

cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract;

(2) obtain or use the performance of or the results of a test to determine the presence of a bloodborne pathogen performed on an individual according to sections 144.7401 to 144.7415, 241.33 to 241.342, or 246.71 to 246.722 in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract; or

(3) ask an applicant for coverage or a person already covered whether the person has: (i) had a test performed for the reason set forth in clause (1) or (2); or (ii) been the victim of an assault or any other crime which involves bodily contact with the offender.

A question that purports to require an answer that would provide information regarding a test performed for the reason set forth in clause (1) or (2) may be interpreted as excluding this test. An answer that does not mention the test is considered to be a truthful answer for all purposes. An authorization for the release of medical records for insurance purposes must specifically exclude any test performed for the purpose set forth in clause (1) or (2) and must be read as providing this exclusion regardless of whether the exclusion is expressly stated. This subdivision does not affect tests conducted for purposes other than those described in clause (1) or (2), including any test to determine the presence of the human immunodeficiency virus (HIV) antibody a bloodborne pathogen if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

#### Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor April 11, 2001

Signed by the governor April 13, 2001, 1:55 p.m.

### CHAPTER 29—S.F.No. 883

*An act relating to health; establishing procedure for requesting a variance or waiver for rules regarding the operation, construction, and equipment of hospitals; proposing coding for new law in Minnesota Statutes, chapter 144.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

#### Section 1. [144.6535] VARIANCE OR WAIVER.

Subdivision 1. REQUEST FOR VARIANCE OR WAIVER. A hospital may request that the commissioner grant a variance or waiver from the provisions of Minnesota Rules, chapter 4640 or 4645. A request for a variance or waiver must be submitted to the commissioner in writing. Each request must contain:

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- (1) the specific rule or rules for which the variance or waiver is requested;
- (2) the reasons for the request;
- (3) the alternative measures that will be taken if a variance or waiver is granted;
- (4) the length of time for which the variance or waiver is requested; and
- (5) other relevant information deemed necessary by the commissioner to properly evaluate the request for the variance or waiver.

**Subd. 2. CRITERIA FOR EVALUATION.** The decision to grant or deny a variance or waiver must be based on the commissioner's evaluation of the following criteria:

- (1) whether the variance or waiver will adversely affect the health, treatment, comfort, safety, or well-being of a patient;
- (2) whether the alternative measures to be taken, if any, are equivalent to or superior to those prescribed in Minnesota Rules, chapter 4640 or 4645; and
- (3) whether compliance with the rule or rules would impose an undue burden upon the applicant.

**Subd. 3. NOTIFICATION OF VARIANCE.** The commissioner must notify the applicant in writing of the decision. If a variance or waiver is granted, the notification must specify the period of time for which the variance or waiver is effective and the alternative measures or conditions, if any, to be met by the applicant.

**Subd. 4. EFFECT OF ALTERNATIVE MEASURES OR CONDITIONS.** (a) Alternative measures or conditions attached to a variance or waiver have the same force and effect as the rules under Minnesota Rules, chapter 4640 or 4645, and are subject to the issuance of correction orders and penalty assessments in accordance with section 144.55.

(b) Fines for a violation of this section shall be in the same amount as that specified for the particular rule for which the variance or waiver was requested.

**Subd. 5. RENEWAL.** A request for renewal of a variance or waiver must be submitted in writing at least 45 days before its expiration date. Renewal requests must contain the information specified in subdivision 1. A variance or waiver must be renewed by the commissioner if the applicant continues to satisfy the criteria in subdivision 2 and the alternative measures or conditions, if any, specified under subdivision 3 and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

**Subd. 6. DENIAL, REVOCATION, OR REFUSAL TO RENEW.** The commissioner must deny, revoke, or refuse to renew a variance or waiver if it is determined that the criteria in subdivision 2 or the alternative measures or conditions, if any, specified under subdivision 3 are not met. The applicant must be notified in writing of the reasons for the decision and informed of the right to appeal the decision.

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Subd. 7. APPEAL PROCEDURE. An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under chapter 14. The applicant must submit, within 15 days of the receipt of the commissioner's decision, a written request for a hearing. The request for hearing must set forth in detail the reasons why the applicant contends the decision of the commissioner should be reversed or modified. At the hearing, the applicant has the burden of proving that it satisfied the criteria specified in subdivision 2 or the alternative measures or conditions, if any, specified under subdivision 3, except in a proceeding challenging the revocation of a variance or waiver.

Presented to the governor April 11, 2001

Signed by the governor April 13, 2001, 1:55 p.m.

#### CHAPTER 30—H.F.No. 47

*An act relating to economic development; requiring a closed iron mine and related facilities to be maintained for a period of time; providing extra unemployment benefits for certain workers laid off from the LTV Mining Company; providing criteria for future unemployment benefit extensions; amending Minnesota Statutes 2000, section 93.003.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2000, section 93.003, is amended to read:

#### 93.003 IRON MINING; CONDITIONS.

Legal authority to mine and process iron ore, a basic irreplaceable natural resource of the people of the state of Minnesota, is subject to the conditions of this section. When the owner or operator of an iron mine or related production or beneficiation facilities determines to discontinue the operation of the mine or facilities for any reason it shall maintain the mine or facilities in salable operating condition for at least ~~one~~ two years after it discontinues operation in order to allow the state of Minnesota and other interested public and private bodies to seek a new owner and operator. The requirement imposed by this section is a preliminary and permanent requirement on the right of an owner to commence or continue the operation of an iron mine or related facilities. This requirement is enforceable on all owners and operators and successors of owners and operators and shall be enforced by the state in any action in bankruptcy or other litigation that may affect it.

#### Sec. 2. IRON ORE MINING EXTRA BENEFITS.

Subdivision 1. EXTRA BENEFITS; AVAILABILITY. Extra unemployment benefits are available to an applicant if the applicant was permanently laid off due to lack of work after August 1, 2000, from the LTV Mining Company in St. Louis county, including the LTV Mining Company power plant operation at Taconite Harbor in Cook county.

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