

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-3.008 Repeal, Amendment, and Readoption of Sections of Chapter 70-973, Laws of Florida (1970), as Amended by Chapter 73-652, Laws of Florida (1973), Volusia County Special Act.

(1) through (2) No change.

(3) This section intended to readopt certain provisions of Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as a Commission rule. As of the effective date of this section, the aforesaid Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as readopted, shall read as follows:

(a) It is unlawful for any person, firm or corporation to harvest or attempt to harvest marine species of fish in the inland salt waters of Volusia County in any way or with any appliance other than with the ordinary cast net, rod and reel, pinfish trap meeting the specifications of Section 370.1105(1)(b), Florida Statutes, or hook and line except as provided otherwise in Section 68B-3.008, F.A.C. Legal size flounders may be taken by the means of a barbed spear, with not more than three (3) prongs.

(b) through (g) No change.

(h) No person, firm or corporation shall set or place, or cause to be set or placed, any trap ~~or other device~~ for the taking of crabs for any purpose in the inland salt waters of Volusia County, unless such trap meets all the requirements of Rule Chapter 68B-45, F.A.C. ~~or device is buoyed with a device other than glass, attached to each such trap or device used for taking crabs, buoy to be of sufficient strength and buoyancy to continuously remain afloat and must be of such hue and~~

~~brilliancy as to be easily seen and located. Provided further, that each crab trap or device used for taking crabs must have a permit number attached permanently both to the trap and to the buoy. This permit number shall be issued by the Department of Environmental Protection (formerly the Department of Natural Resources) upon the receipt of application for such number by the owner of such trap or device. The design of the application and of the permit numbers shall be determined by said department. The trap permit number must be painted in legible figures not less than three (3) inches high on each buoy marking the set of any trap or other device used for taking crabs.~~ A person may use traps for taking crabs for personal consumption if such person meets all the requirements for blue crab harvest with a trap for other than commercial purposes as established by Rule Chapter 68B-45, F.A.C. without a buoy and without a permit if the traps or lines attached to the traps are held by the person and provided the size of the traps does not exceed twenty-four (24) inches in their largest dimension when closed or forty-eight (48) inches in the largest dimension when open. No trap may be abandoned or discarded in or along the shore of the waters of Volusia County. Not more than two hundred (200) crab traps shall be fished under one (1) permit. No buoyed crab traps shall be left unattended for more than seventy-two (72) hours, weather permitting. No buoyed crab traps shall be placed within one hundred (100) yards of any bridge or dock where fishing is legal from that bridge or dock except that persons with written permission of the owner of a dock may place legal traps closer to that dock.

Specific Authority Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 10-19-89, Amended 1-9-91, 1-1-92, 7-1-92, 11-26-92, 10-3-94, 9-30-96, 7-30-97, Formerly 46-3.008, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 31, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.:
1S-2.032

RULE TITLE:
Uniform Primary and General
Election Ballot

NOTICE OF CORRECTION

The following portions of the above proposed rule as published in the July 19, 2002, Vol. 28, No. 29 issue of the Florida Administrative Weekly are being reprinted to correct editorial errors.

(3)(a)1. The ballot instructions for those certified voting systems using ovals to be filled in next to the voter’s choice, shall read as follows:

a.

- TO VOTE, COMPLETELY FILL IN THE OVAL ● NEXT TO YOUR CHOICE.
- Use only the marking device provided or a number 2 pencil.
- If you make a mistake, don’t hesitate to ask for a new ballot. If you erase or make other marks, your vote may not count.

2. The ballot instructions for those certified voting systems using an arrow to point to the voter’s choice, shall read as follows:

a.

- TO VOTE, COMPLETE THE ARROW → POINTING TO YOUR CHOICE.
- Use only the marking device provided or a number 2 pencil.
- If you make a mistake, don’t hesitate to ask for a new ballot. If you erase or make other marks, your vote may not count.

(14) If in any election there are more candidates than will fit in one column or screen, or a candidate’s name is so long that the party abbreviation will not fit to the right of the candidate’s name, or a candidate’s name is too long to fit on one line in the minimum font size, the supervisor of elections shall certify that fact and provide a copy of the proposed ballot to the Division of Elections for approval prior to the printing or distribution of the ballot. Likewise, if circumstances dictate that a supervisor of elections must deviate from the rule in any other respect, the supervisor must certify the facts of the circumstances and obtain the approval of the Division of Elections prior to the printing or distribution of the ballot.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-4.250

RULE TITLE:
Prescribed Drug Services
Coverage, Limitations and
Reimbursement Handbook

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the handbook incorporated by reference in the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., as published in Vol. 28, No. 8, February 22, 2002, issue of the Florida Administrative Weekly.

Chapter 2, page 2-8, Denying Provider Enrollment

Per section 409.907(9)(b), F.S., AHCA shall ~~may~~ deny an applicant’s application for enrollment if AHCA finds that it is in the best interest of the Medicaid program to do so, specifying the reasons for denial. AHCA shall ~~may~~ consider ~~the following factors, as well as any other factor~~ that could affect the effective and efficient administration of the program, ~~including, for example, the current availability of medical care, services, or supplies to recipients, taking into account geographic location and reasonable travel time.~~

Chapter 2, Page 2-8, Reasons for Denial

Per section 409.907(10), F.S., an application shall be denied where AHCA determines that ~~may deny enrollment if~~ the applicant or any officer, director, agent, managing employee, affiliated person, or any partner or shareholder having an ownership interest equal to five percent or greater in the applicant if the applicant is a corporation, partnership, or other business entity, has:

Chapter 2, page 2-9, Additional Reasons for Denial

Per Section 409.907(9), F.S., an application shall be denied where AHCA determines that ~~may deny enrollment for any factor that could affect the effective and efficient administration of the program, including the following:~~

- Applicant is not fully operational. Fully operational is determined by the Agency. It is defined by the following: a going concern, being properly licensed and in compliance with all current laws, pharmacy department open during established business hours according to license with a pharmacist on duty, sufficient pharmacy department inventory obtained in accordance with Florida law, receiving prescriptions and dispensing medications, established accounts with licensed pharmaceutical wholesalers, and accepting multiple forms of third party payers.

Chapter 2, page 2-21,

Requirements for Prescription Records

All prescription records must be in compliance with Chapters 465 and 893, F.S. and 64B-16, Florida Administrative Code. Specifically, Medicaid requires the following:

Prescription Hard Copy

The original prescription, physician’s order, or monthly documentation signed by the physician or an agent acting at the direction of the physician that validates the prescriber’s authorization for continuation of the original prescriber’s order must be maintained in its original paper form or as an exact front and back scanned image. The paper document original prescription, physician’s order, or monthly documentation that authorizes continuance of the prescriber’s order shall be made contemporaneous with the prescriber’s order, be physically filed (e.g., in a filing cabinet), be stored, remain under immediate control of the pharmacy provider, be readily retrievable, and furnished as needed or requested. The existence of or storing of data respecting the original prescription, physician’s order, monthly documentation that

validates the prescriber's authorization for continuance, or dispensing information in a computer database or reports generated thereof, is not sufficient for compliance.

Additional Refills

The authorization of additional refills on an existing prescription must be noted by either creating a new original prescription, or ~~if legally appropriate~~ by adding the additional authorized refills to the original prescription or prescriber's order by noting at least the date of authorization, number of additional refills, and the prescriber or prescriber's agent authorizing the refills, pursuant to Chapters 465 and 893, F.S. and Chapter 64B-16, Florida Administrative Code. This notation must be retained on the original prescription hard copy (paper form) or prescriber's order (paper form), or in the computer database and readily retrievable. Adding additional refills without documenting the above information is not sufficient for compliance.

Chapter 5, page 5-11, Diverted Pharmaceuticals Pilot Program
The pilot program will last 12 months, with a review of data that will analyze costs and utilization at the end of the first nine months. If the pilot is successful in identifying and reducing diverted pharmaceuticals, then the program will be expanded statewide.

Findings from initial audits will be shared with the pharmacy during the audit and the pharmacy will receive additional instruction of dispensing requirements. Pharmacies having deficiencies greater than 10.0% in a first re-audit ~~shall may~~ be fined in the amount of \$1,000 per violation. Pharmacies that have deficiencies of greater than 10.0% in a second re-audit may ~~either~~ be fined up to \$5,000 per violation pursuant to Section 409.913, F.S., or be terminated from the Medicaid Program.

Failure to comply with the dispensing requirements will result in sanctions as allowed in section 409.913, Florida Statutes, or Chapter 59G, Florida Administrative Code.

Chapter 7, page 7-1, Drug Prior Authorization – Introduction
There are three programs in place that ~~may~~ require a provider to obtain a prior authorization: the Four Brand Name Drug Limit, the Preferred Drug List, and Clinical Prior Authorization for certain drugs identified to be abused or misused.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-12.019
RULE TITLE: Courses Required for Initial Licensure, Renewal, or Reactivation

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 6, February 8, 2002, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-12.020
RULE TITLE: Courses Required of Licensees for Renewal and Reactivation

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 6, February 8, 2002, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Occupational Therapy Practice

RULE NO.: 64B11-2.005
RULE TITLE: Temporary Permit to Practice Occupational Therapy

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule.

In accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 15, April 12, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments from JAPC and the Board meeting held on June 24, 2002.

The rule shall now read as follows:

64B11-2.005 Temporary Permit to Practice Occupational Therapy.

(1) through (2) No change.

(3) An applicant who has been issued a temporary permit based on apparent eligibility for the next scheduled examination but who has never passed an examination to determine competency as recognized by the Board and who is not qualified for licensure by endorsement, may practice occupational therapy under the supervision of a licensed occupational therapist until notification of the results of the examination. An individual who has passed the examination may practice occupational therapy ~~without supervision~~ under his temporary permit until the next meeting of the Board. The temporary permit of an individual who has failed the examination shall be deemed revoked upon notification to the Board of the examination results and the subsequent, immediate notification to the applicant of the revocation.

Specific Authority 468.204 FS. Law Implemented 468.209(3),(4) FS. History—New 9-9-85, Formerly 21M-13.13, Amended 3-12-90, Formerly 21M-13.013, 61F6-13.013, 59R-61.013, Amended 4-8-99, 7-9-00, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.0015
 RULE TITLE: Application for Examination and Licensure

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 13, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-16.008
 RULE TITLE: Enforcement

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 13, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-1.005
 RULE TITLE: Exemption for Spouses of Members of the Armed Forces

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 26, No. 25, June 23, 2000, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee and from the Board meeting held on June 5, 2002.

The rule shall now read as follows:

64B33-1.005 Exemptions for Spouses of Members of the Armed Forces.

Any licensed athletic trainer who is a spouse of a person on active duty with the Armed Forces of the United States, who is absent from this state because of the spouse's duties with the Armed Forces, and who, at the time the absence became necessary, was in good standing with the Board of Athletic Training, shall be exempt from biennial renewal of licensure, payment of required fees hereunder, and performance of any other act on the licensee's part to be performed.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training, 4052 Bald Cypress Way, Tallahassee, Florida 32399

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-5.001
 RULE TITLE: Disciplinary Guidelines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 12, Florida Administrative Weekly, has been withdrawn.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.601
 RULE TITLE: Food Stamp Program Definitions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 23, (June 7, 2002) issue of the Florida Administrative Weekly.

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: 10:00 a.m. August 30, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE IS: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Services, Program Support Unit, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700

Specific changes are as follows:

Paragraphs (1) through (2) No change.

Paragraph (3) is added to read:

~~(3) Spouses — Two people who are married to each other by law or represent themselves as husband and wife to relatives, friends, neighbors, or trades people. Spouses must be included in the same food stamp filing unit.~~

(3) Spouse — The term spouse, as defined Section 741.212(3), F.S., is a member of a marriage or legal union between one man and one woman as husband and wife.

**Section IV
 Emergency Rules**

DEPARTMENT OF THE LOTTERY

RULE TITLE: Lost, Stolen or Damaged Instant Lottery Tickets
 RULE NO.: 53ER02-41

SUMMARY OF THE RULE: This emergency rule replaces emergency Rules 53ER94-22 and 53ER94-23, F.A.C. The rule sets forth for Lottery retailers provisions for reporting lost, stolen or damaged instant lottery tickets and the account adjustments associated with such incidents.