Secretary of State
Professional Licensing Boards Division
237 Coliseum Drive
Macon, Georgia 31217
www.sos.ga.gov

INSTRUCTIONS FOR COMPLETING A PETITION FOR RULE VARIANCE OR WAIVER

O.C.G.A. § 50-13-9.1 Allows for applicants and/or entities to petition a Professional Licensing Board to vary (modify) or waive (not apply) all or part of a rule requirement for the petitioner. In order for a rule or portion thereof to be varied or waived, the petitioner must be able to demonstrate strict application of rule can lead to unreasonable, uneconomical, and unintended results in the petitioner's particular instance.

The statute also allows for the Professional Licensing Board to grant a variance or waiver when the petitioner is able to demonstrates that the purpose of the underlying statute upon which the rule is based can be or has been achieved by other specific means which are agreeable to the person seeking the variance or waiver and that strict application of the rule would create a substantial hardship to such person.

The following steps must be taken in order for the petition to be considered by the Board:

(1) ***Submit a complete Petition For Rule Variance or Waiver Form which includes***:

(a) The specific rule number, title and paragraphs from which the variance or waiver is requested;
(b) The type of action requested (waiver or variance);
(c) The **specific facts of substantial hardship** which would justify a variance or waiver for the petitioner, **including the alternative standards** which the person seeking the variance or waiver agrees to meet and a showing that such alternative standards will afford adequate protection for the public health, safety, and welfare; and,
(d) The reason why the variance or waiver requested would serve the purpose of the underlying statute.

(2) ***It is the petitioner's responsibility to submit the petition along with any and all documentation that the petitioner desires to be considered at the time the Board renders a decision on the petition***. Staff will not pull documents from an application to support the petition as such petitions and the consideration there of is open to the public and any documentation submitted with an application is not. **They are two separate processes**. The petition should come with a separate set of documents and independent of an application.

*****PLEASE NOTE **A failure to follow the above instructions may result in the denial of the petition due to insufficient evidence to substantiate a hardship.***

The petition will be posted for a minimum of fifteen (15 days) on the ***GeorgiaNet Public Registry*** and petitioners may conduct a search for their petition on http://services.georgia.gov/sos/sos-rw/searchHome.do. Please note that any member of the public, including interested parties, shall have the opportunity to submit written comments in support of or against proposed variances or waivers prior to the Board decision. The Board has up to sixty (60) days from receipt of the petition to render a decision to either grant or deny the petition [O.C.G.A. § 50-13-9.1(e)]. The petitioner will be notified in writing of the Board's decision and the written statement will include relevant facts and the reasons for the Board's action.

The Board's decision to deny a petition for variance or waiver is subject to judicial review in accordance with O.C.G.A. § 50-13-19. Please review that statute if you desire to dispute the Board's decision. The validity of any variance or waiver which is granted by an agency may be determined in an action for declaratory judgment in accordance with Code Section 50-13-10.

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PETITION FOR VARIANCE OR WAIVER

Petitioner/Licensee/Applicant Information:

Name: _____

Address: _____

_____
(City) (State) (Zip)

Agent: _____
(Name of agent filling petition if licensee is a corporation)

Board: ***Massage Therapy***

License #: _____**Type of License:** _____

Telephone #: _____

O.C.G.A. § 50-13-9.1(c) requires that a register of all pending requests for, and all approved variances and waivers be posted on the GeorgiaNet.

I hereby petition the Georgia Board of *Massage Therapy* for the following action (select one):

- ❑ **Variance** (if you are requesting that a rule be MODIFIED in your particular situation)
- ❑ **Waiver** (if you are requesting that a rule, or part of a rule, NOT BE APPLIED to your particular situation)

➢ **Petitioner must provide the following information (attach additional pages if needed):**

1. If an attorney or other representative will assist you with this petition, please identify:

Name: _____Telephone #:_____

Address: _____

2. State the specific rule from which this variance or waiver is requested:
_____
_____.

3. State how strict application of the rule, identified in #2 above, would create a substantial hardship for you that would justify the Board granting this variance or waiver: (The term "substantial hardship" means a significant, unique, and demonstrable economic, legal, technological or other type of hardship which would impair your ability to continue to function in our profession.)

_____
_____
_____
_____.

4. State the alternative standards you agree to meet and describe how such alternative standards will afford adequate protection for the public health, safety, and welfare:

_____
_____
_____
_____.

5. The rule, identified in #2 was enacted to serve the purpose of an underlying statute. State how this variance or waiver will still serve the purpose of the underlying statute. (You may wish to refer to a copy of the laws and rules which can be located at: http://sos.ga.gov/index.php/licensing/plb/33)

_____
_____
_____
_____.

Signed: _____Date:_____

Mail the completed application to:

The Georgia Board of Massage Therapy
237 Coliseum Drive
Macon, Georgia 31217

OFFICE USE ONLY:

Date petition received: _____/_____/_____

Date petition posted: _____/_____/_____

Scheduled review date: _____/_____/_____

Actual review date: _____/_____/_____

Board's decision: _____

Date decision posted: _____/_____/_____

Date petitioner notified of decision: _____/_____/_____