



# Rulemaking 101

## Commission for Independent Education

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## Rule Development – Step One

- Form a Rules Committee
  - Two options
    - YOU are the Rules Committee OR
    - Commissioners elect one member to serve as Chair of the Rules Committee
      - The Chair would then pick committee members
  - All rulemaking meetings and workshops must be noticed aka published in the Florida Administrative Register (F.A.R.)
    - This is the website/publication that all state agencies must use when engaging in rulemaking.

## Rule Development – Step Two

- Publish Notice of Rule Development
  - Must be published in FAR 14 days before Committee meets
- Rules Committee meets
  - Discuss specific ideas or wording you would like in a rule
  - Opportunity for public to provide input
- Meetings can be in-person or virtual as long as anyone who wants to participate can do so

## Rule Development – Step Three

- Staff drafts rule language
  - Based on feedback from Rules Committee, staff drafts language for rule
  - This language can be disseminated to members before the meeting but remember, you cannot discuss it amongst yourselves unless you are at a formally noticed, publicly open meeting
  - Members of the public can also receive language prior to actual meeting

## Rule Development – Step Four

- Notice of Rule Development must be published 14 days before Committee meets
- Rules Committee meets again
  - Rules Committee reviews proposed rule language and discusses any changes needed / wanted
  - Another opportunity for public input
  - Repeat this step until final language approved by Committee

## Rule Development – Step Five

- Rule presented to Commission
  - Chair of the Rules Committee submits rule language to Commission
  - Commission discusses and can request changes or approve as is
  - If changes requested, they can be done at table (if properly noticed) or in a separate Rules Committee meeting
  - Repeat as needed
  - Commission must approve “final” rule language

## Rule “Adoption” – Step One

- State Board of Education
  - Rules must be submitted to SBOE for approval
    - Notice of Proposed Rulemaking must be published in FAR 28 days before the SBOE meeting
  - Several forms involved, including Proposed Language, SERC checklist, OFARR Notification
  - Internal deadlines for when rules and forms (Rules Packet) must be submitted for specific SBOE meeting

## Rule “Adoption” - Step One concurrent

- BEFORE the SBOE meeting (during the 28-day waiting period), the rule is sent to JAPC
- Joint Administrative Procedures Committee (JAPC)
  - Legislative committee of five senators and five reps
  - We submit the proposed rule with various documents to JAPC at least 21 days before we want to publish the final proposed rule
  - JAPC reviews proposed rules to ensure the rules don’t create new law, exceed the scope of authority provided by law, and isn’t vague
    - Also make sure we followed the rulemaking requirements



## Rule “Adoption” - Caveat

- Following Notice for the SBOE meeting and before the SBOE actually meets, anyone (public, attorney, association) can request a hearing
  - The request must be done within 21 days of the Notice of Proposed Rule being published in FAR
  - The hearing is held after the 21-day window
  - This is the final chance for anyone to comment on the rule, either at the hearing or via written comment

## Rule “Adoption” – Step Two

- Home stretch!
  - Assuming JAPC has no issues with our rule AND
  - The SBOE approves the rule “as-is” AND
  - No one requests a hearing within 21 days of the Notice of Proposed Rule.....
  - THEN we move to the next and final step

## Rule “Adoption” – Step Three

- Department of State (DoS)
  - Last stop – Department of State
  - After approval by SBOE, the rule is filed with the DoS
  - DoS publishes a Notice of Proposed Adoption with the full language of the rule in the FAR
  - The rule cannot take effect until 20 days after the Notice of Proposed Adoption is filed in FAR

## Timeline for Rule Process

- Day 1 – Notice of Rule Development published in FAR
- Day 15 – Rules workshop held
- Day 20 – Deadline for earliest opportunity to submit Notice of Proposed Rule to DOE agency clerk (also called a rules packet)
- Day 21 – Notice of Proposed Rule published in FAR

## Timeline for Rule Process – cont'd

- Day 49 – Earliest date SBOE can vote to approve the rule
- Day 63 – Earliest date approved rule can be filed with DoS
- Day 83 – New rule takes effect

*This is the shortest possible timeline for rulemaking*



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## QUESTIONS?

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# LICENSING

- Types
- Standards
- Process

## Levels of Licensure

- Provisional
  - First license
  - Substantive change
  
- Annual
  
- License by Means of Accreditation



## Provisional License

- First level of licensure obtained by an applicant
- Allows the institution to operate
- Granted when applicant is in substantial compliance with standards for licensure
- No major changes are allowed while holding a Provisional License
- Also issued when a substantive change is found

## Annual License

- Granted when an institution is in full compliance with standards for licensure
  
- Allows the institution to apply for major changes to its license

## License by Means of Accreditation

- Institution must be accredited by a U.S. Department of Education recognized agency
- Accrediting agency must also be recognized by the Commission as having equivalent standards
- Granted for the same period as the grant of accreditation
  - Must submit an annual review

## License by Means of Accreditation – cont'd

- ABHE – Association for Biblical Higher Education
- ABA – American Bar Association
- ABHES – Accrediting Bureau of Health Education Schools
- ACCET – Accrediting Council for Continuing Education & Training
- ACCSC – Accrediting Commission of Career Schools and Colleges
- ACICS – Accrediting Council for Independent Colleges and Schools – *for now*
- COA – Council on Accreditation of Nurse Anesthesia Educational Programs

## License by Means of Accreditation – cont'd

- COE – Council on Occupational Education
- COMTA – Commission on Massage Therapy Accreditation
- DEAC – Distance Education Accrediting Commission
- HLC – The Higher Learning Commission
- MSCHE – Middle States Commission on Higher Education
- NACCAS – National Accrediting Commission of Career Arts and Sciences
- NECHE – New England Commission of Higher Education
- SACSCOC – Southern Association of Colleges and Schools Commission on Colleges

## License by Means of Accreditation – cont'd

- TRACS – Transnational Association of Christian Colleges and Schools
- WSCUC- WASC Senior College and University Commission

## **Standards for Licensure Rule 6E-2.004, F.A.C.**

1. Name
2. Purpose
3. Administrative Organization
4. Educational Programs and Curricula
5. Recruitment and Admissions
6. Finances

## **Standards for Licensure - continued**

7. Faculty

8. Library, Learning Resources and  
Information Services

9. Physical Facilities

10. Student Services

11. Publications and Advertising

12. Disclosures



## Application Process

- Receipt of a substantially complete application
  - Program Specialist examines application
    - Fair Consumer Practices
    - Standards for Licensure
  - 30-day rule (Chapter 120, APA)
  - Notify applicant of errors or omissions
  - Request additional information
  - Time period cannot be waived

## Application Process Continued

- Complete Application
  - Decision on application is required (Chapter 120)
  - 90-day rule - begins to run when application is complete
  - Application is complete upon receipt of all requested information and corrections noted in 30 day period
  - This period can be waived by the applicant

## Application Process Continued

- Licensure Delay
  - Can be made by the Executive Director or the Commission
  - Applies when investigative process is not complete and there is reason to believe that the applicant does not meet licensure standards
  - Requires written notice to the applicant explaining action and deficiencies

## Application Process Continued

- Commission Licensure Decisions
  - Approved – License issued
  - Notice of intent to grant or deny an application (referred to as Clerked Orders)
    - Notice is preliminary or proposed
    - Notice provides applicant opportunity to challenge proposed action by requesting a hearing within 21 days of receipt
    - Hearings may be before DOAH (where there is a disputed issue of material fact) or the Commission (where there is not a disputed issue of material fact)

## Notice of Intent to Grant with Contingencies

- Institution is provided a certain number of days to comply
- Upon receipt of sufficient response, a license is issued
- If the institution fails to comply within the number of days set forth in the order, then application is returned to the Commission for “Failure to Comply with Clerked Order”

## Notice of Intent to Deny

- If applicant properly files a challenge to the clerked order, then hearings ensue
- If applicant does not properly file a challenge, then legal counsel presents a final order to the commission for approval



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# Committees

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## **Powers and Duties of the Commission**

Section 1005.22(2)(d), Florida Statutes—  
Powers and Duties of the Commission

The commission may

- Appoint standing or special committees to assist it in carrying out its responsibilities.
- Committees may include members who are not commission members or representatives of licensed postsecondary institutions.

## Committee Types

- Foreign Medical School Review Committee
- Accreditation Review Committee
- Rules Committee

## Foreign Medical School Review Committee

- Rule 6E-2.0042(3), F.A.C.
- Reviews applications for foreign medical school clerkships and makes recommendations to the full Commission
- Nine (9) foreign medical schools licensed to offer clinical clerkships at hospitals in Florida
  - Committee last met June 18, 2018
  - Action taken: Recommendation to approve University of Medicine and Health Sciences (St. Kitts) for provisional license

## Accreditation Review Committee

- Rule 6E-2.002(3), F.A.C.
- Reviews applications from accrediting agencies requesting licensure by means of accreditation (LBMA) status and makes recommendation to the full Commission
- Sixteen (16) accrediting agencies recognized by the Commission for LBMA
- Committee last met July 26, 2021
- Action taken: Recommendation to accept Middle States Association of Colleges and Schools for purposes of LBMA

## Rules Committee

- Initiates and/or reviews proposed revisions to Chapter 6E, F.A.C. and makes recommendations to the full Commission
- Uses formal rulemaking process
  - Committee last met March 28, 2022
  - Action taken: Recommendation to approve minor revision to Rule 6E-2.004, F.A.C, Form 604, Selected Financial Data

# March 28, 2022 Rules Committee Meeting

- Nursing schools discussion topics
  - Best practices
  - ACEN/CCNE standards
  - Admissions requirements
  - Minimum standards
  - Accreditation
  - Nursing advisory committee

- Staff presentation on nursing survey conducted by DOE
  - Ten-year trend study statutorily required for all RN and LPN programs-public and private
  - Age of CIE-licensed nursing programs
  - Growth in sector
  - Accreditation/NCLEX pass rates

- Distance education and proposed revisions to Rule 6E-2.0041. F.A.C.
  - Definition of “distance education”
  - Delivery platforms
  - Modalities
  - Verification of online student identity
  - Online learning providers (OPM)
  - Distance education advisory committee





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