

**BOARD OF EMPLOYEE LEASING COMPANIES  
GENERAL BUSINESS MEETING MINUTES  
THE PLAZA RESORT & SPA  
600 NORTH ATLANTIC AVENUE  
DAYTONA BEACH, FLORIDA 32118  
JULY 20, 2011  
10:00 a.m. EST**

**I. CALL TO ORDER**

The meeting was called to order at approximately 11:05 a.m. EST by Mr. John Jones, Board Chair.

**II. ROLL CALL**

**MEMBERS PRESENT**

John L. Jones, Chair  
Keith W. Reeves, Vice Chair  
Celeste Dockery  
Abram Finkelstein

**MEMBERS ABSENT**

**STAFF PRESENT**

Rick Morrison, Executive Director, DBPR  
Krista Woodard, Government Analyst, DBPR  
Mary Ellen Clark, Board Counsel, Office of the Attorney General  
Eric Hurst, Assistant General Counsel, DBPR

**OTHERS PRESENT**

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO  
Timothy Tack, Kunkel, Miller & Hament, P.A.  
Helene Bradley  
Peter Newman  
Cesar Martinez  
Frank Crum  
Tim Tucker  
Richard Law  
H. Britt Landrum

The meeting was opened with a roll call and a quorum was established.

**III. THE PLEDGE OF ALLEGIANCE**

Mr. Jones led all in the Pledge of Allegiance.

**IV. ELECTRONIC/PAPERLESS AGENDA TRAINING**

Ms. Woodard provided individualized training on the laptops for the electronic/paperless agendas. She advised that this would be the last meeting that paper agendas would be shipped. She stated that all future agendas will be shipped via an encrypted disk to be downloaded to the laptops provided.

## **V. PRESENTATION AND DISCUSSION OF EXPERT REVIEWS – Richard Law**

Mr. Law addressed the board regarding the services that he provides to the board, i.e. annual report evaluations, guaranty determination and evaluations, and investigative reviews for pending disciplinary cases.

He provided the board members with a copy of his financial analysis worksheet for annual financial report reviews, a copy of the flagging system used to identify reports, the procedures for review of the annual financial statements on behalf of the board, a list of reminders for monitors reviewing the statements, a list of standardized comments, and procedures to evaluate evidence and adequacy of guarantor's resources.

A lengthy discussion ensued about the length of time it takes for complaints to come before the board and how long it takes before complaints are filed.

The board and staff agreed to look at the policies and procedures in place and make adjustments and changes as necessary to ensure that complaints are being timely filed and procedures followed.

## **VI. DISCUSSION OF CONTRACT REVIEWS AND TORT REFORM LANGUAGE**

Ms. Clark addressed the board concerning her duties, as board counsel, with respect to the review of all contracts submitted with new applications. She stated in her review of the contracts, she has noticed that in certain parts of the contracts, there is additional language that nullifies some of the required statutory language. Ms. Clark stated that this language, she has determined, causes the contracts not to be in legal compliance of Section 468.525(4), Florida Statutes.

Ms. Clark stated, in the past, when the applicant was notified of the problem with the contract, the applicant would remove the controversial language. She further stated that recently, Mr. Miller has asked his clients not to remove the language.

Mr. Miller addressed the board stating that he has provided four cases regarding statutory interpretation.

After a lengthy discussion, the board made the following motion:

MOTION: Ms. Dockery moved to have the memo concerning contract reviews changed to state, "Please review and return within the next 10 (ten) days for compliance with the statutory requirements of Section 468.525(4), read in pari materia with Section 768.098, and 468.529(1), F.S."

SECOND: Mr. Finkelstein seconded the motion and it passed unanimously.

## **VII. REVIEW AND APPROVAL OF THE JUNE 15, 2011 TELEPHONE CONFERENCE CALL MEETING MINUTES**

MOTION: Mr. Finkelstein moved to approve the minutes.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

## VIII. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

*Mr. Hurst stated that these cases were able to be presented regardless of the quorum issue because they have not been before the probable cause panel. He stated that in lieu of the probable cause proceedings, the Respondents have executed a Voluntary Relinquishment of Licensure.*

### A. VOLUNTARY RELINQUISHMENT OF LICENSE

- |    |  |                    |
|----|--|--------------------|
| 1. | <b>The Business Alliance Group, Inc.</b> | <b>2010-049652</b> |
| 2. | <b>Brad C. Dunning</b>                   | <b>2010-049635</b> |

(PCP: N/A)

Mr. Hurst presented the cases explaining they stem from failure to file quarterly reports for the quarters ending March 31, 2009 through June 30, 2010, failure to submit the 2009 Annual Financial Statement, and failure to submit the 2009 Annual Assessment.

He further stated in response to the complaint, both subjects have submitted Voluntary Relinquishments, which waives confidentiality and a finding of probable cause.

Mr. Hurst asked the board to take final action by accepting their voluntary relinquishment as the disciplinary penalty with no rights of reapplication.

MOTION: Mr. Finkelstein moved to accept the voluntary relinquishment of The Business Alliance Group, Inc. with the agreement to never again apply for licensure as an employee leasing company in the State of Florida.

SECOND: Mr. Jones seconded the motion and it passed unanimously.

MOTION: Mr. Finkelstein moved to accept the voluntary relinquishment of Brad C. Dunning with the agreement to never again apply for licensure as an employee leasing company in the State of Florida.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

- |    |                       |                    |
|----|-----------------------|--------------------|
| 3. | <b>Skilstaf, Inc.</b> | <b>2010-049376</b> |
| 4. | <b>Wayne Stark</b>    | <b>2010-049380</b> |

(PCP: N/A)

Mr. Hurst presented the cases explaining they stem from failure to file quarterly reports for the quarters ending December 31, 2009 through June 30, 2010, failure to submit the 2009 Annual Financial Statement. He further stated that the reports were belatedly received.

He further stated in response to the complaint, both subjects have submitted Voluntary Relinquishments, which waives confidentiality and a finding of probable cause.

Mr. Hurst asked the board to take final action by accepting their voluntary relinquishment as the disciplinary penalty with no rights of reapplication.

MOTION: Mr. Finkelstein moved to accept the voluntary relinquishment of Skilstaf, Inc. with the agreement to never again apply for licensure as an employee leasing company in the State of Florida.

SECOND: Ms. Dockery seconded the motion and it passed unanimously.

MOTION: Mr. Finkelstein moved to accept the voluntary relinquishment of Wayne Stark with the agreement to never again apply for licensure as an employee leasing company in the State of Florida.

SECOND: Ms. Dockery seconded the motion and it passed unanimously.

**IX. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY AND CONTROLLING PERSON APPLICATIONS**

**A. Four Points HR, LLC (EL Applicant)  
Noelle Wojciehowski, Controlling Person Applicant**

Mr. Jones stated that the applicants have submitted requests to table discussion of the applications until the August 2011 meeting.

Ms. Woodard stated she had received a waiver of the 90-day deemer from the applicants.

The Board agreed to table discussion of the applications until the August 2011 meeting.

**B. Howard Leasing IV, Inc. (GM Applicant)  
Charles P. Howard, CO 747  
Charles J. Howard, CO 746**

Mr. Jones presented the company application of Howard Leasing IV, Inc.

MOTION: Mr. Finkelstein moved to approve the application.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

**C. James Douglas Allison, Controlling Person Applicant  
Administaff Companies, Inc. d/b/a Insperity – EL 24  
Insperity PEO Services, L.P. – EL 238**

Mr. Jones presented the controlling person application of James D. Allison.

MOTION: Mr. Reeves moved to approve the application.

SECOND: Mr. Finkelstein seconded the motion and it passed unanimously.

**D. Shannon Gene Walker, Controlling Person Applicant  
Administaff Companies, Inc. d/b/a Insperity – EL 24  
Insperity PEO Services, L.P. – EL 238**

Mr. Jones presented the controlling person application of Shannon G. Walker.

Mr. Finkelstein stated he had a few concerns about the personal bankruptcy listed in the application, more specifically about the liabilities that were discharged. He stated it was not very clear what liabilities were discharged based on the credit report.

Mr. Reeves stated he had concerns about the Trust Fund Recovery Penalty listed on the IRS 8821 form.

The board moved to table discussion of the application until the September 2011 in-person meeting, if the applicant agrees to waive the 90-day deemer clause, at which time the applicant could appear before the board to answer questions.

If the applicant does not waive the 90-day deemer clause, the application will come back before the board at the August 2011 meeting for denial for lack of good moral character.

**X. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATIONS**

- A. DecisionHR VII, Inc. – GL 133 (stock purchase)**  
**DecisionHR IX, Inc. – GM 336**  
**DecisionHR VIII, Inc. – GM 337**  
**DecisionHR XIII, Inc. – GM 338**  
**DecisionHR XIV, Inc. – GM 374**
  
- B. DecisionHR 30, Inc. – GL 57 (stock purchase)**  
**DecisionHR I, Inc. – GM 116**  
**DecisionHR USA, Inc. – GM 247**  
**DecisionHR V, Inc. – GM 233**  
**DecisionHR, Inc. – GM 232**
  
- C. DecisionHR 30, Inc. – GL 57 (asset purchase)**  
**DecisionHR, Inc. – GM 232**  
**DecisionHR V, Inc. – GM 233**

Mr. Jones and Mr. Tack presented the change of ownership applications.

MOTION: Mr. Reeves moved to approve the applications.

SECOND: Mr. Finkelstein seconded the motion and it passed unanimously.

**XI. REVIEW AND CONSIDERATION OF TERMINATION OF EMPLOYEE LEASING COMPANY OPERATIONS**

- A. Services to Agriculture I, LLC – GL 79**  
**Services to Agriculture II, Inc. – GM 174**  
**Services to Agriculture III, Inc. – GM 236**  
**Services to Agriculture IV, Inc. – GM 310**  
**HHG IV, Inc. – GM 318**  
**(CP Relinquishment – Alberto Hernandez, CO 767)**  
**(CP Relinquishment – Eric G. Huff, CO 906)**

Mr. Jones stated that the applicants have submitted requests to table discussion of the applications until the September 2011 meeting.

Ms. Woodard stated she had received a waiver of the 90-day deemer from the applicants.

The Board agreed to table discussion of the applications until the September 2011 meeting.

## **XII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON RELINQUISHMENTS**

### **A. Mark Benjamin, CO 867**

**ADP TotalSource CO XXII, Inc. – GL 118**

**ADP TotalSource, Inc. – GL 104**

**ADP TotalSource I, Inc. – GL 33**

**ADP TotalSource Services, Inc. – GL 104**

***(Group Members are included in list of companies)***

Mr. Jones presented the controlling person relinquishment of Mark Benjamin.

MOTION: Mr. Finkelstein moved to accept the relinquishment.

SECOND: Mr. Jones seconded the motion and it passed unanimously.

### **B. Terry Koch, CO 818**

**Global Employment Solutions PEO, Inc. – GL 8**

**Global Employment Solutions PEO VII, Inc. – GL 147**

**CoAdvantage Resources 13, Inc. – GL 36**

**CoAdvantage Resources 11, Inc. – GL 69**

**CoAdvantage Resources, Inc. – GL 82**

***(Group Members are included in list of companies)***

Mr. Jones presented the controlling person relinquishment of Terry Koch.

MOTION: Mr. Finkelstein moved to accept the relinquishment.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

## **XIII. Correspondence from United Group Service Centers, Inc.**

Ms. Clark stated she asked for the correspondence to be placed on the agenda for discussion.

Mr. Finkelstein stated that correspondence should be sent back stating that the board can not give any type of definitive decision on the matter because it is not before the board.

After further discussion, the board asked Ms. Clark to draft a letter of response stating that United Group Service Centers, Inc. could either consult an attorney about their situation or file an application along with a petition for a declaratory statement.

## **XIV. REPORTS**

### **A. Office of the General Counsel – Eric Hurst**

Mr. Hurst reported that the prosecuting attorney's report was included in the agenda materials. He stated that the cases listed on the report will continue to be there until the board is able to take final action, which cannot happen until the quorum issue has been solved.

Mr. Hurst further stated that the cases that were presented to the Probable Cause Panel today would not have that issue due to the securing of a new probable cause panel member. He stated those cases would move forward before the other cases.

Mr. Jones thanked Mr. H. Britt Landrum for agreeing to serve as the new probable cause panel member.

Mr. Morrison also stated that three applications had been received in the Governor's Appointment Office. One of the applications is being reviewed, one applicant dropped or withdrew his application, and the other did not qualify. He further stated that there has not been an update since.

Mr. Finkelstein stated that he had placed two to three calls to the appointments office and have not received a return call.

Mr. Jones asked Mr. Morrison to send an e-mail with the contact number and names to each board member so that contact can be made about the vacancies on the board.

**B. Executive Director – Richard Morrison**

Mr. Morrison gave a synopsis of the following reports:

- The Operating and Unlicensed Activity Accounts ended March 31, 2011
- Financial Projections 06/30/07 – 06/30/15

Mr. Morrison asked the board to review and adhere to the DBPR Media Relations Guide contained in the agenda materials

Mr. Jones asked when it would be appropriate to discuss the possibility of fee reductions to avoid another sweep by the Governor's Office. Ms. Clark stated that discussion would need to happen soon. She further stated that if the board wishes to proceed now, they could vote to notice rules 61G7-5.001 and 61G7-5.002 for development and have everyone think about it for the next meeting as to what the fees could reasonable be reduced to.

MOTION: Mr. Finkelstein moved to notice for Rule 61G7-5.001 and Rule 61G7-5.002, Florida Administrative Code for Rule Development.

SECOND: Ms. Dockery seconded the motion and it passed unanimously.

The board asked Mr. Morrison to bring to the September meeting projections for reductions in the fees at a quarter, half, or three-quarter reduction.

Mr. Morrison also asked the board to review the e-mail from Gar Chisenhall, contained in the supplemental folder, regarding the rule repeal of Rule 61G7-5.006, Florida Administrative Code.

Mr. Morrison stated that this rule was a part of the 90-day rule review initiative by the Governor's Office that was identified for repeal due to it being duplicative or similar to the language contained in Section 468.528, Florida Statutes.

The board agreed that the rule needs to be in place because it sets the fee for delinquent licenses and asked that it not be repealed.

**C. Chairperson – John Jones**

No Report.

## D. Office of the Attorney General – Mary Ellen Clark

Ms. Clark reviewed her report as outlined in the agenda materials.

- 61G7-5.001 - Language was previously approved in February 2010. On June 27, 2011, JAPC advised that the time to complete the work on this rule had lapsed and the board would be required to start over.

Ms. Clark advised that the board is required to withdraw the prior rule making, and receive permission from OFFAR before resubmitting. She further stated that permission has been granted to withdraw the rule and has been submitted for publication in the Florida Administrative Weekly (FAW).

Ms. Clark stated that she and staff have been working on responses to JAPC and making extensive changes to the forms. She advised that the forms are included in the agenda materials and the board would be required to approve the forms. She further stated that she has made changes to the rule language and the new language is included in the agenda materials for board review and approval.

Mr. Jones advised that there were a few changes that needed to be made to the forms and the language.

### **61G7-5.001 Application Procedure; Application Form; Fees; Confidential Information; Denial of Application; Request for Hearing.**

(1) ~~(a) Applicants for licensure as an employee leasing company or as a controlling person shall file a completed application on Form DBPR EL 4501, "Application for Licensure as an Employee Leasing Company," effective May 20, 2011 March 18, 2004 and/or Form DBPR EL 4510, "Application for Licensure as an Employee Leasing Company Controlling Person," effective March 18, 2004. The forms, together with their attached instructions for completing the application forms, are incorporated herein by reference and may be obtained from the Board's office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from its Website located at [www.myflorida.com](http://www.myflorida.com). This form references and, where applicable, requires the completion and submission of the following additional forms:~~

1. DBPR 0020-1, "Master Organization Application," effective May, 2011;
2. DBPR EL- 4510, "Application for Licensure as an Employee Leasing Company Controlling Person," effective May 20, 2011.
3. DBPR EL-4512, "Historical Sketch," effective May,2011.
4. DBPR EL-4518. "Cross Guarantee Form" effective May, 2011.
5. DBPR EL-4520. "Workers' Compensation and Release Authorization," effective May, 2011.
6. DBPR EL -4521, "Unemployment Compensation and Payroll Tax Certification," effective May, 2011.
7. DBPR EL-4507, "Health Insurance Statement," effective May, 2011.
8. DBPR EL-4522, "Quarterly Compliance Form," effective May, 2011.
9. DBPR-0050-1, "Explanatory Information for Background Questions," effective May, 2011; and
- 10.DBPR-0060-1, "General Explanatory Description," effective May, 2011.

~~(b) All forms referenced above, together with the instructions for completing them, are incorporated herein by reference and may be obtained from the Board's office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from its Website located at [www.myflorida.com/dbpr/pro/emplo/forms.html](http://www.myflorida.com/dbpr/pro/emplo/forms.html). Applicants shall cure all deficiencies in their application noted by the board within 90 days from the date of the letter notifying the applicant or the application will be denied as an incomplete application. For purposes of this rule, an application is complete when all items on the application form have been fully answered, the applicant has paid the application fee specified in subsection (2), and has submitted all attendant documentation, certifications, electronic fingerprints through the Department's vendor fingerprint cards, explanations of answers, and other items specified in the form and~~



its attached instructions. An application for licensure as an employee leasing company or group will not be deemed complete until both the controlling person(s) and employee leasing company parts are complete.

(2) The application fee shall be \$250 for each employee leasing company applicants, ~~\$106.75~~ 450 for each controlling person applicants, \$250 for each change of ownership applicants, and registration fees for de minimus operations of \$250 for a single employee leasing company and \$500 for a de minimus ~~an~~ employee leasing company group.

(3) License fees shall be assessed as follows:

(a) through (c) No change.

(d) For purposes of this rule the first year of the biennium shall end on April 30 of every odd ~~even~~-numbered year.

(e) through (f) No change.

(4) through (5) No change.

(6) In determining that an applicant meets the licensure requirements in Section 468.525, F.S., the Board must find that the applicant:

(a) In the case of an individual applying for licensure as a controlling person:

1. Is at least 18 years of age;

2. Is of good moral character as defined in Section 468.525(2)(a), F.S.;

3. Has sufficient education or experience to successfully operate as a controlling person of an employee leasing company.

4. Notwithstanding the foregoing, an applicant shall not be deemed to meet the requirements of Section 468.525(1)(c), F.S., if the applicant has been affiliated directly or indirectly with any person, persons or entities (not only an employee leasing company) whose business operations are being or have been operated in a manner detrimental to clients, employees, governmental agencies, investors or creditors through the improper manipulation of assets or accounts. The foregoing shall apply only if the applicant would have been considered a "controlling person" of any such entity as that term is defined in Section 468.520(7), F.S. "Business operations which are deemed to be detrimental to clients, employees, governmental agencies, investors or creditors" shall mean a history, pattern or significant incidence of the following:

a. The imposition of federal or state withholding or payroll tax liens,

b. Unpaid federal, state or local withholding or payroll taxes,

c. Violating federal wage and hour laws,

d. Failure to comply with state or federal workers' compensation requirements,

e. Failure to comply with applicable laws relating to the providing and maintenance of health insurance benefits to employees, and

f. Failure to comply with occupational health and safety act (OSHA) requirements.

5. If any person applying for licensure as a controlling person, pursuant to Section 468.525, F.S., has engaged in the activities set forth in sub-subparagraphs 4.a. through f. above, this shall not be deemed to be an automatic bar to licensure. In determining whether to approve an applicant for licensure in spite of such activities, the Board shall consider the following factors:

a. The length of time since the prior activity.

b. The steps taken by the applicant to insure the non-occurrence of similar actions in the future.

c. The restitution of any damages suffered by any company, client or victim of the applicant's actions.

d. The lack of any recurrent actions by the applicant.

e. The lack of any wrongful intent by the applicant at the time of the action.

6. Any controlling person's license approved by the board shall exist only in conjunction with a license granted to an employee leasing company. When any controlling person ceases to meet the statutory and rule criteria to be a controlling person then the controlling person's license shall expire and become null and void. If a controlling person notifies the Department within ninety (90) days of the event which ends the individual's status as a controlling person that the individual is going to become a controlling person with another employee leasing company then a new controlling person license will be issued upon payment of a \$5.00 transfer application fee and written notification to the Department from all employee leasing companies involved. For such an application only, the background checks required of all initial controlling person applicants shall be waived insofar as the information would be available from the previous licensure file.

(b) In the case of a sole proprietorship, partnership, corporation, or other form of business entity applying for licensure as an employee leasing company:

1. If a corporation is validly organized in the State of Florida, or appropriately registered as a Foreign Corporation doing business in the State of Florida as evidenced by a Certificate of Standing issued by the Florida Secretary of State.

2. Has and is maintaining, at the time of application, a positive working capital as determined in accordance with generally accepted accounting principles as demonstrated in the information filed with the application.

3. Has a tangible accounting net worth of not less than \$50,000 in accordance with generally accepted accounting principles as demonstrated in the information filed with the application.

4. Has, at the time of application, a contract form meeting the requirements of Sections 468.525(3) and (4), F.S., which will be used after licensure to engage in employee leasing with new or renewal clients.

5. Has provided with the application a certificate of workers' compensation insurance coverage which shall name the Board as a Certificate Holder and shall provide for a minimum of 30 days' notification of cancellation or if a policy from the Florida Joint Underwriting Underwriters Association (JUA) or from any carrier authorized by the Florida Office of Insurance Regulation is to be utilized by the applicant, the applicant has provided a letter from the JUA or other authorized carrier which sets forth that the policy will issue immediately upon licensure by the Board, and the policy issues from the JUA within thirty (30) days of the JUA or other authorized carrier's notification from the Board that the applicant has been approved subject to the JUA policy issuing. The employee leasing company may not contract to provide any services to leased employees until the JUA policy has issued.

6.a. Has provided with the application a valid certificate of workers' compensation insurance coverage, pursuant to Rule 61G7-10.0014, F.A.C., for all copies of the declaration pages and all endorsements on all plans for worker's compensation insurance covering leased employees. Notice of any changes in these insurance plans shall be submitted to the Department in writing along with the new certificate of workers' compensation insurance coverage copies of any policies, declaration pages and endorsements within sixty (60) days; or

b. Has supplied the Board a letter signed by an agent or a carrier authorized to bind coverage on behalf of such carrier, which substantially reads as follows:

Board of Employee Leasing Companies  
Division of Business and Professional Regulation  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399

RE: \_\_\_\_\_

Dear \_\_\_\_\_:

Enclosed is a copy of the Certificate of Liability Insurance for \_\_\_\_\_. \_\_\_\_\_ is an authorized agent and has the authority to bind coverage with \_\_\_\_\_. This policy number is \_\_\_\_\_, effective from \_\_\_\_\_ to \_\_\_\_\_ and issued to \_\_\_\_\_. This policy provides coverage to leased employees in Florida.

7.a. ~~With regard to all plans of group insurance for the provision of health benefits to leased employees, has~~ Has provided the Board a signed statement that is substantially in the form set forth in paragraph 61G7-5.001(12)(b), F.A.C. with the application ~~copies of the policies, declaration pages and all endorsements on all plans or arrangements of group insurance for the provision of health benefits to leased employees. Notice of any changes in these insurance plans shall be submitted to the Department in writing along with copies of any policies, declaration pages and endorsements within sixty (60) days; or~~ An additional signed statement shall be submitted to the Board within (60) days of any material change in any such plan offered to leased employees.

~~b. Has supplied the Board the affidavit set forth in paragraph 61G7-5.001(12)(b), F.A.C.~~

(7) through (11) No change.

(12)(a) ~~Every employee leasing company or employee leasing company group which sponsors a plan for health benefits for its employees shall submit a complete copy of the plan or health insurance policy to the Board for review to insure compliance with subsection 468.529(1), F.S. In the event that the Board's review indicates that the submitted plan or policy is a self-insured plan of health benefits, the applicant or licensee shall submit an amended policy in conformity with subsection 468.529(1), F.S.~~

(b) ~~As an alternative to the submission of the plan or health insurance policy as provided in paragraph (a) the~~ The applicant or licensee, within (60) days of a licensee's obtaining a plan of group insurance for the provision of health benefits shall ~~may~~ submit a signed statement ~~an affidavit~~ from the insurer showing that the policy or plan is in compliance. ~~Such statement~~ Nothing in this rule shall impose any requirement on any insurer to provide such an affidavit. In the event that an affidavit is submitted, it shall be in substantially the following form:

**AFFIDAVIT**

I, (name of signatory), ~~after being duly sworn upon my oath, depose and state:~~

1. I am employed by (name of employer) as (position). (Name of employer), is an admitted insurance carrier in the State of Florida. I possess the authority to make the following statements on behalf of (name of employer) and to bind (name of employer) concerning the statements made herein.

2. It is my understanding that, ~~as a requirement for licensure as an employee leasing company in Florida,~~ an employee leasing company may not sponsor a plan of self-insurance for health benefits except as may be permitted by the provisions of the Florida Insurance Code or, if applicable, by Pub. L. No. 93-406, the Employees Retirement Income Security Act. (name of insurer) Group Insurance Policy # issued to (name of leasing company), is in compliance with the requirements of this law as it is a fully insured insurance product which is fully insured by (name of insurer). Notwithstanding any provision in the policy which could be interpreted to the contrary (name of insurer) is ultimately fully responsible for all incurred claims under the terms of the policy.

After having read the above statements, I state ~~swear~~ that they are true and correct to the best of my knowledge and belief.

**FURTHER AFFIANT SAYETH NAUGHT.**

Subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who being known to me/produced written identification in the form of \_\_\_\_\_, and did take an oath.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

Rulemaking Specific Authority ~~420.53(1), 455.2281, 468.522, 468.5245, 468.5275~~ FS. Law Implemented 455.213(11), 455.2281, 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529 FS. History—New 5-5-92, Amended 7-15-92, 10-20-92, Formerly 21EE-5.001, Amended 10-24-93, 3-14-94, 7-4-94, 9-8-94, 11-13-94, 2-13-95, 6-4-95, 11-9-95, 5-26-96, 5-19-97, 4-29-99, 9-5-04, \_\_\_\_\_.

MOTION: Mr. Finkelstein moved to approve the application forms as presented with corrections.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

MOTION: Mr. Finkelstein moved to notice Rule 61G7-5.001 for Rule Development with text.

SECOND: Mr. Jones seconded the motion and it passed unanimously.

Ms. Clark reiterated the board's previous position, back in 2010, that this rule amendment would impact small business and asked Mr. Morrison to bring a new SERC to the next meeting for board review.

Mr. Mike Miller stated, speaking on behalf of FAPEO, that if the board is going to be adopting new rules and forms, that anything that deals with financials, client initiation or termination, or anything along those lines would be exempt from the Public Records Act. He stated he would like an affirmation of that fact in the rules and forms.

Ms. Clark advised staff to agenda, for the next meeting, a discussion on public records requests and to include a copy of the request received by the department.

- 61G7-5.0033 – Ms. Clark advised that the language for this rule was approved at the November 17, 2010 meeting and it now has an effective date of August 1, 2011.
- 61G7-5.005 – Ms. Clark advised that the language for this rule was approved 02/17/2010 and would have an effective date soon, probably not the July 25, 2011 date as printed due to a few typographical errors. She stated she would provide the effective date at the August 2011 meeting.
- 61G7-10.0012 – Ms. Clark advised that the language for this rule was approved at the November 17, 2010 meeting and it now has an effective date of August 1, 2011.

- 61G7-10.002 – Ms. Clark stated that work on this rule began in 2009, some language was reviewed in 2010 and then the board received a bunch of JAPC letters with concerns. She stated the previously approved language from February 2010 was included in the materials and there were a lot of concerns raised about the forms.

Ms. Clark stated that after working with staff and Board Chair, she was able to provide new language. She advised, if that language met the board's approval, she would need a vote to approve the language and ask her to notice a change in the language.

**61G7-10.002 Reporting of Change of Status Required; Effect on Licensees; Change of Licensee Name.**

(1) No change.

(2) Licensees experiencing a change in status listed below in the left column shall file or do what is listed in the corresponding right column as follows: All forms listed below are incorporated by reference and available from the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from the website at <http://www.myflorida.com/dbpr/pro/emplo/forms.html>.

**CHANGE IN STATUS**

**NEEDED ACTION BY COMPANY, GROUP, OR CONTROLLING PERSON**

(a) through (c) No change.

~~(d) Sale or transfer of company stock which causes a change in controlling person(s) or other changes in the information contained in the original application~~

~~Controlling Person, effective 03-18-04 and DBPR EL 4511, entitled Application for Certificate of Approval for Change of Ownership, effective 03-18-04, where applicable. The above forms are incorporated by reference and available from the Board office or from the website at [www.myflorida.com](http://www.myflorida.com). <http://www.myflorida.com/dbpr/pro/emplo/forms.html>~~

~~(d)(e) Sale or transfer of company stock which causes a change in control~~

~~Form DBPR Change of Ownership application EL 4511, "Application fo Certificate of Approval for Change of Ownership," effective May, 2011, which causes a change in control and where applicable, controlling person license application for each new controlling person, Form DBPR EL 4510, "Application for Licensure as an Employee Leasing Company Controlling Person," effective May 20, 2011 and Historical Sketch form, Form DBPR EL 4512, "Historical Sketch," effective May, 2011, where applicable. [www.myflorida.com](http://www.myflorida.com). Form DBPR EL 4511, "Application for Certificate of Approval for Change of Ownership," effective May, 2011, ~~EL-4514~~, new company application if buyer not already licensed, and fee from buyer old license does not transfer but remains with seller; unless already licensed, new controlling person license application and fee for each new controlling person.~~

~~(e)(f) Sale or transfer of a majority of Florida business assets~~

~~(f)(g) No change.~~

~~(g)(h) No change.~~

~~(h)(i) Controlling person resigns from Company A and is employed by Company B as controlling person~~

~~notification to Board from Company A and controlling person; notification to Board from Company B regarding new controlling person no new application or fee needed from controlling person license goes with controlling person; \$5 transfer fee from controlling person.~~

(3) The notification required in subsection (1) shall be submitted to the executive director by any form of certified mail that provides the sender with delivery confirmation within 14 days of a change in a licensee's status. Within 30 days of a change in its status, the licensee, or other entity resulting from such change or both, shall submit new applications, new financial or other information, and new or additional fees to the Board's office as needed to comply with Part XI of Chapter 468, F.S., and the rules of this Board.

(4) through (5) No change.

(6) In the event of a change in status of controlling person pursuant to paragraph (2)(h) or (i), as outlined above, the controlling person and all employee leasing companies involved the company to which the controlling person has moved shall submit notifications to the Board of the acceptance of the controlling person's transfer, along with a \$25 fee for the change of company name on the individual's license.

(7) No change.

(8) In the event of a change in ownership pursuant to paragraph (2)(d), (2)(e), or (2)(f) above, the new owner or owners must demonstrate that workers compensation coverage is in effect during the change of ownership and at all time subsequent thereto for the employees of the acquired entity by providing a certificate of coverage from an insurance carrier that is admitted in the State of Florida naming the new owner or owners as the insurer.

Rulemaking Specific Authority 455.201(2), 468.522, 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531, 455.201(2) FS. Law Implemented 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531 FS. History—New 1-27-93, Amended 5-20-93, Formerly 21EE-10.002, Amended 10-24-93, 8-17-94, 11-9-95, 5-21-96, 11-24-96, 3-18-97, 3-1-05, 10-23-05, 12-31-06,\_\_\_\_\_.

MOTION: Mr. Finkelstein moved to approve the language as presented and for Ms. Clark to submit a Notice of Change to the language.

SECOND: Mr. Jones seconded the motion and it passed unanimously.

After approval of the language, Ms. Clark asked the following questions:

**1. Will the proposed rule amendments have an adverse impact on small business?**

MOTION: Mr. Jones moved that the proposed amendments to Rule 61G7-10.002, F.A.C. would not have an adverse impact on small business.

SECOND: Mr. Finkelstein seconded the motion and it passed unanimously.

**2. Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation?**

MOTION: Ms. Jones moved that the proposed language would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation.

SECOND: Mr. Finkelstein seconded the motion and it passed unanimously.

Ms. Clark stated based on the board's responses to the questions, a SERC would not be needed.

**XV. OLD BUSINESS**

None

**XVI. NEW BUSINESS**

Ms. Woodard stated she would provide proposed meeting dates for 2012 at the next meeting.

**XVII. PUBLIC COMMENT**

None

**XVIII. ADJOURNMENT**

MOTION: Mr. Finkelstein moved to adjourn at 4:27 p.m.

SECOND: Mr. Reeves seconded the motion and it passed unanimously.

*Transcripts and/or recordings of the meeting can be obtained upon request.*