

Section V

Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN THAT on January 29, 2009, the Criminal Justice Standards and Training Commission has issued an order.

Latonya Buchanan filed a request for waiver of Rule 11B-30.006, Florida Administrative Code, on October 30, 2008. The original petition was returned as insufficient. Petitioner refiled her petition on December 11, 2008. That petition was determined to be sufficient. Notice of the petition was filed with the Florida Administrative Weekly on December 24, 2008, for publication in Vol. 35, No. 1, January 9, 2009. Ms. Buchanan wished to waive that portion of the rule which requires a recruit to successfully complete (pass) basic recruit training prior to taking the State Officer Certification Examination. The Commission considered Ms. Buchanan's rule waiver request at its regularly scheduled Business Agenda meeting held in Lake Mary, Florida, on January 29, 2009. Ms. Buchanan was present. The Commission decided that the evidence provided by Ms. Buchanan failed to show that she had even attempted to find employment until she was ineligible to do so, and thus her consideration for whether she had actually passed the firearms and defensive tactics portions of basic recruit training prior to taking the State Officer Certification Examination was untimely and misplaced. As a consequence, the Commission voted to deny Ms. Buchanan's request for a waiver of Rule 11B-30.006, Florida Administrative Code, because Ms. Buchanan did not allege facts that showed that the application of the rule to her circumstances violated the principles of fairness or facts that showed the operation of the rule created a substantial hardship for her. Ms. Buchanan further failed to allege facts that would show that granting her requested waiver would satisfy the purpose of the underlying statutes, Sections 943.12(17), 943.131(2), 943.1397, F.S.

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, (850)410-7676.

NOTICE IS HEREBY GIVEN THAT on January 29, 2009, the Criminal Justice Standards and Training Commission has issued an order.

Petition for waiver of paragraph 11B-27.013(8)(f), F.A.C., was received from Alan Kalfus on January 15, 2009. Notice of the petition was published in the Florida Administrative Weekly Vol. 35, No. 4, January 30, 2009. Petitioner sought to waive that portion of the rule that required a canine team evaluator to reapply for authorization to continue evaluating canine teams

four years from the last date of approval, and to provide documentation that verifies that the canine team evaluator applicant has evaluated four canine teams within the four-year period. Mr. Kalfus provided documentation of four evaluations, but had not been aware of the requirement to reapply for continued authorization to perform canine team evaluations. The Commission met on January 29, 2009, and considered Mr. Kalfus' petition. The Commission found that Mr. Kalfus' circumstances are unique and that he demonstrated a substantial hardship in that the teams that he evaluated while not in strict compliance with the rule would be on uncertain ground if required to prove that they were adequately evaluated and met all requirements of rule and statute. Also, Mr. Kalfus provided the Commission with proof that he maintained records continually during the time in question as required by the Commission. Mr. Kalfus demonstrated that the requirements of the underlying statute have been met and will continue to be met through granting this waiver. Accordingly, the Commission granted Mr. Kalfus' request for a waiver of paragraph 11B-27.013(8)(f), F.A.C., on January 29, 2009, at its regularly scheduled Business Agenda meeting in Lake Mary, Florida.

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, (850)410-7676.

NOTICE IS HEREBY GIVEN THAT on January 29, 2009, the Criminal Justice Standards and Training Commission has issued an order.

Petition for waiver of subsection 11B-27.00212(14), F.A.C., was received from Alachua County Sheriff's Office and Deputy Steven Kane on December 18, 2008. Notice of the petition was published in the Florida Administrative Weekly Vol. 35, No. 1, January 9, 2009. Petitioner wished to waive that portion of the rule that requires officers to be separated from employment if they do not meet their firearms requalification requirements. Deputy Kane was injured in the line of duty which prevented his timely requalification. He met the firearms requalification standard as soon as he returned to active, full-time duty. He sought to have his break-in-service removed from his officer records because it was through no fault of his own that he was injured in the line of duty and could not meet the rule requirements on time. The Commission met on January 29, 2009, and considered Deputy Kane's petition. The Commission found that Deputy Kane's circumstances are unique and that he demonstrated a that strict application of the rule in his case would violate the principles of fairness in that Deputy Kane was given a break-in-service for failing to timely requalify for firearms when his failure to meet the standard was a direct result of an on-the-job injury which physically prevented him from meeting the rule's standard. Also, Deputy Kane's employer argued that Deputy Kane was eager to come

back to work after his convalescence and met his firearms requirement as soon as he was cleared by his physician to come back to full-time, active duty. Deputy Kane demonstrated that the requirements of the underlying statute have been met and will continue to be met through granting this waiver. Accordingly, the Commission granted Deputy Kane's request for a waiver of subsection 11B-27.00212(14), F.A.C., on January 29, 2009, at its regularly scheduled Business Agenda meeting in Lake Mary, Florida.

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, (850)410-7676.

DEPARTMENT OF TRANSPORTATION

NOTICE IS HEREBY GIVEN THAT on February 4, 2009, the Florida Department of Transportation issued an order dismissing the Petition of City of Cocoa Beach, seeking a variance from the provisions of Rule Chapter 14-43, F.A.C. The Petition was received by the Department on October 3, 2008. The Department published its notice of receipt of the petition in the October 24, 2008, edition of the Florida Administrative Weekly. Rule Chapter 14-43, F.A.C., established requirements for banners and overhead encroachments over state rights-of-way. The Department's order, issued in DOT Case No. 08-081, dismissed the petition because the City's request for variance did not conform to the requirements of subsection 28-104.002(a), F.A.C.

A copy of the Department's order may be obtained from the Clerk of Agency Proceedings, Department of Transportation, 605 Suwannee Street, M.S. 58, Tallahassee, Florida 32399-0458. For additional information contact: James C. Myers at (850)414-5393

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 BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT on December 30, 2008, the Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, has issued an order.

The Final Order was in response to a Petition for Variance from Melbourne Greyhound Park, LLC, Petitioner, filed November 6, 2008, and advertised in Vol. 34, No. 49, of the Florida Administrative Weekly.

The Final Order on the Petition for Variance from Melbourne Greyhound Park, LLC, Petitioner, in DBPR Case No. 2008060903 (VW 2008-309) grants the Petitioner a variance from cardroom surveillance technology requirements of subsection (3) of Rule 61D-11.0175, F.A.C., and subsections (4) and (5) of Rule 61D-11.025, Florida Administrative Code (F.A.C.), because of substantial financial hardship. The Final Order grants Petitioner a variance from both Rules' electronic surveillance requirements for 90 days from January 1, 2009, and further requires that Petitioner be fully in compliance with both Rules 61D-11.0175 and 61D-11.025, F.A.C., by no later than April 1, 2009.

A copy of the Order may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, (850)921-0342.

NOTICE IS HEREBY GIVEN THAT on December 30, 2008, the Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, has issued an order.

The Final Order was in response to a Petition for Variance from Palm Beach Kennel Club, Inc., Petitioner, filed November 6, 2008, and advertised in Vol. 34, No. 49, Florida Administrative Weekly.

The Final Order on the Petition for Variance from Palm Beach Kennel Club, Inc., Petitioner, in DBPR Case No. 2008061227 (VW 2008-310) grants the Petitioner a variance from cardroom surveillance technology requirements of subsections (4) and (5) of Rule 61D-11.025, Florida Administrative Code (F.A.C.), because Petitioner is in the process of renovating its cardroom which, when renovations are complete, will fully comply with the rule's cardroom surveillance technology requirements. The Final Order grants Petitioner a variance from the Rule's electronic surveillance requirements for 90 days from January 1, 2009, and further requires that Petitioner be fully in compliance with Rule 61D-11.025, F.A.C., by no later than April 1, 2009.

A copy of the Order may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, (850)921-0342.

NOTICE IS HEREBY GIVEN THAT on December 30, 2008, the Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, has issued an order.

The Final Order was in response to a Petition for Variance from St. Petersburg Kennel Club, Inc., Petitioner, filed November 6, 2008, and advertised in Vol. 34, No. 49, Florida Administrative Weekly.

The Final Order on the Petition for Variance from St. Petersburg Kennel Club, Inc., Petitioner, in DBPR Case No. 2008061233 (VW 2008-311) grants the Petitioner a variance from cardroom surveillance technology requirements of

subsections (4) and (5) of Rule 61D-11.025, Florida Administrative Code (F.A.C.), because Petitioner is constructing a new cardroom facility that will fully comply with the Rule's cardroom surveillance technology requirements. The Final Order grants Petitioner a variance from the rule's electronic surveillance requirements for 60 days from January 1, 2009, and further requires that Petitioner be fully in compliance with Rule 61D-11.025, F.A.C., by no later than March 2, 2009.

A copy of the Order may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, (850)921-0342.

The Construction Industry Licensing Board hereby gives notice that it has received a petition, filed on December 18, 2008, by Timothy P. Atkinson, Esq., on behalf of Clinton Hennecy, seeking a permanent waiver or variance of Rule 61G4-15.001, F.A.C., dealing with qualifications for certification, and to verification of active experience by affidavits prepared or signed by a state certified Florida contractor, or an architect or engineer, in the applicant's category, who is licensed in good standing or a licensed building official.

Comments on this petition should be filed: Construction Industry Licensing Board, Northwood Center, 1940 North Monroe Street, Tallahassee, FL 32399, within 14 days of publication of this notice.

For a copy of the petition, contact: G. W. Harrell, Executive Director, Construction Industry Licensing Board, at above address or telephone (850)487-1395.

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."

DEPARTMENT OF JUVENILE JUSTICE

NOTICE IS HEREBY GIVEN THAT on February 4, 2009, the Department of Juvenile Justice has issued an order.

The Department of Juvenile Justice has denied the Petition for Variance to subparagraph 63E-7.013(19)(a)1., F.A.C., that was filed by Eckerd Youth Alternatives, Inc., on November 12, 2008. Notice of the Petition was published on November 26, 2008. No comments were received. The Petition sought a variance to that portion of the rule restricting home visits for youth held in low- and moderate-risk facilities to the final 90 days of the residential program. On behalf of its three wilderness camps, Eckerd requested that home visits be permitted after the first 60 days in the program. The Department's order, issued in DJJ08-002WV, concluded that

Eckerd failed to demonstrate that the existing rule imposed a substantial hardship, and further failed to show that its requested variance would satisfy the purpose of the underlying statutes.

A copy of the Order may be obtained by contacting: Chakita Jenkins, Agency Clerk, 2737 Centerview Dr., Ste. 3200, Tallahassee, Florida 32399-3100.

DEPARTMENT OF HEALTH

The Board of Dentistry hereby gives notice that it has received a petition, filed on February 5, 2009, by Rania Livada, D.D.S. seeking a waiver or variance of subsection 64B5-2.0146(2), F.A.C., with respect to the requirement that each applicant for a Florida dental license successfully completes supplemental remedial education to the level of a graduating senior.

Comments on this petition should be filed with: Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258, within 14 days of publication of this notice.

For a copy of the petition, contact: Sue Foster, Executive Director, at the above address or telephone (850)245-4474.

NOTICE IS HEREBY GIVEN THAT on February 5, 2009, the Board of Medicine, received a petition for waiver or variance filed by Joseph Spector, M.D., from subsection 64B8-4.009(5), F.A.C., with regard to the requirement for submission of documentation of medical education directly from Petitioner's medical school.

Comments on this petition should be filed with: Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Larry McPherson, Jr., Executive Director, Board of Medicine, at the above address, or telephone (850)245-4131.

The Board of Occupational Therapy hereby gives notice that it has received a petition, filed on February 5, 2009, by Jon Edenfield, M.S. OTR/L, seeking a waiver or variance of Rule 64B11-6.001, F.A.C., regarding the continuing education approval of a college course taken by the petitioner.

Comments on this petition should be filed with: Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255, within 14 days of publication of this notice.

For a copy of the petition, contact: Allen Hall, Executive Director, at the above address or telephone (850)245-4444.

NOTICE IS HEREBY GIVEN THAT on February 5, 2009, the Board of Psychology, received a petition for Carmen Thomas-Comeaux, Ph.D., seeking a variance or waiver of paragraph 64B19-11.005(1)(c), F.A.C., which requires that a

supervisor be either a Florida licensed psychologist in good standing with the Board, or a doctoral-level psychologist licensed in good standing in another state providing supervision for licensure in that state.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255, (850)245-4373. Comments on this petition should be filed with the Board of Psychology within 14 days of publication of this notice.

NOTICE IS HEREBY GIVEN THAT on February 2, 2009, the Department of Health, received a petition for Waiver from sections of Chapters 64E-11 and 64E-12, Florida Administrative Code, from Children's Home Society of Florida – Transitions Home, 1199 W. Lantana Rd., #11, Lantana, Florida. These rules prescribe the minimum requirements and standards for food hygiene, sanitation, and safety at community based residential facilities. Comments on this petition should be filed with: Sam Power, Agency Clerk, Department of Health, Office of General Counsel, 4052 Bald Cypress Way, BIN #A02, Tallahassee, Florida 32399-1703, within 14 days of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Tracy Perez, Bureau of Community Environmental Health, 4052 Bald Cypress Way, BIN A08, Tallahassee, Florida 32399-1710 or by calling (850)245-4277.

NOTICE IS HEREBY GIVEN THAT on February 5, 2009, the Florida Department of Health, Division of Emergency Medical Operations, Office of Trauma, received a petition for emergency variance from Rule 64J-2.011, Florida Administrative Code, from Holmes Regional Medical Center. Nature of Rule: Requires a State Approved Level II Trauma Center to abide by the standards set forth in Trauma Center Standards, Florida Department of Health Pamphlet 150-9 ("DHP 150-9"), January 2008.

The petitioner is requesting a permanent variance from Standard III, A.3.b., of DHP 150-9, requiring "documentation that the hospital granted the general surgeon full and unrestricted privileges to provide general surgical and trauma care surgical services for adult and pediatric patients".

A copy of the Petition for Variance or Waiver may be obtained by contacting: Susan McDevitt, Director, Office of Trauma, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399-1738, (850)245-4440, ext. 2760, Fax: (850)488-2512, susan_mcdevitt@doh.state.fl.us.

FLORIDA HOUSING FINANCE CORPORATION

NOTICE IS HEREBY GIVEN THAT on February 9, 2009, the Florida Housing Finance Corporation, received a petition for Waiver or Variance from paragraph 67-48.020(2)(b), F.A.C., or

in the Alternative, For Waiver or Variance from paragraph 67-48.004(14)(a), F.A.C., and Corresponding Application Instructions, from Cypress Senior Village LLC, ("Petition"). The Petition is seeking a waiver or variance from paragraphs 67-48.020(2)(b) or 67-48.004(14)(a), F.A.C., so as to allow Cypress Senior Village to qualify for a 0% interest rate HOME loan.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Della Harrell, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329. The Petition has also been posted on Florida Housing's website: www.floridahousing.org. Florida Housing 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. (Eastern Standard Time), on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329.

NOTICE IS HEREBY GIVEN THAT on February 9, 2009, the Florida Housing Finance Corporation, received a petition for Waiver or Variance From the 2007 Qualified Allocation Plan Requirements for Returning Housing Credit Allocations and for an Immediate Allocation of 2009 Housing Credits, from New Singeltary Scattered Sites Limited Partnership ("Petition"). The Petition is seeking a waiver from Rule 67-48.023, Housing Credits General Program Procedures and Requirements, F.A.C., of the requirement for the petitioner to wait until the last calendar quarter of the year in which the applicant is otherwise required to place its project in service in order to return a housing credit allocation and obtain a reservation for an allocation of Housing Credits for a future year.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Della Harrell, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329. The Petition has also been posted on Florida Housing's website: www.floridahousing.org. Florida Housing 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. (Eastern Standard Time), on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329.

NOTICE IS HEREBY GIVEN THAT on February 10, 2009, the Florida Housing Finance Corporation, received a petition for Petition for Waiver of Part III.D.1.f. of the 2006 Universal Application Instructions to Provide Specific Features in Units Developed for Elderly Residents, from Villa Patricia Phase II, LLC, ("Petition"). The Petition is seeking a waiver from the

Rule 67-48.004, Application and Selection Procedures for Developments, F.A.C., of the requirement to provide specific flooring in units developed for elderly residents.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Della Harrell, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329. The Petition has also been posted on Florida Housing's website: www.floridahousing.org. Florida Housing 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. (Eastern Standard Time), on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329.

DEPARTMENT OF FINANCIAL SERVICES

NOTICE IS HEREBY GIVEN THAT on February 6, 2009, the Department of Financial Services, received a petition for Variance from subsection 69B-231.090(6), F.A.C., from Jed Berman, representative for Timothy Michael Crowley, DOAH Rule 28-104.002, F.A.C. The Petition of Variance was an amended petition. Subsection 69B-231.090(6), F.A.C., implements Sections 626.621(6), 624.307(1), 626.611, 626.621, 626.681, and 626.691, Florida Statutes. Mr. Crowley is requesting that the Department of Financial Services grant a variance from the rule and place him on probation for 12 months, require his supervision by a licensed insurance agent during that time, and impose a reasonable fine for violation of Section 626.621(6), Florida Statutes, in lieu of suspending his license for 12 months. Comments on this petition should be filed with: Department of Financial Services, 200 East Gaines Street, Suite 612, Tallahassee, Florida 32399-0333, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Michael H. Davidson, Assistant General Counsel, Department of Financial Services, at the above address, or telephone (850)413-4178.

Section VI

Notices of Meetings, Workshops and Public Hearings

The following state governmental agencies, boards and commissions announce a public meeting to which all persons are invited:

State Board of Administration
 Financial Services Commission
 Department of Veterans' Affairs
 Department of Highway Safety and Motor Vehicles
 Department of Law Enforcement

Department of Revenue
 Department of Education
 Administration Commission
 Florida Land and Water Adjudicatory Commission
 Board of Trustees of the Internal Improvement Trust Fund
 Department of Environmental Protection

DATE AND TIME: March 10, 2009, 9:00 a.m.

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:
 Regular scheduled meeting of the Governor and Cabinet

The State Board of Administration will take action on matters duly presented on its agenda, which may include such matters as Executive Director's reports; approval of fiscal sufficiency of state bond issues; approval of sale of local bonds at an interest rate in excess of statutory interest rate limitation; report on investment performance; designation of banks as depositories for state funds; adoption of rules and regulations; investment of state funds pursuant to Chapter 215, F.S.; and consideration of other matters within its authority pursuant to Chapters 215 and 344, F.S., and Section 16 of Article IX of the Florida Constitution of 1885, as continued by subsection 9(c) of Article XII of the Florida Constitution of 1968. The Division of Bond Finance of the State Board of Administration will take action on matters duly presented on its agenda, which will deal with the issuance of State bonds, arbitrage compliance and related matters.

The Financial Services Commission will take action on matters duly presented on its agenda which may include, but not be limited to, matters relating to rulemaking for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, adjusters, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Insurance Code or Chapter 636, F.S., and for all activities relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.

The Department of Veterans' Affairs will take action on matters duly presented on its agenda which may include the administration of the Department as well as actions taken to further the Department's mission of providing assistance to veterans and their dependents, pursuant to Section 292.05, F.S. The Department of Highway Safety and Motor Vehicles will take action on matters duly presented on its agenda, which may include such matters as approval of agency policies, taking agency action with regard to administrative procedure matters, and considering other matters within its authority pursuant to Florida Statutes.

The Department of Law Enforcement will take action on matters duly presented on its agenda which may include but not be limited to such matters as transfer of agency funds or positions, formulation of Departmental Rules, administrative