

Specific Authority 290.044 FS. Law Implemented 290.0401-.048 FS. History—New 8-3-07.

THIS RULE SHALL TAKE EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: August 3, 2007

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN THAT on August 2, 2007, the Florida Department of Law Enforcement has issued an order. The Commissioner of the Florida Department of Law Enforcement on August 2, 2007, denied a petition for a waiver of paragraph 11C-6.004(3)(b), F.A.C., requested by the National Foundation to Prevent Child Sexual Abuse, Inc., Palm Beach County. The Petition was received on May 4, 2007. Notice of the petition was published in the F.A.W., Vol. 33, No. 22, June 1, 2007. No public comments were received. The Petitioner requested that the Department waive the fee for criminal history record checks on volunteers not presently residing in Florida, submitted pursuant to the National Child Protection Act of 1993, as amended, implemented at Section 943.0542, F.S. Pursuant to Section 120.542, F.S., in Case No. VAR 07-15, the Department denied this request for waiver of this rule because the fee at issue was set by statute rather than by rule, waiver of the fee is made discretionary by law, the petitioner could not demonstrate that a strict application of the rule would result in undue hardship to it, or would affect it differently from other similarly situated volunteers, and because petitioner had not successfully fulfilled the fee requirement imposed at Section 943.053(3), F.S., by other means.

A copy of the Order may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, telephone (850)410-76761.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

NOTICE IS HEREBY GIVEN THAT the Department of Highway Safety and Motor Vehicles (DHSMV) issued an Order Denying Rule Variance or Waiver under Section 120.542, Florida Statutes, on July 24, 2007, to Jonathan J. Luca, Esquire, on behalf of Petitioner, Michael S. Ennis. The petition requesting the variance or waiver was received by DHSMV on April 25, 2007. Notice of receipt of the petition requesting the waiver was published in Vol. 33, No. 21 of the F.A.W., on May 25, 2007. No public comment was received. The Petitioner sought a variance from or waiver of subsection 15A-10.029(5), Florida Administrative Code, which states as follows:

No person shall be eligible for reinstatement in the Special Supervision Services who has previously been reinstated and had that reinstatement cancelled due to current substance abuse. In such a situation the entire statutory revocation period must be served.

This Order rules that the Petition fails to demonstrate that the underlying purpose of the statute has or will be achieved by other means by the Petitioner and that the application of the rule creates a substantial hardship or violates principles of fairness.

A copy of the Order may be obtained by contacting: Mark J. Hiers, Assistant General Counsel, Department of Highway Safety and Motor Vehicles, Neil Kirkman Building, Room A-432, Tallahassee, Florida 32399-0504.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

PUBLIC SERVICE COMMISSION

NOTICE IS HEREBY GIVEN THAT on June 8, 2007, the Florida Public Service Commission, received a petition for waiver from paragraph 25-4.110(5)(c), Florida Administrative Code, from BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast in Docket No. 070370-TL. The petition was amended on July 16, 2007. The rule addresses customer billing requirements for incumbent local exchange

companies. Comments on the petition should be filed with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

For additional information, please contact H. F. Mann, Office of the General Counsel, at the above address or telephone (850)413-6098.

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on July 10, 2007, the Suwannee River Water Management District (SRWMD) has issued an order.

This Order grants Variance under Section 120.542, F.S., to Mr. Lawrence Diaz. The petition for waiver was received by SRWMD on June 14, 2007. Notice of receipt of petition requesting the waiver was published in F.A.W., Vol. 33, No. 25 on June 22, 2007. No public comment was received. This Order provides a variance of the SRWMD's criteria for subsection 40B-4.3030(9), F.A.C., to the zero-rise certification requirement, and paragraph 40B-4.3030(11)(b), F.A.C., to the 75-foot setback requirement within Township 9 South, Range 14 East, Section 17, Gilchrist County. SRWMD granted the petition because the petitioner has demonstrated that the purpose of the statute underlying the rule will be met, that the petitioner would suffer economic hardship if required to comply with the rule.

A copy of the Order may be obtained by contacting: Robin Lamm, Administrative Assistant, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida only.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT on July 17, 2007, the Division of Hotels and Restaurants received a Petition for a Routine Variance for subsection 61C-4.010(7), Florida Administrative Code, from Bread and Butter located in Jacksonville. The above referenced F.A.C. states that all bathrooms shall be of easy and convenient access to both patrons and employees...They are requesting a variance to not have bathroom facilities in their facility, but use centrally located bathroom facilities.

This variance request was approved July 31, 2007, and is contingent upon the Petitioner ensuring the centrally located bathrooms are functional, has hot and cold running water at all times, provided with soap and an approved method to dry hands, kept in a clean and sanitary manner, and available during all hours of operation. The Petitioner shall also ensure directional signage is installed within/or outside the

establishment clearly stating the location of the bathrooms. Seating shall not exceed fifteen (15) which includes inside and outside seating. All provisos shall be met prior to licensing; specifically installing a handsink near the three-compartment sink as requested by Michelle Haynes, plan reviewer. Any violation of the variance is the equivalent of a violation of the Rule and may result in a rescission of the variance, and subject the Petitioner to disciplinary sanctions as enumerated in Section 509.261, Florida Statutes.

To obtain a copy of the approved variance you may contact David.Fountain@dbpr.state.fl.us.

NOTICE IS HEREBY GIVEN THAT on July 27, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(7), Florida Administrative Code, from Brix Bistro located in Orlando. The above referenced F.A.C. states that all bathrooms shall be of easy and convenient access to both patrons and employees...They are requesting a variance to not have bathroom facilities in their facility, but use an adjacent establishment's bathroom facilities.

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice.

To be considered, comments must be received on or before 5:00 p.m.

NOTICE IS HEREBY GIVEN THAT on July 2, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(7), Florida Administrative Code, from Donovan's Reef located in Largo. The above referenced F.A.C. states ...each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated..... The proposed establishment has one bathroom facility for patrons and they are requesting a variance to have a seating capacity of twenty-five (25).

This variance request was approved July 24, 2007, and is contingent upon the Petitioner ensuring the public bathroom is functional, has hot and cold running water at all times, provided with soap and an approved method to dry hands, and kept in a clean and sanitary manner. Seating shall not exceed (25) which includes inside and outside seating. Any violation of the variance is the equivalent of a violation of the Rule and may result in a rescission of the variance, and subject the Petitioner to disciplinary sanctions as enumerated in Section 509.261, Florida Statutes.

To obtain a copy of the approved variance you may contact David.Fountain@dbpr.state.fl.us.

NOTICE IS HEREBY GIVEN THAT on July 24, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for paragraphs 61C-1.004(1)(a), 61C-1.004(1)(d) and subsection 61C-4.010(6), Florida Administrative Code (F.A.C.), from Espresso Caffè Express at Celebration located in Celebration. The above referenced F.A.C. state the water supply shall meet the standards provided in Chapter 64E-8, 62-550 and 62-555, F.A.C., that sewage shall be disposed of in a public sewerage system or other approved sewerage system in accordance with the provisions of Chapter 64E-6 or 62-601, F.A.C. and physical facilities at public food service establishments shall be subject to the provisions of Chapter 6 of the Food Code. The Petitioner is requesting a variance to not have hard plumbing in their kiosk and use alternative methods for sewage disposal and obtaining potable water.

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

NOTICE IS HEREBY GIVEN THAT on July 31, 2007, the Board of Accountancy, received a petition for Indira Bachoo, seeking a variance or waiver of paragraph 61H1-28.0052(1)(b), Florida Administrative Code, that requires that candidates pass all four test sections of the CPA Examination within a rolling eighteen-month period, that begins on the date that the first test section passed is taken.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607, or by telephone at (352)333-2505. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

NOTICE IS HEREBY GIVEN THAT on July 19, 2007, the Board of Accountancy has issued an order.

The order is regarding the Petition for Waiver or Variance, filed on March 9, 2007, by Edward F. Coamey. The Notice of Petition for Waiver or Variance was published in Vol. 33, No. 13, of the March 30, 2007, F.A.W. The Petitioner sought a waiver or variance of subsection 61H1-33.006(2), F.A.C., entitled "Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees" with regard to the requirement that an applicant for licensure reactivation complete a specified number of continuing professional education hours in addition to the regular renewal requirements. The Board considered the instant Petition at a duly-noticed public meeting, held May 18, 2007, in Tampa, Florida.

The Board's Order granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 473.312, Florida Statutes, would be met by granting a variance or waiver from subsection 61H1-33.006(2), F.A.C. The Board further found that Petitioner had established that applying the requirements of the aforementioned Rule to his circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607.

NOTICE IS HEREBY GIVEN THAT on July 19, 2007, the Board of Accountancy has issued an order.

The order is regarding the Petition for Waiver or Variance, filed on March 23, 2007, by Alan Lee Freeman. The Notice of Petition for Waiver or Variance was published in Vol. 33, No. 14, of the April 6, 2007, F.A.W. The Petitioner sought a waiver or variance of subsection 61H1-33.006(2), F.A.C., entitled "Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees" with regard to the requirement that continuing professional education hours have been completed in the 24 months immediately preceding the date of an application for reactivation. The Board considered the instant Petition at a duly-noticed public meeting, held May 18, 2007, in Tampa, Florida.

The Board's Order granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 473.312, Florida Statutes, would be met by granting a variance or waiver from subsection 61H1-33.006(2), F.A.C. The Board further found that Petitioner had established that applying the requirements of the aforementioned Rule to his circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607.

NOTICE IS HEREBY GIVEN THAT on July 19, 2007, the Board of Accountancy has issued an order.

The Order is regarding the Petition for Waiver or Variance, filed on April 10, 2007, by Cecilia Lavina. The Notice of Petition for Waiver or Variance was published in Vol. 33, No. 17, of the April 27, 2007, F.A.W. The Petitioner sought a waiver or variance of subsection 61H1-33.006(2), F.A.C., entitled "Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees" with regard to the requirement that any certified public accountant who seeks to reactivate his or her license must demonstrate successful completion of the required number of continuing professional education hours, at least 80% of which have been completed in the twenty-four (24) months immediately

preceding the date of an application for reactivation. The Board considered the instant Petition at a duly-noticed public meeting, held May 18, 2007, in Tampa, Florida.

The Board's Order granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 473.312, Florida Statutes, would be met by granting a variance or waiver from subsection 61H1-33.006(2), F.A.C. The Board further found that Petitioner had established that applying the requirements of the aforementioned Rule to her circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607.

NOTICE IS HEREBY GIVEN THAT on July 19, 2007, the Board of Accountancy has issued an order.

The order is regarding the Petition for Waiver or Variance, filed on March 23, 2007, by Donald M. McManus. The Notice of Petition for Waiver or Variance was published in Vol. 33, No. 15, of the April 13, 2007, F.A.W. The Petitioner sought a waiver or variance of paragraph 61H1-33.003(2)(a), F.A.C., entitled "Continuing Professional Education" with regard to allowing the non-approved course that petitioner completed to count as continuing professional education in accounting and auditing. The Board considered the instant Petition at a duly-noticed public meeting, held May 18, 2007, in Tampa, Florida.

The Board's Order granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 473.312, Florida Statutes, would be met by granting a variance or waiver from paragraph 61H1-33.003(2)(a), F.A.C. The Board further found that Petitioner established that applying the requirements of the aforementioned Rule to his circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607.

NOTICE IS HEREBY GIVEN THAT on July 27, 2007, the Board of Accountancy, received a petition for Robert A. Tuttle, Jr., seeking a waiver or variance from subsection 61H1-31.001(4), F.A.C., which establishes the fee for reactivation of an inactive status license to an active status license.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida

32607, or by telephone at (352)333-2505. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

NOTICE IS HEREBY GIVEN THAT on July 23, 2007, the Board of Accountancy, received a petition for Dominique Sada, seeking a variance or waiver of subsection 61H1-31.001(10), Florida Administrative Code, and the requirement that a licensee pay a \$50.00 delinquency fee for submitting a CPE reporting form after July 15th of the licensee's reestablishment period. Petitioner is also seeking a variance or waiver of paragraph 61H1-33.003(1)(b), F.A.C., that requires additional continuing education hours in Accounting and Auditing as penalty for licensees who do not meet the June 30th deadline.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607, or by telephone at (352)333-2505. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

NOTICE IS HEREBY GIVEN THAT on July 23, 2007, the Department of Environmental Protection, Division of Air Resource Management, received a petition for the Hertz Rental Car Fueling Facility at Miami International Airport, seeking a variance from the provisions of Department of Environmental Protection paragraph 62-252.400(2)(b), Florida Administrative Code, to waive the requirement for continued operation and maintenance of the facility's Stage II vapor recovery system through December 31, 2009. The petition has been assigned OGC File No. 07-1315.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Terri Long, Department of Environmental Protection, Air Resource Management, MS 5500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)921-9556. Written comments must be received by Terri Long at the above address no later than 14 days from the date of publication of this notice.

NOTICE IS HEREBY GIVEN THAT on July 23, 2007, the Department of Environmental Protection, Division of Air Resource Management, received a petition for the Hertz Rental Car Fueling Facility at Palm Beach International Airport, seeking a variance from the provisions of Department of Environmental Protection paragraph 62-252.400(2)(b), Florida

Administrative Code, to waive the requirement for continued operation and maintenance of the facility's Stage II vapor recovery system through December 31, 2009. The petition has been assigned OGC File No. 07-1316.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Terri Long, Department of Environmental Protection, Air Resource Management, MS 5500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)921-9556. Written comments must be received by Terri Long at the above address no later than 14 days from the date of publication of this notice.

DEPARTMENT OF HEALTH

The Board of Pharmacy hereby gives notice that it has issued an Order on the Petition for Variance or Waiver which was received from the Seminole County Health Department. The Petition for Variance or Waiver was dated April 27, 2007. Petitioner was seeking a waiver of Rule 64B16-28.1081, Florida Administrative Code, entitled "Regulation of Daily Operating Hours", which requires a community pharmacy to have its prescription department open for at least 40 hours a week, 5 days a week. The Board of Pharmacy considered the Petition at a duly-noticed meeting held on June 12-13, 2007, in Ft. Lauderdale, Florida. The Board's Order, filed on July 25, 2007, denied the petition finding that the Petition does not comply with the requirements of Florida law. The Board further finds that the Petitioner has not established that applying the requirements of the aforementioned rule to Petitioner's circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Board's Order may be obtained by contacting: Rebecca Poston, R.Ph., Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254.

NOTICE IS HEREBY GIVEN THAT on July 25, 2007, the Board of Podiatric Medicine has issued an order.

The Order is regarding the Petition for Waiver or Variance, filed on April 27, 2007, by Frank L. Levy. The Notice of Petition for Waiver or Variance was published in Vol. 33, No. 19, of the May 11, 2007, F.A.W. The Petitioner sought a waiver or variance of Rule 64B18-11.001, F.A.C., entitled "Application for Licensure" with regard to the requirement that an application for licensure is not complete unless and until it contains verification of a passing score from the examination of the National Board of Podiatric Medical Examiners, including Part I, Part II, and the PMLexis Examination administered after August of 1996. The Petitioner also sought a waiver or variance of Rule 64B18-11.002, F.A.C., entitled "Examination of Licensure" which adopts the national examinations administered under the auspices of the National Board of Medical Examiners, including Part I, Part II and the PMLexis Examination, as the examination for licensure in

Florida, provided that the applicant for licensure has taken and passed the PMLexis Examination after August of 1996. The Board considered the instant Petition at a duly-noticed public meeting, held June 22, 2007, in Orlando, Florida.

The Board's Order granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 461.006, Florida Statutes, would be met by granting a variance or waiver from Rules 64B18-11.001 and 64B18-11.002, F.A.C. The Board further found that Petitioner established that applying the requirements of the aforementioned Rules to his circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order may be obtained by contacting: Joe Baker, Executive Director, Board of Podiatric Medicine, Board of Podiatry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258.

NOTICE IS HEREBY GIVEN THAT on July 24, 2007, the Department of Health has issued an order.

Orders were issued disposing of petitions for waiver of subsection 64E-3.004(2), F.A.C., for the following persons: Jose W. Lorenzo, Elizabeth L. Miles, Jessica Hernandez, Aaron P. Reddish, and Adelaida P. Perez. The petitions were filed with the Department and were noticed in the F.A.W., on August 3, 2007, Vol. 33, No. 31.

The orders provide in summary that petitioners were entitled to receive a temporary certificate allowing them to continue to work while awaiting their examination results because they demonstrated that a Department error resulted in a violation of principles of fairness. Accordingly, the petitions for waiver of subsection 64E-3.004(2), F.A.C., from the above-named petitioners were Granted.

A copy of the Order may be obtained by contacting: Elizabeth B. Hines, Executive Director, Certification Unit of EMT/Paramedic and Radiologic Technology, 4052 Bald Cypress Way, Bin C85, Tallahassee, Florida 32399-3285.

Section VI Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

The **Division of Historical Resources** and the **Florida Historical Commission** announces a public meeting to which all persons are invited.

DATES AND TIME: September 24-27, 2007, 9:00 a.m. – 5:00 p.m. each day

PLACE: Heritage Hall, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida