

A GUIDE TO HOSPICE SERVICES

PURPOSE: Minnesota Rules 4664.0140, subpart 1 states:

"Every individual applicant for a license, and every person who provides direct care, supervision of direct care, or management of services for a licensee, must complete orientation to hospice requirements before providing hospice services to hospice patients."

Licensees may use this guide to satisfy Minnesota Rule 4664.0140, subpart 1.

This guide was prepared by the Minnesota Department of Health, Division of Health Policy, Information and Compliance Monitoring, as a means to satisfy Minnesota Rule 4664.0140, "Orientation to Hospice Requirements" and is intended as an overview and not a replacement of the licensure rules or statutes. Not every rule and statute is restated or explained in this guide. Individuals should refer to Minnesota Hospice Statutes 144A.75-144A.755 and Minnesota Hospice Rule 4664, the Vulnerable Adults Act Minnesota Statute 626.5572 and the Maltreatment of Minors Act, Minnesota Statute 626.556 for specific requirements.

The rules and statutes may be accessed through the web:

<http://www.leg.state.mn.us/leg/statutes.asp>

Information regarding the Vulnerable Adult Act or Maltreatment of Minors Act is available at your local library.

Outside the seven county metro area, copies are available for a fee at:

The Minnesota Law Library
25 Constitution Avenue
St. Paul MN 55155
(651) 296-2775

REGULATION OF HOSPICE PROVIDERS: STATE LICENSURE

Under Minnesota Statutes 144A.75-144A.755, the Minnesota Legislature authorized the Minnesota Department of Health (herein after referred to as "Department") to license providers of hospice services, including private businesses, nonprofit organizations, and governmental agencies. The license is for the business, not for the employees who work for the hospice provider.

A license is permission from the state to carry on the business of hospice services. It does not provide payment for services and does not guarantee success in business.



Licensure also provides a quality mechanism for monitoring and remedying problems that occur, in this rapidly expanding business, by routine inspections as well as complaint investigations by the Department.

If a survey or complaint investigation reveals a violation of a rule or law, the Department will issue a correction order, which is a notice of the violation and an order to correct the problem in a certain time. If not corrected, the Department will issue a fine according to a schedule of fines in the rules. In very serious situations, the Department may suspend, revoke, or refuse to renew the license.

State licensing rules have some similar requirements as Medicare Hospice regulations, and additional ones, such as criminal background studies for licensees, managers, and employees, screening for tuberculosis, and handling medication and treatment orders. Only those hospice providers that receive Medicare or Medicaid reimbursement must comply with Medicare regulations. All providers, including many individuals, except for those individuals who are exempted by law or rule, will be required to meet state licensing rules and be licensed by the State.

HOSPICE PROVIDER LICENSURE PROVISIONS

State licensure regulations include provisions to ensure, to the extent possible, the health, safety, well-being and appropriate treatment of persons who receive hospice services.

A "hospice patient" means an individual who has been diagnosed as terminally ill, with a probable life expectancy of under one year, as documented by the individual's attending physician and hospice medical director, who alone or, when unable, through the individual's family has voluntarily consented to and received admission to a hospice provider.

"Hospice services" means palliative and supportive care and other services provided by an interdisciplinary team under the direction of an identifiable hospice administration to terminally ill hospice patients and their families to meet the physical, nutritional, emotional, social, spiritual, and special needs experienced during the final stages of illness, dying, and bereavement.

A hospice provider must be regularly engaged in providing care and services to hospice patients. The hospice provider must ensure that at least two core services are regularly provided by hospice employees. The core services are:

- A. physician services;
- B. registered nursing services;
- C. medical social services; and
- D. counseling services.

A hospice provider must provide physical therapy, occupational therapy, speech therapy, nutritional counseling, home health aide services, and volunteers as directed by the interdisciplinary team through the assessment and plan of care process.

The hospice provider must make hospice care, including nursing services, physician services, availability of drugs and biologicals and short-term inpatient care, available on a 24-hour basis, seven days a week. Inpatient care must be available for pain control, symptom management, and respite purposes and is provided in a licensed hospital, a nursing home, or a residential hospice facility.

An interdisciplinary team must complete an individualized, comprehensive assessment of each hospice patient and hospice patient family's needs. The plan of care must reflect the current needs of the hospice patient and the hospice patient's family. A copy of the initial plan of care shall be provided to the patient or responsible person and changes to the plan available upon request.

A hospice provider must ensure that the interdisciplinary team coordinates with any person or entity providing any service to the patient, so that all services are provided according to the plan of care.

If the licensee discharges or transfers a hospice patient for any reason, the reason for the discharge or transfer must be documented in the clinical record. The documentation must include:

- (1) the reason why the transfer or discharge is necessary; and
- (2) why the patient's needs cannot be met by the licensee, if the patient continues to need hospice services.

Before the discharge, the hospice provider must give the hospice patient or the responsible person a written list of providers that provide similar services in the hospice patient's geographical area.

The licensee may not accept a person as a hospice patient unless the licensee has staff sufficient in qualifications and numbers to adequately provide the hospice patient's needs during the final stages of illness, dying and bereavement.

Personnel employed by a licensee or providing services under a contract, must be licensed, registered, or certified as required by the state and/or must meet the training and evaluation requirements of these rules.

NOTIFICATION OF SERVICE CHARGES

Within 48 hours of admission, a licensee must provide written notice of service charges describing the cost of services with the patient or the patient's responsible person.



Services are provided in accordance to the plan of care developed by the interdisciplinary team.

A hospice provider must provide to the patient or the responsible person a contingency plan that contains:

- (1) the action to be taken by the hospice provider, hospice patient, and responsible person if scheduled services cannot be provided;
- (2) the method for a hospice patient or responsible person to contact a representative of the hospice provider whenever staff are providing services; and
- (3) the method for the hospice provider to contact a responsible person of the patient, if any.

Changes in the services provided which do not cause a change in fees do not require a written modification of the notice of service charges agreed to by the patient or the patient's responsible person.

A hospice provider must obtain written acknowledgment of receipt of the notice of charges for services from the hospice patient or the hospice patient's responsible person. Written documentation of receipt must be maintained by the licensee.

HOSPICE BILL OF RIGHTS

All hospice providers must comply with all parts of Minnesota Statutes, section 144A.751, the hospice bill of rights. No later than the time hospice services are initiated, a hospice provider shall give a written copy of the hospice bill of rights to each hospice patient or responsible person.

If the hospice provider operates a residential hospice facility, the written notice to each residential hospice patient must include the number and qualifications of the personnel, including both staff persons and volunteers, employed by the provider to meet the requirements of MN Rule 4664.0390 on each shift at the residential hospice facility.

Written documentation of receipt of the bill of rights must be maintained by the licensee.

The licensee may not request nor obtain from patients any waiver of any of the rights enumerated in the hospice bill of rights.

PATIENT PROTECTION

The hospice rules have been developed to ensure, to the extent possible, the health, safety, and well-being and appropriate treatment of persons who receive hospice care.



CRIMINAL DISQUALIFICATION*

Before the commissioner issues an initial or renewal license, an owner or managerial official shall be required to complete a background study under Minnesota Statute section 144.057. No person may be involved in the management, operation, or control of a provider, if the person has been disqualified under the provisions of Minnesota Statutes chapter 245A. Individuals disqualified under these provisions can request a reconsideration, and if the disqualification is set aside are then eligible to be involved in the management, operation or control of the provider. Owners of a hospice subject to the background check requirement are those individuals whose ownership interest provides sufficient authority or control to affect or change decisions related to the operation of the hospice provider. For the purposes of this section, managerial officials subject to the background check requirement are those individuals who provide who provide direct "contact" as defined in section 245A.04 or those individuals who have the responsibility for the ongoing management or direction of the policies, services, or employees of the hospice provider. All employees, contractors, and volunteers of a hospice provider are subject to the background study required by section 144.057. If appropriate, these individuals shall be disqualified under the provisions of chapter 245A. Individuals disqualified under these provisions can request a reconsideration.

*Some language in this section was paraphrased from Minnesota law. Licensees should refer to the statutes for the complete language.

CONFIDENTIALITY OF HOSPICE PATIENT INFORMATION

The licensee shall not disclose any personal, financial, medical, or other information about a patient except:

- A. as may be required by law;
- B. to staff or contractors only that information necessary to provide services to the patient;
- C. to persons authorized by the patient to receive the information; and
- D. representatives of the commissioner authorized to survey or investigate hospice providers.

HANDLING OF PATIENTS' FINANCES AND PROPERTY

A licensee may not act as power-of-attorney nor accept appointment as guardian or conservator of hospice patients unless there is a clear organizational separation between the hospice provider and the program that accepts guardianship or conservatorship appointments or unless the licensee is a Minnesota county or other unit of government.

A licensee may assist patients with household budgeting, including paying bills and purchasing household goods but may not otherwise manage a patient's finances. Receipts



or documentation of all transactions and purchases paid with the patient's funds must be recorded and maintained.

A licensee may not borrow or in any way convert a patient's property to the licensee's possession except by payment at the fair market value of the property.

Gifts of a minimal value may be accepted by a licensee or its staff as well as donations and bequests that are exempt from income tax.

COMPLAINT PROCEDURE

A hospice provider must establish a system for receiving, investigating, and resolving complaints from its hospice patients.

The system is required to provide written notice to each patient that includes:

- A. the patient's right to complain to the licensee about services;
- B. the name or title of the person or persons to contact with complaints;
- C. the method of submitting a complaint to the licensee;
- D. the right to complain to the Minnesota Department of Health, Office of Health Facility Complaints; and
- E. a statement that the provider will in no way retaliate because of a complaint.

A hospice provider must designate a person or position that is responsible for complaint follow-up, complaint investigation, resolution, and documentation. The person or position shall maintain a log of complaints received for one year from the date of receipt.

The interdisciplinary team must review any patient, family, or caregiver complaints about care provided and must take remedial action as appropriate.

The licensee is prohibited from taking any action in retaliation for a complaint made by the patient.

REPORTING OF MALTREATMENT OF VULNERABLE ADULTS AND MINORS

Minnesota law requires certain professionals and staff of licensed organizations to report maltreatment, (abuse, neglect, exploitation, unexplained injuries) of vulnerable adults and children to governmental authorities. Reporting is mandatory, and a person who fails to report is subject to criminal prosecution and civil liability.

WHO MUST REPORT

All hospice licensees and their employees must report suspected maltreatment. A report is required if there is reason to believe that abuse or neglect to a patient has occurred.



Staff of providers need not report directly to the authorities, but should follow their employers' procedures for reporting to a supervisor. If staff are unable or uncomfortable reporting to the licensee, they may report directly to the authorities. All hospice providers are required by law to have a procedure for reporting.

WHAT TO REPORT*

Information as defined in **Minnesota Statute 626.556 defines abuse of children**, **Minnesota Statute 626.5572 defines abuse of vulnerable adults**.

WHEN REPORTING IS NECESSARY

A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately, (immediately is defined "as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received"), orally reports the information to the common entry point. Staff should report any abuse or neglect to the person identified by the employer's procedures. The common entry point may not require written reports. After a report is made, the agency may investigate. The law prohibits retaliation against anyone who makes a report in good faith.

The provider, upon learning of abuse or neglect, must investigate and report to the Common entry point. The Office of Health Facility Complaints is considered to be a Lead agency.

"Common entry point" means the entity designated by each county responsible for receiving reports under section 626.557.

"Lead Agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

Serious criminal activity should be reported to law enforcement immediately, and then to the common entry point.

The address and telephone number of OHFC is:

Office of Health Facility Complaints
85 East 7th Place, Suite 300
P.O. Box 64970
St. Paul, MN 55164-0970
(651) 201-4201 (Metro area)
(800) 369-7994 (Toll-free statewide)



Inquiries or complaints about the Hospice Bill of Rights or hospice services may also be directed to:

**Office of Ombudsman for Older Minnesotans
121 East Seventh Place, Suite 410
St. Paul, MN 55101
(651) 431-2555
1-800-657-3591 (Toll-free statewide)**

Hospice consumers or members of the public should also report any violations of a patient's rights or maltreatment to the Office of Health Facility Complaints (OHFC), the Office of Ombudsman for Older Minnesotans, (at the address or phone number listed above) and/or the common entry point.

EMERGENCY PROCEDURES

Every individual applicant for a license and every person who provides direct care, supervision of direct care, or management of services for a licensee must complete an orientation training of handling of emergencies and use of emergency services and be capable of implementing the policies.

Hospice patients and responsible persons should thoroughly know the provider's policy on emergencies.

A hospice provider must ensure that each hospice patient's record contains a copy of the patient's health care directive, if executed and available.