



Brenda Fitzgerald, MD, Commissioner | Nathan Deal, Governor

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30 December 2016

**NOTICE OF PROPOSED RULEMAKING**  
**Proposed New Public Health Regulation**  
**Chapter 511-1-1-.05 “Petitions for Waiver or Variance**  
**From Rules or Regulations”**

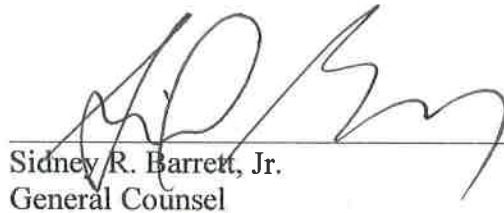
Please take note that the Department of Public Health proposes to enact a new regulation 511-1-1-.05 entitled “Petitions for Waiver or Variance From Rules or Regulations” pursuant to its authority under O.C.G.A. § 31-2A-6 and 50-13-9.1.

The purpose of this proposed regulation is to clarify and set forth standards for considering requests for waivers or variances from public health rules and regulations.

Interested persons may submit comments on these proposed revisions in writing addressed to:

Sidney R. Barrett, Jr.  
General Counsel  
Georgia Department of Public Health  
2 Peachtree Street, NW  
15<sup>th</sup> Floor  
Atlanta GA 30303

Comment may also be presented in person at a public meeting scheduled for 1:00 p.m., 26 January 2017, in room 15-460 at 2 Peachtree Street, NW, 15<sup>th</sup> Floor, Atlanta GA.

  
Sidney R. Barrett, Jr.  
General Counsel



***We Protect Lives.***

### **511-1-1-.05 Petitions for Waiver or Variance From Rules or Regulations**

(1) A person who is subject to a rule or regulation of the Department may petition for a waiver or variance from the requirements of that rule or regulation. The petition shall be addressed to the Georgia Department of Public Health, Office of General Counsel, and shall specify the following:

- (a) The rule or regulation from which a waiver or variance is sought;
- (b) The type of action requested;
- (c) The specific facts showing that compliance with the rule or regulation will cause the petitioner to endure a significant, unique, and demonstrable economic, technological, legal, or other type of hardship which impairs the petitioner's ability to function in the regulated practice or business;
- (d) A statement of alternative standards which the petitioner is willing to meet;
- (e) A statement of why those alternative standards will afford adequate protection for the public health, safety, and welfare; and
- (f) The reason why the requested waiver or variance would serve the purpose of the statutes on which the rule or regulation is based.

(2) The Department shall not grant a waiver or variance:

- (a) To a statute;
- (b) To the rules or regulations of another state agency;
- (c) To the rules or regulations of a county board of health;
- (d) To a rule or regulation adopted or promulgated in order to implement a federally delegated program; or
- (e) If the grant of a waiver or variance would be harmful to the public health, safety, or welfare.

(3) The Department shall rule on the petition no earlier than fifteen days after it is posted on the Department's website and no more than sixty days after it was received. The ruling shall be in writing and shall contain a statement of the relevant facts and the reasons supporting the agency's decision.

Authority: Code Sections 31-2A-6 and 50-13-9.1.