

**2965.0070 VARIANCE.**

Subpart 1. **Request for variance.** An applicant or certificate holder may request a variance for up to one year from the requirements of this chapter. A request for a variance must be submitted to the commissioner on a form supplied by the commissioner. The request must specify:

- A. the part number of the rule requirement from which the variance is requested;
- B. the reasons why the applicant or certificate holder cannot comply with the rule requirement;
- C. the period of time for which the variance has been requested; and
- D. the equivalent measures the applicant or certificate holder must take to ensure the quality and outcomes of the treatment services and the health, safety, and rights of clients and staff, and to comply with the intent of this chapter, if the variance is granted.

Subp. 2. **Evaluation of a variance request.** A variance may be granted if the commissioner determines that the conditions in items A to F exist.

- A. Compliance with one or more of the provisions shall result in undue hardship, or jeopardize the quality and outcomes of the treatment services or the health, safety, security, detention, or well-being of clients or program staff.
- B. The residential adult sex offender treatment program otherwise conforms with the standards in this chapter or is making satisfactory progress toward conformity.
- C. Granting the variance shall not preclude the facility from making satisfactory progress toward conforming with this chapter.
- D. Granting the variance shall not leave the well-being of the clients unprotected.
- E. The program shall take other action as required by the commissioner to comply with the general purpose of the standards.
- F. Granting the variance does not violate applicable laws and rules.

Subp. 3. **Notice by commissioner.** Within 30 days after receiving the request for a variance and documentation supporting it, the commissioner must inform the applicant or certificate holder in writing if the request has been granted or denied and the reasons for the decision. The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 241.67*

**History:** *23 SR 1997*

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