



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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