

2955.0070 VARIANCE.

Subpart 1. **Requesting variance.** An applicant or certificate holder may request a variance by submitting a request through the DOC Portal. The request must specify:

- A. the rule requirement from which the variance is requested;
- B. why the applicant or certificate holder cannot comply with the rule requirement;
- C. the period for which the variance has been requested; and
- D. the alternative measures that the applicant or certificate holder will take to:
 - (1) ensure the quality and outcomes of treatment and the health, safety, and rights of clients and staff; and
 - (2) comply with the intent of this chapter, if the variance is granted.

Subp. 2. **Evaluating variance request.** The commissioner must grant a variance if the commissioner determines that:

- A. compliance with the rule requirement from which the variance is requested would result in hardship and the variance would not jeopardize the quality and outcomes of treatment or the health, safety, security, or well-being of clients or program staff;
- B. the treatment program is otherwise in compliance with this chapter or is making progress toward compliance under a corrective action plan or another commissioner-required action under part 2955.0060;
- C. granting the variance would not leave the well-being of clients unprotected;
- D. the program will take other action as required by the commissioner to comply with the intent of this chapter; and
- E. granting the variance does not violate applicable statutes and rules.

Subp. 3. **Notice by commissioner.**

A. Within 60 days after receiving a request under subpart 1, the commissioner must inform the applicant or certificate holder through the DOC Portal whether the request has been granted or denied and the reason for the decision.

B. The commissioner's decision to grant or deny a request is final and not subject to appeal under Minnesota Statutes, chapter 14.

Subp. 4. **Renewing variance.**

- A. A request to renew a variance must:
 - (1) contain the information under subpart 1; and
 - (2) be submitted through the DOC Portal at least 30 days before the variance expires.

B. The commissioner must renew a variance if the certificate holder:

- (1) continues to satisfy the requirements under subpart 2; and
- (2) demonstrates compliance with the alternative measures imposed when the variance was granted.

Subp. 5. Revoking or not renewing variance.

A. The commissioner must revoke or not renew variances as follows:

- (1) the commissioner must not renew a variance if a renewal request is received less than 30 days before the variance expires; and
- (2) the commissioner must revoke or not renew a variance if the commissioner determines that the requirements under subpart 2 are not being met.

B. The commissioner must notify the applicant or certificate holder through the DOC Portal within 60 days after the commissioner's determination.

C. The commissioner's determination is final and not subject to appeal under Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 241.67*

History: *23 SR 2001; 50 SR 387*

Published Electronically: *December 1, 2025*