

PETITION FOR EMERGENCY VARIANCE
DEPARTMENT OF ELDER AFFAIRS

In Re: American Retirement Corporation d/b/a Brookdale Bay Pines

1. Brookdale Bay Pines
9797 Bay Pines Blvd
Saint Petersburg, Florida 33708
License #AL8057
Pinellas County County
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2. Pursuant to Florida Statutes Section 120.542, Brookdale Bay Pines requests a variance from Rule 58A-5.036, Emergency Environmental Control for Assisted Living Facilities, enacted on March 26, 2018, which requires licensees of assisted living facilities to develop and implement a detailed written plan for the acquisition of generators and sufficient fuel that will maintain ambient temperatures at or below 81 degrees for a minimum of 96 hours in the event of a power loss. Specifically, Brookdale Bay Pines is requesting a variance to Section (4)(a) of the rule, which states: "Each assisted living facility licensed prior to the effective date of this rule shall, no later than June 1, 2018, have implemented the plan required under this rule." Brookdale Bay Pines requested, and received approval, of an extension until January 1, 2019 for implementation of Rule 58A-5.036. Brookdale Bay Pines is now requesting an additional extension under Florida Statutes Section 120.542 as laid out in Section (4)(b) of the rule.

3. Brookdale Bay Pines requests a temporary emergency variance until the date listed in #4 below to allow sufficient time to comply with Rule 58A-5.036. Brookdale Bay Pines requests an emergency variance due to the urgency of the need for approval as the time frames requested are significantly less than ninety days. If the variance is not issued with expedience, the community could be subject to survey citations and/or licensure actions if it does not have an approved variance to complete its generator installation.

4. Brookdale Bay Pines has been working in preparation for implementation of the requirements of the rule. Brookdale Bay Pines was previously given an extension and planned to have installation completed no later than May 31, 2019. The generator is on site; however, issues related to wiring have created delays in finalizing the installation. Brookdale Bay Pines hereby requests an additional extension until June 30, 2019.

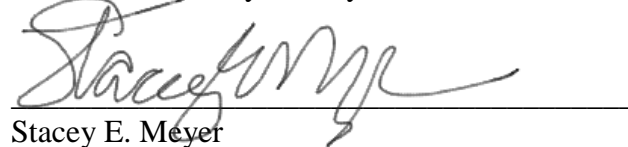
5. Brookdale Bay Pines remains committed to compliance with the rules enacted on March 26, 2018. The community has taken all appropriate steps to date and will continue to complete all remaining steps. The emergency variance is being requested to allow Brookdale Bay Pines additional time to complete the required installation as the original timeline cannot be met due to the factors detailed in #4 and attached which are outside the control of the community. These delays will prevent Brookdale Bay Pines from meeting its previous planned commission date. Brookdale Bay Pines therefore requests an emergency variance to the requirement under 58A-

5.036 for a time limited variance to meet the implementation requirement. If additional factors arise preventing implementation by such date, we reserve the right to request an additional variance. Additionally, we request that DOEA withhold applying any disciplinary action during the time it takes DOEA to decide on the variance request and the additional time to comply as requested in the variance.

6. As a continuation of its efforts to comply with the emergency rule until complete implementation can be achieved and to maintain the safety and well-being of our residents, Brookdale Bay Pines will continue to follow its existing emergency plans in the event of disaster or loss of power. **F.S. 119.071(3)(a)2.b.**

Brookdale Bay Pines will continue to update emergency plans on file with the appropriate authority as necessary and submit required reports to DOEA until in full compliance.

Dated this 29th day of May 2019.



Stacey E. Meyer
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