HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1438 By: Caldwell of the House

and

Yen of the Senate

COMMITTEE SUBSTITUTE

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

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

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

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

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

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~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

(2) the participation of the attending physician, and

(3) the diagnosis and prognosis of the patient.

c. (1) Any hospice or employee or agent thereof who knowingly or intentionally solicits patients or pays to or offers a benefit to any person, firm, association, partnership, corporation or other

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legal entity for securing or soliciting patients for the hospice or hospice services in this state, upon conviction thereof, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars ($2,000.00).

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

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

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

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

(a) advertising, except that advertising which:

(i) is false, misleading or deceptive,

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(ii) advertises professional superiority or the performance of a professional service in a superior manner, and

(iii) is not readily subject to verification, and

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

(i) set in advance,

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

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

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

(4) This paragraph shall not apply to licensed insurers, including but not limited to group hospital service corporations or health maintenance organizations which reimburse, provide, offer to provide or administer hospice

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services under a health benefits plan for which it is the payor when it is providing those services under a health benefits plan; ~~and~~

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

a. evaluation of services,

b. regular chart audits, and

c. organizational review; and

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

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

C. 1. An up-to-date record of the services given to the patient and family shall be kept by the hospice team. Records shall contain pertinent past and current medical, nursing, social, and such other information that is necessary for the safe and adequate care of the patient and the family. Notations regarding all aspects

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of care for the patient and family shall be made in the record. When services are terminated, the record shall show the date and reason for termination;

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

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

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

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

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

B. The State Board of Health shall promulgate rules concerning the qualifications of continuing education courses for

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administrators of hospice programs. Courses shall consist of a minimum of forty-five (45) minutes in length and may be completed either in person or online. Two (2) of the eight (8) hours shall be composed of ethics, and membership in a statewide organization relating to hospice care shall be considered as completion of one (1) hour of ethics credit each year. The Board may collaborate with statewide organizations specializing in the administration of hospice care to develop the qualifications provided for in this subsection.

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

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/18/2015 - DO PASS, As Amended and Coauthored.

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