

7865.0250 VARIANCES TO BOARD RULES.

Subpart 1. **Variance request submitted to board.** A licensee may request a variance from a rule pertaining to lawful gambling.

A. The request must contain:

(1) the information required by Minnesota Statutes, section 14.056, subdivision 1; and

(2) the estimated fee as determined by the board in agreement with the licensee according to Minnesota Statutes, section 14.056, subdivision 2, paragraphs (a), clause (2), and (b).

B. The board may not consider a variance request that seeks:

(1) relief from a civil fine or disciplinary action imposed under this chapter;

(2) an ongoing variance of a rule;

(3) relief from a requirement imposed by lawful gambling statute; or

(4) a variance on behalf of other licensees.

Subp. 2. **Procedure for variance requests.** In addition to the requirements of Minnesota Statutes, section 14.056, the board must approve or deny a variance request according to the following procedures:

A. Upon receipt of a variance request, the board must notify the requesting licensee of the time, date, and place of the board meeting at which the variance will be considered. The board will consider variance requests during its regularly scheduled monthly meeting.

B. The board may request the licensee to submit additional information regarding the variance request, or to appear before the board to provide additional information. If the board determines that the licensee must appear before the board, the board must provide advance notice to the licensee before the board meeting at which the variance request is considered. This procedure is not a contested case hearing as defined in Minnesota Statutes, chapter 14.

C. If the licensee requesting the variance fails to follow the procedures in this part, the provisions of Minnesota Statutes, section 14.056, or fails to appear before the board when requested, the board must deny the variance request.

Subp. 3. **Criteria for approving and denying variance requests.** The board may approve a variance from any of its rules if it finds that all of the following criteria have been met:

A. strict application of the rule would cause undue and substantial hardship to the licensee applying for the variance;

B. approving the variance does not confer a benefit on the licensee which is not enjoyed by other licensees similarly situated;

C. approving the variance does not substantially impair the intent and purposes of the board's rules;

D. the variance can be approved without impacting the integrity of lawful gambling, or the public health, safety, or welfare;

E. approving the variance does not allow violation of Minnesota Statutes, chapter 297E, 299L, or 349; and

F. the variance is for a onetime variance for the licensee, not an ongoing variance of the rule.

Statutory Authority: *MS s 14.055; 349.12; 349.151; 349.154; 349.155; 349.16; 349.162; 349.163; 349.1635; 349.165; 349.166; 349.167; 349.169; 349.17; 349.1711; 349.1721; 349.173; 349.19; 349.191; 349.211*

History: *31 SR 1239; 35 SR 1276*

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