Administrative Law Section Newsletter

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APA Reform Refined

by Frank E. Matthews
Hopping Green Sams and Smith, P.A.

As a result of judicial interpretations rendered since the adoption of the 1996 APA reforms found in Ch. 96-159, Laws of Florida, further refinements appear likely during the 1999 session. Two major themes found in the 1996 reforms were the desire to limit agency discretion and the goal of empowering administrative law judges. Overall, changes made the APA more citizen-friendly and rendered the public's administrative redress against government less foreboding.

Some have questioned, however, whether the spirit and the letter of the law were applied in three recent decisions issued by the First District Court of Appeal. Representative Ken Pruitt, chairman of the House Appropriations Committee and House Fiscal Responsibility Council noted in the summer of 1998 that he hoped to "add language to Chapter 120 which unequivocally takes policy making functions, which should be reserved to the Legislature, out of the hands of agencies."

The 1996 amendments contained several interrelated components aimed at enhancing agency accountability and ensuring that the policymaking function is exercised by the Legislature. First, the Legislature's unequivocal preference for rulemaking was reaffirmed. § 120.54(1)(a), F.S. Second, the scope of agency rulemaking authority was refined and additional grounds for invalidating rules were enacted. *Id.* §§ 120.52(8), 120.536(1). Third, a procedure was established for agencies to seek legislative approval for any rules previously adopted without the specific authority required under the 1996 amendments. *Id.* § 120.536(2)-(3). Fourth, the "playing field was leveled" in rule challenge cases by eliminating any presumption that an agency's proposed rule is valid, by requiring the agency to prove the validity of its rule, and by providing attorneys' fees and costs to successful challengers. *Id.* §§ 120.56(2)(a), (2)(c); 120.595(2)-(3).

The 1996 amendments, and the debate leading to their enactment, illuminate a clear legislative intent to change the status quo in agency rulemaking and to make agencies accountable to the Legislature. Further evidence of this intent can be seen in Subsections 120.536(2)-(3). These provisions as noted above gave each agency the opportunity to shield any of its rules from invalidation under

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From the Chair...

Professionalism

by M. Catherine Lannon

Professionalism and ethics. Whenever I think of these topics, I wonder just how to define the professionalism part. I think I have a pretty good idea of the ethics part; that's the part that can get me in trouble with the Bar. But the professionalism part is a little more vague—it is the "how to be a better lawyer, but I am not necessarily breaking any rules if I fail" part.

The excellent article by Ella Jane P. Davis, Administrative Law Judge, in the February Bar *Journal* got me thinking about this even more. Then I had a really clarifying moment. I went to a deposition with an attorney who was doing her first deposition and at one point we all took a break. As we got ready to leave the room, I said, "Don't leave your notes." As I

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the revised rulemaking standards by reporting them to the Joint Legislative Committee on Administrative Procedures (JAPC) by October 1, 1997. § 120.536(2), F.S. As a result, 43 rule authorization bills were passed in the 1998 session validating suspect rules.

In the "flush left" language of Section 120.52(8), the Legislature expressly rejected the "reasonably related" test adopted in *Florida Beverage Corporation, Inc. v. Wynne,* 306 So.2d 200 (Fla. 1st DCA 1975). However, the "flush left" paragraph of Section 120.52(8) does more. It describes the types of statutes which an agency may and may not rely upon as authority to adopt rules, and also serves as a rule of construction to evaluate statutory grants of authority. Thus, agencies are given *more* guidance than ever before in determining the scope of their delegated legislative authority for rulemaking purposes.

No longer may agencies rely upon legislative intent or purpose language as a basis for adopting rules. § 120.52(8), F.S. Other statutory provisions "shall be construed to extend no further than the particular powers and duties conferred by the same statute." *Id.* In this regard, the "flush left" paragraph of Section 120.52(8) shifts the evaluation of the scope and extent of an agency's rulemaking authority from the *purposes* of the statute to the *provisions* of the statute which identify the agency's particular powers and duties. The 1996 amendments thus require a tighter nexus between rules and an agency's statutory authority in order for the rules to be properly grounded.

In the *St. johns River Water Management District v. Consolidated-Tomoka* Land Co., 717 So. 2d 72 (Fla.1st DCA 1998) decision, the First District Court of Appeal continued the tradition of judicially implied power and substituted a "class of power" test for the "reasonably related" standard that was expressly rejected in 1996. Moreover, the court further misinterpreted the standard of proof imposed upon agencies in rule challenges by using a "competent substantial" standard rather than the "preponderance of the evidence" test. See *Board of Clinical Laboratory Personnel v. Florida Association of Blood Banks,* 23 Fla. L. Weekly D1851 (Fla. 1st DCA 1998). In the last of the trilogy of decisions rendered in the summer of 1998, the decision issued in *Department of Children and Families v. Morman,* 23 Fla. L. Weekly D1900 (Fla. 1st DCA 1998), permits agencies to reverse conclusions of law issued by an administrative law judge even if the conclusion of law has nothing to do with the substantive jurisdiction of that agency. In other words, evidentiary or due process conclusions of law can be reversed if the agency disagrees with the administrative law judge even though the agency can profess no greater expertise or insight.

In the wake of these decisions, HB 107 and SB 106 have been pre-filed in the 1999 Legislature. These bills continue the dialogue between the Legislature and the courts by rejecting the "class of power" standard, reinforcing the use of a "preponderance of the evidence" standard in rule challenges, and requiring that agency reversals of administrative law judges' conclusions of law be limited to the agency's substantive area and only if clearly erroneous.

These proposed amendments to Chapter 120 renew the Legislature's explicit desire to narrow agency authority and to limit the deference that administrative law judges and courts provide to agency decision- making. The Legislature appears dedicated to "leveling the playing field" and making the APA a meaningful forum for citizens to air their grievances against government. In addition to the issues discussed above, the 1999 proposals reject the deference provided an agency's statutory and regulatory interpretations and the retroactive application of agency policies/ rules unless retroactivity is expressly provided by the agency's enabling legislation. This last issue has its origin in the decision of *Environmental Trust v. State of Florida Department of Environmental Protection,* 714 So.2d 493 (Fla. 1st DCA 1998).

Critics argue that the 1999 proposed amendments are premature and reactionary based on a small number of judicial decisions. Why shouldn't the Legislature clarify its intention and alert the judiciary to its desired objective? Why would silence in the face of decisions that fail to carry out legislative prerogatives be the responsible or statesman-like response? In the *Consolidated-Tomoka* appeal, the Legislature took the extraordinary step of filing an amicus brief but, in its search for legislative intent reflected in three pages of the opinion, the court failed to even acknowledge the Legislature's brief. The 1999 proposals clarify issues addressed in the 1996 APA reforms and it is precisely the appropriate next step in the Legislature's dialogue with the judiciary.

Over the past 17 years as a member of the New York and Florida Bars, ***Frank E. Matthews,*** *with the Tallahassee law firm of Hopping Green Sams & Smith, has developed an extensive lobbying proctice and established himself as an expert in environmental & land use law. As a practitioner, he specializes in wetlands and surface water permitting. He has participated in drafting and lobbying most of Florida's environmental laws and regulations over the last decade.*

This newsletter is prepared and published by the Administrative Law Section of The Florida Bar.

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Environmental Trust v. Department of Environmental Protection: *Who Do You Trust?*

by Ralph A. DeMeo
Hopping Green Sams & Smith, P.A.

In an Opinion filed on June 3, 1998, the First District Court of Appeal purported to change the law concerning the deference provided to an agency's statutory and regulation interpretations and the retroactive application of agency policies and rules. The case of *Environmental Trust v. State of Florida Department of Environmental Protection*, 714 So.2d 493 (Fla. 1st DCA 1998), violates the general prohibition against retroactive application of laws absent express authority and APA reforms put in place by the 1996 Florida Legislature intended to restrict agency discretion.

The Florida Department of Environmental Protection ("DEP") attempted to apply retroactively a proposed rule concerning its Petroleum Contamination Reimbursement Cleanup Program under Chapter 376, Florida Statutes. The DEP admitted that it had no statutory authority to promulgate a retroactive rule, and argued that it was not creating new standards but was merely codifying existing policy. However, several companies which had reimbursement requests pending at the time the new rule was proposed challenged the proposed rule pursuant to Section 120.56, Florida Statutes, and argued that in the absence of such authority, there is no justification for a retroactive rule under the Administrative Procedures Act, Chapter 120, Florida Statutes ("APA").

In a Final Order dated February 12, 1997, Administrative Law Judge P. Michael Ruff concluded that the proposed rule was invalid, and in a Final Order dated September 8, 1997, awarded the petitioners attorneys' fees incurred in the underlying rule challenge pursuant to Section 120.595(2), Florida Statutes. ALJ Ruff found that DEP's argument that the proposed rule created no new standards was contrary to the language of the rule and DEP's own orders, and was unsupported by the record. ALJ Ruff concluded that the DEP failed to demonstrate any substantial justification for its proposed rule. ALJ Ruff also concluded that the DEP failed to demonstrate the existence of any special circumstances that would make the award of attorneys' fees unjust.

Notwithstanding that the ALJ concluded that DEP's proposed rule would have operated retroactively without statutory authorization, the First District held in *Environmental Trust* that DEP's proposed rule could be applied retroactively because it merely restated DEP's "settled" interpretation of its existing reimbursement rules. In the opinion, the First District cited several federal Administrative Procedure Act cases purportedly allowing retroactive application of a rule if the rule clarifies or explains a previous rule or clarifies an unsettled or confusing area of the law.

Reliance on federal administrative law is inappropriate and contrary to Florida's APA, which places a heavier burden on agencies in rulemaking. Deference to an agency's interpretation of its rules and statutes is particularly troublesome where, as in *Environmental Trust*, the agency had no statutory authority to apply the proposed rule retroactively. In his dissenting opinion to *Environmental Trust*, Judge Robert Benton disagrees with the majority's finding that retroactive application of the proposed rule amendments is appropriate. Judge Benton wrote:

> The administrative law judge invalidated the amendment insofar as it proposed to operate retroactively on grounds no statute authorized a rule that would apply retroactively. I would affirm invalidation of the amendment insofar as it proposed to operate retroactively. *Retroactive application of the proposed rule amendment is incompatible with the procedural requirements of section 120.57(1)(e), Florida Statutes (Supp. 1996), which contemplate "de novo review by an administrative law judge" rather than the deference to which duly promulgated rules are entitled in substantial interest hearings.* (Emphasis supplied.)

Judge Benton in his dissent got it right. The Legislature clearly contemplated de novo review by an Administrative Law Judge in circumstances such as those present in the *Environmental Trust* case, where retroactive application of a proposed rule is sought. In response to *Environmental Trust*, HB 107, pending before committees of the 1999 Florida Legislature, addresses the limited circumstances under which an agency may apply a proposed rule retroactively. HB 107 provides as follows:

> Section 3. Paragraph (f) of subsection (1) of section 120.54, Florida Statutes, 1998 Supplement, is amended to read:
>
> 120.54 Rulemaking.—
>
> (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN EMERGENCY RULES.—
>
> (f) An agency may adopt rules authorized by law and necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be effective ~~enforced~~ until the statute upon which they are based is effective. *An agency may not adopt retroactive rules, including retroactive rules intended to clarify existing law, unless that power is expressly authorized by statute.*

The above amendment to the APA reinforces what the Legislature intended and corrects the departure from such intent as found in *Environmental Trust*. Only where an agency

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Case Notes, Cases Noted and Notable Cases

by Seann M. Frazier

District Courts of Appeal

First District

The ALJ said goodbye to unpromulgated rules, but the First DCA said hello in *Aloha Utilities, Inc. v. Public Service Commission*, 24 Fla. L. Weekly D198, (Fla. 1st DCA 1999). Water and waste water utilities challenged unspecified and "mysterious" audit procedures employed by the PSC. The parties proceeded to final hearing without the benefit of more particular allegations as to which mysterious audit procedures constituted an unpromul- gated rule and served as the basis of the utilities' Section 120.56(4)(a) proceeding. Though the ALJ criticized many of the utilities' arguments, he found that certain of the PSC's audit procedures constituted unpromul- gated rules. The ALJ also refused to award attorneys' fees to the PSC.

The First DCA reversed and remanded, finding that the utilities' petition failed to provide the PSC with notice as to which agency statements were under challenge (as required by Section 120.56(4)(a), Fla. Stat. (1997)). The Court also reversed and remanded for further consideration of the PSC's request for attorneys' fees pursuant to Section 120.569(2)(c), Fla. Stat. (1997), suggesting that the utilities' petition may have been frivolous or improper. The Court noted that a prehearing stipulation which defined the issues may have solved the problem as it did in *Department of Highway Safety and Motor Vehicles v. Schluter*, 705 So.2d 81 (Fla. 1st DCA 1997).

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The First DCA's definition of an "emergency" differed from that employed by the Agency for Health Care Administration in *Florida Health Care Association v. Agency for Health Care Administration*, 23 Fla. L. Weekly D2524 (Fla. 1st DCA 1998). The Agency promulgated an emergency rule making it more difficult to obtain a "superior" rating for nursing homes. The Agency declared that its rule was an emergency ("an immediate danger to the public health, safety or welfare" (Section 120.54(4), Fla. Stat.)) because the existing criteria for obtaining a superior rating misled the public as to facilities' quality of care.

The Court disagreed and announced that reasons for an emergency rule must be factually explicit and persuasive. *Florida Home Builders Ass'n v. Div. of Labor, Bur. of Apprenticeship, Fla. Dep't of Commerce*, 355 So.2d 1245, 1246 (Fla. 1st DCA 1978). It also noted that an Agency's delay in proceeding to standard rulemaking does not justify the use of an emergency rule. *Postal Colony Co. v. Askew*, 348 So.2d 338 (Fla. 1st DCA 1977). The Court quashed the emergency rule.

* * *

The question of whether a non-bidder could protest the specifications of a request for proposals was addressed in *Advocacy Center for Persons with Disabilities v. State, Dep't of Children and Family Serv's*, 23 Fla. L. Weekly D2516 (Fla. 1st DCA 1998). The advocacy group filed a formal written protest of the Department's specifications, but the Department dismissed that petition for lack of standing. The advocacy group argued that it possessed standing as an advocate for persons with disabilities, and on behalf of two individual residents of the hospital which was a subject of the RFP. The Department concluded, however, that only those person that can potentially form a contract as a result of the RFP have standing to protest the RFP's specifications.

Citing the *Agrico*-like test espoused in *Fairbanks, Inc. v. Dep't of Transp.*, 635 So.2d 58, 59 (Fla. 1st DCA 1994) (on rehearing), the First DCA found that the advocacy group must have shown that it would suffer an immediate injury in fact and that the injury was meant to be protected by an organic statute. The Court concluded that only bidders or potential bidders can show the injury necessary to bring a challenge under Section 120.57(3)(b). None of the "extraordinary circumstances" present in *Westinghouse Electric Corp. v. Jacksonville Transportation Authority*, 491 So.2d 1238, 1241 (Fla. 1st DCA 1996) or in *Fairbanks*, were present here.

* * *

Everybody who offers a good excuse deserves a chance to prove it, or so the First DCA held in *Avante Inc. v. Agency for Health Care Administration*, 24 Fla. L. Weekly D75 (Fla. 1st DCA 1998). *Avante's* petition for formal hearing was dismissed by the Agency because it was untimely. However, Avante's petition contained allegations which, if proven, would provide an equitable basis for excusing the delay. The Court reversed and remanded for an evidentiary hearing on the limited issue of whether equitable tolling would excuse the late filing. *Machules v. Dep't of Admin.*, 523 So.2d 1132 (Fla. 1988); *Unimed Laboratory, Inc. v. Agency for Health Care Admin.*, 715 So.2d 1036 (Fla. 3rd DCA 1998).

Second District

You can double your access if you discover an ex parte communication between hearing officer and opposing counsel. In *Twins D&D, Inc. v. Department of Business and Professional Regulation*, 722 So.2d 234 (Fla. 2nd DCA 1998) the order on review revoked an establishment's alcoholic beverages license after a telephonic hearing regarding the licensee's involvement with narcotics and lewd video tapes. In the order on review, the Department acknowledged that there had been an ex parte communication between the hearing officer and an officer of the local police department. Nevertheless, the Department revoked the beverage license.

The Second DCA reversed for a new hearing before a different hearing officer because of the improper communication. However, the Court refused to grant the licensee's late request for formal hearing, as the chance to request a hearing involving disputed issues of fact had already been waived. *A. H. Robbins v. Ford*, 468 So.2d 318 (Fla 3rd DCA 1985); *Murray v. Chillemu*, 396 So.2d 1222 (Fla. 4th DCA 1981).

* * *

The Educational Practices Commission learned a lesson about substituting its own findings in place of an administrative law judge's in *Bush v. Brogan*, 24 Fla. L. Weekly D253 (Fla. 2nd DCA 1999). An administrative law judge listened to the evidence and found that a teacher was not guilty of moral turpitude or gross immorality. The Commission reversed only one aspect of the ALJ's recommendation: its conclusion. The Commission issued a final order finding the teacher guilty of gross immorality and suspended his teaching certificate.

The Second DCA reversed the case, in part because an administrative agency may not reject findings of fact by labeling them "conclusions of law." *Scrimsher v. School Bd. of Palm Beach County*, 694 So.2d 856 (Fla. 4th DCA 1997); §120.57(1)(j), Fla. Stat. (Supp. 1996). Though agencies may reject conclusions when policy considerations are involved (*Baptist Hosp., Inc. v. Dep't of Health and Rehabilitative Servs.*, 500 So.2d 620 (Fla. 1st DCA 1986)), no such considerations were involved in this case.

Fourth District

The question of whether to sue in Circuit Court, or upon direct appeal to a DCA was addressed in *Eckert, M.D. v. Bd. of Commissioners of the North Broward Hosp. Dist.*, 720 So.2d 1151 (Fla. 4th DCA 1998). A doctor's medical privileges were suspended by a hospital district created by special act of the Florida Legislature. The doctor himself noted confusion as to which court should properly hear his case.

The Fourth DCA diagnosed the proper forum. The correct method of review for an administrative action depends on whether the action was by a state agency subject to the APA. Article V, Section 4(b)(2) of the Florida Constitution grants district courts of appeal the power of "direct review of administrative action, as prescribed by general law." Florida Rules of Appellate Procedure 9.030(b)(1)(C) provides that judicial review of "administrative action" shall be by appeal, "if provided by general law." If an administrative agency does not qualify as a state agency under the APA, it is considered to be a local administrative body whose decisions are reviewable by certiorari in the Circuit Court. *City of Deerfield Beach v. Vaillant*, 419 So.2d 624 (Fla. 1982); *Cherokee Crushed Stone, Inc. v. City of Miramar*, 421 So.2d 684 (Fla. 4th DCA 1982).

The Court noted that there are three types of administrative agencies: agencies of the Governor; other units of the government expressly made subject to the APA by general or special law or judicial decisions; and departments with statewide or regional jurisdiction, including regional planning agencies, conservation boards and land and water management districts. *Rubinstein v. Sarasota County Public Hosp. Bd.*, 498 So.2d 1012 (Fla. 2nd DCA 1986). In the case at bar, the hospital district was not considered the third type of agency because it operated wholly within a single county. Because no provision of general law conferred jurisdiction on the DCA, the court found itself without jurisdiction and remanded the case to Circuit Court. Section 120.52(1)(b), Fla. Stat.

Seann Frazier *is an attorney with the Tallahassee offices of Greenberg Traurig, P.A., where he practices administrative litigation with an emphasis in health law. Feel free to offer your comments: fraziers@gtlaw.com*

WHO DO YOU TRUST?

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has express authority enumerated in specific powers, and not merely in general powers, to apply a rule retroactively may it do so. Any other interpretation of the Florida APA would return us to the days when agencies could arbitrarily apply new policy to existing programs without going through the rulemaking procedures of the APA and, as was the case in *Environmental Trust*, apply such new policy retroactively to restrict or prohibit activities which were legal and appropriate prior to the development of the new policy. In the absence of express statutory authority as found in the specific powers of an agency, this is and should be prohibited.

Ralph A. DeMeo *is a Shareholder in the Tallahassee law firm of Hopping Green Sams & Smith, P.A. where he practices environmental, land use, and administrative law, with emphasis in solid and hazardous waste, water law, and toxic tort litigation. He received his B.A. in 1977 and M.A. in 1980 in English with honors from Stetson University and his J.D. with honors in 1984 from Florida State University. A former college English professor, he is an adjunct professor at Tallahassee Community College, where he teaches environmental law, administrative law, and legal research and writing. He is Chair of The Florida Bar Environmental and Land Use Law Section, a member of The Florida Bar Administrative Law Section Executive Council, and past Chair of The Florida Bar* Journal *and* News *Editorial Board. He is a frequent author and lecturer on legal matters pertaining to administrative law Florida.*

The Florida Bar Continuing Legal Education Committee and the Administrative Law Section present

Professionalism and Ethics in Administrative Practice

COURSE CLASSIFICATION: INTERMEDIATE LEVEL

LIVE PRESENTATION:
April 16, 1999

ONE LOCATION:
University Center Club • Florida State University • Champions Way • Tallahassee, FL

Course No. 4626R

8:00 a.m. – 8:30 a.m.
Late Registration

8:30 a.m. – 8:45 a.m.
Introduction to Professionalism and Ethics in Administrative Practice
Ralph A. DeMeo, Hopping Green Sams & Smith, Tallahassee

8:45 a.m. – 9:30 a.m.
The State of Professionalism and Ethics in the State of Florida
Mary F. Smallwood, Ruden McClosky Smith Schuster & Russell, Tallahassee

9:30 a.m. – 10:15 a.m.
Professionalism and Ethics for the Government Attorney
M. Catherine Lannon, Attorney General's Office, Tallahassee

10:15 a.m. – 10:30 a.m. **Break**

10:30 a.m. – 11:00 a.m.
Professionalism and Ethics in Practice Before the Florida Division of Administrative Hearings
Ella Jane P. Davis, Administrative Law Judge, DOAH, Tallahassee

11:00 a.m. – 11:30 a.m.
Professionalism and Ethics on Appeal
Robert T. Benton, II, Judge, Florida First District Court of Appeal, Tallahassee

11:30 a.m. – 12:15 p.m.
Professionalism and Ethics Panel Discussion and Q & A
Moderator: Robert D. Fingar, Huey Guilday & Tucker, Tallahassee
Mary F. Smallwood
Ella Jane P. Davis, ALJ
M. Catherine Lannon
Robert T. Benton, II, Judge

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REFUND POLICY: Requests for refund or credit toward the purchase of the course book/tapes of this program **must be in writing and postmarked** no later than two business days following the course presentation. Registration fees are non-transferrable, unless transferred to a colleague registering at the same price paid. A $15 service fee applies to refund requests.

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FROM THE CHAIR
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said it, I realized that I felt a certain sadness that such a caution was necessary; but it is one I learned back in law school when one of my classmates was derided because during a trial practice exercise he had failed to remove his notes and the other side read them while he was out of the room—and learned his strategy.

Later, as I thought about the incident, I thought about the other advice I have been giving some of the newer lawyers. "Don't personalize your response— reference the Respondent, not counsel for the Respondent. When you can, consult with opposing counsel before you set depositions." And I wondered whether such advice was really necessary or whether it was just an expression of my learned cynicism. Such as how to respond when the opposing counsel has made misrepresentations about the case or about our conduct. About how to respond with assertive clarifications without "taking shots" at opposing counsel. Assuring them (and myself, at times) that it is to our advantage to take the high road because the Judge or the ALJ, depending on the forum, is experienced enough to recognize the merits and demerits of the issues **and the conduct**.

So how do we recognize what conduct is imbued with professionalism and what is not? One way of deciphering this is, I think, to imagine that someone we really respect is watching how we behave. (Now, forgive me, but I suggest that the person you choose to imagine NOT be another lawyer; our training seems to have skewed our judgment. Pick a parent, a favorite teacher, a mentor, a good friend, or a spouse to imagine.) What would that person think about what we are about to do? If that person would be disappointed (or disgusted), then maybe we should behave better.

Recently, I was told a story about a teenager who had begun using drugs. His parents began to tape record his phone calls. (I am not approving this; I am just telling it.) After a while, the parents confronted their son about the drug use. He figured he was going to be hit with some really big sanctions. But he wasn't. All his parents asked of him was that he listen to every one of the tape-recorded phone calls (about 30). After he listened, he cleaned up his act. Why? Because he did not like the person he heard on the tape. hat person was hateful, nasty, cruel, and profane. He did not think of himself as that kind of person— but the evidence of how he behaved was unrefutable.

Maybe the essence of professionalism is behaving as if we were the kind of people we know we should be. Behaving in a manner that those we respect would respect. Behaving in a manner that would make all those lawyer jokes funny instead of painful.

Public Utilities Law Committee Plans Program

The Public Utilities Law Committee has been making preparations for its next CLE program, entitled "Current Ethics Issues for the Public Service Commission Practitioner." The program is scheduled for May 7, 1999. The Committee plans to stick with the tried and true formula for this program, which is traditionally a hands-on, small group, problem-solving format, followed by an informal luncheon. This format has proven to be extremely popular with attendees in the past, with the Committee receiving numerous inquiries as to whether the course will be offered again this year. The course is approved for one hour of ethics credit.

For registration information, see brochure on page 8.

On the Move

Dan R. Stengle, who served as General Counsel to the late Governor Lawton Chiles, entered private law practice in Tallahassee by joining the Tallahassee law firm of Hopping Green Sams & Smith, P.A., as a shareholder in the firm.

Mr. Stengle, the Chair-elect of the Administrative Law Section of The Florida Bar, will represent clients on matters relating to land use, facility siting, general administrative law and legislative representation.

He has an extensive background in the Executive and Legislative branches of state government on various issues associated with land use regulation, natural resource regulation and wildlife protection.

Mr. Stengle received his law degree from the Florida State University College of Law in 1982 and his bachelor's degree from the University of South Dakota in 1978.

Administrative Law Section Members:

We Want To Hear From You!!

What can your section do for you that it is not now doing?
How can we improve? What would you like to see in your newsletter that you do not see now?

This is YOUR section — we need YOUR input!

Listed below is the information you need to contact your section officers or your newsletter editor. Please let us hear from you!

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This is a special invitation for you to become a member of the Administrative Law Section of The Florida Bar. Membership in this section will provide you with interesting and informative ideas. It will help keep you informed on new developments in the field of Administrative Law. As a section member you will meet with lawyers sharing similar interests and problems and work with them in forwarding the public and professional needs of the Bar.

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Boca Raton, Florida

See the May issue of The Florida Bar *Journal* for details and registration forms.

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