

21—8.4(17A,159) Criteria for waiver or variance. In response to a petition completed pursuant to rule 21—8.6(17A,159), the department may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested.
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person.
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law.
4. 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.