THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-9.013 Standards for the Use of Controlled Substances for the Treatment of Pain.

(1) Pain Management Principles.

(a) through (b) No change.

(c) The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. ~~Physicians are referred to the U.S. Agency for Health Care Policy and Research Clinical Practice Guidelines for a sound approach to the management of acute and cancer-related pain.~~ The medical management of pain including intractable pain should be based on current knowledge and research and includes the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

(d) through (g) No change.

(2) through (3) No change.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.326, 458.331(1)(g),(t),(v) FS. History–New 12-21-99, Amended 11-10-02, _____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:
Fees 64B13-6.001

PURPOSE AND EFFECT: The Board proposes to review the fees for possible changes in fees.

SUBJECT AREA TO BE ADDRESSED: Possible changes in fees.

SPECIFIC AUTHORITY: 456.013(2), 456.036, 463.005, 463.0057, 463.006, 463.007, 463.008 FS.

LAW IMPLEMENTED: 456.013(2), 456.025,456.036, 463.0057,463.006, 463.007, 463.008 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Optometry Board, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

Section II
Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are 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 CORRECTIONS

RULE TITLE: RULE NO.:
Inmate Grievances – Terminology and Definitions 33-103.002

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide consistency between Rules 33-103.002 and 33-501.401, F.A.C., which has been amended to change the membership of the literature review committee.

SUMMARY: The proposed rule adds the Bureau Chief of Classification or his or her representative to the literature review committee.

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 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:

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

(1) through (10) No change.

(11) Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Inmate Grievance Appeals or his or her representative, <u>the Bureau Chief of Classification or his or her representative,</u> and the Library Services Administrator or his or her representative.

(12) through (14) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92. 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00, 1-2-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Celeste Kemp

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 20, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
Visiting Operations 33-601.721

PURPOSE AND EFFECT: The purpose of the proposed rule is to delete obsolete language from the rule. The effect is to remove reference to the Inmate Welfare Trust Fund and replace it with the General Revenue Fund which pursuant to Senate Bill 954 (2003).

SUMMARY: The proposed rule deletes reference to the Inmate Welfare Trust Fund and replaces it with the General Revenue Fund pursuant to Senate Bill 954 (2003).

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, 944.23 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:

33-601.721 Visiting Operations.

(1) No change.

(2) Wardens shall ensure that games, small toys and other suitable activities are available for small children to assist visitors with keeping their children occupied during visitation. Purchases to replenish toys and items for other activities is authorized from the General Revenue ~~Inmate Welfare Trust~~ Fund. Visitors shall not be charged for damaged or broken games or toys.

(3) through (11) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Formerly 33-601.708, Amended 5-27-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Tune

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
Care of Inmates 33-602.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide more specific guidelines as to permissible hairstyles for male inmates and to remove obsolete language from the rule.

SUMMARY: The proposed rule allows male inmates to shave their heads uniformly, and deletes reference to the Inmate Welfare Trust Fund in accordance with Senate Bill 954.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 945.215 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.101 Care of Inmates.

(1) Each institution shall provide a canteen to be operated within the institution for the convenience of the inmates in obtaining items which are not furnished them by the Department of Corrections, but which are allowable within the institution through canteen purchase. Proceeds from the operation of the canteen shall be deposited in the general revenue ~~Welfare Trust~~ f~~F~~und as provided by law. These profits shall be used as provided in Rule 33-203.101, F.A.C. ~~As prescribed by law the Welfare Trust Fund shall be the responsibility of the Secretary, who may delegate such authority to the proper institutional committee.~~ Such canteen operation shall be subject to audit, as other institutional

operations are audited. Institutions with a cashless canteen shall restrict canteen purchases to those inmates with proper identification. Alternate purchase procedures shall be established for those inmates with temporary ID cards. These alternate procedures shall ensure at least a weekly opportunity to make canteen purchases.

(2) through (3) No change.

(4) For security and identification purposes, no inmate shall be permitted to have his or her hair, to include eyebrows and facial hair, dyed, cut, shaved or styled according to fads or extremes that would call attention to the inmate or separate inmates into groups based upon style. This would include, for example, tails, woven braids, cutting, sculpting, clipping or etching numbers, letters, words, symbols or other designs into the hair. Male inmates shall have their hair cut short to medium uniform length at all times with no part of the ear or collar covered. Male inmates shall be permitted to shave their entire heads in a uniform manner unless the inmate is using his hairstyle or lack thereof to demonstrate gang affiliation or otherwise pose a threat to institutional security. Partial shaving of the head in a Mohawk or other distinctive style shall not be permitted. Sideburns shall not extend beyond the bottom of the earlobes and will have straight lines with no flare at the base. All male inmates shall be clean shaven, provided, however, that an exemption from this requirement shall be granted on the basis of a medical diagnosis when it is determined by the staff physician that shaving would be detrimental to the inmate's health. Inmates granted a medical exemption from the shaving requirement may be required to keep their facial hair closely trimmed with scissors or clippers. For the purpose of this rule, "closely trimmed" means trimmed so that no part of the facial hair exceeds the length prescribed by the physician as necessary to prevent the appearance or reappearance of skin disorders. If no specific length is prescribed, then facial hair shall be kept trimmed to within one-quarter inch. An inmate who has been granted a shaving exemption shall maintain the written exemption on his person at all times when outside the assigned housing unit.

(5) through (10) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, 945.215 FS. History–New 10-8-76, Formerly 33-3.02, Amended 4-19-79, 4-24-80, 1-9-85, 11-3-87, 9-16-88, 7-23-89, 8-27-91, 3-30-94, 11-14-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, 1-19-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Rathmann

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2003

DEPARTMENT OF ELDER AFFAIRS

Aging and Assisted Living Programs

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Long-Term Care Ombudsman Conflict of Interest	58L-2
RULE TITLES:	RULE NOS.:
Definitions	58L-2.001
Prohibitions	58L-2.005
Procedures	58L-2.007
Removal of Existing Conflicts	58L-2.009

PURPOSE AND EFFECT: The 2002 Florida Legislature placed the Long-Term Care Ombudsman program under the direct administration of the Department of Elder Affairs. As a result of this change, the Department conducted a review of all the program rules and held a rule development workshop on November 8, 2002, in Tampa, Florida. Comments received by the Department from the Long-Term Care Ombudsman Advisory Council were incorporated into the proposed changes. The purpose of proposed amendments to Rule 58L-2.001, Florida Administrative Code, is to: (1) delete the obsolete definitions of "Area" or Program and Service Area", "adult congregate living facility", "area", and insert current terminology; (2) insert the words "in the state of Florida" to further clarify the definition for conflict of interest; (3) provide further clarification for the term "immediate family" by deleting the words "member of" and inserting the words "individual residing in"; (4) defines the term "Indirectly" to further clarify conflict of interest; (5) insert the word "and" to further clarify the term "Long-term care facility"; and (6) renumber subsections (2) through (9). The purpose of proposed amendments to Rule 58L-2.005, Florida Administrative Code, is to: (1) delete obsolete language "and Rehabilitative Services", (2) insert current terminology of "the Department of Children and Family Services", (3) delete "an Area Agency on Aging" from the list of organization who's employees are prohibited from being a member of a District Long-Term Care Ombudsman Council due to the lack of rulemaking authority, and (4) add "a medical director of a long-term care facility" as an individual that is prohibited from becoming a member of a District Long-Term Care Ombudsman Council. The purpose of proposed amendments to Rule 58L-2.007, Florida Administrative Code, is to (1) revise the name of the "Conflict of Interest Disclosure Form", SLTCO Form #1 to "Conflict of Interest Certification Form", SLTCO Form #1 to accurately state the purpose of the form, (2) revise the form to require the individual certify that they do not have a conflict of interest as defined in Chapter 58L-2, Florida Administrative Code, and (3) revise the name of the State Ombudsman and mailing address for the Office of the State Long-Tem Care Ombudsman. The purpose of proposed amendments to Rule 58L-2.009, Florida Administrative Code, is to repeal this obsolete provision relating to removal of conflicts that existed prior to September 30, 1994.

SUMMARY: Proposed amendments to Rules 58L-2.001, 58L-2.005, 58L-2.007, and 58L-2.009, F.A.C., clarifies, updates, and revises provisions relating to conflict of interest for long-term care ombudsman. Obsolete references are deleted and updated. Definitions for "district" and "indirectly" are provided. Proposed amendment to Rule 58L-2.009, F.A.C., repeals this obsolete provision relating to removal of conflicts that existed prior to September 30, 1994.

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: 400.0067(4), 400.0069(10) FS.

LAW IMPLEMENTED: 400.0067(4), 400.0069(4),(10) 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: 10:00 a.m. – 11:00 a.m., August 18, 2003

PLACE: Department of Elder Affairs, Conference Room 309, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Macdonald, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000

THE FULL TEXT OF THE PROPOSED RULES IS:

58L-2.001 Definitions.

(1) No change.

~~(2) "Area" or "Planning and Service Area" means a geographic area in which the programs of the department are administered and services are delivered. These areas are the same as prescribed for the Department of Health and Rehabilitative Services in Section 20.19(7)(a), Florida Statutes, prior to July 1, 1992.~~

(2)~~(3)~~ "Conflict of Interest" as used in this chapter means

(a) through (b) No change.

(c) Employed by, or participating in the management of, a long-term care facility in the state of Florida; or

(d) No change.

(3)~~(4)~~ "Department" means the Department of Elder Affairs.

(4) "District" means a geographic area in which the programs of the department are administered and services are delivered.

(5) "Immediate family" means father, mother, husband, wife, son, daughter, brother, sister, or an individual residing in ~~member of~~ the household.

(6) "Indirectly" means receiving remuneration from a company providing a service to a long-term care facility, such as a consulting pharmacist.

(7)~~(6)~~ "Long-term care facility" means a nursing home facility, assisted living facility ~~adult congregate living facility~~, or an adult family care home as those terms are defined in Chapter 400, Florida Statutes.

(8)~~(7)~~ "Long-term care services" means services provided by a long-term care facility, home health agency, adult day care center, hospice, intermediate care facility, home for special services, or transitional living facility as those terms are defined in Chapter 400, Florida Statutes, guardians or representative payees for individuals, other than an immediate family member, who are residents of long-term care facilities.

(9)~~(8)~~ "Program" refers to the Office of the State Long-Term Care Ombudsman, its representatives and employees, the State Long-Term Care Ombudsman Council, and the district or local ~~area~~ Long-Term Care Ombudsman councils as established in Chapter 400, Part I, Florida Statutes.

Specific Authority 400.0065(3), 400.0067(4)~~(5)~~, 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(1)(a),(3), 400.0067(4)~~(5)~~, 400.0069(4),(10), 400.0087(1),(3) FS. History–New 6-27-94, Amended _____.

58L-2.005 Prohibitions.

(1) No change.

(2) No employee of the Agency for Health Care Administration, the Department of Business and Professional Regulation, the Department of Children and Families, the Department of Health ~~and Rehabilitative Services~~, the Department of Elder Affairs, or a~~n~~ medical director of a long term care facility ~~Area Agency on Aging~~ shall be a member of a District Long-Term Care Ombudsman Council.

Specific Authority 400.0065(3), 400.0067(4)~~(5)~~, 400.0069(10), 400.0087(1),(3) FS. Law Implemented 400.0065(3), 400.0067(4)~~(5)~~, 400.0069(4),(10), 400.0087(1),(3) FS. History–New 6-27-94, Amended _____.

58L-2.007 Procedures.

(1) Upon appointment, reappointment, employment or affiliation with the program, each appointee, officer, employee or representative shall sign the Conflict of Interest Certification ~~Disclosure~~ Form, SLTCO Form #1, dated July 2003 ~~May 1994~~, incorporated herein by reference and available at the Office of the State Long-Term Care Ombudsman,

(a) through (b) No change.

(2) through (3) No change.

Specific Authority 400.0065(3), 400.0067(4)~~(5)~~, 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(3), 400.0067(4)~~(5)~~, 400.0069(10), 400.0087(1), 400.0091 FS. History–New 6-27-94, Amended _____.

58L-2.009 Removal of Existing Conflicts.

Specific Authority 400.0065(3), 400.0067(5), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(3), 400.0067(5), 400.0069(10), 400.0087(1),(3) 400.0091 FS. History–New 6-27-94, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Macdonald

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Terry White, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Home and Community-Based Services Waivers 59G-8.200

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate the Developmental Services Waiver provider rate methodology information, to revise Appendix A, to update Appendices D and E, to modify existing text relating to updated information including direct billing, to incorporate the federal Health Insurance Portability and Accountability Act (HIPAA) information and to provide additional definitions for clarification purposes, resulting from the Developmental Services Waiver Services redesign project, into the Developmental Services Waiver Services Coverage and Limitations handbook. The effect will be to incorporate by reference in the rule the revised, most current Developmental Services Waiver Services Coverage and Limitations Handbook.

SUMMARY: The purpose of this rule amendment is to incorporate the Developmental Services Waiver provider rate methodology information, to revise Appendix A, to update Appendices D and E, to modify existing text relating to updated information including direct billing, to incorporate the federal Health Insurance Portability and Accountability Act (HIPAA) information and to provide additional definitions for clarification purposes, resulting from the Developmental Services Waiver Services redesign project, into the Developmental Services Waiver Services Coverage and Limitations Handbook.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.912 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: 10:00 a.m. – 12:00 Noon, Tuesday, August 19, 2003

PLACE: 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Henderson, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)414-9756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-8.200 Home and Community-Based Services Waivers.

(1) through (11) No change.

(12) Developmental Services Waiver – General. This rule applies to all Developmental Services Waiver Services providers enrolled in the Medicaid program. All Developmental Services Waiver Services providers enrolled in the Medicaid program must comply with the Developmental Services Waiver Services Coverage and Limitations Handbook October 2003 ~~July 2002~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081, October 2003 ~~July 2001~~. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(12), 409.912(7) FS. History–New 4-20-82, Formerly 10C-7.527, Amended 3-22-87, 11-23-89, Formerly 10C-7.0527, Amended 1-16-96, 7-23-97, 1-6-02, 10-27-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Henderson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 16, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 25, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLES:	RULE NOS.:
The Supervision of Self-Administration of Medications by and the Administration of Medication to Developmental Services (DS) Waiver Recipients, by Unlicensed Direct Service Providers	59G-8.201
Definitions	59G-8.202
Medication Administration Training and Medication Administration Skills Validation Requirements for the Unlicensed Direct Service Provider	59G-8.203
Requirements for Administration of Medication	59G-8.204
Requirements for Supervision of Self-Administration of Medication	59G-8.205
Storage Requirements for Prescription Medications	59G-8.206

Additional Requirements	59G-8.207
Required Record Keeping for the Administration of Medications or the Supervisions of Self-Administration of Medication, by Validated Direct Service Providers	59G-8.208
Special Requirements for Recipients who Require Medication While Traveling or Away for a Visit	59G-8.209
Informed Consent	59G-8.210
Requests for Exemption	59G-8.211

PURPOSE AND EFFECT: The purpose of this rule is to provide DS waiver direct service providers, or direct service staff employed by a DS waiver provider, who do not currently hold a professional medical license and who provide direct services to DS waiver recipients while in their own or family homes, foster homes, group homes, independent living arrangements, supported living arrangements, and Adult Day Training facilities, with guidelines regarding:

Medication administration training and medication administration skills validation requirements for the unlicensed direct service provider; Requirements for administration of medications; Requirements for the supervision of self-administration of medication; Storage requirements for medication; Required record keeping for the administration or supervisions of self-administration of medication by a validated direct service provider; Special requirements for recipients who require medication while traveling, or away for a visit; Informed consent; Request for exemption; and Additional requirements.

SUMMARY: This is a new rule, which will be incorporated by reference in the next revision of Rule 59G-8.200, F.A.C.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.912 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: 2:00 p.m. – 4:00 p.m., August 19, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida. Building # 3, Conference Room A

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kathryn Stephens, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)921-4464 or e-mail: stephenk@fdhc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-8.201 The Supervision of Self-Administration of Medications and the Administration of Medications to Developmental Services (DS) Waiver Recipients, by Unlicensed Direct Service Providers.

(1) The purpose of this rule is to provide DS waiver unlicensed direct service providers, or unlicensed direct service staff employed by a DS waiver provider, who do not currently hold a professional medical license and who provide direct services to DS waiver recipients while in their own or family homes, foster homes, group homes, independent living arrangements, supported living arrangements, and Adult Day Training facilities, with guidelines regarding:

(a) Medication administration training and medication administration skills validation requirements for the unlicensed direct service provider;

(b) Requirements for administration of medication;

(c) Requirements for the supervision of self-administration of medication;

(d) Storage requirements for prescription medication;

(e) Additional requirements;

(f) Required record keeping for the administration or supervision of self-administration of medication by a validated direct service provider;

(g) Special requirements for recipients who require medication while traveling or away for a visit;

(h) Informed consent; and

(i) Request for exemption.

(2) This rule does not apply to:

(a) Unlicensed family members or family members who are DS waiver recipients who administer medication or who assist in self-administering medication without compensation;

(b) Unlicensed direct service providers working as employees of or under contract with licensed home health agencies, with the exception of those requirements listed for only the supervision of self-administration of medication.

(c) Unlicensed direct service providers working as employees of or under contract with licensed nurse registries.

(d) Unlicensed direct service providers working as employees of or under contract with licensed Hospice Agencies.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.202 Definitions.

Definitions, as used in Rules 59G-8.201-59G-8.211, F.A.C.:

(1) "Adult Day Training (ADT)" means a DS waiver program that provides training services to enrolled DS waiver adults. The ADT program is intended to support the participation of recipients in daily, valued routines of the community, which may include work-like settings, that assist

the recipient to achieve his or her defined outcomes (goals). This rule only applies to recipients receiving ADT services at the ADT facility.

(2) "A.R.N.P." is an advanced registered nurse practitioner, licensed by the Department of Health, practicing within the scope of his or her license, pursuant to Chapter 464, F.S.

(3) "Controlled medication" means a medication that is regulated by law with regard to possession and use.

(4) "Department" refers to the Department of Children and Families, Developmental Disabilities Office.

(5) "District" means one of the local District or Regional Developmental Disabilities offices serving a specified geographic area.

(6) "District Medical Case Manager" is the professional health care staff person designated as the Medical Case Manager for a specific district of the Department of Children and Families Developmental Disabilities program.

(7) "Foster home" is a facility, defined in Section 393.063(23), F.S. that provides residential services to enrolled DS waiver recipients. This facility provides a family living environment, including supervision and care, necessary to meet the physical, emotional, and social needs of its residents.

(8) "Group home" is a licensed residential facility that provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be between 4 and 15 residents.

(9) "Health care professional" is a pharmacist, licensed under Chapter 465, F.S., a physician or physician's assistant, licensed under Chapter 458 or 459, F.S., a dentist, licensed under Chapter 466, F.S., or a nurse, licensed under Chapter 464, F.S.

(10) "L.P.N." is a licensed practical nurse, licensed by the Florida Department of Health and practicing within the scope of his or her license, pursuant to Chapter 464, F.S.

(11) "Medical Case Manager" is an R.N. or A.R.N.P. employed by the Department and assigned to a specific District. This individual provides nursing oversight regarding the medical care and needs of the DS waiver recipients residing in that District.

(12) "Medication Administration Record (MAR)" is a document on which each instance of medication administration or self-administration of medication is recorded for a specific recipient.

(13) "Narcotic medication" means a medication that is also a controlled medication regulated by law. Narcotic medications used in moderate doses may dull the senses, relieve pain and induce profound sleep, but when used in excessive doses causes stupor, coma or convulsions.

(14) "Non-prescription or over-the-counter (OTC) medication" is a medication that is authorized, pursuant to federal or state law, for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(15) "Opthalmic medication" means any prescribed eye solution (eye drops) or ointment to be instilled into the eye or applied on or around the eyelid.

(16) "Oral medication" means any medication, tablet, capsule, or liquid introduced into the gastrointestinal tract via oral consumption (by mouth).

(17) "Otic medication" means prescribed solutions or ointments to be applied into the outer ear canal or around the outer ear.

(18) "Parenteral" meaning not in or through the digestive system. Parenteral nutrition is given through the veins of the circulatory system, rather than through the digestive system.

(19) "Physician" means a health care professional who holds an active license pursuant to Chapter 458, F.S., or an osteopathic physician who holds an active license pursuant to Chapter 459, F.S.

(20) "Prescription medication" is a drug or medication obtained pursuant to a prescription, as defined in Section 465.003(14), F.S.

(21) "PRN" (*pro re nata)* meaning as the situation demands or as needed at a specific time.

(22) "Provider" means the organization or individual enrolled as a DS waiver provider in the case of a sole proprietorship, which is responsible for delivering services to the DS waiver recipient.

(23) "Recipient" for the purpose of this rule, means a developmentally disabled individual who is currently enrolled in the Developmental Services (DS) waiver and is receiving home and community–based services provided through the DS waiver.

(24) "Rectal medication" means any prescribed medication, capsule or suppository to be administered via the rectum.

(25) "R.N." is a registered nurse, licensed by the Department of Health, practicing within the scope of his or her license, pursuant to Chapter 464, F.S.

(26) "Sample medication" means a prescription medication, dispensed by a licensed physician, dentist, podiatrist, physician's assistant, or A.R.N.P. without charge, which does not contain all of the following information in the label affixed to the medication: the name of the dispensing practitioner, the patient's name, the date the medication was dispensed, the name and strength of the drug, directions for use, and a clearly marked expiration date.

(27) "Special technique" means a medically related approach that is particularly adapted to the special disease or condition being treated.

(28) "Trans-dermal Patch" means an adhesive patch containing a pre-measured amount of topical medication that is absorbed into the body via the epidermis (outer layer of skin).

(29) "Unlicensed direct services provider" means an enrolled DS waiver provider, or a staff person of an enrolled DS waiver provider, who is not licensed or qualified to practice nursing or medicine, and renders services directly to DS waiver recipients.

(30) "Validated direct service provider" is an unlicensed direct services provider or an employed or contracted staff member of a provider who has completed the required medication administration training and has met skills validation requirements for the administration or the supervision of self-administration of medications to DS waiver recipients, unless otherwise excluded by this rule.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.203 Medication Administration Training and Medication Administration Skills Validation Requirements for the Unlicensed Direct Service Provider.

(1) Required medication administration training shall include the following topics: safe handling of medications; proper administration of allowed medications; proper supervision of the self-administration of medications; proper documentation; and compliance with the requirements of this rule.

(2) Required medication administration training shall provide Department approved instruction and training, including step-by-step procedures necessary for the safe administration or supervision of self-administration of medication:

(a) The validated direct service provider shall wash his or her hands prior to administration of medication, or supervising the self-administration of medication to recipients;

(b) The validated direct service provider must conduct a triple-check of the dosage and time of administration against the original medication container label and the MAR before administering or supervising the self-administration of the medication;

(c) The validated direct service provider shall confirm that the recipient, to whom the medication is to be administered, is the same recipient for whom the medication has been prescribed;

(d) The validated direct service provider shall administer or supervise the self-administration of medications as prescribed and via the route instructed by the recipient's prescribing health care professional;

(e) The validated direct service provider shall ensure the oral medication administered or supervised during self-administration has been completely ingested before leaving the recipient;

(f) The validated direct service provider shall record or document the administration or self-administration of each medication in the MAR immediately after the administration or the supervision of self-administration;

(g) The validated direct service provider shall directly observe the recipient for a period of twenty minutes following the administration or supervision of self-administration to immediately detect and react to possible side effects of the medication or to document the effectiveness of the medication. The validated direct service provider shall review the MAR for special instructions regarding required observation.

(3) If the recipient requires specific positioning or the use of special techniques, specific to the individual, all validated direct service providers responsible for administering medication or supervising the administration of medication for that individual shall be trained regarding the correct positioning and use of any adaptive equipment required for the proper administration of medications or supervision of the self-administration of medications;

(4) It shall be the responsibility of the individual validated direct service provider who will be administering or supervising the administration of medication to recipients to obtain the medication administration training and successfully complete the skills validation required by this rule.

(5) Medication administration training for unlicensed direct service providers will be provided by or coordinated by the Department. Trainer orientation sessions will include current requirements of this rule and information to be covered during medication administration training sessions. The completion of an orientation session is required prior to providing medication administration training sessions or conducting skills validation tests. Documentation of the trainer's completed orientation will be provided to each unlicensed direct service provider that he or she trains or validates.

(a) Training sessions shall be conducted by a Florida licensed R.N. or A.R.N.P.

(b) A Florida Licensed Practical Nurse employed by a home health agency, a hospice agency or a nurse registry, while under the oversight of an agency or registry R.N., may also conduct medication administration training for only those unlicensed direct service providers of waiver services and locations described in paragraphs 59G-8.204(2)(b)-(i), F.A.C., of this rule, if not an agency employee.

(c) Skills validation testing of the unlicensed direct service provider may only be provided by a Florida licensed R.N. or A.R.N.P.

(6) To become validated, the unlicensed direct service provider must be able to successfully demonstrate, in a practical setting, his or her ability to correctly administer or supervise the self-administration of medications to a recipient in a safe and sanitary manner and to correctly and accurately document actions related to the administration or the supervision of self-administration of medications, in

accordance with the requirements of this rule. Additionally, the unlicensed direct care staff member must be able to state the purpose, common side effects, and signs and symptoms of adverse reaction regarding a list of commonly used medications, that were included in information provided at the approved medication administration training, from memory or demonstrate how he or she obtains that information and maintains it for easy access.

(7) Skills testing for the Department's approved medication administration training curriculum will be conducted by a Florida licensed R.N. or A.R.N.P. The validation nurse will maintain, and provide documentation of validation, within 5 working days to the Department for each validated direct service provider. This documentation will contain the following information:

(a) The name, address and DS waiver provider number, if applicable, of the DS waiver direct service provider or employee being validated;

(b) Validation date, with expiration date of 365 days from validation;

(c) Current date;

(d) Printed name and signature of the validating nurse, as it appears on his or her nursing license; and

(e) Validating nurse's license number, with license expiration date.

(8) All training curricula, handouts, testing materials, and documents used to comply with the medication administration training and skills requirements of this rule will be pre-approved by the Department.

(9) The individual validated direct service provider will maintain a copy of his or her medication administration instructor's and validation nurse's documentation of orientation and a copy of his or her current skills validation document. The validated direct service provider is responsible for maintaining a copy of these documents and providing copies to his or her agency, if an employee of a provider agency.

(10) The validated direct service provider will initially provide a copy of his or her signed skills validation documentation to the recipient, or his or her legal guardian or proxy, prior to the administration or the supervision of the self-administration of medications. The direct service provider will also provide a copy of his or her skills revalidation documentation, within five working days of the re-validation date.

(11) Any direct service provider who has not successfully renewed his or her validation prior to the expiration date will not be eligible to administer medications or supervise the self-administration of medication to recipients of DS waiver services, until medication administration re-training and the re-validation of skills has been successfully completed.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.204 Requirements for Administration of Medication.

(1) Validated direct service providers shall be allowed to administer medications to recipients when all of the following requirements are met:

(a) Has successfully completed the required medication administration training, which was based on a training curriculum approved by the Department and meets the requirements of this rule;

(b) Has his or her medication administration skills successfully validated by a Florida licensed R.N. or A.R.N.P, and is re-validated at least annually thereafter;

(c) Is able to demonstrate his or her ability to read and follow medication instructions on a prescription label, physician's order or MAR;

(d) Is able to demonstrate his or her ability to write legibly, complete required documentation, and convey accurate and discernable information;

(e) Has a current informed consent, signed by the DS waiver recipient or their legal guardian or advocate. The consent form acknowledges and permits a specified validated direct service provider to administer specifically listed medications currently prescribed by a licensed physician, physician's assistant, or A.R.N.P, to an individual DS wavier recipient. The informed consent form must be updated at least annually or more often if a recipient's circumstances change;

(f) Receives an oral or written orientation or individual report, for each recipient to be supervised during self administration of medication and for each recipient to be administered medications, by another provider, support coordinator or family member who is familiar enough with the DS waiver recipient to be able to advise the unlicensed provider of the recipient's usual behavior and of any past medication reactions; and

(g) The recipient, to whom medication will be administered, has not been determined to be capable of the safe handling and the self-administration of his or her own medications by his or her prescribing physician.

(2) When all of the above-described prerequisites for administration of medication by validated direct service providers are met, the administration of medications may occur during the provision of the following DS waiver services, at these specific locations:

(a) Adult Day Program, at the ADT facility;

(b) Behavior Assistant Services, at the recipient's place of residence;

(c) Companion Services, at the recipient's place of residence;

(d) In-Home Support Services, at the recipient's place of residence;

(e) Non-Residential Support Services, at the recipient's place of residence;

(f) Personal Care Assistance, at the recipient's place of residence;

(g) Respite Care, at the recipient's place of residence;

(h) Special Medical Home Care, at the recipient's place of residence;

(i) Supported Living Coaching, at the recipient's place of residence.

(3) Settings where validated direct service providers *may not* administer medications are any settings that are not identified for the specific waiver services listed in paragraphs 59G-8.204(2)(a)-(i), F.A.C., above.

(4) In the following circumstances, only a licensed health care professional shall administer medications:

(a) When prescription medications are administered by intra-muscular or intravenous injection.

(b) In the absence of a signed informed consent form that permits the specific validated direct service provider or the direct service employees or contract staff of a provider agency to administer prescribed medications.

(c) The direct service provider does not meet all requirements listed in paragraphs 59G-8.204(1)(a)-(g), F.A.C., above.

(5) General considerations governing administration of medication:

(a) Medications shall be administered to the person, at the time, with the dosage, and by the route prescribed by the individual's health care professional.

(b) Medications may not be crushed, diluted or mixed without the written directions or instructions from the individual's prescribing health care professional.

(c) The expiration date must be checked before administering each medication.

(d) Medications with an expiration date preceding the current date will not be administered.

(e) Outdated medication must be properly destroyed by the individual responsible for medication administration or the supervision of self-administration of medications. The disposal will be witnessed and documentation of disposal signed by the validated direct service provider and one other person, who is not a recipient of DS waiver services;

(f) Torn, damaged, illegible or mislabeled prescription labels should be reported immediately to the dispensing pharmacy or pharmacist and, if recipient is residing in a residential facility, the facility supervisor must also be notified.

(g) The documentation of each medication administered to a recipient shall be recorded immediately in the Medication Administration Record (MAR) by the validated direct service provider administering the medication.

(h) Recipients shall not miss medications due to delays in refilling a prescription.

(i) Validated direct service providers shall wash his or her hands with soap and water prior to administering medications to recipients and will rewash hands as needed during the time period which medications are being administered.

(j) Medications shall be prepared for one individual recipient at a time, in a quiet location that is free from distraction.

(k) Validated direct service providers shall only administer medications to, or supervise the self-administration of medications for, one recipient at a time. To complete an individual's medication process, the medication of one individual recipient must be returned to the portable or permanent medication storage unit before administering medications to, or supervising the self-administration of medication for, another DS Waiver recipient.

(l) No DS Waiver recipient shall be administered a prescription or OTC medication or treatment, except upon the written order of the individual recipient's prescribing health care professional.

(m) Validated direct service providers may administer, or supervise the administration of, OTC medications include; acetaminophen, cough medicine, antihistamines or decongestants, as currently prescribed (and documented on the medication's pharmacy label with instructions regarding criteria for use) by the individual's health care professional.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.205 Requirements for Supervision of Self-Administration of Medication.

(1) A recipient who has been determined by his or her prescribing health care professional as capable of safely handling his or her own medications, should be encouraged to do so.

(2) Validated direct service providers will be permitted to supervise a recipient's self administration of medication when all of the following requirements are met:

(a) Has successfully completed the required medication administration training session, which was based on a training curriculum approved by the Department, and meets the requirements of this rule;

(b) Has his or her medication administration skills successfully validated by a Florida licensed R.N. or A.R.N.P. and is re-validated at least annually;

(c) Can demonstrate the ability to read and follow medication instructions on a prescription label, physician's order and MAR;

(d) Can demonstrate the ability to write legibly, complete required documentation, and convey accurate and discernible information;

(e) Has a current informed consent, signed by the DS waiver recipient or his or her legal guardian or advocate. The consent form acknowledges and permits the individual

validated direct service provider or a provider's validated direct service staff to administer medications currently prescribed for the individual recipient by a licensed physician, physician's assistant or A.R.N.P;

(f) Must comply with the requirements of paragraph 65B-6.009(15)(d), F.A.C., before the supervision of self-administration may be provided to recipients residing in a foster home licensed by the Developmental Disabilities Program;

(g) Must comply with the requirements of paragraph 65B-6.010(14)(c), F.A.C., before the supervision of self-administration may be provided to recipients residing in a licensed group home facility; and

(h) The medication being self-administered is currently prescribed for the individual, and is being self-administered as prescribed by the individual's physician, physician's assistant or A.R.N.P.

(3) A recipient's self-administration of medication may be supervised by a validated direct service provider, within the DS waiver service settings described in paragraphs 59G-8.204(2)(a)-(i), F.A.C., above.

(4) Supervision of self-administration may include the following activities by validated direct service providers:

(a) Removing the medication, in its properly dispensed and properly labeled container, from its portable or permanent storage unit and handing the unopened container to the recipient, for whom the medication is currently prescribed;

(b) Checking the expiration date on each prescription label or medication container label prior to proceeding to (c)-(g) of this section. Should the expiration label be illegible, the validated unlicensed direct service provider shall immediately notify the dispensing pharmacist or pharmacy and the facility supervisor;

(c)1. Ask the recipient his or her name,

2. Reading once silently and then reading aloud from the prescription label,

3. The name for whom the medication has been dispensed,

4. The name of the medication,

5. The dosage prescribed, and

6. Administration instructions listed on the prescription label to the recipient and check that information against the MAR before opening the container;

(d) Prompting the recipient regarding the correct amount of medication that he or she should remove from the container (or in the case of inhaled medications, the number of pre-measured doses to be taken and by what route of administration), giving the container to the recipient, observing the recipient as he or she removes the medication from the container to ensure that he or she removes only the quantity of medication prescribed, observing the recipient as he or she takes the medication, checking to make sure that the recipient has actually ingested the medication, and has securely closed the container;

(e) Assisting the recipient with the application of topical medications;

(f) Assisting the recipient with the placement of a trans-dermal medication patch;

(g) Coaching the recipient through the proper techniques to be used for the self-administration of oral or nasal inhaler medications;

(h) Returning the medication container to a proper portable or permanent storage unit;

(i) Documenting the supervision of self-administration of medication in the MAR. The MAR documentation shall include the recipient's name, known allergies, current date, the time of self-administration, the dosage that was self-administered, the name of the medication self-administered, the name of the prescribing health care professional, and the initials and signature of the validated direct service provider supervising the self-administration;

(j) Supervising the self-administration of medication for one recipient at a time and completing the supervision process (by returning the medication(s) supervised to its portable or permanent storage) before providing supervision of the self-administration of medication to or administering medication to another DS waiver recipient; and

(k) Recipients shall not miss medications due to delays in refilling a prescription.

(5) The following activities do not meet the requirements of this rule regarding the supervision activities performed by validated direct service providers for the self-administration of medication by recipients:

(a) The actual removal of the medication from its original container by the validated direct service provider;

(b) The preparation of syringes, by the validated direct service provider for a recipient's use in the self-administration of medication via a subcutaneous, intra-dermal, intra-muscular or intravenous route;

(c) The actual mixing and pouring of medications used through intermittent positive pressure breathing machines or a nebulizer;

(d) The actual administration of medication through a nasal or oral inhaler;

(e) The administration of parenteral preparations;

(f) Performing irrigations of affected tissue or applying agents used in the debridement of skin;

(g) Applying prescribed topical creams or lotions;

(h) Administering rectal, urethral or vaginal preparations;

(i) Assisting the recipient, in any way, with medications for which the time of administration, the amount, the strength of the dosage, the method of administration, or the reason for administration would require professional medical judgment on the part of the validated direct service provider.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.206 Storage Requirements for Prescription Medications.

(1) All prescription medication shall be kept in its original container, (whether dispensed by the pharmacy or another health care professional authorized to dispense medications), bearing the original dated prescription label containing legible information, stating the name of the individual for whom the prescription was dispensed, the name of the prescribing physician or health care professional, name of the medication, the dosage, the name, address and telephone number of the pharmacy (if dispensed by a pharmacy and the assigned prescription number), directions for use, the date the medication was dispensed, the quantity dispensed, and the expiration date of the medication.

(2) All prescription medication shall be stored in a double-locked enclosure.

(3) The key(s) to the locked containers and storage units containing prescription and over-the-counter medications shall be maintained at all times by either licensed professional health care personnel or validated direct service providers.

(4) Each recipient's medications shall be kept in its original container, separate from and not co-mingled with the medications of other individuals.

(5) Each medication shall be stored at the proper temperature for that specific medication. Medications requiring refrigeration should be stored in its original container within a locked storage container that is clearly labeled as containing medications. The refrigeration units used for medication will be located in a room with a key locked door and will not contain consumable food items or laboratory samples.

(6) Each medication shall immediately be returned to its portable or permanent storage unit immediately following its administration or self-administration.

(7) Any medication that has reached its expiration date must be destroyed in the manner described in paragraph 59G-8.204(5)(e), F.A.C., of this rule.

(8) The storage of controlled drugs and narcotics require additional safeguards that include:

(a) All controlled drugs and narcotics will be stored separately from other prescription and prescribed over-the-counter medications, in a separate, locked container and within a locked cabinet or room;

(b) The key(s) to the locked containers and storage units containing controlled or narcotic medications shall be maintained at all times by either licensed professional health care personnel or validated direct service providers;

(c) In facilities that operate in shifts, incoming and outgoing personnel will count controlled and narcotic medications. The count must be performed by the validated direct service provider responsible for medication administration during that day or shift and a witness, who is not a recipient of services. Both persons performing the medication count will carefully verify the accuracy of the count by documenting the number or amount of medication present and compare that number to the previous count and the number of doses administered (per the MAR) since the previous count, for each controlled and narcotic medication. The two persons verifying the count will then sign and date the form used to document the medication count. Any discrepancies in the count of controlled or narcotic medications will be immediately reported to the facility supervisor. In the case of an individual home with only one direct service provider, a daily medication count will be conducted and results documented by that provider;

(d) In facilities where there are no shifts, all controlled drugs and narcotics shall be counted at least once per day, using the same counting and documentation technique described in (c) above; and

(e) In addition to reporting all discrepancies in the medication counts of controlled or narcotic medications counts to a facility supervisor, all discrepancies noted in the medication count must be promptly reported to the Program Administrator for the District Developmental Disabilities Program or his or her designee.

(9) Recipients who self-administer his or her own OTC medications on a PRN basis without supervision, will store those OTC medications in a locked container that cannot be accessed by other recipients.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.207 Additional Requirements.

(1) If the recipient has been prescribed multiple medications, persons providing direct support to the recipient, including the support coordinator, shall work with the District Medical Case Manager to assure appropriate oversight and review of the recipient's medication regimen.

(2) Each facility shall have a designated health care professional who is available for consultation regarding the recipient's medications. The telephone number and name of this health care professional shall be readily available to the validated unlicensed direct care staff member.

(3) Missed doses of medication and errors in medication administration require the following actions:

(a) Any missed doses, including doses missed due to the recipient's refusal of the medication or errors in medication administration, including those that may be determined as minor errors, shall be immediately documented and reported to the prescribing health care professional for further instruction. Medication errors include the administration of the wrong medication, the administration of the wrong dose, administration of medication via the wrong route, the administration at the wrong time or day, or to the wrong recipient.

(b) Extra, "catch-up" or additional doses of medication shall not be administered or changes made to the prescribed time of administration, without the immediate, prior approval of the prescribing health care professional, which will be followed by a written order for this action from the prescribing health care professional. The validated direct service provider shall promptly record the prescribing health care professional's verbal instructions in the recipient's record and is responsible for any follow-up activities necessary to obtain the written order from the prescribing health care professional, which memorializes the instructions received. Once received, this written approval or instruction will be maintained in the recipient's record and available for review.

(c) If the medication error took place in a facility, the incident report will be issued to the facility supervisor. If the medication error took place in a resident's home or family home, the incident report will be submitted to the Department's Developmental Disabilities' District Office. The validated direct service provider will immediately complete an incident report after notifying the appropriate individuals, as described in (a) and (b) above.

(d) The recipient receiving the incorrect medication or dosage shall be closely observed, by the validated direct service provider, for a period of at least 30 minutes after the medication was administered or self-administered. Any changes observed in his or her condition should be immediately reported to the prescribing health care professional. In cases of respiratory difficulties or other life threatening emergencies resulting from a medication error, the validated direct service provider will immediately place a 911 call to request emergency medical services. All observations and contacts made regarding any medication error shall be recorded in the recipient's record maintained for review.

(e) Validated direct service providers determined as needing technical assistance, additional training or corrective action will be notified in writing by the District medical case manager and advised of required actions and timeframe for completion.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.208 Required Record Keeping for the Administration of Medications or the Supervisions of Self-Administration of Medication, by Validated Direct Service Providers.

(1) Documentation shall be made immediately for each recipient receiving medication through the administration of medication or though the supervision of self-administration of medication by a validated direct service provider on a Medication Administration Record (MAR). Each MAR page will include the following information:

(a) Individual recipient's name;

(b) Any food or medication allergies specific to the individual recipient;

(c) Dates medication were administered or supervised;

(d) Name of each medication prescribed for the individual recipient;

(e) Dosage prescribed for each individual medication listed;

(f) Scheduled time for administration of each medication listed;

(g) Prescribed route of administration (oral, topical, rectal, etc.) for each medication listed, specific instructions for prescribed crushing, mixing or diluting of specific medications, initials and signature of the unlicensed person administering or supervising self-administration of medications documented on that MAR page. Completed MAR pages will be maintained in the individual recipient's record;

(h) A list of the individual recipient's drug and food allergies; and

(i) Each medication listed will also include the name of the prescribing health care professional.

(2) A list of possible side effects, adverse reactions and possible drug interactions for each recipient's medication administered shall be maintained and readily available to any licensed health care professional or validated direct service provider responsible for the administration or supervision of self-administration of medication.

(3) A record of drug counts, as required by this rule, shall be maintained and made readily available for review.

(4) An original informed consent form shall be maintained by the validated direct service provider, for each recipient for whom the provider administers medication or for whom the provider supervises the self-administration of medication.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.209 Special Requirements for Recipients Who Require Medication While Traveling or Away for a Visit.

The following guidelines are used when a recipient is preparing for a trip or visit:

(1) The validated direct service provider shall ensure that the recipient is furnished with an adequate amount of medication to meet all dosages required while away from his or her place of residence;

(2) Medication shall not be removed from its original container and repackaged;

(3) Medications shall not be co-mingled in a container unless permitted by the provisions of subsection 64B16-28.108(2), F.A.C., or a recipient determined able to self-administer, or his or her family member places medication in a weekly pill container;

(4) If a weekly pill container is used, the validated direct service provider shall observe and document the removal of medication by the recipient, if determined able to self-administer, or family member and document the name and the amount of medication removed by the recipient or family

member on the MAR. A list of medication, using MAR format, shall then be affixed to the recipient's weekly pill container box;

(5) For persons who require special techniques or positioning, the provider shall ensure that the person responsible for administering the medication while the recipient is away from his or her place of residence receives verbal and written instructions on how to use the special technique or properly position the recipient;

(6) Family members who will be administering or supervising the self-administration of medications shall also be provided with specific instructions for situations, such as a medication error;

(7) The validated direct service provider shall provide to the person responsible for administering or supervising the self-administration of the medication while the recipient is away from his or her place of residence with the name of a contact person and a telephone or beeper number. The name and telephone number of the recipient's primary care physician shall also be provided to the responsible person or family member; and

(8) The provider shall provide a temporary MAR to be used by the responsible person or family member during the period of time that the recipient will be away. The responsible person or family member shall receive instructions from the validated direct service provider regarding how to document the administration or the supervision of self-administration of medication on the recipient's temporary MAR. This temporary record should be returned with the recipient to his or her place of residence. A pill count with review of the recipient's MAR will be conducted at that time to ensure the expected amount of medication is returned. Any discrepancies will be reported, as required by this rule, in the event of medication count discrepancies or suspected medication errors.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.210 Informed Consent.

(1) An informed consent, using a Department approved form, CF-DS 2063, shall be obtained from the recipient, or his or her legal guardian before a validated direct service provider shall be permitted to administer medications or supervise the self-administration of medications to the recipient.

In accordance with Section 765.401, F.S., if the adult recipient is unable or his or her legal guardian is unable or unavailable to provide informed consent, this decision can be made for the recipient by any of the following individuals, in the following order of priority, if no individual in a prior class is available, willing or competent to act:

(a) The recipient's spouse;

(b) An adult child of the recipient, or if the recipient has more than one adult child, a majority of the adult children who are responsibly available for consultation;

(c) A parent of the recipient;

(d) The adult sibling of the recipient or, if the recipient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation;

(e) An adult relative of the recipient who has exhibited special care and concern for the recipient and who has maintained regular contact with the recipient and who is familiar with the recipient's activities, health and religious or moral beliefs; and

(f) A close friend of the recipient. In those cases where the person with a developmental disability has no person among the various parties listed in paragraphs 59G-8.201(1)(a) through (f), F.A.C., a clinical social worker can be appointed as a health care proxy. This appointment must be made through the facility's bioethics committee, or in the absence of such a committee at the facility, by the bioethics committee of another facility.

The validated direct service provider responsible for the administration of medication or the supervision of the self-administration to the recipient cannot sign the informed consent as the recipient's proxy.

(2) The consent form acknowledges and permits the individual validated direct service provider or a provider's validated direct service staff to administer medications currently prescribed for the individual recipient by a licensed physician, physician's assistant or A.R.N.P;

(3) The consent shall be renewed at least annually; and

(4) An original copy of the consent form shall be maintained in the validated direct service provider's records and a copy shall be maintained in the recipient's file.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

59G-8.211 Requests for Exemption.

(1) To obtain an exemption from individual requirements of this rule, the recipient or his or her legal guardian shall make a formal request in writing to the District Program Administrator for Developmental Disabilities. The following requirements apply:

(a) This request shall include the specific reason(s) the recipient finds the safeguards provided in the rule are unnecessary to assure his or her safety.

(b) Each request for exemption must be dated and signed by the recipient or his or her legal guardian.

(2) The following procedure will be followed when a letter requesting an exemption is received.

(a) The District Medical Case Manager shall review each request and forward a copy of the letter with a written recommendation to the District Program Administration within 10 working days of its receipt;

(b) The District Program administrator will review the information and in turn submit a copy of the request letter with the District's recommendation to the Developmental Disabilities Central Program Office within 10 working days of its receipt;

(c) The requesting party shall receive the Department's written response, indicating its approval or denial to his or her request, within 10 working days of its receipt by the Department's Central Office; and

(d) A copy of the Department's approval or denial of exemption shall be forwarded to the recipient's waiver support coordinator and recipient's district of residence.

(3) Such letters regarding exemptions from this rule, shall be maintained by the support coordinator in the recipient's central record and a copy shall also be maintained in the recipient's facility record and readily available for review.

(4) The recipient's waiver support coordinator will make a copy of this letter available to all independent validated direct service providers responsible for furnishing the exempted requirement of this rule to the exempted recipient.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History–New _____.

NAME OF THE PERSON ORIGINATING PROPOSED RULE: Kathryn Stephens

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 31, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are 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 TITLE: RULE NO.:
Supervisor 64B3-5.002

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

SUMMARY: The Board is deleting provisions relating to when experience must be obtained and requires that examination certification not be allowed to substitute for one-year of experience in an individual category.

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), 483.823 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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE 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 of Board approved HIV/AIDS continuing education and one of the following:

(a) No change.

(b) A masters degree in medical technology or clinical laboratory science, one of the licensure categories, or one of the chemical or biological sciences, and three years of pertinent clinical laboratory experience in the categories for which licensure is sought~~, one year of which shall be post masters~~.

(c) A baccalaureate degree, with eight semester hours each of academic biological and chemical science included in a total of 24 semester hours of academic science and/or medical laboratory technology, and five years of pertinent clinical laboratory experience in the categories for which licensure is sought, two years of which must be at the technologist level ~~shall be post baccalaureate~~, including a minimum of one year in each category ~~for which licensure is sought~~.

(d) through (f) No change.

(g) In lieu of one year of experience required by paragraphs 64B3-5.002(1)(b) and (c), F.A.C., an applicant may use ~~substitute~~ Board certification obtained by examination in one or more of the laboratory specialties through the Board of Registry of the American Society of Clinical Pathologists, National Certification Agency of Medical Laboratory Personnel, National Registry of Clinical Chemistry, American Academy of Microbiology, American Medical Technologists, American Board of Bioanalysis, American Board of Clinical Chemistry, American Board of Medical Microbiology, American Board of Medical Genetics, American Board of Medical Laboratory Immunology, or American Board of

Histocompatibility and Immunogenetics. This certification shall not substitute for the one year of pertinent clinical laboratory experience in an individual category for which licensure is sought.

(h) 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 59O-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, 9-19-01, 5-23-02, 10-14-02, _____.

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 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:

Personnel Licensure – Prerequisite 64B3-6.003

PURPOSE AND EFFECT: The Board proposes to delete duplicative language in the existing rule text.

SUMMARY: The Board proposes to remove language requiring the completion of four hours of HIV/AIDS education courses.

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) FS.

LAW IMPLEMENTED: 456.013, 483.813, 483.815, 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-6.003 Personnel Licensure – Prerequisite.

(1) through (3) No change.

~~(4) All applicants for licensure shall submit evidence of completion of a four contact hour educational course on HIV/AIDS approved pursuant to Rule 64B3-11.005, F.A.C.~~

Specific Authority 483.805(4) FS. Law Implemented 456.013, 483.813, 483.815, 483.823 FS. History–New 6-6-85, Formerly 10D-41.71, Amended 7-4-89, Formerly 10D-41.071, 61F3-6.003, Amended 8-1-95, Formerly 59O-6.003, Amended 8-27-97, _____.

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 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: RULE NO.:

Requirements for Continuing Education Programs 64B3-11.003

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

SUMMARY: The Board is requiring an update on who is responsible for continuing education courses and emphasizing specialty area information.

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: 456.013(7), 483.805(4), 483.821 FS.

LAW IMPLEMENTED: 456.013(7), 483.821 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: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-11.003 Requirements for Continuing Education Programs.

Programs seeking Board approval shall meet the following requirements:

(1) through (2) No change.

(3) Providers shall initially designate and subsequently update as appropriate a person to assume responsibility for continuing education courses for clinical laboratory personnel.

(4) through (5) No change.

(6) Each participant shall be provided with an authenticated certificate or letter of attendance which shall include the participant's name, license number, course title, number of contact hours earned by specialty area, dates of attendance, program provider's name, approval number, ~~specialty area,~~ and the signature of the provider.

Specific Authority 456.013(7), 483.805(4), 483.821 FS. Law Implemented 456.013(7), 483.821 FS. History–New 2-22-94, Amended 7-13-94, Formerly 61F3-11.003, 59O-11.003, Amended 12-13-99, 4-16-01, _____.

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 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE:	RULE NO.:
Mandatory HIV/AIDS Education for Initial Licensure	64B3-11.005

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

SUMMARY: The Board intends to make changes for purposes of consistency.

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: 456.013(7), 483.805(4), 483.821 FS.

LAW IMPLEMENTED: 456.013(7), 483.821 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: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-11.005 Mandatory HIV/AIDS Education for Initial Licensure.

Applicants for initial licensure shall complete a one ~~four (4)~~ hour HIV/AIDS continuing education course pursuant to Section 381.0034, F.S., which shall:

(1) through (3) No change.

Specific Authority 483.823 FS. Law Implemented 456.033(6), 483.823 FS. History–New 12-6-94, Amended 12-4-95, 7-1-97, Formerly 59O-11.005, Amended _____.

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 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:	RULE NOS.:
Application, Certification, Registration, and Licensure Fees	64B8-3.002
Renewal Fees	64B8-3.003

PURPOSE AND EFFECT: The proposed rule amendments are intended to address area of critical need licensure and the deletion of language in the rule which is no longer needed.

SUMMARY: The proposed rule amendments clarify language to address applications in the area of critical need and delete obsolete language from the 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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013, 456.025, 458.309, 458.311, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.025, 456.036, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 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 RULES IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-3.002 Application, Certification, Registration, and Licensure Fees.

The following fees are prescribed by the Board:

(1) An application fee in the amount of $210.00 for a person desiring to obtain the following:

(a) through (c) No change.

(d) An area of critical need license and a ~~A~~ limited license, as provided in Sections 458.315 and 458.317, F.S. However, if the person applying for an area of critical need license or a limited license submits a notarized statement from the employing agency or institution stating that the applicant will not receive monetary compensation for any service involving the practice of medicine, the application fee shall be waived.

~~(e) As provided in Section 458.317, F.S., if the person converting a full, unrestricted license to a limited license, submits a written statement from the employing agency or institution that the applicant will not receive compensation for any service involving the practice of medicine, the application fee, all licensure fees, and neurological injury compensation assessments shall be waived.~~

(2) through (8) No change.

Specific Authority 456.013, 456.025, 458.309, 458.311, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS. Law Implemented 456.013, 456.025, 456.036, 458.311, 458.3115, 458.3124, 458.313, 458.3135, 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.345, 458.347 FS. History–New 12-5-79, Amended 11-10-82, 8-11-85, 10-24-85, Formerly 21M-19.02, Amended 12-4-86, 11-3-87, 7-4-88, 10-23-89, 11-12-89, 11-11-90, 1-16-91, 1-9-92, 2-10-92, 9-7-92, Formerly 21M-19.002, Amended 9-21-93, Formerly 61F6-19.002, Amended 2-13-95, 2-20-96, 6-24-96, Formerly 59R-3.002, Amended 6-7-98, 8-11-98, 11-22-98, 12-14-99, 1-31-01, 11-20-01, _____.

64B8-3.003 Renewal Fees.

(1) No change.

(2) The following renewal fees are prescribed by the Board:

(a) Biennial renewal fee for physicians licensed pursuant to Sections 458.311, 458.3115, 458.3124, and 458.313, F.S., for physicians holding a limited license; and for physicians holding a medical faculty certificate as a distinguished medical scholar, a temporary certificate for practice in areas of critical need, a public psychiatry certificate, or a public health certificate shall be $385.00. However the following exceptions shall apply:

1. If a physician holding an area of critical need license or a limited license submits a notarized statement from the employing agency or institution stating that the physician will not receive monetary compensation for any service involving the practice of medicine, said fee shall be waived.

2. through 4. No change.

(b) No change.

Specific Authority 456.025, 458.309(1), 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345 FS. Law Implemented 456.025(1), 456.036(3), 458.319(1), 458.345(4) FS. History–New 12-5-79, Amended 10-24-85, Formerly 21M-19.03, Amended 12-4-86, 11-3-87, 5-24-88, 11-15-88, 11-12-89, 1-9-92, Formerly 21M-19.003, Amended 9-21-93, 4-14-94, Formerly 61F6-19.003, Amended 10-10-95, 6-24-96, 1-26-97, Formerly 59R-3.003, Amended 6-7-98, 8-11-98, 12-14-99, 10-30-01, 3-25-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Approved Residency or Fellowship; Definitions 64B8-4.004

PURPOSE AND EFFECT: The proposed rule amendment is intended to include the accrediting organizations in Canada as meeting the definition of approved training.

SUMMARY: The proposed rule amendment includes the accrediting organizations in Canada as meeting the definition of approved training.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 458.309, 458.311(1)(f) FS.

LAW IMPLEMENTED: 458.311(1) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.004 Approved Residency or Fellowship; Definitions.

(1) An approved residency of at least one year constitutes a course of study and training in a single program for a period of not less than twelve calendar months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited for the training and teaching of physicians by the Accreditation Council for Graduate Medical Education (ACGME), College of Family Physicians of Canada (CFPC) or Royal College of Physicians and Surgeons of Canada (RCPSC) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME, CFPC or RCPSC. Fellowship training or residency training in a non-slotted position shall be considered approved residency training only in the instance when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

(2) An approved residency or approved fellowship of at least two years in one specialty area constitutes two progressive years in a course of study and training as long as each year is accepted by the American Board of Medical Specialties in that specialty for a period of not less than twenty-four months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited for the training and teaching of physicians by the Accreditation Council for Graduate Medical Education (ACGME), College of Family Physicians of Canada (CFPC) or Royal College of Physicians and Surgeons of Canada (RCPSC) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME, CFPC or RCPSC. Fellowship training or residence training in a non-slotted position shall be considered approved residency training only in the instance when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

Specific Authority 458.309, 458.311(1)(f) FS. Law Implemented 458.311(1) FS. History–New 3-31-80, Amended 11-10-82, Formerly 21M-22.04, Amended 9-7-88, 11 30-92, Formerly 21M-22.004, 61F6-22.004, Amended 11-15-94, Formerly 59R-4.004, Amended 6-15-98, 10-1-98, 7-10-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Continuing Education for Biennial Renewal 64B8-13.005

PURPOSE AND EFFECT: The proposed rule amendment is intended to address continuing education for performing pro bono medical services.

SUMMARY: The proposed rule amendment permits physicians to receive continuing education credit, up to 5 hours, for the performance of pro bono medical services.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(6),(7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-13.005 Continuing Education for Biennial Renewal.

(1) through (9) No change.

(10) In addition to the continuing medical education credits authorized above, up to 5 hours, per biennium, of continuing education credit may be fulfilled by performing pro bono medical services. For an entity serving the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigency shall be low-income (no greater than 150% of the federal poverty level) or uninsured persons. Credit shall be given on an hour per hour basis.

(a) The Board approves for credit under this rule, the following entities:

1. The Department of Health;

2. Community and Migrant Health Centers funded under section 330 of the United States Public Health Service Act; and,

3. Volunteer Health Care provider programs contracted to provide uncompensated care under the provisions of Section 766.1115, Florida Statutes, with the Department of Health.

(b) For services provided to an entity not specified under this rule, a licensee must apply for prior approval in order to receive credit. In the application for approval, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be served, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the application shall provide a brief explanation as to those facts.

(c) Unless otherwise provided through Board order, no licensee who is subject to a disciplinary action that requires additional continuing education as a penalty, shall be permitted to use pro-bono medical services as a method of meeting the additional continuing education requirements.

(11)~~(10)~~ No change.

Specific Authority 456.013(6),(7), 456.031(4), 458.309, 458.319 FS. Law Implemented 456.013(6),(7), 456.031(1)(a),(3), 458.319(4) FS. History–New 9-8-86, Amended 11-17-87, 11-15-88, 1-31-90, 9-15-92, Formerly 21M-28.002, Amended 12-5-93, Formerly 61F6-28.002, Amended 3-1-95, 1-3-96, 1-26-97, Formerly 59R-13.005, Amended 5-18-99, 6-4-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Advertising 64B8-30.011

PURPOSE AND EFFECT: The proposed rule is intended to address appropriate advertising by physician assistants.

SUMMARY: The proposed rule amendment sets forth criteria for appropriate advertising by physician assistants.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 458.347(13) FS.

LAW IMPLEMENTED: 458.331(1)(d) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-30.011 Advertising.

(1) Advertising by physician assistants is permitted so long as such information is in no way false, deceptive, or misleading.

(2) Physician assistant advertisements shall disclose the name of the primary supervising physician of the physician assistant advertising his or her services.

(3) Physician assistants may not claim any type of specialty board certification.

(4) Only physician assistants certified by the National Commission on Certification of Physician Assistants (NCCPA) may claim certification and employ the abbreviation "PA-C" next to his or her name.

(5) Failure to abide by the provisions of this rule shall constitute a violation of Sections 458.331(1)(d) and (nn) and 456.072(1)(cc), Florida Statutes.

Specific Authority 458.347(13) FS. Law Implemented 458.331(1)(d) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Physician Assistants

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: RULE NO.:
Nuclear Pharmacist – Continuing Education 64B16-28.904

PURPOSE AND EFFECT: The Board proposes to clarify biennial continuing education requirements and also to update the approved providers of continuing education.

SUMMARY: The proposed amendment address the biennial requirements for license renewal, and also add approved ACPE providers for continuing education coursework.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 465.0126, 465.022 FS.

LAW IMPLEMENTED: 465.0126 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: Lucy Gee, Acting Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.904 Nuclear Pharmacist – Continuing Education.

(1) Proof satisfactory that a nuclear pharmacist licensed pursuant to this section has met the requirements necessary for biennial renewal of this license shall be constituted by the following:

(a) The licensee has completed no less than twenty-four (24) additional hours per biennium of coursework ~~each two year period~~ by or through a Committee-approved provider or an ACPE approved provider, instructionally designed to provide in-depth treatment of nuclear pharmacy practice with suggested matter set out in (2).

(b) No change.

(2) No change.

Specific Authority 465.0126, 465.022 FS. Law Implemented 465.0126 FS. History–New 10-28-91, Formerly 21S-28.904, 61F10-28.904, 59X-28.904, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Permits for Hunting or Other Recreational Use on Wildlife Management Areas 68A-9.004

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to establish a permit quota and permit fee for Relay, Ft. McCoy, Gulf Hammock, and Grove Park Wildlife Management Areas (WMAs).

SUMMARY: Proposed changes would establish the following permit quotas and fees: Relay WMA – 330 permits at $325 each; Ft. McCoy WMA – 150 permits at $200 each; Gulf Hammock WMA – 400 permits at $275 each; and Grove Park WMA – 200 permits at $325 each.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule action will cost the agency approximately $150 for administrative preparation and review and $110 for legal advertising costs.

Any person who wished 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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-9.004 Permits for Hunting or Other Recreational Use on Wildlife Management Areas.

(1) In addition to other licenses, permits and stamps required by law, stamp requirements for hunting, camping, fishing, or other recreational uses on lands owned, leased or managed by the Commission or the State of Florida for the use and benefit of the Commission shall be as provided by Section 372.57(4)(b), F.S.

(a) The cost of permits as required for hunting on wildlife management areas as provided by Section 372.57(4)(b)1., F.S., shall be $25.

(b) The cost of recreational user permits as required for hunting on the following privately owned wildlife management areas as provided by Section 372.57(4)(b)2., F.S., shall be:

1. Nassau WMA – $197
2. San Pedro Bay WMA – $225
3. Blue Water Creek – $180
4. Flint Rock – $206
5. Twelve Mile Swamp – $425
6. Robert Brent – $150
7. Relay – $325
8. Ft. McCoy – $200
9. Gulf Hammock – $275
10. Grove Park – $325

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to Section 372.57(4)(b)2., F.S., shall be:

1. Nassau WMA – 600
2. San Pedro Bay WMA – 355
3. Blue Water Creek – 400
4. Flint Rock – 450
5. Twelve Mile Swamp – 200
6. Robert Brent – 100

7. Relay – 300
8. Ft. McCoy – 150
9. Gulf Hammock – 400
10. Grove Park – 200

(d) Recreational user permits required for hunting on privately owned wildlife management areas shall also authorize the permittee to engage in all activities authorized for wildlife management area permits.

(e) Recreational user permits for privately owned wildlife management areas designated herein shall be non-transferable.

(f) A recreational use permit for privately owned wildlife management areas designated herein shall be renewable for two consecutive years provided that proper application and payment is received prior to June 1.

(2) Additional stamp requirements may be promulgated for each individual wildlife management area and are set forth in Chapter 68A-15, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History–New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, 5-29-01, 7-22-01, 6-2-02, 7-28-02, 3-31-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits 68A-15.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise or delete hunter quotas on wildlife management areas (WMAs). In addition, the purpose of proposed changes is to reincorporate the list of quotas by area and hunt.

SUMMARY: The proposed rule would revise the hunter quotas for Lochloosa WMA to accommodate removal of private lands. The general gun still hunt quota would be deleted, and the general gun dog hunt quota would be reduced from 300 to 100 for each hunt and would be revised to establish two quota hunt periods (the first 23 days and the 24th through the 58th days) when dog or still hunting would be permitted. The quota hunts for Ft. McCoy, Relay, and Gulf Hammock WMAs would be deleted to accommodate conversion of these privately-owned WMAs to the Recreational User Permit program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately $285 for administrative preparation and $209 for legal advertising. No other significant economic impacts are expected.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.005 Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits.

(1) During the first nine days of the general hunting season and at other times specified herein, a quota or special-opportunity permit in addition to other license, permit and stamp requirements, shall be required for any person while hunting on wildlife management areas, wildlife and environmental areas, and fish management areas or specified units thereof, identified in this rule. Those persons exempt from license requirements by Section 372.57(1), F.S., or stamp requirements by Section 372.57(4), F.S., or persons age 65 or over who have obtained a Florida lifetime hunting or lifetime sportsman's license are also exempt from quota permit requirements on all areas except those specified by "(no exemptions)" in this rule. Quota, antlerless deer and special-opportunity permits shall be in the hunter's possession and shall be displayed upon request by any Commission employee. Quota, antlerless deer, and special-opportunity permits shall be transferable, except that quota, antlerless deer, and special-opportunity permits issued to exempt persons shall be transferable only to another exempt person, and application for same, if necessary, shall be made in accordance with Rule 68A-5.005, F.A.C.

(2) The maximum number of quota and special-opportunity permits to be issued for each wildlife management area, fish management area, or wildlife and environmental area shall be maintained on a list titled "Quota and special-opportunity permits," dated September 20, 2003,

~~effective July 2, 2003~~, incorporated herein by reference and kept by the Commission at its headquarters office and regional offices.

(3) Antlerless deer permits will be issued on specified wildlife management areas or wildlife and environmental areas during such hunting seasons or portions thereof as may be ordered by the Executive Director. Estimated deer density, estimated carrying capacity of available habitat and management objectives will be considered in determining the number of antlerless deer permits to be issued. Antlerless deer permits shall be transferable. No person shall take any antlerless deer on a management area unless authorized by permit or by area regulations.

(4) No person shall sell, purchase or offer to purchase any quota permit or any antlerless deer permit.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 5-19-80, 6-22-80, 12-29-80, 6-4-81, 8-4-81, 6-21-82, 7-29-82, 7-1-83, 7-5-84, 7-1-85, 9-19-85, Formerly 39-15.05, Amended 5-7-86, 6-10-86, 5-10-87, 6-8-87, 10-8-87, 4-13-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 8-23-92, 7-1-93, 7-1-94, 3-30-95, 6-20-95, 8-15-95, 4-1-96, 6-27-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 11-23-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 5-13-99, Formerly 39-15.005, Amended 12-9-99, 4-30-00, 7-1-01, 8-1-01, 11-1-01, 5-13-02, 10-16-02, 5-1-03, 7-1-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Specific Regulations for Type I Wildlife Management Areas – North Central Region 68A-15.062

PURPOSE AND EFFECT: The purpose of the proposed changes is to establish specific regulations for Lochloosa, Gulf Hammock, and Grove Park Wildlife Management Areas (WMAs). The effect would be to require recreational user permits for public access on these privately-owned WMAs.

SUMMARY: The proposed changes would establish specific rules for Grove Park WMA and revise specific rules for Lochloosa and Gulf Hammock WMAs to accommodate conversion of privately-owned lands to the Recreational User Permit Program. Proposed revisions on Gulf Hammock would restrict access to only those individuals possessing a recreational user permit, except as provided by s. 372.57, F.S., and add a 3-day muzzleloading gun season.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately $275 for administrative preparation and $375 for legal advertising. No other significant economic impacts are expected.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.062 Specific Regulations for Type I Wildlife Management Areas – North Central Region.

(1) through (2) No change.

(3) Gulf Hammock Wildlife Management Area.

(a) Open season:

1. General gun – November 8 through January 4.

2. Spring turkey – March 20 through April 25.

3. Archery – September 20 through October 19.

4. Muzzleloading gun – October 31 through November 2.

~~4.~~5. Fishing and frogging – Permitted only during periods when hunting is allowed.

(b) Legal to take: All legal game, fish, frogs and furbearers. Wild hogs may not be taken after the first 23 days of general gun season.

(c) Camping: Permitted only at designated campsites during periods in which hunting is allowed.

(d) General regulations:

1. Camps may be set up beginning one day before each hunting period and shall be removed from campsites within one day following the close of each hunt period. Camping is limited to tents, trailers and self-propelled vehicles.

2. Vehicles may be operated only on established roads.

3. Public access is permitted only when hunting is allowed and on the Friday prior to archery and spring turkey season and on the consecutive Friday, Saturday, and Sunday prior to the general gun season.

4. Public access to the area is permitted only at designated entrances. Public access during periods when hunting is permitted is limited to entering the area no earlier than one hour before legal shooting hours and exiting the area no later than one hour after legal shooting hours.

5. Fires other than campfires are prohibited.

6. Access is permitted only by individuals possessing a valid recreational user permit, except as provided by s. 372.57, F.S.

(4) Lochloosa Wildlife Management Area.

(a) Open season:

1. General gun – November 8 through January 4.

2. Spring turkey – March 20 through April 25.

3. Archery – September 20 through October 19.

4. Muzzleloading gun – October 24-26.

5. Duck and coot – During the duck and coot season established by Rule 68A-13.003, F.A.C.

6. Fishing and frogging – Throughout year.

~~7. Trapping – December 1 through January 4 in the still hunt portion of the area only.~~

(b) Legal to take: All legal game, fish, frogs and furbearers. No size or bag limit on hogs.

(c) Camping: Camping allowed only by permit from the St. Johns River Water Management District, and only at the designated campsite.

(d) General regulations:

~~1. Hunting with dogs other than bird dogs is prohibited west of County Road 325 and north of County Road 2082 during general gun season.~~

1.~~2.~~ The taking of hogs by the use of dogs is prohibited.

2.~~3.~~ ~~Vehicles are prohibited year-round in the still hunt areas west of and including Old Rail Bed Road, south of County Road 346, and north of County Road 2082.~~ Vehicles are restricted to established roads ~~in the remaining portion of the area~~. Non-motorized bicycles are permitted, but may be ridden only on established roads.

3.~~4.~~ During the general gun season, hunting as specified by paragraph 68A-24.002(2)(b), F.A.C.~~, is permitted except west of C.R. 325.~~

4.~~5.~~ Taking of wildlife by use of a gun on or from the rights-of-way of County Roads 325 ~~and 346~~ is prohibited as provided by Rule 68A-4.008, F.A.C.

~~6. Hunting with dogs is prohibited during the archery and muzzleloading gun seasons.~~

5.~~7.~~ Fires are prohibited on the area.

6.~~8.~~ Horses are permitted only during periods closed to hunting. Horses may be ridden only on established roads.

(5) through (33) No change.

(34) Grove Park Wildlife Management Area (Alachua County).

(a) Open season:

1. Archery – September 20 through October 19.

2. Muzzleloading gun – October 24 – 26.

3. General gun – November 8 through January 4.

4. Duck and coot – During the duck and coot season established by Rule 68A-13.003, F.A.C.

5. Trapping – December 1 through January 4.

6. Spring turkey – March 20 through April 25.

7. Fish and frogging – Throughout year.

(b) Legal to take: All legal game, fish, frogs and furbearers. No size or bag limit on hogs.

(c) Camping: Prohibited.

(d) General regulations:

1. Hunting with dogs other than bird dogs is prohibited.

2. Vehicles are prohibited year-round in the Camps Canal area, in those lands lying south of County Road 346, and in those lands lying north of County Road 2082. Vehicles are restricted to established roads in the remaining portion of the area. Non-motorized bicycles are permitted, but may be ridden only on established roads.

3. Taking of wildlife by use of a gun on or from the rights-of-way of County Roads 325, 2082, and 346 is prohibited as provided by Rule 68A-4.008, F.A.C.

4. Fires are prohibited on the area.

5. Horses are permitted only during periods closed to hunting. Horses may be ridden only on established roads.

6. Access is permitted only by individuals possessing a valid recreational user permit, except as provided by Section 372.57, F.S.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.121, 375.313 FS. History–New 6-21-82, Amended 7-1-83, 11-17-83, 7-5-84, 7-1-85, 2-16-86, 5-7-86, 6-10-86, 11-27-86, 5-10-87, 5-1-88, 6-7-88, 7-1-89, 8-17-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 7-2-92, 8-23-92, 10-22-92, 7-1-93, 7-1-94, 2-9-95, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 7-1-99, Formerly 39-15.062, Amended 12-9-99, 7-1-00, 7-1-01, 11-11-01, 6-2-02, 10-16-02, 5-25-03, 7-7-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Specific Regulations for Wildlife Management Areas – Northeast Region 68A-15.065

PURPOSE AND EFFECT: The purpose of the proposed changes is to revise specific regulations for Ft. McCoy and Relay WMAs. The effect would be to require recreational user permits for public access on these privately-owned WMAs.

SUMMARY: The proposed changes would revise specific rules for Ft. McCoy and Relay WMAs to accommodate conversion of privately-owned lands to the Recreational User Permit Program. Proposed revisions would restrict access to only those individuals possessing a recreational user permit, except as provided by s. 372.57, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately $275 for administrative preparation and $375 for legal advertising. No other significant economic impacts are expected.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.065 Specific Regulations for Wildlife Management Areas – Northeast Region.

(1) No change.

(2) Ft. McCoy Wildlife Management Area.

(a) Open season:

1. General gun – November 8 through January 4.

2. Small game – January 5-25.

3. Archery – September 20 through October 19.

4. Muzzleloading gun – October 24-26.

5. Spring turkey – March 20 through April 25.

6. Fishing and frogging – Permitted during periods in which hunting is allowed.

(b) Legal to take: All legal game, fish, frogs and furbearers. Wild hogs may be taken only during archery or muzzleloading gun seasons and during the first 9 days of the general gun season.

(c) Camping: Permitted during periods in which hunting is allowed at designated campsite only.

(d) General regulations:

1. Only tents, trailers or self-propelled camping vehicles may be used for camping.

2. Vehicles may be operated only on named or numbered roads.

3. Persons operating vehicles shall enter and exit only at designated entrances.

4. Hunting with dogs is prohibited, except bird dogs may be used during the small game season.

5. The area is closed to public access except during periods when hunting is allowed.

6. Taking of wildlife by use of a gun on or from rights-of-way of all paved roads or Gooski Road is prohibited as provided by Rule 68A-4.008, F.A.C.

7. The possession of center-fire rifles is prohibited during spring turkey season.

8. Access is permitted only by individuals possessing a valid recreational user permit, except as provided by Section 372.57, F.S.

(3) through (9) No change.

(10) Relay Wildlife Management Area.

(a) Open season:

1. General gun – November 8 through January 4.

2. Archery – September 20 through October 19 (Fridays, Saturdays and Sundays only).

3. Muzzleloading gun – October 24-26.

4. Small game – January 5 through February 29.

5. Spring turkey – March 20 through April 25.

6. Fishing and frogging – Permitted during periods open to hunting.

(b) Legal to take: All legal game, fish, frogs and furbearers.

(c) Camping: Permitted only during periods open to hunting except during small game season. Camping is permitted only at designated campsites by permit from The Plum Creek Timber Company.

(d) General regulations:

1. Hunters shall check in and out at a check station when entering and exiting the area and shall check all game taken.

2. Vehicles or horses may be used only on named or numbered roads.

3. The area is closed to public access except during periods when hunting is allowed.

4. Possession of centerfire rifles (other than muzzleloading) or pistols is prohibited.

5. Camping equipment may be brought onto the area only during the weekend before the archery season and during periods when hunting is allowed on the area.

6. Access is permitted only by individuals possessing a valid recreational user permit, except as provided by Section 372.57, F.S.

(11) through (35) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 375.313 FS. History–New 6-21-82, Amended 6-29-82, 7-1-83, 7-5-84, 10-1-84, 7-1-85, 5-7-86, 5-10-87, 5-1-88, 7-1-89, 12-19-89, 7-1-90, 7-1-91, 7-2-91, 7-2-92, 7-1-93, 7-1-94, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 7-1-99, Formerly 39-15.065, Amended 12-20-99, 7-1-00, 12-26-00, 7-1-01, 6-2-02, 7-28-02, 5-1-03, 7-1-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Designation of Threatened Species; Prohibitions; Permits 68A-27.004

PURPOSE AND EFFECT: The purpose of the proposed rule is to remove the red-cockaded woodpecker (*Picoides borealis*) from the list of threatened species. A separate Notice of Proposed Rule adds the red-cockaded woodpecker to the list of species of special concern.

SUMMARY: The proposed rule deletes language that listed the red-cockaded woodpecker as a threatened species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately $185 for administrative preparation and review and $25 for legal advertising.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.004 Designation of Threatened Species; Prohibitions; Permits.

(1) The following species are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, molest, harass or sell any of the threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by specific permit from the Executive Director, permits being issued only for scientific or conservation purposes and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species.

1. Crystal darter (*Ammocrypta asprella*)

2. Key silverside (*Menidia conchorum*)

3. Loggerhead sea turtle (*Caretta caretta*)

4. Blue-tailed mole skink (*Eumeces egregius lividus*)

5. Sand skink (*Neoseps reynoldsi*)

6. Big Pine Key ringneck snake (*Diadophis punctatus acricus*)

7. Miami black-headed snake (*Tantilla oolitica*)

8. Short-tailed snake (*Stilosoma extenuatum*)

9. Florida brown snake (*Storeria dekayi victa*) (lower keys population only)

10. Florida ribbon snake (*Thamnophis sauritus sackeni*) (lower keys population only)

11. Indigo snake (*Drymarchon corais couperi*)

12. Atlantic salt marsh water snake (*Nerodia fasciata taeniata*)

13. Bald eagle (*Haliaeetus leucocephalus*)

14. Southeastern kestrel (*Falco sparverius paulus*)

15. Crested caracara (*Polyborus plancus*)

16. Florida sandhill crane (*Grus canadensis pratensis*)

17. Roseate tern (*Sterna dougalli*)

18. Least tern (*Sterna albifrons*)

19. White-crowned pigeon (*Columba leucocephala*)

20. Scrub jay (*Aphelocoma coerulescens*)

~~21. Red-cockaded woodpecker (*Picoides borealis*)~~

21.~~22.~~ Snowy plover (*Charadrius alexandrinus*)

22.~~23.~~ Piping plover (*Charadrius melodus*)

23.~~24.~~ Mangrove fox squirrel (*Sciurus niger avicennia*)

24.~~25.~~ Florida black bear (*Ursus americanus floridanus*) (other than those found in Baker and Columbia counties or in Apalachicola National Forest or which are held in captivity under permit)

25.~~26.~~ Everglades mink (*Mustela vison evergladensis*)

26.~~27.~~ Southeastern beach mouse (*Peromyscus polionotus niveiventris*)

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-22-80, 7-1-83,7-1-85, Formerly 39-27.04, Amended 6-1-86, 5-10-87, 4-27-89, 6-23-99, Formerly 39-27.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Designation of Species of Special Concern; Prohibitions; Permits 68A-27.005

PURPOSE AND EFFECT: The purpose of the proposed rule is to add the red-cockaded woodpecker (*Picoides borealis*) to the list of species of special concern and to implement the regulations and permit requirements recommended in the Red-cockaded Woodpecker Management Plan. A separate Notice of Proposed Rule removes the red-cockaded woodpecker from the list of threatened species.

SUMMARY: The proposed rule adds language to list the red-cockaded woodpecker as a species of special concern and adds language to continue the prohibition on take of red-cockaded woodpeckers unless permitted by the Executive Director to do so.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately $185 for administrative preparation and review and $25 for legal advertising.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, September 3-5, 2003

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.005 Designation of Species of Special Concern; Prohibitions; Permits.

(1) The following species are hereby declared to be of special concern, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, or sell any species of special concern included in this paragraph or parts thereof or their nests or eggs except as authorized by Commission regulations or by permit from the executive director or by statute or regulation of any other state agency, permits being issued upon reasonable conclusion that the permitted activity will not be detrimental to the survival potential of the species.

(b) The following species were listed prior to January 1, 2001, and have been further categorized by the numbers in parentheses under the following criteria: (1) has a significant vulnerability to habitat modification, environmental alteration, human disturbance, or human exploitation which, in the foreseeable future, may result in its becoming a threatened species unless appropriate protective or management techniques are initiated or maintained; (2) may already meet certain criteria for designation as a threatened species but for which conclusive data are limited or lacking; (3) may occupy such an unusually vital or essential ecological niche that should it decline significantly in numbers or distribution other species would be adversely affected to a significant degree; (4) has not sufficiently recovered from past population depletion, and (5) occurs as a population either intentionally introduced or being experimentally managed to attain specific objectives, and the species of special concern prohibitions in Rule 68A-27.002, F.A.C., shall not apply to species so designated, provided that the intentional killing, attempting to kill, possession or sale of such species is prohibited.

1. Atlantic sturgeon (*Acipenser oxyrhynchus*) (1)

2. Lake Eustis pupfish (*Cyprinodon variegatus hubbsi*) (1)

3. Saltmarsh topminnow (*Fundulus jenkinsi*) (1)

4. Rivulus (*Rivulus marmoratus*) (1)

5. Southern tessellated darter (*Etheostoma olmstedi maculaticeps*) (1)

6. Harlequin darter (*Etheostoma histrio*) (1)

7. Shoal bass (*Micropterus sp.*) (1, 2)

8. Suwannee bass (*Micropterus notius*) (1)

9. Key blenny (*Starksia starcki*) (1)

10. Gopher frog (*Rana areolata*) (1, 2)

11. Pine Barrens treefrog (*Hyla andersonii*) (1)

12. Florida bog frog (*Rana okalossae*) (2)

13. Georgia blind salamander (*Haideotriton wallacei*) (1, 2)

14. Alligator snapping turtle (*Macrochelys temmincki*) (1)

15. Suwannee cooter (*Chrysemys concinna suwanniensis*) (1, 2)

16. Barbour's map turtle (*Graptemys barbouri*) (1, 2)

17. Gopher tortoise (*Gopherus polyphemus*) (1, 2, 3)

18. American alligator (*Alligator mississippiensis*) (1, 3)

19. Florida key mole skink (*Eumeces egregius egregius*) (1)

20. Red rat snake (*Elaphe guttata guttata*) (lower keys population only) (1)

21. Brown pelican (*Pelecanus occidentalis*) (1)

22. Florida pine snake (*Pituophis melanoleucus mugitus*) (2)

23. Little blue heron (*Egretta caerulea*) (1, 4)

24. Osprey (*Pandion haliaetus*) (Monroe County population only) (1, 2)

25. Black skimmer (*Rynchops niger*) (1)

26. White ibis (*Eudocimus albus*) (2)

27. Snowy egret (*Egretta thula*) (1)

28. Reddish egret (*Egretta rufescens*) (1, 4)

29. Tricolored heron (*Egretta tricolor*) (1, 4)

30. Roseate spoonbill (*Ajaia ajaja*) (1, 4)

31. Whooping crane (*Grus americana*) (5)

32. Limpkin (*Aramus guarauna*) (1)

33. American oystercatcher (*Haematopus palliatus*) (1, 2)

34. Burrowing owl (*Athene cunicularia*) (1)

35. Marian's marsh wren (*Cistothorus palustris marianae*) (1)

36. Worthington's marsh wren (*Cistothorus palustris griseus*) (1)

37. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*) (1)

38. Wakulla seaside sparrow (*Ammodramus maritimus juncicolus*) (1)

39. Sherman's fox squirrel (*Sciurus niger shermani*) (1, 2)

40. Eastern chipmunk (*Tamias striatus*) (1)

41. Florida mouse (*Podomys floridanus*) (1)

42. Sherman's short-tailed shrew (*Blarina brevicauda shermanii*) (2)

43. Homosassa shrew (*Sorex longirostris eionis*) (2)

44. Sanibel Island rice rat (*Oryzomys palustris sanibelli*) (1, 2)

45. Florida tree snail (*Liguus fasciatus*) (1)

46. Bluenose shiner (*Ptreonotropis welaka*) (1, 2)

47. Black Creek crayfish (*Procambarus pictus*) (1)

48. Econfina crayfish (*Procambarus econfinae*) (1)

49. Sims Sink crayfish (*Procambarus erythrops*) (1)

(2) The following species, listed after January 1, 2001, are hereby declared to be of special concern, and shall be afforded the protective provisions specified. ~~No person shall directly take any Flatwoods salamander (*Ambystoma cingulatum*) or parts thereof or their eggs except as authorized by Commission rule or by permit from the executive director.~~

(a) Flatwoods salamander (*Ambystoma cingulatum*)

No person shall directly take any flatwoods salamander or parts thereof or their eggs except as authorized by Commission rule or by permit from the executive director.

(b) Red-cockaded woodpecker (*Picoides borealis*)

No person shall take, harass, possess, sell, or transport any red-cockaded woodpecker or parts thereof or their eggs or their nests or dens except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-22-80, 6-21-82, 7-1-84, 7-1-85, Formerly 39-27.05, Amended 6-1-86, 5-10-87, 4-27-89, 10-22-92, 5-26-94, 6-23-99, Formerly 39-27.005, Amended 2-27-01, 5-1-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-8.003	Registration

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 41, which is the October 11, 2002 issue of the Florida Administrative Weekly. The changes are in response to comments received from staff at the Joint Administrative Procedures Committee.

The changes are as follows:

1) In Rule 5J-8.003, F.A.C., subsection (1), the first sentence is amended to read:

(1) "Any person who intends to open or operate as a dance studio shall, prior to engaging in such activity, register with the Department using f~~F~~orm DACS 10700, Dance Studio Registration, effective March 22, 1993, revised June 23, 1994, and November 18, 2002, hereby incorporated by reference."

2) Rule 5J-8.003, F.A.C., subsections (2) and (3) are deleted.

~~(2) For the purpose of Section 501.143(4), Florida Statutes, and these rules, a "contract for ballroom dance studio services or lessons" shall not include:~~