STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1663 By: Cain

COMMITTEE SUBSTITUE

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 1-860.2 and 1-860.6, which relate to the Oklahoma Hospice Licensing Act; expanding definitions; providing for specified types of hospice facilities or programs; expanding list of items that accompany a license application; prohibiting the operation of more than one residential hospice facility by a licensed hospice; and providing an effective date.

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

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

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

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

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

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

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

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

6. "Hospice services" means those services furnished to a patient by a hospice or by other persons, pursuant to arrangements with such a hospice in a place of temporary or permanent residence used as the home of the terminally ill patient for the purpose of maintaining the patient at home. If the 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~~ Residential hospice facility" means a facility ~~or program~~ of a licensed hospice 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~~ as 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, hospice services, or personal care. The term "health care provider" includes, but is not limited to, residential hospice facilities, hospitals, skilled nursing homes, intermediate care facilities and room and board homes.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-860.6, is amended to read as follows:

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

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 1-860.15 of this title;

2. Documentation of complete disclosure for the applicant which shall include, but not be limited to, the name, mailing address and finding address of every stockholder with at least five percent (5%) ownership interest in the hospice;

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

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

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

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

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

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

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

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

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

7. The location and drawings of any proposed residential hospice facility to be operated by the hospice. A licensed hospice shall not operate more than one residential hospice facility.

D. A license issued for the operation of a hospice program, unless sooner suspended or revoked, shall expire automatically one (1) year from the date of issuance. At least sixty (60) days prior to the expiration date, an application for license renewal shall be submitted to the Department on forms furnished by the Department. The license shall be renewed if the applicant has complied with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the provisions of the Oklahoma Hospice Licensing Act. The application for license renewal shall be accompanied by an update of the plan for delivery of hospice services only if information contained in the plan submitted pursuant to subsection C of this section is no longer applicable or up-to-date.

E. A hospice 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 September 1, 1991, provided such person otherwise complies with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the act. Thereafter any person providing hospice services shall make application, obtain a license, and comply with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the act.

SECTION 3. This act shall become effective November 1, 2002.

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