

**4764.0050 VARIANCE.**

Subpart 1. **Criteria for variance.** At certification or recertification, the applicant may request a variance or the renewal of a variance from a requirement in parts 4764.0010 to 4764.0040. To request a variance, an applicant must submit a petition, according to the requirements of Minnesota Statutes, section 14.056, and demonstrate that the applicant meets the criteria in item A or B.

A. If the commissioner finds that the application of the requirements, as applied to the circumstances of the applicant, would not serve any of the rule's purposes, the commissioner must grant a variance.

B. If the commissioner finds that failure to grant the variance would result in hardship or injustice to the applicant, the variance would be consistent with the public interest, and the variance would not prejudice the substantial legal or economic rights of any person or entity, the commissioner may grant a variance.

Subp. 2. **Conditions and duration.** The commissioner may impose conditions on the granting of a variance according to Minnesota Statutes, section 14.055. The commissioner may limit the duration of a variance and may renew a variance.

Subp. 3. [Repealed, 47 SR 338]

Subp. 4. **Experimental variance.** The commissioner may grant a variance from one or more requirements to permit an applicant to offer health care home services of a type or in a manner that is innovative if the commissioner finds that the variance does not impede the achievement of the criteria in Minnesota Statutes, section 62U.03, subdivision 3, paragraph (a), and may improve the health care home services provided by the applicant.

Subp. 5. **Variance for justifiable failure to show measurable improvement.** The commissioner may grant a variance to a health care home seeking recertification that fails to show measurable improvement as required by parts 4764.0030, subpart 5, item B, subitem (3), and 4764.0040, subpart 11, if the applicant demonstrates the following:

A. reasonable justification for the applicant's inability to show required measurable improvement; and

B. a plan to achieve measurable improvement in the following year or a shorter time period identified by the commissioner.

**Statutory Authority:** *MS s 256B.0751; 256B.0752; 256B.0753*

**History:** *34 SR 591*

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