

Enrolled Senate Bill 161

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CHAPTER

AN ACT

Relating to hospice programs; creating new provisions; amending ORS 443.850 and 443.860; repealing ORS 443.865 and 443.870; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 443.860 is amended to read:

443.860. (1) *[Except as provided in subsections (3) and (4) of this section, no person shall]* **A person may not** establish, conduct or maintain a hospice program providing hospice services, or hold itself out to the public as a hospice program, without **obtaining a license from the Department of Human Services.**[.]

[(a) Certification by the federal Centers for Medicare and Medicaid Services as a program of hospice services meeting standards for Medicare reimbursement; and]

[(b)(A) Accreditation by the Oregon Hospice Association; or]

[(B) Accreditation by the Joint Commission on Accreditation of Healthcare Organizations as a program of hospice services.]

[(2) The Oregon Hospice Association may accredit hospices which are not members of the Oregon Hospice Association.]

[(3) Any person who is in the process of developing a hospice program may use the term "hospice" to describe and refer to the program of services during its development for up to two years. However, no hospice services to patients or their families shall be provided by a hospice until accreditation or certification is obtained.]

[(4) Any person may operate a hospice program for a period of not more than 90 consecutive days if the federal Centers for Medicare and Medicaid Services or the Oregon Hospice Association acknowledges in writing that accreditation or certification is pending and the Oregon Hospice Association authorizes that operations may commence.]

[(5) A certified or accredited hospice need not obtain a license pursuant to ORS 443.015 unless it meets the definition of a home health agency and receives direct compensation for home health care services from the patient, insurers, Medicare or Medicaid. Compensation paid to licensed professionals is not direct compensation.]

[(6) Except as provided in subsection (5) of this section, accreditation and certification under subsection (1) of this section may be considered equivalent to licensure as a hospice program by the State of Oregon.]

(2) The department:

(a) Shall adopt rules to carry out the provisions of ORS 443.850 to 443.870, including but not limited to rules for licensure that require an on-site inspection of each licensed hospice program at least once every three years.

(b) May accept certification by a federal agency or accreditation by an accrediting organization approved by the department as evidence of compliance with the requirements for licensure adopted under paragraph (a) of this subsection if:

(A) The certification or accreditation meets standards and conditions established for hospice programs by the Centers for Medicare and Medicaid Services;

(B) The hospice program invites the department to participate in any exit interview conducted by the agency or organization; and

(C) The hospice program provides the department with copies of all documentation requested by the department concerning the certification or accreditation.

(3) The fee to obtain or renew a hospice program license is \$750.

(4) The department shall prescribe by rule the form and manner for application for or renewal of a license. The department shall issue a license to an applicant that has the necessary qualifications, meets all requirements established by the department by rule and has paid the fee.

(5) A license issued under this section is valid for one year and is not transferable. A license may be renewed by payment of the fee and demonstration of compliance with requirements for renewal established by the department by rule.

SECTION 2. Sections 3 to 5 of this 2009 Act are added to and made a part of ORS 443.850 to 443.870.

SECTION 3. The Department of Human Services may suspend, revoke or refuse to renew the license of a hospice program for failure to comply with ORS 443.860 or with rules adopted pursuant to ORS 443.860.

SECTION 4. All moneys received by the Department of Human Services under ORS 443.860 shall be paid into the State Treasury and deposited to the credit of the Public Health Account established in ORS 431.210. The moneys shall be used by the department in carrying out its duties under ORS 443.850 to 443.870.

SECTION 5. In addition to any other liability or penalty provided by law, the Director of Human Services may impose a civil penalty of \$1,000 per day, up to \$10,000 in any 30-day period, for any of the following:

(1) Violation of any of the terms or conditions of a license issued under ORS 443.860 to a hospice program.

(2) Violation of any rule or general order of the Department of Human Services that pertains to a hospice program.

(3) Violation of any final order of the director that pertains specifically to a hospice program owned or operated by the person incurring the penalty.

(4) Violation of ORS 443.860 or of rules adopted under ORS 443.860.

(5) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(6) All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

SECTION 6. ORS 443.850 is amended to read:

443.850. As used in ORS 443.850 to 443.870:

(1) "Hospice program" means a coordinated program of home and inpatient care, available 24 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and supportive services to a patient-family unit experiencing a life threatening disease with a limited prognosis. A hospice program is an institution for purposes of ORS 146.100.

(2) "Hospice services" means items and services provided to a patient-family unit by a hospice program or by other individuals or community agencies under a consulting or contractual arrangement with a hospice program. Hospice services include acute, respite, home care and bereavement

services provided to meet the physical, psychosocial, spiritual and other special needs of a patient-family unit during the final stages of illness, dying and the bereavement period.

(3) "Interdisciplinary team" means a group of individuals working together in a coordinated manner to provide hospice care. An interdisciplinary team includes, but is not limited to, the patient-family unit, the patient's attending physician or clinician and one or more of the following hospice program personnel:

- (a) Physician[,].
- (b) Nurse practitioner[,].
- (c) Nurse[,].
- (d) Nurse's aide[,].
- (e) Occupational therapist[,].
- (f) Physical therapist[,].
- (g) Trained lay volunteer[,].
- (h) Clergy or spiritual counselor[, and].

(i) Credentialed mental health professional such as psychiatrist, psychologist, psychiatric nurse or social worker.

(4) "Patient-family unit" includes an individual who has a life threatening disease with a limited prognosis and all others sharing housing, common ancestry or a common personal commitment with the individual.

(5) "Person" includes individuals, organizations and groups of organizations.

SECTION 7. ORS 443.865 and 443.870 are repealed.

SECTION 8. Except as provided in section 9 of this 2009 Act, sections 2, 3, 4 and 5 of this 2009 Act, the amendments to ORS 443.850 and 443.860 by sections 1 and 6 of this 2009 Act and the repeal of ORS 443.865 and 443.870 by section 7 of this 2009 Act become operative on January 1, 2010.

SECTION 9. The Department of Human Services may take any action before the operative date of sections 2, 3, 4 and 5 of this 2009 Act, the amendments to ORS 443.850 and 443.860 by sections 1 and 6 of this 2009 Act and the repeal of ORS 443.865 and 443.870 by section 7 of this 2009 Act that is necessary to enable the department to exercise, on and after the operative date of sections 2, 3, 4 and 5 of this 2009 Act, the amendments to ORS 443.850 and 443.860 by sections 1 and 6 of this 2009 Act and the repeal of ORS 443.865 and 443.870 by section 7 of this 2009 Act, the duties, functions and powers conferred on the department by this 2009 Act.

SECTION 10. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate June 17, 2009

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Secretary of Senate

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President of Senate

Passed by House June 24, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State