

Section IV Emergency Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6AER12-1	Implementation of Florida’s System of School Improvement and Accountability – 2011-12 Writing Component

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: School Grades as defined in Section 1008.34, F.S., are based on a combination of factors, including annual student writing proficiency as measured by the Florida Comprehensive Assessment Test (FCAT) writing for fourth, eighth, and tenth grades. Current Rule 6A-1.09981, F.A.C., awards credit to schools towards their school grades based upon the percentage of students scoring “4.0” or higher on FCAT writing. The 4.0 threshold is an increase from a previously designated threshold of 3.5. The manner in which the 2012 FCAT Writing assessment was scored changed from prior administrations for two reasons. First, the Department returned to the use of two raters to score each test rather than one, and second, the scoring rules required higher proficiency for each level than those in all prior years. When the increased threshold of 4.0 was established by rule, the State Board of Education did not have, and could not have had, impact data that would reflect how the scoring changes would impact the school grade calculations. Based on preliminary results of the 2012 writing assessment, applying the 4.0 threshold in addition to the heightened scoring mechanisms may have unforeseen adverse impacts upon school grades, warranting emergency review by the State Board of Education.

A school’s grade has wide-ranging impact for districts, parents, students, and tax-payers. It is necessary that school grades accurately and fairly reflect a school’s efforts and that the grades be released as soon as possible after the close of one school year to allow school districts time to prepare for the next school year. Preparations to be taken by school districts as a result of school grades include: contracting for services to poor performing schools; closing repeat, poor performing schools; shifting staff, students, and faculty; allocating special service cases, reallocating dollars appropriated through the Florida Education Finance Program; and providing opportunity scholarships to students attending failing schools.

There is not sufficient time to amend the rule by the non-emergency rulemaking procedures. Florida school districts must prepare for the 2012-13 school year between July 1 and August, when the 2012-13 school year starts, and school grades must be released well in advance. As a result, there is not time to make the change through normal rulemaking procedures.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Because school begins in August, there is not sufficient time to amend the rule through non-emergency means before the start of the 2012-13 school year. The emergency rule was discussed and authorized at a State Board meeting held on May 15, 2012. The meeting was noticed and open to the public. Further, the emergency rule was published on the Department’s website, an email notice was provided to interested persons based upon the agency’s list-serve and the media were provided notice of the meeting, all in an effort to reach interested persons.

SUMMARY: The emergency rule awards credit to schools towards their school grades based upon the percentage of students scoring “3.0” or higher instead of “4.0” or higher on FCAT 2.0 writing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Jane Fletcher, Interim Deputy Commissioner, Accountability, Research, and Measurement, 325 West Gaines Street, Tallahassee, Florida, (850)245-0437

THE FULL TEXT OF THE EMERGENCY RULE IS:

6AER12-1 Implementation of Florida’s System of School Improvement and Accountability – 2011-12 Writing Component.

Notwithstanding any other rule to the contrary, for 2011-2012 school grades, the student achievement component for the FCAT writing assessment shall be based on the student achievement scores, aggregated for each school, which indicate the percent of eligible students who score at or above FCAT Achievement Level 3.0 or higher on the FCAT writing assessment.

Rulemaking Authority 1001.02, 1008.22, 1008.34, 1008.345 FS. Law Implemented 1008.22, 1008.34, 1008.345, 1008.36 FS. History–New 5-15-12.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: May 15, 2012

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District’s Governing Board issued SFWMD Order No. 2012-051-DAO-ROW to Stewart Lee Mosher (Application No. 12-0123-3). The petition for waiver was received by the District on February 2, 2012. Notice of receipt of the petition requesting the waiver was

published in the Florida Administrative Weekly, Vol. 38, No. 7, on February 17, 2012. No public comment was received. This Order provides a waiver of the District's criteria to allow an existing cross-fence with vehicular access gate and post with solar light to remain within the south right of way of C-15 Canal adjacent to 201 Oregon Lane; Section 32, Township 46 South, Range 43 East, Palm Beach County. Specifically, the Order grants a waiver from subsections 40E-6.011(4) and (6), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the placement of permanent and/or semi-permanent above-ground structures within 40 feet of the top of canal bank within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the facilities will not significantly interfere with the District's current ability to perform necessary construction, alteration, operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon principles of fairness.

A copy of the Order or additional information may be obtained by contacting: Juli Russell, South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, Florida 33406-4680, (561)682-6268 or by email: jurussel@sfwmd.gov.

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District's Governing Board issued SFWMD Order No. 2012-052-DAO-ROW to CenturyLink (Application No. 12-0307-1). The petition for waiver was received by the District on March 20, 2012. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 38, No. 14, on April 6, 2012. No public comment was received. This Order provides a waiver of the District's criteria to allow the installation of an aerial communications cable crossing the Miller Canal located approximately 40 feet north of the centerline of 28th Avenue S.E. bridge attached to existing Florida Power and Light Co. poles; Section 30, Township 49 South, Range 28 East, Collier County. Specifically, the Order grants a waiver from paragraph 40E-6.221(2)(j), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the minimum vertical clearance requirement for non-voltage aerial crossings within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the aerial crossing will not interfere with the District's ability to perform necessary construction, alteration,

operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon substantial hardship.

A copy of the Order or additional information may be obtained by contacting: Juli Russell, South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, Florida 33406-4680, (561)682-6268 or by email: jurussel@sfwmd.gov.

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District's Governing Board issued SFWMD Order No. 2012-053-DAO-ROW to CenturyLink (Application No. 11-1007-1). The petition for waiver was received by the District on March 29, 2012. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 38, No. 15, on April 13, 2012. No public comment was received. This Order provides a waiver of the District's criteria to allow the installation of an aerial communications cable crossing the Cocohatchee Canal located approximately 290 feet west of the centerline of Old Cypress bridge (Logan Blvd.) attached to existing Florida Power and Light Co. poles; Section 20, Township 48 South, Range 26 East, Collier County. Specifically, the Order grants a waiver from paragraph 40E-6.221(2)(j), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the minimum vertical clearance requirement for non-voltage aerial crossings within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the aerial crossing will not interfere with the District's ability to perform necessary construction, alteration, operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon substantial hardship.

A copy of the Order or additional information may be obtained by contacting: Juli Russell, South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, Florida 33406-4680, (561)682-6268; or by email: jurussel@sfwmd.gov.

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District's Governing Board issued SFWMD Order No. 2012-054-DAO-ROW to Donna Wells Joannides (Application No. 12-0229-1). The petition for waiver was received by the District on February 29, 2012. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 38, No. 11, on March 16, 2012. No public comment was received. This Order provides a waiver of the District's criteria to allow an existing dock, boat lift, and water/electric service to the dock within the south right of way of the C-17 Canal at the rear

of 2778 Hinda Road to remain; Section 17, Township 42 South, Range 43 East, Palm Beach County. Specifically, the Order grants a waiver from paragraph 40E-6.221(2)(j), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the low member elevation of pile-supported docking facilities within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the dock is located downstream of the District's S-44 Water Control Structure and will not interfere with the District's operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon substantial hardship.

A copy of the Order or additional information may be obtained by contacting: Juli Russell, South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, Florida 33406-4680, (561)682-6268 or by email: jurussel@sfwmd.gov.

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District's Governing Board issued SFWMD Order No. 2012-055-DAO-ROW to Gerald Oliverie, Trustee of the Curtis Kraul and Carmela Polise Kraul Living Trust (Application No. 11-0506-1). The petition for waiver was received by the District on March 13, 2012. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 38, No. 12, on March 23, 2012. No public comment was received. This Order provides a waiver of the District's criteria to allow an existing dock within the north right of way of the C-16 Canal at the rear of 718 Shore Drive to remain; Section 22, Township 45 South, Range 43 East, Palm Beach County. Specifically, the Order grants a waiver from paragraph 40E-6.221(2)(j), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the low member elevation of pile-supported docking facilities within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the dock is located downstream of the District's S-41 Water Control Structure and will not interfere with the District's operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon substantial hardship and principles of fairness.

A copy of the Order or additional information may be obtained by contacting: Juli Russell, South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, Florida 33406-4680, (561)682-6268 or by email: jurussel@sfwmd.gov.

NOTICE IS HEREBY GIVEN that on May 3, 2012, the South Florida Water Management District (District), received a petition for waiver from the Florida Department of Transportation, Application No. 12-0503-1M, for utilization of Works or Lands of the District known as the C-51 Canal, Palm Beach County for replacement of an existing double mast arm signal pole with two single arm mast arm signal poles and additional signal equipment within the north right of way of C-51, located at Jog Road, Section 3, Township 44 South, Range 42 East. The petition seeks relief from subsections 40E-6.011(4) and (6), Florida Administrative Code, which governs placement of permanent and semi-permanent above-ground structures within 40' of top of canal bank within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juli Russell, (561)682-6268 or e-mail: jurussel@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC #1410, West Palm Beach, FL 33406, Attn: Juli Russell, Office of Counsel.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on May 9, 2012, the Division issued an order. The Final Order was in response to a Petition for emergency Variance from Mayo Stable North, filed April 16, 2012, and advertised in Vol. 38, No. 17, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.2.2.5 ASME A17.1, 2005 edition, as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires a pump in the elevator hoistway sump because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-118).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on May 9, 2012, the Division issued an order. The Final Order was in response to a Petition for Variance from Strathmore Gardens Apartments, filed March 16, 2012, and advertised in Vol. 38, No. 14, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3, 2.7.4, 3.10.4(t), 3.11.1, 3.3.2, 3.9.1 and 3.4.3, ASME A17.3, 1996 edition and from Rule 8.6.5.8 ASME A17.1, 2009 edition, as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations, restricted door openings, keyed stop switch, emergency communication, platform guards, normal terminal stopping devices, a safety bulkhead and restricts the conformance of car doors and gates until September 30, 2013, because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-090).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

NOTICE IS HEREBY GIVEN that on May 14, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for 400 Building. Petitioner seeks an emergency variance of the requirements of ASME A17.1, Section 102.1, as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that restricts wiring, raceways and cables in the machine room which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-147).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

NOTICE IS HEREBY GIVEN that on May 11, 2012, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code, and Paragraph 5-202.11(A), 2001 FDA Food Code from Adam's Acai & Health located in Sanford, FL. The above referenced F.A.C. addresses the requirement that each establishment have an approved plumbing system installed to transport potable water and wastewater. They are

requesting to utilize holding tanks to provide potable water and to collect wastewater at the handwash sink and 3-compartment sink.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@dbpr.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

NOTICE IS HEREBY GIVEN that on May 9, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Hyatt Place. Petitioner seeks an emergency variance of the requirements of ASME A17.1, Section 2.20.4, 2.18.5 and 8.11.2.1.3(cc)(1) & (3) as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires steel ropes of a minimum diameter of 9.5 mm which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-145).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice on April 20, 2012, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code and Paragraph 5-202.11(A), 2001 FDA Food Code, paragraph 61C-1.004(2)(a), subsections 61C-4.010(6), (7), Florida Administrative Code, and Section 6-402.11, 2001 FDA Food Code, Section 5-203.13, 2001 FDA Food Code, Paragraph 4-301.12(A), 2001 FDA Food Code and subsection 61C-4.010(5), Florida Administrative Code, from JR's Rib Shack located in Rockledge, FL. The above referenced F.A.C. addresses the requirement that each establishment have an approved plumbing system installed to transport water and wastewater; at least one accessible bathroom for use by customers and employees, at least one service sink for the cleaning of mops or similar cleaning tools and the disposal of mop water, dishwashing facilities for manually washing, rinsing and sanitizing equipment and utensils and an area for food preparation. They are requesting to have holding tanks and share bathroom, mop sink, warewashing and food preparation areas located within Clayton's Crab Company (Firm #18773).

The Petition for this variance was published in Vol. 38, No. 18 on May 4, 2012. The Order for this Petition was signed on May 10, 2012, and after a complete review of the variance request, the Division finds that the application of this rule will create a financial hardship to the food service establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been achieved by the Petitioner ensuring the wastewater holding tanks are emptied at a frequency as to not create a sanitary nuisance; and potable water provided must come from an approved source and be protected from contamination during handling. The Petitioner shall also ensure that the three-compartment sink, mop sink and food preparation areas within the Clayton's Crab Company are maintained in a clean and sanitary manner and all sinks are provided with hot and cold running water under pressure and available during all hours of operation. The Petitioner shall also ensure the bathrooms located within Clayton's Crab Company (Firm #18773) are maintained in a clean and sanitary manner and are provided with hot and cold running water under pressure, soap, approved hand drying devices, and available during all hours of operation and directional signage is installed within or outside the establishment clearly stating the location of the bathrooms. If the ownership of Clayton's Rib Shack changes, an updated signed agreement for use of the bathroom facilities is required immediately.

A copy of the Order or additional information may be obtained by contacting: Lydia.Gonzalez@dbpr.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

NOTICE IS HEREBY GIVEN that on May 8, 2012, the Electrical Contractors' Licensing Board, received a petition for Brian Babernitch, seeking a variance or waiver of Rule 61G6-6.017, Florida Administrative Code, which requires for the purpose of certification, a passing examination score on any part of the examination shall be valid only for a period of two (2) years from the date of the examination.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783. Comments on this petition should be filed with the Electrical Contractors' Licensing Board at the above address, within 14 days of publication of this notice.

The Board of Accountancy hereby gives notice that the petition filed by Elizabeth Alvarez, on February 24, 2012, seeking a variance or waiver from paragraph 61H1-33.006(2)(a), Florida Administrative Code, has been withdrawn. The Notice of Petition published in Vol. 38, No. 13, of the March 30, 2012, issue of the Florida Administrative Weekly.

The person to be contacted regarding this petition is Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607.

NOTICE IS HEREBY GIVEN that on May 1, 2012, the Board of Accountancy, received a petition for Andrea Browne, seeking a variance or waiver of subsection 61H1-27.0041(2), F.A.C., which requires that one year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C.

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. Comments on this petition should be filed with the Board of Accountancy at the above address, within 14 days of publication of this notice.

DEPARTMENT OF HEALTH

The Board of Dentistry hereby gives notice of the issuance of an Order regarding the Petition for Variance for Ismael El Khoully, DDS, filed on September 14, 2011. The Notice of Petition for Variance was published in Vol. 37, No. 40, of the October 7, 2011, Florida Administrative Weekly. The Petition requested a Variance or Waiver of paragraph 64B5-2.0146(2)(a), F.A.C., with respect to the following licensure requirement: that each applicant, from non-accredited schools or colleges, for a Florida dental license successfully completes an additional two-year program that meets the specific criteria enumerated in the rule. The Board considered the Petition at a duly-noticed public meeting held on October 28, 2011.

The Board's Order, filed on November 17, 2011, granted the Petitioner's request to withdraw the Petition for Variance or Waiver, without prejudice.

A copy of the Order or additional information may be obtained by contacting: Sue Foster, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

The Board of Dentistry hereby gives notice of the issuance of an Order regarding the Petition for Variance for Fabiola D. Ortega, DDS, filed on August 23, 2011. The Notice of Petition for Variance was published in Vol. 37, No. 34, of the August 24, 2011, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B5-2.013, F.A.C.,

seeking a permanent waiver for re-taking the Diagnostic skills examination (DSCE). The Board considered the Petition at a duly-noticed public meeting held on September 12, 2011.

The Board's Order, filed on September 19, 2011, granted the Petition for Variance or Waiver, finding that the Petitioner had complied with Section 120.542(2), Florida Statutes. Therefore, the Petitioner was approved for licensure.

A copy of the Order or additional information may be obtained by contacting: Sue Foster, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for At Peace Media filed on July 27, 2011. The Notice of Petition for Variance was published in Vol. 37, No. 34, of the August 26, 2011, Florida Administrative Weekly. The Petition requested a Variance or Waiver of paragraph 64B7-28.009(3)(a), F.A.C. with respect to the 12 continuing education hours via live classroom instruction which includes hands-on instruction or demonstration. The Board considered the Petition at a duly-noticed public meeting held on October 20, 2011.

The Board's Order, filed on November 21, 2011, denied the Petition for Variance or Waiver, as it did not meet the requirements of Section 120.542, Florida Statutes; and did not demonstrate a hardship.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Margaret Byrne filed on March 21, 2012. The Notice of Petition for Variance was published in Vol. 38, No. 14, of the April 6, 2012, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Section 480.041, F.S., Massage Practice Act, with respect to part B, an apprenticeship program that meets standards adopted by the Board. Petitioner sought a permanent variance or waiver from this requirement as she received her training in 1987, her massage school no longer has her transcripts and Petitioner worked in California for the past 24 years with thousands of hours of massage therapy in Chiropractic and doctor's offices, spas, and in private practice. The Board considered the Petition at a duly-noticed public meeting held on April 20, 2012.

The Board's Order, filed on May 7, 2012, denied the Petition for Variance or Waiver, finding that the rule requirements from which Petitioner sought relief were statutory requirements pursuant to Section 480.041, Florida Statutes. Pursuant to Section 120.54, Florida Statutes, the Board is not authorized to grant a waiver or variance from a statutory requirement.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

NOTICE IS HEREBY GIVEN that on May 14, 2012, the Board of Massage Therapy, received a petition for a variance or waiver of Rule 64B7-25.004, F. A. C., filed by Barbara Coe, which requires an applicant by endorsement to demonstrate that the educational requirements for licensure in another state are substantially equivalent to those in Florida.

Comments on this petition should be filed with the Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Anthony Jusevitch, Executive Director, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Sharalee Hoelscher filed on June 13, 2011. The Notice of Petition for Variance was published in Vol. 37, No. 25, of the June 24, 2011, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B7-28.009, F.A.C., to allow substitution of continuing education courses required for licensure renewal. The Board considered the Petition at a duly-noticed public meeting held on July 29, 2011.

The Board's Order, filed on September 1, 2011, granted the Petition for Variance or Waiver.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Bonnie G. Landers filed on June 4, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 25, of the June 25, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B7-32.002, F.A.C., with respect to documentation of graduation from a Board approved massage school. Petitioner seeks a variance or waiver from the requirement of an official transcript documenting the applicant's training. The Board considered the Petition at a duly-noticed public meeting held on July 30, 2010.

The Board's Order, filed on September 9, 2010, granted the Petition for Variance or Waiver, finding that the Petitioner is not required to present any further evidence of education or transcripts to the Board in order to be eligible for licensure

based upon completion of the conditions set forth in Paragraphs 9 and 10 of the Order, the Petitioner shall be granted a license.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Joan M. Johns filed on March 23, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 13, of the April 2, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of paragraph 64B7-25.004(1)(f), F.A.C., which requires an applicant for licensure by endorsement to complete a current curriculum course from a Board approved school covering the Florida Statutes and rules related to massage therapy. The Board considered the Petition at a duly-noticed public meeting held on April 30, 2010.

The Board's Order, filed on February 22, 2012, granted the Petitioner's request to withdraw her petition.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Keith Marks filed on March 12, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 25, of the June 25, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B7-28.009, F.A.C., with respect to the 12 continuing education hours that is to be taken via live classroom instruction. Petitioner seeks a variance or waiver from the requirement of the licensee's continuing education to be obtained in a live classroom setting. The Board considered the Petition at a duly-noticed public meeting held on June 18, 2010.

The Board's Order, filed on July 6, 2010, granted the Petition for Variance or Waiver, finding that the Petitioner demonstrated and satisfied the continuing Education course requirements.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for John Edward Mooney filed on February 26, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 14, of the April 9, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of paragraph

64B7-28.009(3)(a), F.A.C., with respect to the 12 continuing education hours via live classroom instruction which includes hands-on instruction or demonstration. The Board considered the Petition at a duly-noticed public meeting held on June 18, 2010.

The Board's Order, filed on July 6, 2010, granted the Petition for Variance or Waiver.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Massage Therapy hereby gives notice of the issuance of an Order regarding the Petition for Variance for Pina V. Olson filed on August 31, 2011. The Notice of Petition for Variance was published in Vol. 37, No. 37, of the September 16, 2011, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B7-28.009, F.A.C., with respect to the 12 continuing education hours that is to be taken via live classroom instruction. Petitioner seeks a variance or waiver from the requirement of the licensee's continuing education to be obtained in a live classroom setting. The Board considered the Petition at a duly-noticed public meeting held on October 20, 2011.

The Board's Order, filed on November 22, 2011, denied the Petition for Variance or Waiver, as the Petition was not in compliance with Section 120.542, Florida Statutes; and did not demonstrate that purpose of the underlying statute would be met.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Nursing hereby gives notice of the issuance of an Order regarding the Petition for Variance for Michel Pierre Bouchard filed on June 3, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 24, of the June 18, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B9-3.014, F.A.C., with regard to the requirement for the number of hours for certain courses in psychiatric theory and clinical medical nursing. The Board considered the Petition at a duly-noticed public meeting held on August 5, 2010.

The Board's Order, filed on August 19, 2010, granted the Petition for Variance or Waiver, finding that the Petition was in substantial compliance with the provisions of Section 120.542, F.S., and would violate principles of fairness, since the Petitioner practiced nursing in Florida for 8 years with no discipline based on the same education.

A copy of the Board's Order may be obtained by contacting: Joe R. Baker, Jr., Executive Director, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256.

The Board of Nursing hereby gives notice of the issuance of an Order regarding the Petition for Variance for Bryan Millares filed on June 3, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 24, of the June 18, 2010, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule 64B9-3.014, F.A.C., with regard to the requirement for the number of hours for certain courses in psychiatric theory and clinical medical nursing. The Board considered the Petition at a duly-noticed public meeting held on December 3, 2009.

The Board's Order, filed on July 29, 2010, denied the Petition for Variance or Waiver, finding that the rule had been repealed and the Petitioner's License was approved. Therefore, the Petition for Waiver or Variance is hereby dismissed as moot.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Nursing hereby gives notice of the issuance of an Order regarding the Petition for Variance for Tina Rayfield filed on October 15, 2009. The Notice of Petition for Variance was published in Vol. 35, No. 46, of the November 20, 2009, Florida Administrative Weekly. The Petition requested a Variance or Waiver of Rule from Rule 64B9-2.008, F.A.C., with regard to the clinical component of the educational requirement of Rule 64B9-2.008, F.A.C. The Board considered the Petition at a duly-noticed public meeting held on December 3, 2009.

The Board's Order, filed on July 23, 2010, denied the Petition for Variance or Waiver, finding that the rule had been repealed and the Petitioner's License was approved. Therefore, the Petition for Waiver or Variance is hereby dismissed as moot.

A copy of the Order or additional information may be obtained by contacting: Anthony Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

The Board of Optometry hereby gives notice that an Order on the Petition for Waiver or Variance filed on September 14, 2010, by Yasmine Fozooni, O.D. has been issued. The Notice of Petition for Variance was published in Vol. 36, No. 38, of the September 24, 2010, Florida Administrative Weekly. The petition seeks a variance from Rule 64B13-4.001, F.A.C., with regard to the licensure requirement of Rule 64B13-4.001, F.A.C., entitled "Examination Requirements." Specifically, the Petitioner, an out-of-state optometrist who has applied for an optometrist license in Florida, requests for reasons stated in the petition that the Board waives the requirement under Rule

64B13-4.001, F.A.C., pertaining to the National Examinations Requirements. The Board's Order, filed on October 29, 2010, denied issuing a waiver or variance in response to the petition because Petitioner does not present a unique hardship, and application of the rule does not violate principles of fairness.

A copy of the Order or additional information may be obtained by contacting: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

The Board of Optometry hereby gives notice that an Order to Deny on the Petition for Waiver or Variance filed on September 15, 2010, by Jack W. Harvey, II, O.D. has been issued. The Notice of Petition for Variance was published in Vol. 36, No. 38, of the September 24, 2010, Florida Administrative Weekly. The Petitioner, an out-of-state optometrist who had applied for an optometrist license in Florida, requests for reasons stated in the petition that the Board waives the requirement under Rule 64B13-4.001, F.A.C., pertaining to the National Examinations Requirements. The Board considered the petition at its meeting held on October 22, 2010, by telephone conference.

The Board's Order, filed on October 29, 2010, denied issuing a waiver or variance in response to this petitioner, as the petitioner has not demonstrated a unique hardship, and application to the rule to Petitioner does not violate principles of fairness.

A copy of the Order or additional information may be obtained by contacting: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

NOTICE IS HEREBY GIVEN that on May 4, 2012, the Board of Physical Therapy Practice, received a petition for Michael Roger Garrett, seeking a variance or waiver of subsection 64B17-3.001(3), F.A.C., which requires for foreign graduates to have received a determination that the credentials are equivalent to education required for licensure as a physical therapist in the United States as determined by the Foreign Credentialing Commission on Physical Therapy.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255. Comments on this petition should be filed with the Board of Physical Therapy Practice at the above address within 14 days of publication of this notice.

NOTICE IS HEREBY GIVEN that on May 16, 2012, the Board of Physical Therapy Practice, received a petition for Ricardo de Miranda Tubino, seeking a variance or waiver of subsection 64B17-3.001(3), F.A.C., which requires for foreign graduates to have received a determination that the credentials

are equivalent to education required for licensure as a physical therapist in the United States as determined by the Foreign Credentialing Commission on Physical Therapy.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255. Comments on this petition should be filed with the Board of Physical Therapy Practice at the above address within 14 days of publication of this notice.

NOTICE IS HEREBY GIVEN that on May 3, 2012, the Board of Psychology, received a petition for variance filed by Ariadna Montero, Psy.D., from Rule 64B19-11.005, F.A.C., with regard to the requirements of the rule regarding appropriate supervised experience. Comments on this petition should be filed with the Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3055, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Allen Hall, Executive Director, Board of Psychology, at the above address or telephone (850)245-4373.

Section VI

Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

The **Friends of Mission San Luis, Inc.** announces a public meeting to which all persons are invited.

DATE AND TIME: June 4, 2012, 11:00 a.m.

PLACE: Mission San Luis, 2100 W. Tennessee St., Tallahassee, FL 32304

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Executive Committee will discuss rental policy and other Friends business.

A copy of the agenda may be obtained by contacting: Cookie Stevens, (850)245-6388.

For more information, you may contact: Cookie.Stevens@dos.myflorida.com.

The **Friends of Mission San Luis** announces a public meeting to which all persons are invited.

DATE AND TIME: June 21, 2012, 6:00 p.m.

PLACE: Mission San Luis, 2100 W Tennessee Street, Tallahassee, FL 32304

GENERAL SUBJECT MATTER TO BE CONSIDERED: The FOMSL Board of Directors will discuss fundraising, projects, policy, financials and other Friends business.

A copy of the agenda may be obtained by contacting: Cookie Stevens, (850)245-6388.

For more information, you may contact: Cookie.Stevens@dos.myflorida.com.

The **Friends of the Museums of Florida History, Inc.** announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, July 12, 2012, 9:00 a.m. – conclusion

PLACE: R.A. Gray Building, 1st Floor, 500 S. Bronough St., Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business.

A copy of the agenda may be obtained by contacting: Elyse Cornelison, Museum of Florida History, (850)245-6413.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Elyse Cornelison, Museum of Florida History, (850)245-6413. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Elyse Cornelison, Museum of Florida History, (850)245-6413.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NOTICE OF CANCELLATION – The **Florida State Fair Authority** announces a workshop to which all persons are invited.

DATE AND TIME: May 30, 2012, 10:00 a.m.

PLACE: Florida State Fairgrounds

GENERAL SUBJECT MATTER TO BE CONSIDERED: Long Range Plan meeting is now cancelled.

A copy of the agenda may be obtained by contacting: Sonia Velez, (813)627-4221.

For more information, you may contact: Sonia Velez, (813)627-4221.

The **Florida Agriculture Center and Horse Park Authority** announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, June 12, 2012, 5:00 p.m.

PLACE: Holiday Inn and Suites Ocala Conference Center, 3600 S.W. 38th Street, Ocala, Florida 34474

GENERAL SUBJECT MATTER TO BE CONSIDERED: This meeting is to discuss general board business.

A copy of the agenda may be obtained by contacting: C.J. Marcello, Executive Director, (352)307-6699, ext. 5 or email: execdir@flhorsepark.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the