

Specific Authority 370.12(2)(f),(m),(n) FS. Law Implemented 370.12(2)(d),(f),(i),(j),(m),(n) FS. History—New 3-19-79, Formerly 16N-22.05, Amended 12-5-89, Formerly 16N-22.005, Formerly 62N-22.005, Amended 11-30-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. David Arnold, Chief of the Bureau of Protected Species Management, Florida Fish and Wildlife Conservation Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bradley J. Hartman, Director of the Office of Environmental Services, Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2000

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Investor Protection

RULE NO.: RULE TITLE:
3E-600.005 Examinations/Qualifications

NOTICE OF CHANGE

Notice is hereby given that the Department has made the following change to the above rule based on public comments to correct the name of the Certified Financial Planner Board of Standards, Inc. This rule was originally published in the Vol. 26, No. 3, January 21, 2000 issue of the Florida Administrative Weekly. When adopted, paragraph (5) of the rule will read:

(5) The examination requirement for investment adviser principals, investment adviser representatives, and associated persons of issuer dealers shall not apply to an individual who currently holds one of the following professional designations: 1. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; 2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA; 3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; 4. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; 5. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.: RULE CHAPTER TITLE:
5L-1 Comprehensive Shellfish Control Code

RULE NOS.: RULE TITLES:
5L-1.004 Shellfish Harvesting Area Standards

5L-1.010 Container Identification, Terminal Sale Date; Prohibitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 4, January 28, 2000, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: RULE TITLE:
61G10-11.001 Examination for Licensure

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 24, No. 24, June 12, 1998, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-9.013 Change of Status Fee

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. 25, No. 36, of the September 10, 1999, issue of the Florida Administrative Weekly. The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The change shall be a new sentence added to the end of the rule to read as follows: "This fee shall be assessed only when such an application is made at times other than at the time for licensure renewal."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-11.004 Provider Approval Procedures

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. 25, No. 36, of the September 10, 1999, issue of the Florida Administrative Weekly. The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

In the proposed amendments to subsections (6)(a) and (6)(c) of the rule, the word "recognized" shall be deleted.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.:	RULE TITLE:
64B7-25.0011	Colonic Irrigation Application Deadline

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 25, No. 43, October 29, 1999, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE NO.:	RULE TITLE:
64B7-27.004	Re-Examination

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule amendment, published in the Florida Administrative Weekly, Vol. 25, No. 36, September 10, 1999, has been withdrawn.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.:	RULE TITLE:
64B8-9.009	Standards of Care for Office Surgery

FOURTH NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the above-referenced rule based upon comments received at a public meeting held on February 5, 2000, in Jacksonville, Florida. The rule was originally published in Vol. 25, No. 3, of the January 22, 1999, issue of the Florida Administrative Weekly. The Board previously held public hearings on this rule on April 11, 1999; June 3, 1999; August 7, 1999; and December 4, 1999. Notices of Change in response to public hearings were published in the Florida Administrative Weekly on April 23, 1999; June 18, 1999; and August 20, 1999. Any changes which conflict with the previous notices of change are superseded by the changes set forth below. The changes are as follows:

1. The proposed subsection (2)(e) shall be changed to read: "(e) For elective cosmetic and plastic surgery procedures performed in a physician's office, the maximum planned duration of all surgical procedures combined must not exceed 8 hours. Except for elective cosmetic and plastic surgery, the surgeon shall not keep patients past midnight in a physician's office. For elective cosmetic and plastic surgical procedures, the patient must be discharged within 24 hours of presenting to the office for surgery; an overnight stay is permitted in the office provided the total time the patient is at the office does not exceed 23 hours and 59 minutes including the surgery time. An overnight stay in a physician's office for elective cosmetic and plastic surgery shall be strictly limited to the physician's office. If the patient has not recovered sufficiently to be safely discharged within the timeframes set forth, the patient must be transferred to a hospital for continued post-operative care."

2. Proposed subsection (2)(i) of the rule shall be withdrawn.

3. The proposed changes to subsection (4)(b)1., shall be withdrawn.

4. Proposed subsection (6)(b)1.a. shall be changed to read, "(b) Standards for Level III Office Surgery. In addition to the standards for Level II Office Surgery, the surgeon must comply with the following:

1. Training Required.

a. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board qualification by a Board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or must be able to demonstrate to the accrediting organization or to the Department comparable background, training, and experience. In addition, the surgeon must have knowledge of the principles of general anesthesia. If the anesthesia provider is not an anesthesiologist, there must be a licensed M.D., or D.O., anesthesiologist, other than the surgeon, to provide direct supervision of the administration and maintenance of the anesthesia."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.:	RULE TITLE:
64B8-9.0091	Requirement for Physician Office Registration; Inspection or Accreditation

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. 25, No. 52, of the December 30, 1999, issue of the Florida Administrative Weekly. The changes are in response to comments received at a public hearing held on the rule on February 4, 2000, in Jacksonville, Florida. The changes are as follows:

1. Subsection (1)(b) of the rule shall be reworded to read: “(b) In order to register an office for surgical procedures, the physician must provide to the Board of Medicine, his or her name, mailing address, Florida license number, and a list of each office where the covered surgical procedures are going to be performed by the physician. The list shall also include each office name, address, telephone number, and level of surgery being performed at that location by the physician; and if more than one physician is practicing at that location, a list of all physicians and levels of surgery being performed must be provided. The list shall also include the name of each physician assistant, ARNP and CRNA involved in the office surgery or anesthesia; copies of any protocols necessary for the supervision of any ARNP or CRNA; and any transfer agreements with local hospitals. In addition, the physician shall submit a statement of compliance with Chapter 64B8-9.009, F.A.C., when registering with the Department.”

2. The following sentence shall be added to the end of subsection (2)(a): “All nationally recognized and Board-approved accrediting organizations shall be held to the same Board-determined surgery and anesthesia standards for accrediting Florida office surgery sites.”

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-54.0021
 RULE TITLE: Exemption of Spouse of Armed Forces Member from License Renewal Requirements

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. 25, No. 45, issue of the Florida Administrative Weekly. The change is in response to comments received from the Joint Administrative Procedures Committee, and was approved by the Electrolysis Council, and by the Board of Medicine at its meeting held on February 5, 2000 in Jacksonville, Florida.

The rule shall now read as follows:

64B8-54.0021 Exemption of Spouse of Armed Forces Member from License Renewal Requirements.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse’s duties with the Armed Forces. The licensee must document the absence and the spouse’s military status to the Board.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-27.830
 RULE TITLE: Standards of Practice – Drug Therapy Management

NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule, as published in Vol. 26, No. 1, January 7, 2000, issue of the Florida Administrative Weekly. The changes are in response to comments provided by the staff of the Joint Administrative Procedures Committee and by the members at its regularly scheduled meeting held on February 7-8, 2000. The Board voted to change to rule to read as follows:

64B16-27.830 Standards of Practice – Drug Therapy Management.

(1) “Prescriber Care Plan” means an individualized assessment of a patient and orders for specific drugs, laboratory tests, and other pharmaceutical services intended to be dispensed or executed by a pharmacist. The Prescriber Care Plan shall be written by a physician licensed pursuant to Chapter 458, 459, 461, or 466, F.S., or similar statutory provision in another jurisdiction, and may be transmitted by any means of communication. The Prescriber Care Plan shall specify the conditions under which a pharmacist shall order laboratory tests, interpret laboratory values ordered for a patient, execute drug therapy orders for a patient, and notify the physician.

(2) “Drug Therapy Management” means any act or service by a pharmacist in compliance with orders in a Prescriber Care Plan.

(3) A pharmacist may provide Drug Therapy Management services for a patient, incidental to the dispensing of medicinal drugs or as a part of consulting concerning therapeutic values of medicinal drugs or as part of managing and monitoring the patient’s drug therapy. A pharmacist who provides Drug Therapy Management services for a patient shall comply with orders in a Prescribe Care Plan, insofar as they specify:

(a) drug therapy to be initially dispensed to the patient by the pharmacist; or

(b) laboratory values or tests to be ordered, monitored and interpreted by the pharmacist, or

(c) the conditions under which the duly licensed practitioner authorizes the execution of subsequent orders concerning the drug therapy for the patient.

(d) the conditions under which the pharmacist shall contact or notify the physician

(4) A pharmacist who provides Drug Therapy Management services shall do so only under the auspices of a pharmacy permit that provides the following:

(a) a transferrable patient care record that includes:

1. a Prescriber Care Plan that includes a section noted as "orders" from a duly licensed physician for each patient for whom a pharmacist provides Drug Therapy Management services;

2. progress notes; and

(b) a pharmaceutical care area that is private, distinct, and partitioned from any area in which activities other than patient care activities occur, and in which the pharmacist and patient may sit down during the provision of Drug Therapy Management services; and

(c) a continuous quality improvement program that includes standards and procedures to identify, evaluate, and constantly improve Drug Therapy Management services provided by a pharmacist.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program Office

RULE NO.: 65A-33.001
 RULE TITLE: Purpose and Legal Base
 NOTICE OF WITHDRAWAL

Notice is hereby given that the proposed amendment of the above rule, as published in Vol. 25, No. 43, October 29, 1999, Florida Administrative Weekly, has been withdrawn.

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE NO.: 68A-15.061
 RULE TITLE: Specific Regulations for Type I Wildlife Management Areas – South Region

NOTICE OF CHANGE

Notice is hereby given that the following change, in accordance with subparagraph 120.54(3)(d)1., F.S., has been made to subparagraphs 68A-15.061(14)(a)6. and (d)5. of this

proposed rule which was published in Vol. 25, No. 52, Florida Administrative Weekly, December 30, 1999, so that when adopted, it will read as follows:

(14) Fisheating Creek Wildlife Management Area

(a) Open season:

6. General gun hog – December 9-10, west of U.S. Highway 27 only.

(d) General regulations:

5. Hunting with dogs is prohibited

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE NO.: 68A-25.002
 RULE TITLE: General Provisions for Taking, Possession and Sale of Reptiles
 NOTICE OF CHANGE

Notice is hereby given that the following change, in accordance with subparagraph 120.54(3)(d)1., F.S., has been made to subsection 68A-25.002(18) of this proposed rule which was published in Vol. 25, No. 52, Florida Administrative Weekly, December 30, 1999, so that when adopted, it will read as follows:

(18) No leopard tortoise (*Geochelone pardalis*) or African spurred tortoise (*Geochelone sulcata*) shall be imported or transported into this state, without a special permit issued by the Commission. The basis for the issuance of such permit shall include:

(a) that each shipment is accompanied by a veterinary certificate stating that all specimens are free from external parasites;

(b) that all shipping containers used to transport such tortoises are incinerated within 24 hours;

(c) such other conditions as may be necessary to insure that no tortoise infested with ticks capable of transmitting the Heartwater disease is imported into Florida.

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Marine Fisheries

RULE NO.: 68B-46
 RULE CHAPTER TITLE: Horseshoe Crabs
 RULE NOS.: 68B-46.002
 RULE TITLES: Horseshoe Crabs Harvest Restrictions; License Requirements, Gear Restrictions, Daily Bag and Possession Limits

NOTICE OF CHANGES TO PROPOSED RULES

The Fish and Wildlife Conservation Commission announces changes to proposed new Rule Chapter 68B-46, F.A.C., as published in the December 30, 1999 issue of the Florida

Administrative Weekly. The changes are in response to public comment, testimony, and Commission discussion contained in the record of the public hearing held by the Commission on February 3, 2000, in Jacksonville, Florida. Proposed Rule 68B-46.001 was not changed. Proposed new Rule 68B-46.002 was changed to read:

68B-46.002 Horseshoe Crabs Harvest Restrictions: License Requirements, Gear Specifications, Daily Bag and Possession Limits.

(1) No person shall harvest, possess, or sell any horseshoe crab unless that person possesses a valid saltwater products license.

(2) The harvest or attempted harvest of any horseshoe crab by or with the use of any means or gear other than by hand or gig is prohibited.

(3)(a) Except as provided in paragraph (b), no person shall harvest in any day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 25 horseshoe crabs. No such person shall possess more than 25 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

(b)1. The following bag and possession limits apply to a person with a valid saltwater products license with a marine life endorsement:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

2. The following bag and possession limits apply to a person with a valid saltwater products license and a valid permit to harvest eels commercially in the freshwaters of the state:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the saltwaters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the saltwaters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New

**Section IV
Emergency Rules**

NONE

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

DEPARTMENT OF TRANSPORTATION

NOTICE IS HEREBY GIVEN that, on February 8, 2000, the Florida Department of Transportation issued an order denying the petition of National Advertising Company, seeking a variance from the provisions of Rule Chapter 14-10.007(1) F.A.C. The petition was received by the Department on November 16, 1999. The Department published its notice of receipt of the petition in the January 21, 2000, edition of the Florida Administrative Weekly. Rule Chapter 14-10 provides guidance for outdoor advertising sign regulation and the highway beautification program. The Department's order, issued in DOT Case, denied National's request that the Department allow its sign's height above ground level (HAGL) to be increased without causing the sign to become illegal. The subject sign corresponds to State Permit Numbers AZ346 and AZ347, located in Palm Beach County, adjacent to I-95. The sign is subject to the provisions of Chapter 479, Florida Statutes, and Rule Chapter 14-10, Florida Administrative Code.

In pertinent part, Section 479.24, Florida Statutes, provides that a legal nonconforming sign will lose its nonconforming status, and become illegal, if it is not maintained in accordance with all applicable laws. As such, where applicable law, specifically Rule 14-10.007(1), Florida Administrative Code, precludes an increase in the height above ground level (HAGL), such an increase would cause the sign to become illegal. Additionally, Federal law precludes the Department from granting a waiver, as a nonconforming sign must remain substantially the same as it was on the date it became nonconforming.

A copy of the Department's order may be obtained from: Clerk of Agency Proceedings, Department of Transportation, 605 Suwannee Street, M.S. 58, Tallahassee, Florida 32399-0458.

For additional information, contact: James C. Myers, (850)414-5393.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

The Department of Highway Safety and Motor Vehicles hereby gives notice that it received a Petition for Partial Waiver of Rule 15A-10.0141, on January 19, 2000 from the