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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

January 11, 2021

Ms. Janet Young
Agency Rules Coordinator
Department of Revenue
2450 Shumard Oak Blvd.
Tallahassee, Florida 32399-0100

**RE: Department of Revenue
Rules 12-9.001, .002, .003, .0031, .0032, .004, .0055, .006, .007, and .0077**

Dear Ms. Young:

I have reviewed the above-referenced rules and offer the following comments for your consideration and response:

All: Rulemaking Authority

Please advise as to why the Department has proposed to remove the citation to the rulemaking authority found in section 213.06, F.S., for the rules listed above.

12-9.003(2):

This subsection references the requirement that an applicant pass "properly" monitored examinations. It does not appear that what constitutes adequate monitoring for meeting this standard is set forth in this rule chapter. *See* § 120.52(8)(d), Fla. Stat. (2020). If the Department intends to require specific elements for monitoring to be considered adequate, those elements should be set forth in rule. Please review and advise.

12-9.0031(1)(b):

Regarding the approval of a course, this paragraph states that application for approval is to be considered on a case-by-case basis upon a showing that the course imparts expertise in the relevant field. Subparagraphs (1)(b)1.-2. contain specifics for what constitutes the requisite content for continuing education courses. Are the elements set forth in subsection (1) regarding expertise the standards by which the Department considers

applications for other course approvals under paragraph (1)(b)? Please advise.

12-9.0032(2)(b): Material that meets the definition of a rule in section 120.52(16), Florida Statutes, should be specifically incorporated by reference in rule. *See also* § 120.54(1)(i), Fla. Stat. (2020), rule 1-1.013, F.A.C. This definition includes, “any form which...solicits any information not specifically required by statute or by an existing rule.” This paragraph references the online process for course registration, which is not currently incorporated by reference. Please review and advise whether this registration process should be incorporated by reference or otherwise set forth by the rule text.

12-9.004(3)(a)-(f): As these paragraphs pertain specifically to the duties of the chairperson, please consider moving these provisions to rule 12-9.002, which establishes the committees and provisions related to their operations.

12-9.007(1)(a): This paragraph references the requirement for recertification that the relevant course be “satisfactorily” completed. Are there elements of completion that must be met for the Department to consider it satisfactorily completed? *See* § 120.52(8)(d), Fla. Stat. (2020). If so, these requirements should be set forth in the rule. Please review and advise.

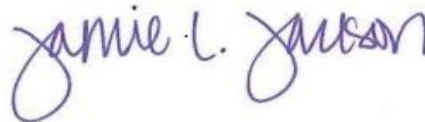
12-9.007(1)(b): Please see the comment above for rule 12-9.007(1)(a).

12-9.0077(2)(b): Please review whether the references to “professionals” should be to “professional designees” to retain consistency with the defined terminology used throughout the rule chapter.

12-9.0077(2)(c): Please see the comment above for rule 12-9.0077(2)(b).

If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Jamie L. Jackson
Chief Attorney