

House Research Act Summary

CHAPTER: 29

SESSION: 2001 Regular Session

TOPIC: Authority to grant waivers and variances

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Overview

This act gives the commissioner of health authority to grant waivers and variances from rules governing hospital licensing, operation, construction, and equipment. The section being created in this act is very similar to a rule giving the commissioner authority to grant waivers and variances from rules that apply to nursing homes.

- 1 **Variance or waiver.** Adds § 144.6535. Establishes a procedure by which hospitals may obtain waivers or variances from the commissioner of health, from rules governing their licensing, operation, construction, and equipment.
 - Subd. 1. Request for variance or waiver.** Allows a hospital to request a variance or waiver from rules governing hospital licensing, operation, construction, and equipment (Minnesota Rules, chapters 4640 and 4645). Requires requests to be submitted in writing, and requires requests to include the rules from which the waiver or variance is requested, the reason for the request, the alternative measures that will be taken, the length of time for which the variance or waiver is requested, and other relevant information the commissioner requests.
 - Subd. 2. Criteria for evaluation.** Lists criteria for the commissioner to use to decide whether to grant or deny a variance or waiver request.
 - Subd. 3. Notification of variance.** Requires the commissioner to notify an applicant of a decision in writing. If granted, requires the commissioner to specify the time period for which the variance or waiver is effective and the alternative conditions or measures that must be met.
 - Subd. 4. Effect of alternative measures or conditions.** Specifies that alternative measures or conditions required by the commissioner have the force and effect of rules, and allows the commissioner to issue correction orders and penalties for noncompliance with an alternative measure or condition.
 - Subd. 5. Renewal.** Requires a renewal request to be submitted at least 45 days before a variance

or waiver expires, specifies the information that must be contained in a renewal request, and requires a variance or waiver to be renewed if the applicant satisfies the criteria in subdivision 2 and shows compliance with alternative measures or conditions imposed.

Subd. 6. Denial, revocation, or refusal to renew. Requires the commissioner to deny, revoke, or refuse to renew a variance or waiver if the criteria for granting one are not met or if necessary alternative measures or conditions cannot be satisfied. Requires notification of a denial, revocation, or refusal to renew in writing, and requires notification of the right to appeal the commissioner's decision.

Subd. 7. Appeal procedure. Allows an applicant to appeal a denial, revocation, or refusal to renew by requesting a contested case. Specifies the timing and content of a written request for a hearing. Places the burden on the applicant of proving that the applicant satisfies the criteria in subdivision 2 and is able to comply with the alternative measures or conditions that must be imposed, except in a hearing challenging revocation of a variance or waiver.