

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

COMMITTEE MEETING AGENDA

December 8, 2025

412 Knott Building

3:30 p.m. – 5:30 p.m.

CALL TO ORDER AND ROLL CALL

CHAIR'S REMARKS

UPDATE ON PREVIOUS OBJECTIONS:

**Agency for Health Care Administration
Department of Management Services**

TAB 1 UPDATE ON OTHER STAFF ACTIVITIES:

Department of Business and Professional Regulation:

- Nullification/repeal of rule 61A-4.0371, F.A.C., authorizing an excise tax deduction for wine and spirit spillage and spoilage.
- Remarks by the Department of Business and Professional Regulation regarding action taken by the Department to notify alcoholic beverage distributors of the September 2, 2025, repeal of rule 61A-4.0371, F.A.C., and any plan to recoup tax deductions.

NEW OBJECTION:

TAB 2 Department of Health, Board of Pharmacy – Proposed rule 64B16-27.4001, Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist; Supervision of More than One Registered Pharmacy Technician.

TAB 3 PRESENTATION/REMARKS:

Department of Health:

- **Status of rulemaking for sickle cell disease and sickle cell trait registry.**
-

TAB 4 PRESENTATION/REMARKS:

Division of Administrative Hearings:

- **Position on appointment of ALJs being the same process as JCCs.**
 - **Discussion of adherence to both judicial and DOAH precedent in Final and Recommended Orders.**
 - **Use of legislative appropriations vs. monies reimbursed from contracted entities.**
 - **Status of arbitration proceedings with Citizens Property Insurance.**
-

REPORTS AND APPEARANCES

TAB 1

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

November 14, 2025

Mr. Andrew R. Fier
General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

RE: Former Rule 61A-4.0371, F.A.C. – Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages

Dear Mr. Fier:

Thank you for your letter of November 6, 2025, regarding the status of the above-referenced rule. Although I appreciate the fact that the Department "is thoroughly and thoughtfully reviewing the matters raised," in my letter, the response failed to answer the more immediate questions as to the current status of the provisions of the rule. More specifically, has the Department advised the entities affected by the rule of its repeal, and whether any claims for a deduction filed after September 2, 2025, have been accepted by the Department? I understand that additional time may be required for the Department to determine whether it will seek to recoup any deductions.

I look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

KJP:tf



dbpr

Ron DeSantis, Governor
Melanie S. Griffin, Secretary

November 6, 2025

Mr. Kenneth J. Plante
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1400

Subject: Former rule 61A-4.0371, F.A.C. – Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages

Dear Mr. Plante,

My name is Andrew Fier, and I am the General Counsel for the Florida Department of Business and Professional Regulation (DBPR). I am in receipt of your October 20, 2025, correspondence regarding former rule 61A-4.0371, F.A.C. to Director Jerome Worley with DBPR's Division of Alcoholic Beverages and Tobacco. This confirms that DBPR is thoroughly and thoughtfully reviewing the matters raised.

Sincerely,

Andrew R. Fier
General Counsel

RECEIVED
2025 NOV 14 AM 10:47
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gactz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

October 20, 2025

Mr. Jerome Worley, Director
Division of Alcoholic Beverages and Tobacco
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-0791

**Re: Former rule 61A-4.0371, F.A.C. - Excise Tax Deduction for Breakage and Spoilage
of Alcoholic Beverages**

Dear Mr. Worley:

Please advise the Committee as to what actions or proposed actions that the Division has taken or will be taking following the repeal of rule 61A-4.0371, Florida Administrative Code, by the Department of State on September 2, 2025, to advise alcoholic beverage distributors that the deductions are no longer available. Does the Division intend to recoup any of the deductions taken since the repeal of section 564.06(5), Florida Statutes, and prior to the repeal of the rule?

Your attention to this matter is appreciated. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

KJP:tf #195659

61A-4.0371 Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages.

Rulemaking Authority 561.11 FS. Law Implemented 561.55(1), 563.05, 564.06, 565.12 FS. History—New 3-1-76, Formerly 7A-4.371, Amended 7-1-87, Formerly 7A-4.0371, Amended 2-24-94, Repealed by Section 1, Chapter 1985-204, Laws of Florida.



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

August 27, 2025

Ms. Alexandra Leijon
Administrative Code and Register Director
Office of General Counsel
Department of State
Room 701, The Capitol
Tallahassee, FL

Re: Notice of Nullification of Rule 61A-4.0371, F.A.C.

Dear Ms. Leijon:

Pursuant to section 120.536(2)(a), Florida Statutes, notice is hereby provided of the nullification of rule 61A-4.0371, Florida Administrative Code.

Section 120.536(2)(a), Florida Statutes, provides:

The repeal of one or more provisions of law implemented by a rule that on its face implements only the provision or provisions repealed and no other provision of law nullifies the rule. Whenever notice of the nullification of a rule under this subsection is received from the committee or otherwise, the Department of State shall remove the rule from the Florida Administrative Code as of the effective date of the law effecting the nullification and update the historical notes for the code to show the rule repealed by operation of law.

Rule 61A-4.0371, Florida Administrative Code, entitled "Excise Tax Deduction for Breakage and Spoilage of Alcoholic Beverages," provides: "(1) Distributors which distribute malt, vinous, and spirituous beverages shall make an excise tax deduction in their monthly tax report for alcoholic beverages which have become unsaleable through warehouse breakage, spoilage, evaporation, expiration, or which have become unfit for human consumption . . ." within certain specified amounts.

Ms. Alexandra Leijon

August 27, 2025

Page 2

The historical note of the rule cites section 564.06, Florida Statutes, as a law implemented. At the time of the rule's adoption, section 564.06(5) provided: "[T]here shall be a 2-percent discount allowed to the manufacturer or bottler on the amount of taxes assessed against wine for his losses from shrinkage, in filtering, breakage, and waste in bottling" This provision was repealed by the Legislature in 1985 by s. 1, chapter 85-204, Laws of Florida.

Sections 561.55(1), 563.05, 564.06 and 565.12, Florida Statutes, also cited as laws implemented, are inapplicable and do not relate to excise tax deductions.

Based on the foregoing, rule 61A-4.0371, Florida Administrative Code, is nullified as a matter of law, and should be removed from the Florida Administrative Code.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth J. Plante", written in a cursive style.

Kenneth J. Plante
Coordinator

cc: Mr. Jerome Worley, Division Director
Ms. Susan Hartmann Swartz, Department Rules Attorney

TAB 2

JOINT ADMINISTRATIVE PROCEDURES COMMITTEE

OBJECTION REPORT

AGENCY: DEPARTMENT OF HEALTH, BOARD OF PHARMACY

RULE NUMBER: PROPOSED RULE 64B16-27.4001

TITLE: Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist; Supervision of More than One Registered Pharmacy Technician.

OBJECTIONABLE PROVISIONS:

64B16-27.4001

64B16-27.4001 Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist; Supervision of More than One Registered Pharmacy Technician.

(1) Delegation: A pharmacist shall not delegate more tasks than he or she can personally supervise and ensure compliance with this rule. A pharmacist may delegate non-discretionary tasks to the following:

(a) Registered Pharmacy Technicians (RPT): are those technicians who are duly registered with the board pursuant to Section 465.014(2), F.S.;

(b) Pharmacy Technicians in Training (PTT): are those technicians who are receiving practical (non-didactic) training in delegable tasks as part of employer-sponsored or non-employer sponsored board-approved pharmacy technician training programs who are not required to be duly registered with the board as pharmacy technicians.

(2) Supervision: Delegated tasks must be performed under the direct supervision of a pharmacist who shall make certain all applicable state and federal laws, including, but not limited to confidentiality, are fully observed. The supervising pharmacist, in consultation with the Prescription Department Manager or Consultant Pharmacist of Record, will determine the appropriate methods of supervision based on the following definitions and requirements. No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining the supervision of delegated tasks.

(a) Direct Supervision: means supervision by a pharmacist who is readily and immediately available at all times the delegated tasks are being performed; who is aware of delegated tasks being performed; and who provides personal assistance, direction and approval throughout the time the delegated tasks are being performed. "Readily and immediately available" means the pharmacist and technician(s) are on the same physical premises, or if not, technology is used to enable real time, two-way communications between the pharmacist and technician(s).

(b) Use of Technology: A pharmacist, as an adjunct to assist in the direct supervision of the pharmacy technician, may employ technological means to communicate with or observe the pharmacy technician. A pharmacist shall make certain all applicable state and federal laws, including, but not limited to confidentiality, are fully observed when employing technological means of communication and observation. If technology is being used to provide direct supervision of pharmacy technician(s), such technology shall be sufficient to provide the personal assistance, direction and approval required to meet the standard of practice for the delegated tasks.

(3) Technician Supervision Guidelines
The determination to utilize more than one technician shall be made by the supervising

OBJECTION REPORT
PROPOSED RULE 64B16-27.4001

pharmacist, in consultation with the Prescription Department Manager or Consultant Pharmacist of Record and shall be based on the guidelines as outlined within this section. No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician.

- (a) The necessity to support the dispensing or service volume;
- (b) The necessity to provide technical support for the clinical services provided;
- (c) The level of education, training and experience of the technicians;
- (d) Other support personnel including additional pharmacists and pharmacy interns;
- (e) The level of education, training, and experience of the supervising pharmacist.
- (f) The level of centralized or alternative support such as, but not limited to, remote processing, centralized filling or phone support;
- (g) The level of automation or other technology within the pharmacy;
- (h) The level of supervision necessary based on the tasks being performed;
- (i) Aspects of patient care that require a pharmacist's or technician's attention;
- (j) The type of medications or other services being offered;
- (k) Security measures employed.
- (4) Any pharmacy that employs more than one registered pharmacy technician must maintain written policies and procedures outlining their utilization. These documents must clearly define the pharmacy technician's scope of responsibilities and be readily available for inspection by the Florida Board of Pharmacy or its authorized agents. Additionally, the pharmacy must establish and maintain documentation verifying that each pharmacy technician has received training specific to their job description, delegable tasks, and the policies and procedures applicable to the pharmacy setting in which they will perform these tasks.

CITED AGENCY AUTHORITY:

- | | |
|--------------------------|---------------------|
| (a) Rulemaking Authority | (b) Law Implemented |
| s. 465.005, F.S. | s. 465.014, F.S. |
| s. 465.014(1), F.S. | |
| s. 465.0155(1), F.S. | |
| s. 465.022, F.S. | |

(FULL TEXT ATTACHED)

SPECIFIC OBJECTIONS:

The rule is vague and fails to establish adequate standards for agency decisions (Section 120.52(8)(d), F.S.)

64B16-27.4001(2) and (3): Section 465.014(1), F.S., states: "The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician." Although the rule sets out certain factors that must be considered when reaching a decision as to the appropriate number of technicians that can be properly supervised, the rule fails to offer any insight or guidance as to thresholds or standards for their interpretation and application, leaving the decision entirely in the hands of the individual supervising pharmacist. The rule is

OBJECTION REPORT
PROPOSED RULE 64B16-27.4001

objectionable because it fails to establish adequate standards for interpreting the factors for supervisory decisions and agency oversight, in violation of section 120.52(8)(d), F.S.

64B16-27.4001(2): “No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist’s independent professional judgment in determining the supervision of delegated tasks.”

64B16-27.4001(3): “No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist’s independent professional judgment in determining whether to utilize more than one technician.”

As no one can interfere with the supervising pharmacist’s professional judgment, each supervising pharmacist creates his or her own fiefdom and becomes a law unto himself/herself. On its face, the rule would preclude investigation and potential discipline of the supervising pharmacist by the Board if the supervising pharmacist exercises his or her independent and professional judgment. Had the legislature intended the supervising pharmacist to only exercise professional judgment in making that determination, it would have stated that premise in the statute. The Board must presume that the legislature “‘knows how to say what it means’ and that the differentiation in the language ‘is intentional.’” *Storey Mountain, LLC v. George*, 357 So. 3d 709, 714 (Fla. 4th DCA 2023) (quoting *Paragon Health Servs., Inc. v. Cent. Palm Beach Mental Health Ctr., Inc.*, 859 So. 2d 1233, 1235 (Fla. 4th DCA 2003)). Thus, the rule is an invalid exercise of delegated legislative authority because it is impermissibly vague and fails to establish adequate standards for agency decisions. *See* § 120.52(8)(d), F.S.

The Board of Pharmacy has failed to implement meaningful guidelines in compliance with section 465.014(1), F.S., by failing to provide sufficient direction and guidance for pharmacists to determine the circumstances under which he or she may supervise more than one pharmacy technician as required by section 465.014(1), F.S., thereby enlarging, modifying, or contravening the law implemented, violating section 120.52(8)(c), F.S.

Specific objectionable guidelines for rule paragraphs (3)(a) through (k):

64B16-27.4001(3)(a): “The necessity to support the dispensing or service volume.”

This factor contains no guidelines in which to determine service volumes warranting additional support or establish thresholds or ratios of supervision of pharmacy technicians. Nor does it suggest the maximum number of individuals that can be supervised. The rule fails to describe how many technicians may be supervised and under what circumstances. This rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(b): “The necessity to provide technical support for the clinical services provided.”

The rule fails to identify the nature of the technical support that may be required for the various clinical services that would allow supervision of more than one pharmacy technician, or how

OBJECTION REPORT
PROPOSED RULE 64B16-27.4001

many technicians may be supervised and under what circumstances. This rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(c): “The level of education, training and experience of the technicians.”

The rule fails to identify the level of education, training and experience necessary for the variety of tasks to be performed, leaving the decision as to the acceptable level of education, training and experience in various circumstances to be in the hands of the supervising pharmacist. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(d): “Other support personnel including additional pharmacists and pharmacy interns.”

This guideline fails to identify what groups/individuals fall within the “other personnel” category and fails to establish how many “additional pharmacists and pharmacy interns” and “other personnel” would trigger the need for supervision of more than one pharmacy technician. The rule is vague as to how many other support personnel and technicians may be supervised under unknown circumstances, and how many additional pharmacists and pharmacy interns would qualify. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(e): “Level of education, training, and experience of the supervising pharmacist.”

This guideline is unclear as to the level and type of education, training, and experience the supervising pharmacist must have in order to supervise more than one pharmacy technician. Thus, the rule is vague as to how many technicians the pharmacist may supervise and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(f): “Level of centralized or alternative support such as, but not limited to, remote processing, centralized filling or phone support.”

This rule provides no guidance how these factors relate to the supervision of pharmacist technicians. The rule fails to establish how many technicians may be supervised and under what circumstances and what other tasks may be authorized. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(g): “The level of automation or other technology within the pharmacy.”

This guideline fails to establish how many technicians may be supervised and under what circumstances or what other technology in the pharmacy may be considered. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

OBJECTION REPORT
PROPOSED RULE 64B16-27.4001

64B16-27.4001(3)(h): “The level of supervision necessary based on tasks being performed.”

The rule fails to establish the level of supervision that must be considered for the various tasks to be performed. The rule is therefore vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(i): “Aspects of patient care that require a pharmacist’s or technician’s attention.”

The rule fails to establish the types of patient care that may necessitate the supervision of more than one pharmacy technician, and how many technicians may be supervised and under what circumstances. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(j): “The type of medications or other services being offered.”

This guideline fails to establish the necessary criteria to allow supervision of more than one pharmacy technician. The board fails to explain what it means by “other services” or the types of medications necessitating the supervision of more than one pharmacy technician. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

64B16-27.4001(3)(k): “Security measures employed.”

This guideline fails to establish what “security measures must be employed” that would allow supervision of one or more pharmacy technician. The rule is vague and fails to establish adequate standards to establish ascertainable ratios of supervision of pharmacy technicians. *See* § 120.52(8)(d), F.S.

This rule subsection enlarges, modifies, or contravenes the law implemented (Section 120.52(8)(c), F.S.)

64B16-27.4001(4): This rule requires any pharmacy employing more than one registered pharmacy technician to maintain written policies and procedures outlining their utilization and those policies must define the pharmacy technician’s scope of responsibilities. Section 465.014(1), F.S., requires the board, not the individual pharmacy, to “establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.” This rule enlarges, modifies, or contravenes the law implemented, section 465.014(1), F.S. *See* § 120.52(8)(c), F.S.

Summary

The rule, therefore, is an invalid exercise of delegated legislative authority under sections 120.545(1)(a) and 120.52(8)(c) and (d), F.S., in that it fails to establish adequate standards for agency decisions, and enlarges, modifies, or contravenes the specific provisions of section 465.014(1), F.S. “[The rule] . . . do[es] not sufficiently define the standards upon which a permit is to be granted or denied. . . . [It is] far too vague and overbroad to be suitable as standards for

OBJECTION REPORT
PROPOSED RULE 64B16-27.4001

the issuing of permits.” *State v. Cumming*, 365 So.2d 153, 155 (Fla. 1978); (“An administrative agency may not enlarge, modify, or contravene the provisions of a statute.”); *Booker Creek Pres., Inc. v. Sw. Fla. Water Mgmt. Dist.*, 534 So. 2d 419, 423 (Fla. 5th DCA 1988) (“[An agency cannot]. . ., without sufficient statutory criteria expressed in the statute, vary the impact of a statute by restricting or limiting its operation, through creating waivers or exemptions.”); *Dep’t of Bus. Regulation, Div. of Alcoholic Beverage & Tobacco v. Salvation Ltd., Inc.*, 452 So. 2d 65, 66 (Fla. 1st DCA 1984) (“It is axiomatic that an administrative rule cannot enlarge, modify or contravene the provisions of a statute.”).

NOTE: If the Committee votes an objection, copies will be sent to the following:

Jonathan Hickman, PharmD, Chair
Allison Dudley, Senior Assistant Attorney General Chief
Kara Aikens, Assistant Attorney General
Joseph Ladapo, MD, PhD., State Surgeon General
Alysson Bradley, Interim General Counsel

(F.S. 2024)

465.005 Authority to make rules.—The Board of Pharmacy has authority to adopt rules pursuant to ss. [120.536](#)(1) and [120.54](#) to implement the provisions of this chapter conferring duties upon it.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 4, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 126, ch. 98-200.

465.014 Pharmacy technician.—

(1) A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. [465.003](#). All such delegated acts must be performed under the direct supervision of a licensed pharmacist who is responsible for all such acts performed by persons under his or her supervision. A registered pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.

(2) Any person who wishes to work as a pharmacy technician in this state must register by filing an application with the board on a form adopted by rule of the board. The board shall register each applicant who has remitted a registration fee set by the board, not to exceed \$50 biennially; has completed the application form and remitted a nonrefundable application fee set by the board, not to exceed \$50; is at least 17 years of age; and has completed a pharmacy technician training program approved by the Board of Pharmacy. Notwithstanding any requirements in this subsection, any registered pharmacy technician registered pursuant to this section before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist or received certification as a pharmacy technician by certification program accredited by the National Commission for Certifying Agencies is exempt from the requirement to complete an initial training program for purposes of registration as required by this subsection.

(3) A person whose license to practice pharmacy has been denied, suspended, or restricted for disciplinary purposes is not eligible to register as a pharmacy

technician.

(4) Notwithstanding the requirements of this section or any other provision of law, a pharmacy technician student who is enrolled in a pharmacy technician training program that is approved by the board may be placed in a pharmacy for the purpose of obtaining practical training. A pharmacy technician student shall wear identification that indicates his or her student status when performing the functions of a pharmacy technician, and registration under this section is not required.

(5) Notwithstanding the requirements of this section or any other provision of law, a person who is licensed by the state as a pharmacy intern may be employed as a registered pharmacy technician without paying a registration fee or filing an application with the board to register as a pharmacy technician.

(6) As a condition of registration renewal, a registered pharmacy technician shall complete 20 hours biennially of continuing education courses approved by the board or the Accreditation Council for Pharmacy Education, of which 4 hours must be via live presentation and 2 hours must be related to the prevention of medication errors and pharmacy law.

(7) A registered pharmacy technician seeking to administer vaccines under s. [465.189](#) must be certified to administer such vaccines pursuant to a certification program approved by the board in consultation with the Board of Medicine and the Board of Osteopathic Medicine. The certification program must have at least 6 hours of immunization-related training approved by the board that shall, at a minimum, have a curriculum of instruction concerning the safe and effective administration of such vaccines, including, but not limited to, potential allergic reactions to such vaccines. As a condition of registration renewal, a registered pharmacy technician seeking to administer vaccines under s. [465.189](#) must have at least 2 hours of continuing education approved by the board in addition to the biennial continuing education required in subsection (6).

(8) The board shall adopt rules that require each registration issued by the board under this section to be displayed in such a manner as to make it available to the public and to facilitate inspection by the department. The board may adopt other rules as necessary to administer this section.

(9) If the board finds that an applicant for registration as a pharmacy technician or that a registered pharmacy technician has committed an act that constitutes grounds for discipline as set forth in s. [456.072](#)(1) or has committed an act that constitutes grounds for denial of a license or disciplinary action as set forth in this chapter, including an act that constitutes a substantial

violation of s. [456.072](#)(1) or a violation of this chapter which occurred before the applicant or registrant was registered as a pharmacy technician, the board may enter an order imposing any of the penalties specified in s. [456.072](#)(2) against the applicant or registrant.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; ss. 10, 26, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 242, ch. 97-103; s. 192, ch. 97-264; s. 120, ch. 99-397; ss. 2, 3, 4, ch. 2008-216; s. 2, ch. 2014-113; s. 13, ch. 2016-145; s. 16, ch. 2022-35; s. 1, ch. 2022-60.

465.0155 Standards of practice.—

(1) Consistent with the provisions of this act, the board shall adopt by rule standards of practice relating to the practice of pharmacy which shall be binding on every state agency and shall be applied by such agencies when enforcing or implementing any authority granted by any applicable statute, rule, or regulation, whether federal or state.

(2)(a) Before dispensing a controlled substance to a person not known to the pharmacist, the pharmacist must require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity. If the person does not have proper identification, the pharmacist may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system is considered to be proper identification.

(b) This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted.

(c) As used in this subsection, the term “proper identification” means an identification that is issued by a state or the Federal Government containing the person’s photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

History.—ss. 12, 27, ch. 86-256; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 6, ch. 2018-13.

465.022 Pharmacies; general requirements; fees.—

(1) The board shall adopt rules pursuant to ss. [120.536](#)(1) and [120.54](#) to implement the provisions of this chapter. Such rules shall include, but shall not be limited to, rules relating to:

(a) General drug safety measures.

(b) Minimum standards for the physical facilities of pharmacies.

(c) Safe storage of floor-stock drugs.

(d) Functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy.

(e) Procedures for the safe storage and handling of radioactive drugs.

(f) Procedures for the distribution and disposition of medicinal drugs distributed pursuant to s. [499.028](#).

(g) Procedures for transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy.

(h) Minimum equipment which a pharmacy shall at all times possess to fill prescriptions properly.

(i) Procedures for the dispensing of controlled substances to minimize dispensing based on fraudulent representations or invalid practitioner-patient relationships.

(2) A pharmacy permit may be issued only to a natural person who is at least 18 years of age, to a partnership comprised of at least one natural person and all of whose partners are at least 18 years of age, to a governmental agency, or to a business entity that is properly registered with the Secretary of State, if required by law, and has been issued a federal employer tax identification number. Permits issued to business entities may be issued only to entities whose affiliated persons, members, partners, officers, directors, and agents, including persons required to be fingerprinted under subsection (3), are not less than 18 years of age.

(3) Any person or business entity, before engaging in the operation of a pharmacy, shall file with the board a sworn application on forms provided by the department. For purposes of this section, any person required to provide fingerprints under this subsection is an affiliated person within the meaning of s. [465.023](#)(1).

(a) An application for a pharmacy permit must include a set of fingerprints from each person having an ownership interest of 5 percent or greater and from any person who, directly or indirectly, manages, oversees, or controls the operation of the applicant, including officers and members of the board of directors of an applicant that is a corporation. The applicant must provide payment in the application for the cost of state and national criminal history records checks.

1. For corporations having more than \$100 million of business taxable assets in this state, in lieu of these fingerprint requirements, the department shall require the prescription department manager or consultant pharmacist of record who will be directly involved in the management and operation of the pharmacy to submit a set of fingerprints.

2. A representative of a corporation described in subparagraph 1. satisfies the requirement to submit a set of his or her fingerprints if the fingerprints are on file

with the department or the Agency for Health Care Administration, meet the fingerprint specifications for submission by the Department of Law Enforcement, and are available to the department.

(b) The department shall annually submit the fingerprints provided by the applicant to the Department of Law Enforcement for a state criminal history records check. The Department of Law Enforcement shall annually forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check. The department shall report the results of annual criminal history records checks to wholesale distributors permitted under chapter 499 for the purposes of s. [499.0121](#)(15).

(c) In addition to those documents required by the department or board, each applicant having any financial or ownership interest greater than 5 percent in the subject of the application must submit a signed affidavit disclosing any financial or ownership interest greater than 5 percent in any pharmacy permitted in the past 5 years, which pharmacy has closed voluntarily or involuntarily, has filed a voluntary relinquishment of its permit, has had its permit suspended or revoked, or has had an injunction issued against it by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntary or involuntary.

(4) An application for a pharmacy permit must include the applicant's written policies and procedures for preventing controlled substance dispensing based on fraudulent representations or invalid practitioner-patient relationships. The board must review the policies and procedures and may deny a permit if the policies and procedures are insufficient to reasonably prevent such dispensing.

(5) The department or board shall deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant:

(a) Has obtained a permit by misrepresentation or fraud.

(b) Has attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation.

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of pharmacy.

(d) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(e) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a

felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, since July 1, 2009.

(f) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 or 42 U.S.C. ss. 1395-1396 since July 1, 2009.

(g) Has been terminated for cause from the Florida Medicaid program pursuant to s. [409.913](#), unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5-year period.

(h) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the most recent 5-year period and the termination occurred at least 20 years before the date of the application.

(i) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

(j) Has dispensed any medicinal drug based upon a communication that purports to be a prescription as defined in s. [465.003](#) or s. [893.02](#) when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

For felonies in which the defendant entered a plea of guilty or nolo contendere in an agreement with the court to enter a pretrial intervention or drug diversion program, the department shall deny the application if upon final resolution of the case the licensee has failed to successfully complete the program.

(6) The department or board may deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant has violated or failed to comply with any provision of this chapter; chapter 499, the Florida Drug and Cosmetic Act; chapter 893; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Comprehensive Drug Abuse Prevention and Control Act; or any rules or regulations promulgated thereunder unless the violation or noncompliance is technical.

(7) After the application has been filed with the board and the permit fee provided in this section has been received, the board shall cause the application to be

fully investigated, both as to the qualifications of the applicant and the prescription department manager or consultant pharmacist designated to be in charge and as to the premises and location described in the application.

(8) The Board of Pharmacy shall have the authority to determine whether a bona fide transfer of ownership is present and that the sale of a pharmacy is not being accomplished for the purpose of avoiding an administrative prosecution.

(9) Upon the completion of the investigation of an application, the board shall approve or deny the application. If approved, the permit shall be issued by the department.

(10) A permittee must notify the department, on a form approved by the board, within 10 days after any change in prescription department manager or consultant pharmacist of record.

(11) A permittee must notify the department of the identity of the prescription department manager within 10 days after employment. The prescription department manager must comply with the following requirements:

(a) The prescription department manager of a permittee must obtain and maintain all drug records required by any state or federal law to be obtained by a pharmacy, including, but not limited to, records required by or under this chapter, chapter 499, or chapter 893. The prescription department manager must ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

(b) The prescription department manager must ensure the security of the prescription department. The prescription department manager must notify the board of any theft or significant loss of any controlled substances within 1 business day after discovery of the theft or loss.

(c) A registered pharmacist may not serve as the prescription department manager in more than one location unless approved by the board.

(12) The board shall adopt rules that require the keeping of such records of prescription drugs as are necessary for the protection of public health, safety, and welfare.

(a) All required records documenting prescription drug distributions shall be readily available or immediately retrievable during an inspection by the department.

(b) The records must be maintained for 4 years after the creation or receipt of the record, whichever is later.

(13) Permits issued by the department are not transferable.

(14) The board shall set the fees for the following:

- (a) Initial permit fee not to exceed \$250.
- (b) Biennial permit renewal not to exceed \$250.
- (c) Delinquent fee not to exceed \$100.
- (d) Change of location fee not to exceed \$100.

History.—ss. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318; s. 36, ch. 82-225; ss. 16, 26, 27, ch. 86-256; s. 6, ch. 88-172; s. 14, ch. 88-205; s. 59, ch. 91-137; s. 6, ch. 91-156; s. 4, ch. 91-429; s. 127, ch. 98-200; s. 27, ch. 2009-223; s. 14, ch. 2011-141; s. 21, ch. 2016-145; s. 21, ch. 2022-35; s. 52, ch. 2025-6.

Notice of Change/Withdrawal

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:

64B16-27.4001 Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 51 No. 73, April 15, 2025 issue of the Florida Administrative Register.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The Board voted at the duly-noticed public board meeting held June 17, 2025, in Maitland, Florida, to amend the rule. The rule shall now read as follows:

64B16-27.4001 Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist; Supervision of More than One Registered Pharmacy Technician.

(1) Delegation: A pharmacist shall not delegate more tasks than he or she can personally supervise and ensure compliance with this rule. A pharmacist may delegate ~~these~~ non-discretionary tasks to the following:

(a) through (b) No change.

(2) No change.

(3) Technician Supervision Guidelines

The determination to utilize more than one technician shall be made by the supervising pharmacist, in consultation with the Prescription Department Manager or Consultant Pharmacist of Record and shall be based on the guidelines as outlined within this section. No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician, ~~which may be based on the following guidelines:~~

(a) through (k) No change.

(4) Any pharmacy that employs more than one registered pharmacy technician must maintain written policies and procedures outlining their utilization. These documents must clearly define the pharmacy technician's scope of responsibilities and be readily available for inspection by the Florida Board of Pharmacy or its authorized agents. Additionally, the pharmacy must establish and maintain documentation verifying that each pharmacy technician has received training specific to their job description, delegable tasks, and the policies and procedures applicable to the pharmacy setting in which they will perform these tasks.

Rulemaking Authority 465.005, 465.014(1), 465.0155(1), 465.022FS. Law Implemented 465.014 FS. History—New 12-31-14, Amended 12-17-18, 11-3-20, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Traci Zeh, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin C08, Tallahassee, Florida 32399-3258; or by email at info@Floridaspharmacy.gov or by telephone (850)488-0595.

FAR 8-19-25

Notice of Proposed Rule

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:

64B16-27.4001 Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the delegations of tasks; and provides guidelines for supervision of technicians.

SUMMARY: The guidelines for supervision of technicians and delegations of tasks will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board concluded that this rule change will not have any impact on licensees and their businesses or the businesses that employ them. The rule will not increase any fees, business costs, personnel costs, will not decrease profit opportunities, and will not require any specialized knowledge to comply. This change will not increase any direct or indirect regulatory costs. Hence, the Board determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 465.005, 465.014(1), 465.0155(1), 465.022 FS.

LAW IMPLEMENTED: 465.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Traci Zeh, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin C08, Tallahassee, Florida 32399-3258 or by email at info@Floridaspharmacy.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.4001 Delegation to and Supervision of Pharmacy Technicians; Responsibility of Supervising Pharmacist.

(1) Delegation: A pharmacist shall not delegate more tasks than he or she can personally supervise and ensure compliance with this rule. A pharmacist may delegate those non-discretionary delegable tasks enumerated in Rule 64B16-27.420, F.A.C., to the following types of pharmacy technicians:

(a) through (b) No change.

(2) No change.

(3) Technician Supervision Guidelines

The determination to utilize more than one technician shall be made by the supervising pharmacist, in consultation with the Prescription Department Manager or Consultant Pharmacist of Record, based on the guidelines as outlined within this section. No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician, which may be based on the following guidelines:

(a) The necessity to support the dispensing or service volume;

FAR 4-15-25

- (b) The necessity to provide technical support for the clinical services provided;
- (c) The level of education, training and experience of the technicians;
- (d) Other support personnel including additional pharmacists and pharmacy interns;
- (e) The level of education, training, and experience of the supervising pharmacist.
- (f) The level of centralized or alternative support such as, but not limited to, remote processing, centralized filling or phone support;
- (g) The level of automation or other technology within the pharmacy;
- (h) The level of supervision necessary based on the tasks being performed;
- (i) Aspects of patient care that require a pharmacist's or technician's attention;
- (j) The type of medications or other services being offered;
- (k) Security measures employed.

Rulemaking Authority 465.005, 465.014(1), 465.0155(1), 465.022FS. Law Implemented 465.014 FS. History--New 12-31-14, Amended 12-17-18, 11-3-20,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2025

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 31, 2025

FAR 4-15-25



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Allison M. Dudley, *Senior Assistant Attorney General*
Civil Legal Services / Administrative Law Bureau

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
<https://www.myfloridalegal.com>

November 20, 2025

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper building
111 West Madison Street
Tallahassee, Florida 32399-1400

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
4:27 pm, Nov 20 2025

RE: Department of Health: Board of Pharmacy
Proposed Rule: 64B16-26.4001

Dear Ms. Holladay:

Thank you for your letter of September 22, 2025, regarding the above-referenced rule. The Board discussed your correspondence and the proposed rule at its most recent board meeting in October. This letter will supplement the Board's previous response and address additional concerns.

64B16-27.4001(3): The Board believes that it has created appropriate guidelines for a pharmacist to follow when making the determination to supervise more than one pharmacy technician. The Board's intent is to provide a structured framework of guidelines that pharmacists must consider when exercising their professional judgment. These guidelines are not optional or discretionary—they are mandatory considerations that inform the pharmacist's decision-making process. The rule text has been revised to remove permissive language such as "may," and now clearly states that the determination "shall be based on the guidelines outlined within this section."

The Board has not created a rule that merely requires the use of professional judgement. The Board has created a rule that carefully outlines the considerations that a pharmacist must make in determining whether to utilize more than one pharmacy technician. These guidelines direct a pharmacist to the mandatory considerations given the pharmacy setting and training of the pharmacists and pharmacy technicians working in the pharmacy.

Further, the rule requires that any pharmacy that utilizes more than one pharmacy technician per pharmacist must maintain written policies and procedures outlining their utilization that clearly defines the pharmacy technician's scope of responsibilities. These policies and procedures are required to be readily available for inspection by the Florida Board of Pharmacy or its authorized agents. The rule also requires the pharmacy to establish and maintain documentation verifying that each pharmacy technician has received training specific to their job description, delegable tasks, and the policies and procedures applicable to the pharmacy setting in which they will perform these tasks.

With regard to the language concerning interference with the professional judgement of a pharmacist, the Board does not believe that the language is inconsistent with the ability to discipline pharmacists. The rule states that "no person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician." This language is exists to protect the supervising pharmacist from the decisions of its employer. Pharmacies are not required to be owned by pharmacists, so this language will ensure that the decision to utilize more than one pharmacist is within the professional-decision making of the supervising pharmacist. This language does not prevent the Board from disciplining pharmacists and pharmacy permits for improper utilization of pharmacy technicians. Neither staff of the Department of Health, nor Board members would be able to manage the day-to-day operations of a pharmacy through the disciplinary process. Similarly to general standard of care cases, the Board would be able to review if the supervising pharmacist made a decision that lacked sound professional judgement given the facts and circumstances of the case.

This language is similar to existing language found in Rule 64B16-27.831, Standards of Practice for the Filling of Controlled Substance Prescriptions; Electronic Prescribing; Mandatory Continuing Education. That rule creates standards for validating controlled substance prescriptions that rely on the professional judgement of the pharmacist and states "when validating a prescription, neither a person nor a licensee shall interfere with the exercise of the pharmacist's independent professional judgment." This language was created to ensure that pharmacists were not hindered in their professional decision-making by their employer.

Thank you for your continued attention to the Board's rules. After discussing these concerns, the Board voted to move forward with adoption of the rule as drafted.

Sincerely,

Allison M. Dudley

Allison M. Dudley
Senior Assistant Attorney General
Counsel to the Board of Pharmacy

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
4:27 pm, Nov 20 2025



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Allison M. Dudley, *Senior Assistant Attorney General*
Civil Legal Services / Administrative Law Bureau

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
<https://www.myfloridalegal.com>

October 7, 2025

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper building
111 West Madison Street
Tallahassee, Florida 32399-1400

RE: Department of Health: Board of Pharmacy
Proposed Rule: 64B16-26.4001

Dear Ms. Holladay:

Thank you for the above-referenced correspondence regarding Rule 64B16-26.4001. I am responding on behalf of the Board.

I will share your concerns with the Board at its next meeting to be held on October 15-16, 2025. Thank you for your continued attention to the Board's rules.

Sincerely,

Allison M. Dudley

Allison M. Dudley
Senior Assistant Attorney General
Counsel to the Board of Pharmacy

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
1:08 pm, Oct 07 2025

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 22, 2025

Ms. Allison Dudley
Senior Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**RE: Department of Health: Board of Pharmacy
Proposed Rule 64B16-27.4001**

Dear Ms. Dudley:

Thank you for your letter of September 18, 2025, regarding above-referenced proposed rule. I have the following additional comments.

64B16-27.4001(3): The response to the committee's comments appears to conflate the statutory mandate that the board "establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician" with the exercise of the supervising pharmacist's professional judgment. The two concepts are not identical.

Of course, the supervising pharmacist must exercise his/her professional judgment in all professional decisions. *See* § 456.072(1)(o), Fla. Stat. However, that pharmacist must also answer to guidelines established by the board in determining when to supervise more than one pharmacy technician. Had the legislature intended the supervising pharmacist to only exercise professional judgment in making that determination, the board must presume that the legislature "knows how to say what it means" and that the differentiation in the language 'is intentional.'" *Storey Mountain, LLC v. George*, 357 So. 3d 709, 714 (Fla. 4th DCA 2023) (quoting *Paragon Health Servs., Inc. v. Cent. Palm Beach Mental Health Ctr., Inc.*, 859 So. 2d 1233, 1235 (Fla. 4th DCA 2003)). Thus, it appears the rule enlarges,

modifies, or contravenes section 465.014(1). *See* § 120.52(8)(c), Fla. Stat.

Additionally, the board's letter appears to contradict the rule. While the rule provides that "No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician," the board states that "if the pharmacist makes a decision that is outside the bounds of sound professional judgment, the pharmacist could be open to investigation and discipline" As the board staff, probable cause panels, and board are composed of persons, permittees, and licensees, they are not allowed to question, investigate, or discipline such supervising pharmacists. Thus, it appears the rule is arbitrary and capricious. *See* § 120.52(8)(e), Fla. Stat.

Please further amend this rule to comport with the committee's comments. If the board refuses to further amend this rule, I anticipate recommending an objection at the next available committee meeting.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward A. Tellechea, Chief Assistant Attorney General
Ms. Kara Aikens, Assistant Attorney General

MCH:df #195842



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Allison M. Dudley, *Senior Assistant Attorney General*
Civil Legal Services / Administrative Law Bureau

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
<https://www.myfloridalegal.com>

September 18, 2025

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper building
111 West Madison Street
Tallahassee, Florida 32399-1400

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
4:22 pm, Sep 18 2025

RE: Department of Health: Board of Pharmacy
Proposed Rule: 64B16-27.4001

Dear Ms. Holladay:

Thank you for your letter to the Board dated August 22, 2025. The Board appreciates the Joint Administrative Procedures Committee's (JAPC's) role in reviewing the Board's proposed rules. This response will hopefully resolve the concerns from the previous correspondence, as well as this correspondence. When the Board received your letter of April 22, 2025, the Board had further discussion about your concerns at its meeting in June 2025. The Board made some changes to the rule, in its desire to alleviate those concerns. Before answering the concerns, below is a summary of the Board's history with this proposed rule language:

Background and Policy Rationale

Over the years, the Board has received numerous petitions for variances and waivers from licensees seeking flexibility in technician supervision. These petitions consistently cited:

- The need to adapt to modern pharmacy workflows, including automation and centralized filling and processing.
- The importance of allowing Prescription Department Managers to use their professional judgment to determine appropriate staffing.
- The inefficiency and impracticality of rigid ratios in closed door facilities or technologically advanced settings.

In response, the Board recognized that the existing rule structure was overly prescriptive and did not reflect the diversity of pharmacy practice environments across Florida. In 2023–2024, the

Board proposed repealing Rule 64B16-27.410 and replacing it with the current framework under Rule 64B16-27.4001. The new rule:

- Eliminates fixed ratios in favor of a guideline-based approach.
- Requires pharmacists to consider specific operational factors when determining supervision levels.
- Aligns with §465.014(1), which authorizes the Board to adopt guidelines.
- Reflects a modern, flexible, and logical regulatory model that empowers pharmacists while maintaining public safety.

It is important to note that the Board did not arrive at this decision overnight. Rather, it was the result of more than a decade of deliberation, reflection, and incremental adjustments. During this process the Board has discussed and reviewed research which supports the safety of removing ratios in favor of professional decision-making. In its deliberations, the Board noted that there are currently 24 states that do not have any form of technician ratio.

64B16-27.4001(3): *The rule text states that “[n]o person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist’s independent professional judgment in determining whether to utilize more than one technician, which may be based on the following guidelines:” Please advise whether the registered pharmacy technician(s) may be investigated and potentially disciplined if the supervising pharmacist exercises such independent and professional judgment? May the supervising pharmacist be investigated and potentially disciplined for exercising such independent and professional judgment?*

Response: This language is currently in Rule 64B16-27.410. The Board plans to include this language in this rule to ensure that the individual making the decision is the licensed pharmacist; and the pharmacist is able to make the decision without interference in that professional judgement. The rule clarifies that pharmacists are expected to exercise professional judgment within the bounds of established guidelines, and that such judgment, when made in good faith and in compliance with the rule, is protected from disciplinary action. However, if the pharmacist makes a decision that is outside the bounds of sound professional judgement, the pharmacist could be open to investigation and discipline depending on the unique circumstances presented with every situation.

This rule is directed at those with decision-making authority, namely supervising pharmacists and prescription department managers. Pharmacy technicians, who do not have authority to determine staffing or supervision levels, are not intended to be subject to discipline under this rule for decisions made by supervising pharmacists. The rule is focused on ensuring that those in supervisory roles apply the guidelines responsibly and in accordance with their professional obligations.

Pursuant to section 465.014, F.S., a pharmacy technician may not engage in the practice of the profession of pharmacy. The responsibility for this decision rests with the pharmacists and not the pharmacy technician who does not practice pharmacy.

Section 465.014(1) requires the board to adopt guidelines if it allows a pharmacist to supervise more than one registered pharmacy technician, and those guidelines are to be followed by licensees or permittees in determining the circumstances in which a pharmacist may supervise more than one registered pharmacy technician. The use of the word “may” appears to allow the supervising pharmacist to disregard the guidelines. The guidelines are to prescribe “the procedure or practice requirements of the agency.” See § 120.52(16), Fla. Stat. As these guidelines do not appear to impose any requirements, i.e., implementing compliance with section 465.014(1), please explain how these guidelines meet the definition of a “rule” in section 120.52(16).

Response: The Board has updated the language and removed the word “may”. The updated language now states:

The determination to utilize more than one technician shall be made by the supervising pharmacist, in consultation with the Prescription Department Manager or Consultant Pharmacist of Record and shall be based on the guidelines as outlined within this section. No person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist’s independent professional judgment in determining whether to utilize more than one technician.

This rule language meets the statutory definition of a rule by providing a structured, interpretive framework—based on workload, staffing, automation, and other operational factors—that guides pharmacists in applying their professional judgment. This framework implements the statutory policy of allowing a pharmacist to supervise multiple technicians under appropriate circumstances and supports the legislative intent behind the use of the term “guidelines.”

Moreover, it appears that these guidelines do not provide sufficient guidance for pharmacists to determine the circumstances under which he or she may supervise more than one pharmacy technician as required by section 465.014(1), and the rule may not be supported by logic or the necessary facts. As a result, these guidelines may be arbitrary or capricious. See § 120.52(8)(e), Fla. Stat.

Response: Section 465.014, F.S. states as follows:

A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be

followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.

The Board had several meetings regarding this rule and the statutory language. The Board does not believe that it was the intent of the legislature when it allowed the Board to create guidelines that the Board would be expected micromanage the professional decision-making of pharmacists through an overly prescriptive rule. Guidelines are used to inform professional discretion, not to eliminate it. Pharmacists are highly trained medication experts that undergo extensive professional education. Currently, pharmacists are required to obtain a doctoral PharmD degree to become pharmacists. Pharmacists work in several different settings that are identified through the various pharmacy permits available. Pharmacists have many duties and responsibilities that are reflected in the extensive definition of the practice of pharmacy found in Section 465.003(22), F.S.

Pharmacists are expected to use their professional judgment to apply the guidelines provided in this rule based on the specific circumstances of their practice setting. This approach is consistent with the standard of care model that governs most licensed healthcare professions. Under this model, professionals are expected to act in accordance with what a reasonably prudent practitioner would do under similar circumstances, guided by training, experience, and applicable regulatory frameworks. The Board's proposed rule reflects this model by identifying specific, relevant factors such as workload, automation, staffing, patient care complexity, and security requirements that pharmacists must consider when determining appropriate supervision levels. Rather than prescribing a rigid formula, the rule provides a structured decision-making framework that supports individualized, context-sensitive judgments. This ensures that pharmacists are held to a professional standard of care, where decisions are evaluated based on whether they were made reasonably and in good faith, not whether they conformed to a fixed numerical ratio.

64B16-27.4001(3)(a): *How is “[t]he necessity to support the dispensing or service volume” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? Would not this guideline change throughout the work day? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: The needs in the pharmacy could change throughout the day for pharmacists. Some days and times may be busier than others. As described above, this rule allows for

flexibility in the decision-making for highly educated and trained healthcare professionals. It gives the pharmacists the considerations that they must make in making these determinations. The pharmacist is also required to consult with the prescription department manager or consultant pharmacist.

This comment also asks the Board to create ratios. As described above, the Board believes that continuing the current ratio requirements in the rule is untenable and not required by the implementing statute. At this point the Board no longer wants to continue reworking the ratios that it has established over the years, nor does the Board feel this is required. Until a legislative change in 2014, Section 465.014, F.S. allowed the Board to authorize the supervision of more than one pharmacy technician, but not more than three. This language led the Board to create the initial ratios that persisted in the rule and remain to this day. In 2014, Section 465.014 was amended to remove the absolute cap on the number of pharmacy technicians that the Board could authorize, as long as the Board created “guidelines” for pharmacists to follow. Over the years, the Board has expanded those original ratios and created many different ratios for various practices.

The Board in recent years has carefully analyzed the language in Section 465.014. The plain language of the statute does not require the Board to create a rule with varying ratios, it only requires the Board to establish guidelines when a licensed pharmacist may supervise more than one pharmacy technician. When analyzing the meaning of a statute, “the words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.” *Page v. Deutsche Bank Trust Co. Americas*, 308 So. 3d 953, 958 (Fla. 2020) There is nothing in the plain text of the statute that requires the Board to continue to create ratios for different practice settings. Further, there is nothing in the statute that requires the Board to create rigid procedures to cover every working scenario a pharmacist may encounter. The Board believes that it has done exactly what the legislature requested and has created true guidelines for pharmacists to utilize when making context-based decisions consistent with the prevailing standard-of-care.

64B16-27.4001(3)(b): *How is “[t]he necessity to provide technical support for the clinical services provided” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? Would not this guideline change throughout the work day? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: See general response above and response to 64B16-27.4001(3)(a).

64B16-27.4001(3)(c): *This guideline requires the pharmacist to discern “[t]he level of education, training and experience of the technicians.” Is this a determination of the pharmacy technicians’ competency? How would the pharmacist know this information? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: The role of the Board is not to create a play-by-play rule for the pharmacist to do the basic job duties. Assessing the experience of personnel that work in a pharmacy (or any work setting) can be done in many ways. Like all professionals, a pharmacist has the tools through their own education and training to fully assess the level of education, training, and experience of the technicians. Further, this rule requires consultation with the managing pharmacist, which would have more information concerning the experience of the various pharmacy technicians. See the Board’s response above with regard to the ratios.

64B16-27.4001(3)(d): *How is “[o]ther support personnel including additional pharmacists and pharmacy interns” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? How many additional pharmacists and pharmacy interns would qualify? Who else would constitute support personnel? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: See the responses above.

64B16-27.4001(3)(e): *This guideline requires the supervising pharmacist to judge objectively his or her “level of education, training, and experience.” How does the pharmacist make this determination to allow the supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? And what level of education, training, and experience is required for various circumstances, such as described in existing rule 64B16-27.410(4), (5), (6), and (7). Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: The legislature has determined that health care professionals have a responsibility to objectively assess their own training and experience. A pharmacist could be disciplined for “practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform” in violation of Section 456.072(1)(o), F.S. Pharmacists are capable and expected to judge their

own level of education, training, and experience. See the responses above for the remaining concerns.

64B16-27.4001(3)(f): *How is “level of centralized or alternative support such as, but not limited to, remote processing, centralized filling or phone support” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? What other support would be authorized? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: See the responses above.

64B16-27.4001(3)(h): *How is “[t]he level of supervision necessary based on the tasks being performed” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? It appears the rule should specify those tasks, as described in existing rule 64B16-27.410(4), (5), (6), and (7). Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: As described above, the Board has determined that it is not going to continue with ratios associated with certain tasks found on Rule 64B16-27.410. The Board is taking a different approach and no longer believes that its rules should attempt to cover every situation in a pharmacy setting. Nor can the Board attempt to contemplate every task that is performed or the complexity of the task.

64B16-27.4001(3)(i): *How are “[a]spects of patient care that require a pharmacist’s or technician’s attention” determined to allow supervision of more than one pharmacy technician? Please clarify the meaning of this guideline, that is, what types of patient care and what type of attention is required? And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: There are many aspects of patient care that could require both the pharmacist’s or pharmacy technician’s attention. The level of services provided would determine how many pharmacy technicians a pharmacist could adequately supervise in a day. For example, some pharmacists may be involved in testing and treating patients for certain diseases, whereas others may not engage in this practice. See above for remaining concerns.

64B16-27.4001(3)(j): *What “type of medications or other services being offered” are authorized to allow supervision of more than one pharmacy technician? What does the board mean by “other services?” What type of medications must be offered? And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate*

standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

Response: See the response to 64B16-27.4001(3)(i) above.

64B16-27.4001(3)(k): *What “security measures employed” allow supervision of more than one pharmacy technician? What does the board mean by “other services?” And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. See §§ 120.52(8)(d), .545(1)(i), Fla. Stat.*

Response: Pharmacists and pharmacies have a responsibility to prevent the theft of controlled substances. Depending on the various security methods or technology in the pharmacy, the pharmacist may be in a position to carry out this responsibility while supervising more than one pharmacy technician. See the responses above for remaining concerns.

Summary

The Board believes this approach strikes the appropriate balance between regulatory oversight and professional autonomy, ensuring that pharmacists are equipped to make informed, accountable decisions tailored to their practice setting. The Board believes this model promotes both public safety and professional accountability, while ensuring that regulatory frameworks remain responsive to the evolving landscape of pharmacy practice.

The Board remains committed to adopting rules that uphold public safety, reflect the realities of modern pharmacy practice, and comply with legislative intent. We believe the proposed rule achieves these goals by providing a guideline-based framework that supports professional judgment while maintaining accountability.

Thank you for your continued attention to the Board’s rules.

Sincerely,

Allison M. Dudley

Allison M. Dudley
Senior Assistant Attorney General
Counsel to the Board of Pharmacy

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
4:22 pm, Sep 18 2025

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

August 22, 2025

Ms. Allison Dudley
Senior Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**RE: Department of Health: Board of Pharmacy
Proposed Rule 64B16-27.4001**

Dear Ms. Dudley:

I have reviewed the notice of change that was published for the above-referenced proposed rule in the Florida Administrative Register on August 19, 2025. I have the following comments.

- 64B16-27.4001(3):** Please respond to the questions raised in the committee's letter of April 11, 2025, regarding this rule subsection and its paragraphs. The changes made to the rule do not address these concerns.
- 64B16-27.4001(4):** The notice of change adds this subsection, which requires any pharmacy employing more than one registered pharmacy technician to maintain written policies and procedures outlining their utilization. Those policies must define the pharmacy technician's scope of responsibilities.

Section 465.014(1) requires the board, not the individual pharmacy, to "establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician." It appears that this rule enlarges, modifies, or contravenes this law implemented. *See*

Ms. Allison Dudley
August 22, 2025
Page 2

§ 120.52(8)(c), Fla. Stat. Please publish a notice of change for this rule that complies with section 465.014(1).

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward A. Tellechea, Chief Assistant Attorney General
Ms. Kara Aikens, Assistant Attorney General

MCH:df #195842



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Allison Dudley, Senior Assistant Attorney General
Civil Legal Services/Administrative Law

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3713
Fax (850) 922-6425

Allison.Dudley@myfloridalegal.com

July 11, 2025

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
111 W Madison Street
Pepper Building, Room 680
Tallahassee, Florida 32399-1400

Re: Department of Health,
Board of Pharmacy
Rule 64B16-27.4001, F.A.C.

Dear Ms. Holladay:

Pursuant to your letter dated July 10, 2025, which states that the Joint Administrative Procedures Committee is considering an objection to the rule, the Board elects to toll the 90-day deadline for adoption of the above-referenced rule pursuant to Section 120.54(3)(e)6., F.S.

Thank you for your attention to this matter.

Sincerely,

Allison M. Dudley

Allison M. Dudley
Senior Assistant Attorney General
Counsel to the Board of Pharmacy

Copy to: Edward A. Tellechea, Bureau Chief
Traci Zeh, Executive Director
Angela Southwell, Paralegal Specialist

BEN ALBRITTON
President



DANIEL PEREZ
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

July 10, 2025

Ms. Allison Dudley
Senior Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**RE: Department of Health: Board of Pharmacy
Proposed Rule 64B16-27.4001**

Dear Ms. Dudley:

The letter dated April 22, 2025, outlining substantive problems with the above-referenced proposed rule may be considered notice that the committee is considering an objection to this rule. It is my understanding that the board plans to toll the time for filing this rule pursuant to section 120.54(3)(e)6., Florida Statutes, as of July 10, 2025. If so, please confirm this decision in writing.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay".

Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward A. Tellechea, Chief Assistant Attorney General

MCH:df #195842



JAMES UTHMEIER
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Allison M. Dudley, *Senior Assistant Attorney General*
Civil Legal Services / Administrative Law Bureau

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300
Fax (850) 487-0168
<https://www.myfloridalegal.com>

May 12, 2025

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper building
111 West Madison Street
Tallahassee, Florida 32399-1400

RE: **Department of Health: Board of Pharmacy**
Proposed Rule: 64B16-27.4001

Dear Ms. Holladay:

Thank you for the above-referenced correspondence regarding Rule 64B16-27.4001. I am responding on behalf of the Board.

The Rules Committee of the Board will review this matter and the concerns you have raised at its next meeting on June 11, 2025.

Thank you for your continued attention to the Board's rules.

Sincerely,

Allison M. Dudley

Allison M. Dudley
Senior Assistant Attorney General
Counsel to the Board of Pharmacy

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
3:34 pm, May 12 2025

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

April 22, 2025

Ms. Allison Dudley
Senior Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**RE: Department of Health: Board of Pharmacy
Proposed Rule 64B16-27.4001**

Dear Ms. Dudley:

I have reviewed the above-referenced proposed rule, which was advertised in the Florida Administrative Register on April 15, 2025. I have the following comments.

64B16-27.4001: It appears that the title of the rule should reflect that the rule includes guidelines for pharmacist supervision of more than one registered pharmacy technician.

64B16-27.4001(3): The rule text states that "[n]o person, permittee, or licensee shall interfere with the exercise of the supervising pharmacist's independent professional judgment in determining whether to utilize more than one technician, which may be based on the following guidelines:" Please advise whether the registered pharmacy technician(s) may be investigated and potentially disciplined if the supervising pharmacist exercises such independent and professional judgment.

May the supervising pharmacist be investigated and potentially disciplined for exercising such independent and professional judgment?

Section 465.014(1) requires the board to adopt guidelines if it allows a pharmacist to supervise more than one registered pharmacy

technician, and those guidelines are to be followed by licensees or permittees in determining the circumstances in which a pharmacist may supervise more than one registered pharmacy technician. The use of the word “may” appears to allow the supervising pharmacist to disregard the guidelines. The guidelines are to prescribe “the procedure or practice requirements of the agency.” *See* § 120.52(16), Fla. Stat. As these guidelines do not appear to impose any requirements, i.e., implementing compliance with section 465.014(1), please explain how these guidelines meet the definition of a “rule” in section 120.52(16).

Moreover, it appears that these guidelines do not provide sufficient guidance for pharmacists to determine the circumstances under which he or she may supervise more than one pharmacy technician as required by section 465.014(1), and the rule may not be supported by logic or the necessary facts. As a result, these guidelines may be arbitrary or capricious. *See* § 120.52(8)(e), Fla. Stat.

64B16-27.4001(3)(a): How is “[t]he necessity to support the dispensing or service volume” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? Would not this guideline change throughout the work day? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

64B16-27.4001(3)(b): How is “[t]he necessity to provide technical support for the clinical services provided” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? Would not this guideline change throughout the work day? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

64B16-27.4001(3)(c): This guideline requires the pharmacist to discern “[t]he level of education, training and experience of the technicians.” Is this a determination of the pharmacy technicians’ competency? How would the pharmacist know this information? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

- 64B16-27.4001(3)(d):** How is “[o]ther support personnel including additional pharmacists and pharmacy interns” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? How many additional pharmacists and pharmacy interns would qualify? Who else would constitute support personnel? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.
- 64B16-27.4001(3)(e):** This guideline requires the supervising pharmacist to judge objectively his or her “level of education, training, and experience.” How does the pharmacist make this determination to allow the supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? And what level of education, training, and experience is required for various circumstances, such as described in existing rule 64B16-27.410(4), (5), (6), and (7). Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.
- 64B16-27.4001(3)(f):** How is “level of centralized or alternative support such as, but not limited to, remote processing, centralized filling or phone support” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? What other support would be authorized? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.
- 64B16-27.4001(3)(g):** How is “[t]he level of automation or other technology within the pharmacy” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? What other technology in the pharmacy would be considered? It appears that this guideline is vague and fails to establish adequate standards. Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.
- 64B16-27.4001(3)(h):** How is “[t]he level of supervision necessary based on the tasks being performed” determined to allow supervision of more than one pharmacy technician? And how many technicians may be supervised and under what circumstances? It appears the rule should specify

those tasks, as described in existing rule 64B16-27.410(4), (5), (6), and (7). Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

64B16-27.4001(3)(i): How are “[a]spects of patient care that require a pharmacist’s or technician’s attention” determined to allow supervision of more than one pharmacy technician? Please clarify the meaning of this guideline, that is, what types of patient care and what type of attention is required? And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

64B16-27.4001(3)(j): What “type of medications or other services being offered” are authorized to allow supervision of more than one pharmacy technician? What does the board mean by “other services?” What type of medications must be offered? And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

64B16-27.4001(3)(k): What “security measures employed” allow supervision of more than one pharmacy technician? What does the board mean by “other services?” And how many technicians may be supervised and under what circumstances? Please amend the rule to include adequate standards and establish ascertainable ratios of supervision of pharmacy technicians. *See* §§ 120.52(8)(d), .545(1)(i), Fla. Stat.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward A. Tellechea, Chief Assistant Attorney General

MCH:df #195842

TAB 3

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Ron DeSantis**

Governor

Joseph A. Ladapo, MD, PhD

State Surgeon General

Vision: To be the Healthiest State in the Nation

December 1, 2025

Ms. Marjorie C. Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Via email: holladay.marjorie@leg.state.fl.us; japc@leg.state.fl.us

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
2:00 pm, Dec 01 2025

Re: Rule 64-9.001, F.A.C. – Notice of Proposed Rule

Dear Ms. Holladay:

Enclosed are the following documents regarding the above-referenced matter:

1. Notice that will publish December 2, 2025, in the *Florida Administrative Register* (Vol. 51, No.232)
2. Statement of Facts and Circumstances
3. Statement of Estimated Regulatory Cost checklist
4. Materials Incorporated by Reference:
 - a. DH8006-CMS-07/2024, Florida Sickle Cell Registry Infant Opt-Out Form
 - b. DH8001-OMH-11/2025, Florida Sickle Cell Registry Opt-In Form
 - c. DH8000-OMH-11/2025, Florida Sickle Cell Registry Opt-Out Form

The handling attorney is Steve Griffin, and he can be reached at (850) 245-4707.

Thank you for your assistance in this matter. Please feel free to contact me at (850) 617-1422 if you have any questions or comments.

Sincerely,

Sharon Russ

Sharon D. Russ
Senior Legal Assistant

Cc: Kenneth J. Plante, Coordinator
Alysson Bradley, Interim General Counsel
Steve Griffin, Senior Attorney

Enclosures

Florida Department of Health**Office of the General Counsel**

4052 Bald Cypress Way, Bin A-02 • Tallahassee, FL 32399-1701
PHONE: 850/245-4005 • FAX: 850/245-4790

FloridaHealth.gov**Accredited Health Department**

Public Health Accreditation Board

NOTICE OF PROPOSED RULE

DEPARTMENT OF HEALTH

RULE NO.: 64-9.001 RULE TITLE: Procedures for Opting Out of and Opting Into the Sickle Cell Registry.

PURPOSE AND EFFECT: To implement a sickle cell registry for individuals that carry the sickle cell disease or trait by providing a process and forms for individuals and for parents or guardians of newborns and infants to opt out of the registry and for individuals and parents or guardians of newborns and infants to opt into the registry.

SUMMARY: This rulemaking adds a process and forms to implement the sickle cell registry created by section 383.147, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

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

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or, if no SERC is required, the information expressly relied upon and described herein. Based on the SERC checklist, this rulemaking will not have an adverse impact on regulatory costs in excess of \$1 million within five years as established in s.120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 383.147, F.S.

LAW IMPLEMENTED: 383.147, F.S.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Sean Isaac, 4052 Bald Cypress Way, Bin A-25, Tallahassee, FL 32399, Sean.Isaac@flhealth.gov, 850-245-4480.

THE FULL TEXT OF THE PROPOSED RULE IS:

64-9.001 Procedures for Opting Out of and Opting Into the Sickle Cell Registry.

(1) Parents or legal guardians of newborns and infants identified as having sickle cell disease or sickle cell trait through the newborn screening program as described in s. 383.14, F.S., may opt out of inclusion in the Sickle Cell Registry (Registry) by completing DOH Form – DH8006-CMS-07/2024, Florida Sickle Cell Registry Infant Opt-Out Form (effective 07/2024) which is incorporated by reference and available at <https://flrules.org/Gateway/reference.asp?No=Ref-18994>. A parent or guardian may also indicate his or her objection to having the infant included in the Registry by submitting the objection in writing to the department. The objection shall include, at a minimum, the name of the parent or guardian, the name of the infant, and the infant's date of birth and must be mailed to Florida Newborn Screening Program, Division of Children's Medical Services, Florida Department of Health, 4052 Bald Cypress Way, Bin A-06, Tallahassee, FL 32399-1707, Attn: Sickle Cell Registry.

(2) Opting In: In addition to newborns and infants identified and included in the Registry pursuant to s. 383.147, F.S., individuals living in this state who have been identified as having sickle cell disease or carrying a sickle cell trait may choose to be included in the Registry by completing DOH Form – DH8001-OMH-11/2025, Florida Sickle Cell Registry Opt-In Form (effective 11/2025) which is incorporated by reference and available at <https://flrules.org/Gateway/reference.asp?No=Ref-18995>.

(3) Opting Out (18+): Individuals who are included in the Registry and who are 18 years of age or older may opt out of the Registry by completing DOH Form – DH8000-OMH-11/2025, Florida Sickle Cell Registry Opt-Out Form (effective 11/2025) which is incorporated by reference and available at <https://flrules.org/Gateway/reference.asp?No=Ref-18996>.

Rulemaking Authority 383.147 FS. Law Implemented 383.147 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Sean Isaac, Director of Operations, Office of Minority Health.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Joseph A. Ladapo, MD, PhD, State
Surgeon General
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 25, 2025
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 13, 2025.

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
2:00 pm, Dec 01 2025

DEPARTMENT OF HEALTH

OFFICE OF MINORITY HEALTH

RULE NO.: RULE TITLE:

64-9.001 Procedures for Opting Out of and Opting Into the Sickle Cell Registry

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING RULE PROPOSAL:

The Office determined that it is necessary to create a new rule to implement the sickle cell disease and sickle cell trait registry to clarify the process and forms for individuals to use to opt-out of or opt into inclusion in Florida's Sickle Cell Registry.

STATEMENT REGARDING FEDERAL STANDARDS:

There are no ascertainable parallel federal rules or standards with which to make a comparison.

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
2:00 pm, Dec 01 2025

**FLORIDA DEPARTMENT OF HEALTH
OFFICE OF THE GENERAL COUNSEL**

Proposed Rule: Is a SERC Required

Division: Office of Minority Health

Rule: 64-9.001, Procedures for Opting Out of and Opting Into the Sickle Cell Registry

Please remember to analyze the impact of the rule, NOT the statute, when completing this form.

I. Adverse Impact Determination

a. Economic? (Check all that apply.)

- ☐ Increased fees to be paid by licensee, applicant, registrant, etc.
- ☐ Increased costs of doing business (equipment, software, etc.)
- ☐ Increased personnel costs (additional employees, insurance, overtime, training, etc.)
- ☐ Decreased opportunity for profit (limits on fees, scope of business/practice, ability to partner with others, etc.)

b. Non-economic? (Check all that apply.)

- ☐ Increased time and effort to comply (forms, tests, etc.)
- ☐ Increased need for specialized knowledge (legal, technical, etc.)

If any of the above boxes are checked, answer "Yes," then continue to the next section. If no boxes are checked, answer "No," and skip to Section III below. ☐ Yes ☒ No

II. Small Business Determination

a. Are any of the affected entities a "small business?" (Check all that apply.)

- ☐ 200 or less **permanent full-time** employees;
- ☐ Net worth less than \$5 million (including value of affiliates);
- ☐ Independently owned and operated (NOT a subsidiary of another entity); **AND,**
- ☐ Engaged in a commercial enterprise?

If **ALL** of the preceding boxes are checked, answer "Yes," and skip to Section III below.

If you did not check **ALL** of the above boxes, check "No," then continue to the next qualification.

☐ Yes ☐ No

b. Small Business Certification

- ☐ Does any affected entity have Small Business Administration 8(a) certification?
☐ Yes (see, www.ccr.gov) ☐ No

If the answers to I and II are "Yes," the agency must prepare a SERC.

III. Regulatory Cost Increase Determination

Direct:

- a. Increased Regulatory Cost: 0
- b. Number of Entities Impacted: unknown
- c. Multiply a. times b.: 0
- d. Is c. greater than \$200,000? ☐ Yes ☒ No

Indirect:

- e. Any ascertainable indirect costs? ☐ Yes ☒ No
- f. Amount of Indirect Cost: NA
- g. Number of Entities Impacted: unknown
- h. Multiply g. times f.: 0
- i. Is h. greater than \$200,000? ☐ Yes ☒ No
- j. Is h. plus c. greater than \$200,000? ☐ Yes ☒ No

**RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
2:01 pm, Dec 01 2025**

If the answer to d., i., or j. is "Yes," the agency must prepare a SERC.

Prepared By: Sonia McNelis

Date: 7/31/25

To be certified by the agency head, if the agency is within the purview of the Governor; otherwise, certified by the agency's legal counsel or other appropriate person.

Is a SERC required? ☐ Yes ☒ No

Name: Joseph A. Ladapo, MD, PhD
(Print Name)

Signed by:
Joseph Ladapo
00E88D9D1ECF400
(Signature)

Title: State Surgeon General
Florida Department of Health

Date: 11/25/2025

Phone: (850) 245-4321

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
2:01 pm, Dec 01 2025



Florida Sickle Cell Registry Infant Opt-Out Form

Congratulations on your new baby! As a parent or legal guardian of a baby identified with sickle cell disease or sickle cell trait through the Florida Newborn Screening (NBS) Program, you can decide if you want your baby included in Florida's Sickle Cell Registry (SCR).

Section 383.147(2)(a), Florida Statutes, requires the NBS to submit a newborn's results identifying the newborn as having sickle cell disease or trait for inclusion in SCR. The purpose of the registry is to monitor trends in diagnosis, treatment, and health care access for those living in Florida who have been identified with sickle cell disease or trait.

You can opt-out of the Florida SCR by completing this form and mailing it to the address below, or by visiting floridanewbornscreening.com/parents/sickle-cell-registry/ to complete the form online. If you have questions, please call 833-956-0324 or email SCRRegistryoptout@flhealth.gov.

If your child was previously included in the SCR, and as the parent or legal guardian you would like to remove them, please email the SCR at info@scdregistry.org or call 844-446-5744 for additional information.

Infant's Information	
First Name: _____	Middle Initial: ____ Last Name: _____
Date of Birth: ____/____/____	Gender at Birth: Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown <input type="checkbox"/>
Mother's First Name: _____	Last Name: _____
Mother's Maiden Name: _____	
Address 1: _____	
Address 2: _____	
City/State/ZIP Code: _____	
Phone Number: () _____ - _____	

Parent/Legal Guardian	
First Name: _____	Middle Initial: ____ Last Name: _____
Date of Birth: ____/____/____	
Address 1: _____	
Address 2: _____	
City/State/ZIP Code: _____	
Phone Number: () _____ - _____	Email (Optional): _____

By signing this opt-out request, I confirm that I am the parent/legal guardian of the infant named above and request to have the above-named infant's information not be included in the Florida SCR.

Name (Print)

Name (Signature)

Date

Please mail the signed form to:

Florida Newborn Screening Program
Division of Children's Medical Services
Florida Department of Health
4052 Bald Cypress Way, Bin A-06
Tallahassee, FL 32399-1707
Attn: Sickle Cell Registry



Florida Sickle Cell Registry Opt-In Form

This form is required to opt into the Florida Sickle Cell Registry, allowing the collection of sickle cell screening information, as well as protected health information (PHI) such as medical and treatment information.

By completing this form, I request to be included in the Florida Sickle Cell Registry. I understand that by taking this action, all my sickle cell screening information and other PHI will be added to the registry.

Name of Individual:

Last Name: _____ Middle Initial: _____ First Name: _____

Date of Birth (MM/DD/YYYY): _____ Sex: M (male) ☐ F (female) ☐

Parent or Guardian (if applicable):

Last Name: _____ Middle Initial: _____ First Name: _____

Telephone Number: _____

Street Address: _____, Apt/Unit/Suite: _____

City: _____ State: _____ ZIP:

I understand that by signing this form, my sickle cell screening information and other PHI will be kept in the Florida Sickle Cell Registry until I decide to opt out of the registry.

Requestor Signature/Parent or Guardian Signature

Date Signed

Please complete this opt-in form and email or mail it to:

Email: info@scdregistry.org

Mailing Address:

FSCDR

Attn: Florida Sickle Cell Registry

1685 South State Road 7, Unit 4

Hollywood, FL 33023

Phone: 844-446-5744

Complete this opt-in form online at <https://scdregistry.org/>

For more information about the Sickle Cell Registry, please visit <https://scdregistry.org/>



Florida Sickle Cell Registry Opt-Out Form

This form is required to opt out of the Florida Sickle Cell Registry, confirming the removal and deletion of sickle cell screening information, as well as protected health information (PHI) such as medical and treatment information.

By completing this form, you are stating that you no longer want to be included in the Florida Sickle Cell Registry.

Name of Individual:

Last Name: _____ Middle Initial: _____ First Name: _____

Date of Birth (MM/DD/YYYY): _____ Sex: M (male) ☐ F (female) ☐

Parent or Guardian (if applicable):

Last Name: _____ Middle Initial: _____ First Name: _____

Telephone Number: _____

Street Address: _____ Apt/Unit/Suite: _____

City: _____ State: _____ ZIP:

I understand that by signing this form, my sickle cell screening information and other PHI will be permanently removed and deleted from the Florida Sickle Cell Registry.

Requestor Signature/Parent or Guardian Signature

Date Signed

Please complete this opt-out form and email or mail it to:

Email: info@scdregistry.org

Mailing Address:

FSCDR

Attn: Florida Sickle Cell Registry

1685 South State Road 7, Unit 4

Hollywood, FL 33023

Phone: 844-446-5744

Complete this opt-out form online at <https://scdregistry.org/>

For more information about the Sickle Cell Registry, please visit <https://scdregistry.org/>

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

November 19, 2025

Ms. Alysson Bradley
Interim General Counsel
Office of the General Counsel
Department of Health
4052 Bald Cypress Way, Bin A-02
Tallahassee, FL 32300-1701

Re: Implementation of Section 383.147, Florida Statutes

Dear Ms. Bradley:

Thank you for your letter of November 17, 2025, updating the Committee on the status of rulemaking mandated under section 383.147, Florida Statutes. Please be advised that if the Notice of Proposed Rule is not published in the Florida Administrative Register by December 3, 2025, a letter will be sent to Surgeon General Ladapo requesting his attendance, or that of his designee, at the December 8, 2025, Committee meeting to explain the Department's delay in implementing the statute.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

KJP:tf

Mission:

To protect, promote and improve the health of all people in Florida through integrated state, county and community efforts.

**Ron DeSantis**

Governor

Joseph A. Ladapo, MD, PhD

State Surgeon General

Vision: To be the Healthiest State in the Nation

November 17, 2025

Kenneth J. Plante
Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
japc@leg.state.fl.us

Re: Implementation of Section 383.147, Florida Statutes

Dear Mr. Plante,

The Department of Health (Department) is in receipt of your November 4, 2025, letter regarding implementation of section 383.147, Florida Statutes. As noted, the Department published its Notice of Rule Development of February 13, 2025, to create Rules 64-9.001 and 9.002. Since that time, the Department has remained committed to moving the rule(s) forward, continuing to work on review and finalizing the proposed rule materials.

The materials for the Notice of Proposed Rule are currently under review for final approval by the Department. As such, we anticipate that a Notice of Proposed Rule will be published in the *Florida Administrative Register* in early December. Please do not hesitate to reach out if you have any further questions.

Sincerely,

Alysson Bradley

Alysson Bradley
Interim General Counsel

Cc: Ms. Marjorie Holladay

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
4:23 pm, Nov 17 2025

**Florida Department of Health
Office of the General Counsel**

4052 Bald Cypress Way, Bin A-02 • Tallahassee, FL 32399-1701
PHONE: 850/245-4005 • FAX: 850/245-4790

FloridaHealth.gov



Accredited Health Department
Public Health Accreditation Board

BEN ALBRITTON
President



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

November 4, 2025

Ms. Alysson Bradley
Interim General Counsel
Florida Department of Health
4052 Bald Cypress Way, Bin A02
Tallahassee, FL 32399-1703

RE: Implementation of Section 383.147, Florida Statutes

Dear Ms. Bradley:

The Department of Health published a notice of rule development on February 13, 2025, to create rules 64-9.001 and .002. To date, however, it does not appear that the Department has published proposed rules as required by section 383.147(3), Florida Statutes. Given the Committee's past interest in the implementation of section 383.147, Florida Statutes, please provide the Committee with an update of the status of the rulemaking, as I anticipate that the Committee will request a status report at its next scheduled meeting.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

cc: Ms. Marjorie Holladay

Department of Health - Section 2023-258, Laws of Florida

383.147 Sick cell disease and sickle cell trait registry.—

(1) If a newborn as defined in s. 383.145(2) is identified as having sickle cell disease or sickle cell trait through the newborn screening program as described in s. 383.14, the department must:

(a) Notify the parent or guardian of the newborn and provide information regarding the availability and benefits of genetic counseling.

(b) Submit the results of such screening for inclusion in the sickle cell registry established under paragraph (2)(a), unless the parent or guardian of the newborn provides an opt-out form obtained from the department, or otherwise indicates in writing to the department his or her objection to having the newborn included in the sickle cell registry.

(2)(a) The Department of Health shall contract with a community-based sickle cell disease medical treatment and research center to establish and maintain a registry for individuals who are identified as having sickle cell disease or carrying a sickle cell trait. The sickle cell registry must track sickle cell disease outcome measures, except as provided in paragraph (1)(b).

(b) In addition to newborns identified and included in the registry under subsection (1), other persons living in this state who have been identified as having sickle cell disease or carrying a sickle cell trait may choose to be included in the registry by providing the department with notification as prescribed by rule.

(c) The Department of Health shall also establish a system to ensure that the community-based sickle cell disease medical treatment and research center notifies the parent or guardian of a child who has been included in the registry that a follow-up consultation with a physician is recommended. Such notice must be provided to the parent or guardian of such child at least once during early adolescence and once during late adolescence. The department shall make every reasonable effort to notify persons included in the registry who are 18 years of age that they may request to be removed from the registry by submitting a form prescribed by the department by rule. The department shall also provide to such persons information regarding available educational services, genetic counseling, and other beneficial resources.

(3) The Department of Health shall adopt rules to implement this section.

Mission:

To protect, promote and improve the health of all people in Florida through integrated state, county and community efforts.



Ron DeSantis
Governor

Joseph A. Ladapo, MD, PhD
State Surgeon General

Vision: To be the Healthiest State in the Nation

February 12, 2025

Kenneth J. Plante
Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
1:27 pm, Feb 12 2025

Dear Mr. Plante:

Rulemaking

The Department of Health (Department) is in receipt of your correspondence dated February 10, 2025. Please allow this letter to serve as an update regarding rulemaking to implement section 383.147, Florida Statutes, "Sickle cell disease and sickle trait registry," required under Chapter 2023-258, Laws of Florida.

On February 11, 2025, the Department submitted a Notice of Rule Development creating Rules 64-9.001, Sickle Cell Disease and Trait Registry, and 64-9.002, Forms. The Notice of Rule Development will publish in the Florida Administrative Register on February 13, 2025. The rulemaking is proposed to include:

- A form for parents or guardians of newborns that choose to opt-out of inclusion in the Sickle Cell Registry (SCR)¹;
- A form for individuals identified as having sickle cell disease or trait that choose to opt-in to the SCR; and
- A form for persons included in the SCR who are 18 years of age or older and wish to be removed from the SCR.

Implementation Status

The Department has contracted with the Foundation for Sickle Cell Disease Research for establishment of the SCR. The Department began collecting data for inclusion in the SCR on May 31, 2024. The SCR build out was completed in October 2024. However, the data has not yet been migrated to the SCR. In the interim, the Department has put in place a process to ensure compliance with section 383.147, Florida Statutes, that includes notification to parents and guardians of newborns that are identified as having sickle cell disease or trait, notification regarding the SCR and provision of an opt-out form, as well as multiple follow-up contacts to ensure parents or guardians have received information regarding the SCR.

¹ Please note that Chapter 2024-246, Laws of Florida, removed the requirement for the form to be prescribed by rule and simply permits a parent or guardian to submit an opt-out form or otherwise indicate in writing his or her objection to inclusion in the SCR. § 383.147(1)(b), Florida Statutes (2024).

Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin A-02 • Tallahassee, FL 32399-1701
PHONE: 850/245-4005 • FAX: 850/245-4790
FloridaHealth.gov



Accredited Health Department
Public Health Accreditation Board

The opt-out form may be submitted via regular mail or completed online on the Florida Newborn Screening website.² A form for persons who are 18 years of age or older and wish to opt-out of the SCR has not yet been developed. However, there are no individuals whose data has been collected for the SCR that would meet this criteria.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Alysson H. Bradley
Interim General Counsel

cc: Victoria Mohebpour, Legislative Affairs Director

RECEIVED
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
1:27 pm, Feb 12 2025

² <https://floridanewbornscreening.com/parents/floridas-sickle-cell-registry/>

TAB 4

BEN ALBRITTON
President



Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Erin Grall, Vice Chair
Senator Mack Bernard
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Tina Scott Polsky
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger

DANIEL PEREZ
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

November 21, 2025

Judge Darren Schwartz
Interim Director and Chief Judge
Division of Administrative Hearings
2001 Drayton Drive
Tallahassee, FL 30311

RE: Joint Administrative Procedures Committee Meeting

Dear Judge Schwartz:

The Joint Administrative Procedures Committee respectfully requests your attendance, or that of your designee, at the next meeting of the Committee to be held at 3:30 p.m., December 8, 2025, in Room 412, Knott Building. The Committee would appreciate your comments on a number of issues. More specifically:

- The appointment Administrative Law Judges being the same process as Judges of Compensation Claims.
- The process for ensuring internal consistency within the Division in Final and Recommended Orders.
- Discussion of adherence to both judicial and DOAH precedent in Final and Recommended Orders.
- Use of legislative appropriations vs. monies reimbursed from contracted entities.
- Status of arbitration proceedings with Citizens Property Insurance.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

cc: Senator Erin Grall, Chairman
Representative Tobin Overdorf, Vice Chair

KJP:tf



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

November 20, 2025

Judge Darren A. Schwartz
Interim Director and Chief Judge
Division of Administrative Hearings
2001 Drayton Drive
Tallahassee, FL 32311

RE: Division of Administrative Hearings, Fifty-first Annual Report

Dear Judge Schwartz:

Appendix 2 of the Division of Administrative Hearings' ("DOAH") Fifty-first Annual Report (the "Report") lists the Current Legislative Appropriations for DOAH for FY 2023-2024 as \$13,561,333, with expenditures realized at \$12,200,296.

As stated in the Report, in addition to the state agencies that utilize DOAH's services, "DOAH is authorized to contract for the provision of ALJ services with entities such as cities, counties, regional planning councils, water management districts, school districts, Citizens Property Insurance Corporation, and other governmental entities. Contract entities reimburse DOAH for the costs of its services based on a total cost-recovery methodology." The Report further states that "DOAH has 233 contracts with governmental entities to provide adjudicatory services." Are the 22 state agencies listed in the Report included in the 233 contracts or are they considered separately?

Appendix 2 does not include any information regarding income generated under either the 233 contracts or the money received directly from state agencies for providing adjudicatory services, thus begging the question of how this income is reported and managed. Basically, where does the money go and how is it used by DOAH?

The Report indicates that contract entities reimburse DOAH for the costs of its services based on a "total cost-recovery methodology." Please provide the Committee with a copy of this methodology.

Judge Darren A. Schwartz
November 20, 2025
Page 2

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

KJP:tf

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**



January 31, 2025
FIFTY-FIRST ANNUAL REPORT

**DIVISION OF ADMINISTRATIVE HEARINGS
FIFTY-FIRST ANNUAL REPORT**

Table of Contents

INTRODUCTION	2
GENERAL	2
UTILIZATION AND HEARING REQUESTS.....	2
UTILIZATION OF PERSONNEL	3
INFORMATION TECHNOLOGY.....	4
Electronic Filing	4
Indexing	4
Cybersecurity.....	4
OPERATING BUDGET	5
ZOOM VIDEO CONFERENCE TECHNOLOGY	5
RECOMMENDATIONS CONCERNING THE APA	6
CONCLUSION	6
APPENDIX 1	7
APPENDIX 2	9

DIVISION OF ADMINISTRATIVE HEARINGS FIFTY-FIRST ANNUAL REPORT

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and the Administration Commission in compliance with section 120.65(8), Florida Statutes, which provides:

Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

- (a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.
- (b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.
- (c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.
- (d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).

This report is based upon case and budget data for FY 2023-24.

GENERAL

The Division of Administrative Hearings (DOAH) manages two programs. One, the subject of this report, is the Adjudication of Disputes program that operates pursuant to the Administrative Procedure Act (APA). The other is the Workers' Compensation Adjudication program, operating pursuant to chapter 440, Florida Statutes, which requires the Office of the Judges of Compensation Claims (OJCC) to issue an annual report. The OJCC annual report was submitted timely in 2024. Because DOAH administratively supports both programs, this report includes some information pertaining to the OJCC.

UTILIZATION AND HEARING REQUESTS

The following state agencies utilized DOAH's services:¹

- Agency for Health Care Administration
- Agency for Persons with Disabilities
- Department of Agriculture and Consumer Services
- Department of Business and Professional Regulation
- Department of Children and Families
- Baker Act Hearings

¹ DOAH also hears cases involving Medical Arbitration (§§ 766.201-766.212, Fla. Stat.). Medical Arbitration cases (33 cases in FY 2023-24) pay nothing, which is far below the costs of utilization.

DIVISION OF ADMINISTRATIVE HEARINGS FIFTY-FIRST ANNUAL REPORT

- Department of Commerce
 - Florida Housing Finance Corporation
- Department of Education
- Department of Environmental Protection
- Department of Financial Services
 - Office of Financial Regulation
- Department of Health
- Department of Highway Safety and Motor Vehicles
- Department of Law Enforcement
- Department of Management Services
 - Florida Commission on Human Relations
 - Public Employees Relations Commission
- Department of Revenue
 - Child Support Hearings
- Department of State
- Department of Transportation
- Executive Office of the Governor
- Fish and Wildlife Conservation Commission
- Florida Commission on Ethics
- Florida Elections Commission
- Florida Gaming Control Commission
- State Board of Administration

See, Appendix 1

Entities such as water management districts, cities, counties, and school districts are significant users of DOAH's services under contract.

In FY 2023-24, each Administrative Law Judge (ALJ) conducted an average of 187 hearings and wrote an average of 109 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 46 cases (excluding Baker Act cases), which were settled or otherwise dismissed without a final hearing.

UTILIZATION OF PERSONNEL

As of June 30, 2024, the Adjudication of Disputes program had 80 established positions, consisting of the Chief Judge, the Executive Director/ALJ, 35 ALJs, 13 legal assistants, and 30 administrative support staff (including the Clerk's office and IT). With one legal assistant assigned to three judges, DOAH operates a highly efficient staffing model for the adjudicatory process. Party preference for Zoom video conference hearings has also dramatically reduced ALJ travel time in favor of office time.

The Workers' Compensation Claims Court program had 136 established positions in 13 locations, consisting of 1 Deputy Chief Judge, 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 74 administrative support staff (including the Clerk's Office).

DIVISION OF ADMINISTRATIVE HEARINGS FIFTY-FIRST ANNUAL REPORT

Effective July 1, 2022, the number of JCCs and office locations are no longer in statute; therefore, some offices were consolidated in FY 2022-23. In addition, the OJCC has reduced its long-standing JCC administrative support complement from 3 to 2, mostly by attrition. Accordingly, DOAH reduced OJCC positions by 8.

INFORMATION TECHNOLOGY

DOAH maintains two mission-critical databases and applications: the ALJ Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by DOAH's ALJs and JCCs. Both databases are accessible via DOAH's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and email) and online legal research.

Electronic Filing

During calendar year 2024, there were 58,729 documents uploaded via the eALJ filing portal; 62,120 documents were served (via email) to 229,349 parties of record. Additionally, 565,753 documents were uploaded via the eJCC filing portal; 765,125 documents were electronically served to 2,005,111 parties of record. DOAH continues to encourage electronic filing while acknowledging pro se party limitations on the uniform application to this requirement.

DOAH endeavors to make the electronic filing and the service of pleadings and documents more user-friendly. In 2021, DOAH developed an exhibit portal that allows all users to submit proposed exhibits electronically. In 2024, a total of 20,315 exhibits were uploaded via the eALJ filing portal.

Indexing

Pursuant to section 120.53(2), all state agencies are required to electronically transmit their agency Final Orders to DOAH's website for indexing purposes. To date, a total of 351,293 documents have been submitted to the Agency Index Documents database, with 38,253 of those uploaded in calendar year 2024.

In calendar year 2021, DOAH began indexing emergency declarations and orders pursuant to section 252.36(3)(b), Florida Statutes. To date, a total of 561 documents have been submitted to the Agency Emergency Documents database, with 242 of those uploaded in calendar year 2024.

Cybersecurity

DOAH has long been concerned with the integrity of its IT systems. This concern has grown out of the general responsibility to those whose private information comes into DOAH's possession through electronic means. Actions include developing appropriate walls to keep that private information separate from all but those who are entitled to it, and taking appropriate measures to ensure that the users of DOAH's systems do not accidentally release confidential information to those not entitled to it or infect the IT systems with malware or other intrusions. In 2021,

DIVISION OF ADMINISTRATIVE HEARINGS FIFTY-FIRST ANNUAL REPORT

DOAH made a significant security investment upgrade by acquiring Palo Alto Next-Generation Firewalls (NGFW) featuring the Cortex Extended Detection and Response (XDR) platform. Cortex XDR is an enterprise detection and response application that integrates network, endpoint, and cloud data to stop sophisticated attacks.

In addition, IT regularly provides cybersecurity training to all DOAH personnel.

OPERATING BUDGET

DOAH is authorized to contract for the provision of ALJ services with entities such as cities, counties, regional planning councils, water management districts, school districts, Citizens Property Insurance Corporation, and other governmental entities. Contract entities reimburse DOAH for the costs of its services based on a total-cost-recovery methodology. DOAH has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to contract entities. Currently, DOAH has 233 contracts with governmental entities to provide adjudicating services. In addition, DOAH's implementation of Zoom video conference technology has made it possible to provide adjudicatory services to governmental entities located outside of Tallahassee without charging for travel, thus making DOAH an even more economical option.

The Workers' Compensation Claims Court program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund. This trust fund receives monies from a workers' compensation premium tax assessment, which supports the entire workers' compensation program. DOAH's budget and expenditure data is attached.

See, Appendix 2

ZOOM VIDEO CONFERENCE TECHNOLOGY

Beginning in 2009, DOAH offered video-teleconferencing capabilities (VTC) in each of its district offices throughout Florida, as well as in Tallahassee. But the peer-to-peer functionality of VTC requires parties to gather in no more than two locations, and the social distancing requirements imposed in early 2020 due to COVID-19 rendered its VTC all but unusable and forced DOAH to look for other alternatives for video conferencing. In March 2020, DOAH began using Zoom web-based technology to conduct hearings by video conference in lieu of in-person or VTC hearings. Zoom has proven to be a more reliable and convenient means to conduct hearings by video conference than the peer-to-peer VTC system implemented by DOAH in 2009. In 2022, DOAH transitioned from the VTC system to Zoom and upgraded the Zoom video conference technology in all hearing rooms to enable parties and witnesses to attend live hearings remotely. To date, DOAH has conducted over 14,636 final hearings by Zoom.

**DIVISION OF ADMINISTRATIVE HEARINGS
FIFTY-FIRST ANNUAL REPORT**

RECOMMENDATIONS CONCERNING THE APA

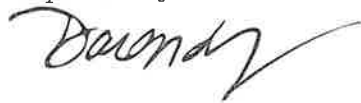
DOAH makes no new recommendations for legislative amendment to the APA as of the time of the filing of this report.

CONCLUSION

DOAH, Florida's primary administrative court, offers timely, high-quality objective adjudication of disputes services pursuant to the APA. DOAH continues to seek ways to make the process more affordable, and to expand its services to local governments. DOAH is mindful of the costs to parties of proceeding to hearing and seeks to minimize delays by quickly moving cases through the system. This commitment ensures that individuals, businesses, and agencies experience timely, cost-effective decision making.

The ALJs and staff of DOAH look forward to another year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,



DARREN A. SCHWARTZ
Interim Director & Chief Judge

**DIVISION OF ADMINISTRATIVE HEARINGS
FIFTY-FIRST ANNUAL REPORT**

APPENDIX 1

**REQUESTS FOR HEARINGS
FISCAL YEAR 2023-2024**

ENTITY	TOTAL
Agency for Health Care Administration	37
Agency for Persons with Disabilities	5
Department of Agriculture and Consumer Services	18
Department of Business and Professional Regulation	42
Department of Children and Families	52
- Baker Act Hearings	1,429
Department of Commerce	20
- Florida Housing Finance Corporation	19
Department of Education	155
Department of Environmental Protection	40
Department of Financial Services	76
- Office of Financial Regulation	10
Department of Health	129
Department of Highway Safety and Motor Vehicles	20
Department of Law Enforcement	6
Department of Management Services	9
- Florida Commission on Human Relations	194
- Public Employees Relations Commission	3
Department of Revenue	15
- Child Support Hearings	3,058
Department of State	1
Department of Transportation	5
Executive Office of the Governor	2
Fish and Wildlife Conservation Commission	28
Florida Birth-Related Neurological Injury Compensation Association	85
Florida Commission on Ethics	8
Florida Elections Commission	5
Florida Gaming Control Commission	1

**DIVISION OF ADMINISTRATIVE HEARINGS
FIFTY-FIRST ANNUAL REPORT**

Growth Management Hearings	5
Medical Arbitration Hearings	33
State Board of Administration	5
Water Management Districts	2
Citizens Property Insurance Corporation	29
Other Contract Entities	718
County School Boards/Universities/Colleges	363
TOTAL	6,627

**DIVISION OF ADMINISTRATIVE HEARINGS
FIFTY-FIRST ANNUAL REPORT**

APPENDIX 2

SUMMARY

Division of Administrative Hearings
Actual and Estimated Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Legislative Appropriations FY 2023-24	Actual Expenditures FY 2023-24	Current Appropriations FY 2024-25
Salaries and Benefits	\$11,488,634	\$10,651,799	\$16,599,736
Other Personal Services	\$18,082	\$10,614	\$18,082
Expenses	\$1,160,000	\$1,122,212	\$1,557,619
Operating Capital Outlay	\$38,500	\$33,544	\$32,500
Special Categories			
Contracted Services	\$281,495	\$279,080	\$295,495
FLAIR System Replacement	\$464,186	\$0	\$464,186
Contracted Legal Svcs.	\$8,500	\$7,500	\$13,500
Risk Mgmt. Ins.	\$50,881	\$50,881	\$39,754
Lease/Purch/Equip	\$24,000	\$17,611	\$24,000
TR/DMS/HR SVCS	\$27,055	\$27,055	\$31,824
Total Program Budget	<u>\$13,561,333</u>	<u>\$12,200,296</u>	<u>\$19,076,696</u>
Total Program Positions	80	80	106

Workers' Compensation Claims Court

<u>Appropriation Category</u>	Legislative Appropriations FY 2023-24	Actual Expenditures FY 2023-24	Current Appropriations FY 2024-25
Salaries and Benefits	\$16,804,181	\$16,113,741	\$17,569,506
Other Personal Services	\$57,836	\$37,379	\$17,836
Expenses	\$2,818,172	\$2,808,376	\$2,758,756
Operating Capital Outlay	\$44,950	\$41,809	\$38,950
Special Categories			
Contracted Services	\$983,324	\$677,872	\$983,324
Contracted Legal Svcs.	\$8,779	\$7,500	\$10,779
Tenant Broker Commissions	\$115,456	\$115,455	\$24,922
Risk Mgmt. Ins.	\$36,017	\$36,017	\$35,240
Lease/Purchase/Equip	\$32,000	\$16,101	\$32,000
TR/DMS/HR SVCS	\$50,914	\$50,914	\$44,068
Total Program Budget	<u>\$20,951,629</u>	<u>\$19,905,164</u>	<u>\$21,515,381</u>
Total Program Positions	136	136	136
TOTAL DIVISION BUDGET	<u>\$34,512,962</u>	<u>\$32,105,460</u>	<u>\$40,592,077</u>
TOTAL DIVISION POSITIONS	216	216	242



Senator Erin Grall, Chair
Representative Tobin Rogers "Toby" Overdorf, Vice Chair
Senator Mack Bernard
Senator LaVon Bracy Davis
Senator Don Gaetz
Senator Thomas J. "Tom" Leek
Senator Carlos Guillermo Smith
Senator Clay Yarborough
Representative William "Bill" Conerly
Representative Chad Johnson
Representative Kim Kendall
Representative Leonard Spencer
Representative Debra Tendrich
Representative Meg Weinberger



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

November 21, 2025

Judge Darren A. Schwartz
Interim Director and Chief Judge
Division of Administrative Hearings
2001 Drayton Drive
Tallahassee, FL 32311

**RE: Emergency Petition for Writ of Prohibition or, Alternatively, Motion to
Reinstate Automatic Stay**

Dear Judge Schwartz:

On October 27, 2025, the Division of Administrative Hearings (the "Division") filed an Emergency Petition for a Writ of Prohibition or, Alternatively, Motion to Reinstate Automatic Stay in Related Case (the "Petition") in the Second District Court of Appeal. Although it is my understanding that the Division has since filed a Notice of Voluntary Dismissal, the filing of the Petition raises a number of questions:

- What was the statutory authority relied upon by the Division to file such a pleading?
- What category/section of the Division's budget is intended to be used to fund the litigation?
- As a general rule, the Attorney General is charged with defending the constitutionality of a statute. Was the Office of the Attorney General consulted prior to the Division engaging outside counsel to file the Petition? If so, what was the Attorney General's response?
- If, as argued in the Petition, the Division is an "indispensable party" to the underlying proceeding, why did the Division not request to intervene in the appeal as an indispensable party?

Judge Darren A. Schwartz
November 21, 2025
Page 2

Please provide the Committee with a copy of the contract for legal services between the Division and the law firm of Lawson Huck Gonzalez, PLLC.

Your prompt attention to this matter is appreciated. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth J. Plante".

Kenneth J. Plante
Coordinator

cc: Senator Erin Grall
Representative Tobin Overdorf

KJP:tf

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

EPIFANIO PAULINO AND
ROSAURA ALMONTE ESPINAL,

DOAH CASE NO.: 25-004570PIC
CLAIM NO: 001-00-538265

Petitioners,
vs.

CITIZENS PROPERTY INSURANCE
CORPORATION

Respondent.

NOTICE OF FILING

COMES NOW, the Respondent, CITIZENS PROPERTY INSURANCE CORPORATION by and through its undersigned attorneys, and files the attached Order Granting Petition for Writ of Mandamus, which must be considered by this Court in matters presently pending before the Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email to: Robin D. Benjamin, Esquire, The Benjamin Legal Group, 7344 SW 48 St, Suite 302 Miami, FL 33155, Service E-Mail: office@benjaminlegalgroup.com, on this 20th day of November, 2025.

**BUCKNER, SHIFRIN, ETTER, DUGAN
& BRADFUTE, P.A.**

Counsel for Respondent

Alfred I. Dupont Building, Suite 1200

169 E. Flagler Street

Miami, Florida 33131

Telephone: 305-679-9744

Facsimile: 305-679-9745

Primary: Robert@buckner-shifrin.com

Secondary: Jami@buckner-shifrin.com

By: */s/ Robert O. Dugan*

ROBERT O. DUGAN, ESQ.

Florida Bar No. 454540

THE SECOND CIRCUIT COURT, LEON COUNTY, FLORIDA

Elmber O. Lombana, Plaintiff,
v.
Citizens Property Insurance Corp., Defendant;
And

Citizens Prop. Insur. Corp., Counter-Plaintiff, Case: 2025CA001675
v.
Elmber O. Lombana, Counter-Defendant,
And

Citizens Prop. Insur. Corp., Petitioner
v.
Division of Administrative Hearings, Respondent./

Order Granting Petition for Writ of Mandamus

This matter is before the court on a third-party petition for writ of mandamus, motion to dismiss and third-party response.

The parties to this series of disputes are:

Plaintiff Elmer O. Lombana (“Plaintiff” or “Lombana”);

Defendant/Petitioner Citizens Property Insurance Corporation
 (“Petitioner” or “Citizens”);

Respondent The Florida Division of Administrative Hearings
 (“Respondent” or “DOAH”).

The immediate matters before this court are:

Citizens’ “Petition for Writ of Mandamus” filed October 14, 2025.

This court’s “Order to Show Cause” issued October 21, 2025.

Lombana’s “Motion to Dismiss Petition for Writ of Mandamus” filed
October 23, 2025.

DOAH's "Response to Petition for Writ of Mandamus" filed October 28, 2025.

This court's "Order Allowing Memorandum Response by Plaintiff" filed November 2, 2025.

Citizens' "Response in Opposition to Plaintiff's Motion to Dismiss" filed November 7 2025.

"Plaintiff's Response to Petition for Writ of Mandamus" filed November 7, 2025.

Introduction

This case commenced by the filing of the initial complaint on July 16, 2025 that alleged plaintiff Lombana suffered a loss covered by insurance issued by defendant Citizens Property. The Complaint did not seek to adjudicate Plaintiff Lombana's insurance loss. The complaint sought as a remedy only a declaratory judgment finding that a statute authorizing "DOAH Arbitration" of Citizens' claims disputes violates Article I, Section 21 of the Florida Constitution (Access to Courts) and "due process rights of the Defendant."

Meanwhile, Plaintiff Lombana's attorney was proceeding, on behalf of another client and in another Circuit Court, with a constitutional challenge to the DOAH Arbitration clauses now included in Citizens' insurance policies. That case resulted in an emergency injunction forbidding DOAH Arbitration. See, *Alvarez v. Citizens Prop. Ins. Corp.*, 2025-CA-006626 Order Granting Plaintiff's Emergency Petition for Temporary Injunction, (Fla. 13th Circuit, Aug. 1, 2025).

The court in Alvarez also denied a motion to transfer venue to this court (order of August 21, 2025) and granted a motion to vacate the automatic stay pending appeal (order of August 21, 2025).

Citizens Property then filed in this case its third-party Petition for Writ of Mandamus on October 14, 2025 against third-party respondent DOAH on October 14, 2025 without impleading Plaintiff Lombana, although Citizens Property served Plaintiff with the petition. The purpose of this petition is to require DOAH to recommence arbitration of disputes under Citizens Property's insurance policies.

This court issued an order to show cause on October 21, 2025 to “Third-Party Respondent” DOAH without acknowledging the existence of Plaintiff Lombana. DOAH responded on October 28, 2025 vigorously agreeing to mandamus relief. In the meantime, on October 23, 2025, Plaintiff Lombana moved to dismiss the petition for writ of mandamus.

Because this court received correspondence suggesting controversy about Plaintiff Lombana’s right to be heard on the mandamus petition, the court issued an order on November 2, 2025 permitting Plaintiff Lombana to respond in writing by November 7, 2025. The court informed the parties that it intended to resolve the mandamus petition on the papers and invited the parties to inform the court of any objection to dispensing with hearing or oral argument. The court received no objection and is adequately advised.

Legal Analysis

The writ must be granted.

The injunction issued in Alvarez is quite broad. It states that Citizens “is further enjoined from enforcing the same or any substantially similar arbitration clause against any other current or future Citizens policyholder in the State of Florida pending resolution of this action;” and that “All pending actions currently before the Division of Arbitration [sic] Hearings are hereby stayed pending the resolution of the constitutional questions relating to . . . the arbitration clauses contained in the current Citizens’ policies statewide.”

The operative statute, 2023-175, section 3, Laws of Florida mandates that “in addition to any other method of alternative dispute resolution authorized by state law” Citizens is permitted to adopt policy forms to resolve “claim determinations, including disputes regarding coverage for, or the scope and value of a claim” in “a proceeding” before DOAH.

The only direct mention of arbitration in the statute is to exclude DOAH Arbitration proceedings from the statutory prerequisites for arbitration of section 627.70154 that apply to private property insurers.

After the statute became effective, Citizens included DOAH Arbitration clauses in its policies – including Plaintiff Lombana’s policy -- to permit either party to demand arbitration through the Division of Administrative

Hearings “pursuant to the Revised Florida Arbitration Code.” This is the “DOAH Arbitration” that is the essence of this dispute.

As a result of the Alvarez injunction, DOAH ceased providing arbitration services including cancelling the arbitration previously scheduled in this case.

Citizens’ insurance policy arbitration provisions are explicitly authorized by statute as is DOAH’s responsibility to conduct arbitrations. Arbitration is favored, not disfavored, by Florida law and the Florida Arbitration Code provides for substantial procedural protections for all parties participating in arbitrations. Fla. Stat. Ch. 682. The Florida Arbitration Code provides for appellate review of arbitration decisions to the same extent as final judgments. Fla. Stat. § 682.20.

The creation of Citizens and its purpose suggest the legislative branch acting to the very limits of authority by creating a direct government participant in a private market made necessary to address a monumental public interest to preserve the foundations of Florida’s economy.

The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates. . . .

Fla. Stat. § 627.351(6)(1).

It seems unnecessary to recite the authorities suggesting deference to the legislative policy-making role in these circumstances. Indeed, the reason property owners have access to policies through Citizens is because of the legislature’s determination that otherwise, no coverage would be available at all. These circumstances do not suggest that the purchase of a Citizens policy is involuntary or coerced, at least not by Citizens or by the government generally. Plaintiff Lombana accepted the arbitration clause by accepting the policy issued pursuant to statute.

Plaintiff Lombana's argument that this court should defer to the Alvarez injunction is unavailing. Alvarez was not a class-action and there is no suggestion in this record that Lombana or Lombana's insurance policy was in issue in Alvarez, nor was DOAH impleaded in that case to address its statutory mandate. This court is not bound by the non-final orders of other trial courts addressing other insurance claims of different policy holders.

The authority quoted by Plaintiff Lombana for this argument is Schindler v. Schiavo, 792 So.2d 551 (Fla. 2d DCA 2001). It is difficult to hypothesize a dispute that is less analogous. The Schiavo opinion protected a final guardianship order. In Schiavo, there was only one personal interest directly at stake, that of the ward. This court's writ will not affect the plaintiff in Alvarez in any way, unlike the temporary, emergency injunction that contradicted the guardianship final order as to the same ward in Schiavo.

Nor will this court's writ interfere with the appellate process in Alvarez. Pardo v. State, 596 So.2d 665 (Fla. 1992) makes clear that our appellate process anticipates interdistrict conflict, should any arise. The principles governing this court's consideration of the Alvarez injunction are established by Pardo, not Schiavo.

As regards Plaintiff Lombano's argument that this writ "would invite procedural chaos," the record is not supportive. The Alvarez injunction has existed for less than 90 days. That DOAH is now uncertain of its responsibility to follow its statutory mandate to conduct arbitrations for unrelated policy holders is the uncertainty this writ attempts to relieve while the underlying issue raised by Plaintiff Lombano is finally resolved between Defendant Citizens and Plaintiff Lombana in this case or by the issuance of binding authority by the appellate courts.

Plaintiff Lombana's motion to dismiss the petition for writ of mandamus must be and hereby is DENIED.

For all these reasons I conclude that the record establishes that Citizens has demonstrated a clear legal right to rely on section 2023-175, section 3, Laws of Florida, DOAH is subject to a ministerial, non-discretionary duty to administer arbitrations under the statute, and Citizens has no adequate remedy at law.

Conclusion

Citizens' Petition for writ of mandamus is hereby GRANTED. DOAH shall promptly resume administering proceedings as required by section 2023-175, section 3, Laws of Florida except as pertains to the plaintiff in Alvarez v. Citizens Prop. Ins. Corp., 2025-CA-006626 (Fla. 13th Circuit, Aug. 1, 2025).

The court will set a case management conference by separate notice to establish the process to resolve all remaining issues.

IT IS SO ORDERED in chambers at Tallahassee, Leon County, Florida on Friday, November 14, 2025.

2025-CA-001675-1000M 11/14/2025 03:34:50



Jonathan G. Jostrom, Circuit Judge
37-2025-CA-001675-1000M 11/14/2025 03:34:50 PM
LYNN ANNE BRAUER

pleadingsB@flinslaw.com

lynn@flinslaw.com

pleadings@flinslaw.com

ERIC S ADAMS

eadams@shutts.com

ldeleary@shutts.com

AMBER S NUNNALLY

anunnally@shutts.com

smartin@shutts.com

JASON B GONZALEZ

jason@lawsonhuckgonzalez.com

alyssa@lawsonhuckgonzalez.com

michelle@lawsonhuckgonzalez.com

ALAN LAWSON

Alan@lawsonhuckgonzalez.com

leah@lawsonhuckgonzalez.com

michelle@lawsonhuckgonzalez.com

CAROLINE MAY POOR

caroline@lawsonhuckgonzalez.com

leah@lawsonhuckgonzalez.com

michelle@lawsonhuckgonzalez.com

VIVEKKA SUPPIAH

vivekka@lawsonhuckgonzalez.com

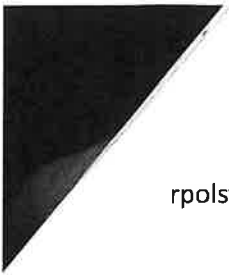
alyssa@lawsonhuckgonzalez.com

michelle@lawsonhuckgonzalez.com

Daniel Nordby

dnordby@shutts.com

Ricky Polston



rpolston@shutts.com

Robert F. Gonzalez

robert@flinslaw.com

Lynn A. Brauer

lynn@itl.legal

Pleadings@flinslaw.com

Alan Lawson

alan@lawsonhuckgonzalez.com

stephanie@lawsonhuckgonzalez.com

leah@lawsonhuckgonzalez.com

**DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT**

1700 N. Tampa Street, Suite 300, Tampa FL 33602

November 20, 2025

CITIZENS PROPERTY INSURANCE CORPORATION,
APPELLANT(S)

CASE NO.: 2D2025-2099
L.T. No.: 25-CA-006626

V.

MARTIN A. ALVAREZ,
APPELLEE(S).

BY ORDER OF THE COURT:

Appellant's "motion to expedite appeal and motion for reinstatement of automatic stay pending appeal" is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Mary Elizabeth Kuerzel
Mary Elizabeth Kuerzel, Clerk



DS

Served:
LYNN ANNE BRAUER
HILLSBOROUGH CLERK
ROBERT GONZALEZ
ISAIAH KAYLIN HARVEY
DANIEL ELDEN NORDBY
AMBER STONER NUNNALLY
RICKY POLSTON
GARRETT ANDREW TOZIER

IN THE CIRCUIT COURT OF THE 13TH
JUDICIAL CIRCUIT, IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

CASE NO.: 25-CA-006626

MARTIN A. ALVAREZ,

Plaintiff,

vs.

CITIZENS PROPERTY INSURANCE
CORPORATION,

Defendant(s).

**NOTICE OF APPEAL OF A NON-FINAL ORDER AND AUTOMATIC STAY
PENDING APPEAL OF NON-FINAL ORDER**

Notice is given that Defendant Citizens Property Insurance Corporation (“Citizens”) appeals to the Florida Second District Court of Appeal the non-final order of this Court rendered on August 1, 2025. *See* Art. V, § 4(b)(1), Fla. Const.; Fla. R. App. P. 9.030(b)(1)(B), 9.130(a)(3)(B). A conformed copy of the order is attached to this Notice as Exhibit 1. The nature of the order is a non-final order that grants a temporary injunction.

Further, Citizens hereby gives notice of the automatic stay of proceedings in this action—including an automatic stay of the order enjoining Citizens from statewide enforcement of the arbitration agreement; an automatic stay of the order staying all pending actions at the State of Florida, Division of Administrative Hearings; and an automatic stay of the order directing Citizens to refrain from any action that would interfere with Plaintiff’s or any other individual’s ability to pursue judicial relief in this Court, *see* Exhibit 1, at p.2, ¶¶2-5—in accordance with Florida Rule of Appellate Procedure 9.310(b)(2), during the appeal to the Florida Second District Court of Appeal of this Court’s non-final order rendered on August 1, 2025. *See also Citizens Prop. Ins. Corp. v. Admiralty House, Inc.*, 66 So. 3d 342, 343 (Fla. 2d DCA 2011) (holding that, on appeal

of the circuit court's nonfinal order, "Citizens was entitled to an automatic stay under Florida Rule of Appellate Procedure 9.310(b)(2)").

Respectfully submitted this 4th day of August, 2025.

Garrett A. Tozier
Florida Bar No. 104834
Email: GTozier@shutts.com
Secondary: KKickel@shutts.com

SHUTTS & BOWEN LLP
4301 West Boy Scout Blvd. Ste 300
Tampa, FL 33607
Telephone: (813) 229-8900
Facsimile: (813) 229-8901
Counsel for Citizens Property Insurance Corporation

By: /s/ Garrett A. Tozier
Ricky L. Polston
Florida Bar No. 648906
Email: RPolston@shutts.com
Secondary: SMartin@shutts.com

Daniel E. Nordby
Florida Bar No. 14588
Email: DNordby@shutts.com
Secondary: SMartin@shutts.com

Amber S. Nunnally
Florida Bar No. 109281
Email: ANunnally@shutts.com
Secondary: SMartin@shutts.com

SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, FL 32301
Telephone: (850) 521-0600
Facsimile: (850) 521-0604
Counsel for Citizens Property Insurance Corporation

This is to certify that the foregoing is a true and correct copy of the document on file in my office
Witness my hand and official seal this August 6, 2025

25-CA-006626 08/06/2025 09:30:5


Negretti, Hilda
Deputy Clerk



CERTIFICATE OF SERVICE

I certify that on August 4, 2025, this document has been filed and served by the E-Filing Portal to: Isaiah Harvey, **FLORIDA INSURANCE LAW GROUP, LLC**, Town Center One, Suite 2267, 8950 SW 74th Ct., Miami, FL 33156-3171, Primary: Pleadings@flinslaw.com; Secondary: isaiah@itl.legal; *Counsel for Plaintiff*; Lynn A. Brauer, **Insurance Trial Lawyers**, Town Center One, Suite 2267, 8950 SW 74th Ct., Miami, FL 33156-3171, Primary: pleadingse@itl.legal; Secondary: Pleadings@itl.legal; lynn@itl.legal, *Counsel for Plaintiff*.

/s/ Garrett A. Tozier
Attorney

EXHIBIT 1

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

MARTIN A ALVAREZ

Plaintiff(s),

vs.

CITIZENS PROPERTY INSURANCE
CORPORATION

Defendant.

Case No. 25-CA-006626

**ORDER GRANTING PLAINTIFF'S
EMERGENCY PETITION FOR TEMPORARY INJUNCTION**

THIS CAUSE came on to be heard on July 30, 2025, upon "Plaintiff's Emergency Motion for Temporary Injunction" ("Motion"). The Court having reviewed the motion, considered the argument of counsel, and being otherwise fully advised in the premises, hereby finds as follows:

1. Plaintiff has demonstrated a substantial likelihood of success on the merits of his constitutional claims, including alleged violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment.
2. Plaintiff has further demonstrated a substantial likelihood of success on the merits of his claims under Section 21 of the Declaration of Rights of the Florida Constitution, relating to access to courts.
3. Plaintiff also established that he and similarly situated Citizens policyholders will suffer irreparable harm absent injunctive relief. Specifically, enforcement of the arbitration clause at issue compels insureds into a forum that lacks neutrality, discovery, motion practice, and meaningful judicial review.
4. The balance of equities favors Plaintiff, as the protection of constitutional rights outweighs any administrative or operational burden to the Defendant.
5. The public interest is best served by ensuring access to the judiciary, halting enforcement of the statute and provisions that erode constitutional protections, and preventing the continued prosecution of cases currently entangled in the Defendant's constitutionally infirm administrative process.

Accordingly, it is hereby ORDERED AND ADJUDGED:

1. Plaintiffs Motion is GRANTED.
2. Defendant CITIZENS PROPERTY INSURANCE CORPORATION is hereby ENJOINED from enforcing the mandatory arbitration clause contained in the insurance policy issued to Plaintiff, Martin A. Alvarez.
3. Defendant is further ENJOINED from enforcing the same or any substantially similar arbitration clause against any other current or future Citizens policyholder in the State of Florida pending resolution of this action.
4. All pending actions currently before the Division of Arbitration Hearings are hereby STAYED pending the resolution of the constitutional questions relating to Fla. Stat. §627.351(6)(II) and the arbitration clauses contained in the current Citizens' policies statewide.
5. Defendant is ORDERED to refrain from any action that would interfere with Plaintiff's or any other individual's ability to pursue judicial relief in this Court.
6. The Court finds good cause to waive the bond requirement pursuant to Fla. R. Civ. P. 1.610(b).

DONE AND ORDERED in Chambers in Hillsborough County, Florida this ____ day of _____, 2025.

25-CA-006626 8/1/2025 11:08:05 AM

25-CA-006626 8/1/2025 11:08:05 AM
Judge Melissa Polo

HON. MELISSA MARY POLO