

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.020 Ambulatory Surgical Center Services.

(1) No change.

(2) All ambulatory surgical center providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook, July 2003 ~~January 2002~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 10-25-84, Formerly 10C-7.531, Amended 5-13-92, 7-12-92, 7-27-93, Formerly 10C-7.0531, Amended 9-8-94, 7-3-95, 11-18-97, 10-27-98, 1-1-01, 7-26-01, 2-25-03, _____.

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 Opticianry

RULE TITLE: Board Certification Course Requirements and Course Approval

RULE NO.: 64B12-14.004

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

SUBJECT AREA TO BE ADDRESSED: Board Certification Course Requirements and Course Approval.

SPECIFIC AUTHORITY: 484.002(6), 484.005(4) FS.

LAW IMPLEMENTED: 484.002(6) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED 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: Sue Foster, Board Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Library and Information Services

RULE TITLE: Library Grant Programs

RULE NO.: 1B-2.011

PURPOSE, EFFECT AND SUMMARY: The proposed amendment revises the guidelines and forms for the State Aid to Libraries Grant Program. Guidelines for this grant program are outlined in the application packet that contain information on eligibility requirements, types of grants, application procedures, application review procedures, grant administration procedures, and application forms.

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 lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 257.14-.25 FS.

LAW IMPLEMENTED: 257.14-.25 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 BY 5:00 P. M. (EST), TUESDAY, AUGUST 26, 2003, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 11:00 a.m. (EST), Tuesday, September 2, 2003

PLACE: Florida State Records Center, Training Room, 4319 Shelfer Road, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Judith Ring, Director, Division of Library and Information Services, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)245-6600, Suncom 205-6600

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-2.011 Library Grant Programs.

(1) through (2) No change.

(a) The State Aid to Libraries Grant Guidelines and Application (~~Form DLIS/SA01~~), effective 4-1-98, Amended 11-20-01, Amended _____, which contain guidelines and application forms, State Aid to Libraries Grant Application – ~~Single County Library (Form DLIS/SA02), effective 4-1-98; State Aid to Libraries Grant Application – Single County or Participating Library (New) (Form DLIS/SA02a SA01), effective 4-1-98, Amended _____~~; State Aid to Libraries Grant Application – Multicounty Library (Form DLIS/SA03 SA02), effective 4-1-98, Amended _____; ~~State Aid to~~

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLES: Application
RULE NO.: 19B-4.001

PURPOSE AND EFFECT: To clarify how the Florida Prepaid College Board will handle certain applications for the Florida Prepaid College Program that are received outside the annual application period set by the Board and to clarify the contract prices that apply to such applications.

SUMMARY: The proposed rule amendment clarifies that that the Board will accept applications for advance payment contracts purchased through the Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs and by purchasers pursuant to a court order at any time, and that other applications received by the Board outside the annual application period will be processed for data collection and administrative purposes, but will not be accepted until the beginning of the next succeeding annual application period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 1009.971(1),(4),(6) FS.

LAW IMPLEMENTED: 1009.98 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., September 1, 2003

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1) Rule Chapters 19B-4 through 19B-13 and 19B-15, F.A.C., apply to purchasers of advance payment contracts for the prepayment of postsecondary registration, local fees and/or dormitory residency fees under the Florida Prepaid College Program, the "Program". The application period shall commence and terminate on dates set annually by the Board and published in the Florida Administrative Weekly.

Applications for advance payment contracts purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order will be accepted by may be submitted to the Board at any time. Other applications for advance payment contracts submitted to the Board outside the annual application period will be processed for data collection and administrative purposes, but will not be accepted by the Board until the beginning of the next succeeding annual application period. The contract prices associated with applications submitted to the Board outside the annual application period, except for those purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order, shall be the contract prices applicable to advance payment contracts for the next succeeding annual application period. After acceptance by the Board of the purchaser's application, a participation and payment schedule shall be mailed to the purchaser. The advance payment contract shall be composed of the application, master covenant, and participation and payment schedule.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2002-1, is hereby incorporated by reference and may be obtained by calling 1-800-552-GRAD (4723) (prompt 1). The effective date of the form is October 21, 2002. The Florida Prepaid College Plan Program Master Covenant, Form No. FPCB 2002-2 is hereby incorporated by reference with an effective date of October 21, 2002.

Specific Authority 1009.971(1),(4),(6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-7-01, 10-9-01, 11-27-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 1, 2003

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

DEPARTMENT OF CORRECTIONS

Table with 2 columns: RULE TITLES and RULE NOS.:
Inmate Visiting - Definitions 33-601.713
Inmate Visiting - General 33-601.714
Visiting Application Initiation Process 33-601.715
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Visiting Denial 33-601.717
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Visiting by Former and Current Department and Contract Employees 33-601.719
 Sex Offender Visiting Restrictions 33-601.720
 Visitor Conduct 33-601.727
 Denial or Termination of Visits 33-601.729
 Revocation or Suspension of Visiting Privileges 33-601.731
 Reinstatement of Revoked or Suspended Visiting Privileges 33-601.732
 Special Visits 33-601.736
 Visiting – Forms 33-601.737

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to reassign responsibility for review of visiting applications and suspension and termination of visiting privileges from central office to institutional staff, to delete obsolete language, to correct staff titles associated with inmate visiting, and to provide clarification of definitions and criteria related to inmate visiting.

SUMMARY: The proposed rules reassign responsibility for review of visiting applications and suspension and termination of visiting privileges from central office to institutional staff, delete obsolete language, correct staff titles associated with inmate visiting, and provide clarification of definitions and criteria related to inmate visiting.

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, 944.115, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.115, 944.23, 944.8031 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: 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 RULES IS:

33-601.713 Inmate Visiting – Definitions.

(1) through (2) No change.

~~(3) “Central Visiting Authority (CVA)” refers to the section within the Bureau of Classification and Central Records responsible for the management of inmate visiting procedures, visiting records, and fact-based decisions on visiting requests.~~

~~(3)(4) No change.~~

~~(4)(5) “Institutional Classification Team (ICT)” refers to the team appointed by the warden responsible for making local classification decisions as defined in rule and procedure. The ICT shall be comprised of a senior classification officer or higher and security member of the rank of correctional officer lieutenant or higher the warden or assistant warden who shall serve as chairperson, classification supervisor, chief of security, and other members when appointed by the warden or designated by rule.~~

~~(5)(6) “Immediate Family” refers to an inmate’s spouse, children, parents, brothers, sisters, grandparents, great grandparents, grandchildren, stepbrothers, stepsisters, stepparents, step-grandparents, aunts, uncles, foster parents, stepchildren, half brothers, half sisters, brothers-in-law, sisters-in-law, mothers-in-law, fathers-in-law, and sons and daughters-in-law.~~

(7) through (10) renumbered (6) through (9) No change.

~~(10)(11) “Approved Visitor” refers to any person who is approved by the assigned institutional classification officer CVA to visit an inmate and whose approval is documented in the automated visiting record.~~

(12) through (17) renumbered (11) through (16) No change.

~~(18) “Temporarily Suspended” refers to a visitor’s status pending a review or investigation of circumstances or events that can result in the revocation or suspension of visiting privileges. A visitor shall not be allowed to visit while in this status.~~

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

33-601.714 Inmate Visiting – General.

(1) through (2) No change.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and shall subject the visitor to revocation or suspension of visiting privileges by the warden or designee CVA and the inmate to disciplinary action.

(4) Posting of Policies.

(a) To ensure that all visitors are aware of Section 944.47, F.S., governing contraband, the warden or designee shall post the statute in a conspicuous place at the entrance to the institution or facility.

(b) The warden or designee shall display the visiting rule, procedures, and any technical instructions that do not impede the maintenance of the security of the institution in a manner that allows visitors to read them before they begin the institutional visiting entry process.

~~(5) The CVA shall publish a departmental visitor's information handbook that shall include statutes, rules, procedures, and instructions relating to visiting. The warden shall ensure that a new visitor receives a copy of the handbook. These handbooks are not authorized in the visiting area.~~

~~(5)~~(6) 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, _____.

33-601.715 Visiting Application Initiation Process.

(1) No change.

(2) The inmate shall be given up to fifteen copies of the Request for Visiting Privileges, Form DC6-111A, and Visitor Information Summary, Form DC6-111B, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are incorporated by reference in Rule 33-601.737, F.A.C. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit a Request for Visiting Privileges, Form DC6-111B, until they reach 12 years of age.

(a) through (b) No change.

(3) The institution classification staff ~~CVA~~ shall conduct criminal history background checks on applicants requesting visiting privileges ~~if information on the application indicates that it is prudent to do so.~~

(4) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706 and 33-601.708, Amended 5-27-02, _____.

33-601.716 Visiting Record Management.

(1) The Bureau of Classification and Central Records ~~CVA~~ shall develop and maintain computerized inmate-visiting records.

(2) Department staff shall document all requests for visits; ~~recommendations of the warden or the ICT,~~ and decisions made with regard to visiting and pertinent comments on the automated visiting record.

(3) through (9) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.703 and 33-601.708, Amended _____.

33-601.717 Visiting Denial.

(1) No change.

(2) The assigned institutional classification officer ~~CVA~~ shall have authority to refuse to approve visiting for applicants with prior negative visiting behavior based on the security threat to the institution, nature of the behavior, and the elapsed time since the incident. Denial of visiting shall be permanent if the prospective visitor was involved in, or assisted in, an escape or attempted escape from any correctional facility.

(3) through (4) No change.

(5) Any person shall be subject to denial of permission to visit based upon the following criteria:

(a) No change.

(b) Escape or attempting to escape, or a ~~Assisting or attempting to assist an escape or escape attempt from any facility;~~

(c) The nature and extent of the individual's criminal record, consideration of which includes:

1. Felony convictions for drug offenses within the last 5 years, convictions for violent felony offenses within the last 3 years' convictions for non-violent offenses within the last 2 years, withholds of adjudication, adjudications of delinquency, active warrant, misdemeanor convictions for stalking, battery, prostitution, possession of marijuana under 20 grams, possession of narcotic paraphernalia, or resisting a law enforcement officer without violence, and criminal history dispositions in any jurisdiction. If the disposition of an arrest is not reflected, the disposition shall ~~not~~ be ascertained prior to approval of the application ~~completion of the review of the visiting request unless circumstances suggest additional clarification is prudent.~~ If additional documentation ~~clarification~~ of the charge is necessary, the prospective visitor shall be responsible for providing official documentation of the disposition or circumstances of the offense in question;

2. No change.

(d) through (l) No change.

(6) A department volunteer or intern shall not be approved for visiting at an institution or facility to which he or she is assigned. Following termination or assignment to another facility, visitation at the former institution or facility shall not occur until five years ~~twelve months~~ have elapsed.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706 and 33-601.707, Amended 5-27-02, _____.

33-601.718 Review of Request for Visiting Privileges.

(1) In approving or disapproving visiting privileges, assigned institutional classification officer ~~CVA~~ ~~staff~~ shall review the Request for Visiting Privileges, Form DC6-111A, and shall consider all factors related to the security, order or effective management of the institution.

(a) No change.

(b) The assigned institutional classification officer ~~CVA~~ ~~staff~~ shall evaluate a person's criminal history and visiting background using the ~~CVA~~ Visitor Screening Matrix, Form DC6-111D.

(c) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706, Amended _____.

33-601.719 Visiting By Former and Current Department and Contract Employees.

(1) Former Department and Contract Employees. The assigned institutional classification officer CVA shall consider approving former department employees and former employees of a contractor who was under contract with the department for visiting privileges under the following circumstances:

(a) No change.

(b) During employment the applicant did not have a documented incident of any of the following:

1. through 2. No change.

3. A personal or business relationship with an inmate offender. A personal or business relationship is any that goes beyond what is necessary for the performance of one's job.

4. through 5. No change.

(c) No change.

(2) Current Department and Contract Employees. The warden or designee CVA shall consider approving current department employees and employees of a contractor currently under contract with the department for visiting privileges under the following conditions:

(a) through (b) No change.

(c) The employing warden, warden of the institution housing the inmate to be visited, circuit administrator (community corrections staff), regional director (regional office staff), and Assistant Secretary Director of Institutions (central office staff), have approved the visit in writing.

(d) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Formerly 33-601.706, Amended 5-27-02, _____.

33-601.720 Sex Offender Visiting Restrictions.

(1) No change.

(2) A warden, ~~with a recommendation from the CVA supervisor,~~ is authorized to approve a visit between a minor who is accompanied by an authorized adult and an inmate who meets the criteria in subsection 33-601.720(1), F.A.C., above if visiting is not restricted by court order and the warden determines the visit to be in the minor's best interest. Factors to be considered are:

(a) through (d) No change.

(3) through (4) No change.

~~(5) The warden shall provide documentation to the CVA supervisor who shall recommend approval or denial to the warden.~~

~~(5)(6)~~ No change.

~~(6)(7)~~ The warden, ~~with a recommendation from the CVA supervisor,~~ is authorized to modify the visiting status if factors materially affecting the visiting privilege decision change. Modification of privileges and court modifications of previously imposed visiting restrictions shall be documented in the AVR by institutional staff.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Formerly 33-601.707, Amended 5-29-03, _____.

33-601.727 Visitor Conduct.

(1) Visitors must conduct themselves in accordance with the following requirements while on department property.

(a) through (b) No change.

(c) Visitors shall not possess, introduce, or attempt to introduce contraband or illegal items into or onto the grounds of any department institution or facility. Violations shall result in the suspension of visiting privileges by the warden or designee CVA. Contraband items not of an illegal nature shall be seized by staff when found and shall be returned only on the approval of the duty warden.

(d) through (j) No change.

(k) Visitors may exchange a brief embrace and kiss with the inmate to be visited once at the beginning and end of visit.

1. through 2. No change.

3. No other forms of affection or physical contact between visitors and inmates are ~~is~~ authorized.

(2) 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, _____.

33-601.729 Denial or Termination of Visits.

(1) through (2) No change.

(3) Reconsideration for Visitation.

~~(a) A visitor denied visiting by the warden or duty warden shall be permitted to ask the CVA to mediate the matter, using local or institutional telephone access for this purpose. The CVA employee will either inform the visitor of his or her agreement with the decision of the duty warden or shall contact the facility on behalf of the visitor. The final decision shall rest with the warden, assistant warden, or duty warden.~~

~~(b)~~ A visitor initially denied permission to visit for reasons other than for possession or attempted introduction of contraband and who corrects the problem causing the denial shall be granted visiting if not otherwise precluded by rule and if the inmate is not in the process of visiting with others.

(4) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Formerly 33-601.705 and 33-601.707, Amended 5-27-02, _____.

33-601.731 Revocation or Suspension of Visiting Privileges.

(1) through (8) No change.

(9) Suspension of Visitor's Visiting Privileges.

~~(a) A visitor whose visiting privileges are under consideration for revocation or suspension shall have his or her visiting privileges temporarily suspended.~~

~~(a)(b)~~ A visitor's visiting privileges shall be revoked by the warden or designee CVA when the visitor:

1. through 6. No change.

provide Florida County Health Departments with new HIPAA policy and HIPAA compliant Level II HCPCS for services that use the CMS-1500 for billing.

SUMMARY: The rule is amended to include new HIPAA policy, language, and new HIPAA compliant level II HCPCS. In addition, family planning policy has been changed to comply with recommendations of the US Preventive Services Task Force by omitting the requirement for urinalysis and hemoglobin/hematocrit laboratory analyses with family planning health assessments.

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: 409.905, 409.908 FS.

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

TIME AND DATE: 9:00 a.m., September 2, 2003

PLACE: 2727 Ft. Knox Blvd., Building 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kay Aloï, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7330

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.055 County Health Department Clinic Services.

(1) No change.

(2) All county health department clinic services providers enrolled in the Medicaid program must comply with the Florida Medicaid County Health Department Clinic Services Coverage and Limitations Handbook, October 2003 ~~County Public Health Unit Clinic Services Coverage and Limitations Handbook, October 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908 FS. History—New 6-27-93, Formerly 10P-4.350, Amended 4-16-95, 6-4-96, 6-24-98, 7-18-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kay Aloï

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 14, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Federally Qualified Health Center Services
 RULE NO.: 59G-4.100

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Federally Qualified Center Services Coverage and Limitations Handbook, October 2003. The effect will be to provide Florida Federally Qualified Health Centers with new HIPAA policy and HIPAA compliant Level II HCPCS for services that use the CMS-1500 for billing.

SUMMARY: The rule is amended to include new HIPAA policy, language, and new HIPAA compliant level II HCPCS. Policy changes include family planning services that are necessary to comply with recommendations of the US Preventive Services Task Force by omitting the requirement for urinalysis and hemoglobin/hematocrit laboratory analyses with family planning health assessments. In addition, mental health services have been changed to include mental health group therapy as a component.

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: 409.905, 409.908 409.9081 FS.

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

TIME AND DATE: 9:30 a.m., September 2, 2003

PLACE: 2727 Ft. Knox Blvd., Building 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kay Aloï, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7330

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.100 Federally Qualified Health Center Services.

(1) No change.

(2) All federally qualified health center services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Federally Qualified Health Center Services Coverage and Limitations Handbook, October 2003 ~~April 2001~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 6-27-93, Formerly 10P-4.100, Amended 4-16-95, 5-28-96, 6-24-98, 12-31-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kay Aloï

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 9, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Home Health Services

RULE NO.: 59G-4.130

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Home Health Services Coverage and Limitations Handbook, October 2003. The handbook revisions include changes required by the Health Insurance Portability and Accountability Act (HIPAA) and revised procedure codes and fees. The effect will be to incorporate by reference in the rule the current Florida Medicaid Home Health Services Coverage and Limitations Handbook. The rule text refers to the Florida Medicaid Provider Reimbursement Handbook, CMS-1500 as being incorporated by reference Rule 59G-4.001, F.A.C. Rule 59G-4.001, F.A.C., is in the rulemaking process; we expect it to be final prior to this rule being adopted.

SUMMARY: This rule amendment will incorporate by reference the Florida Medicaid Home Health Services Coverage and Limitations Handbook, October 2003. The handbook revisions include changes required by the Health Insurance Portability and Accountability Act (HIPAA) and revised procedure codes and fees.

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: 409.905, 409.908, 409.9081 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., Tuesday, September 2, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kay Aloï, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7330

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.130 Home Health Services.

(1) No change.

(2) All home health agency providers enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Home Health Services Coverage and Limitations Handbook, October 2003 ~~March 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check-Up 221, which is incorporated in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) A recipient, or a recipient's legal guardian, will receive written notification if home health visit services, private duty nursing or personal care services are terminated, reduced or denied. The notice will provide information and instructions regarding the right to request a hearing.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 1-1-77, Amended 4-1-78, 9-28-78, 1-24-79, 7-17-83, Formerly 10C-7.44, Amended 6-1-88, 4-9-89, 1-1-90, 5-26-93, Formerly 10C-7.044, Amended 3-14-95, 12-27-95, 5-7-96, 2-9-98, 5-30-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kay Aloï

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Independent Laboratory Services

RULE NO.: 59G-4.190

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Independent Laboratory Coverage and Limitations Handbook, October 2003. The handbook was revised to include the Health Insurance Portability and Accountability Act (HIPAA) policies and regulations. The effect will be to incorporate by reference in the rule the current Florida Medicaid Independent Laboratory Coverage and Limitations Handbook. The rule text refers to the Florida Medicaid Provider Reimbursement Handbook, CMS-1500 as being incorporated by reference Rule 59G-4.001, F.A.C. Rule 59G-4.001, F.A.C., is in the rulemaking process; we expect it to be final prior to this rule being adopted.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Independent Laboratory Coverage and Limitations Handbook, October 2003. The handbook was revised to include the Health Insurance Portability and Accountability Act (HIPAA) policies and regulations.

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: 409.905, 409.907, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., September 2, 2003

PLACE: Agency for Health Care Administration, 2728 Ft. Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.190 Independent Laboratory Services.

(1) No change.

(2) All independent laboratory providers enrolled in the Medicaid program must be in compliance ~~comply~~ with the provisions of the Florida Medicaid Independent Laboratory Coverage and Limitations Handbook, ~~October 2003~~ ~~March 2003~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 ~~and~~

~~Child Health Check-Up 221~~, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History—New 1-1-77, Amended 10-11-81, Formerly 10C-7.41, Amended 6-30-92, Formerly 10C-7.041, Amended 9-28-94, 1-9-96, 10-20-96, 9-14-97, 3-22-00, 5-16-01, 2-14-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Rinaldi, Bureau of Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7308

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 14, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Federally

RULE NO.:

Qualified Health Center and Rural

Health Center Services

59G-6.080

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Federally Qualified Health Centers (FQHC) Reimbursement Plan payment methodology, effective April 1, 2003, to provide the following changes:

1. Each Rural Health Clinic (RHC) entering the Florida Medicaid RHC Program on or after January 1, 2001 shall submit a Rural Health Clinic Form 222-Medicare cost report postmarked or accepted by a common carrier no later than 3 calendar months after the close of its cost reporting year. A complete, legible copy of the cost report shall be submitted to AHCA.
2. Inclusion of Rural Health Clinic (RHC) in the title of the Federally Qualified Health Center Reimbursement Plan, Rule 59G-6.080, F.A.C., and addition of RHC references where applicable through the reimbursement plan.
3. For RHCs, Medicaid will accept the annual audited cost report established by the Medicare carrier.
4. For FQHCs, the Bureau of Primary Health Care (BPHC) should approve an increase or decrease in the scope of services(s) and the per basis visit of scope of service(s) greater or less than 3 percent of the current provider's rate has been removed.
5. For FQHCs, decreases in scope of service(s) that do not require BPHC approval should be reported to AHCA.

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: 409.902, 409.906, 409.910, 409.911, 409.912, 409.413 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., Tuesday, September 2, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room 2316, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Colm McAindriu, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)487-2618

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) through (5) No change.

(6) Program Requirements – General. All HCB services waiver providers and their billing agents must comply with the provisions of the Florida Medicaid Provider Reimbursement Handbook, Non-Institutional 081, October 2003 ~~November 1996~~, which is incorporated by reference and available from the Medicaid fiscal agent. The following requirements are applicable to all HCB services waiver programs:

(a) through (i) No change.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906(42), 409.910, 409.911, 409.912(7), 409.413 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: Colm McAindriu, (850)488-7875

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 22, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Monitoring of Continuing Education Requirements
RULE NO.: 61-6.015

PURPOSE, EFFECT AND SUMMARY: The purpose, effect and summary of the proposed rule is to repeal the rule requiring monitoring of continuing education requirements by the Department.

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: 455.2177(5) FS.

LAW IMPLEMENTED: 455.2177 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 p.m., September 3, 2003

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Leon Biegalski, Special Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61-6.015 Monitoring of Continuing Education Requirements.

Specific Authority 455.2177(5) FS. Law Implemented 455.2177 FS. History–New 11-26-00, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Leon Biegalski, Special Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors Licensing Board

RULE TITLES: Definitions 61G6-5.001
Application for Examination for Certification 61G6-5.003
Notification of Changes 61G6-5.012

PURPOSE AND EFFECT: The proposed rule amendments are intended to address definitions; application for certification and the correction of a typographical error.

SUMMARY: The proposed amendment to Rule 61G6-5.001, F.A.C., clarifies the definition of "experience." The proposed amendment to Rule 61G6-5.003, F.A.C., clarifies criteria with regard to the certification examination. The amendment to Rule 61G6-5.012, F.A.C., corrects a typographical error.

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

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

SPECIFIC AUTHORITY: 489.505(2), 489.507(3), 489.511 FS.

LAW IMPLEMENTED: 455.275, 489.505(10),(12),(21),(22), 489.511(2), 489.521, 489.533 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-5.001 Definitions.

As used in this chapter:

(1) through (10) No change.

(11) "Experience" means informal exposure to the trade wherein knowledge and skill is obtained via direct observation or participation in the electrical or alarm contracting trade.

(12) through (16) No change.

Specific Authority 489.505(2), 489.507(3), 489.511 FS. Law Implemented 489.505(10),(12), 489.511(2)(a)3.c. FS. History--New 1-2-80, Amended 2-15-82, Formerly 21GG-5.01, Amended 2-23-86, 3-21-88, 11-26-90, 7-8-91, 5-20-92, 11-3-92, Formerly 21GG-5.001, Amended 12-26-93, 3-24-94, 7-13-95, 5-2-96, 5-6-96, 8-27-96, 2-13-97, 8-3-97, 1-4-98, 9-7-98, _____.

61G6-5.003 Application for Examination for Certification.

(1) Any person desiring to take the certification examination must establish that he or she meets eligibility requirements according to one of the following criteria:

(a) Has, within the 6 years immediately preceding the filing of the application, at least 3 years' proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent.

1. An applicant for examination who is a recipient of a degree in engineering or related field from an accredited four-year college or university may substitute his or her educational background for 1 years of experience in the trade as an electrical contractor or an alarm contractor, provided that the applicant causes the college or university he or she attended to forward a copy of his or her transcript to the Department.

2. The experience required must include:

a. No change.

b. For an alarm contractor I, at least 40% of work that is in commercial fire alarm systems;

c. No change.

(b) through (c) No change.

(d) Has been licensed for 3 years as an engineer within the preceding 12 years.

(2) through (4) No change.

Specific Authority 489.507(3) FS. Law Implemented 489.505(12),(21),(22), 489.511(2), 489.521 FS. History--New 1-2-80, Amended 4-17-80, 10-4-84, Formerly 21GG-5.03, Amended 12-24-87, 7-9-89, 3-13-90, 11-26-90, 7-8-91, Formerly 21GG-5.003, Amended 3-20-94, 11-30-94, 7-13-95, 1-18-96, 9-22-97, _____.

61G6-5.012 Notification of Changes.

(1) A certificate holder or registrant shall notify the Board Office within thirty (30) days of a change in name style or address from that which appears on the current certificate or ~~of~~ registration and shall notify the Board Office within thirty (30) days after the qualifying person has ceased to be affiliated with the qualified business organization.

(2) through (3) No change.

Specific Authority 489.507(3) FS. Law Implemented 455.275, 489.521(2)(a)1.,(5), 489.533 FS. History--New 9-1-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 11, 2003

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors Licensing Board

RULE TITLES: RULE NOS.:

Continuing Education for Reactivation 61G6-9.001

Registration of Course Providers 61G6-9.005

PURPOSE AND EFFECT: The proposed rule amendments are intended to address required continuing education for the purpose of reactivation of licensure. The Board also proposes the deletion of subsection (11) in Rule 61G6-9.005, F.A.C., since it is no longer applicable.

SUMMARY: The proposed rule amendments clarify criteria with regard to continuing education requirements for reactivation purposes, and delete subsection (11) in Rule 61G6-9.005, F.A.C., since it is no longer applicable.

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

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

SPECIFIC AUTHORITY: 455.2179, 455.225, 455.227, 489.507(3), 489.519 FS.

LAW IMPLEMENTED: 455.2179, 489.517, 489.531, 489.533, 489.519 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G6-9.001 Continuing Education for Reactivation.

As a condition to the reactivation of an inactive license, a licensee must submit proof of the completion of twelve (12) classroom hours of continuing education which meets the criteria set forth in Rule 61G6-9.002, F.A.C., for each year of inactive status, not to exceed 48 hours. The continuing education credits needed for reactivation must be completed within the 4 years preceding reactivation.

Specific Authority 489.507(3), 489.519 FS. Law Implemented 489.519 FS. History--New 1-2-80, Amended 10-13-80, Formerly 21GG-9.01, Amended 2-20-89, Formerly 21GG-9.001, Amended 12-24-97, 12-27-00,_____.

61G6-9.005 Registration of Course Providers.

(1) through (10) No change.

~~(11) The course provider shall be responsible for filing with the Board, within 30 days after the course is concluded, a list of all licensees who attended a course between September 1, 2000 and April 30, 2001.~~

Specific Authority 455.2179, 455.225, 455.227, 489.507(3) FS. Law Implemented 455.2179, 489.517, 489.531, 489.533 FS. History--New 11-30-94, Amended 6-13-96, 10-20-96, 12-25-96, 3-24-99, 11-2-00, 9-4-01, 2-10-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 11, 2003

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors Licensing Board

RULE TITLE: Aggravating or Mitigating Circumstances RULE NO.: 61G6-10.003

PURPOSE AND EFFECT: The proposed rule amendments are intended to delete objectionable language outlined by the Joint Administrative Procedures Committee.

SUMMARY: The proposed rule amendments delete subsections (1) and (4) 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 cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.2273, 489.507(3) FS.

LAW IMPLEMENTED: 455.2273 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-10.003 Aggravating or Mitigating Circumstances.

When either the petitioner or respondent is able to demonstrate aggravating or mitigating circumstances to the board by clear and convincing evidence, the board shall be entitled to deviate from the above guidelines in imposing discipline upon an applicant or licensee. Absence of any such evidence of aggravating or mitigating circumstances before the hearing officer prior to the issuance of a recommended order shall not relieve the board of its duty to consider evidence of mitigating or aggravating circumstances. Based upon the following factors, the board may impose disciplinary action other than the penalties recommended above:

~~(1) The severity of the offense;~~

~~(1)(2) The degree of harm to the consumer or public;~~

~~(2)(3) The number of counts in the administrative complaint;~~

~~(4) The number of times the offenses have previously been committed by the licensee or applicant;~~

~~(3)(5) The disciplinary history of the applicant or licensee;~~

~~(4)(6) The status of the applicant or licensee at the time the offense was committed;~~

~~(5)(7) The degree of financial hardship incurred by a licensee as a result of the imposition of the fines or suspension of his practice.~~

Any penalties imposed by the board may not exceed the maximum penalties set forth in Section 489.533(2), F.S.

Specific Authority 455.2273, 489.507(3) FS. Law Implemented 455.2273 FS. History--New 1-1-87, Formerly 21GG-10.003, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Electrical Contractors Licensing Board
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Electrical Contractors Licensing
 Board
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: July 11, 2003
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: June 13, 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

Division of Family Health Services

RULE TITLES: RULE NOS.:
 General Regulations: Definitions 64F-12.001
 Records of Drugs, Cosmetics and Devices 64F-12.012

PURPOSE AND EFFECT: To modify the definition of “ongoing relationship” to allow for the implementation of legislation passed during the 2003 Legislative Session in SB 2312 related to the regulatory scheme for recordkeeping requirements of prescription drugs wholesaled from prescription drug wholesaler to prescription drug wholesaler. The legislation progressively increases these recordkeeping requirements over time. Consistent with the legislation, this rule will allow for implementation from July 1, 2003, when the law went into effect, through March 1, 2004, when the definition of “ongoing relationship” is defined statutorily. In addition, this proposed rule will adopt specific elements required to appear on a required document called a pedigree paper related to the wholesale distribution of a prescription drug defined as a “specified drug.”

SUMMARY: The definition of “ongoing relationship” is modified to remove the requirement that a wholesaler must be on a manufacturer’s list of authorized distributors in order to establish an ongoing relationship with that manufacturer. Satisfaction of any one of three criteria can establish an ongoing relationship for purposes in which wholesalers can qualify as an authorized distributor of record until March 1, 2004. In addition, the same elements that are required to appear on a pedigree paper for the distribution of a prescription drug in accordance with Section 499.0121(6)(d), F.S., “non-specified drugs” will also be required for “specified drugs”.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The department did not prepare a statement of estimated regulatory cost because the statute provides when a pedigree paper is required for non-specified

drugs. This provision provides for parallel requirements on the pedigree paper whether it is prepared for a specified drug under Section 499.0121(6)(e), F.S., or a non-specified drug under Section 499.0121(6)(d), F.S. Consistent requirements allow for the same form and process to be followed for the wholesale distribution of prescription drugs that require a pedigree paper. 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: 499.0121, 499.05 FS.

LAW IMPLEMENTED: 499.0121 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., Wednesday, September 3, 2003

PLACE: 2818-A Mahan Drive, Tallahassee, Florida

If special accommodations are needed to attend this hearing because of a disability, please contact: Maxine Wenzinger, (850)922-5190.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Stovall, Compliance Manager, 2818-A Mahan Drive, Tallahassee, Florida 32308; (850)487-1257, Extension 210, sandra_stovall@doh.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-12.001 General Regulations: Definitions.

(1) No change.

(2) In addition to definitions contained in Sections 499.003, 499.012(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C.

(a) through (i) No change.

(j) “Ongoing relationship” means ~~for:~~ ~~For~~ a prescription drug other than a specified drug;:

1. An ~~an~~ association that exists when a manufacturer and a distributor enter into a written agreement under which the distributor is authorized to distribute the manufacturer’s product(s) for a period of time or for a number of shipments ~~and;~~ at least one sale is made under that agreement; ~~or; and~~

2. The ~~the~~ name of the authorized distributor of record is entered on the manufacturer’s list of authorized distributors of record or equivalent list; ~~or- An ongoing relationship may also be document by~~

3. At ~~at~~ least three purchases of a manufacturer’s product(s) are made directly from that manufacturer within a six month period from the date for which the authorized distributor of record relationship is claimed ~~and the distributor’s name is entered on the manufacturer’s list of authorized distributors of record or equivalent list.~~

2. ~~Effective 60 days after the effective date of this sub paragraph (j)2., for a specified drug, an association that exists for each transaction involving the specified drug between a manufacturer and a prescription drug wholesaler such that the prescription drug wholesaler has purchased the specified unit of the specified drug directly from the manufacturer for further distribution of that specific unit of the specified drug.~~

(k) through (v) No change.

Specific Authority 499.05, 499.061, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.054, 499.057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.67, 499.71, 499.75 FS. History—New 1-1-77. Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-6-99, 4-18-01, 6-30-03,

64F-12.012 Records of Drugs, Cosmetics and Devices.

(1) through (2) No change.

(3) The pedigree papers required by Section 499.0121(6)(d) and (e), F.S., must include either the proprietary name or the generic name with the name of the manufacturer or distributor reflected on the label of the product; dosage form; strength; container size; quantity by lot number; the name and address of each owner of the prescription drug that is required to be identified on the pedigree paper; the name and address of each location from which it was shipped if different from the owner's; and the transaction dates. The pedigree paper must clearly identify the invoice to which it relates. A copy of the pedigree paper must be maintained by each recipient.

(4) through (15) No change.

Specific Authority 499.05, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS. Law Implemented 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.051, 499.052 FS. History—New 1-1-77, Amended 12-12-82, 7-8-84, 1-30-85, Formerly 10D-12.53, Amended 11-26-86, 2-7-93, 7-1-96, Formerly 10D-45.053, Amended 1-26-99, 4-18-01,

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Hill, Chief, Bureau of Statewide Pharmaceutical Services
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil E. Williams, Director, Division of Health Awareness and Tobacco
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2003

FISH AND WILDLIFE CONSERVATION COMMISSION

Manatees

RULE TITLES: RULE NOS.:
Scope and Purpose 68C-22.001
Definitions 68C-22.002
Management Provisions 68C-22.004

PURPOSE AND EFFECT: There are three primary purposes: [1] to make revisions to the rules in response to enactment of Chapter 2002-264, Laws of Florida, which amended portions of 370.12(2), FS; [2] to amend the definitions of several terms to reflect revised definitions adopted in Chapter 68D-23, F.A.C.; and, [3] to otherwise improve the rules and remove unnecessary language. The effect of the amendments would be to delete unnecessary rules and ensure consistency between the rules and other authority.

SUMMARY: The amendments to Rule 68C-22.001, F.A.C., would remove the existing first two sections of the rule and replace them with preamble language that describes the statutory purposes and criteria for manatee protection rules. The existing third section of the rule would be revised to more closely track statutory language and to otherwise clarify the rule development process. The amendments to Rule 68C-22.002, F.A.C., would remove several terms that do not need to be defined administratively. The definitions of numerous other terms would also be revised to reflect recently amended definitions in Chapter 68D-23, F.A.C., and to otherwise clarify the meaning of terms. The amendments to Rule 68C-22.004, F.A.C., would remove the existing first and third sections of the rule and revise the existing second section to clarify that manatee protection zones must be marked by permitted regulatory markers. Language would also be added to acknowledge that where conflicting speed or operational restrictions are established, the more restrictive regulation applies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Costs (SERC) has been prepared.

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

SPECIFIC AUTHORITY: 370.12(2)(g)-(j),(l)-(o) FS.

LAW IMPLEMENTED: 370.12(2)(d),(g)-(j),(l)-(o) FS.

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

TIME AND DATE: 6:00 p.m., Wednesday, August 20, 2003
PLACE: Embassy Suites Hotel, Orlando Airport, 5835 T.G. Lee Boulevard, Room Earhart B, Orlando, Florida
THE FINAL PUBLIC HEARING WILL BE HELD BY THE COMMISSION AT THE DATE AND PLACE SHOWN BELOW:

DATE: Wednesday-Friday, November 19-21, 2003 (Please refer to the Commission's agenda for the specific day and time when this item is scheduled to be addressed)

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

If accommodation for a disability is needed to participate in either of the above hearings, please notify the contact person listed below at least five days before the hearing.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Scott Calleson, Fisheries and Wildlife Biologist, Florida Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (DOW-BPS), 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68C-22.001 Scope and Purpose.

(1) This rule chapter implements Section 370.12(2), Florida Statutes, (the Florida Manatee Sanctuary Act) by establishing restrictions to protect manatees from harmful collisions with motorboats and from harassment; to protect manatee habitat, such as seagrass beds, from destruction by boats or other human activity; and to provide limited safe havens where manatees can rest, feed, reproduce, give birth or nurse undisturbed by human activity. The Commission shall only regulate motorboat speed and operation in areas where manatees are frequently sighted and the best available scientific information, as well as other available, relevant, and reliable information supports the conclusion that manatees inhabit such areas on a regular or periodic basis. Information considered by the Commission may include but is not limited to manatee surveys, observations, available studies of food sources, and water depths. The "Florida Manatee Sanctuary Act" was adopted to protect the West Indian (Florida) manatee or sea cow (*Trichechus manatus*) in the waters of the State of Florida from disturbance, harassment, injury or harm in part by regulating as mandated in subsections 370.12(2)(f), (g), (h), (i), (j), (k), (l), (m), (n), and (o), F.S., motorboat speeds and vessel operations in the critical areas of manatee concentration.

~~(2) As required by Section 370.12(2), F.S., the Commission shall only establish manatee protection zones in areas where manatee sightings are frequent and it can be generally assumed, based on all available information, that they inhabit these areas on a regular, periodic or continuous basis. To make this determination, the Commission shall use all available scientific information as well as any other available, relevant, and reliable information. The information considered by the Commission shall include the following (when available):~~

- ~~(a) Manatee mortality data;~~
- ~~(b) Aerial survey data;~~
- ~~(c) Satellite telemetry data;~~
- ~~(d) VHF radio telemetry data;~~
- ~~(e) Manatee sightings, observations and notes made by researchers or other qualified observers (such as park personnel, law enforcement officers, etc.);~~
- ~~(f) Studies and reports pertaining to manatee distribution, relative abundance, habitat, behavior, or other manatee information;~~
- ~~(g) Sear catalog (photo identification) data;~~

- ~~(h) Expert opinions; and~~
- ~~(i) Any other site specific information which is available.~~

~~(2)(3) When establishing manatee protection zones as provided above, the Commission shall take into consideration, in relation to manatee protection needs, the rights of boaters, fishermen, and waterskiers (as they apply under Section 370.12(2)(j), F.S.). Recognizing that regulations governing the speed and operation of motorboats in manatee use areas constitute the most direct mechanism for protecting manatees from harmful impacts and death in areas frequented by motorboats, the Commission shall utilize the standards provided under paragraph (2)(3)(a), below, in determining whether restrictions are necessary to protect manatees or manatee habitat. the likelihood of threats to manatees associated with manatee protection needs, vessel activity and waterway characteristics in critical areas. Following such a determination, the Commission shall establish such boater restrictions as are justified by manatee protection needs. The Commission shall not establish restrictions that which may result in undue interference with the rights of fishers, boaters, and water skiers fishermen, and waterskiers (as they apply under Section 370.12(2)(k)(j), F.S.).~~

~~(a) The Commission utilizes the following standards in determining whether restrictions are necessary to protect manatees or manatee habitat the likelihood of threat to the survival of West Indian (Florida) manatee associated with vessel activity and waterway characteristics in areas of regular or frequent, periodic, or continuous manatee use:~~

~~1. Restrictions are necessary if A threat to manatees exists if, due to the nature or frequency of known boating activity in the area, the absence of adequate speed restrictions will likely result in either:~~

- ~~a. Injury or death to manatees; or~~
- ~~b. Harassment of manatees Disruption of the manatee's regular use, behavior or migratory patterns; or~~
- ~~c. Destruction Disturbance which would lead to or cause destruction of essential manatee habitat.~~

~~2. In determining whether restrictions are necessary that a threat to manatees exists, the Commission will consider, but not be limited to an examination of, the following factors:~~

- ~~a. The patterns and intensity proximity and degree of known boating activities in the area to areas with presumed patterns of manatee use on the basis of all available information;~~
- ~~b. Seasonal and/or year-round patterns of manatee use;~~
- ~~c. The number of manatees that the Commission has concluded use the area on a regular or periodic basis known or assumed to occur in, or seasonally use, the area on the basis of all available information;~~
- ~~d. The manatee mortality trends within the area;~~

e. The existence of features within the area ~~that which~~ are essential to the survival of, or are known to attract, manatees, such as seagrasses or other food sources, favorable water depths, and fresh or warm water sources; and

f. The characteristics of the waterway ~~in question in relation to known boating activity patterns.~~

(b) In consideration of balancing the rights of fishers, boaters, and water skiers ~~fishermen, boaters and waterskiers~~ to use waters for recreational and commercial purposes (as applicable under Section 370.12(2)(~~k~~)(j), F.S.), with the necessity for boat speed regulation to protect manatees and manatee habitat in identified manatee use areas, the Commission may shall ~~(1) designate within these areas limited lanes or corridors to provide for reasonable motorboat speeds higher speed (25 mph or greater than 25 mph) motorboat travel; or (2) not regulate sufficient portions of these areas in order to accommodate activities that require higher speeds, upon a finding that such lanes, corridors, or areas are consistent with manatee protection needs needed and will not result in serious threats to manatees or their habitat. A serious threat to manatees exists if, due to the nature or frequency of known boating activity in relation to manatee use in the area, the provision for higher speed corridors or unregulated areas will more likely than not result in death or injury to manatees within these areas.~~

Specific Authority 370.12(2)(~~g~~)-(j), (1)(~~f~~)-(i), (k), (n), (o) F.S. Law Implemented 370.12(2)(d), (~~g~~)-(l)(~~f~~), (k), (m), (n), (o) F.S. History—New 3-19-79, Formerly 16N-22.01, Amended 12-30-86, 6-16-93, 9-9-93, Formerly 16N-22.001, Amended 5-31-95, 6-25-96, 5-12-98, Formerly 62N-22.001, Amended _____.

68C-22.002 Definitions.

When used in these rules, the following words shall have the indicated meanings unless the context clearly indicates otherwise:

(1) “Critical areas” means portions of waters of the State of Florida as defined by subsections 370.12(2)(f), (g), (h), (i), (j), (k), (n), and (o), F.S.

(1)(2) “Idle Speed speed” and “Idle Speed No Wake” may be used interchangeably and mean that a vessel must proceed at a speed no greater than that which ~~means the minimum speed that will maintain the steerageway and headway of a motorboat. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.~~

(3) “Idle speed zone” means an area where vessels may not be operated at greater than Idle Speed, as defined in subsection 68C 22.002(2), F.A.C.

(2)(4) “Miles” means statute miles.

(5) “Motorboat” means any boat or vessel propelled or powered by machinery.

(3)(6) “Motorboats prohibited zone” as used in Chapter 68C-22, F.A.C., is synonymous with the definition of the “no power-driven vessels” zone defined in paragraph

68D-23.103(2)(d), FAC, and means that all vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area unless the mechanical means of propulsion is not in use and, if possible to do so, is tilted or raised out of the water. means an area where the entry of vessels being propelled or powered by machinery is prohibited. These zones do not apply to vessels using other means of propulsion (e.g., sails, oars, or poles, etc.) provided that propelling machinery, if fitted, is not being used and, to the maximum extent possible, said machinery is raised out of the water.

(4)(7) “Slow Speed speed” and “Slow Speed Minimum Wake” may be used interchangeably and mean that a vessel ~~must be~~ means the speed at which a vessel proceeds when it is fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of ~~Vessels shall not be operated at a speed that creates an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway, under the existing circumstances. This required level of protection for the safety of vessels and vessel operators is also intended to provide adequate protection for manatees and is therefore adopted because of its familiarity to vessel operators. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, there is no specific numerical speed assigned to Slow Speed. A vessel that is:~~

(a) Operating on plane is not proceeding at this speed;

(b) In the process of coming off plane and settling into the water or coming up onto plane is not proceeding at this speed;

(c) Operating at a speed that creates an excessive wake or other hazardous condition which unreasonably or unnecessarily endangers other vessels or other persons using the waterway, or is likely to do so, is not proceeding at this speed;

(d) Completely off plane and which has fully settled into the water and is proceeding at a reasonable and prudent speed with little or no wake is proceeding at this speed.

A vessel is NOT proceeding at Slow Speed if it is: (1) on a plane; (2) in the process of coming off plane and settling into the water or coming up onto plane; or (3) creating an excessive wake or other hazardous condition which endangers other vessels.

A vessel IS proceeding at Slow Speed if it is fully off plane and completely settled into the water and not creating an excessive wake or other hazardous condition which endangers other vessels.

(8) “Slow speed zone” means an area where vessels may not be operated at greater than Slow Speed, as defined in subsection 68C-22.002(7), F.A.C.

~~(9) “Caution zone” means an area where manatees frequently inhabit on a somewhat regular basis and motorboat operators are advised to use caution so as not to strike a manatee.~~

~~(10) “Waters” means waters of the State of Florida.~~

~~(5)(11) “Maximum 25 MPH Speed Zone” means a controlled area within which a vessel’s speed made good over the bottom, measured in statute miles, shall not exceed 25 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 25 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, 33 U.S.C. s. 2006, as adopted pursuant to Section 327.33, F.S., by reason of:~~

~~(a) Having an elevated bow which restricts visibility, or~~

~~(b) Producing an excessive wake or other hazardous condition that which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.~~

~~(6)(12) “Maximum 30 MPH Speed Zone” means a controlled area within which a vessel’s speed made good over the bottom, measured in statute miles, shall not exceed 30 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 30 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, 33 U.S.C. s. 2006, as adopted pursuant to Section 327.33, F.S., by reason of:~~

~~(a) Having an elevated bow which restricts visibility, or~~

~~(b) Producing an excessive wake or other hazardous condition that which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.~~

~~(7)(13) “Maximum 35 MPH Speed Zone” means a controlled area within which a vessel’s speed made good over the bottom, measured in statute miles, shall not exceed 35 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 35 MPH to do so, this speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, 33 U.S.C. s. 2006, as adopted pursuant to Section 327.33, F.S., by reason of:~~

~~(a) Having an elevated bow which restricts visibility, or~~

~~(b) Producing an excessive wake or other hazardous condition that which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.~~

~~(8)(14) “Shoreline” means the point where the water meets the land at any point in time.~~

~~(9)(15) “General Contour of the Shoreline” means a line defined as the most waterward of the outside edge of emergent aquatic vegetation, if present, or a line of Mean Low Water as defined in Chapter 177, Part II, Florida Statutes, as approximated on NOAA nautical charts. Waters lying landward of this line are to be included up to the shoreline, as defined under subsection (14), above. Emergent aquatic vegetation shall include plants rooted in the ground that extend above the surface of the water.~~

~~(10)(16) “Channel” means a navigation route that is marked by aids to navigation that have been authorized by permits issued by all required state and federal authorities. channel, unless otherwise described or designated, and is not intended to mean an access or side channel unless otherwise designated for the purpose of regulation.~~

~~(11)(17) “No Entry Zone” or “No Entry Area” means a controlled area where all vessels and all persons, either in vessels or swimming, diving, wading, or means a limited area of critical importance as a safe haven for manatees to rest, feed, reproduce, give birth, nurse or otherwise habituate undisturbed by human activity. No vessel of any kind, whether power driven or non-motorized, as referenced in section 1(b), Article VII, of the Florida Constitution, including every description of watercraft, barge, and airboat, shall be permitted within the designated area. No other vessel or flotation device, including but not limited to a seaplane, sailboard, surfboard, raft, or any other water toy or other like object intended for or capable of use as a means of transportation on the water, shall be permitted within the designated area, nor shall other human activities including but not limited to diving, snorkeling, swimming, fishing (except from an adjacent bank or bridge when using poles or lines which are not equipped with a fishing line retrieval mechanism, e.g., a cane pole) are prohibited from entering, and the introduction by persons of food or other objects, that involves disturbance of these waters or the manatees so inhabiting them, be permitted within such a designated area, except as provided under Rule 68C-22.003, F.A.C.~~

~~(12)(18) “Authorized Resident” means any person owning a fee or leasehold interest in real property or a boating facility immediately adjacent to a motorboats prohibited zone or a no entry zone.~~

~~(19) “Vessel” is synonymous with boat, as referenced in section 1(b), Article VII, of the State Constitution, and includes every description of watercraft, barge, and airboat other than a seaplane on the water used or capable of being used as a means of transportation on water.~~

~~(13)(20) “Rights of Fishers, Boaters, and Water Skiers Fishermen and Waterskiers” (as they apply under Section 370.12(2)(k)(j), F.S.), means that fishers, boaters, fisherpersons and water skiers waterskiers have the right to use~~

the waters of the State of Florida for recreational or commercial purposes in a manner consistent with all applicable federal, state and local laws and regulations. Such laws and regulations include, but are not limited to, those governing the operation and safety of vessels on the water to promote public safety, environmental/natural resource protection, and/or responsible use of the waters of the State.

~~(14)(21)~~ “(Undue Interference)” with the rights of fishers, boaters, and water skiers (as it applies under used in Section 370.12(2)(k)(+), F.S.); occurs:

(a) If the Commission regulates boat speeds generally throughout the waters of the state; or

(b) If the Commission establishes refers to a regulations that which exceeds that which is warranted based upon all information available, either in degree or in geographic scope, for the protection of manatees in the waters subject to the regulation. A Commission regulation restricting the operation and speed of motorboat traffic is excessive if the regulation (a) encompass encompasses a larger geographic area or time frame than is warranted; for the protection of the manatee, (b) set sets speed limits that which are more restrictive than are warranted; to protect the manatee, (c) encompass encompasses an area where the Commission has not determined that restrictions are necessary to protect manatees or manatee habitat pursuant to paragraph 68C-22.001(2)(a), F.A.C.; a likelihood of threat to manatees exists; or (d) fail fails to provide limited lanes or corridors providing for reasonable motorboat speeds higher speed motorboat travel, as called for in paragraph 68C-22.001(2)(3)(b), F.A.C. Determination of the likelihood of threat will be made as set forth in paragraph 68C-22.001(3)(a), F.A.C.

~~(15)(22)~~ “Planing” means riding on or near the water’s surface as a result of the hydrodynamic forces on a vessel’s hull, sponsons, foils or other surfaces. A vessel is considered “on plane” when it is being operated at or above the speed necessary to keep the vessel planing.

~~(16)(23)~~ “Wake” means all changes in the vertical height of the water’s surface caused by the passage of a vessel including, but not limited to, a vessel’s bow wave, stern wave, and propeller wash.

~~(17)(24)~~ “Harassment” means any intentional or negligent act or omission which creates the likelihood of causing an injury to a manatee by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, breeding, feeding or sheltering. The intentional provision of any type of food to manatees not in captivity shall be considered harassment under this definition, unless authorized by a valid federal or state permit.

~~(18)(25)~~ “Maximum 20 MPH Speed Zone” means a controlled area within which a vessel’s speed made good over the bottom, measured in statute miles, shall not exceed 20 miles per hour. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at 20 MPH to do so, this speed limit shall not be

construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, F.S., or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6, 33 U.S.C. s. 2006, as adopted pursuant to Section 327.33, F.S., by reason of:

(a) Having an elevated bow which restricts visibility, or

(b) Producing an excessive wake or other hazardous condition that which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

Specific Authority 370.12(2)(g)-(j),(l)(+),(+),(k),(n),(o) FS. Law Implemented 370.12(2)(d),(g)-(l)(+),(k),(m),(n),(o) FS. History–New 3-19-79, Amended 11-23-83, Formerly 16N-22.02, Amended 12-30-86, 12-24-90, 12-25-91, 6-16-93, 9-9-93, Formerly 16N-22.002, Amended 5-31-95, 6-25-96, 5-12-98, Formerly 62N-22.002, Amended _____.

68C-22.004 Management Provisions.

~~(1) Appropriate zones are established for the purpose of regulating the speed and operation of motorboat traffic by taking into consideration the safety and well being of the manatees in those state waters designated in subsection 370.12(2)(f), (g), (h), (i), (j), (k), (l), (n), F.S., safety of the boating public, inconvenience to the boating public and natural marine habitat protection.~~

~~(2) Regulations established pursuant to Section 370.12(2), F.S., and Rule 68C-22.001, F.A.C., Such zones shall be marked by regulatory markers large signs that conform conforming to Chapter 68D-23, F.A.C., the Florida Uniform Waterway Markers in Florida Waters Marking System in accordance with Sections 327.40 and 327.41, F.S., provided with reflectorized paint or attached units and situated in locations where they will be highly visible to the boating public. Where conflicting speed or operational restrictions are established by law or pursuant to law, the more restrictive shall be posted and shall apply.~~

~~(3) Regulations restricting motorboat speed and operation, as set forth under this chapter, are not intended to supersede any existing regulations duly established by federal, state, or local authority which are more restrictive in nature. Permitted markers as posted are presumptive evidence of intended zone boundaries.~~

Specific Authority 370.12(2)(g)-(j),(l),(n),(o)(+) FS. Law Implemented 370.12(2)(g)-(l),(n),(o)(+) FS. History–New 3-19-79, Formerly 16N-22.04, Amended 12-30-86, 12-25-91, Formerly 16N-22.004, 62N-22.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Frank Montalbano, Director of the Division of Wildlife
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive
Director

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 17, 2003

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