

1.1 Senator moves to amend S.F. No. 4410, in conference committee, as follows:

1.2 On R42-A2, Senate language, (S4410-3)

1.3 Page 331, after line 25, insert:

1.4 "Sec. 14. Minnesota Statutes 2020, section 144G.45, subdivision 7, is amended to read:

1.5 Subd. 7. **Variance or waiver.** (a) A facility may request that the commissioner grant a
1.6 variance or waiver from the provisions of this section or section 144G.81, subdivision 5. A
1.7 request for a waiver must be submitted to the commissioner in writing. Each request must
1.8 contain:

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

1.15 (b) The decision to grant or deny a variance or waiver must be based on the
1.16 commissioner's evaluation of the following criteria:

- 1.17 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or
1.18 well-being of a resident;
- 1.19 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to
1.20 those permitted under section 144G.81, subdivision 5; ~~and~~
- 1.21 (3) whether compliance with the requirements would impose an undue burden on the
1.22 facility; and
- 1.23 (4) notwithstanding clause (1), for existing construction the commissioner's evaluation
1.24 of a variance from the requirement to provide an option for a bath under subdivision 4,
1.25 paragraph (a), must be based on clauses (2) and (3) and whether the variance will adversely
1.26 affect the health or safety of a resident.

1.27 (c) The commissioner must notify the facility in writing of the decision. If a variance or
1.28 waiver is granted, the notification must specify the period of time for which the variance
1.29 or waiver is effective and the alternative measures or conditions, if any, to be met by the
1.30 facility.

2.1 (d) Alternative measures or conditions attached to a variance or waiver have the force
2.2 and effect of this chapter and are subject to the issuance of correction orders and fines in
2.3 accordance with sections 144G.30, subdivision 7, and 144G.31. The amount of fines for a
2.4 violation of this subdivision is that specified for the specific requirement for which the
2.5 variance or waiver was requested.

2.6 (e) A request for renewal of a variance or waiver must be submitted in writing at least
2.7 45 days before its expiration date. Renewal requests must contain the information specified
2.8 in paragraph (b). A variance or waiver must be renewed by the commissioner if the facility
2.9 continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the
2.10 alternative measures or conditions imposed at the time the original variance or waiver was
2.11 granted.

2.12 (f) The commissioner must deny, revoke, or refuse to renew a variance or waiver if it
2.13 is determined that the criteria in paragraph (a) are not met. The facility must be notified in
2.14 writing of the reasons for the decision and informed of the right to appeal the decision.

2.15 (g) A facility may contest the denial, revocation, or refusal to renew a variance or waiver
2.16 by requesting a contested case hearing under chapter 14. The facility must submit, within
2.17 15 days of the receipt of the commissioner's decision, a written request for a hearing. The
2.18 request for hearing must set forth in detail the reasons why the facility contends the decision
2.19 of the commissioner should be reversed or modified. At the hearing, the facility has the
2.20 burden of proving by a preponderance of the evidence that the facility satisfied the criteria
2.21 specified in paragraph (b), except in a proceeding challenging the revocation of a variance
2.22 or waiver."

2.23 Renumber the sections in sequence