

Section II
Proposed Rules

DEPARTMENT OF INSURANCE

Table with 2 columns: RULE TITLES and RULE NOS.:
Disclosure; Mortgagee Policyholders 4-186.001
Approved Form 4-186.002
Title Insurance Rates 4-186.003
Usury of Claims of Usury Excluded from Title Insurance Coverages 4-186.006
Escrow Requirements 4-186.008
Independent Searcher/Abstractor Coverage 4-186.012
Insurer Reporting for Non-Licensed Agents 4-186.014

PURPOSE AND EFFECT: The purpose of this amendment is to comply with Section 627.7825, Florida Statutes, which codified much of the rule. Also parts of the rule needs to be repealed pursuant to Section 120.536(2)(b), Florida Statutes.

SUMMARY: Amendments to comply with Section 627.7825, Florida Statutes and some repeals pursuant to Section 120.536(2)(b), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SERC has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, 627.782, 627.7825 FS.

LAW IMPLEMENTED: 624.307(1), 624.608, 626.9541(1)(h)3.a., 626.8473, 627.777, 627.778(1)(a), 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845, 628.151 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., September 20, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wally Senter, Financial Examiner/Analyst Supervisor, Insurer Services, Department of Insurance, phone (850)413-2554

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Wally Senter at (850)413-2554.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-186.001 Disclosure; Mortgagee Policyholders.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.778(1)(a) FS. History--New 9-23-69, Repromulgated 12-24-74, Formerly 4-21.01, Amended 6-25-86, Formerly 4-21.001, Repealed.

4-186.002 Approved Form.

Any form of written notice given by the title insurers, business trust title insurers, agents, members, employees thereof, or by agents, employees, officials of lending or other institutions to the purchaser-mortgagor in substantially the following language shall be deemed in compliance with Section 627.798, Florida Statutes Rule 4-186.001:

NOTICE TO PURCHASER-MORTGAGOR

Pursuant to Section 627.798, Florida Statutes Rule 4-186.001 of the Insurance Commissioner and Treasurer, notice is hereby given by (Name of Title Insurer or Business Trust Title Insurer) to the undersigned purchaser-mortgagor that a mortgagee title insurance policy is to be issued to your mortgagee lender, and that such policy does not provide title insurance protection to you as the owner of the real estate you are purchasing.

The undersigned has read the above notice and understands that such mortgage title insurance policy to be issued to the mortgagee lender does not provide title insurance protection to the undersigned as owner.

Dated this day of, 20 (Signature of Purchaser)

Specific Authority 624.308, 627.798 FS. Law Implemented 624.307(1), 627.778(1)(a), 627.7825 FS. History--New 9-23-69, Repromulgated 12-24-74, Formerly 4-21.02, Amended 6-25-86, Formerly 4-21.002, Amended.

4-186.003 Title Insurance Rates.

The following are risk rate premiums to be charged by title insurers in this state for the respective types of title insurance contracts. To compute any insurance premium on a fractional thousand of insurance (except as to minimum premiums), multiply such fractional thousand by the rate per thousand applicable, considering any fraction of \$100.00 as a full \$100.00.

(1) Owner's and Leasehold Rates

(a) The risk premium for original owner's or leasehold insurance shall be:

Table with 2 columns: Per Thousand and Rate.
From \$0 to \$100,000 of liability written \$5.75
From \$100,000 to \$1 million, add 5.00
Over \$1 million and up to \$10 million, add \$3.00
Over \$10 million, add 2.25
Minimum Premium for all conveyances except multiple conveyances 100.00
Minimum Premium for multiple conveyances on the same property (e.g., timesharing) \$60.00

(b) In all cases the owner's policy shall be issued for the full insurable value of the premises.

(2) Owner's, Mortgage, and Leasehold Reissue Rates:

(a) ~~The reissue risk premium charge for Owner's, Mortgage, and Leasehold Title insurance policies shall be:~~

Per Thousand	
Up to \$100,000 of liability written	\$3.30
Over \$100,000 and up to \$1 million, add	3.00
Over \$1 million and up to \$10 million, add	2.00
Over \$10 million, add	1.50
Minimum Premium	100.00

(b) ~~Provided a previous owner's policy was issued insuring the seller or the mortgagor in the current transaction and that both the reissuing agent and the reissuing underwriter retain for their respective files copies of the prior owner's policy(ies), the reissue risk rate premiums above shall apply to:~~

1. ~~Policies on real property which is unimproved except for roads, bridges, drainage facilities and utilities where the current owner's title has been insured prior to the application for a new policy, or~~

2. ~~Policies on the first sale of property with an improvement that is granted a certificate of occupancy, provided the seller has not leased or occupied the premises, or~~

3. ~~Policies issued with an effective date of less than one year after the effective date of the policy insuring the seller or mortgagor in the current transaction, or~~

4. ~~Mortgage policies issued on refinancing of property insured by an original owner's policy which insured the title of the current mortgagor.~~

(c) ~~Any amount of new insurance, in the aggregate, in excess of the amount under the previous policy shall be computed at the owner's or leasehold rates, as provided in this rule.~~

~~(1)(3) Contract Purchaser – Lessee Rates. If a contract purchaser, who has obtained a policy from an insurer insuring his contract, and thereafter obtains a deed given in pursuance of the contract, makes application for an owner's policy and surrenders the policy, insuring his contract; or a lessee who has obtained a leasehold policy of an insurer, insuring his lease, and thereafter purchases the property, makes application for an owner's policy, and surrenders such policy, the re-issue risk rate shall be:~~

Up to \$100,000 of liability written	25% of the rates set forth in subsection (1)
Over \$100,000 add	20% of the rates set forth in subsection (1)
Minimum premium shall be	\$100.00

~~(4) Mortgage Title Insurance Rates~~

(a) ~~The risk premium for mortgage title insurance shall be:~~

Per Thousand	
From \$0 to \$100,000 of liability written	\$5.75
From \$100,000 to \$1 million of liability written, add	\$5.00
Over \$1 million and up to \$10 million, add	3.00
Over \$10 million, add	2.25
Minimum Premium	100.00
Minimum Premium for multiple conveyances on the same property (e.g., timesharing)	60.00

(b) ~~A mortgage title policy cannot be issued for an amount less than the full principal debt. A policy can, however, be issued for an amount up to 25% in excess of the principal debt to cover interest, foreclosure costs, etc.~~

(5) ~~Substitution Loans Rates. The following risk premium for substitution loans shall apply:~~

(a) ~~When the same borrower and the same lender make a substitution loan on the same property, the title to which was insured by an insurer in connection with the original loan:~~

Age of Original Loan	Rates
3 years or under	30% of original rates
From 3 years to 4 years	40% of original rates
From 4 years to 5 years	50% of original rates
From 5 years to 10 years	60% of original rates
Over 10 years	100% of original rates
Minimum premium	\$100.00

(b) ~~At the time a substitution loan is made, the unpaid principal balance of the original loan will be considered the amount of insurance in force on which the foregoing rates shall be calculated. To these rates shall be added the regular rates in the applicable schedules for any new insurance, that is, the difference between the unpaid principal balance of the original loan and the amount of the new loan.~~

(6) through (7) renumbered (2) through (3) No change.

(8) ~~Rate Deviation. The legislature has made provision for rate deviation. A title insurer may petition the Department for an order authorizing a specific deviation from the adopted risk premium, and a title insurer or title agent may petition the Department for an order authorizing and permitting a specific deviation above the reasonable charge for other services rendered as specified in section 627.782(1), Florida Statutes.~~

(9) through (13) renumbered (4) through (8) No change.

Specific Authority 624.308(1), 626.9611, 627.782, 627.7825 FS. Law Implemented 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845 FS. History–New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.00, Amended.

4-186.006 Usury or Claims of Usury Excluded from Title Insurance Coverages.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.608, 627.777 FS. History–New 11-18-71, Repromulgated 12-24-74, Formerly 4-21.06, Amended 6-25-86, Formerly 4-21.006, Repealed.

4-186.008 Escrow Requirements.

(1) through (3) No change.

~~(4)(a) All collected funds shall be deposited in a trust account held in a fiduciary capacity as required by section 626.8473, Florida Statutes, and shall be insured by an agency of the federal government.~~

~~(4)(b) Funds received from depositors in excess of the insured amount must be deposited in a financial institution that has a rating not less than the minimum standards established by Government National Mortgage Association (GNMA).~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.8473, 627.776(1)(m), 628.151 FS. History—New 6-25-86, Amended 2-26-90, Formerly 4-21.010, Amended 2-13-95, Repealed.

4-186.012 Independent Searcher/Abstractor Coverage.

Specific Authority 624.308 FS. Law Implemented 626.8418, 626.8419 FS. History—New 2-13-95, Repealed.

4-186.014 Insurer Reporting for Non-Licensed Agents.

Specific Authority 624.308 FS. Law Implemented 624.307, 624.307(1), 626.8417, 626.8421 FS. History—New 2-13-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wally Senter, Financial Examiner/Analyst Supervisor, Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Roddenberry, Deputy Director of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLE: Standards

RULE NO.: 5F-10.001

PURPOSE AND EFFECT: The purpose of 5F-10.001 is to adopt the most recent version of the chemical and physical standards set forth in the American Society for Testing and Materials. The effect of each adoption is to maintain nationally recognized standards. Two of the previously cited standards have been discontinued. The material from these has been combined with another standard. This combined standard, ASTM D 3306-00a, also has a word change in the title.

SUMMARY: Proposed rule 5F-10.001 will adopt the most recent versions of the American Society for Testing and Materials' standards and specifications for antifreeze products in accordance with s. 501.921, Florida Statutes. The Department will use these standards and specifications when evaluating antifreeze products offered for registration with the Department or offered for sale to the public.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 570.07(23), 501.921 FS.

LAWS IMPLEMENTED: 501.913, 501.917, 501.921 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 10:00 a.m., Monday, September 17, 2001

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, (850)488-9740

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-10.001 Standards.

(1) The performance specifications and standards for ethylene glycol base antifreeze are hereby incorporated by reference: ASTM D 3306-00a98, "Standard Specification for Ethylene Glycol Base Engine Coolant for Automobile and Light Duty Service," (approved April 10, 2001 April 10, 1998).

~~(2) The performance specifications and standards for propylene glycol base antifreeze are hereby incorporated by reference: ASTM D 5216-98, "Standard Specification for Propylene Glycol Base Engine Coolant for Automobile and Light Duty Service," (approved April 10, 1998).~~

~~(3) The performance specifications and standards for prediluted aqueous ethylene glycol base antifreeze are hereby incorporated by reference: ASTM D 4656-98, "Standard Specification for Prediluted Aqueous Ethylene Glycol (50 Volume % Minimum) Base Engine Coolant for Automobiles and Light Duty Service," (approved April 10, 1998).~~

~~(2)(4) The performance specifications and standards for recycled prediluted aqueous glycol base antifreeze are hereby incorporated by reference: ASTM D 6471-99, "Standard Specification for Recycled Prediluted Aqueous Glycol Base Engine Coolant (50 Volume % Minimum) for Automobile and Light Duty Service," (approved November 10, 1999).~~

~~(3)(5) Copies of these documents may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or <http://www.astm.org>.~~

Specific Authority 570.07(23), 501.921 FS. Law Implemented 501.913, 501.917, 501.921 FS. History—New 10-6-93, Amended 7-5-95, 12-9-98, 6-25-00, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Eric Hamilton  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Sex Offender Conditions of Supervision  
 RULE NO.: 33-302.108

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish procedures whereby the conditions of supervision of sex offenders are monitored.

SUMMARY: The proposed rule ensures that supervision orders for sex offenders meet statutory requirements, ensures that sex offenders comply with driving restrictions, and establishes procedures relating to enforcement of supervision restrictions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 948.03 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.108 Sex Offender Conditions of Supervision.

(1) The circuit administrator shall review supervision orders utilized in the circuit to determine whether they contain the required sex offender conditions mandated by statute. Where the circuit administrator determines that supervision orders are not in compliance, she or he shall contact the judge or clerk of the court to notify her or him of the area of noncompliance.

(2) Conditions of supervision can only be enforced when they are delineated on the specific order of supervision. The department does not have the authority to impose any condition that is not included in the supervision order regardless of statutory provisions.

(3) Prohibited victim contact – If the court or releasing authority imposes a condition prohibiting offender contact with the victim, the officer will ensure:

(a) The offender has been instructed regarding the special condition imposed of no contact with the victim or the victim’s family; and

(b) The victim is aware of the special condition prohibiting the offender from having contact with the victim or the victim’s family. The officer shall forward a No Contact with Victim Letter, Form DC3-247, to the victim’s last known address. A copy of Form DC3-247 will be maintained in the offender file as documentation that the victim was notified of this condition. Form DC3-247 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(4) Prohibition of Living Within 1000 Feet of Place Where Children Regularly Congregate – If the court or releasing authority imposes this condition of supervision, the supervisor shall ensure:

(a) The officer has researched the offender’s residence location for known places where children regularly congregate to ensure compliance; and

(b) The officer documents research conducted and measurements obtained, if applicable, in the electronic case notes.

(5) DNA Analysis – If the court or releasing authority imposes this condition, or if the offender’s offense meets statutory criteria pursuant to s. 948.03(5)(a) and (b), F.S.:

(a) The circuit administrator shall ensure agreements are formulated and upheld with DNA collection sites within the circuit; and,

(b) The officer will ensure documentation is received from the collection site verifying the DNA blood specimens were drawn.

(6) Sex Offender Driving Log – If the court or releasing authority imposes a condition of supervision requiring maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer, the officer shall:

(a) Instruct the offender to complete entries on the Driving Log, Form DC3-244, for each travel occurrence when the offender is driving, either alone, or when accompanied by someone. Form DC3-244 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(b) Officers shall utilize the following criteria in considering whether to allow a sex offender to drive alone:

1. Circumstances that indicate it is not reasonable to request the offender to be accompanied by another adult.

2. Offenders can be authorized to drive alone for routine and scheduled work, religious purposes, therapeutic or treatment appointments, educational or vocational school attendance, public service purposes, and scheduled meetings with the officer in the office.

3. Offenders can also be authorized, with prior approval from the officer, to drive alone for routine and necessary activities such as banking, shopping, and medical appointments.

(c) An offender shall not be allowed to travel alone for other purposes unless approved by a supervisor.

(d) The offender shall submit all completed Driving Logs, Form DC3-244, to the supervising officer at least once a month. The completed driving logs will be maintained in the offender file.

(7) Polygraph Testing – If the court or releasing authority imposes this condition of supervision, the officer shall:

(a) Ensure offenders sentenced to sex offender probation receive a mandatory polygraph on a yearly basis to be paid for by the offender;

(b) Ensure that a polygraph examiner specially trained to perform polygraphs on sex offenders conducts the polygraph examination whenever an examiner with such specialized training is available, otherwise another qualified examiner, without specialized training may perform the polygraph examination; and

(c) Ensure results of the polygraph are not used as grounds to file a violation of community supervision.

(8) HIV Testing – If the court or releasing authority imposes this condition of supervision the circuit administrator shall ensure arrangements are made to set up a testing location in each circuit for sex offenders required to submit to HIV testing.

(9) Pornographic Material – If the court or releasing authority imposes a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs or computer services that are relevant to the offender’s deviant behavior pattern, the officer shall ensure compliance by conducting walk-through searches during the initial and subsequent visits to the offender’s residence, which can lead to warrantless planned searches if pornographic material is observed.

(10) Computer or Internet Restrictions – If the court or releasing authority imposes a condition of supervision that limits or prohibits use of computers or the internet, the officer shall monitor compliance by:

(a) Conducting walk through searches during the initial and subsequent visits to the offender’s residence to ensure the offender is in compliance with the condition of supervision;

(b) If the officer verifies or suspects that the offender has access to the internet, and this is prohibited as a condition of supervision, the officer shall contact FDLE or local law

enforcement computer experts to investigate further. The officer will not attempt to view icons for internet access or other graphic file formats created by the Joint Photographic Experts Group, unless the officer has successfully completed the Basic Computer Data Recovery Class and has been authorized, in writing, by the circuit administrator to conduct computer searches.

Specific Authority 944.09 FS, Law Implemented 944.09, 947.1405, 948.03 FS, History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 13, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Inmate Telephone Use  
RULE NO.: 33-602.205

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise current telephone procedures.

SUMMARY: The proposed rule provides for the use of a proposed new telephone system, and provides correct titles for staff with responsibilities related to inmate telephones.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.205 Inmate Telephone Use.

(1) This subsection sets forth the minimum telephone privileges that shall be granted to inmates housed in institutions or facilities other than community correctional centers, Florida State Prison, or death row at Union Correctional Institution. All inmate calls, with the exception of those calls placed to attorneys pursuant to (3)(~~a~~) shall be subject to monitoring and recording. Due to the high level of security needs at Florida State Prison and death row at Union

Correctional Institution, the only telephone privileges available to FSP and UCI death row inmates are those set forth in (3)(a), private calls to attorneys, and (4), calls made in the event of family crisis.

(2) Inmate telephone procedures will be conducted as follows:

(a) No change.

(b) The reception center classification staff shall compile the inmate calling list through use of Form DC6-223, in conjunction with the acquisition of the inmate visiting list. Form DC6-223 shall become part of the inmate's permanent file and shall accompany the inmate with each subsequent transfer. Form DC6-223 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, FL 32399-2500. ~~If forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope.~~ The effective date of this form is 2-7-00.

(c) An inmate shall be allowed to change his or her telephone list once every six months. Changes can be made more frequently for the following reasons only:

1. No change.

2. The inmate has married and wishes to add the name and telephone number of the spouse. The inmate shall be responsible for providing documentation of the marriage before the list will be amended.

3. An inmate shall be allowed to update his or her telephone list when there is a change in telephone providers, an installation of updated equipment or software, or a repair to the equipment, if the department determines that an update of the telephone list would be more efficient in completing the change, installation, or repair.

(d) No change.

(e) Except for calls to attorneys as provided in (3)(a), or calls during family crisis as provided in (4), calls shall be limited to 15 ~~40~~ minutes. Calls to attorneys as provided in (3)(a) and calls in time of family crisis as provided in (4) shall be limited to the amount of time reasonably necessary to accomplish the purpose of the call.

(f) No change.

(g) All calls from the monitored telephones shall be collect and shall contain a prompt which clearly identifies the call as coming from a Florida Department of Corrections institution.

1. No change.

2. The prompt shall clearly identify the caller on a prerecorded message ~~tone~~ which is input at the time of the inmate's first call.

3. No change.

4. The system will detect conference calls or three-way calling activity and terminate the call when such activity is detected.

(h) through (j) No change.

(k) Tape recordings of monitored calls shall be kept in an area where staff access is controlled. Records and tapes of monitored calls shall be retained for a minimum of one year. Access to tapes and records shall be limited to the following persons:

1. No change.

2. ~~Director of Institutions Assistant Secretary for the Office of Security and Institutional Operations~~ or her or his designee;

3. Regional ~~d~~Directors;

4. through (l) No change.

(3) Calls to attorneys.

(a) Inmates shall be allowed to make private telephone calls to attorneys upon presentation to the warden or his designee of evidence that the call is necessary. Such evidence shall be a letter from the attorney requesting the return call due to an impending court deadline, or a court order containing a deadline, the inmate cannot meet if he must communicate by letter with the attorney. Except as authorized by warrant or order of court, telephone calls to attorneys made pursuant to this section shall not be monitored or electronically recorded. These calls will be placed on telephones designated for this purpose and shall be collect calls; there shall be at least one telephone at each institution that is not connected to the monitoring system for these calls.

(b) If an inmate requests to place his or her attorney's telephone number on his or her calling list, the attorney must provide written acknowledgment of the telephone procedures by completing Form DC6-214, Inclusion of Attorney on Inmate Telephone List and indicating that he or she understands that there are options available for private calls. The requesting inmate will be responsible for notifying the attorney and arranging for the correspondence to the institution. ~~There will be no special provisions for these calls.~~ They will be placed on regular inmate telephones, will be collect, subject to monitoring and recording, and limited to 15 ~~40~~ minutes. The telephone calls will not be monitored or recorded. However, staff will call the numbers submitted to verify the telephone number is to the office of a licensed attorney. ~~If the inmate and the attorney want to have non-monitored conversations, the procedures in (3)(a) must be followed.~~ Form DC6-214, Inclusion of Attorney on Inmate Telephone List, is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(4) No change.

(5) Telephone privileges for inmates in aAdministrative or ~~d~~Disciplinary ~~c~~Confinement shall be in accordance with Rules 33-602.220 (Administrative Confinement) and 33-602.222 (Disciplinary Confinement) are not allowed telephone privileges except in cases of emergency or when

necessary to insure the inmate's access to attorneys or courts, provided that in Disciplinary Confinement privileges will only be allowed when alternative means of access are not feasible.

- (6) No change.
- (7) All long distance calls shall be "collect" calls except:
  - (a) No change.
  - (b) Calls to courts when the inmate is required to participate in a telephone conference hearing. Institutional staff shall place a direct call to the court, using the most efficient and economical means available. If the department is involved as a party, the inmate's account shall not be charged for the cost of such call, unless it can be demonstrated that the hearing was scheduled at the inmate's request. In all other circumstances, the inmate's account shall be charged in full for such cost. The charge shall be based on the current SUNCOM telephone rate for State telephone calls.
  - (c) If funds are not available in the account to pay the charge in full, then the account shall be charged in part, up to the amount available. A hold shall then be placed on the inmate's account and all subsequent deposits to the inmate's account shall be applied against the unpaid costs until the debt has been paid.

- (8) through (10) No change.
- (11) The Department is not responsible for maintaining telephone equipment damaged by inmate abuse or for providing telephone service if the telephone company discontinues service as a result of inmate abuse.

- (12) Misuse of telephone privileges.
  - (a) through (b) No change.
  - (c) Inmates found to have abused telephone privileges shall be subject to disciplinary action in accordance with Rules 33-601.301-33-601.314, F.A.C. In addition, wardens are authorized to suspend an inmate's telephone privileges, other than calls to attorneys as outlined in (3)(a), during an investigation for abuse of telephone privileges.

- (d) through (13) No change.
- (14) Crime-stoppers Hotline.
  - (a) A toll-free number will be available for dialing from any telephone designated for inmate use to report suspected criminal activity or crimes that occur inside or outside the institution.
  - (b) The inmate will not have to enter his or her personal identification number (PIN) to access the crime-stoppers hotline.
  - (c) Calls to the crime-stoppers hotline will be limited to two minutes and will be recorded and retained for 30 days.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 11-19-81, Formerly 33-3.125, Amended 11-21-86, 1-6-92, 3-24-97, 7-22-97, 12-21-98, Formerly 33-3.0125, Amended 2-7-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Wayne Hemphill  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 3, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2001

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE TITLES:	RULE NOS.:
Definitions	58A-6.002
Licensure Application Procedures	58A-6.003
Governing Authority, Administration and Staffing	58A-6.006
Participant Care Standards	58A-6.007
Participant and Program Data, Emergency Management Plan	58A-6.011

PURPOSE AND EFFECT: This rules chapter is being amended to incorporate language from SB 1202 which requires in ch. 400, Part V, Adult Day Care Centers, F.S., the development of components of a comprehensive emergency management plan, developed in consultation with the Department of Health, the Agency for Health Care Administration, and the Department of Community Affairs and to update and clarify other areas.

SUMMARY: For the purposes of emergency planning, an Emergency Management Planning Criteria checklist, dated July, 2001, is incorporated by reference. Rule 58A-6.011(10) is amended to provide for additional language to clarify emergency planning. Other areas were updated and clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 400.562 FS.

LAW IMPLEMENTED: Ch. 400, Part V FS.

IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., Wednesday, September 19, 2001

PLACE: Conference Room 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pat Dunn, Office of the General Counsel, or Sharlene Davis, Statewide Community-Based Services, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (850)414-2000

THE FULL TEXT OF THE PROPOSED RULES IS:

58A-6.002 Definitions.

(1) The following terms are defined in s. 400.551, F.S., and are applicable to this rule chapter: adult day care center or center, agency, basic services, department, multiple or repeated violations, operator, owner, participant, and supportive and optional services.

(2) Additional definitions applicable in this rule chapter are as follows:

(a) Activities of Daily Living or ADL shall mean the functions or tasks for self-care and shall include: ambulation, bathing, dressing, eating, grooming, transferring, and toileting, self-administration of medications, and other personal hygiene activities.

(b) Adult shall mean any person 18 years of age or older.

(c) Applicant for licensure shall mean the owner or operator of a center or, if the owner is a business entity, the person (i.e., corporate officer, general or limited partner) acting in behalf of the entity.

(d) By-laws shall mean a set of rules adopted by the center for governing its operation. A charter, articles of incorporation, or a statement of policies, procedures and objectives shall be acceptable equivalents.

(e) Capacity shall mean the number of participants for which a center has been licensed to provide care at any given time and shall be based upon required net floor space.

(f) Comprehensive Emergency Management Plan shall mean a plan developed by the adult day care center describing how the center will prepare for and respond in an emergency, pursuant to Rule 58A-6.011(10).

~~(g)(f)~~ Daily Attendance shall mean the number of participants who, during any one calendar business day, attend the center. This count is not dependent upon, nor does it include, the number ~~(h)(g)~~ Full-time shall mean a time period of not less than 35 hours, established as a full working week by the center.

~~(i)(h)~~ Functional impairment means a physical, mental, or social condition or cognitive deficit which restricts an individual's ability to perform the tasks and activities of daily living and which impedes the individual's capability for self-care and independent living without assistance or supervision from others on a recurring or continuous basis for extended periods of time.

~~(j)(i)~~ Governing Authority shall mean the organization, person, or persons designated to assume full legal responsibility for the determination of policy, management, operation, and financial viability of the center.

~~(k)(j)~~ Holding Itself Out to the Public shall mean making any announcement, solicitation, display or advertisement to inform the general public of services provided by the center designed to attract new or additional participants to a center providing adult day care services.

~~(l)(k)~~ Major Incident shall mean any incident for which the Agency, center, employee or other person associated with the center may be liable, or which has resulted in serious injury, death or extensive property damage. Major incidents shall include:

1. Death of a participant from other than natural causes,
2. Threats or occurrences of riots, bombings, or other extreme violence,
3. Disappearance from the center of a participant,
4. Assaults resulting in severe injury or death, sexual assaults or rape, on or by a participant,
5. Property damage from any cause that would interrupt routine operations or disrupt service delivery,
6. Auto accidents with injuries involving participants,
7. Involuntary center closure,
8. Incidents of abuse, neglect, or fraud,
9. Employee work conduct which results in a criminal law violation,
10. Attempted suicide by a participant while under center supervision.

~~(m)(l)~~ Net Floor Space shall mean the actual climatically controlled occupied area, not including accessory unoccupied areas such as hallways, stairs, closets, storage areas, bathrooms, kitchen or thickness of walls, set aside for the use of the day care center participants.

~~(n)(m)~~ Operator shall mean an individual who has daily administrative charge of an adult day care center and who shall be designated in writing as such by the owner or governing authority.

~~(o)(n)~~ Orientation and Training Plan shall mean a written plan developed and reviewed at least annually and implemented throughout the year which describes a coordinated program for staff training for each service and for orientation of each new staff member on center policies, procedures, assigned duties and responsibilities, and which shall begin no later than the first day of employment.

~~(p)(o)~~ Participant File shall mean a written record, prepared and kept by the center which shall include a care plan; medical and social history or copies of an examination completed by a physician and social history completed by a case manager or social worker; diagnosis; disabilities and limitations; rehabilitation potential, short and long-term goals for rehabilitation, and recommended activities; orders for



medication or modified diet; such as supervision of self-administered medication; special needs for health or safety; permitted levels of physical activity; frequency of attendance at the day care center; the frequency with which the participant shall be seen by the participant's physician; and notes as required in this Rule Chapter.

~~(q)~~~~(p)~~ Participant Space shall mean the required net floor space per participant. Maximum participant capacity shall refer to the licensed capacity.

~~(r)~~~~(q)~~ Personal Supervision of a Participant shall mean observation of the participant to maintain safety and well-being, including supervision of self-administered medications.

~~(s)~~~~(r)~~ Preventive Service shall mean that service which precludes or deters development of disabilities including nutritional counseling, leisure activities, in-facility respite care and social and health activities and services.

~~(t)~~~~(s)~~ Respite Care or Respite in an adult day care center is defined as a service provided to relieve the caregiver.

~~(u)~~~~(t)~~ Significant Change shall mean a deterioration or improvement in ability to carry out activities of daily living; a deterioration in behavior or mood to the point where daily problems arise or relations become problematic or an improvement to the point that these problems are eliminated; or a substantial deterioration in health status or reversal of such condition. Ordinary day-to-day fluctuations in functioning and behavior and acute short-term illness such as a cold are not considered significant changes unless such fluctuations persist to the extent that a trend is established.

~~(v)~~~~(u)~~ Staff shall mean any person employed by a center who provides direct or indirect services to the participants and volunteers who are included in the minimum staff ratio ~~provide direct services.~~

~~(w)~~~~(v)~~ Supervision of self-administered medication shall mean reminding participants to take medication at the time indicated on the prescription; opening or closing medication container(s) or assisting in the opening of prepackaged medication; reading the medication label to participants; observing participants while they take medication; checking the self-administered dosage against the label of the container; reassuring participants that they have obtained and are taking the dosage as prescribed; keeping daily records of when participants received supervision pursuant to this subsection; and immediately reporting apparent adverse effects on a participant's condition to the participant's physician and responsible person. Supervision of self-administered medication shall not be construed to mean that a center shall provide such supervision to participants who are capable of administering their own medication.

~~(x)~~~~(w)~~ Supervision of staff shall mean guidance by a qualified person for a staff member's performance of job-related functions and activities, with initial direction and

periodic on site inspection of the performance. Supervision of participants shall mean guidance and care necessary for the health, safety and well-being of participants.

~~(y)~~~~(x)~~ Termination Summary shall mean a written summary prepared by the center staff at the time of participant termination and documenting services which the participant has received, and which includes any treatment provided, results, reasons for termination and recommendations for the participant's continued care.

~~(z)~~~~(y)~~ Transportation Services shall mean the conveying of participants between the center and a designated location, as well as to and from services provided directly or indirectly by the facility. No participant's transportation to and from a designated location and the center shall exceed 1 1/2 hours if the transportation is provided or arranged by the center.

~~(aa)~~~~(z)~~ Volunteer shall mean an individual not on the payroll of the adult day care center, whose qualifications shall be determined by the center, for whom a written job description, plan of orientation and training shall be provided and implemented.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.02, 10A-6.002, 59A-16.002, Amended 11-9-95, 3-29-98, \_\_\_\_\_.

58A-6.003 Licensure Application Procedures.

(1) All adult day care centers, as defined in s. 400.551, F.S., shall be licensed by the Agency for Health Care Administration (AHCA), unless otherwise exempt as provided in Section 400.553, F.S., as listed below:

(a) Any facility, institution, or other place that is operated by the federal government or any agency thereof.

(b) A licensed assisted living facility, licensed hospital, or licensed nursing home facility which does not hold itself out to the public as an adult day care center.

(2) In accordance with Section 400.554(4), F.S., county-operated or municipally operated centers applying for licensure under this part shall be exempt from the payment of license fees.

(3) The Agency shall grant a biennial license to an applicant center in compliance with the minimum standards set forth in this rule.

(4) A license issued for the operation of a center, unless sooner suspended or revoked, shall expire two years from the date of issuance.

(5) Owners or operators of adult day care centers subject to licensure shall submit a completed application for a license through the Agency for Health Care Administration, 2727 Mahan Dr., Tallahassee, FL 32308. The Licensure Application for Adult Day Care Center, ADCC Form-1, dated January, 2001 ~~August 1996~~, which is incorporated by reference, may be obtained from the AHCA, Adult Day Care Program, 2727 Mahan Drive, Tallahassee, Florida 32399. The cost of the

application package, which includes Chapter 400, Part V, F.S., and this rule chapter, is \$5.00, in accordance with s. 400.562(3), F.S. Attached to the application shall be:

(a) A check or money order made payable to the AHCA for payment of the licensure fee. The biennial licensure fee shall be \$150 per center. Each separate premise shall be licensed as a separate facility.

(b) For centers with seven or more participants, proof of liability insurance coverage of \$100,000 per participant for bodily injury and \$300,000 per occurrence for the center, and proof of liability insurance coverage of \$100,000 per participant for bodily injury and \$300,000 per occurrence for the vehicle if transportation services are provided by the center. For centers with six or less participants, proof of liability insurance coverage of \$50,000 per participant for bodily injury and \$150,000 per occurrence for the center, and proof of liability insurance coverage of \$50,000 per participant for bodily injury and \$150,000 per occurrence for the vehicle(s) if transportation services are provided by the center.

(6) The agency shall notify a licensee by certified mail at least 120 days before the expiration date of the center's license. Applications for relicensure must be submitted to the agency at least 90 days before the expiration date of the existing license. Failure to file a timely renewal application will result in a fine of \$75.00 pursuant to Chapter 400.5565(1)(b) and 400.557(1) being assessed against the center.

~~(7) The AHCA shall, upon receipt of an application or change of center operator notice, search the Department of Children and Family Services' Abuse Registry for the existence of a confirmed report concerning the applicant or operator and the results of the adult or child protective assessment conducted, in accordance with Sections 415.102 and 415.503, F.S.~~

~~(7)(8)~~ The AHCA shall schedule and conduct an assessment and evaluation survey of the applicant center, in accordance with this Rule Chapter.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History—New 7-8-81, Amended 2-27-84, Formerly 10A-6.03, 10A-6.003, 59A-16.003, Amended 11-9-95, 3-29-98,\_\_\_\_\_.

58A-6.006 Governing Authority, Administration and Staffing.

(1) The center shall have a governing authority which shall establish policies in compliance with this Rule Chapter. Governing Authority, as defined in this Rule Chapter, may consist of as few as one person, and designation of its membership or composition shall be determined by the owner or operator. The governing authority shall be responsible for ensuring compliance with standards requiring that:

(a) Admission criteria shall limit participant eligibility to adults with functional impairments in need of a protective environment and a program of therapeutic social and health activities and services as defined in this Rule Chapter, and

assure that the admission of each participant shall be made under the supervision of the owner or operator within the confines of specific requirements set forth below:

1. Within forty-five days prior to admission to the center, each person applying to be a participant shall provide a statement signed within said forty-five days by a Florida licensed health care provider under the direct supervision of a physician, physician or a county public health unit documenting freedom from tuberculosis in the communicable form and documenting freedom from signs and symptoms of other communicable disease. Any participant who is diagnosed as having a communicable disease shall be excluded from participation until deemed non-infectious. However, participants who have Human Immunodeficiency Virus (HIV) infection may be admitted to the center, provided that they would otherwise be eligible according to this rule.

2. No participant shall be admitted or retained in a center if the required services from the center are beyond those that the center is licensed to provide.

3. No participant who requires medication during the time spent at the center and who is incapable of self-administration of medications shall be admitted or retained unless there is a person licensed according to Florida law to administer medications who will provide this service. A person licensed according to Florida law includes a physician licensed under Chapters 458 and 459, F.S., an advanced registered nurse practitioner, a dentist, a registered nurse, licensed practical nurse, or a physician's assistant.

(b) Provision is made for a safe physical plant equipped and staffed to maintain the center and services provided as defined in this Rule Chapter.

(2) The governing authority shall ascertain that the owner or operator or the designated responsible person shall be on the premises during the center's hours of operation.

(3) Each center shall comply with all standards, rules and regulations and shall be under the control of the licensed owner or operator or an agent designated in writing by the owner or operator as having full responsibility and authority for the daily operation of the facility. The owner or operator may supervise more than one center, provided that a qualified, responsible assistant operator, duly appointed in writing, is in charge of each facility.

(4) The center shall employ qualified staff to provide the services, personal assistance and safety measures required by the participants.

(5) The owner or operator shall:

(a) Develop a written job description for each center staff member containing a list of qualifications, duties, responsibilities and accountability required of each staff member.

(b) Establish and maintain a personnel file for each staff to include:

1. Name, home address, phone number;

2. Name, address and phone number of physician(s) to be contacted in case of emergency;

3. Name, address and phone number of person(s) to be contacted in case of emergency;

4. Education and experience;

5. Job assignment and salary;

6. Evaluation of performance at least yearly;

7. Dates of employment and termination;

8. Character references which include former employers and supervisors;

9. A statement from a Florida licensed health care provider under the direct supervision of a physician, physician or a county public health unit that the employee is free from tuberculosis in a communicable form and apparent signs and symptoms of other communicable diseases within 45 days prior to beginning work in the center. In accordance with subsection 760.50, F.S., a center shall not exclude a potential employee who is infected with human immunodeficiency virus who would otherwise meet the conditions of employment.

(6) The owner or operator also shall be responsible for the administration of all components of the facility and accountable for the implementation and enforcement of all policies and procedures, standards of care, and program development in accordance with the social, physical and mental capabilities and needs of the participants served.

(7) The owner or operator shall assure that each employee shall:

(a) Maintain personal cleanliness and hygiene;

(b) Refrain from abusive, immoral or other unacceptable conduct such as use of alcohol, illegal use of narcotics or other impairing drugs, and behavior or language which may be injurious to participants;

(c) Any employee who is diagnosed as having a communicable disease after beginning work in the center shall be excluded from working until deemed non-infectious in the work setting.

(8) The owner or operator or designated administrator shall be responsible for enforcing the following minimum personnel staffing for adult day care centers and shall designate substitute staff to be available in emergencies.

(a) A minimum staff ratio of one staff member who provides direct services for every 6 participants shall be present in the center at all times.

(b) No less than 2 staff, one of whom has a certification in an approved first aid course and CPR, shall be present in the center at all times.

(c) At all times staffing shall be maintained to meet the needs of the participants as required by the participant file, including centers which serve persons with Alzheimer's disease and related dementias, persons with physical handicaps, or other special target populations.

(d) The owner or operator may serve in dual capacity as a registered nurse, occupational therapist, physical therapist, speech-language pathologist, or social worker, if licensed as required by Florida law and qualified to provide such services.

(e) The owner or operator may be counted as one of the required staff members provided the owner or operator provides direct services and is included in the work schedule for the center. However, the owner or operator shall not be counted more than once in the staff/participant ratio, calculated on the basis of daily census.

(9) Center staff whose conduct constitutes abuse, neglect, or exploitation of a participant shall immediately be terminated from employment and shall be reported to the Department of Children and Family Services in accordance with Section 415.103, F.S.

(10) No administrator who has been terminated pursuant to the provisions of subsection (9) shall accept employment in an adult day care center and no owner or operator of a center shall knowingly employ any person who has been terminated pursuant to subsection (9).

(11) The governing authority shall establish policies and procedures to facilitate reporting of abuse, neglect or exploitation as defined in Section 415.102 and in accordance with Section 415.103, F.S., and shall insure that the statewide toll free telephone number of the Central Abuse Registry, accompanied by the words "To Report the Abuse, Neglect, or Exploitation of an Elderly or Disabled Person, Please Call the Toll Free Number 1-800-96-ABUSE" is posted in a prominent place in the center and made clearly visible.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V, 760.50 FS. History—New 7-8-81, Amended 2-27-84, Formerly 10A-6.06, 10A-6.006, 59A-16.006, Amended 11-9-95, 3-29-98,\_\_\_\_\_.

#### 58A-6.007 Participant Care Standards.

(1) The center shall make a statement or summary statement of policies and procedures for participant care available to participants, to the responsible person, to the public, and to each member of the center staff. The statement or summary statement shall be displayed in a conspicuous place in the facility.

(2) The center staff shall be trained to implement these policies and procedures, as specified in the staff orientation and training plan.

(3) Participant care, policies, and procedures shall ensure that, as a minimum, all participants admitted to the center:

(a) Are informed of provisions for service as evidenced by written acknowledgment from the participant or responsible party prior to or at the time of admission, and given a statement or summary statement of the center policies and procedures, and an explanation of the participant's responsibility to comply with these policies and procedures and to respect the personal rights and private property of other participants;

(b) Are informed, and are given a written statement prior to or at the time of admission and during stay, of services available at the center and for any related charges including those for services not provided free or not covered by sources of third party payments or not covered by the facility's basic per diem rate. This statement shall include the payment, fee, deposit, and refund policy of the center;

(c) Are promptly informed of substantive changes in policies, procedures, services, and rates;

(d) Are informed during the intake process, in writing, of the center's Emergency Management Plan;

(e)(f) Are informed during the intake process of the local emergency management agency's registry of disabled persons who need assistance during evacuations or when in shelters because of physical or mental handicaps and the assistance provided by center staff to register such persons with the local emergency management agency;

(f)(e) Are allowed to retain the services of their personal physician at their own expense or under a health care plan; are assured of services provided, and are offered the opportunity to participate in the planning of their care;

(g)(f) Are assured of remaining free from abuse, neglect, and exploitation as defined in s. 415.102, F.S., and free from chemical and physical restraints. Drugs and other medications shall not be used for punishment, for convenience of center personnel, or in quantities that interfere with a participant's rehabilitation or activities of daily living;

(h)(g) Are assured privacy in treatment of their personal and medical records;

(i)(h) Are treated with consideration, respect, and full recognition of their dignity, individuality, and right to privacy;

(j)(i) Are not required to perform services for the center;

(k)(j) Are permitted to associate and communicate privately with persons of their choice, join with other participants or individuals within or outside the center to work for improvements in participant care, and, upon their request, shall be given assistance in the reading and writing of correspondence;

(l)(k) Are permitted to participate in center activities, and meet with and participate in activities of social, religious and community groups at their discretion;

(m)(l) Are assured of the opportunity to exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any participant. The center shall encourage and assist in the exercise of these rights;

(n)(m) Are not the object of discrimination with respect to participation in activities which include recreation, meals, leisure, other social activities because of age, race, religion, sex, or nationality as defined in Title VI of the Civil Rights Act of 1964, or Americans with Disabilities Act of 1990;

(o)(n) Are not deprived of any constitutional, civil, or legal right solely by reason of admission to the center;

(p)(o) For protection of the participants, are allowed to discharge themselves from the center upon presentation of a request, preferably in writing; or, if the participant is an adjudicated mental incompetent, upon the written consent of his next of kin, or sponsor or guardian or responsible person. However, if assessed by social workers, center staff, responsible persons at the time of intake as confused, the participant shall not be allowed to discharge himself until after the center notifies the participant's guardian, spouse, or person having durable power of attorney;

(q)(p) Are informed of the right to report abusive, neglectful, or exploitative practices.

(4) The center shall not be required to accept or retain any applicant or participant whose behavior and physical limitations are deemed hazardous to the safety of the individual or other participants. Such conditions shall constitute a basis for termination of center participation. Participation may be terminated after reasonable alternatives have failed, upon written notification of the participant, guardian and responsible person. Fifteen calendar days shall be allowed for arranging for alternative services for the participant except in cases of emergency as determined by the governing authority of the center.

Specific Authority 400.562 FS. Law Implemented 252.355, Ch. 400, Part V, 415.103, 760.50 FS. History—New 7-8-81, Amended 2-27-84, Formerly 10A-6.07, 10A-6.007, 59A-16.007, Amended 11-9-95, 3-29-98, \_\_\_\_\_.

58A-6.011 Participant and Program Data, Emergency Management Plan Procedures.

(1) The owner or operator shall establish, maintain and make available and ready for immediate use to the AHCA, complete and accurate social, medical and fiscal records which fully disclose the extent of services to be maintained by the center and for the periods of time required by State and Federal law.

(2) The Participant File shall include a Participant Data Sheet which shall be completed for each participant within forty-five days prior to or twenty-four hours after admission to the center and which shall include:

(a) Full name, birthday, address;

(b) Date admitted as a participant and services to be provided;

(c) Social security number;

(d) Next of kin, address and phone number;

(e) Guardian or responsible person and address and phone number. Responsible Person shall mean any person who has assumed the responsibility to manage the affairs and protect the rights of any participant of the center. The responsible person is not a legal entity, but may be a caregiver or friend and shall in no case be affiliated with the facility, its operations, or its personnel, unless so ordered by the court;

(f) Medicaid and Medicare identification and other health insurance numbers;

(g) Emergency contact person, home or office address and phone numbers;

(h) Name and telephone number of attending physician to be contacted when there appears to be significant deviation from normal appearance or state of well-being of a participant; and physician's or hospital discharge statement no older than forty-five days indicating prescribed medications and dosage and updated as changes are made by physicians or, until a statement is received, a dated and signed statement by the participant or guardian or responsible person stating that specific medication may be given as ordered by the attending physician; notation of physical and emotional conditions requiring care and of medications administered; diet and mobility restrictions; and a statement that the participant is free from tuberculosis in a communicable form;

(i) The Participant File shall be updated when there is a significant change in the participant, or at least quarterly;

(j) The owner or operator or staff designated by the owner or operator shall review and approve each participant care plan.

(3) The operator shall be responsible for the recording, reporting and availability of participant data or those records required for each center participant and program data or those records required for services made available to and provided to participants by the adult day care center which shall include:

(a) Number of participants enrolled to current date;

(b) Average daily attendance as defined in this Rule Chapter, based upon attendance through the end of the preceding month;

(c) ~~Distance traveled by participants and h~~ Hours of travel time current through the previous month, if the transportation, as defined in this Rule Chapter, is provided or arranged by the center. Hours of daily attendance shall exclude transportation time to and from the center;

(d) Business hours of operation shall be posted in a conspicuous place. Business hours shall mean a time period established by the center, as defined in its policies, and shall be no less than five hours per day on week days of center operation and may include a reduced schedule of weekend hours.

(4) Documentation shall be made of services, medication and special diets provided or administered and shall be kept current in the participant's record. Documentation shall mean a written, signed and dated notation or statement.

(5) A record shall be kept of staff assignments.

(6) If the center accepts fee-for-service participants, there shall be a signed agreement documenting the amount of fee, hours and days of attendance, services to be provided, and frequency of payment. This agreement shall be signed by the center owner or operator, the participant or responsible person, recorded in the participant's record and current through the last payment period.

(7) A written record shall be kept of major incidents affecting participants, employees, volunteers or the program of the center.

(8) Major incidents, as defined in this Rule Chapter shall be reported to the AHCA immediately. Reports shall be made by the individual having first-hand knowledge of the incident and performing functions and responsibilities as an authorized agency and may include paid, emergency and temporary staff, volunteers and student interns.

(9) In case of emergency, such as acute illness, if family or responsible person cannot be reached, a signed release shall be on file stating that the participant may be sent to the nearest hospital emergency room for treatment.

(10) Pursuant to s. 400.562(1)(g), as a part of the licensure process, ~~e~~Each center shall develop and follow a written Comprehensive Emergency Management Plan for emergency care during an internal or external disaster in accordance with Emergency Management Planning Criteria for Adult Day Care Facilities, dated July, 2001, incorporated by reference.

(a) The Emergency Management Plan shall include the following:

1. Provisions for both internal and external disasters and emergencies which could include hurricanes, tornadoes, fires, power outages, floods, bomb threats, acts of terrorism, bio-terrorism, hazardous materials and nuclear disasters.

2. Provisions for care and services to participants during the emergency including pre-disaster or preparation, notification of family members or responsible parties, securing the center, supplies, staffing and emergency equipment.

3. Provisions for care and services to participants who must remain in the center and who must evacuate during the emergency including emergency evacuation transportation.

4. Identification of staff position responsible for implementing each aspect of the plan.

5. Identification of and coordination with designated agencies including Red Cross and the county emergency management office.

6. Post-disaster activities including responding to family inquiries, obtaining necessary emergency medical attention or intervention for participants, ~~and~~ transportation and re-entry to the center.

(b) The plan shall be available for immediate access by center staff.

(c) The initial Plan shall be reviewed approved by the local Emergency Management Agency to ensure compliance with the Emergency Management Planning Criteria for Adult Day Care Facilities, dated July, 2001.

(d) The county emergency management agency has 60 days in which to review and determine if the plan satisfies the Emergency Management Planning Criteria or advise the center of necessary revisions. Any revisions must be made and resubmitted to the county emergency management agency within 30 days of receiving notification form the county

agency the plan must be revised. (e) The center shall review and update its' Plan on an annual basis. The Plan shall be submitted annually, or more often if needed, to the local Emergency Management Agency.

(11) Fire safety protection shall be governed by the local fire code applicable to day care centers. In areas where no local fire code applies, the standards contained in Rule 4A-40, F.A.C., Uniform Fire Safety Standards for Assisted Living Facilities, may be used to determine compliance with fire safety standards. In every instance, a center shall comply with local and state standards before a license may be issued.

(a) A fire evacuation drill shall be conducted once a month for the center staff and once every three months for participants;

(b) A written record of each fire drill, indicating the date, hour and general description of each drill, the extent of staff involvement, and the name of the person in charge shall be maintained and available for review;

(c) Evacuation routes shall be posted conspicuously in the center.

Specific Authority 252.36, 400.562 FS. Law Implemented 252.36, 252.365, Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.11, 10A-6.011, 59A-16.011, Amended 11-9-95, 3-29-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Marshall E. Kelley, Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez, D.P.A., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Inpatient Hospital Services  
RULE NO.: 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) payment methodology, effective only for Fiscal year 2001-2002, to provide the following changes based on Legislative direction provided in Senate Bill 2000, General Appropriations Act 2001-2002, Specific Appropriation 254:

1. Special Medicaid payments will be made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional trauma centers and rural hospitals.
2. Inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent. Hospitals that exceed the fifteen percent as described

above and are a trauma center shall be paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target. The Agency shall use the 1997 audited DSH data available as of March 1, 2001.

3. Inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center. The Agency shall use the 1997 audited DSH data available as of March 1, 2001.

4. Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals.

5. The Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes.

6. From the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial; \$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center – Shands; \$1,060,047 to Shands – University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District.

7. Special Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals.

Additional changes to the Plan unrelated to Senate Bill 2000 are as follows:

1. The audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program.
2. The definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F.
3. All Code of Federal Regulations (CFR) references have been updated to the year 2000.
4. The Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS).
5. The definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.
6. Hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002. (Senate Bill 792)

The effect of the proposed amendment will be Special Medicaid Payments will be made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional

trauma centers and rural hospitals; inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; hospitals that exceed the fifteen percent as described above and are a trauma center shall be paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target; inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals; the Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes; hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002; from the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial; \$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center – Shands; \$1,060,047 to Shands – University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District; Special Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals; the audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program; the definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F; all Code of Federal Regulations (CFR) references have been updated to the year 2000; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.

**SUMMARY:** The proposed amendment to rule number 59G-6.020 incorporates revisions to the Florida Title XIX Inpatient Hospital Reimbursement Plan by providing for Special Medicaid Payments made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional trauma centers and rural hospitals; inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; hospitals that exceed the fifteen percent as described above and are a trauma center shall be

paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target; inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals; the Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes; hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002; from the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial; \$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center – Shands; \$1,060,047 to Shands – University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District; Special Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals; the audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program; the definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F; all Code of Federal Regulations (CFR) references have been updated to the year 2000; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A statement of estimated regulatory cost has not been prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.908 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**TIME AND DATE:** 9:00 a.m., September 17, 2001

PLACE: 2727 Fort Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THIS PROPOSED RULE IS: John Owens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XX XIX~~, Effective Date: ~~September 20, 2000~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid Director, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History—New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. John Owens  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bob Sharpe  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 15, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Outpatient Hospital Services  
 RULE NO.: 59G-6.030

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology, effective for Fiscal year 2001-2002, to provide the following changes based on the Legislative direction provided in Senate Bill 2000, General Appropriations Act 2001-2002, Specific Appropriation 257:

1. Outpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent. The Agency shall use the disproportionate share hospital 1997 audited data available as of March 1, 2001.

2. Outpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center. The Agency shall use the 1997 audited DSH data available as of March 1, 2001.

3. Hospital outpatient rates shall be reduced by 6% effective July 1, 2001 and restored effective April 1, 2002.

Additional changes to the Plan unrelated to Senate Bill 2000 are:

1. The Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS).

2. The Code of Federal Regulation (CFR) references have been updated to reflect the year 2000.

3. Appendix B has been updated to display more current years to calculate the applicable inflation factors for a given hospital.

4. Expanded definition of Community Hospital Education Program (CHEP) hospitals in Section X, Definitions.

5. Correction of 42 CFR 405.460 reference to 42 CFR 413.9 in Section V.A. (2).

The effect of the proposed amendment will be: outpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; outpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; hospital outpatient rates shall be reduced by 6% effective July 1, 2001 and restored effective April 1, 2002; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the Code of Federal Regulation (CFR) references have been updated to reflect the year 2000; Appendix B has been updated to display more current years to calculate the applicable inflation factors for a given hospital; Expanded definition of Community Hospital Education Program (CHEP) hospitals in Section X, Definitions; Correction to 42 CFR 405.460 in Section V.A.(2) to 42 CFR 413.9.

SUMMARY: The proposed amendment to Rule 59G-6.030 incorporates revisions to the Medicaid Outpatient Hospital Reimbursement Plan. The amendment provides for outpatient reimbursement ceilings to be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; outpatient reimbursement ceilings to be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; hospital outpatient rates shall be reduced by 6% effective July 1, 2001 and restored effective April 1, 2002; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the Code of Federal Regulation (CFR) references have been updated to reflect the year 2000; Appendix B has been updated to display more current years to calculate the applicable inflation factors for a given hospital;



Expanded definition of Community Hospital Education Program (CHEP) hospitals in Section X, Definitions; Correction to 42 CFR 405.460 in Section V.A.(2) to 42 CFR 413.9.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A statement of estimated regulatory cost has not been prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED** 409.908 FS.

**IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**TIME AND DATE:** 9:00 a.m., September 17, 2001

**PLACE:** 2727 Fort Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** John Owens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308

**THE FULL TEXT OF THE PROPOSED RULE IS:**

59G-6.030 Payment Methodology for Outpatient Hospital Services.

Reimbursement to participating outpatient hospitals for services provided shall be in accordance with the Florida Title XIX Outpatient Hospital Reimbursement Plan, Version ~~IX~~ ~~VIII~~, Effective date: ~~September 20, 2000~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid Director, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 10-31-85, Amended 12-31-85, Formerly 10C-7.401, Amended 10-1-86, 3-26-90, 9-30-90, 10-13-91, 7-1-93, Formerly 10C-7.0401, Amended 4-10-94, 9-18-96, 9-6-99, 9-20-00,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Mr. John Owens

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Mr. John Owens

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 15, 2001

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** August 17, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

**RULE TITLE:** Notice Requirements **RULE NO.:** 61J2-10.032

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to amend provisions regarding the notice requirements placed on a real estate broker upon receiving conflicting demands for any trust funds being maintained in the broker's escrow account to provide better clarity and to better implement the related statute.

**SUMMARY:** The proposed rule change affects rules regarding the notice requirements placed on a real estate broker upon receiving conflicting demands for any trust funds being maintained in the broker's escrow account.

**SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS:** No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

**SPECIFIC AUTHORITY:** 475.05, 475.25 FS.

**LAW IMPLEMENTED:** 475.25, 83.49(3)(d) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 8:30 a.m. or as soon thereafter as possible, September 19, 2001

**PLACE:** Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

**THE FULL TEXT OF THE PROPOSED RULE IS:**

61J2-10.032 Notice Requirements.

(1)(a) No change.

(b) A broker, who has a good faith doubt as to whom is entitled to any trust funds held in the broker's escrow account, must provide written notification to the Commission within 15 business days after having such doubt and must institute one of the settlement procedures as set forth in s. 475.25(1)(d)1., Florida Statutes, within 30 business days after having such doubt. The determination of good faith doubt is based upon the facts of each case brought before the Commission. ~~Based upon prior decisions of the Commission, good faith doubt shall be deemed to exist in the following situations:~~

1. The closing or consummation date of the sale, lease, or other real estate transaction has passed, and the broker has not received conflicting or identical instructions from all of the parties concerning the disbursement of the escrowed funds;

2. The closing or consummation date of the sale, lease, or other transaction has not passed, but one or more of the parties has expressed its intention not to close or consummate the transaction and the broker has not received conflicting or identical instructions from all of the parties concerning disbursement of the escrowed funds; and

(c) If one of the parties to a failed real estate sales transaction does not respond to the broker's inquiry as to whether that party is placing a demand on the trust funds or is willing to release them to the other party, the broker may send a certified notice letter, return receipt requested, to the non-responding party. This notice should include the information that a demand has been placed by the other party, that a response must be received by a certain date, and that failure to respond will be construed as authorization for the broker to release the funds to the other party. ~~Before releasing said trust funds, the broker must have the return receipt as proof the notice was delivered.~~

(2)(a) through (c) No change.

~~(d) If, at the broker's request, an Escrow Disbursement Order is issued, and before the broker disburses the escrowed funds according to the Commission's Order, the dispute is settled or goes to court, the broker shall not disburse the disputed escrowed funds but shall notify the Commission within 10 business days of such event.~~

~~(e) Upon final disposition of the matter, the broker shall notify the Commission within 10 business days of the final account and disbursement of the trust funds.~~

(3) through (4) No change.

Specific Authority 475.05, 475.25 FS. Law Implemented 475.25, 83.49(3)(d) FS. History—New 10-13-85, Formerly 21V-10.32, Amended 2-18-92, 12-8-92, 6-28-93, Formerly 21V-10.032, Amended 11-16-93, 6-6-94, 8-6-96, 11-10-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Disciplinary Guidelines  
RULE NO.: 61J2-24.001

PURPOSE AND EFFECT: The Commission is amending the above referenced rule containing disciplinary guidelines for violations of provisions relating to the regulation of real estate brokers and salespersons. The purpose is to revise guidelines for obtaining a license by fraud, misrepresentation, or concealment.

SUMMARY: The proposed rule change will affect disciplinary guidelines for violations of provisions relating to obtaining a license by fraud, misrepresentation, or concealment. The penalty of license suspension is being added to the disciplinary guidelines for this offense.

SPECIFIC AUTHORITY: 455.2273, 475.05 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.421, 475.422, 475.452, 475.453, 475.455, 475.482 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOW BELOW:

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, September 19, 2001

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-24.001 Disciplinary Guidelines.

(1) through (2) No change.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to paragraph (4). The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS RECOMMENDED RANGE OF PENALTY

(a) through (m) No change.

(n) 475.25(1)(m) (n) In the case of a licensee Obtained a license by fraud misrepresentation or concealment who renews the license without having complied with Rule 61J2-3.009 and the act is discovered by the BPR, the usual action of the Commission shall be to impose a penalty of revocation or suspension. ~~In the~~

~~case of a licensee who renews the license without having complied with Rule 61J2-3.009 and the licensee brings the matter to the attention of the BPR, the usual action of the Commission shall be to impose a penalty of a \$1,000 administrative fine~~ In all other cases, the usual action of the Commission shall be to impose a penalty of revocation or suspension and an administrative fine of \$1,000.

- (o) through (nn) No change.
- (4) No change.

Specific Authority 455.2273, 475.05 FS. Law Implemented 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, 475.421, 475.422, 475.452, 475.453, 475.455, 475.482 FS. History--New 11-24-86, Amended 10-13-88, 4-20-89, 5-20-90, 12-29-91, 11-8-92, 6-28-93, Formerly 21V-24.001, Amended 11-16-93, 2-29-96, 12-30-97, 11-29-98, 1-18-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Dental Hygiene Examination  
RULE NO.: 64B5-2.0135

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to the examination for dental hygiene.

SUMMARY: The purpose of the rule amendments is to add a new subsection (9) which will inform candidates the requirements for passage of the prophylaxis and root planing part of the examination and the time limit allowed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.017, 466.004(4), 466.007 FS.  
LAW IMPLEMENTED: 456.017, 466.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0135 Dental Hygiene Examination.

(1) through (8) No change.

(9) A candidate that fails the prophylaxis shall retake the entire clinical examination. A candidate that fails only the root planing part shall retake that part, and shall be allowed 45 minutes.

Specific Authority 456.017, 466.004(4), 466.007 FS. Law Implemented 456.017, 466.007 FS. History--New 3-16-82, Amended 5-2-84, 5-19-85, 10-8-85, 12-8-85, Formerly 21G-2.135, Amended 12-31-86, 10-19-87, 2-21-88, 5-29-88, Formerly 21G-2.0135, 61F5-2.0135, Amended 11-15-95, Formerly 59Q-2.0135, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Temporary Certificate Requirements for Dentists Practicing in State and County Government Facilities  
RULE NO.: 64B5-7.0035

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to unlicensed dentists.

SUMMARY: The purpose of the rule amendments is to add new rule text to subsection (3) to inform unlicensed dentists of the requirements they must meet in order to practice at a facility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 466.004(4) FS.  
LAW IMPLEMENTED: 456.017(4), 466.025, 456.032 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-7.0035 Temporary Certificate Requirements for Dentists Practicing in State and County Government Facilities.

(1) through (2) No change.

(3) Prior to issuance of a temporary certificate, the unlicensed dentist shall submit proof of having successfully completed a Board approved course on human immunodeficiency virus and acquired immune deficiency syndrome and proof of current CPR certification. The facility at which the unlicensed dentist intends to practice shall list the name and license number of the licensed dentist under whose supervision the certificate holder shall work.

(4) through (5) No change.

Specific Authority 466.004(4) FS. Law Implemented 466.017(4), 466.025, 456.032 FS. History--New 8-12-93, Formerly 61F5-7.0035, 59Q-7.0035, Amended 11-10-98, 3-25-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Disciplinary Guidelines

RULE NO.: 64B5-13.005

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the disciplinary guidelines.

SUMMARY: The purpose of the rule amendments is to add a new subsection (6) which will address continuing education imposed by final orders.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.079 FS.

LAW IMPLEMENTED: 456.079(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-13.005 Disciplinary Guidelines.

(1) through (5) No change.

(6) Any continuing education imposed by Final Order must, unless otherwise specifically provided in the Final Order, be obtained in a live presentation. Continuing education hours obtained to satisfy a Final Order shall be in addition to and not count toward, a licensee's renewal requirements. A licensee obtaining continuing education pursuant to a Final Order shall submit documentation of same to the Board office no later than 30 days after completion.

(6) through (7) renumbered (7) through (8) No change.

Specific Authority 456.079(1) FS. Law Implemented 456.079(1) FS. History--New 12-31-86, Amended 2-21-88, 1-18-89, 12-24-91, Formerly 21G-13.005, 61F5-13.005, 59Q-13.005, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Fees for Enforcement of Unlicensed Practice Prohibitions

RULE NO.: 64B5-15.024

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to fees.

SUMMARY: The purpose of the rule amendments is to inform licensees that the Department of Health is authorized to collect an additional \$5.00 with each initial licensure fee and each biennial renewal fee for the purpose of investigating and prosecuting the unlicensed practice prohibitions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.064 FS.  
LAW IMPLEMENTED: 456.064 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-15.024 Fees for Enforcement of Unlicensed Practice Prohibitions.  
The Department of Health is authorized to ~~collect an additional earnmark \$5.00 with of~~ each initial licensure fee and each biennial renewal fee as set forth in Rule 64B5-15.006 for the purpose of investigating and prosecuting the unlicensed practice of dentistry and dental hygiene. ~~However, if the Board is in a deficit at the time the fee is collected, the Department is authorized, as an alternative, to collect an additional special fee of \$5.00 from each individual upon initial licensure and upon renewal of biennial licensure for this purpose.~~

(1) through (3) No change.

Specific Authority 456.064 FS. Law Implemented 456.064 FS. History--New 8-29-93, Formerly 61F5-15.024, 59Q-15.024, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Required Sterilization and Disinfection Procedures  
RULE NO.: 64B5-25.003

PURPOSE AND EFFECT: The Board proposes to update the rule text with regard to agencies who approve sterilants and disinfectants.

SUMMARY: The EPA approves disinfectants and the FDA approves sterilants. The purpose of the rule amendment is to make the rule consistent with the subject area responsibilities of these two federal agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.032, 466.004(4) FS.  
LAW IMPLEMENTED: 456.032, 466.028(1)(u),(x), 466.041 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-25.003 Required Sterilization and Disinfection Procedures.

(1) At least one of the following procedures must be used in order to provide proper sterilization:

(a) through (d) No change.

(e) disinfectant/sterilant. U.S. Environmental Protection Agency (EPA) approved disinfectant/~~sterilants~~ or U.S. Food and Drug Administration (FDA) approved sterilant may be used but are only appropriate for sterilization when used in appropriate dilution and for the time periods set forth in the manufacturer's recommendation and only on non-heat tolerant instruments which do not penetrate soft tissue.

(2)(a) through (10) No change.

Specific Authority 456.032, 466.004(4) FS. Law Implemented 456.032, 466.028(1)(u),(x), 466.041 FS. History--New 2-24-87, Amended 12-6-87, 10-24-88, 1-7-92, 4-5-93, Formerly 21G-25.003, Amended 11-22-93, Formerly 61F5-25.003, 59Q-25.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	67-45.001
Notice of Funding Availability	67-45.002
Application Procedures	67-45.004
Loan Processing	67-45.006
Fees	67-45.007

**PURPOSE AND EFFECT:** The purpose of the amendments is to adjust the limits of the Down Payment Assistance funding to conform to the limits authorized by Section 420.5088(1)(c), Florida Statutes in connection with the Homeownership Assistance Program and to make other technical and clarifying amendments.

**SUMMARY:** The proposed amendments to the Rule and adopted reference material include changes relative to the (1) change in loan amount, which reflects an increase in Down Payment Assistance funding.

**STATEMENT OF ESTIMATED REGULATORY COST:**  
None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 420.507(12),(23) FS.

**LAW IMPLEMENTED:** 420.507(23), 420.5088 FS.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 2:00 p.m., September 17, 2001

**PLACE:** Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Linda Hawthorne, Florida Housing Finance Corporation, (850)488-4197, at least five days prior to the Workshop. If you are hearing or speech impaired, please contact the Florida Housing Finance Corporation using the Florida Dual Party Relay system, which can be reached at 1(800)955-9770 (Voice) or 1(800)988-8711 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

**THE FULL TEXT OF THE PROPOSED RULES IS:**

67-45.001 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, F.S.

(2) "Construction Loan" means a loan to a non-profit sponsor or developer under the Florida Home Ownership Assistance Program's Construction Loan Program as more fully described in Rule Chapter 67-44, F.A.C.

(3) "Corporation" means the Florida Housing Finance Corporation.

~~(4) "Demonstration Development" means a development which provides a unique, demonstrated benefit to a population or area not adequately served by existing Florida Housing programs, may serve as a replicable model for future Florida Housing programs, and otherwise complies with any rule of Florida Housing regarding Demonstration Developments.~~

~~(4)(5) "Down Payment Assistance Loan" or "Loan" means a Florida Home Ownership Assistance Program loan in the amount of \$2,500.00 for which no interest is charged and which shall be limited to the lesser of 25 percent of the purchase price of the house or the amount necessary to enable an Eligible Borrower to meet credit underwriting criteria. The loan shall not exceed 30 years or the term of the First Mortgage for which repayment of principal is deferred until the expiration of the term of the First Mortgage, or in the event of sale, transfer, refinancing or rental of the House Home, in which case the Loan is due and payable in full at that time. The Down Payment Assistance Loan may be used for down payment or closing costs associated with the purchase of the House Home.~~

~~(5)(6) "Eligible Borrower" means a person or persons or family or families:~~

- ~~(a) Who receives a Down Payment Loan;~~
- ~~(b) Who intend to permanently reside as a household in the House Home as their principal single-family residence;~~
- ~~(c) Whose total annual family income at time of closing does not exceed 72 percent for a family of one or two persons or 80 percent for a family of three or more persons of the State or local median income, whichever is greater.~~

~~(d) Who are participating in the Corporation's Single-Family Bond Program.~~

~~(6)(7) "FannieMae" means the Federal National Mortgage Association.~~

~~(7)(8) "FHA" means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.~~

~~(8)(9) "First Mortgage" means the recorded mortgage to which the Down Payment Assistance Loan is subordinated and which is superior to any other lien or encumbrance on the property.~~

~~(9)(10) "Florida Home Ownership Assistance Program" or "HAP" means the Florida Home Ownership Assistance Program created under Section 420.5088, F.S., which includes the Construction Loan Program, the Permanent Loan Program and the Down Payment Assistance Loan Program.~~

~~(10)(11)~~ “House” ~~“Home”~~ means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting FannieMae or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RHS, as applicable, but not a two-, three- or four-family residence, unless each unit in such residence is owner occupied, and land appurtenant to the residential unit which:

(a) Is designed and intended primarily for residential housing;

(b) Is determined by a qualified appraisal to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within a reasonable time after financing is provided. ~~For purposes of this subparagraph, 60 days shall be deemed as a reasonable time;~~

(d) Has a sales price which does not exceed the Maximum Acquisition Cost as set forth in Rule 67-45.001(12), F.A.C.

(e) Maintains the basic livability of the residence and does not provide, other than incidentally, a source of income to the Eligible Borrower (including child care services, on a regular basis for compensation).

~~(11)(12)~~ “Lender” means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, or other financial institution or governmental agency authorized to transact business within the State of Florida which institution customarily provides services in the financing of mortgages for real property in Florida. Lenders must be qualified FHA, VA, RHS, Government National Mortgage Association (GNMA), FannieMae, or Federal Home Loan Mortgage Corporation Association (FHLMC) originators and servicers or sellers and servicers as required by the program documents and approved as a participant for the particular Single-Family Bond Program, or any other public or private loan program approved by the Corporation’s Board of Directors, under which the Down Payment Assistance Loan is subordinated.

~~(12)(13)~~ “Maximum Acquisition Cost” means the Maximum Acquisition Cost under the Corporation’s Single-Family Bond Program.

~~(13)(14)~~ “Permanent Loan” or “Loan” means a loan to a borrower under the Florida Home Ownership Assistance Program’s Permanent Loan Program as more fully described in Rule Chapter 67-46, F.A.C.

~~(14)(15)~~ “RHS” means United States Department of Agriculture Rural Housing Services which was formerly known as the Farmer’s Home Administration.

~~(15)(16)~~ “Second Mortgage” means the recorded mortgage securing the Construction Loan, Down Payment Assistance Loan or Permanent Loan which is subordinate only to the lien of the First Mortgage.

~~(16)(17)~~ “Single-Family Bond Program” means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation’s Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

~~(17)(18)~~ “VA” means the U.S. Department of Veterans Affairs.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History–New 8-7-95, Formerly 9I-45.001, Amended 12-26-99, \_\_\_\_\_.

67-45.002 Notice of Funding Availability.

The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intention to provide funding for qualified mortgage loans under the Single-Family Bond Program and the Down Payment Assistance Loan Program and inviting qualified Lenders to submit offers to originate to the Corporation at least seven (7) days prior to selection. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds. ~~The Corporation shall set forth in said notice any election to reserve up to 10 percent of the available funding for use solely for Demonstration Developments pursuant to rule promulgated by Florida Housing.~~

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 8-7-95, Formerly 9I-45.002, Amended 12-26-99, \_\_\_\_\_.

67-45.004 Application Procedures.

(1) Eligible Borrowers may apply for a Down Payment Assistance Loan with any Lender which is processing the applicant’s First Mortgage Loan application.

(2) Applicants may apply for ~~either~~ a Downpayment Assistance ~~or Permanent~~ Loan with any Participant which is processing the Applicant’s First Mortgage loan application from funds available from a Corporation’s Single Family Loan Program.

(3) Prior to funding a Downpayment Assistance ~~or Permanent~~ Loan, Participants shall make application as required in the program documents of the relevant Single Family Loan Program.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History–New 8-7-95, Formerly 9I-45.004, Amended 12-26-99, \_\_\_\_\_.

67-45.006 Loan Processing.

(1) All applications and Loans shall be processed by the Lenders in accordance with each Lender’s standard underwriting criteria and any criteria in regard to Second Mortgages which may be imposed by FHA, VA, FannieMae, RHS or other parties insuring or guaranteeing the First Mortgage loan.

(2) Loan applications shall be reviewed by the lender originating the First Mortgage on the basis of first-come, first-served.

(3) Upon approval of an application by a Lender, the Corporation shall be contacted by telephone or telecopy, as provided in the applicable program documents, to ascertain the availability of sufficient funds for making the Loans. The Executive Director, or his or her designee, shall either confirm the availability of sufficient funds to make the Loan or shall inform the Lender that the amount requested for the Loan exceeds the funds available to fund the Loan.

(4) If sufficient funds are not available to fund the full amount of the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan in full, as requested.

(5) Confirmation of sufficient available funds for a requested Loan shall be provided first by a telephonic or electronic confirmation by the Corporation or its designee, and then confirmation of fund availability shall be made in writing by the Corporation or its designee to the Lender.

Specific Authority 420.507(12),(23) FS. Law Implemented 429.5088 FS. History—New 8-7-95, Formerly 91-45.006, Amended 12-26-99, \_\_\_\_\_.

**67-45.007 Fees.**

In connection with the origination of a Down Payment Assistance Loan, the Lender ~~may shall~~ collect and retain from the Eligible Borrower a \$50.00 application fee, payable at the time of application.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19) FS. History—New 8-7-95, Formerly 91-45.007, Amended \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Wallisa Cobb, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Beverly Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** June 15, 2001, Corporation Board Meeting

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** Vol. 27, No. 30, July 27, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Vessel Registration and Boating Safety**

RULE TITLE: Okaloosa County Boating Restricted Area RULE NO.: 68D-24.146

PURPOSE AND EFFECT: To establish a Slow Speed Minimum Wake boating restricted area in and adjacent to the Florida Intracoastal Waterway to protect vessel traffic safety in the vicinity of the Brooks Bridge in Okaloosa County, Florida. SUMMARY: Proposed new Rule 68D-24.146 creates a Slow Speed Minimum Wake boating restricted area in and adjacent to the Florida Intracoastal Waterway from 2,000 feet west and 900 feet east of the centerline of the Brooks Bridge. Okaloosa County is authorized to install and maintain appropriate markers for the area. A drawing depicting the area is included in the rule.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: The Commission has not prepared a formal statement of the estimated regulatory cost.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Tara Alford, Division of Law Enforcement, Office of Boating Safety and Waterway Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-5600, Extension 169

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.146 Okaloosa County Boating Restricted Area. For the purpose of regulating the speed and operation of vessel traffic on the Florida Intracoastal Waterway within Okaloosa County, Florida, the following boating restricted area is established:

(1) Slow Speed Minimum Wake Zone.

(a) Brooks Bridge – A Slow Speed Minimum Wake zone, shoreline to shoreline, in and adjacent to the Florida Intracoastal Waterway from 2,000 feet west (30°24'01N"/86°36'20W") of the centerline of the Brooks Bridge to 900 feet east (30°24'14N"/86°35'23W") of the centerline of the Brooks Bridge in Okaloosa County, as depicted in Drawing A.

(b) Okaloosa County is authorized to install and maintain appropriate regulatory markers as directed by the Division of Law Enforcement within the boating restricted area.



(2) The boating restricted area is depicted in Drawing A:

INSERT MAP

PAGE 1 OF 1

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History—  
New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ms. Tara Alford, Division of Law Enforcement, Boating Safety and Waterway Management Section, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Colonel Robert L. Edwards, Director, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Vessel Registration and Boating Safety**

RULE TITLE: St. Johns County Boating Restricted Areas

RULE NO.: 68D-24.155

PURPOSE AND EFFECT: To establish a Slow Speed Minimum Wake boating restricted area in and adjacent to the Florida Intracoastal Waterway to protect vessel traffic safety in the vicinity of the Devil's Elbow Boat Ramp in St. Johns County, Florida.

SUMMARY: A new subparagraph 6 is added to paragraph (1) (a) of Rule 68D-24.155, F.A.C., to create a Slow Speed Minimum Wake boating restricted area in and adjacent to the Florida Intracoastal Waterway from 500 feet north and south of the centerline of the Devil's Elbow Boat Ramp. A new Drawing F depicting this zone is added to the rule.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: The Commission has not prepared a formal statement of the estimated regulatory cost.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Tara Alford, Division of Law Enforcement, Office of Boating Safety and Waterway Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-5600, Extension 169

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.155 St. Johns County Boating Restricted Areas.

(1) For the purpose of regulating speed and operation of vessel traffic on the Florida Intracoastal Waterway within St. Johns County, Florida, the following boating restricted areas are established:

(a) 1. through 5. No change

6. Devil's Elbow Boat Ramp – A Slow Speed Minimum Wake zone from 500 feet north (29°45'16N"/81°14'58W") of the centerline of the Devil's Elbow Boat Ramp to 500 feet south (29°45'07N"/81°14'59W") of the centerline of the Devil's Elbow Boat Ramp in and adjacent to the Florida Intracoastal Waterway as depicted in Drawing F.

(b) through (2) No change

Drawings A through E – No change.

Drawing F.

INSERT MAP

PAGE 1 OF 1

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History—  
New 12-11-97, Formerly 62N-24.155, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ms. Tara Alford, Division of Law Enforcement, Office of Boating Safety and Waterway Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-5600, Extension 169

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Colonel Robert L. Edwards, Director, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2001

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-1.09422	Florida Comprehensive Assessment Test Requirements

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. 27, No. 28, July 13, 2001, issue of the Florida Administrative Weekly:

Subsection (8) was amended to read as follows:

(8) The passing score for the reading test shall be a score equal to or greater than 287. The passing score for the mathematics test shall be a score equal to or greater than 295. Effective February 1, 2002, the passing score for the reading and mathematics tests shall be a score equal to or greater than 300.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.:	RULE TITLE:
12A-1.095	Revocation of Sales Tax Exemption Certificates

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amendments to Rule 12A-1.095, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 27, pp. 3109-3110, July 6, 2001, issue of the Florida Administrative Weekly. These changes are in response to written comments received from the Joint Administrative Procedures Committee, dated August 1, 2001. These comments provided that the revocation of a consumer's certificate of exemption from sales tax would be a procedure

falling under the provisions of Rule 28-106.014(2), F.A.C., and that the provisions of the proposed rule should be consistent with Rule 28-106.014(2), F.A.C.

In response to the comments received by the Department regarding the proposed amendments to Rule 12A-1.095, F.A.C., paragraph (2)(b) has been changed to add subparagraphs 1. and 12. and to revise subparagraph 9., as renumbered, so that, when adopted, paragraph (2)(b) will read as follows:

(b) The Request for Hearing must contain the following:

1. The style of the proceeding involved;
- ~~2.~~ The name and address of the entity opposing the revocation of its consumer's certificate of exemption;
- ~~3.~~ The case number of the administrative complaint;
- ~~4.~~ A statement requesting an administrative hearing;
- ~~5.~~ A statement specifying the factual allegations in the administrative complaint which the entity denies;
- ~~6.~~ A statement setting forth any other factual or legal issues which the entity intends to raise in protest of the Department's intended action;
- ~~7.~~ A statement that the entity will be substantially affected by the revocation of the consumer's certificate of exemption and why the entity will be so affected;
- ~~8.~~ A request for relief;
- ~~9.~~ The name, ~~and~~ title, address, and telephone number of the person submitting the Request for Hearing;
- ~~10.~~ The signature of the person submitting the Request for Hearing;
- ~~11.~~ The date of the Request for Hearing;
12. A certificate of service that copies have been provided to all other parties.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE NO.:	RULE TITLE:
12B-8.001	Premium Tax; Rate and Computation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amendments to Rule 12B-8.001, F.A.C., in accordance with subparagraph 120.54(3)(d)1., F.S., as originally published in the Florida Administrative Weekly on July 6, 2001 (Vol. 27, No. 27, pp. 3112-3115). These changes are in response to written comments received from the Joint Administrative Procedures Committee of the Florida Legislature.

A technical revision based on these comments changes the word "difference" in sub-subparagraph (3)(a)2.a. of Rule 12B-8.001, F.A.C., to "different." Two other changes based on comments from the Committee were addressed by revising sub-sub-paragraph b. of Rule 12B-8.001(3)(a)2., F.A.C., to read as follows: