

## Section IV Emergency Rules

### **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."

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## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### **DEPARTMENT OF LAW ENFORCEMENT**

NOTICE IS HEREBY GIVEN THAT on October 28, 2010, the Criminal Justice Standards and Training Commission has issued an order.

A Petition for Waiver of paragraphs 11B-35.001(3)(a), (b) and 11B-35.0021(6)(a), F.A.C., was received from Santa Fe Community College and Sgt. Terrence Stevens, on September 21, 2010. Notice of the Petition was published in the Florida Administrative Weekly, Vol. 36, No. 40, October 8, 2010. The rule requires high liability instructors to submit certain paperwork, be reviewed by a field specialist, and be entered into the CJSTC's ATMS database prior to instructing CJSTC firearms classes. Santa Fe Community College hired Sgt. Terrence Stevens, a certified officer who had passed all coursework requirements to become a high liability firearms instructor, and assigned him to teach a firearms course to a basic recruit class without having his administrative paperwork completed. As soon as the school became aware of the deficiency, the CJSTC field representative was called and this rule waiver request was initiated. The Petitioner college stated that Sgt. Stevens met all the requirements for correctly teaching the firearms course at issue, but failed to complete all administrative aspects of certification as outlined in the rule. Sgt. Stevens was at all times qualified to instruct the course, he had only failed to complete administrative acts that would ensure he was fully certified as a firearms instructor.

The Commission found that the Petitioner's situation is unique. The Petitioner demonstrated that the strict application of the Commission's rules in this case would violate the principles of fairness resulting in the need to re-qualify many working officers who suffered no disability in training as a result of the

failure to complete the administrative aspects of the rule. The Commission found that the purposes of the underlying statute, to ensure that criminal justice training is carried out uniformly throughout all Commission-certified training schools, would be served by permitting a waiver of a clerical, as opposed to tactical training, requirement. Accordingly, the Commission granted Petitioner's request for a waiver of paragraphs 11B-35.001(3)(a), (b) and 11B-35.0021(6)(a), F.A.C., on October 28, 2010, at its regularly scheduled Business Agenda meeting in Ponte Vedra Beach, 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 32327, or by telephoning (850)410-7676.

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### **BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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### **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN THAT on November 2, 2010, the Division of Hotels and Restaurants, received a petition for an Emergency Variance for subsections 61C-4.010(6), (7), Florida Administrative Code, from Chef Dee's Catering, Panama City Beach, Florida. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers. They are requesting to utilize bathrooms located within an adjacent licensed food service establishment under the same ownership.

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.

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NOTICE IS HEREBY GIVEN THAT on October 22, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants has issued an order.

The Department received a Petition for a Routine Variance on October 14, 2010 for paragraph 61C-1.004(1)(a), Florida Administrative Code and 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 Subway, Kissimmee, Florida. The above referenced F.A.C. addresses the requirements that at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water and that dishwashing facilities for

manually washing, rinsing and sanitizing equipment and utensils are provided. They are requesting to utilize a mopsink and dishwashing facility located within another establishment. The initial petition published in Vol. 36, No. 43 on October 29, 2010. 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 dishwashing facility (including handwash sink) and mop sink located within Osceola Regional Medical Center Main Kitchen are maintained in a clean and sanitary manner and provided with hot and cold running water under pressure and are available during all hours of operation. If the the hours of operation or ownership of Osceola Regional Medical Center Main Kitchen changes, an updated signed agreement for use of the dishwashing facility and mop sink is required immediately.

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

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NOTICE IS HEREBY GIVEN THAT on November 2, 2010, the Division of Hotels and Restaurants, received a petition for a Routine Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code and 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 Subway #46725, Ft. Myers, Florida. The above referenced F.A.C. addresses the requirement that at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water and that dishwashing facilities are provided for manually washing, rinsing and sanitizing equipment and utensils. They are requesting to utilize a mopsink and dishwashing facility located within another regulated establishment.

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.

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NOTICE IS HEREBY GIVEN THAT on September 20, 2010, the Board of Architecture and Interior Design, received a petition for Tracee M. Bomberger, seeking a variance or waiver of subsection 61G1-22.002(1), F.A.C., which requires that applicants for licensure obtain the diversified interior design experience required by Section 481.209(2), F.S., with a registered interior designer (any state) or registered architect (any state) performing interior design services, unlicensed interior designer (outside of Florida) who has passed the NCIDQ (National Council for Interior Design Qualification) or the AID (American Institute of Designers) examination, or

unlicensed interior designer (outside of Florida) who would have met the six-year experience grandfather requirement of Section 21, Chapter 88-383, Laws of Florida.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Anthony Spivey, Executive Director, Board of Architecture and Interior Design 1940 North Monroe Street, Tallahassee, Florida 32399-0783. Comments on this petition should be filed with the Board of Architecture and Interior Design within 14 days of publication of this notice.

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The Construction Industry Licensing Board hereby gives notice of the issuance of an Order regarding the Petition for Variance for Ronald Aaron Mattis, Jr., filed on January 19, 2010. The Notice of Petition for Variance was published in Vol. 36, No. 04, of the January 29, 2010, Florida Administrative Weekly. The Board considered the Petition at a duly-noticed public meeting held on February 10-12, 2010, Tampa, Florida. The Board's Order, filed on July 12, 2010, grants the Petitioner a conditional Variance or Waiver from subsection 61G4-15.001(2), F.A.C., which would allow Petitioner to construct non-habitable communications structures/cell phone towers and communications structures that are place on roof tops or are otherwise attached to habitable structures, and habitable accessory use structures not to exceed three stories in height.

A copy of the Board's Order may be obtained by contacting: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257.

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The Construction Industry Licensing Board hereby gives notice of the issuance of an Order regarding the Petition for Variance for Scott B. Sontag, filed on December 2009. The Notice of Petition for Variance was published in Vol. 35, No. 52, of the December 31, 2009, Florida Administrative Weekly. The Board considered the Petition at a duly-noticed public meeting held on January 13, 2010, Cocoa Beach, Florida.

The Board's Order, filed on June 17, 2010, grants the Petitioner a conditional Variance or Waiver from subsection 61G4-15.001(2), F.A.C., which would allow Petitioner to construct non-habitable communications structures/cell phone towers and communications structures that are place on roof tops or are otherwise attached to habitable structures, and habitable accessory use structures not to exceed three stories in height.

A copy of the Board's Order may be obtained by contacting: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257.

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The Construction Industry Licensing Board hereby gives notice of the issuance of an Order regarding the Petition for Variance for Charles Ray Zeldenthuis, filed on February 25,

2010. The Notice of Petition for Variance was published in Vol. 36, No. 11, of the March 19, 2010, Florida Administrative Weekly. The Board considered the Petition at a duly-noticed public meeting held on April 16, 2010, Tampa, Florida.

The Board's Order, filed on August 25, 2010, grants the Petitioner a Variance or Waiver from subsection 61G4-15.001(2), F.A.C., which would allow Petitioner to construct non-habitable communications structures/cell phone towers and communications structures that are placed on roof tops or are otherwise attached to habitable structures, and habitable accessory use structures not to exceed three stories in height.

A copy of the Board's Order may be obtained by contacting: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257.

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NOTICE IS HEREBY GIVEN THAT on October 29, 2010, the Board of Accountancy, received a petition for Tavera Andrews, seeking a variance or waiver of paragraph 61H1-28.0052(1)(b), Florida Administrative Code, that requires candidates to pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed.

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 within 14 days of publication of this notice.

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NOTICE IS HEREBY GIVEN THAT on October 28, 2010, the Board of Accountancy, received a petition for Amy Weiss, seeking a variance or waiver of paragraph 61H1-28.0052(1)(b), Florida Administrative Code, that requires candidates to pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed.

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 within 14 days of publication of this notice.

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NOTICE IS HEREBY GIVEN THAT on November 5, 2010, the Florida Real Estate Appraisal Board, received a petition for Mark Alan Gerber, seeking a variance or waiver of paragraph 61J1-4.010(1)(c), Florida Administrative Code, that requires

that a supervisory appraiser must have been licensed as an appraiser or certified as a residential or general appraiser for at least 48 months to qualify to supervise trainees.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Thomas W. O'Bryant, Jr., Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801. Comments on this petition should be filed with the Florida Real Estate Appraisal Board within 14 days of publication of this notice.

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#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

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#### DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN THAT on October 4, 2010, the Board of Dentistry, received a petition for The Board of Dentistry hereby gives notice that it has received a petition, filed on October 4, 2010, by Gonzalo Romo De Miguel, seeking a waiver or variance of Rule 64B5-2.0146, F.A.C., with respect to the following licensure 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 the: Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Susan Foster, Executive Director, at the above address or telephone (850)245-4474.

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NOTICE IS HEREBY GIVEN THAT on October 10, 2010, the Board of Medicine, received a petition for waiver or variance filed by Mittalben V. Patel, M.D., from Rule 64B8-4.018, F.A.C., with regard to the requirement for residency in an ACGME approved clerkship. Comments on this petition should be filed with the: 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.

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NOTICE IS HEREBY GIVEN THAT on October 26, 2010, the Department of Health, received a petition for Variance from subsections 64E-9.018(2) and (3), Florida Administrative Code, from Jill E. White, on behalf of Starfish Aquatics Institute, 1607 North Market Street, Champaign, Illinois.

Subsections 64E-9.018(2) and (3), Florida Administrative Code, prescribes that course and material approval by the Department are contingent on length of time a classroom topic is conducted. The Petitioner requests a variance from the rule to allow the Petitioner to provide a pool service technician course that is not completely done in a classroom but rather a portion is completed via internet. 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: Pat Duncan, Bureau of Water Programs, 4052 Bald Cypress Way, Bin #C-22, Tallahassee, FL 32399-7017, (850)245-4240.

## 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

Division of Bond Finance

Financial Services Commission:

Office of Insurance Regulation

Office of Financial Regulation

Agency for Enterprise Information Technology

Department of Veterans' Affairs

Department of Highway Safety and Motor Vehicles

Department of Law Enforcement

Department of Revenue

Administration Commission

Florida Land and Water Adjudicatory Commission

Board of Trustees of the Internal Improvement Trust Fund

Department of Environmental Protection

DATE AND TIME: December 7, 2010, 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 to act on all executive branch matters provided by law and to act on any agendas submitted for their consideration. The Governor and Cabinet will proceed through each agenda, item by item.

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; reports 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 of the **Office of Insurance Regulation** 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 matters related to rulemaking for all activities of the **Office of Financial Regulation** relating to the regulation of banks, credit unions, other financial institutions, finance companies, retail installment sales providers, title loan lenders, collection agencies, mortgage brokers, mortgage lenders, certified capital companies, money services businesses, and the securities industry.

The **Agency for Enterprise Information Technology** will take action on matters duly presented on its agenda which may include, but not be limited to, the presentation and approval of the Agency's Annual Operational Work Plan as well as matters relating to rulemaking for all activities of the Agency.

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 procedure matters, submittal of reports as required, enter into contracts as authorized and to consider other matters within its authority pursuant to Chapters 20, 23, 120 and 943, F.S.