

1 ENGROSSED HOUSE  
2 BILL NO. 1438

By: Caldwell of the House

and

Yen of the Senate

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6  
7 An Act relating to hospice administrators; amending  
8 63 O.S. 2011, Section 1-860.4, which relates to  
9 requirements for hospices; requiring hospice programs  
10 to be managed by administrators; requiring  
11 administrators to complete continuing education  
12 courses; requiring State Board of Health to  
13 promulgate certain rules; directing Board to  
14 collaborate with certain organizations; requiring  
15 hospice program to maintain continuing education  
16 records; providing for codification; and providing an  
17 effective date.

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

19 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-860.4, is  
20 amended to read as follows:

21 Section 1-860.4 A. A hospice shall comply with the following:

22 1. A hospice shall coordinate its services with those of the  
23 patient's primary or attending physician;

24 2. A hospice shall coordinate its services with professional  
and nonprofessional services already in the community. A hospice  
may contract for some elements of its services to a patient and  
family, provided direct patient care is maintained with the patient

1 and the hospice team so that overall coordination of services can be  
2 maintained by the hospice team. The majority of hospice services  
3 available through a hospice shall be provided directly by the  
4 licensee. Any contract entered into between a hospice and health  
5 care provider shall specify that the hospice retain the  
6 responsibility for planning, coordinating and prescribing hospice  
7 services on behalf of a hospice patient and the hospice patient's  
8 family. No hospice may charge fees for services provided directly  
9 by the hospice team which duplicate contractual services provided to  
10 the patient or the patient's family;

11 3. The hospice team shall be responsible for coordination and  
12 continuity between inpatient and home care aspects of care;

13 4. A hospice shall not contract with a health care provider or  
14 another hospice that has or has been given a conditional license  
15 within the last eighteen (18) months;

16 5. Hospice services shall provide a symptom control process, to  
17 be provided by a hospice team skilled in physical and psychosocial  
18 management of distressing signs and symptoms;

19 6. Hospice care shall be available twenty-four (24) hours a  
20 day, seven (7) days a week;

21 7. A hospice shall have a bereavement program which shall  
22 provide a continuum of supportive and therapeutic services for the  
23 family;

1 8. The unit of care in a hospice program shall be composed of  
2 the patient and family;

3 9. A hospice program shall provide a continuum of care and a  
4 continuity of care providers throughout the length of care for the  
5 patient and to the family through the bereavement period;

6 10. A hospice program shall not impose the dictates of any  
7 value or belief system on its patients and their families;

8 11. a. Admission to a hospice shall be upon the order of a  
9 physician licensed pursuant to the laws of this state  
10 and shall be dependent on the expressed request and  
11 informed consent of the patient and family.

12 b. The hospice program shall have admission criteria and  
13 procedures that reflect:

14 (1) the patient and family's desire and need for  
15 service,

16 (2) the participation of the attending physician, and

17 (3) the diagnosis and prognosis of the patient.

18 c. (1) Any hospice or employee or agent thereof who  
19 knowingly or intentionally solicits patients or  
20 pays to or offers a benefit to any person, firm,  
21 association, partnership, corporation or other  
22 legal entity for securing or soliciting patients  
23 for the hospice or hospice services in this  
24 state, upon conviction thereof, shall be guilty

1 of a misdemeanor and shall be punished by a fine  
2 of not less than Five Hundred Dollars (\$500.00)  
3 and not more than Two Thousand Dollars  
4 (\$2,000.00).

5 (2) In addition to any other penalties or remedies  
6 provided by law:

7 (a) a violation of this section by a hospice or  
8 employee or agent thereof shall be grounds  
9 for disciplinary action by the State  
10 Department of Health, and

11 (b) the State Department of Health may institute  
12 an action to enjoin violation or potential  
13 violation of this section. The action for  
14 an injunction shall be in addition to any  
15 other action, proceeding or remedy  
16 authorized by law.

17 (3) This subparagraph shall not be construed to  
18 prohibit:

19 (a) advertising, except that advertising which:  
20 (i) is false, misleading or deceptive,  
21 (ii) advertises professional superiority or  
22 the performance of a professional  
23 service in a superior manner, and  
24

1 (iii) is not readily subject to verification,  
2 and

3 (b) remuneration for advertising, marketing or  
4 other services that are provided for the  
5 purpose of securing or soliciting patients,  
6 provided the remuneration is:

7 (i) set in advance,

8 (ii) consistent with the fair market value  
9 of the services, and

10 (iii) not based on the volume or value of any  
11 patient referrals or business otherwise  
12 generated between the parties, and

13 (c) any payment, business arrangements or  
14 payments practice not prohibited by 42  
15 U.S.C., Section 1320a-7b(b), or any  
16 regulations promulgated pursuant thereto.

17 (4) This paragraph shall not apply to licensed  
18 insurers, including but not limited to group  
19 hospital service corporations or health  
20 maintenance organizations which reimburse,  
21 provide, offer to provide or administer hospice  
22 services under a health benefits plan for which  
23 it is the payor when it is providing those  
24 services under a health benefits plan; ~~and~~

1 12. A hospice program shall develop and maintain a quality  
2 assurance program that includes:

- 3 a. evaluation of services,
- 4 b. regular chart audits, and
- 5 c. organizational review; and

6 13. A hospice program shall be managed by an administrator  
7 meeting the requirements as set forth in Section 2 of this act.

8 B. A hospice team shall consist of, as a minimum, a physician,  
9 a registered nurse, and a social worker or counselor, each of whom  
10 shall be licensed as required by the laws of this state. The team  
11 may also include clergy and such volunteers as are necessary to  
12 provide hospice services. A registered nurse licensed pursuant to  
13 the laws of this state shall be employed by the hospice as a patient  
14 care coordinator to supervise and coordinate the palliative and  
15 supportive care for patients and families provided by a hospice  
16 team.

17 C. 1. An up-to-date record of the services given to the  
18 patient and family shall be kept by the hospice team. Records shall  
19 contain pertinent past and current medical, nursing, social, and  
20 such other information that is necessary for the safe and adequate  
21 care of the patient and the family. Notations regarding all aspects  
22 of care for the patient and family shall be made in the record.  
23 When services are terminated, the record shall show the date and  
24 reason for termination. +

1           2. Information received by persons employed by or providing  
2 services to a hospice, or information received by the State  
3 Department of Health through reports or inspection shall be deemed  
4 privileged and confidential information and shall not be disclosed  
5 to any person other than the patient or the family without the  
6 written consent of that patient, the patient's guardian or the  
7 patient's family.

8           D. 1. A hospice program shall have a clearly defined and  
9 organized governing body, which has autonomous authority for the  
10 conduct of the hospice program;

11           2. The hospice program shall have an administrator who shall be  
12 responsible for the overall coordination and administration of the  
13 hospice program.

14           SECTION 2.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1-862 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17           A. All administrators operating a hospice program in this state  
18 shall be required to complete eight (8) hours of continuing  
19 education each calendar year.

20           B. The State Board of Health shall promulgate rules concerning  
21 the qualifications of continuing education courses for  
22 administrators of hospice programs. Courses shall consist of a  
23 minimum of forty-five (45) minutes in length and may be completed  
24 either in person or online. Two (2) of the eight (8) hours shall be

1 composed of ethics, and membership in a statewide organization  
2 relating to hospice care shall be considered as completion of one  
3 (1) hour of ethics credit each year. The Board may collaborate with  
4 statewide organizations specializing in the administration of  
5 hospice care to develop the qualifications provided for in this  
6 subsection.

7 C. A hospice program shall be responsible for maintaining  
8 records demonstrating its administrator has completed the required  
9 continuing education. The State Department of Health may request  
10 copies of such records at any time.

11 SECTION 3. This act shall become effective November 1, 2015.

12 Passed the House of Representatives the 2nd day of March, 2015.

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14 \_\_\_\_\_  
15 Presiding Officer of the House  
of Representatives

16 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

17  
18 \_\_\_\_\_  
19 Presiding Officer of the Senate