

**A-Engrossed**  
**Senate Bill 161**

Ordered by the Senate April 16  
Including Senate Amendments dated April 16

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Removes authority of federal Centers for Medicare and Medicaid Services, Oregon Hospice Association and Joint Commission on Accreditation of Healthcare Organizations to certify or accredit hospice programs to operate in state and establishes authority of Department of Human Services to license hospice programs. [*Authorizes department to establish by rule requirements, qualifications and fees for licensing.*] **Directs department to adopt rules for licensure.**

Authorizes department to impose civil penalty of \$1,000 per day, up to \$10,000 in 30-day period.

Becomes operative January 1, 2010.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to hospice programs; creating new provisions; amending ORS 443.850 and 443.860; repealing  
3 ORS 443.865 and 443.870; and declaring an emergency.

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

5 **SECTION 1.** ORS 443.860 is amended to read:

6 443.860. (1) [*Except as provided in subsections (3) and (4) of this section, no person shall*] **A per-**  
7 **son may not** establish, conduct or maintain a hospice program providing hospice services, or hold  
8 itself out to the public as a hospice program, without **obtaining a license from the Department**  
9 **of Human Services.**[:]

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

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

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

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

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

21 [(4) *Any person may operate a hospice program for a period of not more than 90 consecutive days*  
22 *if the federal Centers for Medicare and Medicaid Services or the Oregon Hospice Association ac-*  
23 *knowledges in writing that accreditation or certification is pending and the Oregon Hospice Association*

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *authorizes that operations may commence.]*

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

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

9 **(2) The department:**

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

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

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

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

20 **(C) The hospice program provides the department with copies of all documentation re-**  
21 **quested by the department concerning the certification or accreditation.**

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

23 **(4) The department shall prescribe by rule the form and manner for application for or**  
24 **renewal of a license. The department shall issue a license to an applicant that has the nec-**  
25 **essary qualifications, meets all requirements established by the department by rule and has**  
26 **paid the fee.**

27 **(5) A license issued under this section is valid for one year and is not transferable. A li-**  
28 **cence may be renewed by payment of the fee and demonstration of compliance with re-**  
29 **quirements for renewal established by the department by rule.**

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

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

35 **SECTION 4. All moneys received by the Department of Human Services under ORS**  
36 **443.860 shall be paid into the State Treasury and deposited to the credit of the Public Health**  
37 **Account established in ORS 431.210. The moneys shall be used by the department in carrying**  
38 **out its duties under ORS 443.850 to 443.870.**

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

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

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

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

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

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

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

8       **SECTION 6.** ORS 443.850 is amended to read:

9       443.850. As used in ORS 443.850 to 443.870:

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

14       (2) “Hospice services” means items and services provided to a patient-family unit by a hospice  
15 program or by other individuals or community agencies under a consulting or contractual arrange-  
16 ment with a hospice program. Hospice services include acute, respite, home care and bereavement  
17 services provided to meet the physical, psychosocial, spiritual and other special needs of a patient-  
18 family unit during the final stages of illness, dying and the bereavement period.

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

23       **(a)** Physician[.].

24       **(b)** Nurse practitioner[.].

25       **(c)** Nurse[.].

26       **(d)** Nurse’s aide[.].

27       **(e)** Occupational therapist[.].

28       **(f)** Physical therapist[.].

29       **(g)** Trained lay volunteer[.].

30       **(h)** Clergy or spiritual counselor[, *and*].

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

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

36       (5) “Person” includes individuals, organizations and groups of organizations.

37       **SECTION 7.** ORS 443.865 and 443.870 are repealed.

38       **SECTION 8.** Except as provided in section 9 of this 2009 Act, sections 2, 3, 4 and 5 of this  
39 2009 Act, the amendments to ORS 443.850 and 443.860 by sections 1 and 6 of this 2009 Act and  
40 the repeal of ORS 443.865 and 443.870 by section 7 of this 2009 Act become operative on Jan-  
41 uary 1, 2010.

42       **SECTION 9.** The Department of Human Services may take any action before the opera-  
43 tive date of sections 2, 3, 4 and 5 of this 2009 Act, the amendments to ORS 443.850 and 443.860  
44 by sections 1 and 6 of this 2009 Act and the repeal of ORS 443.865 and 443.870 by section 7  
45 of this 2009 Act that is necessary to enable the department to exercise, on and after the

1 **operative date of sections 2, 3, 4 and 5 of this 2009 Act, the amendments to ORS 443.850 and**  
2 **443.860 by sections 1 and 6 of this 2009 Act and the repeal of ORS 443.865 and 443.870 by**  
3 **section 7 of this 2009 Act, the duties, functions and powers conferred on the department by**  
4 **this 2009 Act.**

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

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