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CHAPTER 4664

DEPARTMENT OF HEALTH

HOSPICE SERVICES

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4664.0002 APPLICABILITY; AUTHORITY; SCOPE.

Subpart 1. **Scope; authority.** Parts 4664.0002 to [4664.0550](#) implement the licensing of hospice providers under Minnesota Statutes, sections [144A.75](#) to [144A.755](#), under the authority of Minnesota Statutes, section [144A.752](#). This chapter must be read together with Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 2. **Medicare-certified hospice; exemptions.**

A. As used in this part, the term "Medicare-certified hospice" means a hospice provider certified under the Medicare program and surveyed and enforced by the Minnesota Department of Health.

B. All licensed hospice providers must comply with this chapter, except that a Medicare-certified hospice need not comply with the following provisions of this chapter:

- (1) part [4664.0020](#), subpart 3;
- (2) part [4664.0060](#), subpart 1;
- (3) part [4664.0070](#), subparts 1 and 2;
- (4) part [4664.0080](#), subpart 3;

(5) part [4664.0085](#);

(6) part [4664.0090](#), subparts 2 and 3;

(7) part [4664.0100](#);

(8) part [4664.0110](#), subpart 1, items A and C;

(9) part [4664.0120](#), subpart 2;

(10) part [4664.0160](#);

(11) part [4664.0170](#), subpart 2;

(12) part [4664.0180](#), subparts 1, 3, 4, and 8;

(13) part [4664.0190](#), subparts 1, 2, and 4;

(14) part [4664.0210](#);

(15) part [4664.0220](#);

(16) part [4664.0230](#);

(17) part [4664.0240](#);

(18) part [4664.0250](#);

(19) part [4664.0260](#); or

(20) part [4664.0270](#), subparts 1, 2, and 8.

C. Medicare-certified hospices are exempt from the listed provisions under item B because Medicare-certified hospices must comply with equivalent federal statutes or regulations relating to the same subject matter. If a Medicare-certified hospice violates an equivalent federal statute or regulation, the violation is considered by the commissioner to be detrimental to the welfare of a patient and the Medicare-certified hospice is subject to licensing action under Minnesota Statutes, section [144A.754](#).

Subp. 3. **Delegation.** The commissioner may delegate any authority or responsibility to an agent of the department.

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4664.0003 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts [4664.0002](#) to [4664.0550](#), the terms in this part have the meanings given them.

Subp. 2. **Attending physician.** "Attending physician" means a physician who is identified by the hospice patient at the time the patient receives hospice care as having the most significant role in the determination and delivery of the patient's medical care.

Subp. 3. **Business.** "Business" means an individual or other legal entity that provides hospice services to persons in their residence of choice.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of health.

Subp. 5. **Contract.** "Contract" means a legally binding agreement.

Subp. 6. **Core services.** "Core services" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 3.

Subp. 7. **Counseling services or bereavement counseling.** "Counseling services" or "bereavement counseling" has the meaning given to "counseling services" in Minnesota Statutes, section [144A.75](#), subdivision 4.

Subp. 8. **Department.** "Department" means the Department of Health.

Subp. 9. **Home health aide.** "Home health aide" means a person who meets the competency and training requirements of part [4664.0260](#).

Subp. 10. **Home health aide services.** "Home health aide services" means services provided by a home health aide.

Subp. 11. **Hospice patient.** "Hospice patient" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 6.

Subp. 12. **Hospice patient's family.** "Hospice patient's family" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 7.

Subp. 13. **Hospice provider.** "Hospice provider" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 5.

Subp. 14. **Hospice services or hospice care.** "Hospice services" or "hospice care" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 8.

Subp. 15. **Hospital.** "Hospital" means a facility licensed under Minnesota Statutes, sections [144.50](#) to [144.56](#).

Subp. 16. **Inpatient facility.** "Inpatient facility" means a hospital, nursing home, or residential hospice facility.

Subp. 17. **Interdisciplinary team.** "Interdisciplinary team" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 9.

Subp. 18. **Legend drug.** "Legend drug" has the meaning given in Minnesota Statutes, section [151.01](#), subdivision 17.

Subp. 19. **Licensee.** "Licensee" means the legal entity responsible for the operation of a hospice, including ensuring compliance with parts [4664.0002](#) to [4664.0550](#) and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 20. **Licensed practical nurse.** "Licensed practical nurse" means a person licensed and currently registered to practice practical nursing as defined under Minnesota Statutes, section [148.171](#), subdivision 14.

Subp. 21. **Managerial official.** "Managerial official" means a director, officer, trustee, or employee of a hospice provider, however designated, who has the authority to establish or control business policy.

Subp. 22. **Medical director.** "Medical director" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 10.

Subp. 23. **Medical social services.** "Medical social services" means social work related to the medical, health, or supportive care of patients.

Subp. 24. **Nurse.** "Nurse" means a registered nurse or licensed practical nurse authorized to practice nursing in Minnesota in compliance with Minnesota Statutes, sections

[148.171](#) to [148.285](#).

Subp. 25. **Nursing home.** "Nursing home" means a facility licensed under Minnesota Statutes, sections [144A.01](#) to [144A.155](#).

Subp. 26. **Nutritional counseling.** "Nutritional counseling" means services provided by a dietitian, registered nurse, or physician with respect to a hospice patient's nutrition, including evaluation of a hospice patient's nutritional status and recommendation for changes in nutritional care.

Subp. 27. **Occupational therapist.** "Occupational therapist" has the meaning given in Minnesota Statutes, section [148.6402](#), subdivision 14.

Subp. 28. **Occupational therapy.** "Occupational therapy" has the meaning given in Minnesota Statutes, section [148.6402](#), subdivision 15.

Subp. 29. **Other services.** "Other services" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 11.

Subp. 30. **Over-the-counter drug.** "Over-the-counter drug" means any drug that is not a legend drug.

Subp. 31. **Palliative care.** "Palliative care" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 12.

Subp. 32. **Pharmacist.** "Pharmacist" means a person licensed under Minnesota Statutes, chapter 151.

Subp. 33. **Physical therapist.** "Physical therapist" has the meaning given in Minnesota Statutes, section [148.65](#), subdivision 2.

Subp. 34. **Physical therapy.** "Physical therapy" has the meaning given in Minnesota Statutes, section [148.65](#), subdivision 1.

Subp. 35. **Physician.** "Physician" means a person licensed under Minnesota Statutes, chapter 147.

Subp. 36. **Prescriber.** "Prescriber" means a person who is authorized by Minnesota Statutes, section [151.01](#), subdivision 23, to prescribe legend drugs.

Subp. 37. **Registered nurse.** "Registered nurse" means a person licensed to practice professional nursing as defined in Minnesota Statutes, section [148.171](#), subdivision 15.

Subp. 38. **Residential hospice facility.** "Residential hospice facility" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 13.

Subp. 39. **Responsible person.** "Responsible person" means a person who, because of a hospice patient's incapacity, makes decisions about the hospice patient's care on behalf of the hospice patient. A responsible person may be a hospice patient's family, guardian, conservator, attorney-in-fact, or other agent of the hospice patient. Nothing in this chapter expands or diminishes the rights of persons to act on behalf of hospice patients under other law.

Subp. 40. **Social worker.** "Social worker" has the meaning

given in Minnesota Statutes, section [148B.21](#), subdivision 3.

Subp. 41. **Speech-language pathology practice.**

"Speech-language pathology practice" has the meaning given to "practice of speech-language pathology" in Minnesota Statutes, section [148.512](#), subdivision 13.

Subp. 42. **Survey.** "Survey" means an inspection of a hospice provider for compliance with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#). Survey includes inspections conducted as part of the investigation of a complaint.

Subp. 43. **Surveyor.** "Surveyor" means a representative of the department authorized by the commissioner to conduct surveys of hospice providers.

Subp. 44. **Unit of government.** "Unit of government" means a city, county, town, school district, other political subdivision of the state, or an agency of the state or the United States and includes any instrumentality of a unit of government.

Subp. 45. **Volunteer services.** "Volunteer services" has the meaning given in Minnesota Statutes, section [144A.75](#), subdivision 14.

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4664.0008 SERVICES INCLUDED AND EXCLUDED FROM LICENSURE.

Subpart 1. **Determination of direct services.** According to Minnesota Statutes, section [144A.75](#), subdivision 3, a hospice must ensure that at least two core services are regularly provided directly by hospice employees. A service that is provided directly means a service provided to a hospice patient by employees of the hospice provider and not by contract with an independent contractor. The administration of a contract for hospice services is not in itself a direct service. Factors that must be considered in determining whether a business provides hospice services directly include whether the business:

A. has the right to control and does control the types of services provided;

B. has the right to control and does control when and how the services are provided;

C. establishes charges;

D. collects fees from the patients or receives payment from third-party payers on the patients' behalf;

E. pays compensation on an hourly, weekly, or similar time basis;

F. treats the individuals as employees for purposes

of payroll taxes and workers' compensation insurance; and

G. holds itself out as a provider of hospice services or acts in a manner that leads patients or potential patients to reasonably believe that it is a provider of hospice services.

None of the factors listed in items A to G is solely determinative.

Subp. 2. **Contract services.** If a licensee contracts for a hospice service with a business that is not subject to licensure under this chapter, the licensee must require in the contract that the business comply with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 3. **Governmental providers.** Except as otherwise provided in this chapter or in statute, hospice services that are provided by the state, counties, or other units of government must be licensed under this chapter.

Subp. 4. **Fines.** A fine of \$300 shall be assessed for a violation of subpart 2.

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4664.0010 LICENSURE.

Subpart 1. **License issued.** If a hospice provider complies with the requirements of this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#), the commissioner shall issue to the hospice provider a certificate of licensure that contains:

- A. the licensee's name;
- B. the provider's name and address;
- C. the beginning and expiration dates;
- D. a unique license number;
- E. the type of license; and

F. the number of authorized beds for the residential hospice or hospices, if applicable.

Subp. 2. **Multiple units or satellites.** Multiple units or satellites of a hospice provider must share the same management that supervises and administers services provided by all units. Each unit and satellite must provide the same full range of services that is required of the hospice provider. Multiple units or satellites of a hospice provider must be separately licensed if the commissioner determines that the units cannot

adequately share supervision and administration of services with the main office because of distinct organizational structures.

Subp. 3. **Duration of license.** A license is effective for one year after the date the license is issued, except as provided in subparts 11 and 12.

Subp. 4. **License application.** An applicant for an initial or renewal license under this part must:

A. provide the following information on forms provided by the commissioner:

(1) the applicant's name and address, including the name of the county in which the applicant resides or has its principal place of business;

(2) the address and telephone number of the principal administrative office;

(3) the address and telephone number of each multiple unit, if any;

(4) the number of authorized residential hospice facility beds and address where beds are located;

(5) the names and addresses of all owners and managerial officials;

(6) documentation of compliance with the background study requirements of Minnesota Statutes, section [144A.754](#), subdivision 5, for all persons involved in the management, operation, or control of the hospice provider;

(7) evidence of workers' compensation coverage, as required by Minnesota Statutes, sections [176.181](#) and [176.182](#); and

(8) any other information requested by the commissioner to determine whether the applicant is in compliance with all applicable provisions of this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#), and to determine whether the applicant has engaged in conduct detrimental to the welfare of a hospice patient;

B. pay in full the license fee specified in Minnesota Statutes, section [144A.753](#), subdivision 1, paragraph (c), based on revenues derived from the provision of hospice services during the licensee's fiscal year prior to the year in which the application is being submitted; and

C. ensure that, if the application is for a license renewal, the commissioner receives the application at least 30 days before expiration of the license.

Subp. 5. **Agent.** Each application for a hospice provider license or for renewal of a hospice provider license must designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner on all matters provided for in this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#); and

B. upon whom all notices and orders must be served and who is authorized to accept service of notices and orders on behalf of the applicant and, if licensed, the licensee, in proceedings under this chapter and Minnesota Statutes, sections

[144A.75](#) to [144A.755](#).

The designation of one or more persons under this subpart does not affect the legal responsibility of any other owner or managerial official under this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 6. **Notification of changes.** An applicant or licensee shall notify the commissioner in writing within ten working days after any change in the information required to be provided by subparts 4 and 5. A licensee shall notify the commissioner in writing 30 calendar days before the cessation of providing hospice services.

Subp. 7. **Application processing.** The commissioner must process an application in the manner provided by Minnesota Statutes, section [144A.753](#), subdivision 1, paragraph (b). No application shall be processed without payment of the license fee in full, in the amount provided by Minnesota Statutes, section [144A.753](#), subdivision 1, paragraph (c).

Subp. 8. **Verification of revenues.**

A. "Revenues" means all money or the value of property or services received by an applicant and derived from the provision of hospice services, including fees for services, grants, bequests, gifts, donations, appropriations of public money, and earned interest or dividends. Under a circumstance listed in item B, the commissioner shall require each applicant to verify its revenues by providing a copy of:

(1) an income tax return;

(2) an informational tax return, such as an Internal Revenue Service Form 1065 partnership return or Form

990 tax exempt organization return;

(3) a Medicare cost report;

(4) a certified financial statement; or

(5) other documentation that verifies the accuracy of the revenues derived from the provision of hospice services for the reporting period on which the fee is based.

B. The commissioner shall require an applicant to verify its revenues if:

(1) the commissioner has received information that a revenue report may be inaccurate; or

(2) the hospice provider has been randomly selected for compliance verification.

Subp. 9. **Prelicensing survey.** Before granting a license, the commissioner may investigate an applicant for compliance with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 10. **Requirements and denial of license.**

A. An applicant for an initial or renewal license as a hospice provider must meet all of the following requirements:

(1) the applicant; an owner of the applicant, individually or as an owner of another hospice provider; or another hospice provider of which an owner of the applicant also

was or is an owner, must not have ever been issued a correction order for failing to assist hospice patients according to part [4664.0060](#), subpart 2, item D, upon the licensee's decision to cease doing business as a hospice provider;

(2) the applicant is not disqualified under Minnesota Statutes, sections [144.057](#) and [245A.04](#);

(3) neither the applicant or any owner or managerial official of the applicant has been unsuccessful in having a disqualification under Minnesota Statutes, section [144.057](#) or [245A.04](#), set aside; and

(4) no owner or managerial official of the applicant, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

B. If an applicant for an initial or renewal license as a hospice provider does not meet all of the requirements in item A, the commissioner shall deny the application. In addition, the commissioner may refuse to grant or renew a license as provided in Minnesota Statutes, section [144A.754](#), subdivision 1, paragraph (a).

Subp. 11. **Conditional license.** If a licensee that has applied for renewal is not in full compliance with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#), at the time of expiration of its license, and the violations do not warrant denial of the license, the commissioner shall issue a license for a limited period conditioned on the licensee achieving full compliance with all applicable statutes, rules, and correction orders.

Subp. 12. **Transfers prohibited; changes in ownership.** A

license issued under this part may not be transferred to another party. Before a change of ownership of a hospice provider, the prospective owner must apply for a new license under this part. The commissioner must receive the completed application at least 30 days before the effective date of the change of ownership. A change of ownership means a transfer of operational control to a different business entity and includes:

A. transfer of the business to a different or new corporation;

B. in the case of a partnership, the dissolution or termination of the partnership under Minnesota Statutes, chapter 323A, with the business continuing by a successor partnership or other entity;

C. relinquishment of control of the hospice provider by the licensee to another party, including to a contract management firm that is not under the control of the owner of the business' assets;

D. transfer of the business by a sole proprietor to another party or entity; or

E. in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subp. 13. **Fire safety requirements.** A residential hospice facility that has been determined by the state fire marshal to be out of compliance with fire safety requirements of the state fire marshal is not eligible for licensure by the commissioner.

Subp. 14. **Display of license.** A licensee must display the original license at the hospice provider's principal business

office and copies must be displayed at all other offices and residential hospice facility sites. A licensee must provide a copy of the license to any person who requests it.

Subp. 15. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 4, \$500 for providing false information;
- B. subpart 6, \$100; and
- C. subpart 14, \$50.

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4664.0012 FINES FOR UNCORRECTED VIOLATIONS.

Subpart 1. **Authority.** The fines provided under this part are under the authority of Minnesota Statutes, sections [144.653](#), subdivision 6, and [144A.752](#), subdivision 2, paragraph (a), clause (4).

Subp. 2. **Fines.** For each violation of this chapter that is subject to a fine under Minnesota Statutes, section [144.653](#), subdivisions 5 to 8, a fine shall be assessed according to the schedules established in the parts violated. Fines assessed according to this chapter shall be in addition to any enforcement action taken by the commissioner under Minnesota Statutes, section [144A.754](#), subdivision 1.

Subp. 3. **Failure to correct deficiency.** If, upon subsequent reinspection after a fine has been imposed under subpart 2, a deficiency is still not corrected, another fine must be assessed. The fine must be double the amount of the previous fine, except if a daily fine is required.

Subp. 4. **Payment of fines.** Payment of fines is due 15 working days from the licensee's receipt of notice from the department.

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4664.0014 SCHEDULE OF FINES FOR VIOLATIONS OF STATUTORY PROVISIONS.

Subpart 1. **Fines; statutory provisions.** For each violation of one of the following statutory provisions subject to a fine under Minnesota Statutes, section [144.653](#), subdivision 6, the listed fine shall be assessed:

- A. section [144A.751](#), subdivision 1, clause (1), \$250;
- B. section [144A.751](#), subdivision 1, clause (2), \$250;
- C. section [144A.751](#), subdivision 1, clause (3), \$50;
- D. section [144A.751](#), subdivision 1, clause (4), \$350;
- E. section [144A.751](#), subdivision 1, clause (5), \$250;
- F. section [144A.751](#), subdivision 1, clause (6), \$250;
- G. section [144A.751](#), subdivision 1, clause (7), \$50;
- H. section [144A.751](#), subdivision 1, clause (8), \$250;

I. section [144A.751](#), subdivision 1, clause (9), \$250;

J. section [144A.751](#), subdivision 1, clause (10),
\$250;

K. section [144A.751](#), subdivision 1, clause (11),
\$350;

L. section [144A.751](#), subdivision 1, clause (12),
\$250;

M. section [144A.751](#), subdivision 1, clause (13),
\$500;

N. section [144A.751](#), subdivision 1, clause (14),
\$250;

O. section [144A.751](#), subdivision 1, clause (15),
\$350;

P. section [144A.751](#), subdivision 1, clause (16),
\$250;

Q. section [144A.751](#), subdivision 1, clause (17),
\$500;

R. section [144A.751](#), subdivision 1, clause (22),
\$350; and

S. section [144A.754](#), subdivision 5, paragraph (b),
\$500.

Subp. 2. **Vulnerable Adults Act.** For each violation of Minnesota Statutes, section [626.557](#), the following fines shall be assessed:

A. section [626.557](#), subdivision 3, \$250;

B. section [626.557](#), subdivision 4a, \$100;

C. section [626.557](#), subdivision 14, paragraph (b), \$250; and

D. section [626.557](#), subdivision 17, \$250.

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4664.0016 WAIVERS AND VARIANCES.

Subpart 1. **Definitions.** For purposes of this part:

A. "waiver" means an exemption from compliance with a requirement of this chapter; and

B. "variance" means a specified alternative to a requirement of this chapter.

Subp. 2. **Criteria for waiver or variance.** Upon the application of a licensee, the commissioner must waive or vary any provision of this chapter, except for those provisions reflecting statutory requirements; relating to criminal disqualification, Minnesota Statutes, section [144A.754](#), subdivision 5, paragraph (b); or relating to the hospice bill of rights, part [4664.0030](#), if the commissioner finds that:

A. either:

(1) the waiver or variance is necessary because of the unavailability of services or resources in the hospice provider's geographic area; or

(2) the enforcement of a requirement would result in unreasonable hardship on the licensee; and

B. the waiver or variance will not adversely affect the health, safety, or welfare of any hospice patient.

Subp. 3. **Experimental variance.** The commissioner shall grant a variance to allow a hospice provider to offer hospice services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the hospice patients, and is likely to improve the services provided.

Subp. 4. **Conditions.** The commissioner shall impose conditions on the granting of a waiver or variance that the commissioner considers necessary for the health, safety, and well-being of persons who receive hospice care.

Subp. 5. **Duration.** The commissioner shall identify the duration of any waiver or variance.

Subp. 6. **Application.** An application for waiver or variance from the requirements of this chapter may be made at any time, must be made in writing to the commissioner, and must specify the following:

A. the rule for which the waiver or variance is requested;

B. the time period for which the waiver or variance is requested;

C. if the request is for a variance, the specific alternative action that the licensee proposes;

D. the reasons for the request;

E. justification that subpart 2 or 3 will be satisfied; and

F. any other information that the commissioner requests to determine whether the requested waiver or variance would meet the criteria in subpart 2 or 3.

Subp. 7. **Grants and denials.** The commissioner must grant or deny each request for waiver or variance in writing. Notice of a denial must contain the reasons for the denial. The terms of a requested variance may be modified upon agreement between the commissioner and a licensee.

Subp. 8. **Violation of variances or waivers.** A failure to comply with the terms of a variance or waiver is a violation of this chapter.

Subp. 9. **Revocation or denial of renewal.** The commissioner shall revoke or deny renewal of a waiver or variance if:

A. the waiver or variance adversely affects the health, safety, or welfare of the licensee's hospice patients;

B. the licensee fails to comply with the terms of the variance;

C. the licensee notifies the commissioner in writing that it wishes to relinquish the waiver or variance and be subject to the rule previously waived or varied; or

D. the revocation or denial is required by a change in law.

Subp. 10. **Hearings.** A denial of a waiver or variance may be contested by requesting a hearing as provided by part [4664.0018](#). The licensee bears the burden of proving that the denial of a waiver or variance was in error.

Subp. 11. **Fines.** A fine shall be assessed for a violation under subpart 8 in the amount of the fine established for the rule that was varied or waived.

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4664.0018 HEARINGS.

Subpart 1. **Hearing rights.** An applicant for a license or a licensee that has been assessed a fine under part [4664.0014](#), subpart 2, that has had a waiver or variance denied or revoked under part [4664.0016](#), or that has a right to a hearing under Minnesota Statutes, section [144.653](#), subdivision 8, or [144A.754](#), subdivision 1, may request a hearing to contest the action or decision according to the rights and procedures provided by this part and Minnesota Statutes, chapter 14.

Subp. 2. **Request for hearing.** A request for a hearing shall be in writing and shall:

A. be mailed or delivered to the commissioner or the commissioner's designee;

B. contain a brief and plain statement describing every matter or issue contested; and

C. contain a brief and plain statement of any new matter that the licensee believes constitutes a defense or mitigating factor.

Subp. 3. **Informal conference.** At any time, the licensee and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve any or all issues.

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4664.0020 GENERAL PROVISIONS.

Subpart 1. **Compliance.** A hospice provider must maintain compliance and provide hospice services and programs as required by this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 2. **Required services.** 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.

Subp. 3. **Service availability.** A hospice provider must make hospice care, including nursing services, physician services, and short-term inpatient care, available on a 24-hour basis, seven days a week. The hospice provider must also ensure the availability of drugs and biologicals on a 24-hour basis, seven days a week.

Subp. 4. **Additional 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.

Subp. 5. **Respite care.** "Respite care" means short-term care in an inpatient facility, when necessary to relieve the hospice patient's family or other persons caring for the patient. Respite care may be provided on an occasional basis.

Subp. 6. **Contingency plan.**

A. 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.

B. A hospice provider must ensure that the contingency plan required by item A is implemented as written.

Subp. 7. **Professional licenses.** Nothing in this chapter limits or expands the rights of health care professionals to provide services within the scope of their licenses or

registrations.

Subp. 8. **Illegal acts.** Neither a hospice provider nor any owner or managerial official of the hospice provider shall permit, aid, or abet the commission of any illegal act in the provision of hospice care.

Subp. 9. **False statements.** Neither a hospice provider nor any owner or managerial official of the hospice provider shall make any false oral or written statement to the commissioner or any representative of the commissioner in a license application or in any other record or report required by this chapter or by Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 10. **Access to information and property.** A hospice provider shall permit the commissioner or an employee or agent authorized by the commissioner, upon presentation of credentials, to:

A. examine and copy any files, books, papers, records, memoranda, or data of the hospice provider; and

B. enter upon any property, public or private, for the purpose of taking any action authorized by this chapter or Minnesota Statutes, sections [144A.75](#) to [144A.755](#), including obtaining information required in a license application or in any other record or report required by this chapter or Minnesota Statutes, sections [144A.75](#) to [144A.755](#), taking steps to remedy violations, or conducting surveys.

Subp. 11. **Interference prohibited.** A hospice provider shall not interfere with or impede a representative of the commissioner:

A. in contacting the hospice provider's clients; or

B. in the enforcement of this chapter or Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 12. **Destruction of evidence.** A hospice provider shall not destroy or otherwise make unavailable any records or other evidence relating to the hospice provider's compliance with this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 13. **Background studies.** A hospice provider shall:

A. complete background studies as provided in Minnesota Statutes, section [245A.04](#);

B. cooperate with the commissioners of health and human services in connection with background studies, as provided in Minnesota Statutes, section [144.057](#); and

C. comply with Minnesota Statutes, section [144A.754](#), subdivision 5.

Subp. 14. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$100;

B. subpart 3, \$500;

C. subpart 4, \$100;

D. subpart 6, item A, \$100;

E. subpart 6, item B, \$300;

F. subpart 8, \$500;

G. subpart 9, \$500;

H. subpart 10, \$500;

I. subpart 11, \$500;

J. subpart 12, \$500; and

K. subpart 13, \$500.

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4664.0025 ADVERTISING.

Subpart 1. **Advertising.** Licensees shall not use false, fraudulent, or misleading advertising in the marketing of hospice services. For purposes of this part, advertising includes any means of communicating to potential hospice patients or their responsible persons the availability, nature, or terms of hospice services.

Subp. 2. **Fines.** For each violation of this part, a fine of \$250 shall be assessed.

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4664.0030 HOSPICE BILL OF RIGHTS AND NOTIFICATION OF SERVICE CHARGES.

Subpart 1. **Notification of 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, as required by Minnesota Statutes, section [144A.751](#), to each hospice patient or responsible person.

Subp. 2. **Content of notice.** In addition to the text of the bill of rights in Minnesota Statutes, section [144A.751](#), subdivision 1, the written notice to the patient must include the following:

A. a statement, printed prominently in capital letters, as follows:

IF YOU HAVE A COMPLAINT ABOUT THE AGENCY OR PERSON PROVIDING YOU HOSPICE SERVICES, YOU MAY CALL, WRITE, OR VISIT THE OFFICE OF HEALTH FACILITY COMPLAINTS, MINNESOTA DEPARTMENT OF HEALTH. YOU MAY ALSO CONTACT THE OMBUDSMAN FOR OLDER MINNESOTANS;

B. the telephone number, mailing address, and street address of the Office of Health Facility Complaints;

C. the telephone number and address of the Office of the Ombudsman for Older Minnesotans;

D. the licensee's name, address, telephone number, and name or title of the person to whom problems or complaints may be directed; and

E. 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 part [4664.0390](#) on each shift at the residential hospice facility.

Subp. 3. **Charges for services.** A hospice provider must provide to a hospice patient or responsible person within 48 hours of admission a written notice of charges for services, according to Minnesota Statutes, section [144A.751](#), subdivision 1, clause (8). Notice under this subdivision is in addition to the notice required by Minnesota Statutes, section [144A.751](#), subdivision 1, clause (7).

Subp. 4. **Change in charges for services.** A hospice provider must provide written notice of changes in charges for services, according to Minnesota Statutes, section [144A.751](#), subdivision 1, clause (16). The notice must include the name, address, and telephone number of the Office of the Ombudsman for Older Minnesotans.

Subp. 5. **Acknowledgment of receipt.** A hospice provider shall obtain written acknowledgment of the hospice patient's receipt of the bill of rights and notice of charges for services, or if unable to obtain written acknowledgment, document oral acknowledgment of receipt, including the date of the acknowledgment. The acknowledgment must be obtained from the hospice patient or the hospice patient's responsible person.

Subp. 6. **Documentation.** The licensee shall retain in the hospice patient's record documentation of compliance with this

part.

Subp. 7. **Waivers prohibited.** A licensee shall not request or obtain from hospice patients any waiver of any of the rights enumerated in Minnesota Statutes, section [144A.751](#), subdivision 1. A waiver obtained in violation of this subpart is void.

Subp. 8. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$250;
- B. subpart 2, \$50;
- C. subpart 3, \$250;
- D. subpart 4, \$250;
- E. subpart 5, \$50; and
- F. subpart 6, \$50.

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4664.0040 HANDLING OF PATIENTS' FINANCES AND PROPERTY.

Subpart 1. **Powers-of-attorney.** A licensee must not accept powers-of-attorney from hospice patients for any purpose and must not accept appointments as guardians or conservators of hospice patients, unless the licensee maintains a clear organizational separation between the hospice service and the program that accepts guardianship or conservatorship appointments. This subpart does not apply to licensees that are Minnesota counties or other units of government.

Subp. 2. **Handling patient finances.** A licensee may assist hospice patients with household budgeting, including paying bills and purchasing household goods, but must not otherwise manage a hospice patient's finances. A licensee must provide a hospice patient with receipts for all transactions and purchases paid with the hospice patient's funds. When receipts are not available, the transaction or purchase must be documented. A licensee must maintain records of all such transactions.

Subp. 3. **Security of patient property.** A licensee must not borrow a hospice patient's property, nor in any way convert a hospice patient's property to the licensee's possession, except in payment of a fee at the fair market value of the property.

Subp. 4. **Gifts and donations.** Nothing in this part precludes a licensee or its staff from accepting bona fide gifts of minimal value or precludes the acceptance of donations or bequests made to a licensee that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$250;

B. subpart 2, \$100; and

C. subpart 3, \$100.

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4664.0050 COMPLAINT PROCEDURE.

Subpart 1. **Requirement.** A hospice provider must establish a system for receiving, investigating, and resolving complaints from its hospice patients.

Subp. 2. **Designated person.** 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.

Subp. 3. **Interdisciplinary team.** The interdisciplinary team must review any patient, family, or caregiver complaints about care provided and must take remedial action as appropriate.

Subp. 4. **Patient notice.** The system required by subpart 1 must provide written notice to each hospice patient that includes:

A. the hospice patient's right to complain to the licensee about the services received;

B. the name or position 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 Department of Health, Office of Health Facility Complaints; and

E. a statement that the hospice provider shall in no way retaliate because of a complaint.

Subp. 5. **Prohibition against retaliation.** A licensee must not take any action that negatively affects a hospice patient or hospice patient's family in retaliation for a complaint made by the hospice patient.

Subp. 6. **Fines.** For each violation of the following subparts, the stated fines shall be assessed:

A. subpart 1, \$250;

B. subpart 2, \$100;

C. subpart 3, \$300;

D. subpart 4, \$100; and

E. subpart 5, \$250.

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4664.0060 ACCEPTANCE OF PATIENTS; DISCONTINUANCE OF SERVICES.

Subpart 1. **Acceptance of hospice patients.** No licensee shall accept a person as a hospice patient unless the licensee has staff sufficient in qualifications and numbers to adequately provide the hospice services described in Minnesota Statutes, section [144A.75](#), subdivision 8.

Subp. 2. **Discontinuance of services.** If the licensee discharges or transfers a hospice patient for any reason, then:

A. 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;

B. a written notice must be given to the hospice patient or responsible person at least ten days in advance of termination of services by the hospice provider, except according to Minnesota Statutes, section [144A.751](#), subdivision 1, clause (16), and must include the information required under item D, and the name, address, and telephone number of the Office of the Ombudsman for Older Minnesotans. A copy of the discharge notice shall be placed in the clinical record;

C. if the hospice patient's health has improved sufficiently that the patient no longer needs the services of the licensee, the hospice patient's physician must document that the discharge is appropriate; and

D. 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 and must document that the list was provided.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$500; and

B. subpart 2, \$250.

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4664.0070 GOVERNING BODY.

Subpart 1. **Governing body.** A hospice provider must have a governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the hospice provider's total operation. The governing body members must participate in an initial orientation to the hospice philosophy.

Subp. 2. **Administrator.** A licensee must designate an administrator who is responsible for the day-to-day management of the hospice program. The administrator must have defined lines of responsibility and authority and be responsible for the overall management of the hospice. The administrator is responsible to the governing body for:

A. implementing, monitoring, and reporting on the hospice's services;

B. ensuring the quality of patient care;

C. resolving problems, including the retention of all incident and accident reports for at least one year and the results of the investigations; and

D. ensuring that quality assurance activities are performed.

Subp. 3. **Fines.** For each violation of the following

subparts, the stated fine shall be assessed:

A. subpart 1, \$100; and

B. subpart 2, \$100.

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4664.0080 MEDICAL DIRECTOR.

Subpart 1. **Medical director.** A licensee must have a medical director, who may be an employee or contractor or may serve as a volunteer.

Subp. 2. **Role of medical director.** A licensee must establish in writing the medical director's responsibilities and the procedures necessary to implement the licensee's policies and this chapter concerning medical care. The licensee must provide the policies and procedures to the medical director if the medical director is an employee or contractor of the licensee or a volunteer. If the medical director is a contractor, the policies and procedures must be incorporated into a written contract.

Subp. 3. **Responsibilities.**

A. The responsibilities of a medical director include, but are not limited to:

(1) assuming overall responsibility for the medical component of the hospice patient's care program;

(2) implementing the policies and procedures described in subpart 2;

(3) documenting with the attending physician, if chosen, that a hospice patient is terminally ill and the

probable life expectancy is under one year. The medical director may also delegate this responsibility to a physician member of the interdisciplinary team; and

(4) providing consultation to the interdisciplinary team, hospice management, staff, and other community health providers.

B. A medical director may:

(1) with the hospice patient's consent, provide medical services to the patient; and

(2) be the physician member of the interdisciplinary team, according to the hospice provider's policy and practice.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300;

B. subpart 2, \$100; and

C. subpart 3, \$100.

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4664.0085 CLINICAL NURSE SUPERVISION.

Subpart 1. **Requirement.** A licensee must have a clinical nurse supervisor who is a registered nurse.

Subp. 2. **Role.** A licensee must establish in writing the responsibilities of the clinical nurse supervisor and the procedures necessary to implement the licensee's policies and this chapter concerning nursing care and delegation. The licensee must provide the policies and procedures to the clinical nurse supervisor if the clinical nurse supervisor is an employee or contractor of the licensee or a volunteer. If the clinical nurse supervisor is a contractor, the licensee must incorporate the policies and procedures into a written contract.

Subp. 3. **Responsibilities.** The responsibilities of a clinical nurse supervisor include, but are not limited to:

A. assuming overall responsibilities for the nursing component of the hospice patient's care program;

B. implementing policies and procedures described in subpart 2;

C. providing consultation to the interdisciplinary team, hospice management, staff, and other community health providers; and

D. ensuring that a registered nurse supervises

nursing personnel.

Subp. 4. **Fines.** For each violation of the following parts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$100; and
- C. subpart 3, \$300.

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4664.0090 PROFESSIONAL MANAGEMENT RESPONSIBILITY.

Subpart 1. **Professional management.** A hospice provider must ensure that all hospice services provided by contractual arrangement related to a hospice patient's care for terminal illness are provided according to this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#).

Subp. 2. **Written contracts.** If a hospice provider arranges for another individual or entity, including an inpatient facility, to furnish hospice services to a hospice patient, then the hospice provider must have a written contract for the provision of the services. The contract must include:

A. a description of the services to be provided under contract;

B. a stipulation that services may only be provided with the express authorization of the hospice provider;

C. the manner in which the contracted services are coordinated, supervised, and evaluated by the hospice provider;

D. the delineation of the roles of the hospice provider and the contractor in the admission process, patient and family assessment, and interdisciplinary care conferences;

E. requirements for documenting that services are

furnished according to the contract;

F. the qualifications of the personnel providing the services; and

G. a stipulation that the hospice provider is responsible for overall management of the hospice patient's care coordination with other providers.

Subp. 3. **Inpatient services contracts.** If a hospice provider arranges for another individual or entity to furnish inpatient services to a hospice patient, then the hospice provider must have a written contract for the provision of the services. The contract must include:

A. a requirement that the hospice provider furnish to the contractor a copy of the patient's plan of care;

B. a statement that the contractor agrees to abide by the patient care protocols established by the hospice for its patients;

C. a requirement that the medical record includes a record of all inpatient services and events and that a copy of the discharge summary and a copy of the medical record, if requested, is provided to the hospice provider; and

D. a statement that the hospice provider retains responsibility for appropriate hospice care training of the personnel who provide hospice care under the contract.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100;

B. subpart 2, \$100; and

C. subpart 3, \$100.

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4664.0100 ASSESSMENT.

Subpart 1. **Requirement.** A hospice provider must ensure that each hospice patient and hospice patient family has a current assessment. An interdisciplinary team must complete an individualized, comprehensive assessment of each hospice patient and hospice patient family's needs. The assessment must address, but is not limited to, the physical, nutritional, emotional, social, spiritual, pain, symptom management, medication, and special needs of the hospice patient and hospice patient's family during the final stages of illness, dying, and bereavement, and any other areas necessary to the provision of hospice care.

Subp. 2. **Fines.** A fine of \$350 shall be assessed for each violation of this part.

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4664.0110 PLAN OF CARE.

Subpart 1. **Plan of care.** Each hospice patient and hospice patient's family must have a current and up-to-date written plan of care. The plan of care must be based on the assessments described in part [4664.0100](#) and developed by the interdisciplinary team, medical director or designee, and the attending physician prior to providing hospice care. The plan of care must be developed with the active participation of the hospice patient or the hospice patient's responsible person. The plan of care must:

A. reflect the current individualized needs of the hospice patient and the hospice patient's family and be based on the current assessments;

B. address the palliative care of the hospice patient, including medication side effects and monitoring;

C. include a description and frequency of hospice services needed to meet the hospice patient's and hospice patient family's needs. Services must include bereavement counseling for the hospice patient's family for up to one year following the death of the patient; and

D. include identification of the persons or categories of persons who are to provide the hospice services.

Subp. 2. **Implementation.** A hospice provider must ensure that hospice services are provided according to the plan of care.

Subp. 3. **Copy of plan of care.** A hospice provider must provide the hospice patient or the responsible person a copy of the initial plan of care. Changes to the plan of care must be made available to the hospice patient or responsible person upon request.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$350; and
- C. subpart 3, \$50.

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4664.0120 REASSESSMENT AND REVIEW OF PLAN OF CARE.

Subpart 1. **Reassessment.** Each hospice patient and hospice patient's family shall be reassessed based on their individualized needs.

Subp. 2. **Review of plan of care.** A plan of care must be reviewed and updated at intervals as specified in the plan, by the attending physician, medical director, and the interdisciplinary team. The reviews must be documented.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300; and

B. subpart 2, \$50.

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4664.0140 ORIENTATION TO HOSPICE REQUIREMENTS.

Subpart 1. **Orientation training.** 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 to hospice requirements before providing hospice services to hospice patients. The orientation need only be completed once. The orientation training must include the following topics:

A. an overview of this chapter and Minnesota Statutes, sections [144A.75](#) to [144A.755](#);

B. handling of emergencies and use of emergency services;

C. reporting the maltreatment of vulnerable minors and adults under Minnesota Statutes, sections [626.556](#) and [626.557](#);

D. the hospice bill of rights;

E. handling of patients' complaints and reporting of complaints to the Office of Health Facility Complaints;

F. services of the Office of the Ombudsman for Older Minnesotans; and

G. hospice philosophy and the physical, spiritual, and psychosocial aspects of hospice care.

Subp. 2. **Sources of orientation training.** The orientation training required by this part may be provided by the licensee or may be obtained from other sources. The commissioner shall provide a curriculum and materials that may be used to present the orientation training.

Subp. 3. **Verification and documentation.** Each licensee shall retain evidence that the required orientation training has been completed by each person specified in subpart 1.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300; and

B. subpart 3, \$50.

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4664.0150 EMPLOYEE PERFORMANCE REVIEW AND IN-SERVICE TRAINING.

Subpart 1. **Performance review.** A hospice provider must complete a performance review of every employee according to the provider's policy, but no less often than every 24 months.

Subp. 2. **In-service training.** In-service training must address care of the terminally ill and special needs of the hospice patient and the hospice patient's family, as determined by the hospice staff and the interdisciplinary team.

Subp. 3. **Employee proficiency.** A hospice provider must ensure that employees are able to demonstrate competency in skills and techniques necessary to care for hospice patient's needs as identified through assessments and described in the plan of care.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$50;
- B. subpart 2, \$50; and
- C. subpart 3, \$300.

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4664.0160 QUALITY ASSURANCE.

Subpart 1. **Quality assurance.** A hospice provider must conduct an ongoing, integrated, self-assessment of the quality and appropriateness of hospice care provided, including inpatient care, home care, and hospice services provided under contract. The findings shall be used by the hospice provider to correct identified problems and to revise hospice policies if necessary. The licensee shall establish and implement a written quality assurance plan that requires the licensee to:

A. monitor and evaluate two or more selected components of its services at least once every 12 months; and

B. document the collection and analysis of data and the action taken as a result.

Subp. 2. **Fines.** A fine of \$100 shall be assessed for each violation of this part.

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4664.0170 INTERDISCIPLINARY TEAM.

Subpart 1. **Interdisciplinary team.** A hospice provider must designate an interdisciplinary team. The interdisciplinary team must include at least the following individuals, two of whom must be hospice employees:

- A. a doctor of medicine or osteopathy;
- B. a registered nurse;
- C. a social worker; and
- D. a counselor.

Subp. 2. **Coordinator.** A hospice provider must designate a registered nurse to coordinate the implementation of the plan of care for each hospice patient, as developed by the interdisciplinary team.

Subp. 3. **Coordination with other services.** 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.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$300;

B. subpart 2, \$100; and

C. subpart 3, \$100.

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4664.0180 VOLUNTEER SERVICES.

Subpart 1. **Volunteer services.** A hospice provider may use volunteers to provide hospice services as identified by the interdisciplinary team, under the direction of the hospice volunteer coordinator, except for delegated nursing tasks, as described in subparts 6 and 7.

Subp. 2. **Competency.** A hospice provider must ensure that all volunteers are competent to perform their assigned services consistent with the hospice patient's plan of care.

Subp. 3. **Volunteer coordinator.** A hospice provider must designate a hospice provider employee or volunteer to coordinate volunteer services. The volunteer coordinator shall coordinate volunteer services to ensure that they are performed consistent with the individualized plan of care.

Subp. 4. **Professional services.** A hospice provider must ensure that volunteers who provide professional services meet current state licensure or registration requirements.

Subp. 5. **Training.** A hospice provider must ensure that each volunteer completes a volunteer training course before performing any volunteer services. The volunteer training course may be combined with other training, must be consistent with the specific tasks that volunteers perform, and must include the following topics:

- A. the orientation required by part [4664.0140](#);

B. confidentiality of hospice patient records and communications between hospice patients and hospice provider employees, volunteers, and contractors;

C. goals and services of hospice care; and

D. record keeping.

Subp. 6. **Home health aide services.** A hospice provider must ensure that volunteers who perform home health aide services as identified in part [4664.0260](#) have been determined by a registered nurse to be competent in those services.

Subp. 7. **Supervision.** A hospice provider must ensure that supervision of volunteer home health aide services is provided according to part [4664.0260](#), subpart 4.

Subp. 8. **Availability of clergy.** A hospice provider must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to hospice patients who request such visits and must advise hospice patients of the opportunity for visits of clergy.

Subp. 9. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$300;

B. subpart 3, \$100;

C. subpart 4, \$300;

D. subpart 5, \$300;

E. subpart 6, \$300;

F. subpart 7, \$350; and

G. subpart 8, \$100.

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4664.0190 HEALTH INFORMATION MANAGEMENT.

Subpart 1. **Health information management.** A hospice provider must maintain health information management services, including clinical records, according to accepted professional standards and practices, federal regulations, and state statutes pertaining to content of the clinical record, health care data, computerization, confidentiality, retention, and retrieval. The clinical record must be readily accessible and systematically organized to facilitate retrieval. The hospice provider must maintain the records at the hospice provider's office site. For purposes of this part, "health information management" means the collection, analysis, and dissemination of data to support decisions related to patient care, effectiveness of care, reimbursement and payment, planning, research, and policy analysis.

Subp. 2. **Form of entries.** A hospice provider must ensure that entries in the clinical record are made for all hospice services provided. Documentation of hospice services must be created and signed by the staff person providing the service no later than the end of the work period. Entries must be legible, permanently recorded in ink, dated, and authenticated with the name and title of the person making the entry.

Subp. 3. **Content.** A hospice provider must ensure that each hospice patient's record contains:

A. identification data and the name of the responsible person;

B. the initial assessment and reassessments;

C. the plan of care and any changes to the plan of care;

D. pertinent medical history and allergies;

E. complete documentation of all events and services provided directly and by contract, treatments, medications, and progress notes;

F. documentation on the day of occurrence of any significant change in the patient's status or any significant incident and any actions by staff in response to the change or incident;

G. a summary following the discontinuation of services, which includes the reason for the initiation and discontinuation of services and the patient's condition at the discontinuation of services;

H. consent and authorization forms;

I. a copy of the patient's health care directive, if executed and available;

J. any complaints received, investigations, and resolutions;

K. documentation identifying coordination with other persons or entities providing services, as required by part [4664.0170](http://www.revisor.state.mn.us/arule/4664/0170), subpart 3;

L. documentation of tuberculosis screening of residential hospice patients, as required by part [4664.0290](#), subpart 6; and

M. any other information necessary to provide hospice care for each individual hospice patient.

Subp. 4. **Protection of information.** A hospice provider must safeguard clinical records against loss, destruction, and unauthorized use.

Subp. 5. **Confidentiality.** A hospice provider must not disclose to any other person any personal, financial, medical, or other information about a hospice patient, except as may be required or permitted by law. A hospice provider must establish and implement written procedures for security of hospice patient records, including:

A. the use of patient records;

B. the removal of patient records from the establishment; and

C. the criteria for release of patient information.

Subp. 6. **Retention.** A hospice provider must retain a hospice patient's record for at least six years following the patient's discharge or discontinuation of services. A hospice provider must make arrangements for secure storage and retrieval of hospice patient records if the licensee ceases business.

Subp. 7. **Transfer.** If a hospice patient transfers to another hospice provider or other health care practitioner or

provider or is admitted to an inpatient health care facility, a hospice provider, upon request of the hospice patient or as otherwise authorized by law, must send a copy or summary of the hospice patient's record to the new provider or facility or to the patient.

Subp. 8. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$100;
- B. subpart 2, \$50;
- C. subpart 3, \$100;
- D. subpart 4, \$100;
- E. subpart 5, \$250;
- F. subpart 6, \$50; and
- G. subpart 7, \$100.

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4664.0210 PHYSICIAN SERVICES.

Subpart 1. **Medical need requirement.** A hospice provider must ensure that physician services are available and adequate in frequency to meet the general medical needs of the hospice patients to the extent that these needs are not met by the attending physician.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0220 NURSING SERVICES.

Subpart 1. **Requirement.** A hospice provider must ensure that nursing services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0230 MEDICAL SOCIAL SERVICES.

Subpart 1. **Requirement.** A hospice provider must ensure that medical social services are provided by a qualified social worker and are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0240 COUNSELING SERVICES.

Subpart 1. **Requirement.** A hospice provider must ensure that counseling services are available and adequate in frequency to meet the needs of the hospice patient and hospice patient's family. A hospice provider must provide a planned program of supportive services and bereavement counseling under the supervision of a qualified professional according to qualifications identified by hospice policy. The services must be available to patients and families during hospice care and the bereavement period following the death of the hospice patient.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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**4664.0250 PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND
SPEECH-LANGUAGE PATHOLOGY.**

Subpart 1. **Services required.** A hospice provider must ensure that physical therapy services, occupational therapy services, and speech-language pathology services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0260 HOME HEALTH AIDE SERVICES.

Subpart 1. **Home health aide services.** A hospice provider must ensure that home health aide services are available and adequate in frequency to meet the needs of the hospice patient.

Subp. 2. **Competence.** A hospice provider must ensure that persons who perform home health aide services are competent in those services.

Subp. 3. **Delegated home health aide services.** Home health aide services are delegated nursing services or assigned physical therapy services under the direction and supervision of a registered nurse or physical therapist. A registered nurse may delegate nursing services or a physical therapist may assign therapy services only to a home health aide who possesses the knowledge and skills consistent with the complexity of the nursing or physical therapy service being delegated or assigned and only according to Minnesota Statutes, sections [148.171](#) to [148.285](#) or [148.65](#) to [148.78](#), respectively. The licensee must establish and implement policies to communicate up-to-date information to the registered nurse or physical therapist regarding the current home health aides and their training and qualifications, so the registered nurse or physical therapist has sufficient information to determine the appropriateness of delegating or assigning home health aide services.

Subp. 4. **Supervision.** A hospice provider must ensure that the home health aide services are supervised to verify that the services are adequately provided, identify problems, and assess the appropriateness to the patient needs. The hospice provider must ensure that a registered nurse or physical therapist visits

the hospice patient's home site at least every two weeks or more frequently based on the plan of care. The home health aide may or may not be present at the time of the supervisory visit.

Subp. 5. **Written instructions.** A hospice provider must ensure that a registered nurse or physical therapist prepares written instructions for hospice patient care to be performed by a home health aide. The hospice provider must ensure that the registered nurse or physical therapist orients each home health aide to each hospice patient for the services to be performed.

Subp. 6. **Qualifications.** A hospice provider must ensure that persons who perform home health aide services:

A. successfully complete 75 hours of training, as described in subpart 7, and a competency evaluation, as described in subpart 8; or

B. successfully complete a competency evaluation, as described in subpart 8.

Subp. 7. **Training.**

A. If a hospice provider provides training for persons to perform home health aide services, the training must meet the requirements in this subpart.

B. The home health aide training must combine classroom and supervised practical training totaling at least 75 hours, with at least 16 hours devoted to supervised practical training. The individual being trained must complete at least 16 hours of classroom training provided by a registered nurse before beginning the supervised practical training. "Supervised practical training" as used in this subpart means training in a laboratory or other setting in which the trainee demonstrates

knowledge while performing tasks on an individual.

C. The training of home health aides and the supervised practical portion of the training must be performed by or under the general supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which must be in the provision of home health care. Other individuals may provide instruction under the supervision of the qualified registered nurse. A mannequin may be used for training.

D. Classroom and supervised practical training shall be based on an instruction plan that includes learning objectives, clinical content, and minimum acceptable performance standards.

Subp. 8. **Competency evaluation.** A hospice provider must ensure that a home health aide competency evaluation:

A. is performed by a registered nurse;

B. addresses each of the following subject areas:

(1) communication skills;

(2) observation, reporting, and documentation of patient status and the care or service furnished;

(3) basic infection control procedures;

(4) basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

(5) maintenance of a clean, safe, and healthy environment;

(6) recognizing emergencies and knowledge of emergency procedures;

(7) physical, emotional, and developmental needs of and ways to work with the populations served by the hospice provider, including the need for respect for the patient, the patient's privacy, and the patient's property;

(8) adequate nutrition and fluid intake;

(9) reading and recording temperature, pulse, and respiration;

(10) appropriate and safe techniques in personal hygiene and grooming, including bed bath; sponge, tub, or shower bath; shampoo in sink, tub, or bed; nail and skin care; oral hygiene; toileting; and elimination;

(11) safe transfer techniques and ambulation;

(12) normal range of motion and positioning; and

(13) any other task that the registered nurse may choose to have the home health aide perform, including medication reminders, assistance with self-administration of medications, and administration of medications;

C. uses evaluation after observation of the tasks

identified in item B, subitems (9) to (12). Subject areas identified in item B, subitems (1) to (8) and (13), must be evaluated through written examination, oral examination, or after observation of the home health aide with a hospice patient. Assistance with self-administration of medications, administration of medications, and other nursing procedures must be competency evaluated according to part [4664.0265](#); and

D. determines that a home health aide who is evaluated as satisfactory in all subject areas except one is considered competent. The aide is not allowed to perform the task in which the aide is evaluated as unsatisfactory, except under direct supervision of a registered nurse.

Subp. 9. Training and competency.

A. For each person who performs home health aide services, a licensee must comply with this subpart.

B. For each 12 months of employment or contracted services, a person who performs home health aide services must complete at least 12 hours of in-service training in topics relevant to the provision of hospice services.

C. A hospice provider must retain documentation that it has complied with this part and must provide documentation to persons who have completed the in-service training.

D. If a person has not performed home health aide services for a continuous period of 24 consecutive months, the person must demonstrate to a registered nurse competence in the skills listed in subpart 8, item B.

Subp. 10. Documentation. A hospice provider must verify that persons employed or contracted to perform home health aide

services have satisfied the requirements of this part and must retain documentation in the personnel records.

Subp. 11. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$300;
- B. subpart 2, \$300;
- C. subpart 3, \$350;
- D. subpart 4, \$350;
- E. subpart 5, \$300;
- F. subpart 6, \$300;
- G. subpart 7, \$300;
- H. subpart 8, \$300;
- I. subpart 9, \$300; and
- J. subpart 10, \$50.

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4664.0270 MEDICATION AND TREATMENT ORDERS.

Subpart 1. **Administration.** A hospice provider must ensure that all medications and treatments are administered according to the plan of care.

Subp. 2. **Authorizations.** For the purpose of this part, the term "prescriber's order" means an order for medication or treatment. A hospice provider must ensure that there is a written prescriber's order for each drug for which a hospice provider provides assistance with self-administration of medication or medication administration, as defined under part [4664.0265](#), including an over-the-counter drug. The prescriber's order must be dated and signed by the prescriber, except as provided by subparts 4 and 5, and must be current and consistent with the interdisciplinary team assessment. Medications may be administered by:

A. a licensed nurse or physician;

B. a home health aide who has been delegated the task of assistance with self-administration of medications or medication administration by a registered nurse;

C. the hospice patient, or the hospice patient's family, consistent with the plan of care; or

D. any other individual authorized by applicable state and local laws. The person, and each drug the person is authorized to administer, must be specified in the patient's

plan of care.

Subp. 3. **Medication orders.** A prescriber's order for medication must contain the name of the drug, frequency, dosage indication, and directions for use.

Subp. 4. **Oral orders.** Upon receiving a prescriber's order orally from a prescriber, a licensed nurse or pharmacist must:

A. prepare and sign a written order reflecting the oral order; and

B. forward the written order to the prescriber for the prescriber's signature no later than seven days after receipt of the oral order. Written orders reflecting oral orders must be countersigned by the prescriber within 90 days of the oral order.

Subp. 5. **Electronically transmitted orders.** A hospice provider must ensure that:

A. a prescriber's order received by telephone, facsimile machine, or other electronic means is communicated to a supervising registered nurse. The hospice provider must take action to implement the order in a time frame that is consistent with the needs of the hospice patient, but no later than 24 hours;

B. a prescriber's order received by electronic means, not including facsimile machine, is immediately recorded or placed in the hospice patient's record by a licensed nurse, forwarded to the prescriber for the prescriber's signature, and countersigned by the prescriber within 90 days after the order was received by electronic means; and

C. a prescriber's order that is signed by the prescriber may be transmitted by facsimile machine. The prescriber's order must be immediately recorded or a durable copy placed in the hospice patient's record by a person authorized by a supervising registered nurse.

Subp. 6. **Implementation of order.** Upon receipt of a prescriber's order, a nurse must take action to implement the order within 24 hours or sooner to meet the hospice patient's needs.

Subp. 7. **Renewal of orders.** A hospice provider must ensure that a prescriber's order is renewed and meets the individual needs of the hospice patient.

Subp. 8. **Disposition of scheduled drugs.** A hospice provider must develop and implement a written policy for the disposal of drugs scheduled under Minnesota Statutes, section [152.02](#), that are maintained in the hospice patient's home when those drugs are no longer needed by the patient.

Subp. 9. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$350;

B. subpart 2, \$350;

C. subpart 3, \$350;

D. subpart 4, \$350;

E. subpart 5, \$300;

F. subpart 6, \$500 per day;

G. subpart 7, \$100; and

H. subpart 8, \$100.

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4664.0265 HOME HEALTH AIDE REQUIREMENTS.

Subpart 1. **Self-administration of medications; medication administration; other nursing and physical therapy procedures.**

A. A home health aide may perform assistance with self-administration of medications, medication administration, and other nursing and physical therapy procedures if delegated the activity by a registered nurse or physical therapist.

B. "Assistance with self-administration of medications" means performing a task to enable a hospice patient to self-administer medication and includes one or more of the following:

(1) bringing the medication to the hospice patient;

(2) opening a container containing medications set up by a nurse, physician, or pharmacist;

(3) emptying the contents from the container into the hospice patient's hand;

(4) giving a medication container with contents to the hospice patient;

(5) providing liquids or nutrition to accompany medication that a patient is self-administering; or

(6) documenting the administration of medication or documenting the reason for not administering the medication as ordered.

C. "Medication administration" means performing a task to ensure that a hospice patient takes a medication and includes one or more of the following:

(1) checking the hospice patient's medication record;

(2) preparing the medication for administration;

(3) administering the medication to the hospice patient; or

(4) documenting after the administration of medication or documenting the reason for not administering the medication as ordered.

D. "Medication reminder" means providing an oral or visual reminder to a hospice patient to take medication.

E. "Pro re nata medication" or "p.r.n. medication" means a medication that is ordered to be administered to or taken by a hospice patient as necessary. The administration of a p.r.n. medication must be reported to a registered nurse:

(1) within a time period that is specified by a registered nurse prior to the administration; or

(2) if no time limit is specified, no later than 24 hours after its administration.

Subp. 2. **Training.** A home health aide performing assistance with self-administration of medication, medication administration, and other nursing and physical therapy procedures must:

A. be instructed by a registered nurse or physical therapist on specific written instructions and proper methods to perform the procedure;

B. be instructed by a registered nurse or physical therapist on reporting information to a registered nurse or physical therapist regarding the hospice patient's refusal of the procedure, when to report to the registered nurse or physical therapist, medication side effects, and reasons why the medication was not administered or not self-administered; and

C. demonstrate to a registered nurse or physical therapist the home health aide's ability to competently follow the procedure. The registered nurse or physical therapist shall provide patient-specific instructions as required under part [4664.0260](#), subpart 5.

Subp. 3. **Authorization and limitations on administering medications.** Home health aides may be delegated to perform medication administration and assistance with self-administration of medications, whether oral, suppository, eye drops, ear drops, inhalant, topical, or administered through a gastrostomy tube. A home health aide delegated assistance with self-administration of medications and medication administration under this subpart must not be delegated administration of medications by injection, whether intravenously, intramuscularly, or subcutaneously.

Subp. 4. **Fines.** For a violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$350;
- B. subpart 2, \$300; and
- C. subpart 3, \$350.

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[Minnesota Rules, Table of Chapters](#)[Table of contents for Chapter 4664](#)**4664.0290 INFECTION CONTROL.**

Subpart 1. **Screening and prevention.** A hospice provider must establish a tuberculosis counseling, screening, and prevention program for all employees, contractors, and volunteers who have direct contact with hospice patients, according to the most current tuberculosis infection control guidelines issued by the Centers for Disease Control and Prevention (CDC). The guidelines are currently titled "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Facilities, 1994," Morbidity and Mortality Weekly Report (MMWR), Recommendations and Reports, Volume 43, No. RR-13 (October 28, 1994, and as subsequently amended). The guidelines, and any subsequent amendments to the guidelines, are incorporated by reference, are subject to frequent change, and are available on the CDC Web site at www.cdc.gov/nchstp/tb.

Subp. 2. **Tuberculin screening.** A hospice provider must ensure that all employees, contractors, and volunteers who have direct contact with hospice patients, prior to employment and as otherwise indicated in this part, show freedom from active tuberculosis according to this part. The hospice provider must ensure that all such employees, contractors, and volunteers, unless certified in writing by a physician to have had a positive reaction or medical contraindication to a standard intradermal tuberculin skin test, receive or have had a Mantoux intradermal tuberculin skin test within three months prior to employment. Employees, contractors, and volunteers with a previous positive tuberculin skin test reaction must have a chest x-ray, prior to employment and as otherwise indicated in this part, unless they have documentation of a negative chest x-ray performed at any time during or since the initial evaluation of the positive tuberculin skin test.

Subp. 3. **Written documentation.** Reports or copies of reports of the tuberculin skin test or chest x-ray must be maintained by a hospice provider for each employee, contractor, and volunteer who has direct contact with hospice patients.

Subp. 4. **Evaluation of symptoms.** A hospice provider must ensure that all employees, contractors, and volunteers exhibiting symptoms consistent with tuberculosis are evaluated by a physician within 72 hours. An employee, contractor, or volunteer exhibiting symptoms consistent with tuberculosis shall not have direct patient contact until evaluated by a physician.

Subp. 5. **Patient identification; evaluation; treatment.** A hospice provider must develop and implement policies and procedures addressing the identification, evaluation, and initiation of treatment for hospice patients who might have active tuberculosis according to the most current tuberculosis infection control guidelines issued by the CDC, which are incorporated by reference under subpart 1.

Subp. 6. **Hospice patient tuberculosis screening.** A residential hospice facility must ensure that each hospice patient be assessed clinically for symptoms of active pulmonary tuberculosis disease upon admission, or within seven days prior to admission. Symptoms of active tuberculosis disease include a cough lasting longer than three weeks, especially in the presence of other symptoms compatible with tuberculosis, such as weight loss, night sweats, bloody sputum, anorexia, or fever.

Subp. 7. **Training.** A hospice provider must ensure that, for each 12 months of association with the hospice provider, all employees, contractors, and volunteers of the hospice provider who have contact with hospice patients in their residences, and their supervisors, complete in-service training about infection control techniques. The training must include information on:

- A. hand washing techniques;
- B. the need for and appropriate use of protective gloves, gowns, and masks;
- C. disposal of contaminated materials and equipment, such as dressings, needles, syringes, and razor blades;
- D. disinfecting reusable equipment; and
- E. disinfecting environmental surfaces.

Subp. 8. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$100;
- B. subpart 2, \$500;
- C. subpart 3, \$50;
- D. subpart 4, \$500;
- E. subpart 5, \$100;
- F. subpart 6, \$500; and
- G. subpart 7, \$300.

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4664.0300 PERSONNEL RECORDS.

Subpart 1. **Personnel records.** A licensee must maintain a record of each employee, individual contractor, and volunteer. The record must include the following information:

A. evidence of current professional licensure, registration, or certification, if licensure, registration, or certification is required by state or federal law; and

B. records of training required by this chapter.

Subp. 2. **Job descriptions.** A licensee must maintain current job descriptions, including qualifications, responsibilities, and identification of supervisors, if any, for each job classification.

Subp. 3. **Criminal background checks.** A licensee must maintain documentation of criminal background checks as required in Minnesota Statutes, section [144A.754](#). Documentation of criminal background checks may be maintained in a confidential file, if made available to authorized parties upon request.

Subp. 4. **Retention of personnel records.** A hospice provider must maintain each personnel record for at least three years after an employee or contractor ceases to be employed by or under contract with the licensee.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$50;

B. subpart 2, \$50;

C. subpart 3, \$50; and

D. subpart 4, \$50.

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4664.0310 INFORMATION AND REFERRAL SERVICES.

Upon request by the commissioner, a hospice provider must provide to the commissioner information necessary to establish and maintain information and referral services required by Minnesota Statutes, section [144A.755](#).

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4664.0320 SURVEYS.

Subpart 1. **Coordination of surveys.** If feasible, the commissioner must survey licensees to determine compliance with this chapter at the same time as surveys for certification for Medicare and medical assistance if Medicare or Medicaid certification is based on compliance with the federal conditions of participation and on survey and enforcement by the Department of Health as agent for the United States Department of Health and Human Services.

Subp. 2. **Scheduling surveys.** Surveys must be conducted without advance notice to licensees. Surveyors may contact licensees on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

Subp. 3. **Contacting and visiting hospice patients.** Surveyors may contact or visit a hospice provider's patients without notice to the licensee. Before visiting a patient, a surveyor must obtain the patient's or responsible person's permission by telephone, by mail, or in person. Surveyors must inform all patients and responsible persons of their right to decline permission for a visit.

Subp. 4. **Information from hospice patients.** The commissioner may solicit information from hospice patients by telephone, mail, or other means.

Subp. 5. **Patient information.** Upon the commissioner's request, a hospice provider must provide to the commissioner

information identifying some or all of its patients and any other information about the hospice provider's services to the patients.

Subp. 6. **Hospice patient sample.** The commissioner may conduct a written survey of all, or a sampling of, hospice patients to determine their satisfaction with the services provided.

Subp. 7. **Fines.** A fine of \$500 shall be assessed for each violation of subpart 5.

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4664.0330 INPATIENT CARE.

Subpart 1. **Short-term inpatient care.** A hospice provider must ensure that inpatient care is available for pain control, symptom management, and respite purposes and is provided in a licensed hospital, a nursing home, or a residential hospice facility. Inpatient care must be provided directly or under arrangement with one or more hospitals, nursing homes, or residential hospice facilities.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0360 REVIEW OF BUILDINGS.

Subpart 1. **Review of buildings.** Existing buildings and new construction must be reviewed and approved by the commissioner prior to licensure. Review includes submission of construction drawings and written specifications for new construction, additions, and major modifications.

Subp. 2. **Fines.** A fine of \$50 shall be assessed for each violation of this part.

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4664.0370 BUILDING CLASSIFICATION.

Subpart 1. **Building classification.** Notwithstanding the Minnesota State Building Code and the Minnesota State Fire Code, new construction and existing buildings converted to residential hospice facility use must:

A. meet the requirements for Group R, Division 3 occupancy, if serving five or less persons, or Group R, Division 4 occupancy, if serving six to 12 persons, under the International Building Code as incorporated by reference under chapter 1305;

B. meet the requirements of NFPA 101 (Life Safety Code), 1997 edition, chapter 22, section 22-2, for small facilities housing persons with impractical evacuation capability. The Life Safety Code is incorporated by reference under part [4664.0380](#), subpart 2; and

C. if serving five or less persons, be protected throughout by an approved automatic sprinkler system designed and installed according to NFPA 13D or NFPA 13R, which are incorporated by reference under part [4664.0380](#), subpart 2.

Subp. 2. **New construction, additions, and major modifications.** "New construction," as used in this part and part [4664.0360](#), means the erection of new buildings or the alterations of or additions to existing buildings commenced on or after September 26, 2004. Additions to and major modifications of existing residential hospice facilities must

conform to new construction standards. Compliance of existing facilities with new construction shall be for the areas involved and to the extent that the existing structure will permit, provided the health, safety, and welfare of the patients will not be adversely affected.

Subp. 3. **Existing residential hospice facilities.**

Residential hospice facilities licensed before September 26, 2004, are deemed to be in compliance with the physical plant requirements for new construction.

Subp. 4. **Existing building.** An existing building converted to a residential hospice facility must comply with new construction standards.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$500;
- B. subpart 2, \$500; and
- C. subpart 4, \$500.

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4664.0380 OTHER LAW; INCORPORATIONS BY REFERENCE.

Subpart 1. **Minnesota Rules.** All residential hospice facility construction, installations, and equipment must comply with the following rules, provided that the rules are not inconsistent with the requirements of this chapter:

- A. chapters 1300 to 1370, the State Building Code;
- B. chapter 4715, the Plumbing Code;
- C. chapter 4720, public water supplies;
- D. chapter 4725, wells and borings; and
- E. chapter 7080, individual sewage treatment systems.

Subp. 2. **Incorporations by reference.** For purposes of this chapter, the documents listed in items A to D are incorporated by reference. They are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, and through the Minitex interlibrary loan system. They are subject to frequent change. All residential hospice facility construction, installations, and equipment must conform to the following codes, provided that the requirements of the codes are not inconsistent with the requirements of this chapter:

A. NFPA 101, Life Safety Code (1997);

B. NFPA 70, National Electrical Code (1996);

C. NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (1999); and

D. NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height (1999).

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4664.0390 RESIDENTIAL HOSPICE FACILITY STAFFING.

Subpart 1. **Requirements.** A hospice provider that operates a residential hospice facility must ensure that:

A. the residential hospice facility provides 24-hour, seven-day-a-week nursing services that are sufficient to meet total nursing needs according to each hospice patient's needs;

B. by March 26, 2005, each shift at the residential hospice facility includes a licensed nurse who provides, supervises, or monitors direct care, if the facility is licensed for five or more beds;

C. if the facility is licensed for four or fewer beds, at all times the residential hospice facility either:

(1) has on the premises a licensed nurse who provides, supervises, or monitors direct care; or

(2) has on call a licensed nurse who is able to be on the premises within 20 minutes of a request and has on the premises a home health aide who has completed a standardized medication administration training program for unlicensed personnel that is offered through a Minnesota postsecondary educational institution and that includes instruction on all of the tasks specified in part [4664.0265](#), subpart 1, items B and C;

D. the residential hospice facility has the number and type of personnel sufficient to meet the total needs of the hospice patients. At all times when the residential hospice facility has five or more residential hospice patients, the residential hospice facility must have on the premises two staff persons, or one staff person and one volunteer. At all times when the residential hospice facility has four or fewer residential hospice patients, the residential hospice facility must either:

(1) have on the premises two staff persons or one staff person and one volunteer; or

(2) have on the premises one staff person and have one staff person or one volunteer on call and able to be on the premises within 20 minutes of a request;

E. a registered nurse is on call whenever a registered nurse is not on duty; and

F. the residential hospice facility maintains for at least three years documentation to demonstrate that the residential hospice facility is in compliance with the requirements of this part.

Subp. 2. **Fines.** For each violation of the following items in subpart 1, the stated fine shall be assessed:

A. item A, \$500;

B. item B, \$500;

C. item C, \$500;

D. item D, \$500;

E. item E, \$500; and

F. item F, \$50.

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4664.0400 FACILITY REQUIREMENTS.

Subpart 1. **Building maintenance.** A hospice provider that operates a residential hospice facility must ensure that every building, structure, or enclosure utilized by the facility is kept in good repair. The residential hospice provider shall develop and implement a written routine maintenance and repair program.

Subp. 2. **Accessibility.** Every floor of a residential hospice facility that is used for patient care must be wheelchair accessible according to chapter 1341.

Subp. 3. **Freestanding or separate.** A residential hospice facility must be either a freestanding building or separated from other occupancies according to the State Building Code.

Subp. 4. **Floors, walls, and ceilings.** The floor coverings of all rooms, hallways, bathrooms, storage rooms, and all other spaces used or traversed by hospice patients and staff must be easily cleanable. Rugs, carpet, natural stone, ceramic tile, sheet vinyl, and vinyl tile, which can be easily cleaned, are acceptable. Abrasive strips to reduce or prevent slipping must be provided where slippery surfaces present a hazard. The floors, walls, and ceilings of all rooms, hallways, and stairways must be kept clean and maintained in good repair.

Subp. 5. **Housekeeping.** A hospice provider that operates a residential hospice facility must provide housekeeping and maintenance services necessary to maintain a clean, orderly, and comfortable interior, including walls, floors, ceilings,

registers, fixtures, equipment, lighting, and furnishings.

Subp. 6. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$200;
- B. subpart 2, \$200;
- C. subpart 3, \$500;
- D. subpart 4, \$200; and
- E. subpart 5, \$200.

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4664.0420 PATIENT AREAS.

Subpart 1. **Comfort and privacy.** A hospice provider that operates a residential hospice facility must design and equip areas for the comfort and privacy of each hospice patient and hospice patient's family.

Subp. 2. **Physical space.** Each residential hospice facility must have:

A. physical space for private patient and family visiting; and

B. accommodations for the hospice patient's family to remain with the patient throughout the night.

Subp. 3. **Visitors.** A hospice provider that operates a residential hospice facility must ensure that hospice patients are permitted to receive visitors, including small children, at any hour.

Subp. 4. **Furnishings.** Furnishings of a residential hospice facility must be home-like and noninstitutional. Lounge furniture must be provided in the living room, recreational, and social spaces. Accessories such as wallpaper, bedspreads, carpets, and lamps must be selected to create a home-like atmosphere. Provision must be made for each hospice patient to bring items from home to place in the bedroom to the extent that available space provides. All fixtures, furniture, and furnishings, including windows, draperies, curtains, and

carpets, must be kept clean and must be maintained in a serviceable condition.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 1, \$200;
- B. subpart 2, \$200;
- C. subpart 3, \$100; and
- D. subpart 4, \$200.

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4664.0425 CENTRAL MEDICATION STORAGE.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Central medication storage.** Central storage of medications must be managed under a system that is established by a pharmacist or a registered nurse in consultation with a pharmacist and that addresses the control of medications, handling of medications, medication containers, medication records, and disposition of medications, including ongoing security of drugs scheduled under Minnesota Statutes, section [152.02](#). Central medication storage must include a cabinet or device that stores medications for one or more persons. Medications requiring refrigeration must be stored in a separate locked box in the refrigerator or in a separate lockable drug-only refrigerator, capable of maintaining temperatures required for the storage of drugs. Central medication storage is not required for hospice patient medications in a private home unless assessed as needed by the interdisciplinary team.

Subp. 3. **Control of medications.** A residential hospice facility must have in place and implement a written policy that contains at least the following provisions:

A. a statement of whether the staff will be delegated to provide medication reminders, assistance with self-administration of medication, medication administration, or a combination of those services;

B. a description of how the distribution of medications will be handled;

C. a requirement that all drugs be stored in locked compartments under proper temperature controls. Schedule II drugs, as defined in Minnesota Statutes, section [152.02](#), must be stored in separately locked compartments, permanently affixed to the physical plant or medication cart;

D. a procedure for accounting for all Schedule II drugs after each shift;

E. procedures for recording medications that hospice patients are taking;

F. procedures for review and destruction of discontinued, outdated, or deteriorated drugs. Secure storage of all discontinued drugs must be provided until destruction. Schedule II drugs must be held in a separately locked compartment until destruction. Destruction of all legend drugs must be witnessed and documented by two persons, one of which is a registered nurse. The destruction notation must include the date, quantity, name of drug, prescription number, signature of the person destroying the drugs, and signature of the witness. The medication destruction must be recorded in the patient's clinical record;

G. procedures to address hospice patient medications brought from home; and

H. a statement that only authorized personnel are permitted to have access to keys to locked drug compartments.

Subp. 4. **Over-the-counter drugs.** An over-the-counter drug may be retained in general stock supply and must be kept in the

original labeled container.

Subp. 5. **Legend drugs.** A legend drug must be kept in its original container bearing the original prescription label with legible information stating the prescription number, name of drug, strength and quantity of drug, expiration date of a time-dated drug, directions for use, patient's name, prescriber's name, date of issue, and the name and address of the licensed pharmacy that issued the medication.

Subp. 6. **Medication samples.** A sample of medication provided to a hospice patient by an authorized prescriber may be used by the patient and must be identified with the patient's name and kept in its original container bearing the original label with legible directions for use. If assistance with self-administration of medication or medication administration is provided, a hospice patient's plan of care must address the use of a medication sample.

Subp. 7. **Prohibitions.** No legend drug supply for one hospice patient may be used or saved for the use of another patient.

Subp. 8. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$300;
- B. subpart 3, \$300;
- C. subpart 4, \$300;
- D. subpart 5, \$300;

E. subpart 6, \$300; and

F. subpart 7, \$300.

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4664.0430 PATIENT CARE AREAS.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Space to meet needs of patients.** Appropriate space and arrangements for sleeping, dining, and recreation and other common use areas for patient activities must be provided.

Subp. 3. **Patient bedroom.** A bedroom must be an exterior room with at least one window, which is easily opened to the outside. The floor of the bedroom at the exterior wall must be at or above grade. The windowsill must be no more than 30 inches above the floor. Each bedroom must have no more than two beds. Each bedroom must provide at least 100 square feet of useable floor area for a hospice patient in a private room or 80 square feet for each hospice patient in a double room. No basic interior room dimension may be less than nine feet. The shape of the bedroom must allow for the capability of a bed arrangement that provides at least three feet of floor space at both sides and the foot end of each bed. A bedroom must provide an individual enclosed wardrobe or closet space for each hospice patient. The wardrobe or closet must be accessible for use by each hospice patient. A bedroom or bathroom must be equipped with an individual towel bar for each hospice patient. A bedroom must have provisions to ensure visual privacy for treatment and visiting. A room with access only through a kitchen, bathroom, or bedroom will not be approved as a hospice patient bedroom.

Subp. 4. **Patient bedroom furnishings.** A bedroom must

contain a serviceable bed, pillow, and chair. The bed must be at least 36 inches wide. Beds must be of suitable construction and dimensions to accommodate persons using them.

Subp. 5. **Bedding and linen.** A residential hospice facility must have available at all times a quantity of linen essential for proper care and comfort of hospice patients. All beds provided for hospice patients must be supplied with suitable pillowcases and bottom and top sheets. All bedding and bath linen, including mattresses, quilts, blankets, pillows, pillowcases, sheets, bedspreads, towels, and washcloths must be kept clean and in serviceable condition. Clean bed linen must be furnished at least once each week, or more frequently to maintain cleanliness, and at least one clean washcloth and one clean towel must be available each day to a hospice patient.

Subp. 6. **Linen handling.** A hospice provider must ensure that all bedding and bath linen, including mattresses, quilts, blankets, pillows, pillow cases, sheets, bedspreads, towels, and washcloths are kept clean and in serviceable condition. The residential hospice facility must ensure that linens are handled, stored, processed, and transported in such a manner to prevent the spread of infection.

Subp. 7. **Personal clothing and laundry.** Each hospice patient must have neat and clean clothing appropriate for the patient's needs. Laundry services must be provided and managed in a manner to provide clean clothing on a daily basis or more often if needed to maintain cleanliness.

Subp. 8. **Residential-type equipment.** Provision must be made directly or by contract for washing and drying linen and personal clothing. If provided directly by the hospice provider, the washer and dryer may be residential-type equipment for linen and personal laundry.

Subp. 9. **Patient bathroom.** Bathroom facilities must be

conveniently accessible to hospice patient rooms. One bathroom may serve up to eight hospice patients. There must be at least one handicapped-accessible bathroom in each residential hospice facility. The bathroom must be furnished with a water closet, lavatory, mirror, paper towel dispenser, soap dispenser, and a tub or shower. If a tub or shower is provided in a separate bathing room, these fixtures are not required in the bathroom. The separate bathing room, if provided, must be handicapped-accessible. A handicapped-accessible bathroom and bathing room must be available on each inhabited floor.

Subp. 10. **Call system.** An electrical hardwired or wireless electronic call system must be provided in each hospice patient bedroom and bathroom. If the tub or shower is in a room separate from a bathroom, a call system must be provided in the tub or shower room.

Subp. 11. **Living and lounge space.** A minimum of 30 square feet per bed of living and lounge space must be provided.

Subp. 12. **Space for social activities.** A minimum of 200 square feet, exclusive of corridors, hallways, and living and lounge space, must be provided for recreational and social activities.

Subp. 13. **Soiled linen and infectious waste.** A separate enclosed room must be provided for the storage of soiled linen and infectious waste.

Subp. 14. **Ancillary space.** Space must be provided for charting, storage of clean linen, clean supplies, personal effects of staff, patient care equipment, housekeeping and cleaning supplies and equipment, and medications.

Subp. 15. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$100;
- B. subpart 3, \$100;
- C. subpart 4, \$100;
- D. subpart 5, \$200;
- E. subpart 6, \$300;
- F. subpart 7, \$100;
- G. subpart 8, \$200;
- H. subpart 9, \$200;
- I. subpart 10, \$200;
- J. subpart 11, \$200;
- K. subpart 12, \$200;
- L. subpart 13, \$200; and
- M. subpart 14, \$200.

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4664.0440 MECHANICAL SYSTEMS.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Water supply system.** An adequate and safe supply of potable water must be provided for the residential hospice facility. The water supply system must be located, constructed, and operated according to the standards of the commissioner. A community water supply system must comply with chapter 4720. A domestic water well system must comply with chapter 4725.

Subp. 3. **Plumbing system.** All plumbing systems must be installed and tested according to chapter 4715, the Plumbing Code.

Subp. 4. **Sewage disposal system.** All liquid waste must be disposed of in an approved public sewage system or in a sewage system that is designed, constructed, installed, and operated according to chapter 4715 and applicable local ordinances. An individual on-site sewage treatment system must comply with chapter 7080.

Subp. 5. **Ventilation system.** Mechanical supply and exhaust ventilation must be provided in each living room, kitchen, bedroom, bathroom, soiled linen room, and laundry room. The system must be capable of maintaining excessive heat, odors, fumes, vapors, smoke, and condensation at a level barely perceptible to the normal senses.

Subp. 6. **Heating, cooling, and humidification systems.**

Heating and cooling systems must be capable of maintaining a minimum temperature of 72 degrees Fahrenheit during the heating season and a maximum temperature of 78 degrees Fahrenheit during the cooling season in all hospice patient use areas. Areas must be zoned according to use and exposure and must be provided with thermostatic temperature controls. The humidification system must be capable of maintaining a space humidity between 30 percent relative humidity and 50 percent relative humidity.

Subp. 7. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$200;
- B. subpart 3, \$200;
- C. subpart 4, \$200;
- D. subpart 5, \$200; and
- E. subpart 6, \$200.

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4664.0450 ELECTRICAL SYSTEMS.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must ensure that the requirements of this part are met.

Subp. 2. **Electrical systems.** All electrical systems must be installed and tested according to the National Electrical Code, incorporated by reference under part [4664.0380](#), subpart 2.

Subp. 3. **Interior lighting.** Artificial lighting must be provided in every room of a residential hospice facility. The lighting must be consistent with a home-like atmosphere and provide illumination levels suitable to the tasks the hospice patient chooses to perform or the residential hospice facility staff must perform.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$200; and

B. subpart 3, \$200.

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4664.0470 ISOLATION.

Subpart 1. **Isolation.** A hospice provider that operates a residential hospice facility must maintain and implement a procedure for isolating hospice patients with infectious diseases. The hospice provider must institute the most current isolation precautions recommendations of the Centers for Disease Control and Prevention (CDC). The recommendations are currently titled "Guideline for Isolation Precautions in Hospitals" (1996, and as subsequently amended). The recommendations, and subsequent amendments to the recommendations, are incorporated by reference. The recommendations are available on the CDC Web site at: www.cdc.gov/ncidod and are subject to frequent change.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0480 COMMUNICABLE DISEASE REPORTING.

Subpart 1. **Reportable diseases.** A hospice provider must comply with chapter 4605 as required by part [4605.7030](#), subpart 6.

Subp. 2. **Fines.** A fine of \$300 shall be assessed for each violation of this part.

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4664.0490 MEAL SERVICE.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Nutritional needs.** A hospice provider must provide services designed to meet the individualized nutritional needs of each hospice patient. Special dietary restrictions must be noted on the patient's plan of care. Food and nutritional supplements must be provided to meet individual needs.

Subp. 3. **Meal preparation.** Employees, volunteers, licensed food service contractors, or providers licensed by the department may provide meal preparation in a residential hospice facility. All employees or volunteers who prepare or serve food must receive training in the safe practices of food handling. Food must be stored, prepared, distributed, and served under sanitary conditions to prevent food borne outbreaks.

Subp. 4. **Kitchen and dining areas.** The kitchen must have a refrigerator, stovetop and oven, exhaust hood, microwave oven, double-compartment sink, and dishwashing machine. The exhaust hood must be located over the stovetop and be vented to the outside. The dining area must be adequate for the hospice patients. "Adequate" means large enough to provide space for both seating and safe circulation of all persons using the dining area.

Subp. 5. **Food service equipment.** In a residential hospice

facility licensed for 12 or fewer beds, the kitchen appliances may be domestic-type equipment. Enclosed storage space for nonperishables must be provided in the kitchen. All appliances must be maintained in working order.

Subp. 6. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

- A. subpart 2, \$350;
- B. subpart 3, \$350;
- C. subpart 4, \$200; and
- D. subpart 5, \$200.

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4664.0500 EMERGENCY PROCEDURES.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must comply with this part.

Subp. 2. **Emergency plan.** A residential hospice facility must maintain a written plan that specifies action and procedures for responding to emergency situations such as fire, severe weather, or a missing person. The plan must be developed with the assistance and advice of at least the local fire or rescue authority or any other appropriate resource persons. An accident or incident report must be maintained for at least one year.

Subp. 3. **Education.** The emergency plan must be clearly communicated to all staff persons during orientation. Each staff person must be knowledgeable of and must implement the emergency plan. The emergency plan must include:

A. assignment of persons to specific tasks and responsibilities in case of an emergency situation;

B. instructions relating to the use of alarm systems and signals;

C. systems for notification of appropriate persons outside of the facility;

D. information on the location of emergency equipment in the facility; and

E. specification of evacuation routes and procedures.

Subp. 4. **Emergency medical services.** A residential hospice facility must have current and up to date written protocols for appropriate services for medical emergencies. Staff must implement these protocols in medical emergencies.

Subp. 5. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$100;

B. subpart 3, \$350; and

C. subpart 4, \$300.

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4664.0510 KEYS.

Subpart 1. **Keys.** A hospice provider that operates a residential hospice facility must ensure that the person in charge of the residential hospice facility during each work shift has in the person's possession, at all times, keys to all locks on exits and egresses.

Subp. 2. **Fines.** A fine of \$100 shall be assessed for each violation of this part.

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4664.0520 SMOKING.

Subpart 1. **Applicability.** A hospice provider that operates a residential hospice facility must ensure that the requirements of this part are met.

Subp. 2. **Written policy.** A residential hospice facility may allow hospice patients and visitors to smoke in the facility. If smoking is permitted, the written policy and practices must be according to part [4620.1200](#) and Minnesota Statutes, sections [144.411](#) to [144.417](#).

Subp. 3. **Mechanical ventilation.** Bedrooms in which smoking is permitted must be provided with adequate exhaust ventilation. The mechanical means of ventilation must provide a minimum of ten air changes per hour and be directly exhausted to the outside. A separate exhaust fan within the bedroom for this purpose is acceptable.

Subp. 4. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 2, \$100; and

B. subpart 3, \$200.

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4664.0530 CENSUS DATA.

Subpart 1. **Census data.** A hospice provider that operates a residential hospice facility must maintain a separate record of admissions, discharges, deaths, and transfers of hospice patients and must ensure that these records are available for inspection by department employees for at least six years.

Subp. 2. **Fines.** A fine of \$100 shall be assessed for each violation of this part.

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4664.0540 HOSPICE PATIENT DEATH.

Subpart 1. **County coroner.** A hospice provider must notify the county coroner's office, according to county policy, of the death of any hospice patient.

Subp. 2. **Personal belongings.** Personal belongings of a deceased hospice patient of a residential hospice facility shall be returned to the responsible person.

Subp. 3. **Fines.** For each violation of the following subparts, the stated fine shall be assessed:

A. subpart 1, \$100; and

B. subpart 2, \$100.

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4664.0550 PET ANIMALS.

Subpart 1. **Pet animals.** Pet animals may be kept on the premises of a residential hospice facility only according to the hospice provider's policies and procedures for such animals. A hospice provider's policies and procedures must comply with applicable state and local rules and regulations. A hospice provider shall maintain records for inoculations and other care for the animals as required by ordinance of the local jurisdiction in which the residential hospice facility is located.

Subp. 2. **Fines.** A fine of \$100 shall be assessed for each violation of this part.

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