

4650.0139 VARIANCES.

Subpart 1. **Data from other sources.** Upon a written request from a hospital, psychiatric hospital, specialized hospital, or outpatient surgical center, or upon the commissioner's own initiative, the commissioner shall determine whether to use data from other sources instead of collecting data required by this chapter. To make this determination, the commissioner shall consider whether:

- A. data from other sources are duplicative of data required under this chapter;
- B. data from other sources are available at a reasonable cost;
- C. the commissioner has the resources readily available to use the data from other sources;
- D. data from other sources is in an acceptable form; and
- E. the commissioner will be able to use the data from other sources to meet all statutory data collection, analysis, verification, and privacy requirements.

Subp. 2. **Aggregate reporting for systems.** An organization operating a hospital, psychiatric hospital, specialized hospital, or outpatient surgical center which is part of a system of hospitals, psychiatric hospitals, specialized hospitals, outpatient surgical centers, clinics, or group purchasers may make a written request for permission to report to the commissioner for all components of the system as an aggregate. If the commissioner determines that the commissioner will be able to use the data from the system as an aggregate to meet all statutory data collection, analysis, verification, and privacy requirements, the commissioner shall grant the request. The commissioner may accept some system data reported in aggregate and may require some data to be reported for each individually licensed hospital, psychiatric hospital, specialized hospital, outpatient surgical center, clinic, or group purchaser.

Subp. 3. **Additional variances.** Upon written application or upon the commissioner's own initiative, the commissioner shall grant a variance to this chapter when the commissioner determines that:

- A. enforcing a rule would impose an excessive burden on the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 4. **Burden.** When a facility makes a request under this part, the facility has the burden of showing that the required criteria under subpart 1, 2, 3, or 5 are met.

Subp. 5. **Alternative practices.** A variance granted under this part may be conditioned upon alternative practices proposed by the applicant or by the commissioner

and adapted to the circumstances and facts justifying approval of the variance. The commissioner must determine that the variance will not significantly increase the cost of data collection required under this chapter and that the commissioner will be able to use the data collected under the variance to meet statutory data collection, analysis, verification, and privacy requirements.

Subp. 6. **Notice.** Within 30 calendar days after receiving an application, the commissioner shall notify the applicant in writing that the variance is granted or denied and shall specify the reasons for the decision. The commissioner may extend the review period, provided the applicant is notified in writing of the reasons for the extended review period.

Subp. 7. **Duration; revocation.** A variance may be of limited duration. The commissioner shall revoke a variance if a material change occurs in the circumstances that justified the variance under this part, or if the applicant fails to comply with the conditions of the variance.

Statutory Authority: *MS s 62J.321; 144.56; 144.703*

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