

## **CHAPTER 23-17.4 HOSPICE PROGRAMS**

### **23-17.4-01. Definitions. (Effective through August 31, 2022)**

In this chapter, unless the context or subject matter otherwise requires:

1. "Bereavement" means the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient.
2. "Department" means the state department of health.
3. "Hospice care team" means an interdisciplinary working unit including the hospice patient and the hospice patient's family, the attending physician, the medical director of the hospice program, a registered professional nurse as defined under chapter 43-12.1, a social worker licensed pursuant to chapter 43-41 providing medical social services, and trained hospice volunteers. Providers of special services, including a spiritual counselor, a pharmacist, a registered dietitian, or professionals in the field of mental health may be included on the interdisciplinary team as determined to be appropriate by the hospice program.
4. "Hospice patient" means a person diagnosed as terminally ill with a prognosis of an anticipated life expectancy of six months or less, who has received admission into the hospice program. The diagnosis and prognosis must be certified by the attending physician.
5. "Hospice patient's family" means the immediate kin of the patient, including a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, child, or stepchild. Additional relatives or individuals with significant personal ties to the hospice patient may be included in the hospice patient's family for the purposes of this chapter.
6. "Hospice program" means a coordinated program of home and inpatient care providing hospice services directly, or through agreement, using a hospice care team.
7. "Hospice service plan" means the plan detailing the specific hospice services offered by a hospice program and the administrative and direct care personnel responsible for those services.
8. "Hospice services" means palliative and supportive medical, health, and other care provided to hospice patients and their families to meet the special needs arising out of the physical, emotional, spiritual, and social stresses experienced during the final stages of illness and during dying and bereavement so that when and where possible the hospice patient may remain at home, with homelike inpatient care utilized only if and while it is necessary.
9. "Palliative care" means treatment which is intended to achieve relief from, reduction of, or elimination of pain and other troubling symptoms, rather than treatment aimed at investigation and intervention for the purposes of cure or prolongation of life.
10. "Volunteer services" means the services provided by individuals who have successfully completed a training program developed by a licensed hospice program.

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2. "Department" means the department of health and human services.
3. "Hospice care team" means an interdisciplinary working unit including the hospice patient and the hospice patient's family, the attending physician, the medical director of the hospice program, a registered professional nurse as defined under chapter 43-12.1, a social worker licensed pursuant to chapter 43-41 providing medical social services, and trained hospice volunteers. Providers of special services, including a spiritual counselor, a pharmacist, a registered dietitian, or professionals in the field of mental health may be included on the interdisciplinary team as determined to be appropriate by the hospice program.
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#### **23-17.4-02. Hospice program license required.**

No person may establish, conduct, or maintain a hospice program, or advertise or present itself to the public as a hospice program, without first obtaining a hospice program license from the department.

#### **23-17.4-03. Scope of license.**

A hospice program license is valid only for the premises, person, or facility named in the application for license and is not transferable or assignable. The license must be renewed annually. The license must be displayed in a conspicuous place inside the hospice program office.

#### **23-17.4-04. Application for license.**

An application for issuance or renewal of a hospice program license must be made to the department upon forms provided by the department. The application must contain information reasonably required by the department. The application must be accompanied by:

1. The hospice service plan which must include:
  - a. Identification of the persons administratively responsible for the program, and any affiliation of the persons with a licensed home health agency, hospital, skilled nursing home, intermediate care facility, or other health care provider.
  - b. The estimated average monthly patient census.
  - c. The proposed geographic area the hospice program will serve.
  - d. A listing of hospice services provided directly by the hospice, and hospice services provided indirectly through a contractual agreement.
  - e. The name and qualifications of persons or entities under contract to provide indirect hospice services.
  - f. The name and qualifications of persons providing direct hospice services, with the exception of volunteers.
  - g. A description of how the hospice program plans to use volunteers in the provision of hospice services.
  - h. A description of the hospice program's recordkeeping system.
2. A financial statement containing information determined to be appropriate by the department.

3. A uniform license fee determined by the department.

#### **23-17.4-05. Inspection of hospice program.**

Prior to the issuance or renewal of a hospice program license, the department shall inspect the hospice program for compliance with the standards established pursuant to this chapter. To the maximum extent possible, the department shall coordinate inspections made under this chapter with those made for the purposes of determining compliance with other licensing statutes or rules.

#### **23-17.4-06. Issuance of license - Renewal.**

Upon receipt of a completed application for issuance or renewal of a hospice program license, the department shall issue or renew a license if the department finds the applicant in compliance with this chapter and the minimum standards established pursuant to this chapter.

#### **23-17.4-07. Basic requirements for hospice program.**

A hospice program must comply with the following basic standards:

1. The hospice program's services must include physician services, nursing services, medical social services, counseling, and volunteer services. The services must be coordinated with those of the hospice patient's primary or attending physician.
2. The hospice program must coordinate its services with professional and nonprofessional services already in the community. The hospice program may contract for elements of its services; however, direct patient contact and overall coordination of hospice services must be maintained by the hospice care team. Any contract entered into between a hospice program and a health care facility or service provider must specify that the hospice program retains the responsibility for planning and coordinating hospice services and care on behalf of a hospice patient and the hospice patient's family. No hospice which contracts for any hospice service may charge fees for services provided directly by the hospice care team which duplicate contractual services provided to the individual hospice patient or family.
3. The hospice care team is responsible for the coordination of home and inpatient care.
4. The hospice program must have a medical director who is a physician licensed pursuant to chapter 43-17. The medical director has overall responsibility for medical policy in relation to the care and treatment of hospice patients and their families rendered by the hospice care team and must consult and cooperate with the hospice patient's attending physician.
5. The hospice program must provide the services of a registered nurse, as defined under chapter 43-12.1, to supervise and coordinate the palliative and supportive care for patients and families provided by the hospice care team.
6. The hospice program must identify a member of the hospice team who will be responsible for providing for coordination and administration of the hospice service plan for patients and families.
7. The hospice program must have a bereavement program to provide a continuum of supportive services for the family.
8. The hospice program must foster independence of the hospice patient and the hospice patient's family by providing training, encouragement, and support so that the patient and family can care for themselves as much as possible.
9. The hospice program may not impose the dictates of any value or belief system on hospice patients or their families.
10. The hospice program must clearly define admission criteria. Decisions on admission must be made by a hospice care team and are dependent upon the expressed request of the patient; however, if the attending physician certifies that the patient is unable to request admission, a family member may voluntarily request and receive admission of the patient and family on the patient's behalf. Any request for admission must include written evidence of informed consent signed by the person making the request, which

contains an explanation, in plain language of the nature and limitations of hospice care.

11. The hospice program must keep accurate, current, and confidential records on all hospice patients and their families. Upon reasonable notice, the records must be made available to duly authorized officers or employees of the department.
12. The hospice program must use the services of trained volunteers.
13. The hospice program must consist of both home care and inpatient care which incorporate the following characteristics:
  - a. The home care component must be the primary form of care, and shall be available on a part-time, intermittent, regularly scheduled basis and on an on-call, around-the-clock basis according to patient and family need.
  - b. The inpatient component may be used only if and while it is necessary. If feasible, inpatient care should closely approximate a homelike environment, and provide overnight family visitation within the facility.

#### **23-17.4-08. Rules and standards.**

1. The department shall adopt rules establishing minimum standards for hospice programs, including:
  - a. Compliance with the standards of section 23-17.4-07.
  - b. The number and qualifications of persons providing direct hospice services.
  - c. The qualifications of those persons or entities contracted with to provide indirect hospice services.
  - d. Palliative and supportive care and bereavement counseling provided to hospice patients and their families.
  - e. Hospice services provided on an inpatient basis.
  - f. Utilization review of hospice patient care.
  - g. The quality of care provided to hospice patients.
  - h. Procedures for the accurate and centralized maintenance of records on hospice services provided to hospice patients and their families.
  - i. The use of volunteers in the hospice program, and the training of those volunteers.
  - j. The rights of the hospice patient and the hospice patient's family.
2. To avoid duplication in rules, the department shall incorporate rules applicable to facilities licensed by the state as hospitals, skilled nursing homes, intermediate care facilities, and organizations licensed by the state as home health agencies which are also applicable to hospice programs in the rules to govern hospices. A person who seeks to license, establish, or operate a hospice program and who has a pre-existing valid license to operate a hospital, skilled nursing home, intermediate care facility, or home health agency is in compliance with those rules which are applicable to both a hospice and the facility for which it has a license.

#### **23-17.4-09. Inspection and investigation authority.**

Any duly authorized officer or employee of the department may make necessary inspections and investigations to determine the state of compliance with the provisions of, and rules adopted pursuant to, this chapter. The department may inspect any program which the department has reason to believe is offering or advertising itself as a hospice program without a license, but no inspection of any hospice program may be made without the permission of the owner or person in charge unless a warrant is first obtained authorizing inspection. Any application for issuance or renewal of a hospice program license constitutes permission for any inspection of the hospice program for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.

#### **23-17.4-10. Denial, suspension, or revocation of license.**

Denial, suspension, or revocation of a hospice program license by the department for noncompliance with this chapter is governed by chapter 28-32.