

PETITION FOR VARIANCE
DEPARTMENT OF ELDER AFFAIRS

In Re: BKD Palm Beach Gardens, LLC d/b/a Brookdale Palm Beach Gardens

1. Brookdale Palm Beach Gardens
11381 Prosperity Farms Road
Palm Beach Gardens, Florida 33410
License #AL7375
Palm Beach County County
(p) (561) 694-9709
(f) (561) 627-4808

2. Pursuant to Florida Statutes Section 120.542, Brookdale Palm Beach Gardens 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 Palm Beach Gardens 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 Palm Beach Gardens requested, and received approval, of an extension until January 1, 2019 for implementation of Rule 58A-5.036. Brookdale Palm Beach Gardens is now requesting an additional extension under Florida Statutes Section 120.542 as laid out in Section (4)(b) of the rule.

3. Brookdale Palm Beach Gardens requests a temporary variance until the date listed in #5 below to allow sufficient time to comply with Rule 58A-5.036. Brookdale Palm Beach Gardens 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 Palm Beach Gardens has been working in preparation for implementation of the requirements of the rule. Brookdale Palm Beach Gardens was previously given an extension until February 28, 2019 and requested an additional extension. The generator is installed at the community, however, difficulties obtaining and installing the appropriate-size tank have created delays in fully commissioning the generator. Brookdale Palm Beach Gardens hereby requests an additional extension until July 31, 2019.

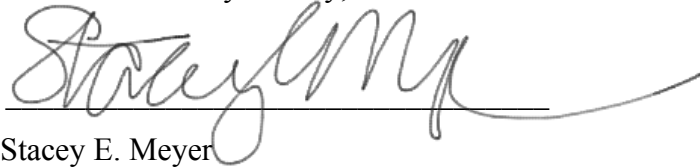
5. Brookdale Palm Beach Gardens remains committed to compliance with the rules enacted on March 26, 2018. The community has taken all appropriate steps to date and will continue to complete all remaining steps. The variance is being requested to allow Brookdale Palm Beach Gardens additional time to complete 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 Palm Beach Gardens from meeting its planned commission no later than February 28, 2019. Brookdale Palm Beach Gardens therefore requests a 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 Palm Beach Gardens 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 Palm Beach Gardens 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 the 28th day of May, 2019.

A handwritten signature in black ink, reading "Stacey Meyer", written over a horizontal line.

Stacey E. Meyer
Assistant Secretary
BKD Palm Beach Gardens, LLC
6737 W. Washington Street, Suite 2300 Milwaukee, WI 53214
smeyer@brookdale.com
(p) 414-918-5445
(f) 414-918-6077