STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2464 BY: MADDOX (Jim) of the HOUSE

and

HOOPER of the SENATE

COMMITTEE SUBSTITUTEAN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING 63 O.S. 1991, SECTIONS 1-860.2 AND 1-860.6, WHICH RELATE TO THE OKLAHOMA HOSPICE LICENSING ACT; MODIFYING CERTAIN DEFINITION; AUTHORIZING CERTAIN HOSPICES TO BE LICENSED; PROHIBITING CERTAIN CONSTRUCTION OF ACT; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-860.2, is amended to read as follows:

Section 1-860.2 As used in the Oklahoma Hospice Licensing Act, Section 1-860.1 et seq. of this title:

1. "Board" means the State Board of Health;

2. "Department" means the State Department of Health;

3. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program located in a municipality with a population in excess of twenty-five thousand (25,000) which provides a continuum of home and inpatient care for

the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program located in a municipality with a population of less than twenty-five thousand (25,000) if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

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

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

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

home or other health care provider shall not constitute a hospice unless such hospital, nursing home or other health care provider establishes a freestanding hospice;

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

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

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

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

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

12. "Freestanding hospice" means a facility or program in which only hospice services are provided;

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

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

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

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-860.2a of Title 63, unless there is created a duplication in numbering, reads as follows:

A public or private agency or person located in municipalities with a population of less than twenty-five thousand (25,000) which establishes, conducts, or maintains a hospice or holds itself out to the public as a hospice may, but is not required by the Oklahoma Hospice Licensing Act, to obtain a license from the Department pursuant to the Oklahoma Hospice Licensing Act, Section 1-860.1 of Title 63 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-660.6, is amended to read as follows:

Section 1-860.6 A. No public or private agency or person located in a municipality with a population in excess of twenty-five thousand (25,000) shall establish, conduct or maintain a hospice or hold itself out to the public as a hospice without first obtaining a license therefor from the <u>State</u> Department <u>of Health; provided, however, nothing in this act shall be construed to prohibit a public or private agency or person located in a municipality with a population of less than twenty-five thousand (25,000) from establishing, conducting or maintaining a hospice or holding itself out to be public as a hospice if licensed therefor by the Department</u>.

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

1. The license fee required by Section ~~15 of the Oklahoma Hospice Licensing Act~~ 1-860.15 of this title;

2. Satisfactory proof that the hospice is in compliance with the Oklahoma Hospice Licensing Act, Section 1-860.1 et seq. of this title, and any rules and minimum standards promulgated by the Department pursuant to the Oklahoma Hospice Licensing Act; and

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

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

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

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

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

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

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

6. The projected annual operating cost of the hospice.

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

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

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

F. The license shall:

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

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

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

4. Not be valid for any hospice other than the hospice for which originally issued.

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

application, obtain a license, and comply with the provisions of the Oklahoma Hospice Licensing Act.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-2096 CJ