

(4) “Unfairly discriminatory” means that adverse decisions resulting from the use of a credit scoring methodology disproportionately impact persons belonging to any of the enumerated subcategories of the classes set forth in Section 626.9741(8)(c), F.S., as described in subsection (2) above.

(5) “Disproportionate Impact” means that the percentage of the insured population in one or more enumerated subcategory differs significantly from the percentage of premium that is to be paid by persons in that subcategory as a result of the use of credit reports or credit scores in underwriting or rating. A statistically validated test of the significance of the differences in premium percentage versus population percentage shall be submitted. If the probability that the differences shown is due to chance is 10% or less then the proposed use of credit reports or scores will have been shown to have a disproportionate impact with respect to that class of persons.

(6) Any insurer desiring to use any credit scoring methodology must file complete documentation of a professionally validated method of statistical analysis of the methodology with respect to disproportionate impact on any of the enumerated subcategories of the classes set forth in Section 626.9741(8)(c), F.S., as described in subsection (2) above. Statistical analysis shall be performed on the current insureds of the insurer using the proposed credit scoring methodology, and shall include the raw data and detailed results on each classification set forth in Section 626.9741(8)(c), F.S.

Specific Authority 624.308(1), 626.9741(8) FS. Law Implemented 624.307(1), 626.9741 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Milnes, Property and Casualty Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Belinda Miller, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2007

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 31, 2003 and February 27, 2004

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: 5B-63.001 RULE TITLE: Citrus Health Response Program

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 48, December 1, 2006, and in a previous Notice of Change published in Vol. 33, No. 22, June 1, 2007 issues of the Florida Administrative Weekly. This change is to move *Murraya paniculata* (orange-jasmine) from paragraph 5B-63.001(5)(b), F.A.C. Hosts of Asian citrus psyllid only to paragraph (a) Hosts of citrus greening. This is necessary since testing by University of Florida scientists has shown that *Murraya paniculata* (orange-jasmine) is a host of citrus greening and needs to be included in the host list and regulated as such. When adopted, the rule will read as follows.

5B-63.001 Citrus Health Response Program.

(1) Definitions. For the purpose of this rule, the definitions in Section 581.011, Florida Statutes, and the following definitions shall apply:

(a) Approved decontaminants. Products capable of decontaminating equipment and personnel of citrus canker or other diseases that have been verified effective by the Department.

(b) Asian citrus psyllid. The insect known as the Asian citrus psyllid, *Diaphorina citri*, classified in the order Homoptera, Family Psyllidae, and all of its life stages.

(c) Citrus. All members and any hybrids of the family Rutaceae including any plants, plant parts, fruits, seeds and any other parts thereof.

(d) Citrus canker. A bacterial disease of citrus incited by the organism *Xanthomonas axonopodis* pv. *citri*, (formerly known as *Xanthomonas campestris* pv. *citri*), Asian strain.

(e) Citrus greening. A phloem-limited bacterial disease of citrus and citrus relatives incited by the organism *Candidatus Liberibacter asiaticus*, or huanglongbing (also known as yellow dragon disease or yellow shoot disease).

(f) Commercial citrus grove. A solid set planting of 40 or more citrus trees.

(g) Exposed. Determined by the department to likely harbor citrus canker bacteria but not expressing visible symptoms, or determined by the department to likely harbor citrus greening bacteria because of proximity to infected plants or infected psyllids.

(h) Foundation tree. A citrus tree owned and maintained by the department in accordance with Rule 5B-62.014, F.A.C. that is used for horticultural evaluation and to provide a source of budwood to nurseries, primarily for establishing scion and increase trees.

(i) Infected. Citrus trees harboring citrus canker bacteria and exhibiting visible symptoms of the disease or harboring citrus greening bacteria as confirmed by laboratory diagnostic tests conducted in laboratories approved by the department or the USDA.

(j) Regulated articles. Any article capable of transporting or harboring citrus canker, citrus greening or Asian citrus psyllid.

(2) Purpose. This rule is enacted to manage the impact of citrus canker and citrus greening in commercial citrus groves. To accomplish that purpose, this rule declares citrus canker, citrus greening and the Asian citrus psyllid to be plant pests and nuisances, sets forth procedures for establishing quarantine areas, identifies regulated articles, sets forth procedures for decontaminating regulated articles, and regulates the movement of citrus nursery stock from areas quarantined for citrus greening.

(3) Declaration of citrus canker, citrus greening and Asian citrus psyllid as plant pests. Pursuant to Section 581.031(6), Florida Statutes, citrus canker, citrus greening and Asian citrus psyllid are declared to be plant pests and nuisances capable of causing serious damage to citrus.

(4) Quarantine areas.

(a) Broward County, Martin County, Miami-Dade County, Monroe County, and Palm Beach County, in their entirety are declared quarantined because of the presence of citrus greening disease.

(b) Other areas around a site where an infestation of citrus greening is known to occur will also be quarantined. The geographical boundaries of the quarantine area will be based on the potential of citrus greening being present and will encompass an area around a citrus greening infected site of approximately six square miles. Affected businesses or residents will be notified in writing unless too numerous to contact individually. In those cases, the quarantine area will be published in a major newspaper of general distribution in each area affected and through other appropriate media.

(c) The entire state of Florida is under a federal quarantine for citrus canker.

(5) Hosts of citrus greening and hosts of Asian citrus psyllid listed below are regulated articles and will be subject to the provisions of this rule.

(a) Hosts of citrus greening.

1. *Aeglopsis chevalieri* (Chevalier's aeglopsis)
2. *Balsamocitrus dawei* (Uganda powder-flask)
3. *Calodendrum capensis* Thunb. (Cape chestnut)
4. *X Citrofortunella microcarpa* (calamondin)
5. *X Citroncirus webberi* (citrange)
6. *Citrus* spp. (orange, grapefruit, tangerine, etc.)
7. *Clausena indica* (clausena)
8. *Clausena lansium* (wampee, wampi)
9. *Fortunella* spp. (kumquat)
10. *Limonia acidissima* (Indian wood-apple)
11. *Microcitrus australasica* (finger-lime)
12. *Murraya koenigii* (curry-leaf)
13. *Murraya paniculata* (orange-jasmine)

14. *Poncirus trifoliata* (trifoliolate orange)

15. *Severinia buxifolia* (Chinese box-orange)

16. *Swinglea glutinosa* (tabog)

17. *Toddalia lanceolata* (toddalia)

18. *Triphasia trifolia* (trifoliolate lime-berry)

(b) Hosts of Asian citrus psyllid only

1. *Aegle marmelos* (bael, Bengal quince)

2. *Afraegle gabonensis* (Gabon powder-flask)

3. *Afraegle paniculata* (Nigerian powder-flask)

4. *Atalantia* sp. (atalantia)

5. *Citropsis gilletiana* (Gillet's cherry-orange)

6. *Citropsis schweinfurthii* (African cherry-orange)

7. *Clausena anisum-olens* (anis)

8. *Clausena excavata* (clausena)

9. *Eremocitrus glauca* (Australian desert-lime)

10. *Eremocitrus hybrid* (desert-lime)

11. *Merrillia caloxylon* (flowering merrillia)

12. *Microcitrus australis* (Australian round-lime)

13. *Microcitrus papuana* (desert-lime)

14. *X Microcitronella* 'Sydney' (faustrimedina)

15. *Naringi crenulata* (naringi)

16. *Pamburus missionis* (pamburus)

17. *Toddalia asiatica* (orange-climber)

18. *Vepris lanceolata* (white ironwood)

19. *Zanthoxylum fagara* (wild-lime)

(c) Hosts of citrus canker. All species of citrus in the subfamily Aurantioideae.

(6) Movement of regulated articles from or through a quarantine area.

(a) The movement or planting of citrus greening host plants as listed in paragraph (5)(a) from or within a citrus greening quarantine area is prohibited unless produced in compliance with Rule Chapter 5B-62, Florida Administrative Code.

(b) The movement of Asian citrus psyllid host plants that are not also hosts of citrus greening from a citrus greening quarantine area is prohibited unless treated under the supervision of the department and accompanied by an Asian citrus psyllid certificate (Temporary Certificate Of Inspection For Citrus Psyllid, DACS-08376, effective 10/05, and incorporated in this rule by reference.) and provided they are not destined to a commercial citrus producing area outside of Florida. A copy of Temporary Certificate Of Inspection For Citrus Psyllid, DACS-08376, effective 10/05, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(c) The movement of citrus fruit from a citrus canker quarantine area is governed by USDA regulations contained in 7 CFR 301.75. There are no restrictions on citrus fruit movement from citrus greening quarantine areas.

(7) Regulated Areas. A regulated area, not to exceed a radius of one mile is hereby established around the perimeter of commercial citrus nurseries constructed on sites after April 1, 2006. A regulated area, not to exceed a radius of ten miles is hereby established around the perimeter of all sites on which foundation trees are maintained. The planting of citrus in these regulated areas is prohibited. Citrus plants within a regulated area that were planted prior to the establishment of the regulated area may remain unless they are determined to be infected or infested with citrus canker or citrus greening. The department shall require the removal of infected or infested citrus, or citrus planted or citrus sprouted by natural means after the establishment of regulated areas. The property owner shall be responsible for the removal of such citrus. Notice of the removal of citrus trees, by immediate final order, shall be provided to the owner of the property on which such trees are located. An immediate final order issued by the department pursuant to this section shall notify the property owner that the citrus trees that are the subject of the immediate final order must be removed and destroyed unless the property owner, no later than 10 days after delivery of the immediate final order requests and obtains a stay of the immediate final order from the district court of appeal with jurisdiction to review such requests. The property owner shall not be required to seek a stay of the immediate final order by the department prior to seeking the stay from the district court of appeal.

(8) All citrus grove owners or caretakers, harvesters, haulers, packers, and processors must sign compliance agreements:

(a) Citrus Grower/Caretaker Compliance Agreement, DACS-08316, effective 2/07, and incorporated into this rule by reference. A copy of Citrus Grower/Caretaker Compliance Agreement, DACS-08316, effective 2/07, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(b) Processor Compliance Agreement, DACS-08356, effective 2/07, and incorporated into this rule by reference. A copy of Processor Compliance Agreement, DACS-08356, effective 2/07, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(c) Packinghouse Compliance Agreement, DACS-08358, effective 2/07, and incorporated into this rule by reference. A copy of Packinghouse Compliance Agreement, DACS-08358, effective 2/07, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(d) Harvester/Handler Compliance Agreement, DACS-08359, effective 2/07, and incorporated into this rule by reference. A copy of Harvester/Handler Compliance Agreement, DACS-08359, effective 2/07, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred

Road, Winter Haven, Florida 33881. Fruit may not be harvested from a grove if a valid compliance agreement is not in place.

(e) Schedule 10, Information Resources, effective 6/06, and incorporated into this rule by reference. A copy of Schedule 10, Information Resources, effective 6/06, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(f) Schedule 11, Approved Decontamination Products and Methods, effective 1/07, and incorporated into this rule by reference. A copy of Schedule 11, Approved Decontamination Products and Methods, effective 1/07, may be obtained from the Citrus Health Response Program, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(9) Decontamination requirements. All harvesters, intermediate handlers, grove owners or caretakers, packers, and processors must decontaminate equipment, personnel, and regulated articles in accordance with applicable compliance agreements listed in subsection (8), and have approved decontaminants, on site at all times when in a citrus grove. Approved decontaminants are listed in the Schedule 11 attachment of compliance agreements listed in subsection (8).

(10) All non-production people entering commercial citrus groves must decontaminate equipment, personnel and regulated articles if contact with citrus does occur.

(11) Citrus grove surveys. In addition to the routine inspection of citrus groves by the department, citrus grove owners or caretakers should conduct a self-inspection of their groves every 60 days. If citrus canker or citrus greening is found, the department must be notified immediately. Failure to notify the department of citrus canker or citrus greening is a violation of Section 581.091, F.S. and this rule and is subject to penalties in accordance with Section 581.211, F.S.

(12) The Citrus Health Response Plan, effective date 6/30/06, and incorporated into this rule by reference, is hereby adopted by this rule.

Specific Authority 570.07(21), (23), 581.031(1), (4), (5), 581.091(1), 581.101(1), 581.184 FS. Law Implemented 570.07(2), (13), (21), 581.031(6), (7), (9), (15), (17), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 FS.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-6.010

RULE TITLE:
Payment Methodology for Nursing Home Services

~~psychotherapy, disciplined by any jurisdiction within the last ten (10) years shall not be eligible to serve as a qualified supervisor.~~

Specific Authority 491.005(6) ~~491.003(3), 491.00531(e)~~ FS. Law Implemented

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE NO.:	RULE TITLE:
64B4-31.007	Definition of a "Licensed Mental Health Counselor, or the Equivalent, Who Is a Qualified Supervisor"

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 15, April 13, 2007 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee in a letter dated May 7, 2007. The changes are as follows:

The Rule Text shall read as follows:

64B4-31.007 Definition of "a Licensed Mental Health Counselor, or the Equivalent, Who Is a Qualified Supervisor."

(1) through (3) No change.

~~(4) Any licensee who has had his or her clinical social work, marriage and family therapy, or mental health counseling license, or any other license to practice psychotherapy, disciplined by any jurisdiction within the last ten (10) years shall not be eligible to serve as a qualified supervisor.~~

Specific Authority 491.004(5), ~~491.005(4)(e)~~ FS. Law Implemented

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.:	RULE TITLE:
64B9-15.009	Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 20, May 19, 2006 issue of the Florida Administrative Weekly.

These changes were approved by the Board on October 12, 2007 and were made to address concerns raised by the Joint Administrative Procedure Committee. The changes are as follows:

The proposed new subsections (8) and (9) shall be deleted.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.:	RULE TITLE:
64B15-9.007	Forms and Instructions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 47, November 22, 2006 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-1.010	Definitions
65G-1.046	Crisis Determination Procedure
65G-1.047	Crisis Status Criteria

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 25, June 22, 2007 issue of the Florida Administrative Weekly.

65G-1.010 Definitions.

In this chapter, terms and phrases shall have the meanings defined in Chapter 393, F.S., or this section.

(1) "Area Office" is the local office responsible for managing one of the Agency's 14 service areas.

(2) "Central Office" is the Agency's headquarters located at 4030 Esplanade Way, Suite 380, Tallahassee, FL, 32399-0950; main phone number (850)488-4257.

(3) "Crisis enrollment" is expedited enrollment on an Agency-operated Medicaid waiver regardless of an applicant's date of application for the waiver or placement on the Agency's waitlist.

(4) "Handbook" is the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, October 2003, incorporated by reference in Agency

for Health Care Administration (AHCA) subsection 59G-13.080(12), F.A.C. The Handbook is available at: <http://floridamedicaid.acs-inc.com/index.jsp>.

(5) "Protective Services" means the program in the Department of Children and Family Services that responds to reports made to the department's central abuse hotline alleging abuse, abandonment, neglect, or exploitation, pursuant to Chapter 39 or 415, F.S.

(6) "Wait list" is the list maintained by the Central Office of persons requesting and waiting for waiver services.

(7) "Waiver" is a Home and Community-Based Services (HCBS) waiver authorized by 42 U.S.C. 1396n(c) of the federal Social Security Act and s. 409.906, F.S., that provides a package of Medicaid-funded home and community-based supports and services to eligible persons with developmental disabilities who live at home or in a home-like setting. The Agency currently operates two HCBS waivers:

(a) The Developmental Disabilities Home and Community-Based Services (DD) waiver that provides home and community-based supports and services without a dollar cap to eligible persons with developmental disabilities who are able to live at home or in a home-like setting; and

(b) The Family and Supported Living (FSL) waiver that provides limited home and community-based supports and services with an annual dollar cap to eligible persons with developmental disabilities who are able to live in their own home or family home.

Specific Authority 393.501(1), 393.065 FS. Law Implemented 393.065 FS. History—New _____.

65G-1.046 Crisis Determination Procedure.

(1) Subject to funding availability, the Agency will accept oral or written requests for crisis enrollment in a HCBS waiver by the applicant or the applicant's family, guardian, guardian advocate, or support coordinator.

(2) The applicant or applicant's representative shall request crisis enrollment through the Area Office in the service area where the applicant resides. The Agency may not enroll an applicant on the waiver unless the Agency has determined that the applicant has a developmental disability, as defined at Section 393.063(9), F.S., and also meets the following waiver eligibility requirements listed in the Handbook, Chapter 2 "Requirements to Receive Services":

(a) The recipient's intelligence quotient (IQ) is 59 or less; or

(b) The recipient's IQ is 60-69 inclusive and the recipient has a secondary handicapping condition that includes:

1. Cerebral palsy, spina bifida, Prader-Willi syndrome, epilepsy, autism, or

2. Ambulation, sensory, chronic health, and behavioral problems;

(c) The recipient's IQ is 60-69 inclusive and the recipient has severe functional limitations in at least three of the following major life activities:

1. Self-care,
2. Learning,
3. Mobility,
4. Self-direction,
5. Understanding and use of language,
6. Capacity for independent living; or

(d) The recipient is eligible under a primary disability of autism, cerebral palsy, spina bifida, or Prader-Willi syndrome and the condition results in substantial functional limitations in three or more major life activities listed at paragraph (c), above.

(3) The Area Office will collect pertinent information and supporting documentation relevant to a crisis determination and conduct a preliminary assessment based on the crisis status criteria specified in Rule 65G-1.047, F.A.C.

(a) If the Area Office concludes that the applicant does not meet crisis status or that the services needed are available from other agencies or programs or covered by other third-party payors, the Area Office will deny the crisis enrollment request and provide written notification of the denial to the applicant or applicant's representative.

(b) If the Area Office concludes that the applicant may meet crisis status and does not have access to insurance, other agencies or programs for needed services, or concludes that programs in which the applicant is participating cannot meet the applicant's service needs, the Area Office will submit its initial assessment and supporting documentation to the Central Office for review and final determination of whether the applicant meets crisis status. The applicant or the applicant's representative may, upon request, review the initial assessment and supporting documentation to ensure that all necessary information is included.

(4) The Central Office will notify the Area Offices of deadlines for submission of crisis enrollment requests to the Central Office for periodic review. Following review of the submissions, the Central Office will notify the Area Office whether it has approved or denied each submission. The Area Office is responsible for notifying the applicant or applicant's representative of the Central Office's final crisis determination.

(a) APPROVAL.

1. If funding is available and the applicant is approved for crisis enrollment, the applicant will be offered placement on the FSL waiver, unless that waiver cannot reasonably meet the applicant's specific service needs for addressing the crisis. In such instances, the person will be offered placement on the DD waiver. In determining the appropriate waiver placement, the Central Office will consider the availability of services necessary to resolve the crisis situation that are not provided under the FSL waiver, including the need for residential habilitation services, nursing services beyond the coverage provided through the Medicaid State Plan, or placement in a residential facility.

2. After the Central Office determines the appropriate waiver placement, the Area Office will provide written notice of placement to the applicant or applicant's representative. If the applicant is not already a client of the Agency or is not already on the waitlist, the Agency will provide a full determination of the applicant's eligibility for services within 45 days of the crisis eligibility determination, as provided in Section 393.065(2), F.S. Eligibility for Medicaid waiver services is contingent upon eligibility for the state Medicaid services, such as Supplemental Security Income (SSI), MEDS-AD, or TANF provided by the Department of Children and Families, as required by the Handbook, Chapter 2, "Requirements to Receive Services." If the applicant is not enrolled in a state Medicaid program, the Area Office will refer the applicant to the local Department of Children and Families for submission of a Request for Assistance (RFA). If the applicant is deemed eligible for state Medicaid, the Area Office will complete the waiver enrollment. If the applicant is not Medicaid-eligible, the Area office will rescind the approval for crisis enrollment on the Medicaid waiver.

(b) DENIAL. The Area Office will notify the applicant or applicant's representative in writing of a denial of crisis enrollment. If the Agency denied the application based on lack of documentation and additional documentation becomes available, or a change in the applicant's situation may affect the applicant's status for crisis determination, the applicant may reapply to the Area Office for crisis consideration.

Specific Authority 393.501(1), 393.065 FS. Law Implemented 393.065 FS. History—New _____.

65G-1.047 Crisis Status Criteria.

(1) Individuals determined to be in crisis will be prioritized for available waiver placements in order of the severity of crisis, with the severity determined by risk to the health, safety, and welfare of each applicant relative to that of the other applicants, as indicated by the applicable criteria for each crisis category met by the applicant.

(2) If several crises status applicants fall within the same crisis category, they will be prioritized within that category by consideration of the intensity of services needed.

"Intensity of services needed" prioritizes the following service needs in intensity from greatest to least:

(a) Residential placement with need of residential habilitation, nursing, or behavioral services, including supported living with required supports;

(b) Residential placement without need of residential habilitation, nursing, or behavioral services, including supported living with some supports;

(c) Behavioral intervention services;

(d) Other therapies to avoid or reduce disability;

(e) Meaningful day activity needs;

(f) Durable medical equipment needs;

(g) Environmental accessibility adaptations;

(h) Consumable medical supplies.

(3) If an applicant falls within more than one category of crises, the applicant will be considered within the higher priority of crisis category. After prioritization based on crisis category and intensity of services, applicants will be further prioritized if necessary based on the chronological order of crisis determination, with the earlier dates of determination having higher priority.

(4) "First priority" crisis category: The applicant is currently homeless, living in a homeless shelter, or living with relatives in an unsafe environment. In such cases, the following indicia, supported by credible evidence, are relevant to a crisis determination in this category:

(a) Without immediate provision of waiver services, the health and safety of the applicant are at risk;

(b) The applicant has no shelter available and needs emergency placement by the Agency or another state agency;

(c) Alternative funding is not available for other placement and services to the applicant;

(d) The applicant temporarily is staying with friends or relatives but residence is not expected to last more than several weeks;

(e) The applicant's caregiver has no legal obligation to provide shelter to the applicant and the caregiver's commitment to shelter the applicant is low;

(f) Factors affecting the applicant's safety in the current setting include risk of physical abuse of the applicant or risk of insufficient supervision and support;

(g) The home has insufficient room to shelter the applicant, or the applicant must share a room in an inappropriate living arrangement, based on the ages, genders, and conditions of the persons sharing the room;

(h) The applicant's desire for placement creates a reasonable expectation that the applicant will be cooperative with placement;

(i) Violence or illegal activities within the applicant's current living environment by the applicant or others has required the intervention of local or state law enforcement authorities;

(j) Complaints of neglect, exploitation, or abuse of the applicant to Protective Services, or other adverse environmental conditions affecting the applicant, have been investigated and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.;

(k) The applicant requires services of greater intensity.

(5) "Second priority" crisis category: The applicant exhibits behaviors that, without provision of immediate waiver services, may create a life-threatening situation for the applicant or others, or that may result in bodily harm to the applicant or others requiring emergency medical care from a physician. In such cases, the following indicia supported by credible evidence are relevant to a determination of crisis under this category:

(a) Without immediate waiver services, the health and safety of the applicant or others in the household is at risk;

(b) The applicant's injury to self or others is frequent or intense;

(c) The applicant or others are at risk for serious injury or permanent damage;

(d) There is documentation of medical treatment for the applicant's injury to self or others;

(e) No other supports are available to address the applicant's behaviors;

(f) Other attempted behavioral assessments and interventions have proven ineffective;

(g) The relative ages, sexes, and sizes of the aggressor and the subjects of aggression place the subjects of aggression at risk of injury;

(h) The caregiver has insufficient ability to control the applicant;

(i) The ages or disabilities of the applicant or caregiver exacerbate the problems;

(j) Violence or illegal activity within the applicant's current living environment by the applicant or others has required the intervention of local or state law enforcement authorities;

(k) Complaints of neglect, exploitation, or abuse of the applicant, or other adverse environmental conditions affecting the applicant have been investigated by Protective Services and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.;

(l) The applicant requires services of greater intensity.

(6) "Third priority" crisis category: The applicant's current caregiver is in extreme duress and is no longer able to provide for the applicant's health and safety because of illness, injury, or advanced age. The applicant needs immediate waiver services to remain living with the caregiver or to relocate to an alternative living arrangement. In such cases, the following indicia, supported by credible evidence, are relevant to a determination of crisis in this category:

(a) Without immediate provision of waiver services, the applicant's health and safety are at imminent risk;

(c) Other potential caregivers, such as another parent, stepparent, brother, sister or other relative or person, are unavailable or are unwilling or unable to provide care;

(d) The caregiver's physical or mental condition prevents the provision of adequate care;

(e) The caregiver is deceased, about to expire, or permanently disabled;

(f) The caregiver's age impairs the caregiver's ability to provide sufficient care to the applicant;

(g) The caregiver cannot provide sufficient care because of the age or size of the applicant, or the physical, functional, or behavioral demands of the applicant;

(h) The services provided by the caregiver are limited in amount, duration, or frequency, rendering the applicant semi-dependent or totally dependent;

(i) The caregiver's economic situation is unstable and unlikely to improve as a result of the care-giving demands of the applicant;

(j) The caregiver's obligations to the needs of other dependents prevent the caregiver from providing the applicant with adequate care, or the caregiver's obligation of care to the applicant places other dependents at risk of insufficient care;

(k) Violence or illegal activities within the applicant's current living environment by the applicant or others has required intervention by local or state law enforcement authorities;

(l) Complaints of neglect, exploitation, or abuse of the applicant, or other adverse environmental conditions affecting the applicant have been investigated by Protective Services and confirmed pursuant to Chapter 39, Part II, or Section 415.104, F.S.;

(m) The individual requires services of greater intensity.

Specific Authority 393.501(1), 393.065 FS. Law Implemented 393.065 FS. History--New _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker's Compensation

RULE NO.: 69L-7.501
 RULE TITLE: Florida Workers' Compensation Reimbursement Manual for Hospitals

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 3, January 19, 2007 issue of the Florida Administrative Weekly.

These changes are based on the record of a public hearing and written submissions and are being made to reflect a settlement agreement between Petitioners in rule challenge litigation and the Department of Financial Services, Respondent, as authorized by the Three-Member Panel pursuant to Section 440.13(12), F.S., at its meeting on June 14, 2007. The changes occur within the sections of the Florida Workers' Compensation Reimbursement Manual for Hospitals, 2006 Edition, adopted and incorporated by reference as part of this rule, as follows:

- Table of Contents
- No change.
- Section I: Introduction and Purpose of Manual
- No change.
- Section II: Reimbursement for Federal and Out-of-State-Hospitals
- No change.
- Section III: Publications Incorporated by Reference

No change.

Section IV: Billing

No change.

Section V: Authorization

No change.

Section VI: Per-Certification of Estimated Length of Stay

No change.

Section VII: Medical Record Maintenance, Release and Copy Charges

No change.

Section VIII: Inpatient Reimbursement and Per Diem Schedule

A. Reported Charges.

No change.

B. Charges for Surgical Implant(s).

All hospitals shall report surgical implant charges according to the National Uniform Billing Committee Official UB-04 Data Specification Manual (National Uniform Billing Manual). For purposes of reimbursement under this Manual, surgical implant charges are those charges identified on the hospital billing form under Revenue Code 278. Reimbursement for surgical implants billed under Revenue Code 278. Surgical implant charges are those charges identified on the hospital billing form under the designated Revenue Code for implants. Reimbursement for surgical implants, when charged for inpatient hospital services and supplies, shall be determined separately pursuant to Section IX of this Manual.

C. through D. No change.

E. Stop-Loss Reimbursement.

If the Total Gross Charges After Implant Carve-Out exceeds \$51,400.00, the hospital shall be reimbursed seventy-five percent (75%) of the Total Gross Charges After Implant Carve-Out, except as otherwise provided in this Manual.

Subject to any minimum partial payments required by Section XI herein, the insurer shall deny, disallow, or adjust payment for charges included in the Total Gross Charges After Implant Carve-Out that do not correspond to the hospital's Charge Master or are for undocumented or medically unnecessary services or supplies as determined in accordance with Sections XI and XII of this Manual. If any downward adjustment of the Total Gross Charges After Implant Carve-Out, pursuant to Sections XI and XII of this Manual, reduces the Total Gross Charges After Implant Carve-Out to \$51,400.00 or less, reimbursement for the Total Gross Charges After Implant Carve-Out shall be pursuant to the applicable Per Diem Schedule.

Section IX: Surgical Implants

A. Cost Formula.

Requests for reimbursement for surgical implant(s) (also referred to as "implantables" by the ~~National Florida Hospital Association~~ Uniform Billing Manual) required during inpatient hospitalization billed under Revenue Code 278 shall not

~~exceed sixty percent shall be fifty percent (50%) over the acquisition invoice cost(s) for the implant(s). Reimbursement for the associated disposable instrumentation required for the implantation of the surgical implant shall be twenty percent (20%) over the acquisition invoice cost, if the associated disposable instrumentation is received with the surgical implant and included on the acquisition invoice. Reimbursement of shipping and handling shall be at cost, if included on the acquisition invoice. This formula shall apply regardless of the amount of the charges reported by the billing hospital on the hospital billing form pursuant to Rule 69L-7.602, F.A.C.~~

When determining the acquisition invoice cost of the surgical implant(s), the hospital shall subtract any and all price reductions, offsets, discounts, adjustments and/or refunds which accrue to or are factored into the final net cost to the hospital, only if they appear on the acquisition invoice, before increasing the invoice amount by the percentage factors described above. The shipping and handling shall be added after increasing the acquisition invoice amount by the percentage factors above.

Reimbursement pursuant to this Section for surgical implant(s) and associated disposable instrumentation shall be in addition to reimbursement of the Total Gross Charges After Implant Carve-Out pursuant to Section VII of this Manual.

B. Billing and Identification of Surgical Implant Charges.

Hospitals shall identify charges for surgical implant(s) and associated disposable instrumentation on the hospital billing form in the required Form Locator by using the designated revenue code in accordance and in compliance with the guidelines and definition of "Implantables" and "Examples of Other Implants (not all-inclusive)" provided in the ~~National Florida Hospital Association~~ Uniform Billing Manual Incorporated by reference into Rule 69L-7.602, F.A.C.

C. Request for Reimbursement.

No change.

D. Certification of Implant Amount for Reimbursement.

Certification on a bill that the aggregate amount requested for reimbursement for the surgical implant(s) billed under Revenue Code 278 does not exceed in aggregate sixty percent (60%) over the acquisition costs as specified in Section IX: A. may be submitted as follows ~~Certification that the amount requested for reimbursement for the surgical implant(s) and associated disposable instrumentation has been determined in accordance with this Section may be submitted as follows:~~

1. through 3. No change.

E. Verification of Surgical Implant Costs and Charges.

The hospital's certification of amounts requested for reimbursement pursuant to this Section, whether written, by prior agreement or electronically via the electronic hospital billing format, and the hospital's compliance with billing and revenue code specifications in accordance with the ~~National FHA~~ Uniform Billing Manual incorporated by reference into

Rule 69L-7.602, F.A.C., shall be subject to verification through audit and medical record review pursuant to Section XII of this Manual.

Upon request by either the Division, Agency or a carrier, or its designee, to conduct an audit or medical record review under this Section, the hospital shall produce a copy to the requester, subject to the provisions of Section XII of this Manual, or make the original documents available for on-site review, or elsewhere by mutual agreement, such medical record(s) and surgical implant invoice purchasing documentation as requested within thirty (30) days of the request.

Neither a request nor completion of an audit pursuant to this Section shall toll the time frame for petitioning the Agency for resolution of a reimbursement dispute pursuant to Section 440.13(7), F.S.

Nothing in this Manual is intended to create, alter, diminish, or negate any protections regarding the confidentiality of any cost information produced during the course of such an audit.

Section X: Outpatient Reimbursement

A. Reimbursement Amount.

No change.

B. Scheduled Surgery.

Hospital charges for scheduled outpatient surgery shall be reimbursed sixty ~~60~~ percent (60%) of usual and customary charges and shall include all charges for radiology and clinical laboratory services when performed no more than three days prior to the date such surgery is performed ~~on the same date as the surgery.~~

Hospitals shall make written entry on the hospital billing form to identify whether an outpatient surgery was scheduled or unscheduled, in accordance with Rule 69L-7.602, F.A.C.

Determination of whether outpatient services were surgical or non-surgical shall be pursuant to the CPT® code(s) reported by the hospital on the hospital billing form pursuant to Rule 69L-7.602, F.A.C.

Reimbursement as a surgical procedure applies if the CPT® code reported on the hospital billing form is within the range of 10021-69990, except when the surgical procedure code within the range 10021-69990 is performed for venipuncture or to administer parenteral medication(s), in conjunction with an invasive medical therapeutic or diagnostic procedure such as that requiring placement of a cannula or catheter, or in conjunction with an invasive radiology or laboratory service that includes injection of diagnostic or therapeutic substance(s), with or without contrast media. For the purpose of determining reimbursement, surgical procedure

codes subject to the preceding exceptions shall be considered non-surgical services and subject to the reimbursement provision in A above.

Reimbursement for a scheduled outpatient surgery that results in the admission of the injured employee to the hospital within 24 hours of the scheduled outpatient surgery shall be subject to the reimbursement provisions of Section VII of this manual.

C. through E. No change.

Section XI: Disallowed, Denied and Disputed Charges

No change.

Section XII: Hospital Charge Master and Medical Record Review or Audit

No change.

Appendix A: Definitions

No change.

Appendix B: Rule 69L-7.501, Florida Administrative Code

No change.

The remainder of the reads as previously published.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF THE LOTTERY

RULE NO.:	RULE TITLE:
53ER07-40	Code of Ethics for Non-Reporting Individuals and Non-Procurement Employees

SUMMARY: This emergency rule sets forth the ethics rules governing non-reporting individuals and non-procurement employees of the Florida Lottery.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS: