

By: Lawler of the Senate
and
Askins of the House

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 1-860.2, 1-860.5, 1-860.6, 1-860.15 and 1-1950.4, which relate to the Oklahoma Hospice Licensing Act and the nurse aide uniform employment application; expanding and clarifying definitions; clarifying language; expanding powers and duties of the State Department of Health with regard to licensure of hospice programs; expanding requirements for specified plan; expanding contents of license; providing for additional fees; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-860.2, is amended to read as follows:

Section 1-860.2 As used in the Oklahoma Hospice Licensing Act:

1. "Board" means the State Board of Health;
2. "Department" means the State Department of Health;
3. "Hospice program" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses ~~which are~~ experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

4. "Hospice interdisciplinary team" or "hospice team" means a unit composed of ~~the~~ professionals and lay persons, as specified by the Oklahoma Hospice Licensing Act, who provide hospice care;

5. "Hospice patient/family" means the hospice patient's immediate kin, including a spouse, brother, sister, child, parent or other persons with significant personal ties to the hospice patient, who may be designated by members of the hospice patient/family;

6. "Hospice services" means those services furnished to a patient by a hospice or by other persons, pursuant to arrangements with such ~~a~~ hospice, in a place of temporary or permanent residence used as the home of the terminally ill patient for the purpose of maintaining the patient at home. ~~If the~~ Should a patient needs require short-term institutionalization, ~~the~~ such hospice services shall be furnished in cooperation with those contracted institutions or in ~~the~~ a hospice inpatient facility ~~of the hospice~~. Such services may include, but ~~are~~ need not be limited to, bereavement ~~services~~, palliative ~~services~~, personal care and such other services as are provided by nurses, physicians, home health aides, physical therapists, counselors, psychologists, social workers and volunteers. Services provided by a hospital, nursing home or other health care provider shall not constitute ~~a~~ hospice services unless such hospital, nursing home or other health care provider ~~establishes a freestanding~~ is licensed as a hospice program;

7. "Medical advisor" means a physician licensed pursuant to the laws of this state who is commissioned as a medical advisor by ~~the~~ a hospice for the ~~purposes~~ purpose of providing ongoing palliative care as a member of ~~the~~ a hospice team;

8. "Palliative services" means the care or treatment given to a patient by ~~the~~ a hospice team for the reduction or abatement of pain and other symptoms ~~caused by the disease~~ attendant to the patient's condition;

9. "Patient" means ~~the~~ a terminally ill person receiving hospice services;

10. "Terminally ill" means ~~the~~ a medical prognosis of limited life expectancy of one (1) year or less at the time of referral to a hospice of a person who is experiencing an illness for which therapeutic strategies directed toward cure and control of the ~~disease~~ illness alone, outside the context of symptom control, are no longer appropriate;

11. "Bereavement" means ~~that~~ the period of time following death during which survivors mourn a death and process their grief. "Bereavement services" means support services ~~to be~~ offered to ~~the~~ a family during the bereavement period;

12. ~~Freestanding hospice~~ Hospice inpatient facility" means a facility ~~or program~~ of a licensed hospice program in which only hospice services are provided;

13. "Personal care" means services provided to a patient in ~~the~~ a home to meet the physical requirements of the patient and to accommodate the maintenance or supportive needs of a patient;

14. "Medically directed" means ~~that~~ the delivery of medical care ~~is~~ as directed by a medical advisor;

15. "Hospice home services" means hospice services ~~which are~~ provided primarily in the home of ~~the~~ a patient;

16. "Inpatient services" means hospice services provided to patients who require twenty-four (24) hour supervision by a licensed health care provider; and

17. "Health care provider" means a facility or institution licensed by the laws of this state to provide on a regular basis medical services, skilled nursing care, necessary dietary service, hospice inpatient services or personal care. The term "health care provider" includes, but is not limited to, hospice inpatient facilities, hospitals, skilled nursing homes, intermediate care facilities and room and board homes.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-860.5, is amended to read as follows:

Section 1-860.5 The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke licenses for ~~hospices~~ hospice programs pursuant to the provisions of the Oklahoma Hospice Licensing Act;

2. Establish and enforce standards and requirements for licensure of ~~hospices~~ hospice programs and require the submission of, and to review, reports from any person establishing or operating a hospice program;

3. Establish and enforce construction standards and requirements for hospice inpatient facilities. The Department shall establish a construction plan review fee for such facilities; provided, however, the amount of such fee shall not exceed the amount set by the Department for construction plan review fees for hospitals;

4. Enter upon any public or private property, with permission, for the purpose of inspecting and investigating conditions of the patients in ~~the~~ a hospice or for the purpose of inspecting and investigating ~~the~~ a hospice for compliance with the provisions of the Oklahoma Hospice Licensing Act, or the standards or requirements for licensure developed by the Department pursuant to the provisions of the Oklahoma Hospice Licensing Act;

~~4.~~ 5. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of hospices and the patients of such hospices, and to take necessary action pursuant to the provisions of the Oklahoma Hospice Licensing Act to protect and safeguard the health, safety and welfare of patients of hospices;

~~5.~~ 6. Establish a procedure for receipt and investigation of complaints regarding a hospice or concerning the condition, care and treatment of a patient in the hospice;

~~6.~~ 7. Advise, consult and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Oklahoma Hospice Licensing Act;

~~7.~~ 8. Develop and enforce rules subject to the approval of the State Board of Health to implement the provisions of the Oklahoma Hospice Licensing Act;

~~8.~~ 9. Establish and enforce penalties for violations of the provisions of the Oklahoma Hospice Licensing Act as authorized by the Board pursuant to the provisions of the Oklahoma Hospice Licensing Act; and

~~9.~~ 10. Exercise all incidental powers as necessary and proper for the administration of the Oklahoma Hospice Licensing Act.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-860.6, is amended to read as follows:

Section 1-860.6 A. No public or private agency or person shall establish, conduct or maintain a hospice program or hold itself out to the public as a hospice program without first obtaining a license from the State Department of Health.

B. An application for a hospice program license shall be filed on a form prescribed by the Department and shall be accompanied by:

1. The license fee required by Section 1-860.15 of this title;
2. Documentation of complete disclosure for the applicant which shall include, but not be limited to, the name, mailing address and finding address of every stockholder with at least five percent (5%) ownership interest in the hospice program;

3. Satisfactory proof that the hospice program is in compliance with the provisions of the Oklahoma Hospice Licensing Act, ~~Section 1-860.1 et seq. of this title,~~ and any rules and minimum standards

promulgated by the State Board of Health pursuant to the Oklahoma Hospice Licensing Act; and

4. Proof of sufficient financial ability to operate and conduct the hospice program in accordance with the requirements of the Oklahoma Hospice Licensing Act.

C. The initial application shall be accompanied by a plan for the delivery of home and inpatient hospice services to patients and their families. Such plan shall contain, but not be limited to:

1. The estimated average number of patients to be served monthly;

2. The geographic area in which hospice services will be available;

3. A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing health care providers;

4. Provisions for the implementation of hospice home care within three (3) months of licensure;

5. The name and qualifications of any existing or potential health care provider with whom the hospice program may enter into a contract; ~~and~~

6. The projected annual operating cost of the hospice program; and

7. The location and proposed construction drawings for any hospice inpatient facility operated by the hospice program. A licensed hospice program shall not operate more than one hospice inpatient facility.

D. A license issued for the operation of a hospice program, unless sooner suspended or revoked, shall expire automatically one (1) year from the date of issuance. At least sixty (60) days prior to the expiration date, an application for license renewal shall be submitted to the Department on forms furnished by the Department. The license shall be renewed if the applicant has complied with the

provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the provisions of the Oklahoma Hospice Licensing Act. The application for license renewal shall be accompanied by an update of the plan for delivery of hospice services only if information contained in the plan submitted pursuant to subsection C of this section is no longer applicable or up-to-date.

E. A hospice program for which a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the Department of such proceeding. If judicial relief is sought from the final disposition, the court having jurisdiction may issue a conditional permit for the duration of the judicial proceeding.

F. The license shall:

1. Be displayed in a conspicuous place inside the hospice program office;

2. Be valid only in the possession of the person or public agency to which it is issued;

3. Not be subject to sale, assignment, or other transfer, voluntary or involuntary; ~~and~~

4. Not be valid for any hospice program other than the hospice program for which the license was originally issued; and

5. Restrict the number of patients in a hospice inpatient facility to the Department-approved occupancy level for each facility.

G. Any person who, prior to January 1, 1991, provided hospice services to any patient shall be entitled to operate as a hospice program pursuant to the provisions of the Oklahoma Hospice Licensing Act without making application and obtaining a license pursuant to the provisions of the Oklahoma Hospice Licensing Act for one (1) year after September 1, 1991, provided such person otherwise complies with the provisions of the Oklahoma Hospice Licensing Act

and all rules promulgated by the Board pursuant to the act. Thereafter any person providing hospice services shall make application, obtain a license, and comply with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the act.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-860.15, is amended to read as follows:

Section 1-860.15 The State Department of Health, subject to the approval of the State Board of Health, shall prescribe and publish in the manner established by its rules, fees in the amounts determined by the Board for the following:

1. Initial application fee not exceeding ~~One Hundred Dollars~~ ~~(\$100.00)~~ Two Hundred Fifty Dollars (\$250.00);
2. Initial license fee not exceeding ~~One Hundred Dollars~~ ~~(\$100.00)~~ Two Hundred Fifty Dollars (\$250.00);
3. Renewal of license fee not exceeding ~~Two Hundred Dollars~~ ~~(\$200.00)~~ Five Hundred Dollars (\$500.00); and
4. Late renewal fee charges not exceeding Fifty Dollars (\$50.00).

SECTION 5. AMENDATORY 63 O.S. 2001, Section 1-1950.4, is amended to read as follows:

Section 1-1950.4 A. 1. The State Department of Health, in conjunction with the Office of the State Long-term Care Ombudsman of the Department of Human Services, shall develop a uniform employment application to be used in the hiring of nurse aide staff by a nursing facility or a specialized facility as such terms are defined in the Nursing Home Care Act, a residential care home, as such term is defined by the Residential Care Act, an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act, a continuum of care facility as defined by the Continuum of Care and Assisted Living Act, a ~~freestanding~~ hospice inpatient facility or program providing hospice services as such terms are

defined by the Hospice Licensing Act, an adult day care center as such term is defined by the Adult Day Care Act, and a home care agency as defined by the Home Care Act. Such uniform application shall be used as the only application for employment of nurse aides in such facilities on and after January 1, 2001.

2. Nothing in this section shall prohibit the State Department of Health or any other state agency from requiring applicants for any position in the classified service to be certified by the state using the State of Oklahoma Employment Application.

B. The uniform employment application shall be designed to gather all pertinent information for entry into the nurse aide registry maintained by the State Department of Health. The uniform application shall also contain:

1. A signature from the applicant to confirm or deny any previous felony conviction;

2. A release statement for the applicant to sign giving the State Department of Health and the Oklahoma State Bureau of Investigation the authority to proceed with state criminal history record checks; and

3. Such other information deemed necessary by the Department.

C. The Department shall provide implementation training on the use of the uniform employment application.

SECTION 6. This act shall become effective November 1, 2003.

Passed the Senate the 5th day of March, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2003.

Presiding Officer of the House
of Representatives