorizing a currently licensed DUI program to operate in the State of Florida with specific conditions and a designated timeframe to satisfy such conditions.

(35) Program - an entity licensed by the Department, which provides DUI program services and functions in the State of Florida.

(36) Program Fee - the fee charged by the DUI program for providing education, evaluation, IID client violation monitoring and/or SSS services. This fee, which shall be approved by the Department, shall include all reasonable and necessary costs to provide the foregoing services. If a fee is to be routinely required of all clients, the costs for such shall be incorporated into the program fee.

(37) Program License - an executed, completed and properly signed license authorizing a DUI program to operate in the State of Florida.

(38) Provisional License – a temporary license issued for one year to an applicant program.

(39) Reschedule – the process by which an individual changes the date of an assigned class, evaluation, a SSS periodic update appointment or IID violation monitoring appointment to an alternate date.

(40) Residence (permanent, temporary, military) - address appearing on driver's license or driver history record, utility bill, rental agreement, visa or green card, or if no such address exists, the county in which the driver was convicted.

(41) Revocation - The invalidation action by the Department of any DUI program license or personnel certification.

(42) Satellite Business Office – a permanent structure that is readily accessible by public transportation where registration, education, evaluation, IID client violation monitoring and/or SSS services are provided to the DUI client.

(43) Separate Fund - a self- balancing set of accounts recording all DUI program revenue, expenditures, cash or other resources together with all related assets, liabilities, obligations, reserves and equities.

(44) SSS Applicant- a person seeking admission into SSS program and whose driving privilege has not been reinstated.

(45) Transfer Fee - the fee charged to a client who enrolled in one program and requests to transfer to either another Florida licensed program or a similar program in another state.

(46) Treatment - the clinical care of a client, in accordance with an individualized plan prescribed for that purpose.

(47) Vendor - Entity responsible for the installation and monthly calibration of the IID within a vehicle.

Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, 322.291, 316.193 F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.

#### **15A-10.003 Reciprocity.**

(1) DUI programs recognized, approved, licensed, or certified by another state's ~~or country's~~ regulatory driver license authority, shall be recognized by the Department as being similar to the DUI Driving Under the Influence program in this state. Courses shall not be conducted via the Internet, remote electronic technology, home study, distance learning, or any other method in which the instructor and clients are not physically present in the same classroom. Unless otherwise approved by the Department, the DUI program shall not recognize other country's DUI programs.

(2) Substance abuse treatment and mental health facilities providing treatment recognized, approved, licensed, or certified by another state's regulatory authority, shall be recognized by the Department as being similar to the substance abuse treatment facilities in the state. The treatment provider shall conduct educational and evaluation services in person rather than electronic or internet-based means. Unless otherwise approved by the Department, the DUI program shall not recognize other country's substance abuse treatment and mental health facilities.

Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292(2)(b), F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.

#### **15A-10.004 Application for Licensure to Conduct a Driving Under the Influence Program.**

(1) Application:

(a) ~~An application shall be made in writing to the Department on the~~ The applicant organization shall submit the Application for Licensure as a Driving Under the Influence (DUI) Program, HSMV Form 77035(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517

incorporated by reference in Rule 15A-10.043, furnished by the Department, and attach all requested documentation. The application shall be typed. The non-refundable fee for each license application is the maximum amount provided in s. 322.292, FS. A separate application shall be submitted for each circuit in which the applicant organization wishes to provide DUI services or otherwise in accordance with 322.292, FS.

(b) The Department shall give written notice to any licensed DUI program(s) operating in the circuit that another organization has applied for licensure.

(c) The applicant organization program shall include documentation of the consultation between the Department and the Chief Judge concerning the of approval process and the judicial circuit in which the applicant organization program is to be located.

(2) Program Title: Data to accompany the application where other organizations are already licensed. Applicant's shall submit to the Department, the completed Application for Licensure as a Driving Under the Influence (DUI) program HSMV Form 77035, and all attached materials requested on the application.

(a) No program shall use, adopt, or conduct any business under a name that is like or deceptively similar to a name used by another program.

(b) A program shall not use the word "State" in any part of the program name.

(3) A copy of the applicant organization's certificate of occupancy or documentation reflecting compliance with local, state, and federal fire, sanitation and building requirements shall be made available upon request by the Department. Effective date. Each applicant program's licensure shall expire three (3) years from the date of issuance unless renewed in a timely manner.

(4) The applicant DUI organization shall include a financial audit conducted by a certified public accountant if it exists as an organizational entity at the time of the application. If the applicant organization does not exist as an organizational entity at the time of the application, the applicant organization shall include a financial review conducted by a certified public accountant. Non-transferability. Any change in the information provided for licensure shall be approved by the Department. Program licensure shall not be transferable. The program shall notify the Department at least 90 days prior to the effective date of a proposed change in the program's corporate structure. The Department shall review the proposed changes and may request additional information from the program.

(5) The applicant organization shall begin full service operations no later than 45 calendar days after the licensure date. The Department will issue a provisional license for one year upon approval of the applicant organization's application. The Department will conduct a site visit within one year of the applicant organization initiating services. The disposition of the site visit shall determine if the issuance of a standard program license is appropriate. Program Title

(a) No program shall use, adopt, or conduct any business under a name that is like or deceptively similar to a name used by another program.

(b) A program shall not use the word "State" in any part of the program name.

(6) Any change in the information provided for licensure shall be reviewed by the Department for approval. Program licensure, or any other requirements thereof, shall not be transferable. The applicant organization shall notify the Department at least 30 calendar days prior to the effective date of a proposed change in the applicant organization's corporate structure indicated on the Application for Licensure as a Driving Under the Influence (DUI) Program, HSMV Form 77035 (2010), incorporated by reference, which is obtainable be obtained by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 and as filed with Department of State, Division of Corporations. The Department shall review the proposed changes. If additional

information is needed from the Department, it shall be requested. ~~A copy of the program's certificate of occupancy or documentation reflecting compliance with local, state, and federal fire, sanitation and building requirements shall be made available upon request by the Department.~~

(7) ~~The applicant organization program shall permit the Department and its representatives upon request to inspect the program, its public facilities, equipment and records that are required by the rules to be maintained in the operation of the applicant organization program.~~

(8) ~~The applicant organization shall employ at least one full-time Certified Addiction Professional. The procedure followed for processing the application will be pursuant to s. 120.60(2), F.S.~~

(9) ~~The applicant organization shall submit documentation of compliance with all applicable federal, state, and local laws. In considering an application for approval of DUI program, the Department shall, determine whether improvements in service may be derived from the operation of the DUI program and the number of clients currently served in the circuit. The Department shall apply the following criteria:~~

~~(a) The increased frequency of classes and availability of locations of services offered by the applicant DUI program.~~

~~(b) Services and fees offered by the applicant DUI program and any existing DUI program.~~

~~(c) The number of DUI clients currently served and historical trends in the number of clients served in the circuit.~~

~~(d) The availability, accessibility, and service history of any existing DUI program services.~~

~~(e) The applicant DUI program's service history.~~

~~(f) The availability of resources, including personnel, demonstrated management capability, and capital and operating expenditures of the applicant DUI program.~~

~~(g) Improved services to minority and special needs clients.~~

~~(10) The procedure followed for processing the application will be pursuant to s. 120.60, F.S.~~

~~(11) In considering an application for approval of an applicant organization, the Department shall, in consultation with the Chief Judge, determine whether improvements in service may be derived from the operation of the applicant organization and the number of clients currently served in the circuit. The Department shall apply the following criteria:~~

~~(a) The increased frequency of classes and availability of locations of services offered by the applicant DUI program.~~

~~(b) Services and fees offered by the applicant organization and any existing DUI program.~~

~~(c) The number of DUI clients currently served and historical trends in the number of clients served in the circuit.~~

~~(d) The availability, accessibility, and service history of any existing DUI program services.~~

~~(e) The applicant organization's service history.~~

~~(f) The availability of resources, including personnel, demonstrated management capability, and capital and operating expenditures of the applicant organization.~~

~~(g) Improved services to minority and special needs clients.~~

~~Rulemaking Specific Authority 322.02, 322.292, 322.293 F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.~~

#### **15A-10.005 Licensure: Requirements and Limitations.**

(1) All programs applying for licensure after July 1, 1999 shall satisfy the criteria listed in section 322.292(2)(c)(5), F.S. In addition to its primary principal business office, each DUI program that is licensed to operate in more than one judicial circuit shall maintain a satellite business office in any

additional circuit in accordance to 322.292, F.S. where more than 3,000 DUI convictions were reported in the most recent calendar year. Each DUI program shall submit for approval at least one ~~(4)~~-classroom location in each county within the judicial circuit where the program's Florida primary principal-business office is located as designated on the program license or otherwise in accordance with 322.292, F.S. Programs that applied for licensure by the Department on or before January 1, 1994, shall not be required to locate classrooms in counties where other licensed programs have approved classrooms. After joint consultation between the program, Department, and Cehief Ijudge of the circuit, if the Department ~~may~~ determines that the locating a classroom~~located~~ in each county of the judicial circuit is not financially feasible, and it will not be required. The determination of financial feasibility shall be based on the cost to the program in establishing and maintaining a classroom in each county of the judicial circuit and the number of clients expected to utilize the classroom(s). The Department will consider offsetting the revenues generated in a more populated ~~populous~~ county against revenues projected to be generated in a lesser populated county in the circuit. Consideration will be given to the distance between existing DUI programs. The Department will also consider the recommendations ~~desires~~ of the Cehief Ijudge in deciding whether to grant a waiver. Effective October 1, 1994, programs in operation as of January 1, 1994, shall not locate new classrooms in counties served by another existing program until on or after October 1, 1998.

(2) The Department shall be notified on Notice of Change ~~Form~~, HSMV Form 77006 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517~~incorporated by reference in Rule 15A-10.043, within 10 calendar ten (10)-days of any changes that affect DUI program's provision of services. in the information included in the original application for a DUI program license.~~ Such changes shall be ~~deemed~~ approved by the Department unless the Department otherwise notifies the DUI program within 30 calendar days of receipt of HSMV Form 77006. ~~DUI program is otherwise notified within 30 days of receipt of HSMV Form 77006 by the DUI Programs Section.~~

~~(3) — Renewal. Each license shall be renewed every three (3) years in the manner prescribed, and on a Driving Under the Influence License Renewal Form, HSMV Form 77036, incorporated by reference in Rule 15A-10.043, provided by the Department.~~

~~(a) — It shall be the responsibility of the program manager to submit the Driving Under the Influence Licensure Renewal Form, HSMV Form 77036, and all other required items at least thirty (30) days prior to the date of expiration to the Department. Failure to submit the HSMV Form 77036, at least thirty (30) days prior to the expiration of the license will require that the program submit an Application For Licensure As A Driving Under The Influence (DUI) program, HSMV Form 77035, which will be considered under the rules then in force with regard to new applicants.~~

~~(b) — Any program which allows its program's license to expire will not be permitted to operate subsequent to the expiration date. A complete application for a new license shall be submitted on HSMV Form, 77035 incorporated by reference in Rule 15A-10.043.~~

~~(c) — Where the program has timely submitted a renewal application, HSMV Form 77036, and prior to final action on the application, the program's license shall be extended for a period of thirty (30) days by the Department. If the application is denied, an application for a new license may not be submitted for a period of one hundred eighty (180) days.~~

~~(3)(4) Primary or Satellite Business office or classroom:(a) — A business office or classroom of any program shall be approved by the Department.~~

~~(a) A primary or satellite business office or classroom of any program shall be approved by the Department.~~

(b) ~~Display~~— The license shall be clearly displayed in a conspicuous location at all times in the program's ~~Florida primary principal~~ business office and all satellite branch offices approved by the Department.

(4)(5) ~~A program~~ ~~No program~~ shall not advertise in any manner until ~~such time as the program~~ is properly licensed by the Department.

(5)(6) A program shall not use any name other than its approved name for advertising or publicity purposes, nor shall a program advertise or imply that it is "recommended," or "endorsed" by the Department.

(6)(7) No program, instructor or employee shall advertise or represent themselves to be an agent or employee of the Department or allow the use of any advertisement which would reasonably have the effect of leading the public to believe that they are or were an employee or representative of the Department.

(7)(8) No program, instructor or employee shall solicit business on the premises rented, leased or owned by the Department including parking lots adjoining driver license examining offices or parking lots used by driver license applicants.

(8)(9) No program shall make a false or misleading claim in any of its advertisements.

(9)(10) ~~Obscene Advertising~~— No program shall use any form of advertising which is obscene, lewd, or pornographic. Upon a finding by the Department that a program has used any obscene advertising in any medium, the Department will place the program's license on probationary status will be suspended upon a first offense, and a mandatory license revocation for a second offense. The Department will revoke the DUI program license for a second or subsequent offense.

(a) The printed, written or electronic communication shall clearly state it is an advertisement, in a minimum of nine pitch type. Exception to pitch type shall only be made for telephone directory advertising.

(10)(11) Communications concerning DUI program services shall be limited to factual information including the services provided by the program, laws relevant to the program's service, telephone numbers, address, and hours of operation of the program. Communications shall not be false or misleading, nor include information, which coerces, harasses, entices, intimidates, or is likely to cause duress to a prospective client.

(11)(12) Licensure is subject to the contingencies delineated in 15A-10.041.  
*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292 F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.006 Relinquishment of Licensure.**

In a circuit in which the licensed program is voluntarily relinquishing its license or had its licensure revoked, thereby leaving no program in that circuit, the Department shall notify all programs of the current or impending revocation or surrender of license and accept applications for licensure in the vacant circuit. All programs seeking licensure, including others than those notified, shall apply to the Department for licensure, pursuant to Rule 15A-10.004. The DUI program relinquishing licensure shall notify the Department a minimum of 90 calendar days prior to date of relinquishment. The Department shall conduct an investigation to determine whether the petitioning organization meets the criteria of these rules.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

**15A-10.007 Review Board and Monitoring.**

(1) In order to assist the Department in a systematic review of each licensed DUI program's compliance with the rules, the DUI Programs Review Board shall conduct periodic on-site visits of all programs as well as unannounced visits. The Review Board shall conduct an on-site visit to each program at least once every 24 months. The members of the Review Board shall be paid per diem and travel expenses in accordance with s. 112.061, Florida Statutes. The site visit shall be processed in accordance ~~15A-10, FAC with the Compliance Review, HSMV Form 77038, incorporated by reference in Rule 15A-10.043, and~~ to determine compliance with the rules. The Bureau shall provide the DUI program with a preliminary written report of the Review Board's findings. The program will receive a final written report delineating deficiencies and the remedies required to correct those deficiencies. ~~The form will also be accompanied by the Site Visit Report, HSMV Form 77039, incorporated by reference in Rule 15A-10.043.~~ The DUI program shall respond in writing documenting correction of those deficiencies within the time specified in the report ~~thirty (30) calendar days after receipt of the report.~~ The Department is authorized to conduct follow-up site visits regarding the satisfaction of those deficiencies. The failure to satisfy the deficiencies within the timeframe ~~time frame~~ set out above shall will result in suspension-probationary status or revocation of the DUI program license in accordance with Rule 15A-10.041, F.A.C. An appeal of a ~~suspension or~~ revocation of a license shall be made in accordance with Chapter 120, F.S.

(2) Appointments with specified organizations and persons shall be scheduled by the DUI program manager or Department representative, as required ~~Site visit preparation.~~

(a) ~~The Compliance Review, HSMV Form 77038, shall be completed by the DUI program and submitted to the Department at least six calendar weeks prior to the site visit.~~

(b) ~~Additional written information shall be provided with the Compliance Review as requested.~~

(c) ~~Appointments with specified organizations and persons shall be scheduled by the DUI program manager, as required.~~

(3) During each review, all representatives of the programs shall cooperate with the Department's representative(s), and, upon request, shall exhibit all records, instructional aids, manuals, or such materials as necessary for the review.

(4) A program manager ~~manager of the program or their~~ his designee, shall be available during standard normal business hours at any program business office to furnish information of operation, verify records, or to provide the necessary records or documents whenever requested by a member of the Department.

(5) Members of the DUI Programs Review Board shall be appointed by the Executive Director of the Department. Criteria for membership requires that the member be employed in or have a history of employment in criminal justice, finance and accounting, business administration, public administration or human services. Persons who receive compensation from or who serve in a voluntary capacity on the Board of Directors or Governing Board of a licensed DUI program are not eligible for membership.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, 322.293, F.S. History- New 1-4-95 Amended 3-4-97, \_\_\_\_\_.*

**15A-10.008 Organizational Structure.**

(1) An organization licensed designated as a DUI program shall provide the following functions: administration, registration, enrollment, education, client evaluation, treatment referral, IID

~~client violation monitoring, SSS Special Supervision Services, and is permitted to may~~ elect to provide the-traffic law and substance abuse education (TLSAE). ~~Drug, Alcohol, Traffic Education Program (D.A.T.E.)~~. Subcontracting of any of ~~the required-these~~ functions is prohibited.

(2) The DUI program shall designate a ~~specific~~ staff member to serve as a liaison to the court and probation services.

(3) The DUI program shall be operated by a governmental or not-for-profit organization pursuant to IRS classification.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.095, 322.292, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.009 Program Jurisdiction.**

(1) Persons who are required ~~ordered by the court, pursuant to section 316.192 or 316.193, Florida Statutes,~~ to attend a DUI Program substance abuse course, or who attend such course after an arrest for section 316.192 or 316.193, Florida Statutes, but prior to conviction, shall attend the DUI program that serves the county of that person's residence, employment, or school attendance unless the program(s) of residence, employment, or education do(es) not object to attendance at another program for the convenience of the client. Written permission shall be obtained from the DUI program (s) serving the person's residence, employment or school attendance.

(a) If the person is an resides o~~Out-of-state, then they are permitted to. residents may~~ attend an out-of-state substance abuse education course program provided that such program is recognized, approved, licensed, or certified by the state's DUI regulatory authority has reciprocal recognition as stated in Rule 15A-10.003. Florida residents shall complete the substance abuse education course at a DUI program licensed in the State of Florida.

(2) Attendance used to satisfy the statutory requirement for an offense shall occur after the arrest for such offense.

(3) Completion of or failure to complete DUI program requirements will result in electronic submission by the DUI program of the Client Status Report, via the Centralized Database System (CDS) HSMV 77057, incorporated by reference in Rule 15A-10.043.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 316.192, 316.193, 322.2615, 322.292, F.S. History-New 1-4-95. Amended \_\_\_\_\_.*

#### **15A-10.010 Operating Policies and Procedures Manual(s).**

Each DUI program shall have an operating policies and procedures manual or service specific manuals, accessible to all DUI staff, which shall include comprehensive written step-by-step procedures covering administration, fiscal matters, governing body, personnel, client file maintenance, certification, educational services, client evaluation services, treatment referral, court communication, IID client violation monitoring, and ~~SSS Special Supervision Services~~. The manual(s) shall be approved by the organization's Board of Directors or Governing Board ~~or advisory committee where no board is required.~~  
*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, 322.291, 316.193, F.S. History-New 1-4-95. Amended \_\_\_\_\_.*

#### **15A-10.011 Board of Directors or Governing Board and ~~or~~ Advisory Committee.**

(1) Not-for-profit corporations:-

(a) The DUI program shall have a Board of Directors.

- (b) ~~Programs, which are operated by a multipurpose corporation, shall~~ ~~Programs which are operated by a multipurpose corporation shall~~ appoint an Advisory Committee.
- (c) The Board of Directors, shall:
1. Meet at least quarterly.
  2. Ensure compliance with state and federal laws and regulations.
  3. Ensure no voting member of the Board of Directors is a paid employee of the program.
- (d) If an Advisory Committee is utilized, it shall:
1. Meet at least quarterly.
  2. Report to Board of Directors and the DUI program following each meeting.
  3. Ensure no voting member of the Advisory Committee is a paid employee of the program.
  4. Ensure members are representative of the criminal justice, finance and accounting, business administration, public administration, medical, public health, education or the human services community. If a representative Advisory Committee is not feasible, justification shall be documented.
  5. Is permitted to contain members of the Board of Directors, but cannot be made up of the Board of Directors in its entirety.
- (2) Governmental Entities:-
- (a) Shall have a Board of Directors or Governing Board or Advisory Committee.
- (b) ~~If a Board of Directors or Governing Board is utilized, the board shall meet the~~ requirements of (1)(c) above and if an Advisory Committee is utilized, it shall meet the requirements of (1)(d) ~~4-3-~~above.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.012 Financial Audit.**

The DUI Program shall submit to the Department a certified financial audit, and an independent auditor's report on compliance with laws, regulations, contracts, and grants related to Rules 15A-10.012, 15A-10.013, 15A-10.014, 15A-10.0141 and 15A-10.0142. ~~The financial audit which~~ shall be conducted by an independent certified public accountant on an annual basis. A copy of those portions of the management letter related to the DUI program audit shall also be submitted to the Department. If no management issues are identified, then an auditor's statement that no management letter was issued shall accompany the audit.

(1) The audit shall be received by the Department within 180 ~~one hundred twenty~~ calendar days of the end of the program's fiscal year. This period ~~shall may~~ be extended by the Department for up to 30 ~~sixty (60)~~ additional calendar days upon a program's written request, when the audit has been delayed through no fault of the program or for other extenuating circumstances. Factors the Department will consider in making the decision are a delay in receipt of the audit from the DUI program's licensed organization's certified public accountant, natural disaster or a circumstance, ~~that which~~ is beyond the DUI program's licensed organization's control. The audit shall be reviewed by the Inspector General Internal Auditor of the Department or an auditor on contract.

(2) The audited financial statements shall be comparative and presented on the accrual basis of accounting.

(3) The audited financial statements shall clearly show the activity and fund balances of the DUI program and, at a minimum, shall include: a balance sheet; a statement of support, revenue and expenses; a statement of changes in fund balances to reflect the activity of each fund; and a statement of functional expenses. The revenues and expenses of the SSS Special Supervision Services and IID client violation monitoring portions of the DUI program shall be reflected separately from other DUI program revenues and expenses.

(4) The DUI program accounting shall be presented as a separate fund.

(5) The auditor's notes accompanying the financial statements or a letter from the auditor shall disclose the basis and formula for the allocation of indirect costs (overhead) and that the method used provides a fair and equitable allocation to all functions or programs.

(6) The audit report shall include an auditor's note to the financial statements concerning the collection and remittance of the state assessment fee to the Department as required by section 322.293, Florida Statutes, ~~and Administrative Rule 15A-10.005~~. This audit report note shall include the information in the following format:

**STATE ASSESSMENT FEE**

As required by section 322.293, Florida Statutes, ~~and Administrative Rule 15A-10.005~~, [Name of Program] collects a state assessment fee of [Amount of Fee] on every client enrolling in its DUI program and remits the fees to the State of Florida. State assessment fees collected and distributed to the State of Florida are summarized as follows:

	Fiscal Year	
	Prior	Current
Fees due from prior year	\$ _____	\$ _____
Fees collected current year	_____	_____
Fees remitted current year	_____	_____
Fees due State	_____	_____

(7) The auditor's notes accompanying the audited financial statements shall also state that the DUI program established and maintained procedures, which adequately accounted for all fees received for the DUI program and for all receipts created and/or issued by the DUI program.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

**15A-10.013 Financial Procedures and Reporting Requirements.**

(1) The DUI program shall establish and maintain financial procedures to account for all fees received by the DUI program. The program shall be supported solely from fees received from clients and from in-kind and other contributions. In-kind contributions shall be recorded in accordance with the definition in Rule 15A-10.002(29)(48). All fees shall be used solely for the operation of the program except as otherwise provided in Rule 15A-10.0142. Cash or other assets earned or received by the DUI program ~~shall may~~ not be loaned or used for any other purpose. The program is permitted to ~~may~~ maintain a cash reserve as defined in 15A-10.002(10)(6).

(2) The state assessment fee shall be collected from each person enrolling in the DUI program and shall be submitted to the Department within 30 calendar ~~thirty (30)~~ days following the last day of the month in which the assessment fee was collected. The fee shall be submitted with the complete Assessment Fee Report ~~Form~~, HSMV Form 77007 (2010), incorporated by reference, which is obtainable

by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 incorporated by reference in Rule 15A-10.043. The state assessment fee is part of the total fee and is not an ancillary fee.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.014 Cost Standards and Allocations.**

(1) ~~Reasonable Costs.~~ A cost shall be deemed to be a reasonable expenditure for a DUI program if it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of an organization in the public sector which performs similar functions or which is staffed with similarly classified personnel.

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, and federal and state laws and regulations.

(c) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its employees, its clients, and the public at large.

(2) Personnel Salaries and Benefits:-

(a) The Board of Directors or Governing Board or Advisory Committee shall not receive direct compensation for their services on the board or as an employee or consultant for the corporation.

(b) ~~Management~~— The total compensation of the executive director, president, or other senior managers which is charged to the DUI program shall be based on the number of clients served, staffing, size of budget relative to other organizations offering similar services, and other relevant factors. In addition, such factors as tenure with the organization ~~shall may~~ be considered.

(c) The total compensation of each employee which is charged to the DUI program other than those identified in (2)(b) above, shall approximate that paid by other employers in the same general geographic area to positions requiring similar skills and experience.

(d) The DUI program's retirement contribution rate shall be listed in the financial audit. ~~Contributions to retirement cannot exceed the percentage of gross compensation contributed by the employer of members of the Regular Class of the Florida Retirement System pursuant to section 121.071, F.S.~~

(e) Benefits such as club dues, tuition plans for employees' children, and automobiles primarily for personal use are not allowable costs.

(3) Expenses:-

(a) Contributions and donations to others are not allowable costs.

(b) Accelerated depreciation is not allowable.

(c) The costs of an individual's dues, memberships, and subscriptions are not allowable unless the organization does not permit corporate memberships. Individual membership for the purpose of professional liability coverage is allowable.

(d) Expenditures for entertainment are not allowable.

(e) Discretionary bonuses shall not be paid from or charged to the DUI program ~~either as~~ direct or indirect costs. Discretionary or extraordinary bonuses are sums paid to employees in recognition of services performed during a given period when the payment is not made pursuant to any

prior written agreement causing the employees to expect such payments regularly, or as part of amounts budgeted by the program for such purposes.

(f) Usage and occupancy fees charged to the DUI program by an affiliated organization or other program within the same organization are limited to the DUI programs share of the total operating cost plus depreciation.

(4) Cost Allocation:- The identification of direct and indirect costs and the allocation of indirect costs is required for multi-function organizations. Single function organizations will not be required to provide this degree of cost accounting.

(a) Direct costs are those costs which can be reasonably identified as benefiting a particular program, function, or cost center.

1. All costs should be charged directly to a program or function unless identified as an indirect cost as defined below.

2. Joint costs are costs incurred by the organization which benefits two or more programs or functions, and which can be readily allocated to the DUI program receiving such benefits, using an appropriate base. This would include such items as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and employees' salaries. A step-down allocation methodology is preferred and any other method shall be justified as being more equitable.

(b) Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

1. Direct costs of minor amounts shall ~~may~~ be treated as indirect costs where it is not economically feasible to identify and allocate them as direct costs.

2. Indirect costs are those costs remaining after all direct costs have been determined and assigned directly to programs, functions, or cost centers, as appropriate.

3. Indirect costs shall be assigned to one or more indirect costs pools and allocated to programs or functions using a logical, supportable, and equitable distribution base. Different distribution bases shall ~~may~~ be used for different indirect cost pools.

(5) Cost Limitations:- The amount of any cost charged to a DUI program, subject to the maximum cost limitations imposed by these rules, shall be limited to the proportion of benefit received by the program.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.0141 DUI Services Fees**

(1) ~~The registration fees to be charged by DUI programs shall be \$165 for Level I and \$250 for Level II and will include the State assessment fee. These are~~ The Department approved fees are the only fees to be charged for providing the Level I and Level II classes; the services the DUI program is licensed to provide, with the exception of ~~except~~ for Department approved ancillary fees. The DUI program shall disclose all fees for the services that are being rendered to the client. The fee to provide the Level I course and Level II course ~~These fees, not including the State assessment fee,~~ will increase each year on October 1, rounded to the nearest five dollars. The amount of the increase is the lesser amount ~~by the lesser~~ of three percent or the percentage increase (if any) in the Consumer Price Index as determined by the U.S. Department of Labor for the 12 ~~twelve~~ month period ending on the preceding June 30, ~~rounded to the nearest five dollars. The Department shall approve, modify or reduce fees as~~

necessary. Any program that is charging more than the above specified fees on the effective date of this rule may continue to utilize those fees, without any increase, until such time as the fees specified herein, as adjusted, exceed the fees charged by the program.

(2) A client shall pay the full registration fee and reschedule the series of class sessions or the evaluation in the following situations: The standardized Department approved ancillary fees which shall be charged to clients, with the exclusion of those circumstances referenced in 15A-10.016(2), are:

(a) After consuming alcohol, illegal drugs, abused prescription medications or any other substance as evidenced by possession, behavior, odor, observation of consumption or the client's own admission. Driver Risk Inventory (DRI) \$5.00

(b) Acts in a disruptive manner that result in dismissal from a class or evaluation. Evaluation not associated with enrollment in the complete program \$75.00

(c) The state assessment fee shall be forwarded to the Department. First Level I course reassignment within ninety days of enrollment \$40.00

(d) Second Level I course reassignment within ninety days of enrollment \$75.00

(e) Third Level I course reassignment within ninety days of enrollment \$153.00

(f) First Level I evaluation reassignment within ninety days of enrollment \$75.00

(g) Second Level I evaluation reassignment within ninety days of enrollment \$153.00

(h) Any Level I reassignment which occurs more than ninety days after enrollment \$165.00

(i) First Level II course reassignment within ninety days of enrollment \$60.00

(j) Second Level II course reassignment within ninety days of enrollment \$120.00

(k) Third Level II course reassignment within ninety days of enrollment \$238.00

(l) Any Level II course reassignment which occurs more than ninety days after enrollment \$250.00

(m) Transfer Fee \$25.00

(n) Administrative Refund Fee \$25.00

(o) Processing a Referral to a Different Treatment agency \$15.00

(3) Reschedules:

(a) Each DUI program shall provide each client with a schedule of assigned class sessions or evaluation at the time of registration.

(b) If the client contacts the program at least five business days prior to the date the class session or evaluation is scheduled to be conducted and requests to be rescheduled, the client shall be rescheduled to another series of class sessions or evaluation without fee. A maximum of two reschedules under this paragraph shall be allowed during any 90 calendar day period without paying a rescheduling fee.

(c) If the client contacts the program at least five business days after being absent for exceptional circumstances the date the class session or evaluation was scheduled and asks to be

rescheduled, the client shall be rescheduled to another series of class sessions or evaluation without paying a rescheduling fee. Exceptional circumstances shall be documented by the client and involve situations that are beyond the client's control and were unknown to the client at the time of enrollment, such as natural disaster, serious illness or death in the client's immediate family, or serious illness of the client as documented by the attending physician.

(d) Any client who does not request to be rescheduled as set forth above shall be subject to the applicable rescheduling fees.

(e) Any client who is late for a class session or evaluation shall be deemed as having missed such class session or evaluation. Such person shall request to be rescheduled and shall pay the applicable reschedule fee.

(f) The DUI program shall charge the full registration fee, including the state assessment fee, to a client who returns to the program more than 90 calendar days after original enrollment to complete the program. The client shall complete the entire series of class sessions, the evaluation or both, depending on which component the client previously completed. In any case, if client completed the evaluation more than 180 calendar days prior to reenrollment, the DUI program shall conduct a second evaluation.

(g) For those clients who have completed education but failed to begin or complete treatment, a registration fee will not be charged when the client returns to the program to complete the referral requirements, but the DUI program shall charge a Department approved client file reactivation fee once the client file has been closed.

(4) The standardized Department approved fees which shall be charged to clients, with the exclusion of those circumstances referenced in 15A-10.016(1) are:

<u>(a) Driver Risk Inventory (DRI)</u>	<u>\$5.00</u>
<u>(b) Evaluation not associated with enrollment in the complete program</u>	<u>\$125.00</u>
<u>(c) First Level I course reschedule within 90 calendar days of enrollment</u>	<u>\$72.00</u>
<u>(d) Second Level I course reschedule within 90 calendar days of enrollment</u>	<u>\$144.00</u>
<u>(e) Third Level I course reschedule within 90 calendar days of enrollment</u>	<u>\$216.00</u>
<u>(f) First evaluation reschedule within 90 calendar days of enrollment</u>	<u>\$75.00</u>
<u>(g) Second evaluation reschedule within 90 calendar days of enrollment</u>	<u>\$153.00</u>
<u>(h) First Level II course reschedule within 90 calendar days of enrollment</u>	<u>\$93.00</u>
<u>(i) Second Level II course reschedule within 90 calendar days of enrollment</u>	<u>\$185.00</u>
<u>(j) Third Level II course reschedule within 90 calendar days of enrollment</u>	<u>\$278.00</u>
<u>(k) Transfer Fee</u>	<u>\$25.00</u>
<u>(l) Administrative Refund Fee</u>	<u>\$25.00</u>
<u>(m) Processing a Referral to a Different Treatment Provider Fee</u>	<u>\$25.00</u>

(n)	File Reactivation Fee	\$25.00
(o)	Level I Registration Fee	\$288.00
(p)	Level II Registration Fee	\$370.00

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S., 15A-9, FAC. Law Implemented 322.292, 322.293, F.S. History-New 3-4-97. Amended \_\_\_\_\_.*

**15A-10.0142 Revenue Limitation**

The maximum allowable fee revenue to be retained by the DUI Program for normal operations is the maximum allowable cost plus 10 percent of the maximum allowable costs (i.e., operational expenses in accordance with these rules for the most recently ended fiscal year). Up to 10 percent of fee revenues above maximum allowable costs ~~shall~~ may be placed in a cash reserve account each year for the purpose of providing emergency reserves for the program should the DUI program experience a downward economic spiral, and to allow the program to purchase assets which increase efficiency or decrease cost. Total cash reserves ~~shall~~ may not exceed 50 percent of the program’s operational expenses for the most recently ended fiscal year. ~~The purchase of assets from the cash reserve fund shall be approved by the DUI program’s Board of Directors and the Chief Judge of the Circuit. The DUI program’s Board of Directors or Governing Board shall approve the purchase of assets from the cash reserve fund where the DUI program is principally located. If approved by the DUI program’s Board of Directors or Governing Board and the Chief Judge of the circuit where the DUI program is principally located, the DUI program shall apply r~~Revenues in excess of the maximum allowable for normal operations or cash reserve fund in the fiscal year following the fiscal year in which the revenues were realized, may be applied to substance abuse treatment programs for DUI offenders; substance abuse prevention programs; or fee waivers for indigent clients, ~~or clients unable to pay for DUI program participation, in the fiscal year after the fiscal year in which the revenues were realized, if approved by the DUI program Board of Directors and the Chief Judge of the Circuit where the DUI program is principally located.~~ Absent the above approval and usage of the excess revenues, such revenues shall be paid into the Highway Safety Operating DUI Trust Fund by the end of the fiscal year after the year in which they were realized. The annual audit report shall include a report on the use of such excess revenues. The expenses associated with these revenues shall not be recorded as normal operating expenses of the DUI program.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 3-4-97. Amended \_\_\_\_\_.*

**15A-10.015 Fee Waiver.**

Any person seeking a waiver of all or part of the fee for the program shall present documentation of ~~indigence indigency~~ indigence indigency to the program. The program ~~shall~~ may grant such a waiver if indigence indigency is so established. In no case shall the state assessment fee be waived. If the program grants waivers, the Waiver criteria shall be included in the program's operating policies and procedures manual. If the program does not grant waivers, it shall be so stated in the operating policies and procedures manual.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended \_\_\_\_\_.*

**15A-10.016 Ancillary Fees.**

(+) All ancillary fees shall be approved by the Department on the Ancillary Fee Request Form, HSMV Form 77002 (2010), incorporated by reference, which is obtainable by contacting the

Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Approval of such fees shall be received prior to implementation. These fees shall be for the administrating and processing of DUI evaluations, education, SSS, IID client violation monitoring and general administration.

~~(2) If the client appears for a class session or the evaluation after having consumed alcohol or illegal drugs, or abused prescription medication or other substances as evidenced by possession, behavior, odor, observation of consumption, or the client's own admission; or acts in a disruptive manner, resulting in dismissal from the class session or evaluation, the client shall be required to pay the maximum Department approved reassignment fee and reschedule the entire set of class sessions or evaluation. Such fee shall not exceed the standardized Department approved fee to be charged for services provided beyond 90 days of original enrollment. A Client Observation/Incident Report, HSMV Form 77008, incorporated by reference in Rule 15A-10.043, recording the date, staff person, client, and incident shall be required whenever a client is dismissed from a class and shall be maintained for two years.~~

~~(3) — Reassignments:~~

~~(a) — Each DUI program shall provide each client with a schedule of assigned class or evaluation sessions at the time of registration.~~

~~(b) — If the client contacts the program at least five (5) business days prior to the date the class session or evaluation is scheduled to be conducted and asks to be reassigned, the client shall be reassigned to another series of class sessions or evaluation without fee. No more than two reassignments under this paragraph shall be allowed during any ninety day period;~~

~~(c) — If the client contacts the program at least forty eight (48) hours after the date the class session or evaluation was scheduled and asks to be reassigned for exceptional circumstances, the client shall be reassigned to another series of class sessions or evaluation without fee. Exceptional circumstances shall be documented by the client and involve situations that are beyond the client's control and were unknown to the client at the time of enrollment, such as natural disaster, serious illness or death in the client's immediate family, or serious illness requiring hospitalization of the client as documented by the attending physician.~~

~~(d) — Any client who does not request reassignment as set forth above shall be subject to the applicable reassignment fees.~~

~~(e) — Any client who is late for a class session or evaluation shall be deemed as having missed such class session or evaluation. Such person shall request reassignment and shall pay the applicable reassignment fee.~~

~~(4) — The DUI program shall charge the full registration fee, including the state assessment fee, to a client who returns to the program more than ninety days after original enrollment to complete all or part of the program.~~

~~(5) — For those clients who have completed education and evaluation but failed to begin or complete treatment, a registration fee shall not be charged when the client returns to the program to complete the referral requirements.~~

~~*Rulemaking Specific Authority 322.02, 322.292, 322.293 F.S., 15A-9, FAC. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*~~

### **15A-10.017 Personnel Policies and Procedures.**

The written policies and procedures pertaining to the selection and training of personnel shall include descriptions and documentation of the following:

- (1) Job classifications, including exempt and non-exempt status, job descriptions, and pay plans. All job descriptions shall be signed by personnel and placed in personnel file.
- (2) Procedures for personnel selection and appointment.
- (3) Insurance plans as required by state and federal law.
- (4) Procedures for establishing and maintaining personnel records.
- (5) Requirements that all instructors, evaluators, ~~SSS Special Supervision Services~~

Evaluators and clinical supervisors be certified and maintain certification as mandated by the state. ~~and attend biennial mandatory training~~

- (6) Annual and sick leave policy.
- (7) Policy regarding conflict of interest between certified and administrative staff dual employed with the DUI program and a treatment provider when both entities service the same client population.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.018 Client Files.**

(1) The policies and procedures for client files shall include the organization, location, and the individual(s) responsible for the security and maintenance of the client files, as well as the process and documentation for ~~of~~ providing the client with written rules and procedures concerning confidentiality pursuant to 42 and 45 CFR, ~~the processing of~~ release forms, and ~~the~~ administering of the psychosocial evaluation.

(2) The client file, whether hard copy or electronic, shall include the following data and forms, which are incorporated by reference, and are obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, where applicable:

(a) The program's rules and regulations form shall be signed by the client with the original placed in the client file and a duplicate provided to the client. Clients who are unable to read shall be verbally provided with the information. Client rules and regulations shall include:

1. The requirements for course completion including requirements for those with a valid administrative suspension and those enrolling in pre-conviction status.
2. Breach of enrollment agreement, including all reasons for having to reschedule and any fees charged for rescheduling.
3. The transfer policy and fee.
4. Fees for all applicable services provided by the program to the client at the time of enrollment.
5. Statement on confidentiality regulations.
6. Evaluation process and objectives.
7. Refund policy.
8. Notification of required referral to treatment if under the influence of alcohol,

illegal drugs, abused prescription medications, reported substance abuse of alcohol or drugs, or indications of use or impairment, at any time while on the program's premises.

~~A form containing demographic data using the Client Data Information and Interview, HSMV Form 77004, incorporated by reference in 15A-10.043.~~

(b) Client Tracking Form, HSMV Form 77003 (2010), which shall contain dates of contacts with the client, other service providers, outside sources pertaining to the client, relevant events, and documentation of communication with the Department and probation. The program's rules and regulations form shall be signed by the client with the original placed in the client file and a duplicate provided to the client. Students who are unable to read shall be verbally provided with the information. Client rules and regulations shall include:

1. ~~\_\_\_\_\_ The requirements for course completion including requirements for those with a valid administrative suspension and those enrolling in pre-conviction status.~~
2. ~~\_\_\_\_\_ Breach of enrollment agreement, including all reasons for having to reassign and any fees charged for reassignment.~~
3. ~~\_\_\_\_\_ The transfer policy and fee.~~
4. ~~\_\_\_\_\_ All fees for all services in the program.~~
5. ~~\_\_\_\_\_ Statement on confidentiality regulations.~~
6. ~~\_\_\_\_\_ Psychosocial evaluation process and objectives.~~

(c) Client Observation/Incident Report, HSMV Form 77008 (2010), where applicable. Client Tracking Form, HSMV Form 77003 which shall contain significant dates and contacts with the client, other service providers, significant others, and significant events.

(d) If the client is referred to treatment, Treatment Referral and/or Documentation, HSMV Form 77005 (2010). Student Observation/Incident Report, HSMV Form 77008, where applicable.

(e) Client Data Information and Interview, HSMV Form 77004 (2010). Treatment Referral and/or Documentation, HSMV Form 77005.

(f) Original Driver Risk Inventory (DRI) answer sheet, or equivalent assessment approved by the Department. Client Data Information and Interview, HSMV Form 77004.

(g) A lifetime driver record is required or documentation from the state that a lifetime driver record is not available. Original Driver Risk Inventory (DRI) answer sheet.

(h) An offense or arrested-related report which includes a copy of the Uniform Traffic Citation, a copy of the probable cause arrest affidavit or documentation from the arresting agency or officer that the information is not available. The DUI program shall document if such is not obtainable. Documentation of Court and Department communication which can be documented on the Client Tracking Form, HSMV Form 77003.

(i) Client Transfer Record, HSMV Form 77009 (2010), if applicable. Driver record and arrest record. A lifetime driver record is required where it is available.

(j) Interstate DUI Transfer Form, HSMV Form 77040 (2010), if applicable. Client Transfer Record, HSMV Form 77009, incorporated by reference in Rule 15A-10.043, where applicable.

(k) If the client is referred to treatment, Treatment Progress Report, HSMV Form 77031(2010), and a copy of an individualized treatment plan. Interstate DUI Transfer Form, HSMV Form 77040, incorporated by reference in Rule 15A-10.043, where applicable.

(l) Release of Information, HSMV Form(s) 77011(2010) to release and obtain information to and from the Department, court or probation, and an emergency contact. The HSMV Form 77011 expiration date shall not exceed one year from the date it was signed.

(3) The program shall retain a complete file for a minimum of 12 ~~six~~ months following completion of the educational and evaluation services or failure to complete the program requirements or conviction, whichever comes last. The program shall retain a permanent record of that file of all clients who have enrolled in the program that shall ~~will minimally~~ include the name, address, date of birth, drivers license number, and the status of completion of the DUI program. The status of completion of

treatment shall be included, where applicable. This record will also include a summary of the evaluation noting critical factors as identified from the Evaluator Guide, as well as ancillary data to support the disposition of the evaluation secured in the interview. The format of the permanent record shall be a card system, the complete hard copy of the file, microfiche, computerized database, scanned images, or magnetic media storage or other similar technology. Upon revocation or relinquishment of DUI program licensure, the DUI program shall remit the permanent records as stated to the Department.

(4) The client shall have access to the client file for review with a DUI program representative present.

(5) The DUI program shall have available information pursuant to rule 15A-10.027(5) when and where evaluation services are being rendered to the client. Client files shall be maintained by the DUI program that is licensed to provide services to the circuit in which the client resides, attends school, is employed and with which the client is enrolled.

(6) The DUI Program shall ensure the confidential handling of client files at all times and have a written policy and procedure to address such handling in accordance with 42 and 45 CFR guidelines.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.019 Client Transfers Procedure.**

(1) If a client requests a transfer to another Florida location or another state prior to enrollment and the client has been specifically court ordered to the original program or the receiving program has agreed to serve the client assume tracking responsibilities, the original DUI program:

(a) shall send the Client Transfer Record, HSMV Form 77009 (2010) or Interstate DUI Transfer Form, HSMV Form 77040 (2010), which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 and the Request to Release or Obtain Information HSMV 77011 (2010);

(b) shall send copies of available client records to the receiving program by Certified Mail or similar method of correspondence tracking approved by the Department.

(c) If the client fails to enroll at the receiving program within 20 calendar days of the date of the transfer, the receiving DUI program shall submit a client status report to the Department, with a copy sent to the original program, indicating the client's failure to complete.

(d) The state assessment fee shall not be collected until the client enrolls in a Florida DUI program.

(e) All costs for Certified Mail or similar method of correspondence tracking approved by the Department, shall be the responsibility of the client.

(f) The receiving program is responsible for notification to the Department upon the client's completion of the program, including required treatment completion if applicable, unless otherwise agreed by the two programs.

(g) In all instances, the original program shall transfer client to a receiving program that is approved by that state.

~~shall send the Client Transfer Record, HSMV Form 77009, incorporated by reference in Rule 15A-10.043, or Interstate DUI Transfer Form, HSMV Form 77040, incorporated by reference in Rule 15A-10.043, and copies of available client records to the receiving program by certified mail. If the client fails to enroll at the receiving program within 90 days of the date of the transfer, the receiving program shall submit the Client Status Report, HSMV 77057 to the Department, with a copy sent to the referring~~

~~program, indicating the client's failure to complete. All costs for certified mail shall be the responsibility of the client. The state assessment fee shall not be collected until the client enrolls in a Florida DUI program. The transfer fee shall be the standardized, Department approved fee. The receiving program is responsible for notification to the Department upon the client's completion of the program, including required treatment completion if applicable, unless otherwise agreed by the two programs. In all instances, the original program shall ensure that the receiving program in another state is approved by that state prior to completing the transfer.~~

(2) ~~If a client who has enrolled requests a transfer prior to completing the entire series of assigned classes sessions or the evaluation due to change of residence, employment, school attendance or the enrolling DUI program does not have any objection to the client attending another program from the geographic area served by the program and the receiving program has agreed to serve the client, the enrolling original program:~~

~~(a) Shall send the Client Transfer Record, HSMV Form 77009 (2010), or Interstate DUI Transfer Form, HSMV Form 77040 (2010) and the Request to Release or Obtain Information HSMV 77011(2010), which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-05171.~~

~~(b) Shall send copies of available client records to the receiving program by Certified Mail or similar method of correspondence tracking approved by the Department.~~

~~(c) If the client fails to enroll at the receiving program within 20 calendar days of the date of the transfer, the receiving program, if located in Florida, shall submit a client status report to the Department, with a copy sent to the enrolling program, indicating the client's failure to complete.~~

~~(d) The fee for the service being transferred shall not be refunded until the client successfully completes all components and treatment requirements, if applicable. The refund shall be the balance of the program fee excluding the cost of services already received, the cost of DHSMV records, the state assessment fee, DRI fee, and the transfer fee.~~

~~(e) The receiving program is responsible for notification to the Department upon the client's completion of the program, including treatment completion if applicable, issuing completion certificate or other proof of completion, unless otherwise agreed by the two programs.~~

~~(f) If the client has not changed residence, employment or school attendance and requests a transfer, the enrolling program shall provide written consent that they approve the transfer and required documentation in 15A-10.019(2)(a).~~

~~shall send the Client Transfer Record, HSMV Form 77009, the Request to Release or Obtain Information, HSMV Form 77011, and a copy of the client record to the receiving program by certified mail. If the client fails to enroll at the receiving program within 90 days of the date of the transfer, the receiving program shall submit the Client Status Report via the Centralized Database System, HSMV Form 77057 to the Department, with a copy sent to the referring program, indicating the client's failure to complete. The fee for the service being transferred shall not be refunded until the client successfully completes all components and treatment requirements. The refund shall be the balance of the program fee excluding the cost of services already received, the cost of DHSMV records, the state assessment fee, DRI fee, and the transfer standardized, Department approved administrative refund fee. The receiving program shall be responsible for notifying the Department via the Centralized Database System, upon completion of the program unless otherwise agreed by the programs involved.~~

(3) ~~If a client changes residence, employment or school attendance from the geographic area served by the enrolling program prior to beginning or completing treatment:~~

~~(a) It is the client's responsibility to notify the enrolling DUI program of the relocation.~~

(b) If contacted by the client, the DUI program serving the client's new county or residence, employment or school attendance, shall instruct the client to notify the enrolling DUI program of the change.

(c) If the program serving the client's new county of residence, employment or school attendance elects to contact the enrolling program for the client, an executed Request to Release or Obtain Information, HSMV Form 77011(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, shall be obtained and no fee shall be charged.

(d) The enrolling DUI program is permitted work with the DUI program serving the client's new county of residence, employment or school attendance, to identify an appropriate treatment provider in the area serviced by the DUI program.

(e) If the client elects to transfer to the DUI program serving their new county of residence, employment or school attendance, the receiving DUI program shall be responsible for submitting a client status report to the Department, indicating the client's completion or failure to complete status, unless otherwise agreed by the two programs.

(f) The state assessment fee shall not be collected by the receiving DUI program. it is the client's responsibility to notify the original DUI program of the relocation. If contacted by the client, the DUI program serving the client's new county of residence, employment, or school attendance, shall instruct the client to notify the original DUI program of the change. If the new program elects to contact the original program for the client, an executed Request to Release or Obtain Information, HSMV Form 77011, shall be obtained and no fee is charged. The state assessment fee shall not be collected by the new program. The original DUI program may work with the new DUI program to identify an appropriate treatment provider in the area of the client's relocation. The receiving DUI program shall be responsible for notifying the Department of the client's completion status unless otherwise agreed by the programs involved.

(4) It shall be the client's choice to transfer DUI programs in accordance to the requirements set forth in Rule 15A-10.009. If a client contacts a DUI program for the name and telephone number of a DUI program in the area of a client's residence, employment, or school attendance, and there is no court order requiring tracking by the original DUI program, this is not a client transfer. In such cases, the client is given the information, a fee is not charged, and the state assessment fee is not collected by the program providing the information.

(5) In the event a client is completing an evaluation or a class in a separately licensed DUI program other than the DUI program with which they originally enrolled, a client transfer is required. If the client has paid the state assessment fee at the transferring program, such assessment shall not be collected at the receiving program.

(6) If a client contacts a DUI program for the name and telephone number of a DUI program in the area of a client's residence, employment, or school attendance, and there is no court order requiring tracking by the original DUI program, this is not a client transfer. In such cases, the client is given the information, a fee is not charged, and the state assessment fee is not collected by the program providing the information.

(7) If the client has paid the state assessment fee at the transferring program, such assessment fee shall not be collected at the receiving program.

(8) In all instances, the justification for denying a transfer must be based on a violation of rules 15A-10.009 and 15A-10.021.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.021 Client Student Conduct.**

(1) A DUI program is permitted to ~~may~~ refuse to enroll any person who is unwilling to comply with the rules and procedures of the program, is unwilling to make full disclosure for purposes of an evaluation, or refuses to participate in the education classes or the evaluation.

(2) The program shall dismiss any client student from the premises who is:

(a) believed to have consumed alcohol or illegal drugs, abused prescription medication or any other substance as evidenced by possession, behavior, odor, observation of consumption, or the client's own admission;

(b) determined to be late by the programs late policy approved by the Department;

(c) a disruption during registration or any scheduled appointment or class;

(d) unwilling to comply with the rules and regulations of the DUI program.

~~believed to have consumed alcohol or illegal drugs, or abused prescription medication or any other substance as evidenced by possession, behavior, odor, observation of consumption or the client's own admission; who arrives late for an appointment or arrives for class after the roll call, who disrupts an evaluation session or disrupts the class. Behavior resulting in dismissal from class or evaluation shall be documented on Client Observation/Incident Report, HSMV Form 77008 (2010), Client Tracking, HSMV Form 77003 (2010) and documented on the Incident Log, HSMV Form 77016 (2010), which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Behavior resulting in dismissal from the evaluation shall be documented on Client Tracking Form, HSMV Form 77003 and Incident Log, HSMV Form 77016.~~

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New-1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.022 Personnel Certification.**

(1)(a) The program shall employ only instructors, ~~SSS Special Supervision Services~~ Evaluators, clinical supervisors and evaluators who are certified by the Department.

~~(b) Instructors shall possess a bachelor's degree in human services, criminal justice, adult or secondary education, traffic safety, nursing or a doctorate in medicine (M.D.). They shall possess a minimum of four thousand hours of experience in human services, criminal justice, education, traffic safety or medical care. The experience requirement may be satisfied by direct service delivery, administration, or teaching. A master's degree in human services, criminal justice, adult or secondary education, traffic safety, nursing or a doctorate in medicine (M.D.) may be substituted for two thousand hours of experience. A Certified Addiction Professional (CAP) status, a Certified Criminal Justice Addiction Professional (CCJAP) status or fourteen thousand hours of experience in human services may be substituted for a degree that is not in human services, but shall not preclude the requirement for a minimum of a bachelor's degree. Each beginning instructor shall complete 20 hours of Department provided preservice training. The preservice training requirement shall also include documentation of the observation of an entire twelve hour course. If the person will teach Level II, documentation of the observation of an entire twenty one hour course is required. The Preservice Instructor Training~~

Documentation, HSMV Form 77041, incorporated by reference in Rule 15A-10.043, verifying the observation of these classes shall be received prior to the issuance of standard certification. Each certified instructor shall complete a minimum of 24 hours of Department approved training biennially to maintain certification.

(e) — For Level II Instructor certification, two hundred ~~50~~two hours of group experience shall be documented on the Application for DUI Personnel Certification, HSMV Form 77042, incorporated by reference in Rule 15A-10.043. The group experience shall be clinical or therapeutic. If didactic, such experience shall be in a substance abuse or mental health setting. The applicant's role in the group shall be as the group leader or co leader. The applicant shall provide the specific number of hours of experience, if the group is open or closed, the various stages of group growth that were facilitated and the group skills used shall also be described in detail.

(2) Instructors: The program shall employ only evaluators and Special Supervision Services Evaluators, who are certified by the Department. Every evaluator and Special Supervision Services Evaluator shall possess a minimum of a bachelor's degree in human services, nursing or a doctorate in medicine (M.D.). They shall possess a minimum of four thousand hours experience in mental health/rehabilitative direct client services or medical care specific to substance abuse. A master's degree in human services, nursing or a doctorate in medicine (M.D.) may be substituted for two thousand hours of experience. A Certified Addiction Professional (CAP) status, a Certified Criminal Justice Addiction Professional (CCJAP) status, or fourteen thousand hours of experience in human services may be substituted for a degree that is not in human services, but shall not preclude the requirements for a minimum of a bachelor's degree. Each beginning evaluator shall complete 20 hours of Department provided preservice training. Each certified evaluator shall thereafter complete 24 hours of Department approved training biennially to maintain certification.

(a) Shall possess a bachelor's degree in human services, nursing or a doctorate in medicine (M.D.).

(b) Shall possess a minimum of four thousand hours of experience in human services, criminal justice, education, traffic safety or medical care; the experience requirement shall be satisfied by direct service delivery, administration or teaching.

(c) Is permitted to substitute a master's degree in human services, criminal justice, adult or secondary education, traffic safety, nursing or a M.D. for two thousand hours of experience.

(d) Is permitted to substitute a Certified Addiction Professional (CAP) status, a Certified Criminal Justice Addiction Professional (CCJAP) status for a bachelors degree that is not in human services, criminal justice, adult or secondary education, traffic safety, nursing or a M.D., but shall not preclude the requirement for a minimum of a bachelor's degree.

(e) Is permitted to substitute 10 thousand hours of experience in human services, criminal justice, education, traffic safety or medical care for a bachelors degree that is not in human services, criminal justice, adult or secondary education, traffic safety, nursing or a M.D., but shall not preclude the requirement for a minimum of a bachelor's degree.

(f) For Level II certification, the instructor shall possess two hundred and fifty hours of group experience, documented on the Application for DUI Personnel Certification, HSMV Form 77042(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

1. The group experience shall be clinical or therapeutic.

2. If didactic, such experience shall be in a substance abuse or mental health setting.

3. The applicant's role of the group shall be as a group leader or co-leader.

4. The applicant shall provide a specific number of hours of experience, if the group is open or closed, the various stages of group growth that were facilitated and the group skills used. This information shall be described in detail.

(g) Shall complete the Department provided Pre-Service training.

(h) If seeking Level I certification, persons shall observe an entire Level I course prior to pre-service, where feasible.

(i) If seeking Level II certification, persons shall observe an entire Level II prior to pre-service, where feasible.

(j) The Pre-Service Training Course and/or Evaluation Observation, HSMV Form 77041(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, verifying the observation of these classes, shall be received prior to the issuance of standard certification.

~~(3) (SSS) and DUI Evaluators: In addition to completing the training for evaluator status, the Special Supervision Services Evaluator certification requires completing eight hours of Department provided preservice training in the area of client supervision and management. Each certified Special Supervision Services Evaluator shall thereafter complete 24 hours of Department approved training biennially for evaluators to maintain the Special Supervision Services Evaluator certification.~~

~~(a) Shall possess a minimum of a bachelor's degree in human services, nursing or a M.D.~~

~~(b) Shall possess a minimum of four thousand hours experience in mental health/rehabilitative direct client services or medical care specific to substance abuse.~~

~~(c) Is permitted to substitute master's degree in human services, nursing or a M.D. for two thousand hours of experience.~~

~~(d) Is permitted to substitute a Certified Addiction Professional (CAP) status, a Certified Criminal Justice Addiction Professional (CCJAP) status for a bachelors degree that is not in human services, nursing or a M.D., but shall not preclude the requirement for a minimum of a bachelor's degree.~~

~~(e) Is permitted to substitute 10 thousand hours of experience in human services or medical care for a bachelors degree that is not in human services, nursing or a M.D., but shall not preclude the requirement for a minimum of a bachelor's degree.~~

~~(f) Shall complete the Department provided Pre-Service training.~~

~~(g) If seeking DUI Evaluator certification, persons shall observe a DUI evaluation prior to pre-service, where feasible.~~

~~(h) If seeking SSS Evaluator certification, persons shall observe a SSS periodic update or psychosocial evaluation prior to pre-service, where feasible.~~

~~(i) The Pre-Service Training Course and/or Evaluation Observation, HSMV Form 77041(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, verifying the observation of these evaluations, shall be received prior to the issuance of standard certification.~~

~~(4) Clinical Supervisors: The program shall employ only clinical supervisors who are certified by the Department.~~

~~(a) Shall possess a master's degree in human services and a minimum of four thousand hours of experience in the substance abuse field. Clinical supervisors shall:~~

~~(b) Or shall possess a bachelor's degree in human services and a minimum of six thousand hours of experience in the substance abuse field. The program may employ a person licensed by the Department of Business and Professional Regulation or a Certified Addictions Professional (CAP) with a~~

~~bachelor's degree to perform the functions of a clinical supervisor for a period not to exceed six months where the program's certified clinical supervisor is unable to perform those functions.~~

(c) Or shall possess a master's degree outside human services and a minimum of 10 thousand hours of experience in the substance abuse field.

(d) Or shall possess a bachelor's degree outside of human services and a minimum of 14 thousand hours of experience in the substance abuse field.

(e) If a CAP or a CCJAP:

1. Shall possess a bachelor's degree in human services and a minimum of four thousand hours of experience in the substance abuse field.

2. Or shall possess a bachelor's degree outside of human services and a minimum of 10 thousand hours of experience in the substance abuse field.

3. Or shall possess a master's degree in human services and a minimum of two thousand hours of experience in the substance abuse field.

4. Or shall possess a master's degree outside of human services and a minimum of six thousand hours of experience in the substance abuse field.

(f) Shall possess a minimum of two thousand hours of experience as an evaluator at a DUI Program licensed in the State of Florida.

(g) Shall possess certification as a DUI evaluator and SSS Evaluator.

(h) Shall complete Department provided Clinical Supervision Pre-Service training.

(5) The program is permitted to employ a person licensed by the Department of Health or a Certified CAP with a bachelor's degree or a certified DUI/SSS evaluator with at least four thousand hours of experience as an evaluator in a licensed Florida DUI program, to perform the functions of a clinical supervisor for a period not to exceed six months where the program's certified clinical supervisor is unable to perform those functions. The DUI program where the applicant will be employed shall submit an Application for DUI Personnel Certification, HSMV Form 77042, incorporated by reference in Rule DUI Programs Section 15A-10.043. Such application shall be received no later than the employee's first day of the provision of direct services.

~~(a) The official educational institution transcripts shall be sent directly to the Department from the institution and shall bear the seal of that institution.~~

~~(b) All institutions shall be accredited by a Commission on Recognition of Post-Secondary Accreditation (CORPA) recognized accrediting agencies. An applicant with a degree from an institution outside the U.S. shall submit documentation of equivalency of that degree from the World Education Services~~

~~(c) Certification shall be granted to every approved applicant by the Department for the remainder of that year and the following calendar year.~~

(6) The DUI program where the applicant will be employed shall submit an Application for DUI Personnel Certification, HSMV Form 77042 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Such application shall be received no later than the employee's first day of the provision of direct services. Any person seeking certification as an instructor, evaluator, Special Supervision Services Evaluator, or clinical supervisor who has not completed the training requirements described above shall be granted a temporary certification not to exceed six months from the date of issuance of the Temporary Certificate, HSMV Form 77043, incorporated by reference in Rule 15A-10.043 or until completion of the first available required preservice training following issuance of the temporary certificate. The temporary certification shall be extended by the Department if the applicant is

unable to complete the first available required preservice training due to exceptional circumstances beyond the applicant's control. Those exceptions are natural disaster, call to active military duty, serious illness or death in the applicant's immediate family, or serious illness requiring hospitalization of the applicant as documented by the attending physician. The Department will require documentation which evidences such exceptions. During the period of temporary certification such instructor may perform the function for which they are certified under the supervision of a certified instructor while the process of preservice training and certification is being completed. During the period of temporary certification, such evaluators, Special Supervision Services Evaluators and clinical supervisors holding temporary certification may perform the function for which they are certified under the supervision of the clinical supervisor who holds a standard certificate. Such supervision shall be documented. All psychosocial evaluations, periodic updates and other required forms completed by those on temporary certificates shall be co-signed by the clinical supervisor. Any documentation or forms requiring written input from the instructor on temporary certification shall be co-signed by the supervising instructor. If supervision of the instructor includes direct observation, documentation of that process shall be maintained by the supervising instructor on a form in the same content and format as the Instructor Evaluation Report, HSMV Form 77010, incorporated by reference in Rule 15A-10.043. Persons granted temporary certification who fail to meet all requirements cannot continue to provide DUI services and cannot reapply for certification until completing the required preservice course and all other requirements except as provided for above.

(a) The official educational institution transcripts shall be sent directly to the Department from the institution and shall bear the seal of that institution.

(b) All college/university degrees shall be earned through an accredited college/university that is recognized by the U.S. Department of Education. An applicant with a degree from an institution outside the U.S. shall submit documentation of equivalency of that degree from an approved equivalency service designated by the Department.

~~(7) Initial Certification: The criteria for certification of instructors, evaluators, Special Supervision Services Evaluators and clinical supervisors shall not be waived.~~

(a) Shall be granted to every approved applicant by the Department for the remainder of that year and the following calendar year.

(b) Applicants shall submit a Florida Department of Law Enforcement (FDLE) report that is not older than 90 calendar days from the date the application is submitted. If the applicant is from another state, the DUI program shall require a report from the identified state.

(c) The Department shall review the FDLE or the identified state of residence report and lifetime driver record prior to certification and evaluate all criminal or traffic offenses based upon: job relativity, type and seriousness of the offense, date of the offense, age at time of the offense, disposition, repeated offenses and candid disclosure of any offense.

~~(8) Recertification: The Department shall provide all instructors, evaluators, Special Supervision Services Evaluators, and clinical supervisors upon certification with the Standard Certificates, HSMV Form 77044, incorporated by reference in Rule 15A-10.043.~~

(a) Shall be granted for a period of two years.

(b) Applicant shall submit a FDLE or the identified state of residence report that is not older than 90 calendar days from the date the application is submitted, 45 calendar days prior to the expiration of certification. If the applicant is from another state, the DUI program shall require a report from the identified state.

(c) The Department shall review the FDLE or the identified state of residence report and lifetime driver record prior to certification and evaluate in accordance with subsection 15A-10.022(7)(c) above.

(9) Temporary certification as Level I and Level II Instructor: ~~The recertification training shall be provided by an organization or person approved by the Department. Each organization or individual shall apply on the Application for Provider Status, HSMV Form 77045, incorporated by reference in Rule 15A-10.043, and be approved by the Department. Every event of the provider shall be approved by the Department. The provider shall submit each event for prior approval on the Individual Training Event, HSMV Form 77046, incorporated by reference in Rule 15A-10.043. Attendance shall be confirmed by submission of the Training Documentation, HSMV Form 77047, incorporated by reference in Rule 15A-10.043.~~

(a) If an applicant has not completed pre-service training and requirements described in subsection 15A-10.022(2),(6) and (7) they shall be granted a temporary certification not to exceed six months from the date of issuance or until first available required pre-service training following issuance of the temporary certificate. If the first available pre-service training is not attended, the temporary certification shall expire upon the first day of the pre-service training.

(b) Shall be extended by the Department if the applicant is unable to complete the first available required pre-service training due to documented exceptional circumstances beyond the applicant's control, such as:

1. Natural disaster.
2. Call to active military.
3. Serious illness or death in applicant's immediate family.
4. Serious illness of applicant as documented by the attending physician.

(c) Applicant shall observe the course of which they are being certified to conduct prior to being temporarily certified and document observation on Pre-Service Training Course and/or Evaluation Observation, HSMV Form 77041(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(d) Persons under temporary certification are permitted to perform the function for which they are certified under the supervision of certified instructor.

(e) Persons under temporary certification shall co-teach a minimum of one course of which they are being certified to conduct; evidence of co-teaching shall be documented by the Instructor Observation Report, HSMV Form 77010 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(f) Persons under temporary certification who fail to meet all requirements by the temporary certification's expiration date, cannot continue to provide DUI services and cannot re-apply for certification until completing the required pre-service training and all other requirements described in subsection 15A-10.022 (2),(6) and (7) above. Persons under temporary certification are subject to expiration outline in 15A-10.022(9)(a) above, regardless of the temporary certification's expiration date.

(10) Temporary certification as DUI Evaluator, SSS Evaluator or clinical supervisor: ~~An abbreviated provider form, Application for Conference Approval, HSMV Form 77048, incorporated by reference in Rule 15A-10.043, can be submitted by nationally recognized organizations for a specific course or by a certified individual requesting approval of the conference.~~

(a) If applicant has not completed pre-service training and requirements described in subsection 15A-10.022 (3), (4), (6) and (7) above, they shall be granted a temporary certification in accordance to subsection 15A-10.022 (9)(a) and (b) above.

(b) Persons under temporary certification are permitted to perform the function for which they are certified under the supervision of the clinical supervisor who holds a standard certificate.

(c) All DUI evaluations, psychosocial evaluations, periodic updates and other required forms completed by persons under temporary certification, shall be co-signed by the clinical supervisor.

(d) The clinical supervisor shall provide a minimum of one hour of face-to-face individual clinical supervision a month to persons under temporary certification. Such supervision shall be documented.

(e) Persons under temporary certification who fail to meet all requirements by the temporary certification's expiration date, cannot continue to provide DUI services and cannot re-apply for certification until completing the required pre-service training and all other requirements described in subsection 15A-10.022 (3), (4) (6) and (7) above. Persons under temporary certification are subject to expiration outline in 15A-10.022(9)(a) above, regardless of the temporary certification's expiration date.

(11) The criteria for certification of instructors, DUI Evaluators, SSS Evaluators and clinical supervisors shall not be waived. Persons certified by the Department shall be responsible to provide to the Department documentation of each training event to be considered for recertification. All recertification documentation shall be received by December 31 biennially for the following two year certification period. Services cannot be provided by any person who fails to complete certification requirements in the time required.

(12) The Department shall provide all instructors, evaluators, SSS Evaluators, and clinical supervisors upon certification. The procedure for processing an appeal on the certification application will be pursuant to s.120.60(2), F.S.

(13) Recertification Training:

(a) Training shall be provided by an organization or person approved by the Department. The DUI program shall utilize the Bureau of Driver Education and DUI Programs Guidelines for Advanced Training, HMSV Form 77033, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, for the selection of the organization that will provide the training.

(b) Each organization or person shall submit the Application for Provider Status, HSMV Form 77045 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(c) The organization or person shall obtain approval for training events by submittal of the Individual Training Event, HSMV Form 77046 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, of 30 calendar days prior to the event.

(d) The Application for Conference Approval, HSMV Form 77048 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, shall be submitted by a nationally recognized organization or the certified person requesting approval for the training event. Documentation submission shall not exceed one calendar year following the concluding day of the training event.

(e) Certified persons shall be responsible for providing the Department with required documentation for each training event for consideration.

(f) Required documentation shall be received no later than December 31<sup>st</sup> for the following two-year certification period.

(g) Recertification training shall transfer to the subsequent certification period only.

(h) Certified persons shall complete 12 hours of Department approved recertification training for the initial certification period.

(i) Certified persons shall complete 24 hours of Department approved recertification training for subsequent certification periods.

(j) Nine of the 24 hours of the Department approved recertification training are permitted to be distance learning training.

(k) Certified persons who fail to complete certification requirements are not permitted to provide DUI services.

(14) All certified DUI Instructors shall be subject to a review by DUI staff with managerial or supervisory responsibilities or a certified instructor for a minimum of two hours annually in each of the course certifications in which they are actively providing instruction. Active is defined as instructing two or more courses in a 12 month period. The review shall take form of a direct classroom observation of each certified instructor. The review shall be documented on the Instructor Observation Report, HSMV Form 77010 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(15) The procedure for processing an appeal on the certification application will be pursuant to s.120.60, F.S.

Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.

#### **15A-10.0221 Clinical Supervision.**

(1) A clinical supervisor is responsible for the following:

(a) Provide a minimum of two hours of face-to-face individual clinical supervision per month to certified evaluators who provide a minimum of 80 hours per month of evaluation time.

(b) Provide a minimum of one hour of face-to-face individual clinical supervision per month to certified evaluators who provide less than 80 hours per month of evaluation time.

(c) Observe or review a recording of a periodic update, a psychosocial evaluation or a DUI evaluation of each certified evaluator performing such services a minimum of once every 12 months.

(d) Review a minimum of three randomly selected client case records a minimum of once per month.

(e) Conduct monthly clinical staffings and require the attendance of all certified evaluators who have provided services during that month.

(f) Participate in the annual reviews of all SSS clients.

(2) Where the clinical supervisor has conducted the psychosocial evaluation, a case management plan shall be developed with a case staffing committee, which will minimally include another certified DUI evaluator, a certified DUI clinical supervisor or SSS Evaluator.

(3) Clinical supervisors who carry a SSS caseload shall be observed by a certified DUI clinical supervisor, a certified DUI evaluator or a certified DUI SSS Evaluator a minimum of once every 12 months.

(4) The DUI program shall retain documentation of all clinical supervision case reviews, case staffings and observations for a minimum of two years.

Rulemaking Authority 322.02, 322.292 FS. Law Implemented 322.292 FS. History-New \_\_\_\_\_

**15A-10.023 Education.**

(1) ~~Each organization conducting a~~ A DUI program shall have sufficient classroom space to comfortably accommodate all clients with a minimum of ~~twenty (20)~~ 20 square feet of space per client, unless otherwise authorized by local officials. All classrooms ~~shall will~~ be private with no interference. A classroom shall not be located within 250 feet of any business that sells alcoholic beverages. However, a classroom shall not be required to be relocated when a business selling alcoholic beverages locates to within 250 feet of the classroom. Restroom facilities shall also be available and in compliance with federal, state and local laws. Clients shall be scheduled for class within the briefest period of time consistent with fiscal constraints.

(2) The instructor shall provide clients with appropriate handouts. Each instructor shall ~~have a~~ utilize the structured Department comprehensive curriculum guide for each course. The administration shall ensure that communication occurs between the evaluator and instructor on individual clients, as needed toward a final disposition. Such communications shall be documented in the client file.

(3) Only films and electronic presentations specified in the Department approved standardized curriculum shall be used for instruction.

(4) The instructor shall require photograph identification issued or provided by a government entity of the client at the first class session.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.024 Level I Course.**

The structured Department approved Level I course curriculum shall be utilized. ~~The Level I course shall include behavioral objectives for the clients.~~ It shall consist of a minimum of ~~16~~ 12 hours of classroom instruction ~~including didactic and interactive educational methodologies, and not less than two hours of drug abuse information.~~ The total time for breaks made available to clients shall not exceed 100 ~~eighty (80)~~ minutes per 16 ~~twelve (12)~~ hours of the Level I course. Individual class sessions shall not exceed six hours in length. Classes are limited to an average attendance of 25 ~~thirty (30)~~ clients, not to exceed 30 ~~thirty five (35)~~ enrollees. ~~The course shall have a curriculum consisting of the following elements:~~

- (1) ~~Orientation~~
- (2) ~~Definition of the DUI problem~~
- (3) ~~Law enforcement role~~
- (4) ~~Judicial role~~
- (5) ~~Department of Highway Safety and Motor Vehicles role~~
- (6) ~~Physiological effects of alcohol and other drugs on the body and their relationship to the driving task~~
- (7) ~~Sociological effects of alcohol and other drug abuse~~
- (8) ~~Causative factors underlying alcohol and other drug abuse~~
- (9) ~~Community treatment services~~

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended \_\_\_\_\_.*

**15A-10.025 Level II Course.**

(1) The structured Department approved ~~standardized~~ Level II course curriculum shall be utilized ~~used~~. It shall be a minimum of ~~twenty-one (21)~~ hours of classroom instruction in length. The total time for breaks shall not exceed 140 minutes per 21 hours of the Level II course. Individual class sessions shall not exceed six hours in length. Classes are limited to an average attendance of 15 clients, not to exceed 18 enrollees. Modifications cannot be used unless approved by the Department utilizing the Criteria Checklist for Level II Curricula, HSMV Form 77049, incorporated by reference in Rule 15A-10.043.

(2) ~~The total time for breaks made available to clients shall not exceed one hundred forty (140) minutes per twenty one (21) hours of the Level II course.~~ Attendance shall be determined if the person has previously attended the Level I class or has had a previous been convicted two or more times of an offense requiring DUI program attendance. If attending in pre-conviction status, attendance at Level II will be made if Level I has already been completed. If a client is convicted of another offense while attending the Level I program the client he shall complete both that Level I and a Level II program before receiving a certificate of completion. A second evaluation shall be conducted if the client was not referred to treatment as a result of the first evaluation. The course shall be taught by using primarily interactive educational techniques in a group consisting of an average of 15 people.  
*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.0251 Level I and Level II Combined Course.**

(1) The structured Department approved Level I and Level II Combined Course curriculum shall be utilized. It shall be a minimum of 21 hours of classroom instruction. The total time for breaks shall not exceed 140 minutes per 21 hours of the Level I and Level II Combined course. Individual class sessions shall not exceed six hours in length. Classes are limited to an average attendance of 15 clients, not to exceed 20 enrollees.

(2) The DUI program shall submit the Combined Curriculum Needs Assessment HSMV Form 77087(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to the Department. If approved, the Department shall grant the use of the Level I and II Combined Course for a term not to exceed two years.  
*Rulemaking Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New \_\_\_\_\_.*

#### **15A-10.026 Certificates of Completion and Client Status Reporting, HSMV Form 77057.**

(1) Certificates of completion shall not be issued until the education and evaluation components of the DUI program have been completed. The certificates of completion shall contain language to the effect that failure to satisfactorily complete ~~any prescribed treatment, if referred, shall may~~ result in the cancellation of the driver license. Only the client status report submitted to the CDS HSMV Form 77057, the certificate of completion or letter of completion from a licensed DUI program, will be accepted by the Department as proof of completion of all DUI program requirements.

(2) Education and evaluation components shall be completed within 90 calendar days of enrollment. If a client fails to complete either or both of the components by the end of that 90 calendar day period, the program shall submit the Client Status Report to the CDS, HSMV Form 77057 to the Department indicating that the client has failed to complete DUI. If a client returns to the program more

~~than 90 days after the original enrollment to complete the program, the client shall be required to pay the entire registration fee and complete both the education and evaluation components.~~

~~(3) The DUI program shall monitor a client who is referred to treatment until their completion or failure to complete treatment. The DUI program shall submit the Client Status Report to the CDS. A client who completed the education and evaluation components but failed to complete required treatment shall be required to complete only treatment upon return to the program. The program shall submit the HSMV Form 77057 to the Department once treatment has been completed.~~

~~(4) A client who completed the education and evaluation components but failed to complete treatment shall be required to complete only the referral to treatment upon return to the program. The program shall submit the Client Status Report to the CDS to the Department once treatment has been completed.~~

~~Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 316.193, 322.271, 322.291, 322.292, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.~~

### **15A-10.027 Client Evaluation.**

(1) Each DUI program shall provide client evaluation services, as described in the DUI program's operations and procedure manual. The program shall utilize the structured Department approved Evaluation Manual for clinical procedures of the evaluation process, ~~an evaluation manual~~. An evaluation of risk factors ~~evaluation~~ shall be conducted on all persons enrolled in the DUI program to assess whether there is sufficient risk for abuse or dependence of any substance or combination of substances to warrant a referral to treatment. A person certified as an evaluator by the Department shall conduct the evaluations. ~~The component shall include a psychosocial evaluation to determine the existence of a possible alcohol or other drug abuse problem.~~ If a client is enrolled in the program for more than one arrest or conviction, only one evaluation shall be conducted.

(2) The evaluation shall include the administration of the DRI Driver Risk Inventory or another Department approved objective test. A testing environment shall be free of distractions by persons or objects, which would influence or interfere with the testing process. In the event a client's test results are determined to be invalid, the DUI program shall offer the client the opportunity to complete the test again.

(3) ~~The evaluation shall be conducted A client face-to-face with the client, interview shall be conducted.~~ The DUI program shall complete all fields in their entirety of the Client Data Information and Interview, HSMV Form 77004 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, in all cases to document the evaluation. ~~face-to-face interview.~~

(4) ~~The psychosocial evaluation shall be conducted prior to attendingance at the class, where feasible. The DRI Driver Risk Inventory or other Department approved objective test shall be administered and scored prior to the evaluation.~~

(5) The results of the evaluation clinical interview, objective testing, documented blood alcohol reading, offense or arrest-related report record and official driver record shall be integrated in reaching a decision about the need referral to for treatment according to the Evaluator Guide. A summary of the client's classroom participation shall ~~may~~ also be considered in the event that the client completes a class session prior to the evaluation taking place. When the disposition evaluation results in a departure deviation from the suggested outcome of the Client Data Information and Interview, HSMV Form 77004 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, the HSMV

Form Evaluator Guide, the Client Data Information and Interview, HSMV Form 77004, shall be reviewed, signed by the clinical supervisor, and shall be retained for two (2) years.

(6) The DUI program shall maintain a record of all departures from and to treatment, including the justification for departure and documentation that the Client Data Information and Interview, incorporated by reference, Form 77004, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, was reviewed by the clinical supervisor. The need for treatment shall be documented in the file and discussed with the client. Where treatment is deemed appropriate, the program shall refer the client to a licensed treatment provider or a provider that is exempt from licensure. The DUI program shall forward a copy of the Client Data Information and Interview, HSMV Form 77004 to the treatment provider prior to the client's intake appointment. The program shall ensure that appropriate confidentiality safeguards are followed and that the referral is made on the Treatment Referral and/or Documentation, HSMV Form 77005.

(7) The referral to treatment shall be documented in the file and discussed with the client. Where treatment is deemed appropriate, the program shall refer the client to a Department of Children and Families (DCF) or Department of Health (DOH) licensed treatment provider or a provider that is exempt from DCF or DOH licensure. The DUI program shall forward a copy of the Client Data Information and Interview, HSMV Form 77004 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to the treatment provider prior to the client's intake appointment. The program shall ensure that appropriate confidentiality safeguards are followed and that the referral is made on the Treatment Referral and/or Documentation, HSMV Form 77005 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Any client wishing to contest a referral to treatment shall be required to comply with the procedure outlined in s. 316.193(5), F.S. The DUI program shall ensure that the agency approved by the court to conduct the second psychosocial evaluation shall have access to the original evaluation, that is, shall provide a copy of the evaluation upon request.

(8) Any client wishing to contest a referral to treatment shall be required to comply with the procedure outlined in s. 316.193(5), F.S. The DUI program shall provide the original evaluation to the treatment provider approved by the court to conduct the second evaluation. The client evaluation shall be conducted by a person certified as an evaluator by the Department. Certified evaluators shall be under the supervision of a certified clinical supervisor. The clinical supervisor shall be certified as an evaluator, Special Supervision Services Evaluator, and clinical supervisor. The clinical supervisor shall:

(a) provide a minimum of two hours of face to face individual clinical supervision per month to evaluators.

(b) provide a minimum of one hour of face to face individual clinical supervision per month to evaluators who provide less than 80 hours per month of evaluator time.

(c) observe an interview, or review a recording of such, at least once every six months.

(d) review a minimum of three client case records at least monthly.

(e) monthly case staffings with all involved staff. Clinical supervisors who routinely conduct a minimum of ten (10) evaluations per week, shall present a minimum of one evaluation at each monthly case staffing. Documentation of all required clinical supervision case reviews, case staffings, and observations shall be retained by the program for a minimum of two years.

(9) Certified evaluators shall be under the supervision of a certified clinical supervisor.

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.292, ~~322.293, 316.193~~, F.S. History-New 1-4-95, Amended 3-4-97, \_\_\_\_\_.*

**15A-10.028 Treatment Referral.**

(1) Each DUI program shall establish a treatment referral system for persons determined to have sufficient risk for abuse or dependence of any substance or combination of substances. ~~an alcohol or other substance abuse problem.~~ The DUI program shall not utilize 12-step programs or self-help groups as referrals to treatment. ~~Twelve step programs and self help groups shall not be utilized by the DUI program for treatment referrals.~~ The treatment provider agency is permitted to may refer clients to 12- ~~twelve~~ step programs and self-help groups. The DUI program shall provide t~~The client with~~ shall be given a ~~listing of approved treatment providers.~~ The list shall have with identifying information on location information, and a description of services provided. ~~fees, intake procedures and criteria for admission.~~ The client shall be free to choose the treatment provider agency from the DUI program's list of approved providers. The client shall schedule an appointment with a treatment provider ~~An appointment with a treatment agency shall be scheduled by the client within 20 calendar~~ twenty (20) days following the evaluation.

(2) The program shall maintain a policies and step-by-step procedures manual ~~which may be included as part of the operating policies and procedures manual,~~ and shall address ~~deal with~~ the following ~~matters~~:

- (a) Treatment referral
- (b) Follow-up process including the receipt of client information from the treatment provider agency
- (c) Client grievances
- (d) Written agreements or contracts
- (e) ~~Listing and description of the treatment providers including~~ Recommended criteria established by the Department ~~criteria~~ for their selection.

(3) In its criteria for treatment providers-selection, the DUI program shall minimally require ~~that and be responsible for the following~~:

(a) All treatment providers shall be licensed by ~~the Department of Children and Families (DCF)~~ pursuant to Chapter 397, F.S. or DOH pursuant to Chapter 491, F.S. or exempt from such licensure. A copy of the current license shall be on file with the DUI program. If the DCF or DOH license has expired and the current license is unavailable, a letter shall be secured from the district DCF or DOH office stating that the provider is in good standing and holds licensure status. Documentation of licensure exemption shall be on file with the DUI program.

(b) The DUI program shall ensure the treatment provider notifies the DUI program when a DUI client schedules an intake appointment. Such requirement shall be included in the contract or written agreement made between the DUI program and the treatment provider. ~~Each provider to which referrals are made shall enter into a contract or written agreement with the DUI program unless the treatment provider and the DUI program are the same organization. The only manner in which the DUI program can refer clients to that organization's treatment component is to secure a waiver pursuant to Application for Treatment Waiver, HSMV Form 77050, incorporated by reference in Rule 15A 10.043. If a waiver is granted and the organization which conducts the substance abuse evaluation and education is authorized to provide treatment services to DUI clients, licensure under Chapter 397, F.S., or documentation of licensure exemption for the provision of such services shall be obtained from DCF. In considering an application for treatment waiver, the Department shall consider the following criteria:~~

1. ~~The number of DCF licensed or exempt facilities in the area served by the applicant.~~
2. ~~Fee schedule.~~
3. ~~Waiting period to receive services.~~
4. ~~Distance in mileage between applicant's treatment facility and other providers in the area served by the applicant.~~
5. ~~Days and hours of operation of all other DCF licensed or exempt facilities in the service area.~~
6. ~~Admission criteria and admission criteria restrictions of all other DCF licensed or exempt facilities in the service area.~~
7. ~~Average length of treatment prescribed by each DCF licensed or exempt facility in the service area.~~
8. ~~Willingness of each DCF licensed or exempt provider in the service area to comply with the pertinent rule requirement.~~
9. ~~Services to minorities and special needs clients.~~
10. ~~Willingness of the applicant facility to cooperate with other DUI programs in the area in complying with the rule requirements.~~

(c) The DUI program shall secure documentation from all treatment providers including the Treatment Progress Report HSMV Form 77031 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, treatment plans, and discharge summaries. The DUI program shall secure feedback from treatment providers when the client has initiated services and when there is a change in the client's level of participation in treatment. The DUI program shall use the Client Tracking Form, HSMV 77003 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to note the reasons for any inability to obtain the required records. Treatment planning shall be the responsibility of the treatment provider receiving the referral and the treatment plan shall be individualized to each client's needs. Such requirements shall be included in the contract or written agreement made between the DUI program and the treatment provider.

(d) Treatment planning shall be the responsibility of the treatment provider receiving the referral and the treatment plan shall be individualized to each client's needs. Such requirements shall be included in the contract or written agreement made between the DUI program and the treatment provider. Under no circumstances, shall a DUI program that is licensed to provide DUI services through the Department, direct the treatment planning of its clients. The treatment provider must confer regularly with the DUI program for the purpose of staffing, tracking, and coordinating. Confer regularly is defined as a face to face meeting once each quarter between the treatment provider representative and the DUI program representative. Confering may occur by telephone in between the quarterly face to face contacts.

(e) The DUI program shall confer regularly with the treatment provider and hold a face-to-face meeting with the treatment providers a minimum of once a quarter, for the purpose of staffing, tracking, and coordinating. Confering regularly includes communicating by telephone, written or electronic correspondence in between the quarterly face-to-face contacts. The treatment provider must notify the DUI program when there is a change in client's level of participation in treatment. This requirement shall be included in the contract or written agreement with the treatment provider.

(f) The DUI program shall require notification from the treatment provider when there is a change in client's level of participation in treatment. This requirement shall be included in the contract

~~or written agreement with the treatment provider. The treatment provider shall comply with any other criteria specific to the local community and client population as stipulated by the DUI program.~~

~~(4) When referring IID violation monitoring clients for a third or subsequent violation, the DUI Program shall provide the treatment provider with the following: If a client is already engaged in treatment at the time of the evaluation with a provider not on the DUI program's list of approved providers, the DUI program shall ensure that the provider meets the following criteria:~~

~~(a) Client Data Information and Interview HSMV Form 77004 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, or documentation that such was not obtainable. Authorized by a Florida state agency to provide substance abuse services as defined in Chapter 397, F.S., or by the appropriate state agency if located outside of Florida;~~

~~(b) Ignition Interlock Treatment Referral and or/Documentation HSMV Form 77084 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Provide information on client status and disposition on appropriate letterhead stationery; and~~

~~(c) Ignition Interlock Device Interview Report HSMV Form 77085 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. Meets the conditions listed in the Treatment Referral and/or Documentation, HSMV Form 77005. Such criteria shall also apply in those cases where the client has completed treatment prior to the evaluation but after the present DUI.~~

~~(d) Report of DRI taken by the client within the last six months of the referral to treatment or if taken more than six months from the referral to treatment, the DUI program shall require the client to complete the DRI.~~

~~(e) Summarization of client IID events log from the most recent calibration, including any documentation the client has provided to justify readings.~~

~~(f) Client's historical IID events data.~~

~~(g) In addition to the initial referral, the DUI program will provide the Ignition Interlock Device Report, HSMV Form 77085 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 and the summarization of the client IID event logs from the most recent calibration to the treatment provider within 10 calendar days of the corresponding IID violation monitoring appointment.~~

~~(5) If a client has completed treatment since the DUI offense or is already engaged in treatment at the time of the evaluation with a provider not on the DUI program's list of approved providers, the DUI program shall ensure that the provider meets the following criteria: If treatment documentation shall be secured from an out-of-state provider, a contract or written agreement is not required. The DUI program shall have evidence of its efforts to secure documentation that the provider is appropriately licensed or approved in that state or country, that substance use is the focus of the client's treatment, that monthly reports are received from the provider and the provider notifies the DUI program of any change in the client's status.~~

~~(a) Authorized by a Florida state agency to provide substance abuse services as defined in Chapter 397 or 491, F.S., or by the appropriate state regulatory authority if located outside of Florida.~~

~~(b) Provides information on client status, treatment plan and discharge summary on appropriate letterhead stationery, which shall be verified by DUI staff.~~

~~(6) If treatment documentation shall be secured from an out-of-state provider, a contract or written agreement is not required. The DUI program shall have evidence of its efforts to secure~~

documentation showing the following: ~~The DUI program shall secure documentation from all treatment providers including the Feedback HSMV Form 77031 incorporated by reference in Rule 15A-10.043.~~

(a) The treatment provider is appropriately approved, licensed, or certified by another state's regulatory authority.

(b) Substance use is the focus of the client's treatment.

(c) Notification of any change in the client's status.

(7) If treatment documentation indicates that the person has been seen by a treatment provider only for the purpose of prescribing or reviewing medication and not receiving alcohol or other drug treatment, then referral to a licensed treatment provider shall ~~may~~ be made to determine the need for treatment.

(8) All programs shall submit a Quarterly Treatment Referral Report, HSMV Form 77051(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517-~~incorporated by reference in Rule 15A-10.043~~, on client treatment referrals for review by the Department. The DUI program shall submit such report within 30 calendar days following the end of each quarter. ~~This report shall be received by the Department within thirty (30) days following the end of each quarter.~~

(9) Each treatment provider that receives referrals from the DUI program, shall enter into a contract or written agreement with the DUI program unless the treatment provider and the DUI program are the same organization. The only manner in which the DUI program can refer clients to its organization's treatment component is to secure a Department issued treatment waiver. The DUI program shall submit the Application for Treatment Waiver, HSMV Form 77050 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(a) If a treatment waiver is granted, the organization is permitted to conduct the substance abuse education course, evaluation and provide treatment services to DUI clients.

(b) The DUI program with the treatment waiver shall secure licensure under Chapter 397, F.S., or documentation of licensure exemption for the provision of such services. Treatment waivers shall be granted for a maximum period of three years.

(c) The Department shall obtain information from the current treatment providers in the area served by the applicant utilizing the Treatment Provider Information, HSMV Form 77056 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(d) When determining whether a treatment waiver is appropriate, the Department shall consider the following criteria:

1. The number of DCF or DOH licensed or exempt facilities in the area served by the applicant.

2. Fee schedule, including availability of sliding fee scales and services for indigent and Medicaid/Medicare clients.

3. The waiting period for services.

4. Distance in mileage between applicant's treatment provider and other providers in the area served by the applicant.

5. Days and hours of operation of each DCF or DOH licensed or exempt facilities in the service area.

6. Admission criteria and restrictions of each DCF or DOH licensed or exempt facilities in the service area.

7. Average length of treatment prescribed by each DCF or DOH licensed or exempt provider in the service area.

8. Willingness of each DCF or DOH licensed or exempt provider in the service area to comply with the pertinent rule requirement.

9. Services to minorities and special needs clients.

10. Willingness of the applicant organization to cooperate with other DUI programs in the area in complying with the rule requirements.

11. Review of the completed Treatment Provider Information, HSMV Form 77056 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, 322.291, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

### **15A-10.029 Special Supervision Services (SSS) and Statutory Eligibility.**

(1) Administrative Rule Chapters 15A-10 shall apply to the administration of SSS with the exception of All administrative rules except 15A-10.003, 15A-10.009, 15A-10.015, 15A-10.016, 15A-10.018, 15A-10.019, 15A-10.023, 15A-10.024, 15A-10.025, 15A-10.0251 and 15A-10.026, 15A-10.027, and 15A-10.028 shall apply to the administration of the Special Supervision Services (SSS).

(2) Each potential applicant for the SSS program shall be advised of the eligibility requirements and provided with the Information Sheet Special Supervision Services, HSMV Form 77012 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 incorporated by reference in Rule 15A-10.043. Each SSS applicant shall provide a letter of eligibility from the Bureau of Administrative Reviews, which indicates that the SSS applicant has had a hearing and meets the basic statutory eligibility for application to SSS.

(3) The DUI program shall advise each person applying for the SSS applicant of all program rules and regulations prior to accepting the screening program registration fee from said SSS applicant. The A-Screening Form, HSMV Form 77013 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 incorporated by reference in Rule 15A-10.043, shall be completed by each SSS applicant, which will document relevant background information related to eligibility requirements. Each SSS applicant shall sign a Release of Information, HSMV Form 77011(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to the Department.

(4) Once eligibility for application is determined by the DUI program, the SSS applicant shall pay the Department approved registration fee. Applicants may apply thirty (30) days prior to meeting the required abstinence to provide them the opportunity to secure the restricted license in a more timely manner. The responsibility for Obtaining obtaining a driver history record as well as an offense or arrest related report record shall be the responsibility of the DUI program upon receipt of the registration fee.

(5) No person shall be eligible for acceptance into reinstatement in the SSS program Special Supervision Services who has previously been reinstated and had that reinstatement cancelled due to current substance abuse. In such a situation, the entire statutory revocation period shall be served.

*Rulemaking Specific—Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, F.S. History—New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.030 SSS Application and Evaluation Process.**

(1) The SSS applicant shall be evaluated and supervised by the DUI program which serves the county in which the SSS applicant resides, ~~the county in which the applicant is employed, or the county in which the applicant attends school~~ unless the program(s) of residence or employment or school attendance do(es) not object to attendance at another program. In such a case, the program, which performs the psychosocial evaluation and supervision, shall retain documentation on the letterhead of the program(s) serving the SSS applicants county of residence, employment or school attendance evidence in the file. ~~The documentation shall state that such the program(s) serving the applicant's county of residence or employment or school attendance~~ do(es) not object to the attendance at another program.

(2) The SSS applicant shall not be evaluated until the following forms, which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 and information all material required in subsection (4) of Rule 15A-10.029 and (4) below have has been received by the DUI program. ~~After all required information has been received the program shall notify the client and either schedule or provide instructions for scheduling the psychosocial evaluation.~~

(a) Information Sheet Special Supervision Services, HSMV Form 77012 (2010)

(b) Screening, HSMV Form 77013(2010)

(c) Statement of Abstinence by Applicant, HSMV Form 77014 (2010)

(d) Personal History, HSMV Form 77015 (2010)

(e) Request to Release or Obtain Information, HSMV Form 77011(2010)

(f) Referral for Required Chemical Testing, HSMV Form 77021 (2010) and results of chemical testing

(g) Client Rights/Appeal Process, HSMV Form 77018(2010)

(h) Statement of Abstinence from References, HSMV Form 77019 (2010)

(i) Substance abuse treatment records, mental health treatment records, medical records for the last five years

(j) Previous DUI program records that are available

(k) Arrest and conviction records

(l) Complete lifetime driver history record

(3) Prior to the psychosocial evaluation, the SSS applicant shall complete the Risk Reinstatement Inventory (RRI) or a Department approved objective test. The client shall be required to provide the program with appropriate releases where applicable to allow for the obtaining of the necessary information.

(4) The evaluation shall be conducted by a certified SSS Evaluator. The evaluation process shall include the following: The DUI program shall utilize in the registration process the Information Sheet Special Supervision Services, HSMV Form 77012, incorporated by reference in Rule 15A-10.043; Statement of Abstinence by Applicant, HSMV Form 77014, incorporated by reference in Rule 15A-10.043; Personal History Form, HSMV Form 77015, incorporated by reference in Rule 15A-10.043; Request to Release or Obtain Information, HSMV Form 77011, incorporated by reference in Rule 15A-10.043; Florida Department of Law Enforcement Request, HSMV Form 77017, incorporated by reference in Rule 15A-10.043; Client Rights/Appeal Process, HSMV Form 77018, incorporated by reference in Rule 15A-10.043; and Request for Information from Driver License Records, HSMV Form

~~73250, incorporated by reference in Rule 15A-10.043 to request the driver history record or secure same through electronic retrieval. In addition, the program may require the applicant to further document abstinence. The DUI program shall utilize, for this purpose, the Statement of Abstinence from References, HSMV Form 77019, incorporated by reference in Rule 15A-10.043. Information secured by the DUI program from a third party shall not be released to the Department of Highway Safety and Motor Vehicles or other agencies. As appropriate a specific release form in accordance with 42 U.S.C. 290dd-2, and Chapter 397, F.S., shall be completed to allow the DUI program to release this information.~~

~~(a) Face-to-face interview and the completion of the Psychosocial Evaluation, HSMV Form 77020 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.~~

~~(b) An analysis and summary of substance abuse treatment records, mental health treatment records, medical treatment records for the last five years and the previous DUI program records that are available.~~

~~(c) The complete lifetime driver history record.~~

~~(d) Arrest and conviction records for obtaining information on any substance abuse related violations.~~

~~(e) Results of chemical testing or evidence of the refusal or the failure to take such test(s) when required.~~

~~(5) Upon completion of the evaluation process, the SSS Evaluator shall forward the results to a staffing committee at the DUI program. The staffing committee shall minimally be composed of the SSS Evaluator who conducted the evaluation and the clinical supervisor. Prior to the psychosocial evaluation, the DUI program shall schedule administration of the Driver Risk Inventory (DRI), the Minnesota Multi Phasic Personality Inventory (MMPI), or a Department approved objective test.~~

~~(6) If the SSS applicant is recommended for the SSS program, the staffing committee shall review, provide additional information necessary for individualization and approve an individualized case management plan. The Case Management, HSMV Form 77086 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, shall be utilized for the development of the case management plan. In order to assist the DUI program in making its recommendation concerning the applicant's eligibility for a restricted license, an evaluation shall be conducted by a certified Special Supervision Services Evaluator. The following shall be included:~~

~~(a) Face to face interview and the completion of the Psychosocial Evaluation, HSMV Form 77020, incorporated by reference in Rule 15A-10.043.~~

~~(b) An analysis and summary of substance abuse treatment, mental health treatment, medical treatment and previous DUI program records.~~

~~(c) The complete driver history record. Manual requests shall be processed on the Request for Information from Driver License Records, HSMV Form 73250.~~

~~(d) Arrest and conviction records for the purpose of obtaining information on any substance abuse related violations. The DUI program shall use the Florida Department of Law Enforcement Request, HSMV Form 77017, to obtain this information from FDLE upon payment of the applicable fee.~~

~~(e) Results of chemical testing or evidence of the refusal or the failure to take such test(s) when required. Refusal or failure to submit to chemical testing upon request shall result in a denial by the program. Chemical testing shall be completed on all applicants to Special Supervision Services at some time during the period from the payment of the registration fee to the issuance of the license by the~~

Department. If accepted, the client shall be required to submit to chemical testing at the request of the program at least once and no more than twice per year unless the rationale for more frequent testing is documented in the client file.

1. For chemical testing services, DUI programs shall contract with a laboratory, or a collection site which is contracted with a laboratory, licensed in forensic toxicology by the Agency for Health Care Administration, Department of Lab Licensure. The contract with the collection site shall require that the protocol for Drug Free Workplace chemical testing, as stipulated in Chapter 59A-24, F.A.C., is followed by both the collection site and the laboratory.

2. Applicants shall be informed at application of the chemical testing requirements and the methods for such testing. Active clients who have received a license prior to January 1, 1994, shall be apprised of these requirements by the DUI program. Any such chemical test shall be conducted at the expense of the applicant or client. Refusal to submit to chemical testing by any applicant or client will automatically result in a recommendation of denial or cancellation.

3. Where the DUI program is also the collection site, it shall have a contract with the appropriately licensed lab which requires the protocol as required in 1. above.

4. When the DUI program requires chemical testing for alcohol or other drugs at a designated facility, the program shall provide the applicant or client with the Referral for Required Chemical Testing, HSMV Form 77021, incorporated by reference in Rule 15A-10.043. The DUI program may contact the applicant or client by telephone to require the client to report for chemical testing. If this requirement is made by telephone, the DUI program person making such request shall document this request on the Client Tracking Form, HSMV Form 77003.

5. The DUI program shall notify the Department of any confirmed positive test report of alcohol or drug use by the applicant or the client by the end of the next business day.

(7) Upon admission into the SSS program, if there is evidence that the SSS client has failed to remain abstinent or failed to meet the program's requirements: After completion of the psychosocial evaluation, the program's clinical supervisor or program director shall review all documentation and determine when an applicant's file is complete. After review of the file, the supervisor may determine that additional supporting documents and information are required. Interviews with significant others, as identified by the client, such as a mother, wife, husband, may be requested at any time during the evaluation process.

(a) The evidence shall be documented.

(b) If SSS client is cancelled from the program, the cancellation shall take place immediately.

(c) The DUI program shall forward a Letter Recommending Cancellation, HSMV Form 77027 (2010), incorporated by reference which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to the Department.

(d) The DUI program shall provide written notification to the SSS client including the reason(s) for cancellation and information regarding the appeal process.

(e) The DUI program shall retain the SSS client file for the balance of the revocation period or a minimum of 10 years if the SSS client is under permanent revocation.

(f) If they are cancelled based on the substance use, the SSS client is not eligible to reapply to the SSS program and must wait out their revocation period.

(8) If the SSS applicant is not recommended for the SSS program: When the evaluation process is complete, the results shall be forwarded to a staffing committee at the DUI program which shall be composed minimally of the Special Supervision Services Evaluator conducting the evaluation and the clinical supervisor.

(a) The DUI program shall provide written notification to the SSS applicant including the reason(s) for denial and information regarding the appeal process.

(b) The DUI program shall forward a Letter of Recommendation, HSMV Form 77023 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to the Department.

(c) Any SSS applicant who is denied shall have the right to reapply providing all statutory requirements are met, including the minimum applicable period of abstinence.

(d) The reapplication process shall include:

1. Administration of a complete psychosocial evaluation.

2. Administration of an objective test approved by the Department.

3. Review of the HSMV, FDLE records and any treatment records.

(e) If the reapplication occurs within six months of the original date of the psychosocial evaluation, a review of such evaluation, evidenced by the SSS Evaluator's initial and date on each page, review of HSMV, FDLE and treatment records since the original application, is sufficient. The entire charge shall not exceed the amount set forth by the Department.

(f) If the reapplication occurs outside six months of the original date of the psychosocial evaluation, the SSS applicant shall comply with the process outlined in subsection 15A-10.030 (2) through (6).

(g) If the SSS applicant is not recommended based on a positive result of a chemical test for alcohol or other drugs, the SSS applicant is permitted to request a second test on the same sample as determined by the Medical Review Officer (MRO), conducted at a qualified laboratory, as stipulated in subsection 15A-10.30(12)(a)-(k) or an equivalent protocol required by a state's regulatory authority, if the site is outside of Florida, selected by the SSS applicant at the SSS applicant's expense.

(9) If the SSS applicant does not complete the application process: The staffing committee shall decide on a case management plan as well as the imposition of any other requirements that the client, if granted a restricted license, shall fulfill to successfully continue in the program.

(a) The DUI program shall notify the SSS applicant in writing of incomplete application status.

(b) The DUI program shall maintain the SSS applicant's record in active status for a minimum six months from the date of the last written notification. Such record shall minimally include:

1. The SSS applicant's name, address, date of birth and driver license number

2. Reason application was not completed

3. Screening Form, HSMV Form 77013 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

4. Letter of Recommendation, HSMV Form 77023 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517

(b) If the SSS applicant reactivates their application within six months of the original date of the psychosocial evaluation, the process outlined in subsection 15A-10.030(8)(d) and (e) shall apply.

(c) If the SSS applicant chooses to reactivate the application process outside six months of the original date of the psychosocial evaluation, the process outlined in subsection 15A-10.030(8)(f) shall apply. The SSS applicant will be required to obtain a new letter of eligibility from Bureau of Administrative Reviews, as the letter expires after six months of its issuance.

(10) All application requirements shall be completed prior to forwarding the results of the evaluation to the Department. The DUI program shall utilize the Letter of Recommendation, HSMV Form 77023 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, when forwarding the results to the Department. If an applicant does not complete the application process, the DUI program shall maintain the application as active for a period of six months from the date of last contact. Such record shall minimally include the applicant's name, address, date of birth, driver license number, reason application was not completed, and Screening Form, HSMV Form 77013. The DUI program shall use the Letter of Incomplete Application, HSMV Form 77022, incorporated by reference in Rule 15A-10.043, which shall indicate that the applicant failed to complete the application process, thereby precluding any recommendation by the DUI program. If the applicant chooses to reactivate the application process at anytime after the six months, the entire fee shall be repaid, including the state assessment fee.

(11) The DUI program shall maintain SSS client files at the location where and when services are being rendered to the SSS client. SSS client files shall be maintained by the DUI program that is licensed to provide services to the circuit in which the SSS client resides, attends school is employed and with which the SSS client is enrolled. In cases where the applicant is not recommended for the restricted license, the DUI program shall provide written notification to the applicant including the reasons for the denial and information regarding the appeal process. Any applicant who is denied shall have the right to reapply provided all statutory requirements are met, including the minimum applicable period of abstinence. The reapplication process shall include the administration of a complete psychosocial evaluation including an objective test, unless the reapplication occurs within six months of the original psychosocial evaluation. The entire fee may be charged for reapplication after six months. In the event of a reapplication within six months, the fee to review the HSMV and FDLE records, the psychosocial evaluation, and any treatment records completed since the original application shall not exceed \$75.

(12) Chemical Testing: All application requirements shall be completed prior to forwarding the results of the evaluation to the Department. The DUI program shall utilize the Letter of Recommendation, HSMV Form 77023, incorporated by reference in Rule 15A-10.043, when forwarding the results to the Department.

(a) The DUI program shall inform the SSS applicant of the chemical testing requirements during the application process and utilize Request for Chemical Testing, HSMV Form 77021(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(b) Chemical testing shall be conducted at the expense of the SSS applicant or client.

(c) Refusal or failure to submit chemical testing upon request shall result in a denial or cancellation by the DUI program. The SSS applicant or client must wait 90 calendar days to reapply to SSS program, pursuant to the process set out in Rule 15A-10.030. Refusal to submit includes presenting to the collection site at the incorrect time, date or not providing a suitable sample, as determined by the MRO. If the SSS applicant or client claims that a medical condition prevented the presentation of a suitable sample, the burden of providing medical documentation shall rest with the SSS applicant or client.

(d) Chemical testing shall be completed by all SSS applicants within the timeframe between the payment of the application and when the DUI program conducts the psychosocial evaluation.

(e) If accepted in the SSS program, the SSS client shall be required to submit to chemical testing at the request of the DUI program at least twice per year. Justification for more frequent testing shall be documented in the file.

(f) The DUI program is permitted contact the SSS applicant or client by telephone and require them to report for chemical testing. If this contact is made by telephone, the DUI program shall document the request on the Client Tracking Form, Form 77003 which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(g) The DUI program shall designate a specific a timeframe for reporting for chemical testing. The timeframe shall allow at least four hours but no more than 24 hours for the SSS applicant or client to report for chemical testing. If the SSS client or applicant is referred for chemical testing during a periodic update appointment or during a face-to-face segment of the application process, the four hour minimum shall not apply.

(h) The DUI program shall notify the Department of any confirmed positive test for alcohol or drug use by the SSS applicant or client by the end of the next business day.

(i) The DUI program shall contract with a laboratory, or a collection site, licensed in forensic toxicology by the Agency for Health Care Administration, Department of Lab Licensure, for chemical testing services. If contracting with a site outside of Florida, the laboratory shall be licensed or recognized by that state's regulatory authority.

(j) The contract with the site shall require that the protocol for Drug Free Workplace chemical testing, as stipulated in Chapter 59A-24, FAC, or an equivalent protocol required by a state's regulatory authority, if the site is outside of Florida. The DUI program shall require all positive chemical test results be reported by the laboratory or collection site.

(k) Where the DUI program is also the collection site, it shall have a contract with the laboratory in accordance to the protocol in subsections 15A-10.030(12)(j).

(13) In the event the DUI program receives a third party report of alcohol or substance use by the SSS applicant or client, the DUI staff shall document the report on the Client Incident Report/Log, HSMV Form 77008 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. After the applicant is admitted to the program, evidence of failure to maintain abstinence or failure to meet the program's requirements shall be documented and shall result in a recommendation of immediate cancellation. The client shall be notified in writing of the reason for cancellation and availability of appeal process. The client file shall be retained by the program for the balance of the revocation period except in the case of those on permanent revocation. In such cases the client file shall be retained for a minimum period of ten years.

Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 316.193, 322.271, 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.

#### **15A-10.031 SSS Appeal Process.**

(1) Any SSS applicant wishing to contest a DUI program's determination of eligibility, unfavorable initial recommendation or a favorable recommendation contingent upon participation in treatment, shall be allowed to appeal such recommendation to any other DUI program licensed by the

Department in that circuit or any adjacent circuit, excluding its own program. The DUI program shall delay notifying the recommendation to the Department, pending the completion of the appeal process.

(a) ~~Upon notification that such an appeal has been taken, the original program shall delay notification of the recommendation to the Department until the appeal process is complete.~~

(b) ~~The DUI program receiving the appeal shall provide the opportunity for a face to face meeting with the applicant.~~

(c) ~~If the appeal concerns the results of an evaluation, the DUI program reviewing the appeal shall conduct its own face to face evaluation.~~

(d) ~~If the second program supports the original recommendation, such recommendation shall become the final recommendation of the DUI program. If the second program rejects the original recommendation, the final decision shall be made by the Department.~~

(e) ~~If the second program disagrees with the determination or recommendation by the original program, the second program shall notify the applicant and the original DUI program in writing. The second program shall also submit all documentation to the Bureau of Administrative Review office which conducted the reinstatement hearing.~~

(2) Any SSS client in the program who wishes to contest an unfavorable recommendation of cancellation by the DUI program shall be allowed to appeal such recommendation to any DUI program licensed by the Department in that circuit or any adjacent circuit, excluding the cancelling DUI program. The DUI program shall not delay notification to the Department of its cancelling recommendation pending such appeal. Any client in the program who wishes to contest an unfavorable recommendation of termination by the DUI program shall be allowed to appeal such recommendation to any DUI program licensed by the Department in that circuit or any adjacent circuit, excluding its own program. However, the DUI program shall not delay notification to the Department of its termination recommendation pending such appeal.

(a) ~~The DUI program reviewing the appeal shall review all the written documentation related to the issue or issues resulting in termination.~~

(b) ~~The DUI program reviewing the appeal shall provide an opportunity for a face to face meeting with the client.~~

(c) ~~If the appeal concerns the results of an evaluation, the DUI program reviewing the appeal shall conduct its own face to face evaluation.~~

(d) ~~If the second program disagrees with the recommendation of termination, the final decision shall be made by the Department.~~

(e) ~~If the second program disagrees with the recommendation by the original program, the second program shall notify the client and the original DUI program in writing. The second program shall also submit all documentation to the Bureau of Administrative Review office which conducted the reinstatement hearing.~~

(3) The SSS applicant or client has 20 calendar days to notify the original DUI program in person of the intention to appeal, after receiving notification in writing from the original DUI program's unfavorable recommendation for cancellation, denial, determination of ineligibility or a unfavorable initial recommendation contingent upon participation in treatment. The SSS applicant or client waives their right to appeal if notification of such is not given in person to the original DUI program within the 20 calendar day timeframe. If an applicant is given an adverse original recommendation or a client is recommended for termination based on a positive result of a chemical test for alcohol or other drugs, the program shall be required to have contracted with a laboratory, or a collection site which has contracted with a laboratory, licensed in forensic toxicology by the Agency for Health Care Administration and

follow the protocol of the Drug Free Workplace as referenced in Chapter 59A-24, F.A.C. At the applicant's or client's request a second test, on the same sample, shall be conducted at a laboratory selected by the applicant or client and at the expense of the applicant or client. The laboratory shall be licensed in forensic toxicology by the Agency for Health Care Administration and shall conduct such test in accordance with the Drug Free Workplace protocol.

(4) If the SSS applicant or client is canceled or given an unfavorable recommendation based on a positive result of a chemical test for alcohol or other drugs, the SSS applicant or client is permitted to request a second test on the same sample, at their expense. The SSS applicant or client shall select the laboratory based on the requirements in Rule 15A-10.030(12). Any program, in relation to which participation in the appeal process would result in financial hardship, may apply to the Department for an exception to participation. The Department shall grant such exception if the program's expenses in conducting the appeal process exceed its revenue from such process by 50% or more over a six (6) month period. However, no waiver shall be granted if SSS in its entirety has revenues that equal or exceed expenses.

(5) Both DUI programs involved the appeal process shall utilize the SSS Appeal Tracking, HSMV Form 77080 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. The following time periods apply:

(a) The following are procedures to be followed by the original DUI program: The applicant or client has 10 days to notify the first DUI program in person of the intention to appeal after receiving notification in writing from the first program of the decision to deny or cancel. The applicant or client shall then sign a release of information form allowing the relevant information to be sent to the second DUI program hearing the appeal.

1. The original DUI program shall utilize the DUI Program SSS Appeal Case Review, HSMV Form 77082 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

2. The original DUI program shall send the notification of cancellation or denial, via Certified Mail or similar method of correspondence tracking approved by the Department, to the SSS applicant or client.

3. The original DUI program shall forward all relevant material to the second DUI program within 20 calendar days from the date the SSS applicant or client signed the Release or Request to Obtain Information, HSMV Form 77011(2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

4. The original DUI program shall notify the Department via Letter of Recommendation, HSMV Form 77023 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

(b) The following are procedures to be followed by the second DUI program: ——— The first program shall have 20 days to forward all relevant material to the second program.

1. The second DUI program shall utilize the DUI Program SSS Appeal Case Review, HSMV Form 77082 (2010), incorporated by reference which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517.

2. The second DUI program is permitted to conduct a face-to-face meeting with the SSS applicant or client.

3. If the appeal concerns the result of a psychosocial evaluation, the second DUI program is permitted to conduct its own face-to-face psychosocial evaluation.

4. The second DUI program shall review all relevant material sent by the original DUI program to determine if additional information is necessary and obtain such information.

5. Once the second DUI program is in receipt of relevant material from the original DUI program, it shall notify the SSS applicant or client of their requirement to complete the Application for Appeal, HSMV Form 77024 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, pay fees and schedule a face-to-face meeting or psychosocial evaluation, if applicable.

6. The face-to-face meeting or psychosocial evaluation, if applicable, shall be scheduled within 30 calendar days of the date of the latest receipt of relevant material from the original DUI program or the date the second DUI program notifies the SSS applicant or client, whichever is later. The SSS applicant or client shall be given the opportunity to present information to the second DUI program.

7. If the SSS applicant or client does not contact the second DUI program within 30 calendar days of the notification to complete the requirements, the SSS applicant or client's right to appeal is waived. The second DUI program shall notify the SSS applicant or client in writing and copy the same to the original DUI program.

8. If the SSS applicant or client contacts the second DUI program and schedules an appointment to complete the requirements, but fails to keep or reschedule the appointment within 30 calendar days, the SSS applicant or client's right to appeal is waived. The second DUI program shall notify the SSS applicant or client in writing and copy the same to the original DUI program.

9. The second DUI program shall make a recommendation to the SSS applicant or client and the DUI program in writing within 20 calendar days of the face-to-face meeting or psychosocial evaluation, if applicable.

~~(c) Upon receipt the second program shall review the information to determine what, if any, additional information shall be necessary for completion of the process. The applicant or client is notified by the second program to complete Application for Appeal, HSMV Form 77024, incorporated by reference in Rule 15A-10.043, to pay fees, and schedule a meeting. The meeting may include a face to face evaluation unless it does not relate to the issue(s) raised in the appeal and shall be held within 30 days of the date of the latest receipt of information from the first program or the date the second program notifies the applicant or client, whichever is later. Whether there is a face to face evaluation, the applicant or client shall be given the opportunity to present information in person to the second program. If the applicant or client fails to contact the second program within 30 days of notification to complete HSMV Form 77024, the first program is notified of same with a copy sent to the applicant or client and the right to appeal is waived. If the applicant or client contacts the second program, sets an appointment to complete paperwork, pay fees, schedules a meeting or evaluation but fails to attend or reschedule that appointment, the first program is notified of same by the second program at the end of the 30 day period and the right to appeal is waived. In all cases, the meeting or evaluation shall be held within 30 days from the date of the latest receipt of information from the first program or the date the second program notifies the applicant or client, whichever is later.~~

~~(d) The second program shall make a recommendation to the applicant or client in writing within 20 days of the meeting or evaluation.~~

~~(e) When both DUI programs agree on a cancellation, the second program notifies the client and the first program of the decision in writing. When both programs agree in the case of a denial, the second program notifies the first program of its decision. The first program notifies the Department via~~

~~the Letter of Recommendation, HSMV Form 77023 and the client in writing. In all cases, the client is to receive notification within 20 days of the date of the meeting or evaluation.~~

~~(f) Within 30 days of notification of disagreement by the second program, the hearing officer shall meet with the applicant or client, conduct a hearing, gather and summarize all information and forward to the DUI Programs Section.~~

~~(g) The DUI Programs Section will review all material, and shall consult with the hearing officer and the DUI programs involved and, within 50 days, render a recommendation to the hearing officer. The hearing officer shall mail the signed Final Order Denying Appeal, HSMV Form 77052, incorporated by reference in Rule 15A-10.043, or Final Order Granting Appeal, HSMV Form 77053, incorporated by reference in Rule 15A-10.043 to the applicant or client within 10 days with copies to both DUI programs involved. This notification is to be retained in the applicant's or client's file by the DUI program until the end of the revocation period.~~

~~(h) If the Department reverses the recommendation for cancellation or denial, the client shall be served by the DUI program licensed in the client's county of residence, employment, or school attendance unless that program does not have any objection to the client attending another program.~~

~~(6) If the second DUI program agrees with the original DUI program's recommendation, such recommendation shall become the final recommendation made to the Department. If the applicant or client wishes to contest the final decision of the Department a writ of certiorari may be filed in circuit court within thirty (30) days in accordance with s. 322.31, F.S.~~

~~(7) If the second DUI program disagrees with the original DUI program's recommendation, the second DUI program shall provide the SSS applicant or client with the Request for Bureau Administrative Review (BAR) Special Supervision Services (SSS) Appeal Hearing HSMV Form 78063 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to provide to BAR to schedule a hearing. Upon notification from BAR, the second DUI program shall submit all relevant material within 10 calendar days. The applicant or client shall waive the right to appeal if notification of such is not given in person to the original program within 10 days in relation to the appeal process. Once notification of intent to appeal is made by the applicant or client, the right to proceed with the appeal is waived if the applicant or client does not schedule an appointment for a meeting or evaluation with the second program within the 30 day period referenced in (5)(e) above. All times shall begin from the date of completion of the preceding step, not including that date, and shall extend to the first day after the expiration of the time period which is not a weekend or holiday. The Department shall have the authority to waive any appeal process time period deadline which has not been followed as a result of action or inaction by the DUI program and has caused the applicant or client to not proceed with the appeal process.~~

~~(a) BAR will review all relevant material and conduct a hearing to gather evidence and summarize all information within 30 calendar days of receipt of HSMV Form 78063 and the filing fee. The SSS applicant or client and the DUI programs involved shall participate in the hearing. BAR will forward a recommendation to the Department.~~

~~(b) The Department, within 50 calendar days of receipt of BAR's recommendation, shall provide a final decision.~~

~~(c) If the Department upholds the appeal, the SSS applicant or client shall be served by the DUI program licensed in the SSS applicant or client's county of residence, employment, or school attendance, unless that DUI program does not have any objection to the SSS applicant or client attending another DUI program.~~

(d) If the Department denies the appeal, the SSS applicant or client is permitted to reapply as set out in Rule 15A-10.030. If the SSS client was cancelled from the SSS program or denied based on substance use, the SSS client is not eligible to reapply.

(8) All timeframes shall begin from the date of completion of the preceding step, not including the completed date, and shall extend to the first day after the expiration of the timeframe, which is not a weekend or a holiday.

(9) The Department has the authority to waive any appeal process timeframe when it has not been followed as a result of action or inaction by the second or original DUI program and has rendered the SSS applicant or client unable to proceed with the appeal process.

(10) In all cases, the Department will notify the SSS applicant or client of any final action taken against their driving privileges.

(11) If the SSS applicant or client wishes to contest the final decision of the Department or a DUI program, they have the right to file a writ of certiorari in the circuit court within thirty (30) days in accordance with s. 322.31, F.S.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, 322.293 F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.032 SSS Case Management Plan.**

(1) A case management plan shall be developed ~~determined~~ after consideration of the initial psychosocial evaluation. It shall be individualized based on documents obtained during the SSS application process and shall ~~may~~ be revised if after consideration of further information obtained from any subsequent periodic updates appointments indicates a need for revision visits.

(2) The DUI program shall utilize the Case Management Plan, HSMV Form 77086 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to develop and revise the case management plan. The goal of the plan is to allow the DUI program to monitor a SSS client's compliance with the program requirements and assist the SSS client in managing their participation in the program. The plan shall be reviewed a minimum of three times a year, as documented on the case management plan. The DUI program shall utilize the Periodic Update, HSMV Form 77025, incorporated by reference in Rule 15A-10.043, for each supervision visit to record the results of that session. Under no circumstances shall supervision be conducted in a group setting.

(3) If the client is referred for alcohol and drug treatment while in supervision, it may be included in the client's case management plan. the DUI program shall utilize the SSS Treatment Referral Form, HSMV Form 77026, incorporated by reference in Rule 15A-10.043, and the Request to Release or Obtain Information, HSMV Form 77011, incorporated by reference in Rule 15A-10.043, shall be completed, a copy retained in the file and updated when appropriate. The client shall be given a listing of approved providers with identifying information on location, fees, intake procedures and criteria for admission. The client shall be free to choose the treatment agency.

(4) Arrest and driving records shall be obtained every six months utilizing Florida Department of Law Enforcement Request, HSMV Form 77017 and Request for Information from Driver License Records, HSMV Form 73250.

(5) The case management plan shall document the following:

(a) Relapse indicators.

(b) Documentation of continued participation in any required treatment, or twelve step self help groups.

- ~~(c) — Reported criminal and driving arrests and convictions.~~
- ~~(d) — Employment status.~~
- ~~(e) — Information gathered through personal contact with significant others, as defined by the client, such as a mother, father, or husband.~~
- ~~(f) — Any additional factors identified by the program.~~
- ~~(6) — The clinical supervisor shall:~~
  - ~~(a) — provide a minimum of two hours of face to face individual clinical supervision per month to full time Special Supervision Services Evaluators (SSSE), who provide a minimum of 80 hours per month of SSSE time.~~
  - ~~(b) — provide a minimum of one hour of face to face individual clinical supervision per month to part time SSSE's who provide less than 80 hours per month of SSSE time.~~
  - ~~(c) — observe a periodic update or evaluation or review a recording of such at least once every six months.~~
  - ~~(d) — review a minimum of three client case records at least monthly.~~
- ~~(7) Where the clinical supervisor has conducted the Special Supervision Services psychosocial evaluation, a case management plan shall be developed with a case staffing committee which will minimally include another certified DUI evaluator, a certified DUI clinical supervisor or Special Supervision Services evaluator.~~
- ~~(8) — Clinical supervisors who carry a Special Supervision Services caseload shall be observed by a certified DUI clinical supervisor, a certified DUI evaluator or a certified DUI Special Supervision Services evaluator at least once every six months.~~
- ~~(9) — Documentation of all clinical supervision requirements shall be retained by the DUI program. If the Special Supervision Services Evaluator also provides evaluator services, this requirement is not in addition to that provided in 15A 10.027(8). Rather SSS cases should be included in that clinical supervision.~~

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

### **15A-10.033 SSS Military Leave.**

In the event a client in ~~SSS the Special Supervision Services~~ is called to active military duty or assigned temporary duty outside Florida, which would interrupt participation in the program, the ~~SSS~~ client is permitted to ~~may~~ continue in the program for up to 12 months in an interim status without strictly complying with program requirements. In such cases, the following procedures shall be observed:

- (1) The restricted driver license shall be retained during the period of the interim status.
- (2) Applicable fees and record checks shall be suspended for the interim period.
- (3) The DUI program shall utilize the Request to Release or Obtain Information, HSMV Form 77011 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, signed by the SSS client to allow for the exchange of information with the SSS client's commanding officer.
- (4) The DUI program shall utilize the Monthly Update, HSMV Form 77032 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 ~~incorporated by reference in Rule 15A-10.043,~~ to be completed by a commanding officer, or that officer's designee, and submitted monthly to the DUI program. Any incident of substance use shall also be reported on this form. The program

~~shall may~~ terminate participation in the program when such form is not received within 30 calendar days of the end of the month in which the form is due.

(5) The SSS client shall contact the DUI program within 10 calendar days of return to Florida. Failure to contact the program within 10 calendar days shall result in termination from the program. Reapplication shall be as set out in Rule 15A-10.030.

(6) Upon return to the program the following shall occur:

(a) The psychosocial evaluation shall be updated to reflect the SSS client's current-status at no fee if the SSS client has been in interim status for six months or less. If the interim status is more than six months, the DUI program shall charge the standardized fee.

(b) The SSS client shall revert to a minimum of three monthly periodic updates for the first three months ~~three visits in the first three months~~ following the return and shall thereafter be reinstated into the program at the level attained prior to being placed on interim status, upon clinical staffing review.

(c) The SSS client shall submit to all required chemical tests.

(d) The SSS client shall comply with any program requirements necessary to update their client's file and shall resume paying monthly fees.

(e) The CMP shall be updated to reflect the SSS client's status.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.034 SSS Frequency of Periodic Update Appointments.**

(1) ~~All clients shall be required to report for individual supervision at least once a month for the first twelve months after acceptance by the Department. The first periodic update appointment shall be conducted during the calendar month immediately following the date of the acceptance letter issued by the DUI Program Department. Appointments shall be documented on the Appointment Receipt, HSMV Form 77028 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517 incorporated by reference in Rule 15A-10.043. After the initial year, frequency of supervision shall be based on the recommendation of a formal staffing which shall consider gains and outcomes of treatment services, demonstrated behaviors indicating client's progress and consistency. The DUI program shall utilize the Client Annual Review Form, HSMV Form 77029, incorporated by reference in Rule 15A-10.043, and the Staff Annual Review Form, HSMV Form 77030, incorporated by reference in Rule 15A-10.043, for the formal staffing. The reasons for the recommendation shall be documented in the client file. The staffing shall minimally include the evaluator/supervisor and the clinical supervisor. The date of acceptance by the DUI program Department becomes the anniversary date for the purpose of determining the frequency of periodic update supervision appointments unless the required number of appointments have not been attended by that date in the following year. In such cases, the anniversary date shall be the date upon which the required number of periodic update appointments ~~has~~ have been met.~~

(2) The DUI program shall utilize the Periodic Update, HSMV Form 77025 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, for each supervision visit to record the results of that session. Under no circumstances shall supervision be conducted in a group setting. The following shall be addressed during a periodic update: In the second year, the client shall be seen a minimum of once every other month. Third and fourth year clients seen at least once each calendar

~~quarter. After the fourth year a client shall be seen at least three times a year with the exception of those under permanent revocation.~~

~~(a) Relapse indicators.~~

~~(b) Documentation of continued participation in any required treatment or 12-step self help groups, if applicable.~~

~~(c) Reported criminal and driving arrests and convictions. An arrest or offense related report and driving records shall be obtained at least once per year but no more than twice a year.~~

~~(d) Employment status.~~

~~(e) IID client violation monitoring, if applicable.~~

~~(f) Information gathered as needed, through personal contact with significant others.~~

~~(g) Any additional factors identified by the program.~~

~~(3) SSS clients in the first year after acceptance by the Department shall be required to report for the individual supervision at least once per month. In no event, shall there be a period of less than 20 calendar days or more than 40 calendar days between appointments. In no event, shall there be a period of less than 20 days or more than 40 days between appointments for clients who shall be seen on a monthly basis. In relation to clients that shall be seen every other month, in no event shall there be a period between appointments of less than 45 days or more than 75 days. For clients who shall be seen once each calendar quarter, in no event shall there be a period between appointments of less than 60 days or more than 120 days. For clients that are to be seen three times a year, in no event shall there be a period between appointments of less than 90 days or more than 150 days.~~

~~(4) After the first year, reducing the frequency of periodic update appointments shall be based on recommendation of a formal staffing. The justification for the recommendation shall be documented in the client file. The formal staffing shall minimally include the SSS Evaluator routinely servicing the SSS client and the clinical supervisor. The following shall be utilized for consideration and conducting of the formal staffing: Florida residents who are already accepted into the Special Supervision Services, and are required by their employment or a documented family emergency to live outside of Florida, may continue in the program for a total maximum period of twelve (12) months, in an interim status without strictly complying with program requirements. Florida residents who are already accepted into SSS and are required to live outside the program area within Florida may continue to participate in the program where they were accepted, under such terms as that program may require for up to a maximum of sixty (60) days during the revocation period. A client may appeal denial of interim status as provided in 15A 10.031. Clients living outside the program area within Florida for longer than sixty (60) days, shall be transferred to the program serving the area of relocation in accordance with the provisions of Rule 15A 10.037. The following procedures shall be followed for clients approved for interim status participation:~~

~~(a) Gains and outcomes of treatment services, if applicable. The client shall provide the DUI program documentation from his employer, if not self-employed, of the required employment outside of Florida including the anticipated length of such employment~~

~~(b) Demonstrated behaviors indicating SSS client's progress and consistency in the SSS program. The DUI program shall obtain from the client the anticipated departure date, out of state address, employment information and telephone number where he may be contacted.~~

~~(c) Full compliance with DUI program rules and case management plan. The DUI program shall utilize the Monthly Update, HSMV Form 77032, incorporated by reference in Rule 15A 10.043, which shall be completed by the employer, or, if self-employed, three forms by business persons, law enforcement officers or judicial officers.~~

(d) Client Annual Review, HSMV Form 77029 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. The client shall provide to the DUI program an arrest record from the county of temporary residence every ninety (90) days.

(e) Staff Annual Review, HSMV Form 77030 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. The restricted driver license shall be retained during the period of the interim status.

(f) IID program compliance, if applicable. The SSS fee will remain in effect during the interim period.

(g) ~~The DUI programs shall utilize the Request to Release or Obtain Information, HSMV Form 77011 to allow for the exchange of information.~~

(h) ~~The responsibility for supervision sessions or required treatment for SSS clients shall not be transferred to another state.~~

(i) ~~The client shall contact the DUI program within ten (10) calendar days of return to Florida.~~

(j) ~~Failure of the client to comply with any of the above procedures may result in termination from the program. Reapplication shall be as set out in Rule 15A-10.030.~~

(k) ~~Upon return to regular status in the program the following shall occur:~~

1. ~~The psychosocial evaluation shall be updated to reflect the current status at no fee~~

2. ~~The client shall revert to a minimum of three visits in the first three months following the return and thereafter be reinstated into the program at the level attained prior to being placed on interim status.~~

3. ~~The client shall submit to all required chemical tests.~~

4. ~~The client shall comply with any program requirements necessary to update the client's file.~~

(5) SSS clients in their second year shall be considered for a reduction in periodic update appointments to a minimum of once every other month. Justification for reduced supervisions shall be evidenced by the documentation and procedure set forth in subsection 15A-10.034(4)(a)-(f) above. In no event, shall there be a period between appointments of less than 45 calendar days or more than 75 calendar days.

(6) Justification for a reduction in periodic update appointments for SSS clients in their third and/or fourth year to a minimum of once each calendar year quarter shall be evidenced by the documentation and procedure set forth Rule 15A-10.034 (4) (a)-(f) above. In no event, shall there be a period between appointments of less than 60 calendar days or more than 120 calendar days.

(7) Justification for a reduction in periodic update appointments for SSS clients after their fourth year to a minimum of three times a year be evidenced by the documentation and procedure set forth Rule 15A-10.034 (4) (a)-(f) above. In no event, shall there be a period between appointments of less than 90 calendar days or more than 150 calendar days. SSS clients who are under a permanent revocation, are not eligible for a reduction in periodic update appointments to a minimum of three times per year.

(8) SSS clients who have the IID are not eligible for a reduction in periodic update appointments while the IID is installed in the vehicle. SSS clients shall report to the vendor for calibration a minimum of once every 30 calendar days.

(9) Justification for a reduction in periodic update appointments for SSS clients who are under a permanent revocation and in their sixth year and have completed their IID time requirement to a minimum of once each calendar year quarter in the event shall be evidenced by the documentation and procedure set forth Rule 15A-10.034 (4) (a)-(f) above.

(a) The last three years of the IID time requirement does not include instances of violations, pursuant to 15A-9, FAC.

(b) If reduced, the period between appointments shall be no less than 60 calendar days or no more than 120 calendar days.

(10) Florida residents who are already accepted into SSS, and are required by their employment or a documented family emergency to live outside of Florida, shall continue in the program for a total maximum period of 12 months, in an interim status without strictly complying with program requirements. Florida residents who are already accepted into SSS and are required to live outside the program area within Florida shall continue to participate in the program where they were accepted, under such terms as that program shall require for up to a maximum of 60 calendar days during the revocation period. A SSS client is permitted to appeal denial of interim status as provided in Rule 15A-10.031. SSS clients living outside the program area within Florida for longer than 60 calendar days, shall be transferred to the program serving the area of relocation in accordance with the provisions of Rule 15A-10.037. The following procedures shall be followed for SSS clients approved for interim status:

(a) The SSS client shall provide the DUI program documentation from his employer of the required employment outside of Florida including the anticipated length of such employment. If self-employed, the SSS client shall provide documentation of self-employment to the DUI program.

(b) The DUI program shall obtain from the SSS client the anticipated departure date, out-of-state address, employment information and telephone number.

(c) The DUI program shall utilize the Monthly Update, HSMV Form 77032 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, which shall be completed by the employer. If self-employed, the SSS client shall provide three Monthly Update, HSMV Forms 77032 (2010), incorporated by reference, incorporated by reference which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, completed by business persons, law enforcement officers or judicial officers.

(d) The SSS client shall provide to the DUI program an arrest record from the county of temporary residence every 45 calendar days. The SSS client shall submit to all required chemical tests.

(e) The restricted driver license shall be retained during the period of the interim status.

(f) The SSS fee will remain in effect during the period of interim status.

(g) The DUI programs shall utilize the Request to Release or Obtain Information, HSMV Form 77011 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, to allow for the exchange of information.

(h) The responsibility for supervision sessions for SSS clients shall not be transferred to another state.

(i) The DUI program shall require telephone contact with the SSS client during the period of interim status, at which time, the evaluator shall complete a Periodic Update, HSMV Form 77025 (2010), incorporated by reference which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. The telephone contact shall

occur no less than 20 calendar days and at least 40 calendar days apart. The SSS client shall be responsible for initiating telephone contact and all costs associated with the telephone contact.

(j) The SSS client shall contact the DUI program within 10 calendar days of return to Florida.

(k) Failure of the SSS client to comply with any of the period of interim status procedures shall result in termination from the program. Reapplication shall be as set out in Rule 15A-10.030.

(l) Upon return to regular status in the program the following shall occur:

1. The psychosocial evaluation shall be updated to reflect the SSS client's current status at no fee if the SSS client has been in interim status for six months or less. If the interim status is more than six months, the DUI program shall charge the standardized fee.

2. The SSS client shall revert to a minimum of three monthly periodic updates for the first three months following the return and shall thereafter be reinstated into the program at the level attained prior to being placed on interim status, upon clinical staffing review.

3. The SSS client shall submit to all required chemical tests.

4. The SSS client shall comply with any program requirements necessary to update the client's file.

5. The CMP shall be updated to reflect the SSS client's current status.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.02, 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.035 SSS Missed Periodic Update Appointments.**

(1) Any SSS client failing to appear for a scheduled periodic update supervision appointment shall be notified of the missed appointment by Certified Mail or similar method of correspondence tracking approved by the Department, by the end of the following business day. Failure to receive such notice shall not negate the SSS client's responsibility to contact the program to reschedule the missed appointment. Failure to contact the program within five ~~(5)~~ business days after the missed appointment to reschedule for the purpose of rescheduling the appointment shall result in notification to the Department of the SSS client's failure to comply with program requirements.

(2) The SSS client shall be responsible for rescheduling the missed appointments. An Appointment Receipt, HSMV Form 77028 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, shall be issued for all rescheduled appointments. If possible, the SSS client should be rescheduled for the same month in which a previously scheduled appointment was missed. If the same month rescheduling is not possible, the SSS client shall be rescheduled for two appointments in the succeeding month for those on monthly supervision. The rescheduling of a missed appointment should not affect any subsequently scheduled appointments and in no case shall result in attendance at less than the required number of appointments for a given year. ~~Notwithstanding any of the foregoing, the DUI program shall have the discretion to space the missed appointments outside the normal schedule in the interest of effective supervision.~~

(3) If the SSS client misses two consecutive appointments, the program shall recommend cancellation of the license unless the SSS client has good cause for missing the appointment. Two consecutive appointments is defined as the original appointment and the rescheduled appointment. Good cause is defined as natural disaster, death in the immediate family, or illness documented by the attending physician. ~~The DUI program shall notify the Department when the client misses two consecutive~~

~~appointments on the Letter Recommending Cancellation, HSMV Form 77027, unless good cause is documented.~~

~~*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*~~

#### **15A-10.036 SSS Violation of Restricted Licenses.**

~~Any violation by a SSS Special Supervision Services client of the Department's terms and provisions of a restricted license, with the exception of substance use, shall, upon conviction, result in a revocation of such license. The SSS client is permitted to reapply for Reapplication for the reinstatement of their restricted license by the client may be made after a period of six 6 months from the date the revocation order was issued, provided that the SSS client applicant has remained continuously in SSS the Special Supervision Services for the six 6 months immediately preceding, except if the violation was due to substance use. If the SSS client's violation of the restricted license is based on substance use, the SSS client shall be cancelled immediately and is not eligible for reapplication into the SSS program. If the SSS client is convicted on a second violation of the restricted license a recommendation for permanent cancellation from the Special Supervision Services shall be issued.~~

~~*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, F.S. History-New 1-4-95. Amended \_\_\_\_\_.*~~

#### **15A-10.037 SSS Transfer Procedure.**

~~(1) If a SSS client requests a transfer ~~When a client is transferred from one DUI program to another as a result of change in employment, residence, other reason, the complete original file shall be sent by certified mail, return receipt requested to the receiving program. The DUI program shall utilize the Client Transfer Record, HSMV Form 77009, incorporated by reference in Rule 15A-10.043; a fully executed Request to Release or Obtain Information, HSMV Form 77011, shall accompany the original file to the receiving program. The transferring program shall maintain a copy of the entire file for its records until the end of the revocation period. A copy of the Client Transfer Record, HSMV Form 77009, shall be sent to the Department by the transferring program as notice of the transfer. school attendance, or the enrolling DUI program does not have any objection to the SSS client attending another program and the receiving program has agreed to serve the SSS client. The enrolling DUI program:~~~~

~~(a) \_\_\_\_\_ shall send the Client Transfer Record, HSMV Form 77009 (2010) and a Request to Release or Obtain Information HSMV Form 77011(2010), which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517;~~

~~(b) \_\_\_\_\_ shall send the complete original file to the receiving program by Certified Mail or similar method of correspondence tracking approved by the Department, at the expense of the SSS client;~~

~~(c) \_\_\_\_\_ shall maintain a copy of the entire file for its records until the end of the revocation period or a minimum of 10 years for SSS clients under permanent revocation; and~~

~~(d) \_\_\_\_\_ shall charge the standardized, Department approved transfer fee.~~

~~(2) If the receiving DUI program accepts the transfer request and the SSS client fails to enroll at the receiving program within 20 calendar days from the date of SSS client's signature on the Request to Release or Obtain Information HSMV Form 77011 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, the receiving program shall send Recommendation of Cancellation,~~

HSMV Form 77027 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517, of the restricted license to the Department, with a copy sent to the original program. If the client fails to report in person to the receiving program within 15 calendar days from the date of client's signature on the release of information form, the receiving program shall recommend cancellation of the restricted license to the Department.

~~\_\_\_\_\_ (3) \_\_\_\_\_ The DUI program may charge the standardized, Department approved a transfer fee. Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.271, 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.~~

**15A-10.038 SSS Fees.**

(1) The Department approved fees are the only fees to be charged for SSS, with the exception of Department approved ancillary fees. The fee for SSS application will increase each year on October 1, rounded to the nearest five dollars. The amount of the increase is the lesser amount of three percent or the percentage increase (if any) in the Consumer Price Index as determined by the U.S. Department of Labor for the 12 month period ending on the preceding June 30. The fees approved by the Department shall include:

(a)	SSS Application Fee	\$396.00
(b)	Eligibility screening fee	\$25.00
(c)	Psychosocial evaluation reschedule fee	\$75.00
(d)	Periodic update appointment fee	\$65.00
(e)	IID violation monitoring during period update appointment fee	\$10.00
(f)	SSS annual review periodic update fee	\$65.00
(g)	Periodic update reschedule fee	\$55.00
(h)	Reapplication within six months fee	\$75.00
(i)	Reapplication outside six months fee	\$150.00
(j)	Appeal process fee:	\$75.00
(k)	Appeal process including psychosocial evaluation fee	\$150.00

~~The fees approved by the Department shall be \$25.00 for the eligibility screening fee, \$286.00 for the initial evaluation and \$55.00 for supervision sessions fee. If the applicant meets the criteria for eligibility, the screening \$25.00 fee will be applied toward the initial evaluation fee of \$286.00. If the applicant does not meet the criteria, the eligibility screening \$25.00 fee is retained by the program. The initial evaluation fee of \$294.00\$286.00 shall include the state evaluation fee paid to the Department at registration and on an annual basis, and the applicable fees for receipt of the driving and Florida Department of Law Enforcement records. If the applicant reschedules a psychosocial appointment five or more calendar days prior to the appointment date, no reschedule fee shall be charged. Otherwise, absent exception circumstances as defined in s. 15A-10.035(3), a reschedule fee will be charged. The state assessment fee shall be collected on each anniversary date of the client's original application in addition to the \$55.00 supervision session fee. The state assessment shall be submitted to the Department within thirty (30) days following the last day of the month in which the assessment was collected. The state assessment shall be submitted with a completed Assessment Fee Report form, HSMV Form 77007. All fees shall be nonrefundable and not subject to waiver. Any subsequent requests for fee increases will be subject to the approval of the Department.~~

(2) If the SSS applicant meets the criteria for eligibility, the screening fee will be applied toward the initial application fee. If the SSS applicant does not meet the criteria, the eligibility screening fee is retained by the program. The appeal process fees approved by the Department shall reflect the actual administrative cost of the process. If the process involves the conducting of a complete psychosocial evaluation, the fee shall not exceed \$150.00; in all other cases, including a reapplication within six months, the fee shall not exceed \$75.00.

(3) The initial application fee shall include the state assessment fee paid to the Department at registration and the applicable fees for receipt of the driving and FDLE records.

(4) If the SSS applicant reschedules a psychosocial evaluation five or more calendar days prior to the appointment date, no reschedule fee shall be charged. Otherwise, absent of the exception circumstances as defined in subsection 15A-10.035(3), a reschedule fee will be charged.

(5) The state assessment fee shall be collected on each anniversary date of the SSS client's original application in addition to the periodic update appointment fee.

(6) The appeal process fees approved by the Department shall reflect the actual administrative cost of the process. The fees shall not exceed the Department approved fees. The DUI program shall provide documentation of the fees for the appeal process, including the fee for conducting a complete psychosocial evaluation and reapplication within six months to SSS applicants and clients.  
*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, 322.293, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.039 SSS Referrals to Treatment.**

(1) ~~The DUI SSS program Special Supervision Services~~ shall consider the treatment referral criteria established in Rule 15A-10.028 for the Level I and Level II clients in assessing SSS clients. Referral to treatment shall also be indicated if one or more of the following three criteria are met:

(a) SSS aApplicant or client reports abstinence but cannot provide corroboration of stated abstinence.

(b) ~~Prior treatment requirements from the DUI program or the court~~ were never completed.

(c) The SSS applicant or client indicates significant life problems that ~~may~~ jeopardize abstinence.

(d) Suggested use of alcohol or other drugs based on required monitoring devices.

(e) The DUI program receives notification that the SSS client has received a third violation of their IID requirement from the Department.

(2) ~~The DUI program shall not refer any person applying for a restricted permit under the Special Supervision Services to its own treatment provider, unless a waiver is granted by the Department through use of the Application for Treatment Waiver, HSMV Form 77050.~~

(3) ~~Twelve step programs and self help groups shall not be utilized by the DUI program in lieu of a referral to treatment but may be utilized as a continuing support system. The treatment provider may also refer the applicant or client to twelve step programs and self help groups.~~

(4) ~~The DUI program shall secure documentation from the treatment provider. That documentation shall meet the following conditions:~~

(a) ~~It shall be from a DCF licensed treatment provider pursuant to Chapter 397, F.S., or exempt from licensure. A copy of the current license shall be on file with the DUI program. If the DCF license has expired and the current license is unavailable, a letter shall be secured from the district DCF office stating the provider is in good standing and holds current licensure. Documentation of licensure exemption shall be on file with the DUI program.~~

- ~~(b) — It shall be on appropriate letterhead stationery.~~
- ~~(c) — It shall be an original document addressed to the DUI Special Supervision Services.~~
- ~~(d) — It shall address alcohol or other drug issues as the major focus of treatment.~~
- ~~(e) — It shall be submitted monthly to the DUI program if the client is still actively in treatment.~~

~~(f) — If treatment documentation indicates that the person has been seen only by a treatment provider for the purpose of prescribing or reviewing medication and not receiving alcohol or other drug treatment, then referral to a licensed provider may be made to determine the need for treatment.~~

(2)(5) In the event further resolution of clinical issues is seen as necessary by the DUI program, the SSS applicant or client is to be referred to an appropriate facility for resolution of the identified clinical issues.

(3)(6) Any treatment provider involved with an SSS applicant or client shall inform the DUI program upon learning that the SSS applicant or client has not remained abstinent or has been driving for reasons other than stated on the license.

(4)(7) The criteria in subsection 15A-10.039(1) above shall be followed except in those cases where prudent clinical judgment would suggest an alternative disposition. In such cases, documentation should clearly reflect the relevant clinical issues leading to the alternative disposition.

(5)(8) When a treatment referral is required by the DUI program, the SSS applicant or client shall ~~must~~ receive an explanation of the referral to required treatment, and documentation of the treatment referral requirements shall be entered in the file. The DUI program shall utilize the SSS Treatment Referral Form, HSMV Form 77026 (2010), and the Request to Release or Obtain Information, HSMV Form 77011(2010), which are incorporated by reference and obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517. *Rulemaking Specific Authority 322.02, 322.292, F.S., 15A-9, FAC. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.040 Case Monitoring Services.**

(1) A DUI program is permitted to ~~may~~ elect to provide case monitoring services for SSS Special Supervision Services applicants.

(a) The program shall not mandate SSS applicant participation.

(b) The fee shall be the Department approved fee ~~-\$55~~ per session.

(c) Face-to-face case monitoring sessions shall occur once a month.

(2) Prior to implementation of the service, the Department shall be notified in writing and the program shall submit proposed procedures, and policies for approval by the Department.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

**15A-10.041 Denial, ~~Suspension~~ or Revocation of a DUI Program License or Personnel Certification and Probationary Status of a DUI Program License.**

(1) The Department is authorized to deny an application for an original or renewal of a DUI program license or personnel certification for any of the following:

(a) Failure to satisfy the required qualifications as provided in Chapter 15A-10, F.A.C.

(b) Failure to submit a complete application form including supporting documentation following notification of any deficiency.

(c) Non-compliance with A violation of Chapter 15A-10, F.A.C.

(d) Providing DUI program services without a valid license or certification.

(e) Current abuse of alcohol or other drugs by an applicant for certification.

(f) Prior revocation of such license or certification by the Department.

(g) Refusal to comply with the application procedures required by these rules following notification of any deficiency.

(2) The Department is authorized to revoke ~~suspend~~ any DUI program license or personnel certification for any of the following:

(a) A violation of any state or Federal law applicable to the operation of a DUI program.

(b) Conviction for an alcohol or drug related offense of a DUI program manager or certified personnel unless the program takes action to ensure that program services are not adversely affected.

(c) Any violation of Chapter 15A-10, F.A.C.

(d) Mental incapacitation of the DUI program manager or certified personnel.

(e) Current abuse of alcohol or other drugs by DUI program manager or certified personnel.

(f) Refusal to provide any documentation or information requested by the Department.

(g) Obtaining a DUI program license or personnel certification by fraud or misrepresentation.

(h) Obtaining or assisting a person to obtain a drivers license by fraudulent means.

(i) Providing DUI program services while the DUI program license or personnel certification is not valid.

(3) The Department is authorized to restrict a DUI program license to probationary status. Probationary status shall not exceed one year from the date it is ordered by the Department. The Department shall issue probationary status for the following: The Department is authorized to rescind a DUI program license or personnel certification for any of the following:

(a) Following any action taken by Department regarding a DUI program license. A violation of any state or Federal law applicable to the operation of a DUI program.

(b) Failure to satisfy deficiencies in a DUI program's final site visit report. Any second or subsequent suspension of a DUI program license or personnel certification.

(c) Providing DUI program services while the DUI program license is not valid. Obtaining a DUI program license or personnel certification by fraud or misrepresentation.

(d) Non-compliance with any state or Federal law applicable to the operation of a DUI program. Obtaining or assisting a person to obtain a drivers license by fraudulent means.

(e) First offense of obscene advertising. Providing DUI program services while the DUI program license or personnel certification is under suspension.

(f) Non-compliance with Chapter 15A-10, F.A.C.

(4) Suspension, Decertification or revocation of the license ~~revocation~~ shall become effective on the date indicated by the Department's order.

(5) If the Department finds that immediate serious danger to the public health, safety, or welfare exists, the Department is authorized to summarily revoke ~~suspend~~ the license of any DUI program or any personnel certification without preliminary hearing pursuant to s. 120.60(6), F.S.

(6) Any DUI program license or personnel certification, which is ~~suspended or~~ revoked shall be surrendered to the Department upon request.

(7) Except as otherwise provided in this rule, prior to final Department action denying, ~~suspending~~, or revoking a DUI program license or personnel certification, the DUI program or person shall have the opportunity to request a formal or informal administrative hearing to show cause why the action should not be taken, pursuant to s.120.60, F.S.

(8) Any individual who is currently enrolled and has not completed a DUI course or service from a program which is subsequently ~~revoked, suspended~~ shall receive a refund from the program, less the state assessment fee, ~~and~~ the individual shall have the opportunity to secure the services at another licensed program. The state assessment fee shall not be repaid in this situation.

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 120.57, 120.60, 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **15A-10.042 Complaints.**

(+) Any complaint against a DUI program shall be submitted to the Department in writing. The Department and all DUI programs shall provide to the complainant upon request a Driving Under the Influence Programs Complaint Form, HSMV Form 77054 (2010), incorporated by reference, which is obtainable by contacting the Bureau of Driver Education and DUI Programs, Neil Kirkman Building, Tallahassee, Florida 32399-0517~~incorporated by reference in Rule 15A-10.043~~, upon request.

~~(2) Every written complaint shall result in a completed Client Complaint Resolution Form, HSMV Form 77055, incorporated by reference in Rule 15A-10.043.~~

*Rulemaking Specific Authority 322.02, 322.292, F.S. Law Implemented 322.292, F.S. History-New 1-4-95. Amended 3-4-97, \_\_\_\_\_.*

#### **~~15A-10.043 Forms.~~**

*Rulemaking Specific Authority 322.02, 322.292, ~~322.293~~ F.S. Law Implemented 322.02, 322.292, 322.293, 316.193, 322.291, F.S. History-New 1-4-95. Amended 3-4-97. Repealed \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Barbara Lauer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2010

NOTICE OF PROPOSED RULE

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses - DUI PROGRAMS

RULE NO: RULE TITLE

[15A-10.009](#): Program Jurisdiction

**PURPOSE AND EFFECT:** The purpose of the proposed rule action is to add a paragraph to the current rule to prohibit DUI programs which are also authorized as private probation services provider from distributing a list of DUI programs in their service area or to self-refer persons who are probationers to an DUI program owned in whole or in part by that private probation services provider or its affiliates; also requires DUI programs to document that the probationer was advised of their right to choose a licensed DUI program.

**SUMMARY:** Compliance with these rules is required to obtain and to maintain licensure and certification by the Department.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has not prepared a SERC for Rule 15A-10.009.

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

**SPECIFIC AUTHORITY:** [322.02](#), [322.292](#), [F.S.](#)

**LAW IMPLEMENTED:** [322.292\(5\)](#), [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:**

**TIME AND DATE:** December 13, 2010, 10:30 am

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2505

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

**15A-10.009    Program Jurisdiction.**

(1) Persons who are ~~required~~ ~~ordered by the court, pursuant to section 316.192 or 316.193, Florida Statutes,~~ to attend a DUI program substance abuse course, or who attend such course after an arrest for section 316.192 or 316.193, Florida Statutes, but prior to conviction, shall attend the DUI program that serves the county of that person's residence, employment, or school attendance unless the program(s) of residence, employment, or education do(es) not object to attendance at another program for the convenience of the client. Written permission shall be obtained from the DUI Program(s) serving the person's residence, employment or school attendance.

(a) Out-of-state residents may attend an out-of-state substance abuse ~~education course program~~ provided that such program is recognized, approved, licensed, or certified by the state's DUI regulatory authority has reciprocal recognition as stated in Rule 15A-10.003. Florida residents shall complete the substance abuse education course at a DUI program licensed in the State of Florida.

(2) Attendance used to satisfy the statutory requirement for an offense shall occur after the arrest for such offense.

(3) Completion of or failure to complete DUI program requirements will result in electronic submission by the DUI program of the Client Status Report, via the Centralized Database System HSMV 77057, incorporated by reference in Rule 15A-10.043.

(4) DUI programs who are also authorized as a private probation services provider under s. 948.15 F.S., shall not distribute a list of DUI programs in their service area or self-refer persons who are probationers to any DUI program owned in whole or in part by that private probation services provider or its affiliates. The DUI program shall document that the probationer was advised of their right to choose any licensed DUI program that serves the county of their residence, employment or school attendance. No DUI program information will be visible in any common areas of a private probation services facility, including the probation offices, hallways and any other area open to clients. This includes all forms of media including but not limited to: posters, brochures, pamphlets and signage.  
*Rulemaking Authority 322.02, 322.292, FS. Law Implemented 316.192, 316.193, 322.2615, 322.292, FS. History-New 1-4-95. Amended \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Barbara Lauer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2010

October 13, 2010

TO: Sandra C. Lambert, Director  
Division of Driver Licenses

VIA: T.N. Prakash, Deputy Director  
Division of Driver Licenses

FROM: Michael Sarvis, Human Services Administrator  
Medical Review Section

SUBJECT: Medical Advisory Board

It is requested that the names of the following physicians who are currently on our department's Medical Advisory Board be added to the Cabinet agenda for a four year extension:

Dr. Ricardo Ayala (Neurology)  
1401 Centerville Road, Suite 300  
Tallahassee, Florida 32308  
Original appointment date: September 1994  
Proposed Term: November 2010 – November 2014

Dr. Jeffrey Raskin (Gastroenterology, Internal Medicine)  
13100 Southwest 108<sup>th</sup> Place  
Miami, Florida 33176  
Original appointment date: September 1992  
Proposed Term: November 2010 – November 2014

Dr. Francis Curie Skilling (Ophthalmology)  
2020 Fleischmann Road  
Tallahassee, Florida 32308-4599  
Original appointment date: January 2007  
Proposed Term: January 2011-January 2015

Sandra C. Lambert  
Page 2  
October 13, 2010

Dr. Ira J. Goodman (Neurology)  
1404 Kuhl Avenue, Third Floor  
Orlando, Florida 32806  
Original appointment date: January 2007  
Proposed Term: January 2011-January 2015

Dr. David Y. Huang (Pulmonary Disease)  
Tallahassee Pulmonary Clinic, P.A.  
1401 Centerville Road, Suite G-02  
Tallahassee, Florida 32308  
Original appointment date: January 2007  
Proposed Term: January 2011-January 2015

These physicians are licensed to practice medicine in Florida and are in good standing with the Florida Medical Association pursuant to Section 322.125(1), Florida Statutes. Copies of their curriculum vitae are attached.

Dr. Frederick F. Flink (Optometry)  
3499 Thomasville Road, Suite 3  
Tallahassee, Florida 32309  
Original appointment date: January 2007  
Proposed Term: January 2011-January 2015

Dr. Flink is licensed to practice optometry in Florida and is in good standing with the Florida Optometric Association pursuant to Section 322.125(1), Florida Statutes. A copy of his curriculum vitae is attached.

Attachments

## Curriculum Vitae

Ricardo Ayala, MD

Tallahassee Neurological Clinic, P.A.

1401 Centerville Road, Suite 300

Tallahassee, Florida 32308

Telephone: 850-878-8121

Fax: 850-671-3317

Birth: San Salvador, El Salvador 25/Jan/1958

### Education and Experience:

1994-present	Principal Investigator of Clinical Trials in Neurology
1993-present	Private practice; Tallahassee Neurological Clinic, P.A.
1992-1993	Fellow in Epilepsy and Electroencephalography, University of Miami/Jackson Memorial Hospital, Under the supervision of Richard Eugene Ramsey, MD
1989-1992	Fellow in pediatric neurology, University of Miami/Jackson Memorial Hospital, under the supervision of Richard Grant Curless, M.D.
1986-1989	Intern and Resident in Pediatrics, Chief Resident in Pediatrics, Maimonides Medical Center, affiliate to SUNY at Brooklyn, New York
1985-1986	House staff in pediatrics, Coney Island Hospital, Brooklyn, New York
1983-1985	Intern and resident in Internal medicine, Roosevelt Hospital, University of Guatemala, Central America
1977-1983	Medical Student at the School of Medicine, San Carlos of Guatemala national University, Central America

### Certifications:

ECFMH 1986 (Permanent Certification), FLEX 1984 California, Florida by endorsement 1989, Board Certified in Pediatrics 1989, 1997. Board Certified American Board of Psychiatry and Neurology 1994

### Professional Associations:

American Academy of Neurology and Psychiatry, American Epilepsy Society. Florida Medical Association, Capital Medical Society-Tallahassee, Florida.

### State Medical Licenses:

Florida # ME 0056053, DEA # BA 2095049. Board Certified in Pediatrics and Neurology

### Academic Experience:

Junior Instructor at Maimonides Medical Center and the University of Miami (Duties as Chief Resident and Fellow), The Epilepsy Foundation of South Florida, Neurology Physician (1989-1993), Pediatric Emergency Physician at Jackson Memorial Hospital, Hialeah Hospital, North Shore Medical Center, and South Miami Hospital. Medical Director of neurodiagnostics at Tallahassee Memorial Hospital 1993.

### Publications:

Report of a new mutation in a case of hyperkalemia period paralysis with cardiac dysrhythmia.

Annals of Neurology Vol.3-No.3 March 1995. Page 408-11

Poster: The Effect of Zonisamide Administration on Patient Weight. Poster presented at the 4<sup>th</sup> European congress on Epileptology, Oct 7-12, 2000, Florence, Italy.

Co-author paper: Zonisamide for Partial Onset Seizures, March 2001

Co-author paper on Lamictal in monotherapy for childhood absence, abstract presented at AES.

Co-author paper on the results of a cross-sectional study of Valproate vs. Lamictal in women with

epilepsy.

Clinical Trial Experience

Epileptic Drugs and Vagal Stimulator with Eugene Ramsey, M.D., Principal Investigator for : Adult Epilepsy for subjects with partial and generalized seizures, pediatric absence, complex partial, benign rolandic. Traumatic brain Injury, Stroke, Diabetic Peripheral Neuropathy, Migraine , ADHD- pediatric, Parkinson's Disease, Post Aneurysm, Multiple Sclerosis, Alzheimer's Disease. Phases II-IV.

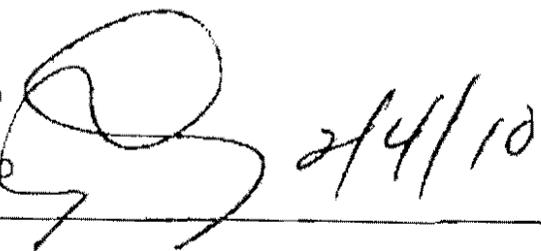
Indication	Study Drug	Year	Study Type
EPILEPSY	ZONISAMIDE	1995	DB-P
STROKE	LOREX	1995	DB-P
EPILEPSY	NEURONTIN	1996	DB-P
EPILEPSY	TIAGABINE	1996	DB-P
EPILEPSY	TIAGABIN	1996	OL
EPILEPSY	LOSIGAMONE	1996	DB-P
EPILEPSY	LAMICTAL	1996	DB-P
EPILEPSY	LAMICTAL	1996	OL
EPILEPSY	LAMICTAL	1996	DB-OL
EPILEPSY	LAMICTAL	1996	DB-OL
EPILEPSY	LAMICTAL	1996	OL-PK
DIAB PER NEUR	RHNGF	1997	DB-P
EPILEPSY	NEURONTIN	1997	OL
EPILEPSY	PHOSPHENYTOIN	1997	OL
EPILEPSY		1997	DB
EPILEPSY	134	1997	DB
EPILEPSY	VIGABITRIN	1997	OL
EPILEPSY	ZONISAMIDE	1997	OL-EXT
HEAD TRAUMA	CERESTAT	1997	DB
MIGRAINE		1997	DB
DIAB PER NEUR	RHNGF	1998	OL
EPILEPSY	LAMICTAL/DEPAKOTE	1998	SWITCH
MIGRAINE	VML-251	1998	DB-P
EPILEPSY	TOPAMAX	1998	DB-P
EPILEPSY	199	1998	OL
EPILEPSY	LAMICTAL	1998	OL
EPILEPSY	TOPAMAX	1999	OL-NOVO
EPILEPSY	LAMICTAL	1999	OL
GERD	TAP-PRIOLOSEC	1999	OL
EPILEPSY	KEPPRA/VPA	1999	OL
EPILEPSY	ZONISAMIDE	1999	OL
FEBRILE SEIZURE	DIASTAT	1999	
EPILEPSY		1999	OL
LENNOX GAUSTAUT	022	1999	DB-OL
CONTINUED	CONTINUED	CONTINUED	CONTINUED

INDICATION	STUDY DRUG	YEAR	TYPE
EPILEPSY	KEPPRA	2000	OL-EXT
EPILEPSY	ZONISAMIDE	2000	OL
ADHD	STRATTERA	2000	OL
EPILEPSY	LAMICTAL	2000	OL
EPILEPSY	LAMICTAL	2000	OL
EPILEPSY	KEPPRA	2000	DB-P
EPILEPSY	KEPPRA	2000	OL-EX
MIGRAINE	40276	2000	OL
EPILEPSY	101	2000	OL
EPILEPSY	205	2000	DB-P
ADHD	STRATTERA	2001	OL
EPILEPSY	LAMICTAL	2001	OL
EPILEPSY	LAMICTAL	2001	OL
EPILEPSY	40097	2001	1 OF 2
EPILEPSY	REMACEMIDE	2001	OL-EX
EPILEPSY	REMACEMIDE	2001	DB-P
EPILEPSY	REMACEMIDE	2001	OL-EXTN
DPN-PAIN	HRNGF	2001	DB-P
PARKINSONS	SUMANIROLE	2001	DB
DPN PAIN-	DULOXETINE	2002	DB
DPN-PAIN	DULOXETINE	2002	OL
ADHD	TOMOXETINE	2002	OL
PARKINSONS	021,011,031	2002	DB/OL
EPILEPSY	TALAMPANEL	2002	DB/OL
NEUROPATHY	LAMICTAL	2002	DB
NEUROPATHY	LAMICTAL	2002	OL
ANYUERYSM		2003	DB
EPILEPSY	TRILEPTAL	2003	DB
EPILEPSY	TRILEPTAL	2003	DB
DEPRESSION	LAMICTAL	2003	OL
EPILEPSY	LAMICTAL	2004	OL
NEUROPATHY	LAMICTAL	2004	DB/OL
EPILEPSY	SP754/LACOSAMIDE	2004	DB/OL
EPILEPSY	MO2-552	2004	DB/OL
ALZHEIMERS		2005	DB
EPILEPSY	LACOSAMIDE	2005	OL
DPN-PAIN	LACOSAMIDE	2005	OL
EPILEPSY	100034	2005	DB
EPILEPSY	100118	2005	DB
EPILEPSY	KEPPRA	2005	DB
MULTIPLE SCLEROSIS	MO3-654	2005	DB
EPILEPSY		2005	DB
EPILEPSY	CAPPS	2005	DB
CONTINUED	CONTINUED	CONTINUE	CONTINUED

EPILEPSY	SP902	2007	DB-H OR L
Multiple Sclerosis	2309	2007	OL
Multiple Sclerosis	2302	2007	DB
Epilepsy	Sp904	2008	OL
Multiple Sclerosis	Blo-302	2008	DB
Epilepsy	Eai-304	2008	DB
Epilepsy	Eai-307	2009	OL
Multiple Sclerosis	230901-fingolimod	2009	OL
Multiple Sclerosis	2302E1-fingolimod	2009	OL
Multiple Sclerosis	CBAF	2009	DB

Prepared on  
February 4, 2010

Ricardo Ayala, MD



**JEFFREY B. RASKIN, M.D.**  
**CURRICULUM VITAE**  
**NOVEMBER, 2009**

**BIRTH:** July 30, 1940 – New York City, New York

**PERSONAL:** Married, 1965 – Wife, Bobbie  
3 Children: Scott, Tracy and Lori

**HIGH SCHOOL:** 1) Suitland Junior-Senior High School  
Suitland, Maryland (1952-1956)  
2) Coral Gables Senior High School  
Coral Gables, Florida (1956-1958)

**COLLEGE:** University of Miami, Coral Gables, Florida  
PRE-MEDICAL (1958-1961)  
MAJOR: Chemistry  
MINOR: Zoology

**MEDICAL SCHOOL:** University of Miami School of Medicine  
Coral Gables, Florida (1961-1965)  
GRADUATED: June 8, 1965

**INTERNSHIP:** Jackson Memorial Hospital  
Miami, Florida  
MEDICINE  
June 24, 1965 – June 23, 1966

**RESIDENCY:** Jackson Memorial Hospital  
Miami, Florida  
INTERNAL MEDICINE  
July, 1966 – August, 1966  
September, 1968 – July, 1970  
DIRECTOR: William J. Harrington, M.D.

**FELLOWSHIP:** Jackson Memorial Hospital  
Miami, Florida  
GASTROENTEROLOGY  
July, 1970 – July, 1972  
DIRECTOR: Martin H. Kalser, M.D., Ph.D.

**MILITARY SERVICE:** Captain, United States Air Force  
Sewart Air Force Base  
Tennessee  
August, 1966 – August, 1968

**ORGANIZATIONS:**

**College:** Kappa Sigma – Social Fraternity  
Alpha Epsilon Delta – National Pre Med Honorary

**Medical School:** Alpha Kappa Kappa – medical Fraternity  
Student American Medical Association (SAMA)

**Medical:** American College of Physicians (Fellow)  
American College of Gastroenterology (Fellow)  
American Gastroenterological Association (Fellow)  
American Society for Gastrointestinal Endoscopy (Fellow)  
American Society of Internal Medicine  
American Society of Contemporary Medicine and Surgery  
Southern Gut Association  
Florida Society of Internal Medicine  
Florida Medical Association  
Dade County Medical Association (Miami)  
American Medical Association  
Florida Gastroenterologic Society  
Florida Society of Gastrointestinal Endoscopy  
The Royal Society of Medicine, London, England  
Southern Medical Association  
Pan American Medical Association

**Scientific:** New York Academy of Sciences

**BOARDS** National Board of Medical Examiners  
1966

**DIPLOMATE**  
American Board of Internal Medicine  
October, 1972

**DIPLOMATE**  
American Board of Internal Medicine  
**SUBSPECIALTY: GASTROENTEROLOGY**  
October, 1972

**ACADEMIC POSITIONS:**

PROFESSOR OF MEDICINE  
University of Miami School of Medicine  
Division of Gastroenterology  
June, 1986 – Present

PROFESSOR OF ONCOLOGY  
Secondary Appointment  
Department of Medical Oncology  
University of Miami School of Medicine  
September, 1986 – Present

PROFESSOR OF PEDIATRICS  
Secondary Appointment  
Department of Pediatrics  
University of Miami School of Medicine  
January, 1994 – 2009

ASSOCIATE PROFESSOR OF ONCOLOGY  
Secondary Appointment  
Department of Medical Oncology  
University of Miami School of Medicine  
September, 1985 – August, 1986

ASSOCIATE PROFESSOR OF MEDICINE  
University of Miami School of Medicine  
Division of Gastroenterology  
June, 1976 – May, 1986

ASSISTANT PROFESSOR OF MEDICINE  
University of Miami School of Medicine  
Division of Gastroenterology  
July, 1972 – June, 1976

TEACHING ASSOCIATE  
University of Miami School of Medicine  
January, 1972 – July, 1972

**HOSPITAL ASSOCIATIONS:**

**Attending Physician:** Jackson Memorial Hospital  
Miami, Florida

Veterans Administration Hospital  
Miami, Florida  
Retired: July, 1996  
WOC July, 1996 -

University of Miami Hospitals and Clinics  
Miami, Florida

U of Miami Hospital  
Miami, Florida

**ADMINISTRATIVE POSITIONS:**

Interim Chief  
Division of Gastroenterology  
University of Miami School of Medicine  
Miami, Florida  
January, 2002 – February, 2008

Cye Mandel Chair in Gastroenterology  
June, 2001 – Present

Director, Training Program in Gastroenterology  
University of Miami School of Medicine  
Miami, Florida  
July, 1988 – Present

Director of Endoscopy Training  
University of Miami School of Medicine  
Division of Gastroenterology  
Miami, Florida  
July, 1986 – 2008

Chief,  
Diagnostic and Therapeutic Gastrointestinal Endoscopy  
Jackson Memorial Hospital  
Miami, Florida  
1980 – 2009

Director, Gastrointestinal Diagnostic Unit

Jackson Memorial Hospital  
Miami, Florida  
1980 – 2009

Coordinator, Endoscopy Unit  
Veterans Administration Hospital  
Miami, Florida  
1980 – July, 1986

**AWARDS:**

- 1) FLORIDA GASTROENTEROLOGIC SOCIETY  
Distinguished Service Award  
Presented: Annual Meeting  
September 2001
- 2) FLORIDA GASTROENTEROLOGIC SOCIETY  
James L. Borland Sr. Memorial Award  
Presented: Annual Meeting  
September 2003
- 3) UNIVERSITY OF MIAMI SCHOOL OF MEDICINE  
Distinguished Alumni Award  
Presented: October 2004
- 4) AMERICAN GASTROENTEROLOGICAL ASSOCIATION FOUNDATION  
Mentor Research Scholar Award  
Presented: May 2007

**COMMITTEES:**

- 1) AMERICAN SOCIETY FOR GASTROINTESTINAL ENDOSCOPY

A. OFFICES

- a) COUNCILLOR  
1989 – 1993

B. COMMITTEES

- a) Post-Graduate Education Committee  
1976 – 1982

- b) Subcommittee on Audio Visual Library  
CHAIRMAN  
Established national Audio Visual library  
1977 – 1982
- c) Public Relations Committee  
1976 – 1977
- d) Committee on Liaison with Instrument Manufacturers  
Subcommittee for Publications  
CHAIRMAN  
1983 – 1985
- e) Nominating Committee  
1985 – 1987
- f) Program Selection Committee  
1987 – 1988
- g) Annual Postgraduate Course  
DIRECTOR  
1988
- h) Committee to Review Relationship with CRES  
1989
- i) Ethics Committee  
1991 – 1993
- j) Finance and Budget Committee  
1993 – 1995
- k) Strategic Planning Committee  
1993 – 1994
- l) CRES Executive Council  
Region 3  
1995 – 1996  
CHAIRMAN  
1996 – 1999

## 2) AMERICAN COLLEGE OF GASTROENTEROLOGY

### A. OFFICES

- a) GOVERNOR – South Florida  
1991 – 1994

### B. COMMITTEES

- a) Patient Care Committee  
Subcommittee for Development of Organizational Design for Clinical  
Research Projects  
CHAIRMAN  
1982 – 1984
- b) American College of Gastroenterology to American College of  
Physicians  
APPOINTED REPRESENTATIVE  
Clinical Efficacy Assessment Project on Endoscopic Statements:  
ERCP In Abdominal Pain  
Upper Endoscopy in Dysphagia  
Colonoscopy  
1983 – 1984
- c) Research Committee  
Developed Protocol for coordination of National Research Projects  
1983 – 1985
- d) Credentials Committee  
1985 – 1987
- e) Awards Committee  
1987 – 1989

## 3) AMERICAN COLLEGE OF PHYSICIANS (FLORIDA CHAPTER)

### A. COMMITTEES

- a) Physician Education Committee  
1989 – 1992

## 4) AMERICAN MEDICAL ASSOCIATION

- a) University of Miami Representative  
Section on Medical Schools  
1985 – Present

5) FLORIDA GASTROENTEROLOGIC SOCIETY

A. OFFICES

- a) TREASURER  
September, 1985 – September, 1986
- b) SECRETARY  
September, 1986 – September, 1987
- c) PRESIDENT-ELECT  
September, 1987 – September, 1988
- d) PRESIDENT  
September, 1988 – September, 1989

6) FLORIDA SOCIETY OF INTERNAL MEDICINE

A. OFFICES

- a) TREASURER  
1986 – 1987
- b) SECRETARY  
1987 – 1989
- c) VICE-PRESIDENT  
1989 – 1990
- d) PRESIDENT – ELECT  
1990 – 1991
- e) PRESIDENT  
1991 – 1992

B. COMMITTEES

- a) Postgraduate Education Committee  
CHAIRMAN  
1982-1984

- b) Subcommittee o establish Practice Management Seminars for Residents/Interns  
CHAIRMAN  
1982 – 1984
- c) Counselor of Society  
1982 – 1984
- d) Academic Affairs Committee  
CHAIRMAN  
1983 – 1985
- e) Finance Committee  
1985 – 1987

7) FLORIDA PHYSICIANS ASSOCIATION, INC.

A. OFFICES

- a) Board of Directors – District D  
1989 – 1993

8) FLORIDA MEDICAL ASSOCIATION

A. COMMITTEES

- a) Credentials Committee  
1987
- b) Reference Committee I  
Health and Insurance  
1988 – 1989  
CHAIRMAN  
1989
- c) Membership and Discipline Committee District 19  
1988 – 1989
- d) Committee on Government Programs  
1988 – 1989
- e) Committee on Clinical Excellence

1988 – 1991

- f) Council on Specialty medicine  
Florida Gastroenterologic Society – Representative  
1988 – 1989
- g) Reference Committee III  
Finance and Administration  
1990 – 1991  
CHAIRMAN  
1991
- h) Reference Committee II  
Public Policy  
1992
- i) Ad Hoc Committee ON RBRVS  
CHAIRMAN  
1992 – 1994

9) DADE COUNTY MEDICAL ASSOCIATION

A. OFFICES

- a) BOARD OF DIRECTORS  
Member  
1986 – 1991
- b) VICE-PRESIDENT  
1987 – 1988
- c) PRESIDENT-ELECT  
1988 – 1989
- d) PRESIDENT  
1989 – 1990

B. COMMITTEES

- a) Public Relations Committee  
1975 – 1976
- b) Grievance Committee  
1976 – 1977

- c) Florida Medical Association  
Alternate Delegate  
1983 – 1987  
Delegate  
1987 – 1994  
DELEGATION CHAIRMAN  
1991
- d) Public Service Committee  
1985 – 1988  
CHAIRMAN  
1986 – 1988
- e) Clinical Excellence Committee  
1989 – 1992
- f) Legislative Committee  
1992 – 1994

#### 10) MIAMI-DADE COUNTY PUBLIC SCHOOL SYSTEM

##### A. COMMITTEES

- a) District Athletic Advisory Committee (DAAC)  
1989 – 2009
- b) Committee on Evaluation of School Employee Health Insurance  
Programs  
CHAIRMAN  
1990
- c) Subcommittee (DAAC)  
Middle School Athletic Program  
CHAIRMAN  
1991 – 1993
- d) Superintendent's "Ad Hoc" Committee on Athletic Facilities  
1999

#### 11) SOUTHERN MEDICAL ASSOCIATION – GASTROENTEROLOGY SECTION

##### A. OFFICES

a) GI SECTION  
SECRETARY-ELECT  
1987

b) GI SECTION  
SECRETARY  
1988

c) GI SECTION  
CHAIRMAN  
1989

#### B. COMMITTEES

a) Steering Committee – GI Section  
1985 – 1993

b) Program Committee – GI Section  
1988

#### 12) PAN AMERICAN MEDICAL ASSOCIATION

a) Section on Gastroenterology  
CHAIRMAN  
1987 – 1989

#### 13) UNIVERSITY OF MIAMI, MIAMI, FLORIDA

##### A. COMMITTEES

a) Faculty Senate Athletic Committee  
1983 – 1988

b) Curriculum Committee  
School of Medicine  
1984 – 1987

c) Faculty Senate  
Professional Conduct Committee  
1992 - 2001

d) Executive Promotions Committee  
1998 – Present

e) Faculty Senate

2004 – 2010

- f) Faculty Council  
2004 – 2008

#### 14) UNIVERSITY OF MIAMI HOSPITAL AND CLINICS

##### A. COMMITTEES

- a) Fire and Disaster Committee  
1965 – 1977
  
- b) Pharmacy and Therapeutic Committee  
CHAIRMAN  
1978
  
- c) Steering Committee  
Private Patient Services  
1982 – 1986
  
- d) Quality Assurance Committee  
1983 – 1990
  
- e) DRG Committee  
CHAIRMAN  
1985 – 1987
  
- f) Credentials Committee  
1988 – 1990
  
- g) Executive Committee  
1991 – 1993

#### 15) JACKSON MEMORIAL HOSPITAL, MIAMI, FLORIDA

##### A. COMMITTEES

- a) Clinical Laboratory Committee  
CHAIRMAN  
1977 – 1978
  
- b) Laboratory Computer Committee  
1978

- c) Laser Safety Committee  
CHAIRMAN  
1994 – 1996

16) VETERANS ADMINISTRATION HOSPITAL, MIAMI, FLORIDA

- a) Medipro Physician Advisor  
Medical District 12  
1988 – 1991

17) ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION  
(ACGME)

- a) Pre-Reviewer  
Subspecialty of Gastroenterology  
1993 – Present

18) AMERICAN DIGESTIVE HEALTH FOUNDATION (ADHF)

A. COMMITTEES

- a) Member and Individual Giving Committee  
CHAIRMAN  
1995 – 1999
- b) Development Committee  
1999 – 2000

# FRANCIS C. SKILLING, JR., M.D.

## Curriculum Vitae

### Education:

A.B. Degree, English Literature, Spring Hill College, Mobile, AL  
1968

M.D. Degree, University of Alabama in Birmingham School of  
Medicine, 1972

Intern in Internal Medicine, University of Miami School of  
Medicine, 1973

Resident in Ophthalmology, University of Texas Medical  
Branch, 1975-78

Masters in Business Administration, MBA Program for  
Physicians, University of South Florida,  
1994-96

### Certification:

American Board of Ophthalmology, 1979 (permanent)

### Professional Organizations:

Capital Medical Society  
Florida Medical Association  
American Medical Association  
Florida Society of Ophthalmology  
American Academy of Ophthalmology, Fellow  
Society to Prevent Blindness

University Appointment:

Clinical Assistant Professor in Ophthalmology  
FSU College of Medicine, 2003-present

Member Selection Committee, FSU College of Medicine,  
active

Teaching Experience:

Preceptor in Ophthalmology, TMH Family Practice Program,  
1980-present

Hospital Appointments:

Tallahassee Memorial Hospital, Senior Active Staff, 1978—  
current

Capital Regional Medical Center, Senior Active Staff, 1980—  
current

Committee Appointments:

President, CMS Service Corp., 2004-present

Credentials Committee, CRMC, 1990-present

President, Medical Executive Committee, CRMC, 1992-93

Member, Medical Executive Committee, TMH, 1996

Member, Publications Committee, Capital Medical Society,  
1985-present

Clinical Experience:

Private Ophthalmology Practice, Eye Associates of  
Tallahassee, P.A. 1978-present

Managing Partner, 1995-present

Volunteer Experiences and Outreach Programs:

Local:

We Care Program, Capital Medical Society

Children's Medical Services, Dept of Children & Families

Florida State Hospital, Ophthalmology Consultant

State:

Division of Blind Services

Medicaid Provider since 1979

International:

Institute for Latin American Concern (ILAC),  
Preceptor in Dominican Republic for  
Creighton University medical students

International Eye Foundation

Volunteer Ophthalmologist, Nakuru, Kenya

Volunteer Ophthalmologist, St. Kitts and Nevis,  
West Indies

Military Service:

Medical Officer, U.S. Navy and Marine Corps, 1973-75

Managed Care Experience:

President, Health Plan Southeast, 1990-94

Licensure:

State of Florida, unrestricted medical license since 1973

CURRICULUM VITAE  
IRA J. GOODMAN, M.D.

PERSONAL HISTORY

Business Address: 32 West Gore Street  
5<sup>th</sup> Floor  
Orlando, Florida 32806

Business Phone: (321) 841-2452  
Business Fax: (321) 841-4076

Date of Birth: July 8, 1952

Place of Birth: Wilkes-Barre, Pennsylvania

Marital Status: Married, one son, one daughter

EDUCATION

Undergraduate Dickinson College  
Carlisle, Pennsylvania  
Bachelor of Science, Biology (1974)  
Magna Cum Laude

Graduate Medical College of Pennsylvania  
Philadelphia, Pennsylvania  
Doctor of Medicine (1979)

Honors Recognition Anatomy, Neuro-Anatomy  
Physiology, Pharmacology  
Clinical Neurology

Postdoctoral Orlando Regional Medical Center  
Orlando, Florida  
Internship, Internal Medicine (1979-1980)  
Barry Sieger, M.D., Chairman Medical  
Residency Program

Postdoctoral Shands Teaching Hospital and  
Veterans Administration Medical Center  
University of Florida School of Medicine  
Gainesville, Florida  
Residency, Neurology (1980-1983)  
Melvin Greer, M.D., Chairman Department of  
Neurology  
Research involved multiple clinical drug trials in  
Epilepsy  
Publications focused on clinical application of  
Evoked Potentials

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LICENSURE

Florida Medical License

ME0041137

BOARD CERTIFIED

Certified in Neurology by the  
American Board of Psychiatry and Neurology

SOCIETIES

American Academy of Neurology  
Florida Neurologic Association  
American Association for the Study of  
Headache  
Southern Medical Association  
Southern EEG Society  
Florida Medical Association

HONORS & DISTINCTIONS

2006

Dept. of Highway & Motor Vehicles  
Medical Advisory Panel

2003

Appointed to Gov. Bush's Advisory  
Council on Impaired Drivers

Selected for "Best Doctors" (National)

2000,2001,2002,2003,  
2004,2005,2006,2007  
2008, 2009

Top Neurologist in Central Florida  
Consecutive Years  
Orlando Magazine / Orlando, Florida

1989

*Attending Physician of the Year Award*  
Orlando Regional Medical Center  
Orlando, Florida

1987- 1988

*Attending Physician of the Year Award*  
Orlando Regional Medical Center  
Orlando, Florida

HOSPITAL AFFILIATION

Orlando Regional Medical Center  
Sand Lake Hospital  
Winnie Paimer Hospital  
Lucerne Hospital

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MEMBERSHIPS AND COMMITTEES

July 1999- 2004 (Re-elected)	Vice Chairman: Department of Medicine Orlando Regional Healthcare System Orlando, Florida
1997	Chairman: Spring Epilepsy Symposium Epilepsy Association of Central Florida
1997	Speakers Bureau: Park Davis Speakers Bureau: Novartis Speakers Bureau: Glaxo Wellcome
1995	Advisory Board <i>Lifestyles Index for Persons with Epilepsy</i>
1994 - Present	Chairman: Department of Neurology Orlando Health
1983	Professional Advisory Board Epilepsy Association of Central Florida

PROFESSIONAL APPOINTMENTS

2006-Present	Faculty - UCF Neuroscience
2004-Present	Faculty - FSU School of Medicine
10/01/99 - 12/31/04	Neurological Services of Orlando, P.A. Private Practice / Adult Neurology
1998-Present	Associate Clinical Professor Department of Neurology University of Florida, School of Medicine
1994 - Sept. 1999	Director of Medical Education Department of Neurological Services Orlando Regional Healthcare Systems
1995 - Present	Director, State Funded Memory Disorders Clinic - Orlando Health
1995 - Present	Associate Clinical Professor Department of Medicine University of Florida, School of Medicine
1983 - Present	Attending in Neurology Internal Medicine Residency Program Orlando Regional Medical Center
1983-1994	Neurology Consultants, P.A. Private Practice / Adult Neurology

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ACADEMIC AND RESEARCH

- 2009 Article in Print  
*Switching from Oral Cholinesterase Inhibitors to the Rivastigmine Patch: A Review of Clinical Data*
- 2008 Review Article  
*Practical Utility of Urinary Assay in the Diagnosis of Alzheimer's Disease: Alzheimer Alert Expert Rev. Mol. Diagn. 8 (1) 21-28 (2008)*
- 2007-2008 Principal Investigator - Validation Study for Dipstick Measurement of Urine NTP
- 2007 Principal Investigator and Lead Author  
*A Multi-center Blinded Prospective Study of Neural Thread Protein in Patients with Suspected Alzheimer's Disease" J AM MED DIR ASSOC. Volume 8, Issue 1 pgs. 21-30*
- 2006- Present Organizer Annual International Brain Conference at University of Central FL
- 2006 Poster presentation on *Urine Neural Thread Protein in MCI at 27<sup>th</sup> Annual International Neurophysiology Meeting* Edinburgh, Scotland
- 2006 Poster presentation *Urine Neural Thread Protein in Alzheimer's Disease* Annual American Medical Directors Association Meeting Dallas, Texas
- 2006 Lecture-Urine Neural Thread Protein Biomarker in AD Alzheimer's Disease Initiative Research Sub-committee Meeting Orlando, Florida
- 2006 Poster presentation-Urine Neural Thread Protein Biomarker in AD American Psychiatric Association New York City, NY
- 2006 Presentation on *Alzheimer's Disease Biomarkers* at International Bologna Neurologic Conference Bologna, Italy

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ACADEMIC AND RESEARCH

2006	Poster presentation on <i>Urine Neural Thread Protein in Alzheimer's</i> at APA National Meeting Toronto, Canada
2005	Presentation to FDA on <i>Urine Neural Thread Protein in Alzheimer's Disease</i> Washington, DC
2003	Speaker: <i>Acute Management of Stroke</i> Geriatric Medicine Conference Orlando Regional Healthcare System Lake Buena Vista, Florida
2000- Present	Numerous Lectures: <i>Diagnosis and Treatment of Alzheimer's Disease</i>
1999, April	Grand Rounds: <i>Headache Management in 1999</i>
1999, March	Invited Speaker: <i>Treatment Options in Dementia</i> East Central Florida Memory Disorder Clinic
1999, February	Featured Speaker: <i>Treatment of Alzheimer's Disease</i> Walt Disney World Contemporary Resort Lake Buena Vista, Florida
1999, January	Grand Rounds: <i>Management of Stroke</i> Halifax Hospital Daytona Beach, Florida
1998	Principal Investigator <i>Alzheimer's Prevention Study</i>
1998-1999	Co-Investigator <i>BMS-204352/Neuroprotection in Stroke</i>
1998-1999	Principal Investigator <i>Pregabalin Study in Epilepsy</i>
1998, October	Speaker: <i>The Treatment of Epilepsy</i> Department of Corrections Orlando, Florida
1998, September	Guest Speaker: <i>War Against Seizures</i> University of Florida Gainesville, Florida
1998, August	Grand Rounds: <i>AED Use in Neurologic Conditions</i> Tallahassee Memorial Hospital Tallahassee, Florida

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ACADEMIC AND RESEARCH

1998, March	Speaker: <i>Update in Epilepsy</i> Ortho-McNeil
1998, March	Grand Rounds: <i>AED Use in Neurological Condition</i> Eisenhower Army Hospital
1998, January	Speaker: <i>New Approaches to Epilepsy</i> Florida Pharmacy Association
1997, July	Speaker: <i>Update on Migraine</i> Veterans Administration Medical Center Orlando, Florida
1997, May	Speaker: <i>Status Epilepticus</i> Spring Epilepsy Symposium Epilepsy Association of Central Florida
1997, April	Speaker: <i>Update on Epilepsy</i> Veterans Administration Medical Center Gainesville, Florida
1997, March	Speaker: <i>Update on Migraine and Update on Epilepsy</i> Annual Internal Medicine Conference Orlando Regional Healthcare System Lake Buena Vista, Florida
1995	Principal Investigator <i>SB202026 In Treatment of Alzheimer's Disease</i>
1995	Principal Investigator <i>Phosphenytoin in Treatment of Acute Stroke</i>
1995	Principal Investigator <i>Alpha Interferon In Treatment of Multiple Sclerosis</i>
1995	<u>Cost Benefit Analysis of Epilepsy Treatment By the Neurologist</u> Vol. 1, Number 3 Nov/Dec 1995 American Journal of Managed Care
1995, October	Speaker: <i>Special Topics in Epilepsy</i> University of Florida Orlando, Florida/Swan & Dolphin Resort

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1995

Faculty Member  
*Mastering Epilepsy*  
Regional Consultants Meeting (July 20-23)

1995

Faculty Member: *Current Management of Epilepsy Home Study Program*

1985

Publication: *Auditory Brain-Stem Potential With Unilateral Pontine Hemorrhage*  
Arch Neurol. 1985; 42 (8): 767-768

*Curriculum Vitae*  
**DAVID Y. HUANG, M.D.**

**PERSONAL:**

Birthdate: January 4, 1961  
 Birthplace: Taipei, Taiwan  
 Citizenship: United States  
 Residence Address: 3681 Letitia Lane  
 Tallahassee, FL 32312  
 (850) 385-7933 Home (850) 567-3985 Cell  
 Office Address: Tallahassee Pulmonary Clinic, P.A.  
 1401 Centerville Rd, Suite G-02  
 Tallahassee, FL 32308  
 (850) 878-8714 (850) 201-0091 Fax  
 Marital Status: Married with 4 children  
 Hobbies: Tennis, jogging, fishing

**CURRENT POSITIONS:**

Partner in Tallahassee Pulmonary Clinic, P.A.: July 1992-current (September 2010)  
 Medical Director, Tallahassee Memorial Sleep Center: 2009-current  
 Internal Medicine Clerkship Faculty, Florida State University College of Medicine: 2003-current

**EDUCATION:**

B.S., May 1982; University of Florida; Gainesville, Florida  
 M.D., June 1985; University of Florida College of Medicine; Gainesville, Florida

**POSTGRADUATE TRAINING:**

Internship - University of Texas Southwestern Affiliated Hosp (Parkland Memorial Hosp and Dallas VAMC)  
 Dallas, TX; July 1985 - June 1986  
 Specialty: Internal Medicine  
 Residency - University of Texas Southwestern Affiliated Hosp  
 Dallas, TX; July 1986 - June 1988  
 Specialty: Internal Medicine  
 Fellowship - University of Florida (Shands Teaching Hospital and Gainesville VAMC)  
 Gainesville, FL; July 1989 - June 1992  
 Specialty: Pulmonary Medicine and Critical Care Medicine

**ACADEMIC APPOINTMENTS:**

Instructor, Introduction to Clinical Medicine course for second-year medical students  
 University of Texas Southwestern Medical School at Dallas  
 September 1986 - May 1987  
 Assistant Professor of Internal Medicine, Clinical Track  
 University of Texas Southwestern Medical Center at Dallas  
 Department of Internal Medicine, Division of General Internal Medicine  
 July 1988 - June 1989  
 Internal Medicine Clerkship Faculty  
 Florida State University College of Medicine, Tallahassee Campus  
 July 2003 - current

**HONORS AND MEMBERSHIPS:**

Phi Beta Kappa, 1982  
Alpha Omega Alpha, 1985  
 Member of American College of Physicians, 1989  
 Fellow of American College of Chest Physicians, 1995  
 Fellow of American Academy of Sleep Medicine, 1999

**BOARD CERTIFICATION:**

Diplomate, Internal Medicine, American Board of Internal Medicine (ABIM): September, 1988  
 Diplomate, Pulmonary Disease, ABIM: November, 1992. Recertified in 2002  
 Diplomate, Critical Care Medicine, ABIM: November, 1993. Recertified in 2003  
 Diplomate, Sleep Medicine, American Board of Sleep Medicine (April, 1999) and ABIM (Nov, 2009)

**LICENSURE:**

State of Florida, No. ME 0055299

**HOSPITAL AFFILIATIONS:**

Tallahassee Memorial Hospital: 1992-current, Active medical staff  
 Capital Regional Medical Center: 1992-current, Active medical staff (formerly Tallahassee Community Hospital)  
 HealthSouth Rehabilitation Hospital of Tallahassee: 1992-current, Consulting medical staff  
 HealthSouth Sleep Disorders Center of Tallahassee: 2002-2007, Medical Director  
 Tallahassee Memorial Sleep Center: 2009-current, Medical Director

**COMMITTEES and VOLUNTEER TEACHING:**

Pharmacy and Therapeutics Committee, Tallahassee Memorial Hospital (TMH) 1993-current  
 Anticoagulation Subcommittee of Pharmacy and Therapeutics Committee, TMH 1994-2008  
 Anti-infective (Antibiotic) Subcommittee of Pharmacy and Therapeutics Committee, TMH 1994-2008  
 Pneumonia and Asthma lectures to Florida A & M Physical Therapy students yearly 1993-2000  
 Pulmonary Medicine lectures to TMH Family Practice housestaff yearly 1996-2005  
 Chairman of Department of Medicine, TMH 1998-2000  
 Medical Executive Committee, TMH 2000-2003  
 CRT Committee, TMH 2000-2004  
 Cardiovascular Surgery Case Review Committee, Capital Regional Medical Center 2001-2005  
 Physician Volunteer at Neighborhood Health Services to assist with indigent patients quarterly 2002-2003  
 Chairman of Clinical Ethics Committee, TMH 2004-current  
 Medical Advisory Committee for the Chief Medical Officer (John Mahoney, M.D.), TMH 2005-2008

**PRESENTATIONS since 1993:**

1993 Asthma Update, TMH luncheon seminar  
 1995 Cardiopulmonary Exercise Testing, TMH luncheon seminar  
 1998 Positive Pressure Therapy, Tallahassee Pulmonary Symposium sponsored by American Lung Assoc  
 1998 Seven Consecutive Cases of Peri-operative Pulmonary Embolism with a Bad Outcome, Tri-state  
 Consecutive Case Conference on Lung Disease sponsored by American Thoracic Society of Florida, S.  
 Carolina, Georgia  
 1998 Upper Airway Resistance Syndrome, TMH Sleep Medicine Conference  
 1998 CPAP, BiPAP, and AutoCPAP, TMH Sleep Medicine Conference  
 1999 Obesity and Obstructive Sleep Apnea, Obesity Symposium sponsored by Capital Medical Society  
 1999 The Difficult Asthmatic, dinner sponsored by Rhone-Poulenc  
 1999 Evaluation of the Sleepy Patient, TMH Sleep Medicine Conference  
 2000 The History of Sleep Medicine, TMH Sleep Medicine Conference  
 2000 The Drowsy Driver, TMH Sleep Medicine Conference  
 2001 Sleep Medicine in the 21st Century, TMH Sleep Medicine Conference  
 2001 The Drowsy Driver, Forestry Service of U.S. Department of Agriculture  
 2002 Education for Physicians on End-of-Life Care (EPEC) core curriculum sponsored by TMH:  
 1. Gaps in End-of-Life Care  
 2. Communicating Bad News  
 3. Withholding and Withdrawing Treatment  
 2002 Moderator: Five Consecutive Cases of Pulmonary Embolism with a Bad Outcome, Tri-state  
 Consecutive Case Conference on Lung Disease sponsored by American Thoracic Society of Florida, S.  
 Carolina, Georgia  
 2002 End-of-Life Issues, TMH Family Practice Residency Program luncheon  
 2002 Pulmonary Function Testing, Lecture for first year students at Florida State University College of  
 Medicine  
 2003 Sleep Medicine in the 21st Century, Tallahassee Pulmonary Symposium sponsored by American Lung  
 Assoc  
 2003 The Drowsy Driver, TMH Family Practice Residency Program luncheon  
 2003 Chronic Cough, TMH Family Practice Residency Program luncheon  
 2003 Education for Physicians on End-of-Life Care (EPEC) core curriculum sponsored by TMH:  
 1. Communicating Bad News  
 2. Medical Futility  
 3. Withholding and Withdrawing Treatment

- 2004 Obstructive Sleep Apnea-Hypopnea Syndrome, University of Washington Orthodontics Department  
 2004 Education for Physicians on End-of-Life Care (EPEC) core curriculum sponsored by TMH:
1. Gaps in End-of-Life Care
  2. Communicating Bad News
  3. Sudden Illness
  4. Medical Futility
  5. Withholding and Withdrawing Treatment
- 2004 Obstructive Sleep Apnea and Nasal CPAP, Patient education seminar sponsored by American Homepatient, HealthSouth Sleep Disorders Center, and Tallahassee Pulmonary Clinic  
 2005 The History of Sleep Medicine, Florida State University College of Medicine Grand Rounds  
 2005 DVT: Understand the Risk, TMH Luncheon Seminar  
 2005 Obstructive Sleep Apnea and Nasal CPAP, Patient education seminar sponsored by American Homepatient, HealthSouth Sleep Disorders Center, and Tallahassee Pulmonary Clinic  
 2005 Restless Legs Syndrome: The Facts, TMH Luncheon Seminar  
 2005 Pulmonary Hypertension, TMH Family Practice Residency Program luncheon  
 2005 Clinical Ethics, TMH Leadership Retreat  
 2006 Update on Narcolepsy, TMH Luncheon Seminar  
 2006 Restless Legs Syndrome, Presentation at Premier Health and Fitness Club  
 2006 Clinical Ethics, Leadership Tallahassee Seminar held at TMH  
 2007 Obstructive Sleep Apnea and Restless Legs Syndrome, Capital Medical Society Monthly Meeting  
 2007 Obstructive Sleep Apnea, Tallahassee Pulmonary Symposium sponsored by American Lung Assoc  
 2008 Case Presentations, Tallahassee Pulmonary Symposium sponsored by American Lung Assoc  
 2008 Women and Sleep, TMH Luncheon Seminar at A Women's Place  
 2008 Clinical Ethics, TMH Ethics Committee meeting  
 2008 Restless Legs Syndrome, Presentation at Premier Health and Fitness Club  
 2009 Women and Sleep, Presentation at Premier Health and Fitness Club  
 2010 Adolescents and Sleep, Presentation at Premier Health and Fitness Club  
 2010 Case Presentations, Tallahassee Pulmonary Symposium sponsored by American Lung Assoc  
 2010 The Drowsy Worker, Big Bend EAP Association Chapter  
 2010 The Drowsy Driver, Presentation at Tallahassee Memorial Sleep Center Conference

#### BIBLIOGRAPHY:

1. Weingarten JS, Huang DY, Jackman JD: Rhodococcus equi pneumonia. *Chest*. 1988; 94:195-96.
2. Huang DY: Tuberculous muscle abscess: An unusual presentation of tuberculosis. *Am J of Medicine*. 1990; 88 (supplement 5):57-59N.
3. Huang DY, Kohuth C, Harman E: Clinical prediction of bronchial responsiveness to inhaled allergen. *ARRD*. 1990; 141:A839.
4. Huang DY, Harman EM, Friedman BS, Tanaka W, Cooper R, Hendeles L: Effect of a leukotriene synthesis inhibitor on the early and late asthmatic response. *Chest*. 1990; 98 (supplement 2):50S.
5. Cooper R, Huang D, Harman E, Blake K, Hendeles L: Serum theophylline concentration fluctuations with a new once-a-day product. *Annals of Allergy*. 1991; 66:96.
6. Hendeles L, Harman E, Huang D, Cooper R, Delafuente J, Blake K: Theophylline attenuation of allergen-induced airway hyperactivity and late response. *J Allergy Clin Immunol*. 1991; 87:167.
7. Carpenter JL, Huang DY: Community-acquired pulmonary infections in a public municipal hospital in the 1980's. *Southern Medical Journal*. 1991; 84:299-306.
8. Powers S, Martin D, Cicale M, Collop N, Huang D, Criswell D: Exercise-induced hypoxemia in athletes: role of inadequate hyperventilation. *European Journal of Applied Physiology*. 1992; 65:37-42.
9. Martin D, Powers S, Cicale M, Collop N, Huang D, Criswell D: Validity of pulse oximetry during exercise in elite athletes. *Journal of Applied Physiology*. 1992; 72(2):455-58
10. Huang DY, O'Brien RG, Harman EH, et al: Does aminophylline benefit adults admitted to the hospital for an acute exacerbation of asthma? *Annals of Internal Medicine*. 1993; 119:1155-60.
11. Hendeles L, Harman E, Huang D, et al: Theophylline attenuation of airway responses to allergen: comparison with cromolyn MDI. *J Allergy Clin Immunol*. 1995; 95:505-14.
12. Huang DY: The drowsy driver. *Jacksonville Medicine, Journal of the Duval County Medical Society*. 2001; 52:120-124.

REFERENCES:

1. Spencer Gilleon, M.D.  
1405 Centerville Road, Suite 500  
Tallahassee, FL 32308  
(850) 877-0101
2. F. Ray Dolly, M.D.  
1401 Centerville Road, Suite G-02  
Tallahassee, FL 32308  
(850) 878-8714
3. Robert Rowland, M.D.  
1401 Centerville Road, Suite 700  
Tallahassee, FL 32308  
(850) 216-0120
4. Eloise Harman, M.D.  
Box 100225  
University of Florida College of Medicine  
Gainesville, FL 32610  
(352) 392-2666
5. John P. Mahoney, M.D.  
Medical Staff Office  
Tallahassee Memorial Hospital  
1300 Miccosukee Road  
Tallahassee, FL 32308  
(850) 431-5888

DR. FREDERICK F. FLINK  
BOARD CERTIFIED OPTOMETRIST  
3499 THOMASVILLE ROAD, SUITE 3  
TALLAHASSEE, FL 32309

PHONE (850) 894-3710

FAX (850) 894-0925

**Dr. Frederick F. Flink**  
Board Certified Optometrist

**Board Certified in Ocular Therapeutics** - Certified by the Florida Board of Optometry in 1987 to diagnose and treat anterior segment eye diseases and glaucoma.

**Personal**

Marital Status: Married

Residing: Tallahassee, FL (1985 - present)

**Education**

**Bachelor of Science - B.S.** - University of Miami (Coral Gables, FL) - 1970  
Major: Chemistry Minors: Biology, Psychology

**Doctor of Optometry - O.D.** - Illinois College of Optometry (Chicago, IL) - 1974

**Post Doctorate Continuing Education** - over five hundred hours of course work attended and completed with emphasis on Ocular Pathology and Contact Lenses.

**Licensed Optometrist**

State of Florida (1974 - )

**Memberships/Offices/Appointments**

Medical Advisory Board of the Florida Department of  
Highway Safety and Motor Vehicles (May 2007 - Present)

State of Florida At Risk Drivers Council (July, 2003- May 2007)

Northwest Florida Optometric Association  
(Vice President - May, 2002- March, 2003; President - March, 2003-March, 2005)

Florida Optometric Association  
Southern Council of Optometrists  
American Optometric Association  
Optometric Advisory Board Capital Eye Center (1995-1997)

**MEDICAL ADVISORY BOARD  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

	<b>Specialty</b>	<b>Current Term</b>
<b>Dr. Gurusami M. Lakshmin, Chairman</b> Neil Kirkman Building, MS 86 Tallahassee, Florida 32399 <b>Original Appt. Date: 11/2007</b>	Internal Medicine (850) 617-2710	11/2007 – 11/2011
<b>Dr. Ricardo Ayala</b> 1401 Centerville Road, Suite 300 Tallahassee, Florida 32308 <b>Original Appt. Date: 09/1994</b>	Neurology (850) 878-8121	09/2006 – 09/2010
<b>Dr. Baxter Byerly</b> 960 Live Oak Plantation Road Tallahassee, Florida 32312 <b>Original Appt. Date: 06/1983</b>	Ophthalmology (850) 385-7840	06/2007 – 06/2011
<b>Dr. J. Paul Grant</b> 1351 East Call Street Tallahassee, Florida 32301 <b>Original Appt. Date: 05/1989</b>	Chiropractic (850) 878-2369	06/2009 – 06/2013
<b>Dr. Jeffrey Barry Raskin</b> 13100 Southwest 108th Place Miami, Florida 33176 <b>Original Appt. Date: 09/1992</b>	Gastroenterology (305) 243-8644	09/2006 – 09/2010
<b>Dr. Carl A. Salvati</b> 13455 Military Trail, Suite A Delray Beach, Florida 33484 <b>Original Appt. Date: 10/1991</b>	Neurology (561) 487-3823	10/2007 – 10/2011
<b>Dr. Jack B. Shumate</b> 100 Doctors Drive, Suite B Panama City, Florida 32405 <b>Original Appt. Date: 10/1987</b>	Neurology (850) 872-1300	10/2007 – 10/2011
<b>Dr. Francis Curie Skilling</b> 2020 Fleischmann Road Tallahassee, Florida 32308-4599 <b>Original Appt. Date: 01/2007</b>	Ophthalmology (850) 878-6161	01/2007 - 01/2011
<b>Dr. David Y. Huang</b> Tallahassee Pulmonary Clinic, P.A 1401 Centerville Road, Suite G-02 Tallahassee, Florida 32308 <b>Original Appt. Date: 01/2007</b>	Pulmonary Disease (850) 878-8714	01/2007 – 01/2011

<b>Dr. Ira J. Goodman</b> 1404 Kuhl Avenue Third Floor Orlando, Florida 32806 <b>Original Appt. Date: 01/2007</b>	Neurology (321) 841-2452	01/2007 - 01/2011
<b>Dr. David P. Campbell</b> 2121 South Tamiami Trail Sarasota, Florida 34239-3804 <b>Original Appt. Date: 01/2007</b>	Ophthalmology (941) 955-6363	01/2007 - 01/2011
<b>Dr. Frederick F. Flink</b> 3499 Thomasville Road, Suite 3 Tallahassee, Florida 32309 <b>Original Appt. Date: 01/2007</b>	Optometry (850) 894-3710	01/2007 - 01/2011
<b>Dr. Vicki Erwin-Wilson</b> 2621 Mitcham Drive Unit 103 Tallahassee, Florida 32308 <b>Original App. Date: 11/08</b>	Family Practice (850) 219-2273	11/2008 – 11/2012
<b>Dr. Andrea Randell</b> 2626 Care Drive, Suite 200 Tallahassee, Florida 32308 <b>Original Appt. Date: 11/08</b>	Internal Medicine (850) 878-8235	11/2008 – 11/2012