

**481—63.2(135C) Variances.** Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility for the mentally retarded. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

**63.2(1)** To request a variance, the licensee must:

- a.* Apply for variance in writing, on a form provided by the department;
- b.* Cite the rule or rules from which a variance is desired;
- c.* State why compliance with the rule or rules cannot be accomplished;
- d.* Explain alternate arrangement or compensating circumstances which justify the variance;
- e.* Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

**63.2(2)** Upon receipt of a request for variance, the director of the department of inspections and appeals will:

- a.* Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b.* If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
- c.* Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d.* Consult with the applicant if additional information is required.

**63.2(3)** Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.