

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Mental Health Program Office**

RULE TITLE: State Civil Mental Health Treatment Facilities  
 RULE NO.: 65E-5.600

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish procedures to be followed by the staff of state operated mental health treatment facilities under the Baker Act where the substantial interests of the residents of the facilities are impacted. To amend Chapter 65E-5, F.A.C., to conform to current titles, laws or regulations.

SUBJECT AREAS TO BE ADDRESSED: The subject matter to be addressed at the public workshop includes: rights and privileges of individuals in state mental health facilities, including voting in public elections, abuse reporting, confidentiality, and patient grievance process, operation and administration of state mental health facilities,

SPECIFIC AUTHORITY: 394.457(5),(a),(b),(c), 394.459 (d),(f) FS.

LAW IMPLEMENTED: 394.461(7) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m. – 5:00 p.m., September 5, 2002

PLACE: Mental Health Program Office, Department of Children and Families, Building 6, Conference Room A, 1317 Winewood Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Charles M. Kimber, Mental Health Program Office, Department of Children and Families, 1317 Winewood Boulevard, Building 6, Room 223, Tallahassee, FL 32399-0700, (850)921-6275, Fax (850)413-0876

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II  
 Proposed Rules**

**DEPARTMENT OF INSURANCE**

RULE TITLES:	RULE NOS.:
Purpose	4-149.001
Scope and Applicability	4-149.002
Rate Filing Procedures	4-149.003

PURPOSE, EFFECT, AND SUMMARY: Amendments to Chapter 4-149, F.A.C. Part I, dealing with filing and approval of health rate filings, address the following:

- Implement HB 385, which exempts large group rate schedules from filing and prior approval.
- Exempt riders that accelerate the death benefit of a life insurance policy from filing and approval of rates where the coverage is immaterial to the policy coverage.
- Amend the scope section to clarify that HMO filings covering small group are subject to the rule.
- Allow for streamlined filing of trend for business with less than 1,000 Florida policies in force.
- Publish acceptable trend which may be used in lieu of company specific development of trend and for noncredible blocks of business.
- Make technical edits that do not change current rule standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No SERC has been 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: 624.308(1), 624.316, 627.410(6)(b)-(e), 627.411(1)(e) FS.

LAW IMPLEMENTED: 119.07(1)(b), 624.307(3), 624.310; 624.404, 626.9521, 626.9541(1)(a),(b),(e), 626.9641, 627.410(1),(2),(6),(7), 627.411(1)(e),(2), 627.411(1)(e),(2), 627.6515(2)(a), 627.6699, 631.001, 631.011(11) 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: 9:30 a.m., September 17, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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 the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE FULL TEXT OF THE PROPOSED RULES IS:

4-149.001 Purpose.

Specific Authority 624.308(1), 624.316, 627.410(6)(b)-(e), 627.411(1)(e) FS. Law Implemented 624.307(3), 624.310, 624.404, 626.9521, 626.9541(1)(a),(b),(e), 626.9641, 627.410, 627.411(1)(e),(2), 631.001, 631.011(11) FS. History—New 7-1-85, Formerly 4-58.01, 4-58.001, Amended 4-18-94, Repealed.

## 4-149.002 Scope and Applicability.

(1)(a)1. Every policy, rider or endorsement form affecting benefits which is submitted for approval shall be submitted in accordance with the provisions of Part II of this rule chapter and shall be accompanied by a rate filing or an actuarial certification that such policy, rider, or endorsement form does not require a change in rates.

2. Any subsequent addition to or change in rates applicable to such policy, rider, or endorsement form shall also be filed. ~~At such time as Part III of Rule Chapter 4-156, F.A.C., is adopted, this rule will not apply to Medicare Supplement policies, as defined in subparagraph 4-149.006(4)(i)3., F.A.C.~~

(b) Unless the context specifically states otherwise, this Part I of this rule chapter applies to:

1. through 3. No change.

4. All Group Health Insurance and Health Maintenance Organization contracts insuring the residents of Florida where the master contract is issued to an association group or a group trust, in or outside the State of Florida, and the insurance is provided to the employees of a small employer as defined in Section 627.6699, Florida Statutes.

(c)1. Insurers may make filings that incorporate prospective premium schedule rate changes in which the future change period is up to one year. Examples include increasing the new issue premium by a predetermined amount each month or each quarter, or implementing a rate increase in segments over a one-year period.

2. The renewal premium schedule shall be consistent with any adjustments in the new premium schedule in a predefined and approved fashion.

3. All prospective rate changes or methodologies for rate changes must be approved ~~in their entirety~~ before implementation in accordance with this part.

(2) As required by Section 627.410(7), Florida Statutes, all health insurers shall comply with the annual rate filing requirements in Rule 4-149.007, F.A.C. including for forms subject to subsection (5) below.

(3) Rule Chapter 4-149, F.A.C., does not apply to:

(a) Credit disability insurance as defined in Section 627.677, Florida Statutes;

(b) Contract forms as defined in Section 627.601(3), Florida Statutes.

(4) through (5) No change.

(6) Pursuant to the provisions of Section 627.410(6)(b), Florida Statutes, filings required by Rules 4-149.003 and 4-149.007, F.A.C., shall not apply to the following:

(a)1. Annually rated group policies issued in this state that provide availability of coverage only to groups with 51 or more employees/members.

2. This filing exemption does not apply to franchise policies issued pursuant to Section 627.663, Florida Statutes.

(b)1. Forms that provide for the acceleration of the benefits of a life insurance policy that is incidental to the total life insurance coverage.

2. The acceleration is considered incidental if the value of the accelerated benefit is less than 10 percent of the total value of the benefits provided by the life insurance coverage. These values shall be measured as:

a. The present values of the benefits determined as of the date of issue; or

b. The relationship between the premiums if the premiums are separable and fixed at issue. Nothing in this part shall be construed as requiring prior approval by the Department of any rate change where such was not otherwise required by rule on October 1, 1993.

(7) Notwithstanding the above, the rating standards contained in this Part I and applicable statutes shall apply to policies exempt from filing pursuant to subsection (6) above.

Specific Authority 624.308(1), 627.410(6)(b) FS. Law Implemented 624.307(1), 627.410(1),(2),(6),(7), 627.411(1)(e),(2), 627.6515(2)(a), 627.6699 FS. History—New 7-1-85, Formerly 4-58.02, 4-58.002, Amended 4-18-94, 4-9-95.

## 4-149.003 Rate Filing Procedures.

(1) through (5) No change.

(6)(a) Insurers with fewer than 1,000 Florida policyholders, under any form or pooled group of medical expense forms with coverage meeting the definition of Section 627.6561(5)(a)2, Florida Statutes, may at their option, file a streamlined rate increase filing not exceeding medical trend as provided in subsection (7) below.

(b) The number indicated in paragraph (6)(a) above represents the individual primary insureds and does not include spouses or dependants.

(c) For group coverage, the number indicated in paragraph (6)(a) above represents the individual certificateholders or subscribers.

(d) The only Medicare supplement business to which this provision applies is Standard or Select Medicare supplement coverage where:

1. At least one plan is currently available for sale; and

2. The 1,000 reference above is measured as Florida policies or certificateholders for all plans, whether open or closed, combined.

(e) The filing:

1. Shall be made in accordance with paragraph 4-149.003(2)(b), F.A.C.; and

2. Shall provide a certification that the filing includes all forms with similar benefits in lieu of the actuarial memorandum referenced in subparagraph 4-149.003(2)(b)3., F.A.C.

(f) This provision is an option available to the company. The company may choose, at its option, to make a complete filing in accordance with paragraph 4-149.003(2)(b), F.A.C., including a complete actuarial memorandum in accordance with Rule 4-149.006, F.A.C.

(7)(a) The following tables shall apply to filings made pursuant to subsection (6) above.

(b) A company without fully credible data may, at its option, use an annual medical trend assumption not to exceed the values in the following tables for the medical trend assumption used in a complete filing made pursuant to paragraph 4-149.003(2)(b), F.A.C., including the actuarial memorandum required by Rule 4-149.006, F.A.C., without providing explicit trend justification.

(c) Use of an annual medical trend assumption exceeding the maximum medical trend in the following tables shall be filed pursuant to subparagraph 4-149.006(3)(b)18., F.A.C.

(d) The maximum medical trend for medical expense coverage described in Section 627.6561(5)(a)2., Florida Statutes, is:

Category	Individual Without Rx	Individual With Rx	Group Without Rx	Group With Rx
Major Medical	15%	16%	15%	16%
Health Maintenance Organizations	13%	14.5%	17%	18%

(e) The maximum medical trend for Medicare supplement coverage is:

Medicare supplement	5.5%	10%	5.5%	10%
---------------------	------	-----	------	-----

Specific Authority 624.308(1), 627.410(6)(b),(e) FS. Law Implemented 119.07(1)(b), 624.307(1), 627.410 FS. History—New 7-1-85, Formerly 4-58.03, 4-58.003, Amended 8-23-93, 4-18-94, 8-22-95.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Robleto, Bureau Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF INSURANCE**

RULE TITLES:	RULE NOS.:
<b>PART V GROUP HEALTH INSURANCE POLICIES</b>	
Applicability and Scope	4-154.402
Definition of Terms	4-154.403
Certificate of Creditable Coverage	4-154.404
Alternative Method of Determining Creditable Coverage	4-154.405
Demonstration of Creditable Coverage if Certificate is Not Provided	4-154.406
Notice of Plan's Pre-existing Condition Exclusion Period	4-154.407
Pre-Existing Condition	4-154.4071
Special Enrollment Period Notification	4-154.408
Prohibited Discrimination	4-154.411
Group Conversion Election and Premium Notice Form	4-154.412
<b>PART VI SMALL GROUP HEALTH INSURANCE POLICIES</b>	
Applicability and Scope	4-154.502
Definitions	4-154.503
Requirement to Insure Entire Groups	4-154.504
Certificate of Creditable Coverage	4-154.506
Alternative Method of Determining Creditable Coverage	4-154.507
Demonstration of Creditable Coverage if Certificate is Not Provided	4-154.508
Discontinuance or Modification of Policy Form	4-154.511
Prohibited Discrimination	4-154.512
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement	4-154.513
Designation of Election to Become a Risk-Assuming or Reinsuring Carrier	4-154.514
Change of Status of Small Employer Carrier's Election to Become Risk-Assuming Carrier or Reinsuring Carrier	4-154.515
Prohibited Discrimination	4-154.516
Group Conversion Election and Premium Notice Form	4-154.517
Notice of Plan's Pre-existing Condition Exclusion Period	4-154.518
Pre-Existing Condition	4-154.5181
PURPOSE AND EFFECT: The purpose and effect of the rules is to assure portability of group health insurance and small group health insurance.	
SUMMARY: The proposed rules and amendments implement Chapter 97-179, Laws of Florida, which was passed to conform Florida law with the Federal Health Insurance Portability and Accountability Act of 1996	

(Kennedy-Kassebaum). This act established certain minimum standards for health insurance coverage and it required that state law be amended to comply with the federal law, which was accomplished in Chapter 97-179. Federal regulations have been adopted and the proposed rules substantially conform to the federal requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 624.308, 624.308(1), 627.6561(8)(a),(e),(9)(b), 627.6699(5)(i)3.a.,4.a.,(9)(b),(16), 641.31071(7)(b),(8)(e),(10)(b), 641.36, 641.38 FS.

LAW IMPLEMENTED: 624.307(1), 624.418, 624.4211, 624.424(6), 626.9541, 627.40, 627.410, 627.6561, 627.65615, 627.65625, 627.6571, 627.6699, 627.6699(4)(a),(5),(f),(g)1., (i)3.a.,4.a.,(7),(9),(10),(11), 641.31071, 641.31072, 641.31073 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: 9:30 a.m., September 19, 2002

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

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 the person below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Robleto, Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5110

THE FULL TEXT OF THE PROPOSED RULES IS:

PART V GROUP HEALTH INSURANCE POLICIES

4-154.402 Applicability and Scope.

(1) These rules apply to all group health insurance policies and all group health maintenance contracts issued or issued for delivery in the state on or after the effective date of this rule.

(2) Group health insurance policies are policies for groups identified in Sections 627.653 through 627.656, Florida Statutes, except those groups to which Section 627.6699 applies.

Specific Authority 624.308, 627.6561(8)(a),(e),(9)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New.

4-154.403 Definition of Terms.

For purposes of this part:

(1) “Categories of benefits” means the following benefits:

(a) Mental health coverage;

(b) Substance abuse coverage;

(c) Prescription drugs coverage;

(d) Dental coverage; and

(e) Vision coverage.

(2) “COBRA” means Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(3) “Dependent” means a person designated by an employee, or by the terms of an employee benefit plan, who is or may become entitled to a benefit under the plan.

(4) “Employee” means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive health insurance coverage from a group health plan that covers employees of the employer or members of the organization, or whose dependents may be eligible to receive such benefits.

(5) “Exhaustion of COBRA or other continuation coverage” means that an individual’s continuation coverage ceases for any reason other than either failure of the individual to pay premium on a timely basis, or for cause. An individual is considered to have exhausted continuation coverage if:

(a) Coverage ceases due to the failure of the employer or other responsible entity to remit premiums on a timely basis; or

(b) The individual no longer resides, lives, or works in a service area of an HMO or similar program and there is no other continuation coverage available to the individual.

(6) “Group health plan” means an employee welfare plan as defined in the Employment Retirement Income Security Act (ERISA) of 1974 to the extent that the plan provides medical care as defined in subsection (8), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(7) “Health insurance issuer” or “issuer” means an authorized insurer or a health maintenance organization.

(8) “Medical care or condition” means amounts paid for any of the following:

(a) The diagnosis, cure, mitigation, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;

(b) Transportation primarily for and essential to medical care described in paragraph (a);

(c) Insurance covering medical care described in paragraphs (a) and (b);

(9)(a) “Placement, or being placed, for adoption” as defined in Section 63.032(9), Florida Statutes;

(b) The child’s placement for adoption terminates upon the termination of the legal obligation of the adopting parent.

(10) "Service area" means the geographic area approved by the Agency for Health Care Administration within which:

(a) An insurer is authorized pursuant to Section 627.6472, Florida Statutes, to offer a health insurance policy; or

(b) An HMO is authorized pursuant to Section 641.495, Florida Statutes, to provide or arrange for comprehensive health care services.

(11) "Short-term, limited duration insurance" means health insurance coverage with an issuer that has specified in the contract an expiration date that is within 12 months of the date the contract becomes effective, taking into account any extensions that may be elected by the policyholder without the issuer's consent and shall be considered credible coverage as defined in Section 627.6561(5)(a) and 641.31071(5)(a), Florida Statutes.

Specific Authority 324.308, 627.6561(8)(a),(e),(9)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New

#### 4-154.404 Certificate of Creditable Coverage.

(1)(a) A health insurance issuer in the group health insurance market shall provide a certificate of creditable coverage (certificate), and, if required, make certain other disclosures regarding an employee's coverage under a group insurance policy.

(b) The certificate and other disclosures are intended to enable employees to avoid or reduce pre-existing conditions exclusions included under subsequent group health insurance coverage which may be obtained by the individual.

(2) Issuers shall establish procedures by which individuals and dependents shall request and receive certificates.

(3)(a) The certificate shall read as indicated on Form DI4-1362 (rev. 2/00), Certificate of Group Health Insurance Coverage, which is hereby adopted and incorporated by reference, and may be obtained from the Bureau of Life and Health Forms & Rates, 200 East Gaines Street, Tallahassee, Florida 32399-0328; or

(b) An issuer may develop its own form which shall contain all of the information contained in Form DI4-1362.

(4)(a) Employees shall receive a certificate automatically, without charge, when they lose coverage under a group policy.

(b) A certificate shall also be provided when a request is made within 24 months after coverage ceases by, or on behalf of, an employee.

(c) The certificate shall be provided at the earliest time that an issuer, acting in a reasonable and prompt fashion, can provide the certificate.

(5)(a) An issuer of a group health policy shall prepare certificates with respect to the coverage on any of an employee's dependents that are covered under a policy.

(b) If requested to provide a certificate related to a dependent, the issuer shall make reasonable efforts to obtain the name of the dependent and provide a certificate.

(c) An issuer shall use reasonable efforts to determine any information needed for a certificate relating to the dependent coverage.

(d) In any case in which an automatic certificate is required to be furnished with respect to a dependent under this section, no individual certificate is required to be furnished until the issuer knows, or after making reasonable efforts should know, of the dependent's cessation of coverage under the plan.

(6)(a) The certificate shall be provided, without charge, to each employee or an entity requesting the certificate on behalf of the employee.

(b) The certificate may be provided by first-class mail.

(c) If the certificate or certificates are provided to the employee and the employee's spouse at the employee's last known address, the requirements of this section are satisfied with respect to all employees and dependents residing at that address.

(d) If a dependent does not reside at the employee's last known address, a separate certificate shall be provided to the dependent at the dependent's last known address.

(e) If separate certificates are provided by mail to employees and dependents who reside at the same address, mailing the certificates in the same envelope is permissible.

(7)(a) If an automatic certificate is required to be provided, and the employee or dependent entitled to receive the certificate designates another individual or entity to receive the certificate, the issuer responsible for providing the certificate may provide the certificate to the designated party.

(b) If a certificate must be provided upon request of another issuer, and the employee entitled to receive the certificate designates another individual or entity to receive the certificate, the issuer responsible for providing the certificates shall provide the certificate to the designated party.

(8) An automatic certificate shall be provided, without charge, for employees or dependents who are or were covered under a group policy upon the occurrence of any of the following:

(a)1. In the case of an individual who is a qualified individual entitled to elect COBRA continuation coverage, an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of COBRA continuation coverage, or alternative coverage elected instead of COBRA continuation coverage.

2. A plan or issuer satisfies this requirement if it provides the automatic certificate no later than the time a notice is required to be furnished for a qualifying event under COBRA.

(b) In the case of an individual who is entitled to elect to continuation coverage under Section 627.6692, Florida Statutes (state continuation coverage), an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of state continuation coverage.

(c) In the case of an individual who is not a qualified individual entitled to elect COBRA or state continuation coverage, an automatic certificate shall be provided at the time the individual ceases to be covered under the plan.

(d)1. In the case of an individual who is a qualified individual and has elected COBRA or state continuation coverage, or whose coverage has continued after the individual became entitled to elect COBRA or state continuation coverage, an automatic certificate is to be provided at the time the individual's coverage under the plan ceases.

2. A plan or issuer satisfies this requirement if it provides the automatic certificate within a reasonable time after coverage ceases, or after the expiration of any grace period for nonpayment of premiums. A reasonable time is the amount of time that person acting diligently and in good faith within the context of a specific set of facts and circumstances would take to accomplish the task.

3. An automatic certificate shall be provided to the individual regardless of whether the individual has previously received an automatic certificate under paragraph (a) of this subsection.

Specific Authority 624.308, 627.6561(8)(a),(e), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New

#### 4-154.405 Alternative Method of Determining Creditable Coverage.

(1)(a) Under the alternative method, a health insurance issuer or group health plan offering group health insurance coverage determines the amount of creditable coverage based on coverage within any category of benefits described in (2)(b) below and not based on coverage for any other benefits.

(b) The issuer or group health plan may use the alternative method for these categories.

(c) The plan may apply a different pre-existing condition exclusion period with respect to each category and may apply a different pre-existing condition exclusion period for benefits that are not within any category.

(d) The creditable coverage determined for a category of benefits applies only for purposes of reducing the pre-existing condition exclusion period with respect to that category.

(e) An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method described in Rule 4-154.404, F.A.C.

(2)(a) An issuer or group health plan using the alternative method shall apply it uniformly to all employees and individuals under the plan or policy. The use of the alternative method shall be set forth in the plan.

(b) The alternative method for counting creditable coverage may be used for coverage for any of the following categories of benefits:

1. Mental health.

2. Substance abuse treatment.

3. Prescription drugs.

4. Dental care.

5. Vision care.

(c) If the alternative method is used, the plan shall:

1. State prominently to each enrollee at the time of enrollment under the plan, in disclosure statements concerning the plan, that the plan is using the alternative method of counting creditable coverage; and

2. Include in these statements a description of the effect of using the alternative method, including an identification of the categories used.

(d) This requirement applies separately to each type of coverage offered by the health insurance issuer.

(e) Coverage under a reimbursement account or arrangement, such as a flexible spending arrangement as defined in Section 106(c)(2) of the Internal Revenue Code, does not constitute coverage within any category.

(f)1. An entity that uses the alternative method of counting creditable coverage may request that the entity that issued the certificate of creditable coverage disclose additional information in order for the requesting entity to determine the individual's creditable coverage with respect to any category of benefits.

2. The requested entity is not prohibited from charging the requesting entity the reasonable cost of disclosing the information.

3. The requesting entity may request a copy of the summary plan description (SPD) that applied to the individual's coverage or may request the following information:

a. Date of original certificate;

b. Name of group health policy providing the coverage;

c. Name of participant;

d. Identification number of participant;

e. Name of individual(s) to whom this information applies;

f. Information applicable to the coverage in the certificate that was provided to the individual(s) identified including coverage for:

(I) Mental health;

(II) Substance abuse treatment;

(III) Prescription drugs;

(IV) Dental care;

(V) Vision Care.

g. The beginning and ending dates of the individual's coverage within a category.

Specific Authority 624.308, 627.6561(9)(b), 641.31071(7)(b) FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New

4-154.406 Demonstration of Creditable Coverage if Certificate is not Provided.

(1) An employee or a dependent may establish creditable coverage through means other than certificates. If the accuracy of a certificate is contested or a certificate is unavailable when needed by the employee, the employee has the right to demonstrate creditable coverage and waiting periods through the presentation of documents or other means.

(2)(a) An issuer shall take into account all information that it obtains or that is presented on behalf of an employee or dependent to make a determination, based on the relevant facts and circumstances, whether or not the employee or dependent has 18 months of creditable coverage.

(b) An issuer shall treat the employee as having furnished a certificate if the employee:

1. Attests to the period of creditable coverage;
2. Presents relevant corroborating evidence of some creditable coverage during the period; and
3. Cooperates with the issuer's efforts to verify the employee's coverage.

(3)(a) For this purpose, cooperation includes:

1. Providing, upon the issuer's request, a written authorization for the issuer to request a certificate on behalf of the employee; and
2. Cooperating in efforts to determine the validity of the corroborating evidence and the dates of creditable coverage.

(b) An issuer may refuse to credit coverage if the employee fails to cooperate with the issuer's efforts to verify coverage; however, the issuer may not consider an employee's inability to obtain a certificate to be evidence of the absence of creditable coverage.

(4) If any of the following documents credibly indicate the existence of creditable coverage, they shall be acceptable to establish the existence of creditable coverage in the absence of a certificate:

- (a) Explanations of benefit (EOB) claims or other correspondence from a group health plan or issuer indicating coverage;
- (b) Pay stubs showing a payroll deduction for health coverage;
- (c) A health insurance identification card;
- (d) A certificate of coverage under a group health policy;
- (e) Records from medical care providers indicating health coverage;
- (f) Third party statements verifying periods of coverage; and
- (g) Any other relevant documents that evidence periods of health coverage.

(5) Creditable coverage and waiting period information may be established through means other than documentation, such as by a telephone call from the issuer to a third party verifying creditable coverage.

(6) If, in the course of providing evidence including a certificate of creditable coverage, an employee demonstrates dependent status, the issuer shall treat the employee as having furnished a certificate showing the dependent status if the employee:

- (a) Attests to the dependency and the period of the status; and
- (b) Cooperates with the issuer's efforts to verify the dependent status.

Specific Authority 624.308, 627.6561(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New \_\_\_\_\_.

4-154.407 Notice of Plan's Pre-Existing Condition Exclusion Period.

(1) A health insurance issuer offering group health insurance coverage shall not impose a pre-existing condition exclusion period with respect to an employee or dependent of the employee before notifying the employee, in writing, if not contained in the evidence of coverage, of:

- (a) The existence and terms of any pre-existing condition exclusion period under the plan; and
- (b) The rights of individuals to demonstrate creditable coverage and any applicable waiting periods as required by Section 627.6561(5), Florida Statutes.

(2) The description of the rights of individuals to demonstrate creditable coverage includes:

- (a) A description of the right of the individual to request a certificate from a prior plan or issuer, if necessary; and
- (b) A statement that the current plan or issuer will assist in obtaining a certificate from any prior plan or issuer, if necessary.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History—New \_\_\_\_\_.

4-154.4071 Pre-Existing Condition.

- (1) When an employee has been employed for less than 12 months and acquires a medical condition during that period and the employer changes carriers, the condition will not be considered to be a pre-existing condition for the new carrier.
- (2) When a one person group becomes a two person group the pre-existing waiting period changes from 24 months to 12 months.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65615, 641.31072 FS. History—New \_\_\_\_\_.

4-154.408 Special Enrollment Period Notification.

- (1) Certain persons shall be permitted special enrollment periods under Sections 627.65615 and 641.31072, Florida Statutes.
- (2) On or before the time an employee is offered the opportunity to enroll in group health insurance coverage, the employee shall be provided the following description of eligibility for these special enrollment periods: "If you are

declining enrollment for yourself or your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this plan, provided that you request enrollment within 30 days after your other coverage ends. In addition, if you have a new dependent as a result of marriage, birth, adoption or placement for adoption, you may be able to enroll yourself and your dependents, provided that you request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption. “

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65615, 641.31072 FS. New

#### 4-154.411 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an “actively at work” provision that delays coverage as a result of any health status-related factor pursuant to Sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65625, 641.31073 FS. History–New

#### 4-154.412 Group Conversion Election and Premium Notice Form.

(1) The form shall be titled group conversion election and premium notice and provide in the heading of the form the name of the company, the address to return the form, and a telephone number to call for further information.

(2) The group conversion election and premium notice form shall include the following:

(a) The applicant’s name (last, first, middle);

(b) The applicant’s sex;

(c) Applicant’s address;

(d) Applicant’s date of birth;

(e) Coverage for:

1. Employee only;

2. Employee/spouse;

3. Spouse only;

4. Employee/spouse/children;

5. Employee/children only;

6. Spouse/children;

7. Children only;

(f) For each dependent:

1. Name (last, first, middle);

2. Sex;

3. Date of birth; and

4. Relationship;

(g) Employer’s name and address;

(h) Employer’s group number;

(i) Employer’s contract/ID/plan number;

(j) Signature of employee/eligible individual;

(k) An identifying form number for the group conversion election and premium notice form.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.6561, 627.6675(17), 641.31071, 641.3922(14) FS. History–New

## PART VI SMALL GROUP HEALTH INSURANCE POLICIES

### 4-154.502 Applicability and Scope.

The provisions of this part shall apply, to the extent provided in Section 627.6699, Florida Statutes, to small employer health benefit plans insuring residents of this state.

Specific Authority 624.308(1), 627.6699(16) FS. Law Implemented 624.307(1), 624.418, 624.4211, 627.6699(4)(a),(5),(5)(g)I..(7) FS. History–New

### 4-154.503 Definitions.

As used in this part:

(1) “Categories of benefits” means the following benefits:

(a) Mental health coverage;

(b) Substance abuse coverage;

(c) Prescription drugs coverage;

(d) Dental coverage; and

(e) Vision coverage.

(2) “COBRA” means Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(3) “Employee” means any person presently or formerly employed by an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan that covers employees of the employer or members of the organization.

(4) “Exhaustion of COBRA or other continuation coverage” means that an individual’s continuation coverage ceases for any reason other than either failure of the individual to pay premium on a timely basis, or for cause. An individual is considered to have exhausted continuation coverage if:

(a) Coverage ceases due to the failure of the employer or other responsible entity to remit premiums on a timely basis.

(b) The individual no longer resides, lives, or works in a service area of an HMO or similar program and there is no other continuation coverage available to the individual.

(5) “Group health plan” means an employee welfare plan as defined in the Employment Retirement Income Security Act (ERISA) of 1974, to the extent that the plan provides medical care as defined in subsection (7), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(6) “Medical advice, diagnosis, care, or treatment” means advice, diagnosis, care or treatment recommended by, or received from an individual licensed or similarly authorized to provide such services under state law and operating within the scope of practice authorized by state law.

(7)(a) “Placement, or being placed, for adoption” as defined in Section 63.032(9), Florida Statutes.



(b) The child's placement for adoption terminates upon the termination of the legal obligation of the adopting parent.

(8) "Reasonable period of time" means the amount of time that a person acting diligently and in good faith within the context of a specific set of facts and circumstances would take to accomplish the task.

(9) "Service area" means the geographic area approved by the Agency for Health Care Administration within which:

(a) An insurer is authorized pursuant to Section 627.6472, Florida Statutes, to offer a health insurance policy; or

(b) An HMO is authorized pursuant to Section 641.495, Florida Statutes, to provide or arrange for comprehensive health care services.

(10) "Short-term, limited duration insurance" means health insurance coverage with an issuer that has specified in the contract an expiration date that is within 12 months of the date the contract becomes effective, taking into account any extensions that may be elected by the policyholder without the issuer's consent and shall be considered credible coverage as defined in Sections 627.6561(5)(a) and 641.31071(5)(a), Florida Statutes.

Specific Authority 624.308(1), 627.6699(16), 641.36 FS. Law Implemented 624.307(1), 627.6699 FS. History—New

#### 4-154.504 Requirement to Insure Entire Groups.

(1) A small employer carrier may offer the small employer the option of choosing among one or more health benefit plans, provided that each employee is permitted to choose any of the offered plans.

(2) New entrants to a small employer group shall be offered coverage under the health benefit plans provided to the group.

Specific Authority 624.308(1), 627.6699(16), 641.36 FS. Law Implemented 624.307(1), 627.6699 FS. History—New

#### 4-154.506 Certificate of Creditable Coverage.

(1)(a) A small employer carrier in the small group health insurance market shall provide a certificate of creditable coverage, and, if required, make certain other disclosures regarding an employee's coverage under a small group insurance policy.

(b) The certificate and other disclosures are intended to enable employees to avoid or reduce pre-existing conditions exclusions included under subsequent group health insurance coverage which may be obtained by the individual.

(2) Small employer carriers shall establish procedures by which individuals and dependents shall request and receive certificates.

(3)(a) The certificate shall read as indicated on Form DI4-1362, Certificate of Group Health Insurance Coverage, as adopted in Rule 4-154.404, F.A.C.

(b) An issuer may develop its own form which must contain all of the information contained in Form DI4-1362.

(4)(a) Employees shall receive a certificate automatically, without charge, when they lose coverage under a group policy.

(b) A certificate shall also be provided when a request is made within 24 months after coverage ceases by, or on behalf of, an employee.

(c) The certificate shall be provided at the earliest time that a carrier, acting in a reasonable and prompt fashion, can provide the certificate.

(5)(a) A carrier of a group health policy shall prepare certificates with respect to the coverage on any of an employee's dependents that are covered under policy.

(b) If requested to provide a certificate related to a dependent, the carrier shall make reasonable efforts to obtain the name of the dependent and provide a certificate.

(c) A carrier shall use reasonable efforts to determine any information needed for a certificate relating to the dependent coverage.

(d) In any case in which an automatic certificate is required to be furnished with respect to a dependent under this section, no individual certificate is required to be furnished until the carrier knows, or after making reasonable efforts should know, of the dependent's cessation of coverage under the plan.

(6)(a) The certificate shall be provided, without charge, to each employee or an entity requesting the certificate on behalf of the employee.

(b) The certificate may be provided by first-class mail.

(c) If the certificate or certificates are provided to the employee and the employee's spouse at the employee's last known address, the requirements of this section are satisfied with respect to all employees and dependents residing at that address.

(d) If a dependent does not reside at the employee's last known address, a separate certificate shall be provided to the dependent at the dependent's last known address.

(e) If separate certificates are provided by mail to employees and dependents who reside at the same address, mailing the certificates in the same envelope is permissible.

(7)(a) If an automatic certificate is required to be provided, and the employee or dependent entitled to receive the certificate designates another individual or entity to receive the certificate, the carrier responsible for providing the certificate may provide the certificate to the designated party.

(b) If a certificate shall be provided upon request of another carrier, and the employee entitled to receive the certificate designates another individual or entity to receive the certificate, the carrier responsible for providing the certificates shall provide the certificate to the designated party.

(8) An automatic certificate must be provided, without charge, for employees or dependents who are or were covered under a group policy upon the occurrence of any of the following:

(a)1. In the case of an individual who is a qualified individual entitled to elect COBRA continuation coverage, an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of COBRA continuation coverage, or alternative coverage elected instead of COBRA continuation coverage.

2. A plan or carrier satisfies this requirement if it provides the automatic certificate no later than the time a notice is required to be furnished for a qualifying event under COBRA.

(b) In the case of an individual who is entitled to elect to continue coverage under Section 627.6692, Florida Statutes (state continuation coverage), an automatic certificate shall be provided at the time the individual would lose coverage under the plan in the absence of state continuation coverage.

(c) In the case of an individual who is not a qualified individual entitled to elect COBRA or state continuation coverage, an automatic certificate shall be provided at the time the individual ceases to be covered under the plan.

(d)1. In the case of an individual who is a qualified individual and has elected COBRA or state continuation coverage, or whose coverage has continued after the individual became entitled to elect COBRA or state continuation coverage, an automatic certificate is to be provided at the time the individual's coverage under the plan ceases.

2. A plan or carrier satisfies this requirement if it provides the automatic certificate within a reasonable time after coverage ceases, or after the expiration of any grace period for nonpayment of premiums.

3. An automatic certificate shall be provided to the individual regardless of whether the individual has previously received an automatic certificate under paragraph (a) of this subsection.

Specific Authority 624.308(1), 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History—New

#### 4-154.507 Alternative Method of Determining Creditable Coverage.

(1)(a) Under the alternative method, a health insurance carrier or group health plan offering small group health insurance coverage determines the amount of creditable coverage based on coverage within any category of benefits described in paragraph (2)(b) below and not based on coverage for any other benefits.

(b) The carrier or group health plan may use the alternative method for these categories.

(c) The plan may apply a different pre-existing condition exclusion period with respect to each category and may apply a different pre-existing condition exclusion period for benefits that are not within any category.

(d) The creditable coverage determined for a category of benefits applies only for purposes of reducing the pre-existing condition exclusion period with respect to that category.

(e) An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method described in Rule 4-154.506, F.A.C.

(2)(a) A carrier or group health plan using the alternative method shall apply it uniformly to all employees and individuals under the plan or policy. The use of the alternative method shall be set forth in the plan.

(b) The alternative method for counting creditable coverage may be used for coverage for any of the following categories of benefits:

1. Mental health.
2. Substance abuse treatment.
3. Prescription drugs.
4. Dental care.
5. Vision care.

(c) If the alternative method is used, the plan shall:

1. State prominently to each enrollee at the time of enrollment under the plan, in disclosure statements concerning the plan, that the plan is using the alternative method of counting creditable coverage; and

2. Include in these statements a description of the effect of using the alternative method, including an identification of the categories used.

(d) This requirement applies separately to each type of coverage offered by the health insurance carrier.

(e) Coverage under a reimbursement account or arrangement, such as a flexible spending arrangement as defined in Section 106(c)(2) of the Internal Revenue Code, does not constitute coverage within any category.

(f)1. An entity that uses the alternative method of counting creditable coverage may request that the entity that issued the certificate of creditable coverage disclose additional information in order for the requesting entity to determine the individual's creditable coverage with respect to any category of benefits.

2. The requested entity is not prohibited from charging the requesting entity the reasonable cost of disclosing the information.

3. The requesting entity may request a copy of the summary plan description (SPD) that applied to the individual's coverage or may request the following information:

- a. Date of original certificate;
- b. Name of group health policy providing the coverage;
- c. Name of participant;
- d. Identification number of participant;
- e. Name of individual(s) to whom this information applies;
- f. Information applicable to the coverage in the certificate that was provided to the individual(s) identified including coverage for:

- (I) Mental health;
- (II) Substance abuse treatment;
- (III) Prescription drugs;
- (IV) Dental care;
- (V) Vision Care.

g. The beginning and ending dates of the individual's coverage within a category.

Specific Authority 624.308, 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History--New

4-154.508 Demonstration of Creditable Coverage if Certificate is Not Provided.

(1) Employees may establish creditable coverage through means other than certificates. If the accuracy of a certificate is contested or a certificate is unavailable when needed by the employee, the employee has the right to demonstrate creditable coverage and waiting periods through the presentation of documents or other means.

(2)(a) A small employer carrier shall take into account all information that it obtains or that is presented on behalf of an employee to make a determination, based on the relevant facts and circumstances, whether or not the employee has 18 months of creditable coverage.

(b) A carrier shall treat the employee as having furnished a certificate if the employee:

- 1. Attests to the period of creditable coverage;
- 2. Presents relevant corroborating evidence of some creditable coverage during the period; and
- 3. Cooperates with the carrier's efforts to verify the employee's coverage.

(3)(a) For this purpose, cooperation includes:

- 1. Providing, upon the carrier's request, written authorization for the carrier to request a certificate on behalf of the employee; and
- 2. Cooperating in efforts to determine the validity of the corroborating evidence and the dates of creditable coverage.

(b) A carrier may refuse to credit coverage if the employee fails to cooperate with the carrier's efforts to verify coverage; however, the carrier may not consider an employee's inability to obtain a certificate to be evidence of the absence of creditable coverage.

(4) If any of the following documents credibly indicate the existence of creditable coverage, they shall be acceptable to establish the existence of creditable coverage in the absence of a certificate:

- (a) Explanations of benefit (EOB) claims or other correspondence from a group health plan or carrier indicating coverage;
- (b) Pay stubs showing a payroll deduction for health coverage;
- (c) A health insurance identification card;
- (d) A certificate of coverage under a group health policy;
- (e) Records from medical care providers indicating health coverage;
- (f) Third party statements verifying periods of coverage; and
- (g) Any other relevant documents that evidence periods of health coverage.

(5) Creditable coverage and waiting period information may be established through means other than documentation, such as by a telephone call from the carrier to a third party verifying creditable coverage.

(6) If, in the course of providing evidence such as a certificate of creditable coverage, an employee shall demonstrate dependent status, the carrier shall treat the employee as having furnished a certificate showing the dependent status if the employee:

- (a) Attests to the dependency and the period of the status; and
- (b) Cooperates with the carrier's efforts to verify the dependent status.

Specific Authority 624.308(1), 627.6561(9)(b), 627.6699(16) FS. Law Implemented 624.307(1), 627.6561, 627.6699(5)(f) FS. History--New

4-154.511 Discontinuance or Modification of Policy Form.

If a carrier elects to discontinue a group health insurance policy form by consolidation with another policy form, the rate for the benefits shall be actuarially justified and approved by the Department for the consolidated group.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.410, 627.6571 FS. History--New

4-154.512 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an "actively at work" provision that delays coverage as a result of any health status-related factor pursuant to Sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.410, 627.6571, 627.65625 FS. History--New

4-154.513 Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement.

(1)(a) Pursuant to Section 627.6699, Florida Statutes, each carrier that provides health benefit plans in this state shall file with its annual statement each year, on or before March 1 for the preceding year ending December 31, information on health benefit plans written in this state, using Form DI4-1094, Report of Gross Annual Premiums and Plan Policy Exhibits for Health Benefit Plans Issued in Florida, as adopted in Rule 4-149.004, F.A.C.

(2) Quarterly Reports: Within 30 days following each calendar quarter each small employer carrier shall file a report on Form DI4-1117, Florida Employee Health Care Access Act Enrollment Report, as adopted in Rule 4-149.004, F.A.C.

Specific Authority 624.308(1), 627.6699(5)(i)3.a.,4.a.,(16) FS. Law Implemented 624.307(1), 624.424(6), 627.6699(5)(i)3.a. FS. History—New \_\_\_\_\_.

4-154.514 Designation of Election to Become a Risk-Assuming or Reinsuring Carrier.

(1)(a) All small employer carriers shall file a designation with the Department of their election to become either a risk-assuming or a reinsuring carrier.

(b) The small employer carrier desiring to be a risk-assuming or reinsuring carrier pursuant to Section 627.6699(9), Florida Statutes, shall use Form DI4-1093, State of Florida/Small Employer Carrier’s Application to Become a Risk Assuming Carrier or a Reinsuring Carrier, as adopted in Rule 4-149.044, F.A.C.

(2)(a) The Department shall provide notice by publication of a small employer carrier’s designation of election to become a risk assuming or reinsuring carrier, and shall allow 21 days from the date of publication to receive comment prior to making its decision on the election.

(b) The Department shall hold a hearing on the election if requested by the carrier.

(3) The Department shall approve or disapprove any application within 60 days of receipt of the application, based on the criteria in Section 627.6699(10), Florida Statutes.

Specific Authority 624.308(1), 627.6699(16) FS. Law Implemented 624.307(1), 627.6699(9),(10) FS. History—New \_\_\_\_\_.

4-154.515 Change of Status of Small Employer Carrier’s Election to Become Risk-Assuming Carrier or Reinsuring Carrier.

(1) Any small employer carrier seeking to change the election made by the carrier under Section 627.6699(9)(a), Florida Statutes, to become either a risk-assuming carrier or a reinsuring carrier shall request a change of status on Form DI4-1095, State of Florida/Small Employer Carrier’s Application to Modify Previous Election to Become a Risk Assuming or a Reinsuring Carrier, as adopted in Rule 4-149.004, F.A.C.

(2)(a) Within 60 days from the date on which the form and its attached information is filed with the Department, the Department shall hold a hearing on the request.

(b) Within 30 days after the conclusion of the hearing and the submission of any post-hearing documentation or argument, the Department shall approve or disapprove the request, based on the criteria set forth in Section 627.6699(10)(b), Florida Statutes.

Specific Authority 624.308(1), 627.6699(9)(b),(16) FS. Law Implemented 624.307(1), 627.6699(9),(10),(11) FS. History—New \_\_\_\_\_.

4-154.516 Prohibited Discrimination.

An issuer shall not include in a group insurance policy an “actively at work” provision that delays coverage as a result of any health status-related factor pursuant to Sections 627.65625 and 641.31073, Florida Statutes.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.65625, 626.9541 FS. History—New \_\_\_\_\_.

4-154.517 Group Conversion Election and Premium Notice Form.

(1) The form:

(a) Shall be titled “Group Conversion Election and Premium Notice”; and

(b) Shall provide in the heading of the form:

1. The name of the company;
2. The address to which to return the form; and
3. A telephone number to call for further information.

(2) The group conversion election and premium notice form shall include the following:

- (a) Applicant’s name (last, first, middle);
- (b) Applicant’s sex;
- (c) Applicant’s address;
- (d) Applicant’s date of birth;
- (e) Applicant’s social security number;

(f) Coverage for:

1. Employee only;
2. Employee/spouse;
3. Spouse only;
4. Employee/spouse/children;
5. Employee/children only;
6. Spouse/children;
7. Children only;

(g) For each dependent:

1. Name (last, first, middle);
2. Sex;
3. Social security number;
4. Date of birth; and

5. Relationship:

(h) Employer's name and address:

(i) Employer's group number:

(j) Employers contract/ID/plan number:

(k) Signature of employee/eligible individual:

(l) An identifying form number for the group conversion election and premium notice form.

Specific Authority 624.308(1), 641.36 FS. Law Implemented 624.307(1), 627.6561, 627.6675(17), 641.31071, 641.3922(14) FS. History--New

4-154.518 Notice of Plan's Pre-existing Condition Exclusion Period.

(1) A health insurance issuer offering group health insurance coverage shall not impose a pre-existing condition exclusion period with respect to an employee or dependent of the employee before notifying the employee, in writing, if not contained in the evidence of coverage, of:

(a) The existence and terms of any pre-existing condition exclusion period under the plan; and

(b) The rights of individuals to demonstrate creditable coverage and any applicable waiting periods as required by Section 627.6561(2)(c), Florida Statutes.

(2) The description of the rights of individuals to demonstrate creditable coverage includes:

(a) A description of the right of the individual to request a certificate from a prior plan or issuer, if necessary; and

(b) A statement that the current plan or issuer will assist in obtaining a certificate from any prior plan or issuer, if necessary.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History--New

4-154.5181 Pre-Existing Condition.

(1) When an employee has been employed for less than 12 months and acquires a medical condition during that period and the employer changes carriers, the condition will not be considered to be a pre-existing condition for the new carrier.

(2) When a one person group becomes a two person group the pre-existing waiting period changes from 24 months to 12 months.

Specific Authority 624.308(1), 627.6561(8)(a),(9)(b), 641.31071(8)(e),(10)(b), 641.36 FS. Law Implemented 624.307(1), 627.6561, 641.31071 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Don Dillard, Bureau of Life and Health Forms and Rates,  
Division of Insurer Services, Department of Insurance  
NAME OF PERSON OR SUPERVISOR WHO APPROVED  
THE PROPOSED RULE: Richard Robleto, Bureau Chief,  
Bureau of Life and Health Forms and Rates, Division of  
Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: August 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: October 9, 1998

**DEPARTMENT OF INSURANCE**

**Division of Workers' Compensation**

RULE TITLE: Scope of Exemption

RULE NO.: 4L-6.021

PURPOSE, EFFECT AND SUMMARY: The purpose of the rule is to clarify the applicability of the exemption established in Section 440.05, F.S. for work performed at a commercial building project valued at \$250,000 or greater by interpreting Section 440.02(14)(b)2., (c)2., and (d)1., F.S. The rule does this by identifying specific employment classification codes to which the exemption is applicable.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 440.591 FS.

LAW IMPLEMENTED: 440.02(14)(b)2., 440.02(14)(c)2., 440.02(14)(d)1. 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: 1:30 p.m., September 10, 2002

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

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 the person listed above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Philip Wilcox, Investigations Manager, Bureau of Compliance, 200 East Gaines Street, Tallahassee, FL 32399-4228, (850)488-2333, Ext. 173

THE FULL TEXT OF THE PROPOSED RULE IS:

4L-6.021 Scope of Exemption.

(1) For work performed at a commercial building project estimated to be valued at \$250,000 or greater, the Division shall utilize the contracting classifications eligible for the Florida Contracting Classification Premium Adjustment Program (FCCPAP) included in the Florida exception pages of the National Council on Compensation Insurance, Inc.'s Basic

Manual effective January 1, 2002, to determine whether a workers' compensation exemption issued pursuant to Section 440.05, Florida Statutes is applicable.

(a) For any person whose activities are included under a contracting classification identified in this rule, the exemption is not applicable for work performed at a commercial building project estimated to be valued at \$250,000 or greater.

(b) For any person whose activities are not included under a contracting classification identified in this rule, the exemption is applicable, including for work performed at a commercial building project estimated to be valued at \$250,000 or greater.

(c) The contracting classifications identified in this rule are as follows:

1. 0042 Landscape Gardening and Drivers
2. 0050 Farm Machinery Operation – By Contractor and Drivers
3. 1322 Oil or Gas Well: Cleaning or Swabbing of Old Wells Having Previously Produced Gas or Oil – By Contractor – No Drilling – and Drivers
4. 3365 Welding or Cutting NOC and Drivers
5. 3719 Oil Still Erection or Repair
6. 3724 Machinery or Equipment Erection or Repair NOC and Drivers
7. 3726 Boiler Installation or Repair – Steam
8. 5020 Ceiling Installation – Suspended Acoustical Grid Type
9. 5022 Masonry NOC
10. 5037 Painting: Metal Structures – Over Two Stories in Height – and Drivers
11. 5040 Iron or Steel: Erection – Frame Structures
12. 5057 Iron or Steel: Erection NOC
13. 5059 Iron or Steel: Erection – Frame Structures Not Over Two Stories in Height
14. 5069 Iron or Steel: Erection – Construction of Dwellings Not Over Two Stories in Height
15. 5102 Door, Door Frame or Sash Erection – Metal or Metal Covered
16. 5146 Furniture or Fixtures Installation – Portable – NOC
17. 5160 Elevator Erection or Repair
18. 5183 Plumbing NOC and Drivers
19. 5188 Automatic Sprinkler Installation and Drivers
20. 5190 Electrical Wiring – Within Buildings and Drivers
21. 5213 Concrete Construction NOC
22. 5215 Concrete Work – Incidental to the Construction of Private Residence
23. 5221 Concrete or Cement Work – Floors, Driveways, Yards, and Sidewalks – and Drivers.
24. 5222 Concrete Construction in Connection with Bridges or Culverts
25. 5223 Swimming Pool Construction – Not Iron or Steel – and Drivers
26. 5348 Stone, Mosaic or Terrazzo or Ceramic Tile Work – Inside
27. 5402 Hothouse Erection – All Operations
28. 5403 Carpentry NOC
29. 5437 Carpentry – Installation of Cabinet Work or Interior Trim
30. 5443 Lathing and Drivers
31. 5445 Wallboard Installation Within Buildings and Drivers
32. 5462 Glazier – Away From Shop and Drivers
33. 5472 Asbestos Contractor – Pipe and Boiler Work Exclusively and Drivers
34. 5473 Asbestos Contractor – NOC and Drivers
35. 5474 Painting or Paperhanging NOC and Shop Operations, Drivers
36. 5478 Carpet, Linoleum, Vinyl, Asphalt, or Rubber Floor Title Installation
37. 5479 Insulation Work NOC and Drivers
38. 5480 Plastering NOC and Drivers
39. 5491 Paperhanging and Drivers
40. 5506 Street or Road Construction: Paving or Repaving and Drivers
41. 5507 Street or Road Construction: Subsurface work and Drivers
42. 5508 Street or Road Construction: Rock Excavation and Drivers
43. 5509 Street or Road Maintenance, County or State Department – and Drivers
44. 5536 Heating and Air Conditioning Duct Work – Shop and Outside – and Drivers
45. 5538 Sheet Metal Work – Shop and Outside – NOC and Drivers
46. 5551 Roofing – All kinds and Yard Employees, Drivers
47. 5606 Contractor – Executive Supervisor or Construction Superintendent
48. 5610 Cleaner – Debris Removal
49. 5613 Cleaner – Debris Removal – Temporary Labor Service
50. 5645 Carpentry – Detached One or Two Family Dwellings
51. 5651 Carpentry – Dwellings – Three Stories or Less
52. 5703 Building Raising or Moving and Drivers
53. 5705 Salvage Operation – No Wrecking or Any Structural Operations
54. 6003 Pile Driving
55. 6005 Jetty or Breakwater Construction – All Operations to Completion and Drivers
56. 6017 Dam or Lock Construction: Concrete Work – All Operations
57. 6018 Dam or Lock Construction: Earth Moving or Placing – All Operations

- 58. 6045 Levee Construction – All Operations to Completion and Drivers
- 59. 6204 Drilling NOC and Drivers
- 60. 6206 Oil or Gas Well: Cementing and Drivers
- 61. 6213 Oil or Gas Well: Specialty Tool Operation NOC – By Contractor – All Employees and Drivers
- 62. 6214 Oil or Gas Well: Perforating of Casing – All Employees and Drivers
- 63. 6216 Oil or Gas Lease Work NOC – By Contractor and Drivers
- 64. 6217 Excavation and Drivers
- 65. 6229 Irrigation or Draining System Construction and Drivers
- 66. 6233 Oil or Gas Pipeline Construction and Drivers
- 67. 6235 Oil or Gas Well: Drilling or Redrilling and Drivers
- 68. 6236 Oil or Gas Well: Installation or Recovery of Casing and Drivers
- 69. 6237 Oil or Gas Well: Instrument Logging or Survey Work and Drivers
- 70. 6251 Tunneling – Not Pneumatic – All Operations
- 71. 6252 Shaft Sinking – All Operations
- 72. 6260 Tunneling – Pneumatic – All Operations
- 73. 6306 Sewer Construction – All Operations and Drivers
- 74. 6319 Gas Main or Connection Construction and Drivers
- 75. 6325 Conduit Construction – For Cable or Wires – and Drivers
- 76. 6400 Fence Erection – Metal
- 77. 7538 Electric Light or Power Line Construction and Drivers
- 78. 7601 Telephone, Telegraph or Fire Alarm Construction and Drivers
- 79. 7605 Burglar Alarm Installation or Repair and Drivers
- 80. 7611 Telephone or Cable TV Line Installation – Contractors, Underground and Drivers
- 81. 7612 Telephone or Cable TV Line Installation – Contractors, Overhead, and Drivers
- 82. 7613 Telephone or Cable TV Line Installation – Contractors, Service Lines and Connections and Drivers
- 83. 7855 Railroad Construction: Laying or Relaying of Tracks or Maintenance of Way By Contractor – No Work On Elevated Railroads – and Drivers
- 84. 8227 Construction or Erection – Permanent Yard
- 85. 9534 Mobile Crane and Hoisting Service Contractors – NOC – All Operations – Including Yard Employees and Drivers.
- 86. 9554 Sign Installation, Maintenance, Repair, Removal, or Replacement NOC & Drivers

Specific Authority 440.591 FS. Law Implemented 440.02(14)(b)2., 440.02(14)(c)2., 440.02(14)(d)1., 440.05 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip Wilcox, Investigations Manager, Bureau of Compliance, 200 East Gaines Street, Tallahassee, FL 32399-4228, (850)488-2333, Ext. 173

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tanner Holloman, Director, Division on Workers’ Compensation, Department of Insurance  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Pursuant to §120.54(2)(c), F.S., the Department explains that a workshop is unnecessary because of the urgent need for the clarity that the rule provides, and the fact that the public hearing will provide ample opportunity for public comment on the proposed rule

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Animal Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Cervidae Movement	5C-26
RULE TITLES:	RULE NOS.:
Definitions	5C-26.001
Adoption by Reference Code of Federal Regulations, Title 9, Part 54.7 (2002)	5C-26.002
General Requirements for Importation	5C-26.003
General Requirements for Intrastate Movement	5C-26.004
Testing Requirements and Exceptions	5C-26.005
Cervidae Herd Health Plan	5C-26.006
Quarantine and Disposition of Chronic Wasting Disease (CWD) Positive, Exposed, or Suspect Herds	5C-26.007
Exceptions	5C-26.008
Dangerous Transmissible Disease	5C-26.009

PURPOSE AND EFFECT: The purpose and effect of this rule is to establish procedures for the movement of Cervidae, a Cervidae Herd Health Plan, and Quarantine and Disposition of Chronic Wasting Disease Positive, Exposed or Suspect Herds. These procedures establish requirements for the importation of cervidae into the state of Florida and establish requirements for the intrastate movement of cervidae.

SUMMARY: The proposed new rule establishes requirements regarding the movement of cervidae into and within the state of Florida, Cervidae Herd Health Plans and the Quarantine and Disposition of Chronic Wasting Disease Positive, Exposed, or Suspect Cervidae Herds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

(2) The Florida exception pages of the National Council on Compensation Insurance, Inc.’s Basic Manual are herein incorporated by reference.

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

SPECIFIC AUTHORITY: 585.002, 585.004, 585.08, 585.145 FS.

LAW IMPLEMENTED: 585.004, 585.08, 585.145 FS.

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

TIME AND DATE: 10:00 a.m., September 10, 2002

PLACE: Florida Farm Bureau Federation Building, 5700 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. Ashby Green, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida 32399-0800, (850)410-0940 or Fax (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

5C-26.001 Definitions.

For the purpose of this chapter, the following words shall have the meaning indicated:

(1) Authorized Representative. A veterinarian, licensed and accredited by the authorities of the state of origin, or a regulatory veterinarian employed by the United States Department of Agriculture (USDA) or by the state of origin.

(2) Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. The disease is characterized by abortion and impaired fertility in its principal animal hosts.

(3) Cervid(ae). Any member of the cervidae family which includes deer, elk, moose, or their hybrids or related species. Cervidae mentioned in this rule are privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined space.

(4) Cervidae Herd Health Plan. The Cervidae Herd Health Plan is a written herd management agreement between the Florida Department of Agriculture and Consumer Services (FDACS) and the herd owner.

(5) Cervidae Herd CWD Management Plan. The Cervidae Herd CWD Management Plan is a written herd management agreement between FDACS and the herd owner used when positive, exposed or suspected animals have been found or traced into a Cervidae herd. This will supersede all relevant parts of the Cervidae Herd Health Plan until the herd is found negative or certified free of CWD.

(6) Chronic Wasting Disease (CWD). CWD is a progressive neurological, debilitating disease affecting cervidae. CWD belongs to a family of diseases known as Transmissible Spongiform Encephalopathies (TSEs) or prion diseases.

(7) FDACS. Florida Department of Agriculture and Consumer Services.

(8) FWC. Florida Fish and Wildlife Conservation Commission.

(9) Import, Imported, Importation. The movement of animals into the State of Florida, from another state, United States territories or possessions or a foreign country.

(10) Intrastate Movements. Cervidae movement within the State of Florida from one county to another or within the same county.

(11) Movement Risk Assessment. Cervids are classified for movement as follows: High Risk cervids are from herds where CWD has been diagnosed or from herds that have been exposed to CWD. Medium Risk cervids are from herds without known exposure in states where CWD has been diagnosed in captive or free-ranging cervids but do not originate in a prescribed physical proximity where CWD has been diagnosed. Low risk cervids are from CWD monitored herds in states or prescribed physical areas where CWD has not been diagnosed but which have a surveillance/prevention program(s).

(12) Official Certificate of Veterinary Inspection (OCVI). A legible certificate made on an official form from the state of origin or from the United States Department of Agriculture (USDA), issued by an authorized representative, and approved by the chief animal health official of the state of origin.

(13) Trace-forward herd. A herd that has received an animal from a CWD positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd.

(14) Trace-back herd. A herd in which a CWD positive animal resided in any of the sixty (60) months prior to diagnosis of CWD in the positive herd.

(15) Tuberculosis. The contagious, infectious and communicable disease caused by the bacteria *Mycobacterium bovis*. (Also referred to as bovine tuberculosis).

(16) USDA. United States Department of Agriculture.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.08, 585.145 FS. History—New

5C-26.002 Adoption by Reference Code of Federal Regulations, Title 9, Part 54.7 (2002).

By reference, Code of Federal Regulations, (CFR), 9 CFR 54.7 (2002) is adopted. The family of diseases known as Transmissible Spongiform Encephalopathies (TSEs) includes CWD as well as Scrapie. The management of positive or exposed animals is the same for each disease.

Specific Authority 585.002, 585.004, 585.08, 585.11, 585.145 FS. Law Implemented 585.004, 585.11, 585.145 FS. History—New



5C-26.003 General Requirements for Importation.

(1) All cervidae for importation shall originate from a herd which has a CWD surveillance/prevention program approved by FDACS and currently holds a (CWD) free status. The originating herd status shall be CWD free for sixty (60) months prior to importation of any animals into Florida.

(2) OCVI Required. All cervidae imported into the state, except cervidae consigned directly to a recognized slaughtering establishment, shall be accompanied by an OCVI. The OCVI shall be attached to the waybill or be in the possession of the driver of the vehicle or person otherwise in charge of the animals. The OCVI shall accompany the animals to their final destinations in Florida. Animals entering the state without an OCVI or otherwise entering the state in violation of the provisions of this chapter shall be stopped by an agent, servant, or employee of the FDACS or by any law enforcement officer of the state of Florida or any subdivision of the state. Any person, firm, or association having charge, custody, or control of animals imported in violation shall remove the animals from the state as directed by the FDACS.

(a) All information required on the OCVI shall be fully completed by the issuing veterinarian and shall include the following:

1. The name, physical address and phone number of the consignor;
2. The name, physical address and phone number of the consignee;
3. The point of origin;
4. The point of destination;
5. The date of examination;
6. The number of animals examined;
7. The individual permanent identification number(s) or other identification approved by the FDACS, for each animal;
8. The sex, age, and breed of each identified animal;
9. Test results and herd or state status on CWD, brucellosis and tuberculosis as specified in Rule 5C-26.005;
10. A statement by the issuing veterinarian that the animals identified on the OCVI are free of signs of infectious, communicable or neurologic disease, and;
11. The phone number of the issuing veterinarian.

(b) A copy of the OCVI, approved by the chief animal health official of the state of origin, shall be forwarded immediately to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, Tallahassee, Florida.

(c) The OCVI shall be void thirty (30) days after issuance.

(3) All cervidae shall have prior permission from the State Veterinarian or FDACS representative prior to importation. This permission will be recorded by a number or certificate which shall accompany the OCVI during any animal movement.

(4) Consignee shall possess, and provide for inspection, a valid FWC license or permit to possess wildlife, as required by rule or law.

(5) Consignee's herd shall be registered and comply with the requirements of the FDACS Cervidae Herd Health Plan.

Specific Authority 585.002, 585.004, 585.08, 585.17, 585.145 FS. Law Implemented 585.004, 585.17, 585.145 FS. History—New

5C-26.004 General Requirements for Intrastate Movement.

(1) Animals being transported totally within the state shall be accompanied by evidence of ownership or authority for possession of the animals or a notarized affidavit of authority to transport. These documents shall disclose:

- (a) The name, physical address and phone number of the consignor;
- (b) The name, physical address and phone number of the consignee;
- (c) The point of origin;
- (d) The point of destination, and;
- (e) The individual permanent identification number(s) or other identification approved by the FDACS for each animal and;

(2) All cervidae shall have prior permission from the State Veterinarian or FDACS representative prior to movement. This permission will be recorded by a number or certificate which shall accompany the animals during movement.

(3) Consignee and consignor shall possess, and provide for inspection, a valid FWC license or permit to possess wildlife, as required by rule or law.

(4) Consignee's and consignor's herds shall be registered and comply with the requirements of the FDACS Cervidae Herd Health Plan.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.17, 585.145 FS. History—New

5C-26.005 Testing Requirements and Exceptions.

(1) Chronic Wasting Disease Test. No test is presently required for importation. To date there is no approved live animal test to detect CWD in cervidae. A positive diagnosis is based on postmortem brain testing at a laboratory certified by USDA for CWD testing. When an approved live animal test is available, a negative test will be required for importation.

(2) Tuberculosis Test.

(a) Cervidae from an Accredited Tuberculosis-Free Herd. No test is required for cervidae which originate from an Accredited Tuberculosis-Free Herd program that is accepted by FDACS. The statement of herd status shall be recorded on the OCVI accompanying the cervidae.

(b) Cervidae not known to be affected with or exposed to tuberculosis may be imported if they:

1. Are under one (1) month of age, or

2. Originate from a herd which has been classified negative to an official tuberculosis test of all eligible animals conducted within the past twelve (12) months, and the animals to be imported have been classified negative to an official tuberculosis test, conducted within ninety (90) days prior to importation, or

3. Have been classified negative to two (2) official tuberculosis tests conducted not less than ninety (90) days apart; the second test was conducted within ninety (90) days prior to importation; and the animals were isolated from all other members of the herd during the testing period.

(c) The tuberculosis test results must be recorded on the OCVI accompanying the cervidae.

(3) Brucellosis Test.

(a) Cervidae from an Accredited Brucellosis-Free Herd. No test is required for cervidae which originate from an Accredited Brucellosis-Free Herd program that is accepted by FDACS. The statement of herd status shall be recorded on the OCVI accompanying the cervidae.

(b) Cervidae not known to be affected with or exposed to brucellosis may be imported if they:

1. Are less than one (1) month of age, or

2. Have a negative official brucellosis test conducted within ninety (90) days prior to importation.

(c) The brucellosis test results shall be recorded on the OCVI accompanying the cervidae.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.16, 585.145 FS. History—New

#### 5C-26.006 Cervidae Herd Health Plan.

It is required that all Cervidae in Florida as defined in subsection 5C-26.001(3), F.A.C., have a Cervidae Herd Health Plan. The Cervidae Herd Health Plan is a written herd management agreement between FDACS and the herd owner. This plan is based upon a thorough epidemiological investigation and risk assessment of the herd and their facility. This plan analyzes the risk of continued disease transmission by clinical and subclinical animals and/or environmental contamination. This plan sets out specific actions to be followed to monitor or survey the herd for specific disease(s) or eradicate specific disease(s) from the herd.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.16, 585.145 FS. History—New

5C-26.007 Quarantine and Disposition of Chronic Wasting Disease (CWD) Positive, Exposed, or Suspect Herds. Immediate quarantine shall be imposed on all herds diagnosed positive, exposed or suspect for CWD. A Cervidae Herd CWD Management Plan is required for any herds found to have a positive, exposed or suspect animal. Herd plans will be developed for any CWD positive, exposed, or suspect herds by the State and Federal officials in conjunction with the owner and will be subject to approval by the State Veterinarian. Such

plans contain the following options for positive or trace-forward or trace-back herds and shall be adopted within sixty (60) days of a diagnosis of CWD.

(1) For CWD positive herds where whole herd depopulation with/without repopulation occurs, the following shall apply:

(a) Depopulation of the whole herd is the preferred option for this program.

(b) CWD positive animals that are depopulated shall be disposed of according to 9 CFR 54.7 (2002).

(c) The Cervidae Herd CWD Management Plan for a CWD positive herd shall include a premise plan because of possible environmental contamination. Premise plans will include: cleaning and disinfecting actions, future land use in terms of repopulation, maintenance of fencing to limit free-ranging cervid access to the land, and the time period for surveillance before interstate animal movement is allowed if repopulation occurs.

(2) For CWD positive herds where quarantine with/without selective culling of animals occurs, the following shall apply:

(a) Euthanasia, testing and disposal of selected animals; CWD positive animals that are culled shall be disposed of according to 9 CFR 54.7 (2002).

(b) Monthly herd inspection by State or Federal personnel with removal and CWD testing of any suspect animals.

(c) Herd inventory with individual animal identification(s) and annual verification of inventory by State or Federal veterinarians.

(d) Perimeter fencing adequate to prevent fence line contact with captive and free-ranging cervids.

(e) Quarantine of herd for sixty (60) months from the last case.

(f) Herd surveillance (mandatory death reporting and CWD testing of all age animals which die) shall be conducted during the quarantine and shall continue for sixty (60) months from the last case.

(3) For CWD exposed trace-forward herds the following shall apply:

(a) Removal and testing of the exposed animal traced to the herd.

1. If the animal is CWD positive, the herd is considered to be positive and an appropriate Cervidae Herd CWD Management Plan shall be developed as listed above for CWD positive herds.

2. If the animal is negative the Cervidae Herd CWD Management Plan shall contain:

a. Herd inspection by State or Federal personnel with removal and CWD testing of any suspect animals; disposal of CWD positive animals shall be according to 9 CFR 54.7 (2002).

b. Herd inventory with individual animal identification(s) and annual verification(s) by accredited State or Federal veterinarian(s).

c. Herd surveillance (mandatory death reporting and CWD testing of all age animals which die for sixty (60) months from date of removal of the trace animal from the herd.

(b) If the exposed animal traced to the herd is not removed the herd shall become a positive quarantined herd and the following shall apply:

1. Herd surveillance (mandatory death reporting and CWD testing of all age animals which die) shall be conducted during the quarantine and shall continue for sixty (60) months from the last case.

2. Quarantine of herd for sixty (60) months from date of arrival of the exposed animal traced to the herd. However, if the herd has been participating in surveillance as part of a herd certification program, surveillance done after the arrival of the exposed animal may count as time in quarantine at the discretion of the State Veterinarian.

(4) For CWD exposed trace-back herds the following shall apply:

(a) Monthly herd inspection by State or Federal personnel with removal and CWD testing of any suspect animals; disposal of these animals shall follow 9 CFR 54.7(2002).

(b) Herd inventory with individual animal identification(s) and annual verification(s) by accredited State or Federal veterinarian(s).

(c) Quarantine of herd for sixty (60) months from the last case traced back to the herd. Length of quarantine may be altered by the State Veterinarian if epidemiology suggests the herd is not the herd of origin of disease for the positive animal traced-back to the herd. Also, if the herd has been participating in surveillance as part of the herd certification program, surveillance done after arrival of the exposed animal may count as time in quarantine at the discretion of the State Veterinarian.

(d) Herd surveillance (mandatory death reporting and CWD testing of all age animals shall be conducted during the quarantine and shall continue for sixty (60) months from date the CWD positive animal left the herd.

(5) A suspect herd is a herd with any cervid exhibiting neurologic or other symptoms consistent with CWD.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.17, 585.145, 585.23 FS. History—New \_\_\_\_\_.

5C-26.008 Exceptions.

Exceptions to the movement requirements in this rule shall be determined by the State Veterinarian or FDACS representative. Cervids that are classified by the Movement Risk Assessment as Low Risk for CWD may be considered for waiver of this rule based upon sound scientific information then available. Cervids that are classified as High Risk for CWD or Medium Risk for CWD shall not be subject to a waiver.

Specific Authority 585.002, 585.004, 585.08, 585.145 FS. Law Implemented 585.004, 585.17, 585.145 FS. History—New \_\_\_\_\_.

5C-26.009 Dangerous Transmissible Disease.

Chronic Wasting Disease, or signs of any neurological disease in Cervidae, is declared to be a dangerous, transmissible disease of animals and constitutes a public nuisance. Any person who has knowledge of the existence of this disease, or signs of any neurological disease in Cervidae in the state, shall immediately report same to the State Veterinarian.

Specific Authority 585.002, 585.004, 585.08, 585.145, 585.15, 585.18 FS. Law Implemented 585.004, 585.145, 585.15, 585.18 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dr. Ashby Green, Chief, Bureau of Animal Disease Control, Division of Animal Industry

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Dr. Lee Coffman, Director, Division of Animal Industry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 10, 2002

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: News Media Visitors  
RULE NO.: 33-104.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definition of news media and the process for arranging news media visits.

SUMMARY: The proposed rule is to clarify the definition of news media and the process for arranging news media visits.

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: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.23 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:

33-104.101 News Media Visitors.

(1) Permission for visits by bona fide news media representatives shall not be unreasonably withheld. This shall apply for visits to inmates other than those confined under

sentence of death. Section 33-104.201-204, Florida Administrative Code, shall govern procedures for media interviews with inmates under sentence of death. It shall be the responsibility of the news media representatives requesting the visitation to present to the public affairs office warden, or his designee, evidence sufficient to establish that such person is a bona fide news media representative, and to provide the information sufficiently in advance that it may be verified.

(a) News media representatives consist of persons whose principal employment is gathering and reporting news for a:

1. Radio or television program whose primary purpose is news reporting for a licensee of the Federal Communications Commission;

2. Newspaper reporting general interest information news and circulated to the public in the community where it is published;

3. News magazine that has a national circulation, is sold by mail subscriptions, or on newsstands to the general public; and

4. National or international news service.

(b) News media visits to correctional facilities shall be pre-arranged with the public affairs office. News media representatives shall request access to the facility in writing and shall provide the following information:

1. Full name, date of birth, race and gender for all persons entering the facility;

2. Purpose of visit;

3. Identity of staff or offender to be seen, if applicable; and

4. Proposed use of camera or other recording devices. The warden must approve possession of news media cameras and recording devices before they are allowed into the facility.

(c) News media representatives must provide positive identification. Foreign media must have an "I" Visa on their passports.

(d) Representatives of news media visiting a facility are subject to search per Rule 33-601.726, F.A.C.

(e) News media representatives must be escorted by staff. Random access not specific to the purpose of the visit is prohibited.

(f) During an emergency, news media representatives will be restricted to a designated media center.

(g) Interviews and photographs of on-duty staff shall be permitted only with prior authorization of the public affairs office and the staff member.

1. Department employees are not permitted to accept compensation for on-duty news media interviews.

2. Photographing on-duty staff without their permission is prohibited.

(2) No change.

(3) A request from a news media representative for an interview with a specific inmate shall include the name of the inmate and such other identification as the media

representative might possess. The request for an interview shall be made to the Department of Corrections Public Affairs Information Services Office in Tallahassee. Interviews may be granted, subject to prior approval of such interview by the inmate. The time and duration of the interview shall be determined by the public affairs office. Such interviews may be refused if:

(a) through (e) No change.

(4) News media representatives desiring to visit must be fully clothed, which includes shoes. Visitors shall not be admitted to the visiting area if they are not appropriately clothed or are dressed in revealing attire. Examples of inappropriate attire are: miniskirts, see-through blouses, bra-less attire, tank tops, swimsuits, shorts, undershirts, and other like attire.

Specific Authority 20.315, 944.09 945.21 FS. Law Implemented 944.09, 944.23, 945.24 FS. History--New 10-6-83, Formerly 33-5.14, Amended 6-20-85, Formerly 33-5.014, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sterling Ivey

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 5, 2002

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE CHAPTER TITLE: Ron Silver Senior Drug Program

RULE CHAPTER NO.: 59G-12

RULE TITLES:	RULE NOS.:
Purpose	59G-12.001
Definitions	59G-12.002
Eligibility/Enrollment	59G-12.003
Program Administration	59G-12.004
Program Forms	59G-12.005

PURPOSE AND EFFECT: The purpose of this rule is to provide a framework by which the Agency for Health Care Administration will administer subsections (1) and (2) of Section 409.9065, Florida Statutes, the Ron Silver Senior Drug Program.

SUMMARY: The purpose of these rules is to enable the Agency to implement the Ron Silver Senior Drug Program, to replace the Emergency rules, in order to provide a pharmacy benefit to low-income elderly residents of Florida and help address the need for prescription drug coverage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been 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: 409.965(4)(b) FS.

LAW IMPLEMENTED: 409.965(4)(b) 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 9, 2002

PLACE: Conf Room C, Bldg 3, 2727 Mahan Drive, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Matthew Dull, Medicaid Pharmacy Services, 2727 Mahan Drive, MS 38, Tallahassee, Florida 32317-2600, (850)487-4441

THE FULL TEXT OF THE PROPOSED RULES IS:

CHAPTER 59G-12 – RON SILVER SENIOR DRUG PROGRAM

59G-12.001 Purpose.

The purpose of these rules is to implement the Ron Silver Senior Drug Program (program) to be administered by the Agency for Health Care Administration as directed in subsections (1) and (2) of Section 409.9065, Florida Statutes. The program will provide a pharmacy benefit to low-income elderly residents of Florida to help address the need for prescription drug coverage.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) FS. History–New \_\_\_\_\_.

59G-12.002 Definitions.

(1) The Agency for Health Care Administration (agency) is the single state Medicaid agency and the state agency designated to administer the Ron Silver Senior Drug Program, which will be known as the ‘Silver Saver’ program.

(2) The Department of Children and Families, in accordance with section 409.902, Florida Statutes, will determine the eligibility of individuals applying for enrollment in the Ron Silver Senior Drug Program.

(3) The Department of Elder Affairs will assist the Agency for Health Care Administration in designing and implementing outreach and education for the program through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other outreach and educational initiatives.

(4) The Ron Silver Senior Drug Program is a Medicaid program providing prescribed drug benefits to individuals aged 65 and older meeting certain other eligibility criteria and who do not otherwise receive a pharmacy benefit from Medicaid.

The program is being implemented under an approved Federal, Section 1115 waiver. The program shall be known as the ‘Silver Saver’ program.

(5) Under the Silver Saver Program eligible and enrolled individuals may receive a pharmacy benefit of up to \$160 per month.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) FS. History–New \_\_\_\_\_.

59G-12.003 Eligibility/Enrollment.

For state fiscal year 2002-03, enrollment in the Silver Saver Program will be limited to a monthly enrollment ceiling of 58,472. An individual may be determined eligible for the program but not enrolled if there is no available enrollment space. Enrollment will occur each month comparing enrollment against the enrollment ceiling. If additional enrollment spaces are available because of terminations, eligibles will be added to the enrollment roster in the date order of eligibility determinations. An individual will not have access to the pharmacy benefits in this program until determined both eligible and enrolled. Enrollment will begin in the month in which the agency notifies an individual that he is enrolled.

(1) To be eligible for the Silver Saver Program an individual must meet the following criteria:

(a) Be a Florida resident and age 65 or older;

(b) Be eligible for Medicare;

(c) Have an income level between 88 and 120 percent of the federal poverty level;

(d) Not be enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and

(e) Be already enrolled in the Medicaid program under the Qualified Medicare Beneficiaries eligibility category, the Specified Low-Income Medicare Beneficiaries eligibility category, or meet the income and other qualifying criteria for either category but has not been subject to an assets test in determining eligibility. If eligibility was established without an assets test the individual is eligible for a drug only benefit and not the other benefits afforded to Qualified Medicare Beneficiaries or Specified Low-Income Medicare Beneficiaries.

(2) To be enrolled in the Silver Saver Program an individual must be determined eligible for the program, notified by the agency of enrollment in the program and activation of the drug benefit, and provided with a Medicaid identification card if the enrollee does not already have one.

(3) Eligibility for the Silver Saver Program will be determined by the Department of Children and Families.

(4) Individuals who meet the eligibility requirements are not mandated to participate in the program.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) FS. History–New \_\_\_\_\_.

59G-12.004 Program Administration.

(1) The agency shall administer the Silver Saver Program.

(2) The agency will implement the beneficiary cost-sharing requirement as follows:

(a) No premium, enrollment fee or annual deductible will be charged to the beneficiary; and

(b) A mandatory three-tiered co-payment as follows: \$2.00 for generic drugs; \$5.00 for brand name drugs listed on the Medicaid Preferred Drug List (PDL); and \$15.00 for brand name drugs not listed on the Medicaid PDL.

(3) All current Medicaid pharmacy benefit management programs will be used with this population, including, a limit of four brand-name prescriptions per month with prior authorizations required for exceptions to the limit, clinical and PDL prior authorizations, drug utilization review (DUR), intensified benefits management and other cost control measures;

(4) All drugs must be purchased through Medicaid participating pharmacies.

(5) A Medicaid participating pharmacy is not required to dispense a Medicaid reimbursable drug until the beneficiary has met his cost-sharing requirement.

(6) All drugs will qualify for all federal and state supplemental rebate agreements.

(7) Medicaid will be considered the payer of last resort as any other insurance benefits must be used prior to payment by Medicaid.

(8) The agency, through the Medicaid fiscal agent, will maintain a waiting list for individuals determined to be eligible by the Department of Children and Families but who cannot be enrolled due to the enrollment ceiling.

(9) The agency will review the status of eligibles each month and move eligible individuals into enrollment status as openings occur.

(10) The Department of Children and Families, in accordance with section 409.902, Florida Statutes, shall

(a) Determine eligibility;

(b) Develop and distribute applications for the program; and

(c) Receive and process applications to determine eligibility.

(11) The Department of Elder Affairs will assist the agency in coordinating outreach to and education for potential eligibles through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other marketing and educational approaches.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) FS. History--New

59G-12.005 Program Forms.

The following forms shall be used by the Silver Saver program, and are hereby incorporated by reference and available through either the agency or the Department of Children and Families:

(1) Silver Saver Application form, developed by the Department of Children and Families.

(2) Recipient notifications of eligibility and enrollment, developed by the Department of Children and Families and the agency, respectively.

Specific Authority 409.9065(4)(b) FS. Law Implemented 409.9065(4)(b) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sandy Berger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2002

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 02-36R

RULE CHAPTER TITLE: Air Pollution Control – General

RULE CHAPTER NO.:

Provisions 62-204

RULE TITLE: Federal Regulations Adopted by Reference

RULE NO.:

62-204.800

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update through June 30, 2002, the adoptions by reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 50, 55, 59, 60, 61, and 63.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices”.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.:02-28R

RULE CHAPTER TITLE: Stationary Sources – General Requirements

RULE CHAPTER NO.:

62-210

RULE TITLE: Citrus Juice Processing Facilities

RULE NO.:

62-210.340

PURPOSE: The department is providing an opportunity for public participation in the rule adoption process for proposed Rule 62-210.340, FAC., and an opportunity for public comment on its intent to submit to the U.S. Environmental Protection Agency (EPA), as a proposed revision to the State Implementation Plan (SIP) under the Clean Air Act, as a

revision to, and the Department’s approved Title V Permit Program. The new rule language, along with legislation enacted in 2000 and codified at Section 403.08725 of the Florida Statutes, is being proposed as “Part 70 General Permit” under the Title B Permit Program. The statute and rule set emission limits and testing and compliance requirements for the twenty-five existing citrus juice processing facilities in Florida.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 02-29R

RULE CHAPTER TITLE: Stationary Sources – Emissions

Monitoring

62-297

RULE TITLE:

RULE NO.:

Supplementary Test Procedures

62-297.440

PURPOSE AND EFFECT: The Department is updating its adoption by reference of the American Society for Testing and Materials test methodologies.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices”.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLES:

RULE NOS.:

Supervisor

64B3-5.002

Technologist

64B3-5.003

Technician

64B3-5.004

Director; Limitations and Qualifications

64B3-5.007

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board determined that Cytogenetics Technologists may qualify for licensure by passage of the national examination. Additionally, the Board shall require one (1) hour of HIV/AIDS education for all categories of clinical laboratory licensure.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-5.002 Supervisor.

Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a supervisor, an applicant shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and one of the following:

(a) through (i) No change.

(2) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, 9-19-01, 5-23-02, \_\_\_\_\_.

64B3-5.003 Technologist.

(1) Technologist Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or, if foreign education, equated pursuant to subsection 64B3-6.002(6), F.A.C. All associate degrees used to qualify shall include, at a minimum, 60 semester hours of academic credit including a total of 16 semester hours of academic biological and/or chemical science. Applicants for technologist licensure in the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, radioassay, histocompatibility, blood banking and blood gas analysis shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and at a minimum have one of the following:

(a) through (k) No change.

(2) through (3) No change.

(4) Qualifications for Cytogenetics Technologists. In the category of cytogenetics, applicants for technologist licensure shall have a minimum of a baccalaureate degree in clinical laboratory, chemical or biological science, four hours of Board approved HIV/AIDS continuing education and have one of the following:

(a) Successfully completed a technologist level, accredited or Board approved program in cytogenetics.

(b) One year of pertinent clinical laboratory experience in cytogenetics.

(c) Successfully passed the cytogenetics examination given by NCA (National Certification Agency for Medical Laboratory Personnel).

(5) through (6) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 9-10-95, 12-4-95, Formerly 590-5.003, Amended 5-26-98, 1-11-99, 7-5-01, 3-24-02, \_\_\_\_\_.

64B3-5.004 Technician.

(1) No change.

(2) Qualifications for General Laboratory Technicians. In order to be licensed as a general laboratory technician which includes the categories of microbiology, serology/immunology, chemistry, hematology, and immunohematology, an applicant shall have one hour ~~four (4) hours~~ of Board approved HIV/AIDS continuing education, a minimum of a high school diploma or a high school equivalency diploma and one of the following:

(a) through (e) No change.

(3) through (6) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.004, Amended 5-26-98, 9-20-98, 1-11-99, 8-31-99, 9-27-00, 12-26-00, 4-29-02, \_\_\_\_\_.

64B3-5.007 Director; Limitations and Qualifications.

(1) through (3) No change.

(4) Qualifications – Non-Physician Directors. Degrees or semester hours of academic credit required in this section shall be obtained at an accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. Currently licensed directors who no longer meet the provisions of Rule 64B3-5.007, F.A.C., can retain and renew their director’s license. In order to be licensed as a director, an applicant shall have one hour ~~four hours~~ of Board approved HIV/AIDS continuing education and shall meet the following requirements: holds an earned doctoral degree with a chemical, biological or clinical laboratory science as a major and is certified in one of the laboratory specialties by an agency recognized by the U.S. Department of Education or the U.S. Department of Health and Human Services which includes the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Medical Genetics, the American Board of Bioanalysis, the American Board of Medical Laboratory Immunology, and the American Board of Histocompatibility and Immunogenetics.

Specific Authority 483.051, 483.805(4) FS. Law Implemented 483.041(5), 483.051(1), 483.811(2), 483.823(1), 483.824 FS. History—New 6-6-85, Formerly 10D-41.67, Amended 3-11-90, Formerly 10D-41.067, Amended 7-1-97, Formerly 590-5.007, Amended 5-26-98, 3-2-99, 3-24-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

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

RULE TITLE: Examination for Licensure  
RULE NO.: 64B4-3.003

PURPOSE AND EFFECT: The Board proposes to amend the rule to eliminate unnecessary language.

SUMMARY: Rule 64B4-3.003, F.A.C., eliminates the objective multiple choice examination for licensure for Mental Health counselors.

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, 491.004(5) FS.

LAW IMPLEMENTED: 456.017, 491.005 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-3.003 Examination for Licensure.

(1) through (3)(a)1. No change.

2. An applicant for licensure as a clinical social worker is not required to take the theory and practice Part II of subparagraph 64B4-3.003(5)(a)1., F.A.C., of the licensure examination if the following conditions are met:

a. The applicant has taken the Clinical Level objective multiple choice ~~AASWB~~ ASWB examination within the last five years; and

b. The applicant earned the national passing score on the Clinical Level objective multiple choice ~~AASWB~~ ASWB examination.



~~(b) MENTAL HEALTH COUNSELORS~~

~~1. The national counselor examination shall be an objective multiple choice examination developed by the National Board of Certified Counselors (NBCC). All items shall be weighed equally in scoring the examination. The minimum passing score shall be the recommended cut off score provided by the national vendor and established according to the Angoff procedure. Candidates' raw scores are converted to a scaled score. The passing score is a scaled score of 75.~~

~~2. An applicant for licensure as a mental health counselor is not required to take the theory and practice of paragraph 64B4-3.003(3)(b), F.A.C., of the licensure examination if the following conditions are met:~~

~~a. The applicant has taken the National Counselor Examination within the last five years; and~~

~~b. The applicant earned the national passing score on the National Counselor Examination.~~

~~(b)(c) MENTAL HEALTH COUNSELORS.~~

The National Clinical Mental Health Counseling Examination (NCMHCE) shall be a clinical simulation examination developed by the National Board for Certified Counselors (NBCC). All options are given a weight based upon the level of appropriateness for good client care. The minimum pass level shall be the recommended cut-off score provided by the NBCC and established according to a content-based modified Angoff procedure.

~~(c)(d) MARRIAGE AND FAMILY THERAPISTS.~~

~~1. through 2.b. No change.~~

Specific Authority 456.017, 491.004(5) FS. Law Implemented 456.017, 491.005 FS. History--New 3-21-90, Amended 7-31-91, 3-10-92, 6-1-92, 1-27-93, Formerly 21CC-3.003, Amended 3-14-94, 7-20-94, Formerly 61F4-3.003, Amended 12-22-94, 9-18-95, 11-13-96, 6-1-97, Formerly 59P-3.003, Amended 8-8-99, 1-11-00, 7-2-00, 8-24-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF HEALTH**

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

RULE TITLES:	RULE NOS.:
Application, Examination and Initial Active Status License Fee for Licensure by Examination	64B4-4.002
Registered Intern Registration Fee and Subsequent Examination Fee	64B4-4.015

PURPOSE AND EFFECT: The Board proposes to amend these rules to remove or replace obsolete language, clarify fees for licensure, and establish the guidelines for fee refunds.

SUMMARY: Rule 64B4-4.002, F.A.C., reduces the amount of fees Marriage and Family Therapists and Mental Health Counselors have to pay. The rule also specifies that only applicants that are ruled ineligible for licensure may receive a fee refund. Rule 64B4-4.015, F.A.C., eliminated the subsequent examination fees that registered interns had to pay.

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: 491.004(5), 491.005 FS.

LAW IMPLEMENTED: 491.0045(2)(a), 491.005 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-4.002 Application, Examination and Initial Active Status License Fee for Licensures by Examination.

(1) (a) No change.

(b) Marriage and Family Therapy – \$100 application fee, ~~\$224~~ \$475 national examination fee and \$105 initial licensure fee for a total of ~~\$680~~. The above-stated fees shall also be applicable to dual licensure applicants.

(c) Mental Health Counseling – \$100 application fee, ~~\$120~~ \$300 national examination fee, and \$105 initial licensure fee.

~~(2) The examination fees are refundable only if the applicant is ruled ineligible to take the examination or the applicant notifies the Department of cancellation in writing at least 45 days prior to the examination date for which the applicant was scheduled and submits a written request to the Department for a refund.~~

~~(2)(3) The initial licensure fee is refundable only if the applicant is ruled ineligible for licensure and the applicant submits a written request to the Department for a refund.~~

~~(4) The fees for reexamination which are in addition to the \$100 application are:~~

~~(a) Marriage and Family Therapy – for the national examination only – \$475.~~

~~(b) Mental Health Counseling – for the national examination only – \$150~~

~~(5) The reexamination fees are refundable only if the applicant notifies the Department of a cancellation at least 45 days prior to the examination for which the applicant was scheduled and submits a written request to the Department for a refund.~~

Specific Authority 491.004(5), 491.005 FS. Law Implemented 491.005 FS. History—New 4-3-89, Amended 4-19-92, Formerly 21CC-4.002, 61F4-4.002, Amended 12-22-94, 7-6-95, 1-7-96, 3-5-96, Formerly 59P-4.002, Amended 1-25-98, 10-18-99, 8-9-00, 10-9-00, \_\_\_\_\_.

**64B4-4.015 Registered Intern Registration Fee and Subsequent Examination Fee.**

(1) The nonrefundable application for registered intern registration is \$150.

~~(2) The fees for application and examination for a registered intern who has completed the post graduate clinical experience requirements specified in Section 491.005, F.S., are:~~

~~(a) for clinical social work — \$75 laws and rules examination fee,~~

~~(b) for marriage and family therapy — \$250 for the national examination plus \$75 for the laws and rules examination,~~

~~(3) The examination fees are refundable only if the applicant is ruled ineligible to take the examination or if the applicant notified the Department of a cancellation at least 45 days prior to the examination for which the applicant was scheduled.~~

Specific Authority 491.004(5) FS. Law Implemented 491.0045(2)(a), 491.005 FS. History—New 3-2-98, Amended 10-9-00, \_\_\_\_\_.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF HEALTH**

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

RULE TITLE: Disciplinary Guidelines  
RULE NO.: 64B4-5.001

PURPOSE AND EFFECT: The Board proposes to amend the disciplinary guidelines.

SUMMARY: Rule 64B4-5.001, F.A.C., is being amended to remove or replace obsolete language and to provide more guidance in the area of disciplinary guidelines.

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, 491.004(5) FS.

LAW IMPLEMENTED: 456.079, 491.009 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

**64B4-5.001 Disciplinary Guidelines.**

(1) When the Board finds an applicant, licensee, registered intern, provisional licensee, or certificate holder whom it regulates under Chapter 491, Florida Statutes, has committed any of the acts set forth in Section 456.072(1), Florida Statutes, or Section 491.009(2), Florida Statutes, it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.

(a) Attempting to obtain, obtaining, or renewing a license under Chapter 491, Florida Statutes, by bribery or fraudulent misrepresentation or through an error of the Board or the Department.

(s. 456.072(1)(h)(a) & s. 491.009(1)(a))

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 fine and reprimand	denial or \$1000 fine and revocation
SECOND OFFENSE:	\$1000 fine and probation	permanent denial and \$1000 fine and permanent revocation;

(b) through (p) No change.

(q) Violating provisions of Chapter 491, Florida Statutes, or of Chapter 456 455, Part II, Florida Statutes, or any rule adopted pursuant thereto.

(s. 491.009(1)(w))

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$500 fine and reprimand	\$1000 fine and probation
SECOND OFFENSE	\$1000 fine and probation	\$1000 fine and 1 year suspension followed by probation;
THIRD OFFENSE	\$100 fine and 1 year suspension followed by probation	denial or \$1000 fine and revocation;

(r) through (hh) No change.

~~(ii) Using information about people involved in motor vehicle accidents for the purposes of solicitation. (s. 456.072(1)(x))~~

	MINIMUM	MAXIMUM
FIRST OFFENSE:	reprimand	\$500 fine;
SECOND OFFENSE:	\$500 fine	\$1000 fine;
THIRD OFFENSE:	reprimand and \$1000 fine	probation and \$1000 fine

~~(ii)(jj)~~ Testing positive for any drug on any confirmed preemployment or employer-ordered drug screening. (s. 456.072(1)(a), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	probation and \$500 fine	suspension followed by probation and \$750 fine;
SECOND OFFENSE:	suspension to be followed by probation and \$750 fine	revocation and \$1000 fine;

~~(jj)(kk)~~ Having a license or certificate to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country. (s. 456.072(1)(f))

	MINIMUM	MAXIMUM
FIRST OFFENSE:	\$1000 fine and reprimand	denial or \$1000 fine and revocation;
SECOND OFFENSE:	\$1000 fine and probation	permanent denial or \$1000 fine and revocation;
THIRD OFFENSE:	\$1000 fine, year suspension followed by probation	permanent denial or \$100 fine and revocation;

(2) In instances when a registrant or applicant is found guilty of any of the above offenses involving fraud or making a false or fraudulent representation, the Board shall impose a fine of \$10,000.00 per count or offense.

~~(3)(2)~~ Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

(a) through (l) No change.

~~(4)(3)~~ The provisions of Sections (1) through (2) above shall not be constructed so as to prohibit civil action or criminal prosecution as provided in Section 456.072 or Section 491.012, Florida Statutes, and the provisions of Sections (1) through (2) above shall not be construed so as to limit the ability of the Board to enter into binding stipulations with accused parties as per Section 120.57(4), Florida Statutes.

Specific Authority 456.079, 491.004(5) FS. Law Implemented 456.079, 491.009 FS. History--New 3-5-89, Amended 1-3-91, 6-1-92, Formerly 21CC-5.001, Amended 1-9-94, Formerly 61F4-5.001, Amended 12-22-94, Formerly 59P-5.001, Amended 12-11-97, 10-1-00, 2-5-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF HEALTH**

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

RULE TITLES: Documentation of Continuing Education Credits

RULE NOS.: 64B4-6.003

Approval of Continuing Education Courses on Prevention of Medical Errors

64B4-6.009

PURPOSE AND EFFECT: The Board proposes to amend these rules to provide specific guidance in the area of continuing education credits and courses.

SUMMARY: Rules 64B4-6.003 and 64B46.009, F.A.C., are amended to update the continuing education information for this chapter and to meet the requirements of the statutory mandate of Section 456.013(7), Florida Statutes. Rule 64B4-6.003, F.A.C., provides for precicensure audits of the continuing education requirements. Rule 64B4-6.009, F.A.C., details the new requirement for a course on Prevention of Medical Errors.

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: 456.013(7), 491.004(5), 491.0085 FS.

LAW IMPLEMENTED: 456.013(7), 491.0085 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-6.003 Documentation of Continuing Education Credits.

(1) through (4) No change.

(5) The Board shall also conduct prelicensure renewal audits of randomly selected licenses. Within 21 days of a request from the Board or Department, the licensee must provide evidence of completion of the continuing education courses that have been completed by the licensee to date in the manner outlines in paragraphs (4)(a)-(d).

Specific Authority 491.004(5), 491.0085 FS. Law Implemented 491.0085 FS. History--New 4-4-89, Formerly 21CC-6.003, 61F4-6.003, Amended 1-7-96, Formerly 59P-6.003, Amended

64B4-6.009 Approval of Continuing Education Courses on Prevention of Medical Errors.

(1) All licensees must complete a two hour course on prevention of medical errors, which meets the criteria of s. 456.013(7), F.S., as part of the total hours of continuing education required for initial licensure and biennial renewal.

Specific Authority 456.013(7), 491.004(5), 491.0085 FS. Law Implemented 456.013(7), 491.0085 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF HEALTH**

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

RULE TITLE: Course Content RULE NO.: 64B4-22.110

PURPOSE AND EFFECT: The Board is amending these rules to add language regarding course requirements for substance abuse courses.

SUMMARY: Rule 64B4-22.110, F.A.C., includes an addition of course content on a substance abuse course which the Board has added to rule.

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: 491.004(5) FS.

LAW IMPLEMENTED: 491.005(3) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

64B4-22.110 Course Content.

The course requirements set forth in Section 491.005(3), F.S., shall contain the following content:

(1) through (12) No change.

(13) Substance Abuse. This course includes research and theories of substance use and abuse; principles and practices for the treatment of substance abuse and addiction; and the promotion of responsible behavior.

Specific Authority 491.004(5) FS. Law Implemented 491.005(3) FS. History--New 8-20-92, Amended 1-27-93, Formerly 21CC-22.110, Amended 2-22-94, Formerly 61F4-22.110, 59P-22.110, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE TITLE: Mediation RULE NO.: 64B19-17.007

PURPOSE AND EFFECT: The Board proposes to add text to give the specific instances in which mediation will be allowed.

SUMMARY: The specific instances in which mediation is allowed upon approval of a designee of the board are violations of Section 490.009(1)(t), Section 490.009(1)(n), and Section 490.009(1)(r), Florida Statutes.

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: 490.004(4),(5), 456.078 FS.  
 LAW IMPLEMENTED: 490.009(2)(i),(n),(r),(t), 456.078 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: Kaye Howerton,, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-17.007 Mediation.

The following offenses may be mediated upon approval of a designee of the board:

(1) Violation of Section 490.009(1)(t), F.S. (a licensee’s failure to pay an administrative fine on time, and within 30 days of the due date: payment of fine and cost of mediation) assuming that payment has been made.

(2) Violation of Section 490.009(1)(n), F.S. (failing to make available a report of examination or treatment upon written request from the service user – first offense): cost of mediation.

(3) Violation of Section 490.009(1)(r), F.S. (regarding allegations arising from a court-appointed evaluation).

Specific Authority 490.004(4),(5), 456.078 FS. Law Implemented 490.009(2)(i),(n),(r),(t), 456.078 FS. History–New 3-20-95, Formerly 59AA-18.009, 59AA-17.007, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Board of Psychology  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Psychology  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE TITLE: Qualifications to Practice Juvenile Sexual Offender Therapy  
 RULE NO.: 64B19-18.0025

PURPOSE AND EFFECT: The Board proposes to better define the requirements for certification for the practice of juvenile sex offender therapy.

SUMMARY: This Rule gives specific course work to be completed in order to be certified to practice juvenile sex offender therapy.

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: 490.004(4), 490.012(8), 490.0145 FS.

LAW IMPLEMENTED: 490.012(8), 490.0145 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-18.0025 Qualifications to Practice Juvenile Sexual Offender Therapy.

In order for a psychologist licensed pursuant to Chapter 490, Florida Statutes, to hold herself or himself out as one certified to practice juvenile sex offender therapy, the licensee must: An individual, prior to holding oneself out as a juvenile sexual offender therapist, must be a Florida licensed psychologist, except as otherwise provided within Chapter 98-158, Laws of Florida. The individual shall have education, training, and experience that demonstrates competency and interest in this area of practice. The training of a juvenile sexual offender therapist must include at least nine hours of coursework in child behavior and development, and in child psychopathology, integrated with juvenile assessment, diagnosis, and treatment.

(1) Complete continuing education training, or demonstrate coursework taken as part of the licensee’s doctoral program, in the following subject areas:

- (a) Child behavior and development,
- (b) Child psychopathology,
- (c) Juvenile assessment, diagnosis, and treatment,
- (d) Theories of child and adolescent development and psychopathology,
- (e) Developmental sexuality, including sexual and reproductive anatomy and physiology, gender and sexual identity, and sexual diversity,
- (f) Interaction between sexuality and the dynamics of interpersonal and family relationships,
- (g) Sexual arousal patterns, including both typical and deviant fantasy patterns,
- (h) Sexual dysfunctions, disorders, and deviancy, including sexual abuse patterns and the thinking errors that support the cycle of abuse,
- (i) Victim empathy and victimology,
- (j) Use and misuse of defense mechanisms,
- (k) Dynamics of power and control,

(l) Compulsivity management, arousal control, anger regulation, and relapse prevention.

(m) Social resilience, competence and interpersonal effectiveness of juveniles.

(n) Group therapy and biomedical approaches in treating sexual dysfunctions, disorders and deviancy.

(o) Legal, ethical, and forensic issues in treating juvenile sex offenders.

(2) Complete 20 hours of continuing education credits each license renewal biennium in any of the above subject areas. The 20 hours completed for the purposes of satisfying the requirements of this rule shall be included in the 40 hours of continuing education required of each licensee per biennium.

Specific Authority 490.004(4), 490.012(8), 490.0145 FS. Law Implemented 490.012(8), 490.0145 FS. History–New 2-21-99, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLES:	RULE NOS.:
Definitions	67-44.001
Notice of Funds Availability (“NOFA”)	67-44.002
General Program Restrictions	67-44.003
Application Procedures	67-44.004
Application and Selection Procedures	67-44.005
Administrative Appeal Procedures	67-44.006
Credit Underwriting Procedures and Loan Origination	67-44.007
Construction Disbursements and Loan Servicing	67-44.008
Terms and Conditions of Loans	67-44.009
Compliance and Monitoring Provisions	67-44.010
Fees	67-44.011

PURPOSE, EFFECT AND SUMMARY: This Rule Chapter is being repealed due to the creation of the Homeownership Loan Program, Rule Chapter 67-50, which establishes the procedures for administering the HAP Construction, HAP Permanent, and HOME Homeownership Loan Programs.

SPECIFIC AUTHORITY: 420.507(12),(23),(14) FS.

LAW IMPLEMENTED: 420.5088 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):

DATE AND TIME: 10:00 a.m., September 4, 2002

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

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bridget Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

**67-44.001 Definitions.**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.001, Amended 3-26-98, 7-5-00, Repealed.

**67-44.002 Notice of Funds Availability (“NOFA”).**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.002, Amended 3-26-98, 7-5-00, Repealed.

**67-44.003 General Program Restrictions.**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.003, Amended 3-26-98, 7-5-00, Repealed.

**67-44.004 Application Procedures.**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.004, Amended 3-26-98, 7-5-00, Repealed.

**67-44.005 Application and Selection Procedures.**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History–New 8-7-95, Formerly 9I-44.005, Amended 3-26-98, 7-5-00, Repealed.

**67-44.006 Administrative Appeal Procedures.**

Specific Authority 420.507(12),(23) FS. Law Implemented 120.57, 420.507(23) FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.006, Amended 3-26-98, 7-5-00, Repealed.

**67-44.007 Credit Underwriting Procedures and Loan Origination**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(1) FS. History–New 8-7-95, Formerly 9I-44.007, Amended 3-26-98, 7-5-00, Repealed.

**67-44.008 Construction Disbursements and Loan Servicing.**

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(18), 420.5088 FS. History–New 8-7-95, Amended 11-28-96, Formerly 9I-44.008, Amended 3-26-98, 7-5-00, Repealed.

67-44.009 Terms and Conditions of Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Amended 2-20-96, 11-28-96, Formerly 91-44.009, Amended 3-26-98, 7-5-00, Repealed.

67-44.010 Compliance and Monitoring Provisions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-44.010, Amended 3-26-98, 7-5-00, Repealed.

67-44.011 Fees.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19) FS. History—New 8-7-95, Amended 11-28-96, Formerly 91-44.011, Amended 3-26-98, 7-5-00, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget E. Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, III, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2000, Corporation Board Meeting

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-46.001
Notice of Funding Availability	67-46.002
General Program Restrictions	67-46.003
Application Procedures	67-46.004
Terms and Conditions of Loans	67-46.005
Loan Processing	67-46.006
Fees	67-46.007

PURPOSE, EFFECT AND SUMMARY: This Rule Chapter is being repealed due to the creation of the Homeownership Loan Program, Rule Chapter 67-50, which establishes the procedures for administering the HAP Permanent, HAP Construction, and HOME Homeownership Loan Programs.

SPECIFIC AUTHORITY: 420.507(12),(14),(23) FS.

LAW IMPLEMENTED: 420.5088 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):

DATE AND TIME: 10:00 a.m., September 4, 2002

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

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bridget Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-46.001 Definitions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 91-46.002, Amended 12-26-99, Repealed.

67-46.002 Notice of Funding Availability.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-46.002, Amended 12-26-99, Repealed.

67-46.003 General Program Restrictions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-46.003, Amended 12-26-99, Repealed.

67-46.004 Application Procedures.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History—New 8-7-95, Formerly 91-46.004, Repealed.

67-46.005 Terms and Conditions of Loans.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 91-46.005, Repealed.

67-46.006 Loan Processing.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-46.006, Amended 12-26-99, Repealed.

67-46.007 Fees.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19) FS. History—New 8-7-95, Formerly 91-46.007, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget E. Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, III, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2000, Corporation Board Meeting

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	67-47.010
Notice of Funds Availability (“NOFA”)	67-47.020
Match Contribution Requirement	67-47.030
Reallocation for Disaster Areas	67-47.035
Minimum Set-Aside for Community Housing Development Organizations (CHDO’s)	67-47.040
Income Targeting	67-47.050
Eligible Activities	67-47.060
Eligible Applicant’s Responsibilities	67-47.070
Eligible and Ineligible Development Costs	67-47.080
General Program Restrictions	67-47.090
Application and Selection Procedures	67-47.100
Administrative Appeal Procedures	67-47.110
Sale or Transfer of a HOME Development	67-47.115
Terms and Conditions of Loans Made to Housing Providers	67-47.120
Terms and Conditions of HOME Permanent Loans Made to Eligible Home Buyers or Home Owners	67-47.130
Credit Underwriting Procedures and Loan Origination	67-47.140
Disbursement of Funds	67-47.150
Fees	67-47.160
Compliance Procedures	67-47.170

**PURPOSE, EFFECT AND SUMMARY:** This Rule Chapter is being repealed due to the creation of the Homeownership Loan Program, Rule Chapter 67-50, which establishes the procedures for administering the HOME Homeownership, HAP Permanent, and HAP Construction Loan Programs.

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

**LAW IMPLEMENTED:** 420.5089(2) 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):**  
**DATE AND TIME:** 10:00 a.m., September 4, 2002  
**PLACE:** Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Bridget Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197

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

**67-47.010 Definitions.**

Specific Authority 420.507(12),(14) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.010, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.020 Notice of Funds Availability (“NOFA”).**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.020, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.030 Match Contribution Requirement.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.030, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.035 Reallocation for Disaster Areas.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 11-28-96, Formerly 91-47.035, Repromulgated 10-20-98, Amended 12-26-99, 1-8-01, Repealed.

**67-47.040 Minimum Set-Aside of Funds for Community Housing Development Organizations (CHDO’s).**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 10-20-98, Amended 12-26-99, 1-8-01, Repealed.

**67-47.050 Income Targeting.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 10-20-98, Amended 12-26-99, 1-8-01, Repealed.

**67-47.060 Eligible Activities.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.060, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.070 Eligible Applicant’s Responsibilities.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2), FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.070, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.080 Eligible and Ineligible Development Costs.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.080, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.090 General Program Restrictions.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.090, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.100 Application and Selection Procedures.**

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.100, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

**67-47.110 Administrative Appeal Procedures.**

Specific Authority 420.507(12), FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, 10-5-97, Formerly 91-47.110, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.



67-47.115 Sale or Transfer of a HOME Development.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(7),(8),(9) FS. History—New 1-8-01, Repealed.

67-47.120 Terms and Conditions of Loans Made to Housing Providers.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 10-20-98, Amended 12-26-99, 1-8-01, Repealed.

67-47.130 Terms and Conditions of HOME Permanent Loans Made to Eligible Home Buyers or Home Owners.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, Amended 10-5-97, Formerly 91-47.130, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

67-47.140 Credit Underwriting Procedures and Origination.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History New 8-7-95, Amended 11-28-96, Amended 10-5-97, Formerly 91-47.140, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

67-47.150 Disbursement of Funds.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, Amended 10-5-97, Formerly 91-47.150, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

67-47.160 Fees.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Formerly 91-47.160, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

67-47.170 Compliance Procedures.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 8-7-95, Amended 11-28-96, Formerly 91-47.170, Amended 10-20-98, 12-26-99, 1-8-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget E. Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, III, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2000, Corporation Board Meeting

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Billfish	68B-33
RULE TITLES:	RULE NOS.:
Purpose and Intent	68B-33.001
Definitions	68B-33.002
Swordfish: Federal Permit Required for Sale	68B-33.0035
Size Limits	68B-33.004

PURPOSE AND EFFECT: The sole purpose of this proposed amendment of Rule Chapter 68B-33, F.A.C., is to amend existing billfish regulations to include rules for swordfish that are substantially identical to current federal rules applicable in federal Exclusive Economic Zone (EEZ) waters adjacent to Florida waters. These measures include requiring the federal Limited Access Permit for sale of swordfish in Florida and imposing the federal size limits for those swordfish that might be harvested in state waters and landed in the state. The effect will be to assure that the rules that are fostering the recovery of the swordfish resource will be uniformly applied and will have their full intended benefit.

SUMMARY: Rule 68B-33.001, F.A.C., is amended to include a statement of intent regarding conservation of swordfish and delete obsolete provisions. Rule 68B-33.002, F.A.C., is amended to include new definitions of the terms “swordfish”, “cleithrum to keel length”, and “dressed weight” and to slightly amend the definition of the term “lower jaw fork length”, all to conform the definitions to federal regulations. Proposed new Rule 68B-33.0035 requires the federal Limited Access Permit for persons selling swordfish in the state. Rule 68B-33.004, F.A.C., is amended to add lower jaw fork length, cleithrum to keel length, and dressed weight minimum sizes for swordfish harvested and landed in the state. These rule amendments and new rule are proposed to be effective October 1, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement os 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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

SUBSTANTIALLY AFFECTED PERSONS MAY, WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 68B-33.001 Purpose and Intent.

The purpose and intent of this chapter are to protect and conserve Florida's billfish and swordfish resources and increase public awareness of and concern for billfish ~~these resources~~ through promotion of catch-and-release and other conservation practices and prohibition of sale. ~~It is the intent of this chapter to expressly repeal subsections (5) and (6) of Section 370.11, Florida Statutes, relating to sailfish.~~

PROPOSED EFFECTIVE DATE: October 1, 2002.

~~Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History-New 3-31-88, Formerly 46-33.001, Amended 10-1-02.~~

## 68B-33.002 Definitions.

(1) As used in this chapter, "billfish" means any fish of the following species, or any part thereof:

- (a) *Makaira nigricans* (blue marlin).
- (b) *Tetrapturus albidus* (white marlin).
- (c) *Tetrapturus pfluegeri* (longbill spearfish).
- (d) *Tetrapturus belone* (Mediterranean spearfish).
- (e) *Tetrapturus georgei* (roundscale spearfish).
- (f) *Istiophorus platypterus* (sailfish).

(2) The term "swordfish" means any fish of the species *Xiphias gladius*, or any part thereof. Swordfish shall not be considered a "billfish," for purposes of this chapter, shall not include swordfish (*Xiphias gladius*).

(3) "Harvest" means the catching or taking of a fish by any means whatsoever, followed by a reduction of such fish to possession. Fish that are caught but immediately returned to the water free, alive and unharmed are not harvested. In addition, temporary possession of a fish for the purpose of determining the species or for measuring the fish to determine compliance with the minimum size requirements of this chapter, shall not constitute harvesting such fish, provided that it is examined and measured immediately after taking, and immediately returned to the water free, alive and unharmed if it is a protected species or if undersize.

(4) "Lower jaw fork length" means the straight-line measurement length of a fish as measured from the tip foremost point of the lower jaw to the fork of the caudal fin rear center edge of the tail. The measurement is not made along the curve of the body.

(5) "Cleithrum to keel length" means the length of a fish measured along the body contour, i.e., a curved measurement, from the point of the cleithrum that provides the shortest

possible measurement along the body contour to the anterior portion of the caudal keel. The cleithrum is the semicircular bony structure at the posterior edge of the gill opening.

(6) "Dressed weight" means the weight of a fish after it has been dressed. "Dress" means to process a fish by removal of head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

PROPOSED EFFECTIVE DATE: October 1, 2002.

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History-New 3-31-88, Formerly 46-33.002, Amended 8-26-99, 10-1-02.~~

68B-33.0035 Swordfish: Federal Permit Required for Sale.

No person harvesting swordfish within or without the waters of the state shall sell, offer for sale, trade, barter, exchange, or receive anything of value for any swordfish without possessing and presenting to the buyer thereof a valid saltwater products license and a federal Limited Access Permit (LAP) for swordfish issued pursuant to 50 C.F.R. § 635.4(f).

PROPOSED EFFECTIVE DATE: October 1, 2002.

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History-New 10-1-02.~~

## 68B-33.004 Size Limits.

(1) No person shall harvest, possess in or on the waters of the state, or land, any blue marlin with a lower jaw fork length less than 99 inches.

(2) No person shall harvest, possess in or on the waters of the state, or land, any white marlin with a lower jaw fork length less than 66 inches.

(3) No person shall harvest, possess in or on the waters of the state, or land, any sailfish with a lower jaw fork length less than 63 inches.

(4) No person shall harvest, possess in or on the waters of the state, or land, any swordfish that is less than 47 inches lower jaw fork length, 29 inches cleithrum to keel length, or 33 pounds dressed weight. A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 47 inches lower jaw fork length, 29 inches cleithrum to keel length, or 33 pounds dressed weight.

PROPOSED EFFECTIVE DATE: October 1, 2002.

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History-New, 8-26-99, Amended 10-1-02.~~