

185—19.2(17A) Division discretion. The decision on whether the circumstances justify the granting of a waiver shall be made at the discretion of the division upon consideration of all relevant factors. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

19.2(1) Criteria. The division may, in response to a completed petition, grant a waiver from a rule, in whole or in part, as applied to the circumstances of a specific situation if the division finds each of the following:

a. Application of the rule would result in hardship or injustice to the person for whom the waiver is requested;

b. Waiver from the rule on the basis of the particular circumstances would not prejudice the substantial legal rights of any person;

c. Provisions of the rule subject to the request for a waiver are not specifically mandated by statute or another provision of law; and

d. Where applicable, substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

19.2(2) Determination. In determining whether a waiver should be granted, the division shall consider whether the underlying intent of the rule is substantially equivalent to full compliance with the rule. When the rule from which a waiver is sought establishes administrative deadlines, the division shall balance the special individual circumstances of the requester with the overall goal of uniform treatment of all licensees and other petitioners.