

committed to the Department pursuant to Chapter 916, Florida Statutes. The more timely placements will ensure that incompetent criminal defendants receive appropriate treatment in a more timely manner. Failure to proceed in the manner authorized by this emergency rule will prevent the Department from securing sufficient bed capacity to ensure the timely placement of individuals committed to the Department pursuant to Chapter 916, Florida Statutes.

REASONS FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Department of Children and Families, in utilizing the emergency rule to ensure more timely placement and treatment to criminal defendants with mental illness, will not adversely impact anyone's substantial interests. Because of the acute nature of the current situation, the Department must reserve the right to control all admissions to beds purchased in this effort to bring the State in compliance with Section 916.107(1)(a), Florida Statutes. In order to exercise that control, it is imperative that the Department reimburse contracted providers based on the availability, rather than the continuous occupancy, of residential bed. For these reasons, the emergency rule is fair under the circumstances.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Amy Johnson, 1317 Winewood Boulevard, Tallahassee, Florida 32399, (850)413-0934

THE FULL TEXT OF THE EMERGENCY RULE IS:

65EER07-1 Unit Cost Method of Payment.

(1) through (4) No change.

(5) Unit Measurements:

(a) through (d) No change.

(e) For residential services where admissions are within the sole discretion of the Department, as contractually agreed to by the Department and the provider, payment may be made based on bed day availability as defined in subparagraph 65E-14-.021(5)(a)5., F.A.C.

(6) through (11) No change.

Specific Authority 394.78(1), (6), 397.321(5) FS. Law Implemented 216.181(16), 394.66(9), (12), 394.74(2)(b), (3)(d), (e), (4), 394.77, 394.78(1),(6), 397.321(10), 402.73(7) FS. History--New 7-1-03, Amended 12-14-03, 1-2-05, 1-19-07.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: January 19, 2007

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that on January 17, 2007, the Florida Department of Law Enforcement, received a petition for Notice is hereby given that the Officer Professionalism Program, Florida Department of Law Enforcement has received from Miami-Dade College School of Justice on January 17, 2007, a petition for Waiver of paragraphs 11B-35.001(1)(a), (3)(b) and paragraph (c), and subsection (5), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that the Department waive certain certification and curriculum requirements for courses taught between July 1, 2004 and November 8, 2006.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Comments on this Petition should be filed with: Office of General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302, Attention: Assistant General Counsel, Grace A. Jaye. A copy of the Petition may be obtained by contacting Assistant General Counsel, Grace A. Jaye at the above address, or by calling (850)410-7676.

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."

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that on January 16, 2007 South Florida Water Management District (District) received a petition for waiver from Terry Dean Parker, Application Number 07-0116-3M for issuance of a Modification of Standard Right of Way Occupancy Permit Number 12664 for utilization of Works or Lands of the District known as the C-10 Canal, Broward County, to allow an existing extension to a dock located at the rear of 2667 Coolidge Street, Hollywood, FL 33020, Section 9, Township 51 South, Range 42 East. The petition seeks relief from paragraph 40E-6.221(2)(j), Florida Administrative Code, which governs the minimum low member elevation of pile-supported docking facilities within the Works or Lands of the District.

A copy of the petition may be obtained from Kathie Ruff, (561)682-6320 or e-mail at Kruff@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 33408, Attn: Kathie Ruff, Office of Counsel.

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN that on January 23, 2007, the Health Care Clinic Unit, Bureau of Health Facility Regulation, Division of Health Quality Assurance of the Agency for Health Care Administration, received a petition for Variance from Rule 59A-33.013, F.A.C. The rule, in part, prohibits the location of clinics a medical and clinic director may supervise that are more than 200 miles from any other health care clinic supervised by the same medical or clinic director. The petitioners, Open Magnetic Imaging, Inc., OMI of Aventura, Inc., OMI of Aventura II, Inc., OMI CT of Aventura, Inc., OMI of Miami Lakes, Inc., OMI CT of Miami Lakes, Inc., OMI of Coral Gables, Inc., OMI of Kendall, Inc., Open Magnetic Imaging of Coral Springs, Ltd., Open Magnetic Imaging of Plantation, Ltd., OMI of Plantation, Inc., OMI CT of Plantation, Inc., OMI of Ft. Lauderdale, Inc., OMI CT of Ft. Lauderdale, Inc., Open Magnetic Imaging of Pembroke Pines, Ltd., OMI of Jupiter, Inc., OMI of Palm Beach, Inc., OMI of Wellington, Inc., OMI of Boynton Beach, Inc., OMI of West Boca, Ltd., OMI of Jacksonville, Inc. and OMI of Orange Park, Inc., request a partial variance of the rule increasing the distance limitation between clinics supervised by the same medical or clinic director from 200 to 400 miles.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Gail Priest, Health Care Clinic Unit, 2727 Mahan Drive, Mail Stop #53, Tallahassee, Florida 32308. The Health Care Clinic Unit 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. (EST).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that on January 5, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(1) and 61C-4.010(6), Florida Administrative Code, from Chely's Catering of Orlando. The above referenced F.A.C. addresses food supplies, food protection, and physical facilities-except as specifically provided in this rule, public food service establishments shall be subject to the provisions of chapter

three and chapter six of the FDA Food Code. They are requesting to do open air food service on a Mobile Food Dispensing Vehicle.

This variance request was approved January 17, 2006 and is contingent upon the Petitioner's use of open-air steam table properly covered and air curtain operating properly according to manufacturer's specifications and Section 6-202-15(D) (2), 2001 FDA Food Code, as to expel possible contaminants and vermin. Approval is also contingent upon Petitioner conducting all re-heating for hot holding at approved commissaries to the proper temperature per Section 3-403.11, 2001 FDA Food Code; and potentially hazardous food is held at proper temperatures according to Section 3-501.16, 2001 FDA Food Code.

The Petitioner shall strictly adhere to subsection 61C-4.0161(c), Florida Administrative Code, and report to the commissary at least once daily when operating. All warewashing is to be conducted at the commissary and strict adherence to employee health guidelines as specified in the Section 2-201, 2001 FDA Food Code, are to be followed. Petitioner shall also use a potable water tank and utilize a wastewater holding tank that is at least 15% larger than the potable water holding tank; and sloped to a drain that is 1 inch in inner diameter or greater, equipped with a shut-off valve. Petitioner must receive potable water from an approved source with written documentation provided and sanitize the fresh water and wastewater tanks at least once every 24 hours.

Copies of the variance and operating procedures are to be present on the MFDV at all times of operation and shall be adhered to as approved by the Division. This variance is not transferable under any conditions. All provisos must be complied prior to final approval and licensing. Any violation of the variance is the equivalent of a violation of the rule and may result in a rescission of the variance, and subject the Petitioner to disciplinary sanctions as enumerated in Section 509.261, Florida Statutes.

NOTICE IS HEREBY GIVEN that on January 12, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(7), Florida Administrative Code, from Franky's Deli located in Hialeah. The above referenced F.A.C. states...each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated....The proposed establishment has one bathroom facility for patrons and they are requesting a variance to have a seating capacity of sixteen (16).

A copy of the Petition can be obtained from: Xenia Bailey, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1013. The Division of Hotels and

Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

NOTICE IS HEREBY GIVEN that on January 16, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(1) and 61C-4.010(6), F.A.C., from Manny's Food Service of Orlando. The above referenced F.A.C. addresses food supplies, food protection, and physical facilities-except as specifically provided in this rule, public food service establishments shall be subject to the provisions of chapter three and chapter six of the FDA Food Code. They are requesting to do open air food service on a Mobile Food Dispensing Vehicle.

A copy of the Petition can be obtained from: Xenia Bailey, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

NOTICE IS HEREBY GIVEN that on January 16, 2007, the Board of Accountancy, received a petition for Raymond B. Borsella, CPA, seeking a variance or waiver of subsection 61H1-31.001(10), Florida Administrative Code, and the requirement that a licensee pay a \$50.00 delinquency fee for submitting a CPE reporting form after July 15th of the licensee's reestablishment period. Petitioner is also seeking a variance or waiver of paragraphs 61H1-33.003(1)(a) and (b), F.A.C., and the requirement that a licensee complete at least four hours of Board-approved continuing education credits in ethics and an additional 8 hours of Accounting and Auditing subjects for not meeting the deadline for obtaining the required continuing education hours by June 30th of the licensee's reestablishment period.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Voloria Kelly, Acting 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.

NOTICE IS HEREBY GIVEN that on December 21, 2006, the Florida Real Estate Commission has issued an order.

The Florida Real Estate Commission hereby gives notice that it has issued an Order on the Petition for Variance of Waiver filed on October 6, 2006, by Allen R. Grossman, Esq., on behalf of Trammell Crow Specialty Realty, Inc. Petitioner's Petition for Variance of Waiver was published in the F.A.W., Vol. 32, No. 45. Petitioner sought a variance or waiver of Rule 61J2-10.034, F.A.C., with respect to the use of Trade names. The

Commission considered the Petition at its meeting held on November 14, 2006, in Orlando, Florida. The Commission's Order, filed on December 21, 2006, granted Petitioner's Petition for Variance or Waiver concluding:

1. Section 120.542(2), Florida Statutes, required FREC to grant such a variance or waiver when the applicant subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means and when application of the rule would create either a substantial hardship or would violated principles of fairness.

2. Petitioner has demonstrated that it meets the purpose of the statute underlying the rule in question. The Commission accepted Petitioner's claims relating to fairness and lack of confusion by the public over the use of the trade name.

A copy of the Order may be obtained by contacting: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Suite N801, Orlando, Florida 32801.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

NOTICE IS HEREBY GIVEN that on January 19, 2007, the Department of Environmental Protection's South District has issued an order.

Notice of receipt of this petition was published on the Department's website on June 30, 2006. The petition requested a variance from the required 75-foot set back distance for reclaimed water lines from public water supply wells under subsection 62-610.471(3), F.A.C., requesting that the separation between reclaimed water lines and public water supply wells within a certain area of the City of Cape Coral be reduced to 30 feet. No public comment was received. The Order, OGC File # 06-1151, granted the Petition to reduce the separation between reclaimed water lines and public water supply wells within a certain area in the City of Cape Coral to 30 feet, based on a showing that Petitioner demonstrated that a strict application of the rule would result in substantial hardship to Petitioner or would affect Petitioner differently than other similarly situated applicants and because Petitioner had successfully fulfilled the requirements of the underlying statute by other means.

A copy of the Order may be obtained by contacting: Craig Rutherford, Department of Environmental Protection, South District Office, P. O. Box 2549, Fort Myers, Florida 33902-2549, (239)332-6975.

DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN that on December 5, 2006, the Board of Opticianry has issued an order.

The Department of Health hereby gives notice of Intent to Grant Petition for Waiver or Variance of Rule 64B12-9.016, F.A.C., filed by the Office of the Deputy Clerk on December 5, 2006, from Petitioner, Sherrie L. Button. The Board reviewed the Petition at its meeting held on November 4, 2006, in Orlando, Florida. The Board's Order of Intent to Grant Petition for Waiver or Variance, filed in this cause on December 5, 2006, determined that the Petition for Variance or Waiver should be granted on the following grounds:

1. The Petitioner seeks a waiver of Rule 64B12-9.016, F.A.C. Specifically, Petitioner seeks waiver of the rule that states that applicants, who practiced out of state, can only apply for examination within two years of ceasing to practice.
2. Section 120.542(2), Florida Statutes, provides that a petitioner seeking a variance or waiver from a particular administrative rule must show that he or she has met the purpose of the statute underlying the rule from which waiver is sought by some other means and that the application of the rule in question creates a substantial hardship or violates principles of fairness before the agency can grant such petition.
3. The Petitioner has demonstrated that she is entitled to sit for the examination due to family illness.

A copy of the Order may be obtained by contacting: The Board of Opticianry, 405 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259.

Section VI
Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

The **Department of State, Division of Historical Resources** announces a public notice Historic Marker Conference Call to which all interested persons are invited.

DATE AND TIME: Wednesday February 14, 2007, 10:00 a.m. (EST)

PLACE: Room 409, R. A. Gray Building, 500 S. Bronough St., Tallahassee, FL 32399-0250

GENERAL SUBJECT MATTER TO BE CONSIDERED: To Review Historical Marker applications.

A copy of the agenda may be obtained by writing to: Florida State Historical Marker Program, Bureau of Historic Preservation, Division of Historical Resources, 500 S. Bronough St., Tallahassee, FL 32399-0250.

Should any person wish to appeal any decision made with respect to the above referenced meeting, she or he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review.

Pursuant to Section 286.26, Florida Statutes, people with disabilities wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request any special assistance.

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

DATE AND TIME: Monday, February 5, 2007, 12:00 Noon

PLACE: Mission San Luis, Education Bldg., 2020 W. Mission Road, Tallahassee, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Business to be discussed will include fundraising and endowment activities and other board business.

If you have questions or would like a copy of the agenda, please feel free to contact Ms. Elyse Cornelison, (850)487-1666.

The **Department of State, Division of Library and Information Services** announces the Florida Library Network Council meeting to which all interested persons are invited.

DATES AND TIMES: Tuesday, February 20, 2007, 1:00 p.m.; Wednesday, February 21, 2007, 9:00 a.m. – 12:00 Noon

PLACE: The Board Room, The Lexington at Orlando City Place, 304 West Colonial Drive, Orlando, FL 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the Florida Electronic Library Plan, to review grant applications to the Library Services and Technology Act for plan compliance.

For additional information contact Judith Ring, State Librarian, at (850)245-6603 or Suncom 205-6603.

Any person requiring special accommodations due to a disability or physical impairment should contact the agency at least five days prior to the meeting in order to request any special assistance by calling (850)245-6603 or TDD (850)922-4085.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The **Endangered Plant Advisory Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, March 28, 2007, 1:00 p.m. – 5:00 p.m.

PLACE: Historic Bok Sanctuary, 1151 Tower Boulevard, Lake Wales, Florida 33853