

Health, Department of

Aging Division

Chapter 10: Program Administration of Hospice Programs

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State of Wyoming
Department of Health
Healthcare Licensing and Surveys
Rule for Hospice Programs

CHAPTER 10

Section 1. Authority. This rule is promulgated by the Wyoming Department of Health pursuant to W.S. §9-2-1204 *et seq.*, W.S. §35-2-901 *et seq.*, and the Wyoming Administrative Procedure Act, W.S. §16-3-101 *et seq.*

Section 2. Purpose. This rule has been adopted for the day-to-day operation of Hospice Programs and to protect the health, safety, and welfare of hospice program patients and hospice program employees.

Section 3. Severability. If any portion of this rule is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

(a) “Acceptable Plan of Correction” means the State Survey Agency approved hospice plan to correct deficiencies following a survey conducted by the State Survey Agency or its designated representative. The plan of correction shall be a written document and shall provide, but not necessarily be limited to, the following information:

(i) Who is responsible for the correction;

(ii) What was done or will be done to correct the problem;

(iii) How systemic improvement action will be implemented into a Quality Improvement and Performance Program in order to prevent the likelihood of the deficient practice from reoccurring;

(iv) Who will monitor to ensure the situation does not develop again;
and

(v) An appropriate date, not to exceed forty-five (45) days after the last day of survey, for the correction of deficiencies.

(b) “Central Registry” means the registry operated by the Wyoming Department of Family Services pursuant to W.S. §14-3-213, which indexes perpetrators of child abuse or neglect and abuse, neglect, exploitation, or abandonment of disabled adults. The registry information is available by calling 307-777-5894.

(c) “Complaint Investigations” means those investigations required to be performed by the Long Term Care Ombudsman per W.S. §9-2-1301 through W.S. §9-2-1309 or by the State Survey Agency per W.S. §35-2-901 through W.S. §35-2-910.

(d) “Day Care Center” is an optional part of the hospice program which provides health and social services to a hospice patient on a regularly scheduled basis. The hospice day care center is governed by the licensed hospice program.

(e) “Employees” means a paid or volunteer members of the hospice team.

(f) “Family” means those individuals who are closely linked with the patient including, but not limited to, the immediate family, the primary caregiver, and individuals with significant personal ties. The patient and family is considered the unit of care.

(g) “Hospice Patient” means a person diagnosed as terminally ill. This person, alone or in conjunction with a family member or members, has voluntarily requested admission and been accepted in the hospice program.

(h) “Hospice Volunteer” is a professional, paraprofessional, or lay person trained in providing support, patient care, or companionship to the patient and family.

(i) “Inpatient Respite Care” means the care provided to patients who temporarily reside in hospice to allow for caregiver respite.

(j) “Interdisciplinary Team” means a group of individuals who collectively have expertise in meeting the special needs of the hospice patient and his/her family. Appropriate staff/volunteers are included as needed. Coordination and communication among team members is carried out on a regular basis.

(k) “License” means the authority granted by the State Survey Agency to operate a hospice program.

(l) “Life Safety Code” means National Fire Protection Association 101 Life Safety Code cited in the Wyoming Department of Health, Chapter 3 Construction Rules and Regulations for Healthcare Facilities.

(m) “Medical Director” means an individual who is a doctor of medicine or osteopath, licensed by the State of Wyoming, and who is designated by the hospice as having overall responsibility for the medical component of the hospice program.

(n) “Non-Hospice Respite” means the care provided to a chronically ill adult in an approved facility to allow for caregiver respite not to exceed thirty (30) continuous days in duration.

(o) “Non-Hospice Respite Client” means an adult who has a long-term or chronic illness requiring caregiving by another person.

(p) “Nursing Services” means those services provided by or under the direction of a Registered Nurse based on a plan of care developed by the interdisciplinary team. These services may be provided by Licensed Registered Nurses, Licensed Practical Nurses, or Certified Nursing Assistants/Home Health Aides as appropriate.

(q) “Palliative Care” means comfort care rather than curative care with an emphasis on pain and symptom control so a person can live the last days of life with dignity and comfort at home or in a home-like setting. Palliative care:

(i) affirms life and dying as a normal process;

(ii) neither hastens nor postpones death;

(iii) provides relief from pain and other distressing symptoms;

(iv) integrates the psychological and spiritual aspects of patient care;

and

(v) offers a support system to help the family cope during the patient’s illness and in their own bereavement.

(r) “Psychosocial Services” means those counseling and casework services which address the social, economic, psychological, and emotional needs of patients and families. Psychosocial services include, but are not limited to, psychosocial assessment of the patient and family, counseling to assist with the stress of terminal illness, assistance in planning for care, and coordination of community resources.

(s) “Spiritual Services” means those services that help patients and/or caregivers to integrate the dying experience into his/her life; to find meaning and purpose in what remains of life, and to further his/her appreciation of spiritual values that give support and hope in coping with the changes that are taking place.

(t) “State Survey Agency” means the Wyoming Department of Health, Aging Division, Healthcare Licensing and Surveys, which has the responsibility to determine whether healthcare providers/suppliers meet federal certification standards to participate in the Medicare and/or Medicaid programs per the agreement between the Secretary of the U.S. Department of Health and Human Services and the State of Wyoming dated June 18, 1985. The State Survey Agency also determines whether providers/suppliers meet state licensure requirements per W.S. §35-2-901 through §35-2-910.

(u) “Survey” means an evaluation conducted by the State Survey Agency or its designated representative to determine compliance with this Rule.

(v) “Volunteer Services” means those services provided by trained hospice volunteers who have agreed to provide service under the direction of a hospice program.

(i) Hospice volunteers may be used to provide support, patient care, and companionship to the patient and the patient’s family during the remaining days of the patient’s life and to the surviving family following the patient’s death.

(ii) Volunteers may also provide supportive services to the hospice staff in areas such as, but not limited to, assisting in the office, public relations, and other hospice activities.

Section 5. Organization and Management.

(a) Governing Body. The hospice program shall have a governing body which has the legal authority and responsibility to operate the hospice program. The governing body shall:

(i) Obtain employee dishonesty coverage through a general liability insurance policy, fidelity bond, or surety bond. This coverage is for patient protection due to dishonesty, integrity, or fidelity on behalf of an employee. The coverage shall be no less than five thousand dollars (\$5,000).

(ii) Provide verification of a central registry check on all employees hired at the time of or after the filing of these rules. The individual agencies or corporations are responsible for obtaining central registry verifications. Central Registry information can be obtained by contacting the Department of Family Services at 307-777-5894 (this number may be subject to change).

(iii) Insure that all staff successfully complete, at a minimum, a full fingerprint-based National Criminal Background Check before unsupervised direct patient contact. If there are any flags on the background check and the facility employs the individual, the facility must document in the individual’s personnel file that prior to hire the flagged issue was thoroughly investigated and it was determined the individual is appropriate to provide services to vulnerable adults.

(iv) Adopt, revise, and approve personnel policies, including:

(A) Frequency of evaluations; and

(B) Insuring confidentiality of central registry information and criminal background checks.

(v) Prepare an organizational chart that reflects the administrative control and lines of authority for the delegation of responsibility from management down to the patient level.

(vi) Ensure that all services provided are consistent with accepted standards of practice.

(vii) Ensure adequate ~~staffing~~ numbers of qualified staff to provide quality hospice care and volunteer services, and, if offered, non-hospice respite care.

(viii) Develop and implement policies and procedures for services offered which shall be reviewed annually by the medical director and either the governing body or appropriate administrative representative.

(ix) Develop an effective, ongoing, agency-wide written quality improvement program which ensures and evaluates quality of care to all patients in accordance with W.S. §35-2-910.

(x) Develop a written grievance procedure.

(A) The grievance procedure shall establish a system of reviewing complaints and allegations of patients' rights violations to include, but not be limited to:

(I) Patient method to voice grievance;

(II) The Hospice Program's written response to patient grievances;

(III) List of agencies, with addresses and telephone numbers, for patients to contact if grievances are not addressed satisfactorily; and

(IV) Written reports on all grievances and resolutions shall be provided to the State Survey Agency, within ten (10) days after the grievance is filed.

(xi) Refer Complaint Investigations.

(A) Patient complaints and problems shall be referred in writing to the Long Term Care Ombudsman.

(B) The office of the Ombudsman shall complete all complaint investigations within an appropriate time frame depending upon the nature of the allegations.

(C) Written reports of an investigation and the status of resolutions completed by the hospice shall be provided by the Long Term Care Ombudsman to the State Survey Agency within thirty (30) days after the completion of an investigation.

(I) Exception: Complaints or problems reported directly to the State Survey Agency or referred by the Long Term Care Ombudsman to the State Survey Agency shall be investigated by the State Survey Agency.

(xii) Maintain employee Personnel records. There shall be one (1) person designated responsible for maintaining confidentiality of personnel records.

(xiii) Develop policies and procedures with regard to Employee Health. The hospice program shall at a minimum:

(A) Include a policy listing communicable diseases that put the patient population at risk. In addition, the hospice shall report communicable diseases or conditions as required by W.S. §35-4-107 through W.S. §35-4-108 and;

(B) Document that the employee is free of communicable diseases that could be a risk to the client population.

(xiv) Adopt Advanced Directives. The hospice program shall adopt policies which assure that information on advanced directives is provided to all patients. If the patient's advanced directives are known, they shall be followed by the hospice program.

(xv) Make specific notifications:

(A) Prior to admission, all prospective patients shall be notified if the hospice program is not Medicare/Medicaid certified.

(B) Each hospice program will notify its prospective patients, or the responsible party, of the services it provides and the charges for those services.

(C) The responsible party shall be notified of the service charges and any change in charges.

Section 6. Patients Rights and Responsibilities.

(a) Each hospice patient/family shall receive a copy of the Hospice patient bill of rights and responsibilities and each non-hospice respite client/family shall receive a copy of the non-hospice patient bill of rights and responsibilities.

(b) The hospice program shall keep written documentation that each patient has received a copy of the patient rights and responsibilities.

(c) By written declaration the hospice shall affirm the following hospice patient rights and responsibilities:

(i) The right to be informed of the hospice concept, admission criteria, services to be provided by an interdisciplinary team, options available, and any charges which may be incurred;

(ii) The right to participate in developing the individual's plan of care;

(iii) The right to expect that all records will be confidential;

(iv) The right to refuse service or withdraw from the hospice program at any time;

(v) The responsibility to provide accurate information which may be useful to the hospice in delivering appropriate care;

(vi) The right to express a grievance without fear of reprisal;

(vii) The right to be free of any verbal or physical abuse of any kind;
and,

(viii) The right to unrestricted visitation.

(d) By written declaration the hospice shall affirm the following non-hospice client rights and responsibilities:

(i) The right to be informed of the respite care concept, admission criteria, services to be provided, options available, and any charges which may be incurred;

(ii) The right to participate in developing the individual's plan of care;

(iii) The right to expect that all records will be confidential;

(iv) The right to refuse service or withdraw from the program at any time;

(v) The right to express a grievance without fear of reprisal;

(vi) The right to receive a timely assessment and intervention for a change in condition;

(vii) The responsibility to provide accurate information useful to the hospice in delivering appropriate care which would include the primary physician's name and contact information;

(viii) The right to be free of verbal or physical abuse of any kind;

(ix) The responsibility of the caregiver or designee to be available at prearranged time of discharge;

(x) The responsibility of the caregiver to provide the hospice program with accessibility, via telephone, to caregiver or designee, for use in case of emergency;

(xi) The responsibility of the caregiver to provide the hospice program with an adequate supply of labeled medications in the containers they were dispensed in and personal supplies. The hospice shall verify authenticity of caregiver-provided medications;

(xii) The responsibility of the caregiver to provide a copy of the non-hospice respite client's current medical record;

(xiii) The responsibility of the hospice to admit and provide care with physician's orders; and,

(xiv) The right to unrestricted visitation.

(e) Hospice responsibilities shall include, but are not limited to:

(i) Provide quality care and psychosocial services to patients regardless of race, religion, sex, age, and/or physical or mental disabilities;

(ii) Train all staff and volunteers adequately for the level of services they provide;

(iii) Provide care which is:

(A) Ethical;

(B) In the best interest of the patient/client;

(C) Respectful to the patient/client/family life values, religious preference, dignity, individuality; and

(D) Privacy in treatment and personal needs.

(iv) Provide special attention to the patient's/client's right to privacy, choice, and dignity, including infants, small children, and adolescents.

Section 7. Admission Criteria.

(a) Admission criteria shall be clearly defined in the hospice program policies and shall include physician's orders.

(b) Decisions regarding admission shall follow the established criteria of the program.

Section 8. Hospice Day Care Services for Hospice Patients.

(a) The Hospice Day Care Center shall be staffed with qualified personnel, to include nursing services and any additional disciplines needed to ensure adequate care and services are provided.

(b) The services shall include, but not be limited to:

(i) emergency services;

(ii) assistance in the development of self-care capabilities;

(iii) personal hygiene;

(iv) social support services;

(v) provision of meals and nourishments appropriate to the hours in which the patient is receiving service; and

(vi) medication administration and monitoring.

(c) Hospice Day Care Centers shall meet the following standards:

(i) Provide a clean environment, free of obstacles that could pose a hazard to client health or safety;

(ii) Provide easily accessible toilet facilities, handwashing facilities, and paper towel dispensers, and

(iii) Be accessible to patients with supportive devices for ambulation and wheelchairs.

(d) The Hospice Day Care Center shall have written policies and procedures relevant to its operation. Such policies and procedures include, but are not necessarily limited to:

(i) Admission criteria that qualify patients to be appropriately served in the Hospice Day Care Center;

(ii) Meals and nourishments, including special diets, that will be provided; and

(iii) Hours and days of the week services will be available in the Hospice Day Care Center.

(e) The patient or responsible party and the hospice day care center shall have a written, signed agreement outlining the respective rules and responsibilities.

Section 9. Non-Hospice Inpatient Respite Care Services.

(a) Accepting clients for non-hospice respite care under this subsection is voluntary.

(b) Hospice facilities that elect to provide non-hospice respite care services shall:

(i) Provide medication administration in accordance with federal and state physician's orders;

(ii) Provide activities and care in accordance with a plan of care developed by primary caregivers and hospice staff prior to admission.

(c) The hospice providing non-hospice respite care services shall be staffed with qualified personnel including a registered nurse and any additional disciplines needed to ensure adequate care and services are provided.

(d) The services shall include, but not be limited to:

(i) assistance with activities of daily living;

(ii) personal hygiene;

(iii) provision of nourishments;

(iv) appropriate recreational activities; and

(v) medication management.

(e) Non-hospice inpatient respite care services shall meet the following standards:

(i) provide a clean environment free of obstacles that could pose a hazard to client health or safety;

(ii) provide easily accessible toilet facilities, handwashing facilities, and paper towel dispensers in common areas; and

(iii) be accessible to patients with supporting devices for ambulation and wheelchairs.

(f) Non-hospice respite care services shall have written policies and procedures relevant to its operation. Such policies and procedures shall include, but not be limited to:

(i) Admission criteria and physician's orders that qualify patients to be appropriately served in the hospice facility that include the primary physician's name and contact information;

(ii) Meals and refreshments, including special diets that will be provided;

(iii) Handling of medical emergencies and subsequent transfer to acute care facility;

(iv) Infection control procedures;

(v) Recordkeeping of all medications administered and any adverse events occurring;

(vi) Safety interventions regarding potential elopement or wandering;

(vii) Assessment and interventions for patients with behaviors, including wandering;

(viii) Medication administration and monitoring; and

(ix) Activities program to meet the needs of the patients.

(g) The patient or responsible party and the hospice shall have a written, signed agreement outlining the respective rules of the hospice and responsibilities of each party.

Section 10. Staff In-Service Training.

(a) The hospice program shall provide an initial training and orientation program as well as continuing in-service education programs. The programs offered shall be appropriate to the services provided by the Hospice offering non-hospice respite care including dementia care.

Section 11. Fire Safety and Emergency Procedures.

(a) Fire Safety.

(i) The Hospice shall meet the Life Safety Code provisions.

(b) Emergency Procedures.

(i) Disaster and Emergency Preparedness.

(A) The Hospice shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire and severe weather.

(B) The Hospice shall train all employees in emergency procedures when they begin work. The Hospice shall review the procedures with existing staff at least once in each twelve (12) month period.

(C) Emergency numbers shall be located near the telephone in large print.

(D) The hospice shall inform all cognitive patients on the first day of admission regarding emergency preparedness, to include emergency exit from the facility.

Section 12. Licensing.

(a) Licensing Procedure.

(i) For an initial license to be issued, the State Survey Agency shall receive:

(A) A completed application on the form supplied by the State Survey Agency, including the completed items identified on the Hospice Licensure Checklist supplied by the State Survey Agency.

(B) Each completed application shall be accompanied by the required licensure fee identified in the Wyoming Department of Health Aging Division,

Healthcare Licensing and Surveys Chapter 1, Rules for Health Care Facilities Licensure Fees. The check or money order shall be made payable to the Treasurer, State of Wyoming.

(ii) For renewal of a full license for one (1) year beginning July 1, and unless suspended or revoked, expiring on June 30 of the following year, the State Survey Agency shall receive:

(A) A completed application form submitted no later than the date indicated in the renewal notice posted on the State Survey Agency website at: <http://www.health.wyo.gov/ohls>; and

(B) The licensure fee required in paragraph (a)(i)(B) of this section.

(b) Requirements for Licensure. The State Survey Agency shall consider:

(i) Initial re-licensure and complaint survey deficiencies cited by the State Survey Agency;

(ii) Life Safety Code deficiencies cited by the State Survey Agency;

(iii) Complaint investigations and resolutions;

(iv) Compliance with all laws and standards relating to communicable and reportable diseases, as required by the Wyoming Department of Health, State Health Officer, and Public Health Division; and

(v) The effectiveness of the quality management program to evaluate and improve patient care and services.

(c) Transfer of License.

(i) Transfer or assignment of a hospice license is prohibited. The hospice shall comply with licensure requirements in paragraph (d) of this section in the event of a change in the ownership of a hospice.

(d) Change of Ownership.

(i) A change in ownership of a hospice occurs when there is a change in the legal entity responsible for the operation of the hospice, whether by lease or by ownership.

(ii) For a Medicare and/or Medicaid certified hospice, the change of ownership determination by the Centers for Medicare and Medicaid Services will also be used to determine the licensure change in ownership.

(iii) The new owner shall submit no later than sixty (60) calendar days prior to the event the following items:

(A) A change in ownership application for licensure with the appropriate fee, as required in paragraph (a)(i)(B) of this section.

(B) The checklist items required for an initial applicant.

(iv) Within twenty-four (24) hours of the event, the new owner shall submit a copy of the signed bill of sale or lease agreement that reflects the effective date of the sale or lease.

(e) Other changes. A licensure application and appropriate fee, as required in paragraph (a)(i)(B) of this section, shall be required for any of the following changes to be processed:

(i) Name change of hospice.

(ii) The number of licensed beds increased or decreased.

(iii) Change in the main hospice address or ancillary locations.

(f) Provisional License.

(i) A provisional license is a temporary license that may be issued in the following instances:

(A) For a new licensed provider.

(B) For a change in ownership, if deemed appropriate by the State Survey Agency.

(C) Following a successful licensure construction inspection for space that has not previously been occupied by patients. During the aforementioned inspection, there can be no deficiencies cited that could potentially result in harm to the patients.

(D) Following a successful licensure construction inspection for space that has undergone expansion and remodel to the extent that significant structural, mechanical, plumbing, or fire safety changes have been made to the space occupied by patients.

(E) Whenever deficiencies are cited that are serious and have resulted in harm or potential harm to patients.

(F) Whenever the facility fails to satisfactorily correct cited deficient practice.

(G) Whenever the facility fails to comply with any requirement of this rule.

(ii) The state Medicaid office will be notified by the State Survey Agency whenever a provisional license is issued or reissued.

(iii) A provisional license will be issued with an expiration date to be determined by the State Survey Agency at the time of issuance.

(iv) A provisional license may be reissued for additional extended time, if deemed appropriate by the State Survey Agency.

(v) If the provisional license is issued in lieu of a regular license, the facility must return the regular license to the State Survey Agency by return mail or hand delivery within five (5) calendar days of receipt of the provisional license. The provisional license must be posted in a public place in the facility.

(g) Conditions for denying, revoking, or suspending a license. Denial, revocation, or suspension of a license may occur for noncompliance with any provisions of this rule.

(h) Suspension of Admissions. The State Survey Agency may suspend new admissions or readmissions to the hospice when conditions are such that patient needs cannot be met. Conditions in a hospice shall not jeopardize the patient's health or safety.

(i) Monitoring. The State Survey Agency shall place a Wyoming Department of Health approved monitor, at the hospice's expense, when conditions are such that patients' needs are not being met by the hospice. The monitor shall insure that neither the health nor the safety of the patients is jeopardized.

(j) Hearings.

(i) Any hospice aggrieved by a decision of the State Survey Agency may request a hearing by submitting a written request to the State Survey Agency within ten (10) calendar days of receipt of the notice of adverse action.

(ii) The State Survey Agency (or designee) shall provide an opportunity for a hearing, if requested, and shall present at the hearing the evidence supporting any preliminary licensure decision(s) and reason(s) to the parties concerned.

(iii) In matters concerned with the spread of communicable disease that may require the utilization of quarantine or isolation, the Wyoming State Health Officer or designated representative shall provide an opportunity for a hearing as outlined in W.S. §35-4-112.

(iv) Hearings requested under the terms of this rule shall be held in accordance with Chapter 2 – Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings.

(k) Posting of License.

(i) The current license issued by the State Survey Agency shall be displayed in a public area within the hospice.

(l) Surveys for Licensure.

(i) The State Survey Agency or its designated representative shall perform initial and periodic surveys for the renewal of licensure.

(A) These surveys shall be based on the current Rule for Hospice Programs as promulgated by the Wyoming Department of Health.

(B) The State Survey Agency shall provide, within ten (10) working days after the last day of survey, copies of its cited deficiencies to the hospice.

(C) The hospice shall provide an acceptable plan of correction to the State Survey Agency for all cited deficiencies within ten (10) calendar days after receipt of the deficiencies.

(ii) At the time of survey, all records, including patient medical records, pertaining to matters involved in the survey shall be made available to members of the survey team as requested. Surveys may be conducted as focused, off-site administrative reviews, in which case specific records or categories of records will be requested by the State Survey Agency for review. The results of all surveys, including complaint investigations and administrative reviews, will be shared with the hospice administrator and other pertinent staff.

(m) Voluntary Closure.

(i) If a hospice voluntarily ceases to operate, it shall notify the State Survey Agency in writing at least sixty (60) working days prior to closure.

(ii) The first working day after closure, the hospice's license shall be hand carried or sent by certified mail to Healthcare Licensing and Surveys, 6101 Yellowstone Rd., Ste. 186C, Cheyenne, WY 82002.

Section 13. Construction/Remodeling. Wyoming Department of Health, Chapter 3 Construction Rules and Regulations for Healthcare Facilities apply.

Section 14. Life Safety and Electrical Safety. Wyoming Department of Health, Chapter 3 Construction Rules and Regulations for Healthcare Facilities apply.

Section 15. Incorporation by Reference.

(a) Any code, standard, rule, or regulation incorporated by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section.

(b) Each rule incorporated by reference is further identified as follows:

(i) Chapter 2 - Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings, effective on October 17, 2014, found at: <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.