# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

**Legislative Document** **No. 1821**

H.P. 1355 House of Representatives, February 1, 1994

**An Act to Develop Standards for the Licensure of Hospice Programs.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Human Resources suggested and ordered printed.

Joseph W. Mayo

JOSEPH W. MAYO, Clerk

Presented by Representative KILKELLY of Wiscasset.
Cosponsored by Representatives: CARROLL of Gray, HOLT of Bath, JOHNSON of South Portland, LEMKE of Westbrook, LEMONT of Kittery, OTT of York, PLOWMAN of Hampden, RAND of Portland, ROWE of Portland, RYDELL of Brunswick, TOWNSEND of Portland, TREAT of Gardiner, Senators: DUTREMBLE of York, HANDY of Androscoggin, McCORMICK of Kennebec, PARADIS of Aroostook.

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA c. 1681** is enacted to read:

## CHAPTER 1681

## LICENSING OF HOSPICE PROGRAMS

## SUBCHAPTER I

## LICENSING OF REIMBURSED HOSPICE PROGRAMS

### §8621. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Bereavement services.** "Bereavement services" means emotional support services related to the death of a family member, including, but not limited to, counseling, provision of written material, social reorientation and group support for up to one year following the death of the client who was terminally ill. Bereavement services must be consistent with the bereavement care plan.

**2. Care plan.** "Care plan" means a written service delivery plan that the interdisciplinary team, in conjunction with the client, shall develop to reflect the changing care needs of the client. A care plan must specify what hospice services are needed and how they will be delivered.

**3. Client.** "Client" means the person who is receiving the hospice services.

**4. Council.** "Council" means the Maine Hospice Council established by section 8611.

**5. Direct service provider.** "Direct service provider" means employees or volunteers who provide hospice services directly to a client.

**6. Durable health care power of attorney.** "Durable health care power of attorney" has the same meaning as contained in Title 18-A, section 5-506.

**7. Family.** "Family" means a spouse, primary caregiver, biological relatives and individuals with close personal ties to the client.

**8. Governing body.** "Governing body" means the entity that establishes policy and is legally responsible for the overall operation of a hospice program.

**9. Hospice philosophy.** "Hospice philosophy" means a philosophy of palliative care for individuals and families during the process of dying and bereavement. "Hospice philosophy" is life affirming and strengthens the client's role in making informed decisions about care. "Hospice philosophy" stresses the delivery of services in the least restrictive setting possible and with the least amount of technology necessary by volunteers and professionals who are trained to help clients with the physical, social, psychological, spiritual and emotional needs related to terminal illness.

**10. Hospice program or hospice provider.** "Hospice program" or "hospice provider" means a distinct, clearly recognizable entity that exists to provide hospice services.

**11. Hospice services.** "Hospice services" means a range of interdisciplinary services provided on a 24-hours-a-day, 7-days-a-week basis to a person who is terminally ill and that person's family. Hospice services must be delivered in accordance with hospice philosophy.

**12. Interdisciplinary team.** For a hospice providing comprehensive services, "interdisciplinary team" means a group comprised of at least a medical director, a licensed nurse, a licensed social worker, a pastoral or other counselor and a volunteer coordinator or representative. For a volunteer hospice program, "interdisciplinary team" means a regularly scheduled case conference as defined by program policy. The client, and the client's family if the client desires, must be given the opportunity and encouraged to attend interdisciplinary team meetings.

**13. Medical director.** "Medical director" means a licensed physician who oversees the medical components of hospice services and serves on the interdisciplinary team.

**14. Nurse supervisor.** "Nurse supervisor" means a licensed registered nurse with education, experience and training in hospice nursing care who is designated by the program director to oversee nursing services for the hospice program.

**15. Primary physician.** "Primary physician" means the physician identified by the client or by the person authorized to make decisions for the client pursuant to a durable health care power of attorney.

**16. Program director.** "Program director" means the person designated by the governing body of a hospice program as responsible for the day-to-day operations of the program.

**17. Terminally ill.** "Terminally ill" means that a person has a limited life expectancy in the opinion of the person's primary physician or the medical director.

**18. Volunteer.** "Volunteer" means a trained individual who works for a hospice program without compensation.

**§8622. Licensing of hospice programs**

**1. License required.** Beginning January 1, 1995, a person, partnership, association or corporation may not represent itself as a hospice program, operate a hospice program or otherwise provide hospice services unless the person, partnership, association or corporation has obtained a license by the department.

**2. Licenses.** If, after receiving an application for a license, the department finds that all the conditions of licensure are met, it shall issue a license to the applicant for a period of 2 years. If the department finds less than full compliance with the conditions of licensure, it may issue a conditional license.

The department may issue a conditional license if the applicant fails to comply with applicable laws and rules but the best interest of the public would be served by issuing a conditional license. The conditional license must specify when and what corrections must be made during the term of the conditional license.

When an applicant fails to comply with applicable laws and rules, the department may refuse to issue or renew the license.

**3. Appeals.** An applicant who is denied a license, or whose application is not acted upon with reasonable promptness, has the right of appeal to the commissioner. The commissioner shall provide the appellant with reasonable notice and opportunity for a fair hearing. The commissioner or a member of the department designated and authorized by the commissioner shall hear all evidence pertinent to the matter at issue and render a decision within a reasonable period after the date of the hearing. The hearing must conform to the procedures detailed in this subsection. Review of any action or failure to act under this chapter must be pursuant to Title 5, chapter 375, subchapter VII. An action relative to the denial of a license provided under this chapter must be communicated to the applicant in

writing and must include the specific reason or reasons for that action and must state that the person affected has a right to a hearing.

**4. Deemed status.** A Medicare-certified hospice is deemed to meet the licensure requirements for a hospice program if it attests in writing that it meets all state licensure requirements.

**5. Inpatient hospice facility.** An inpatient hospice facility must be Medicare-certified and meet Medicare requirements to be eligible for licensure as a hospice program.

**6. Right of entry and inspection.** A duly designated employee of the department may enter the premises of any hospice provider who has applied for a license or who is licensed pursuant to this chapter or rules adopted pursuant to this chapter. These employees may inspect relevant documents of the hospice provider to determine whether the provider is in compliance with this chapter and rules adopted pursuant to this chapter. The right of entry and inspection extends to any premises and documents of providers whom the department has reason to believe are providing hospice services without a license. These entries or inspections must be made with the permission of the owner or person in charge unless a warrant is first obtained from the District Court authorizing that entry or inspection under section 2148.

**7. Application fee.** Each application for a license under this chapter must be accompanied by a fee established by the department, based on the cost of survey and enforcement.

**8. Sanctions.** A person who violates this chapter commits a civil violation for which a forfeiture not to exceed $100 per day of violation may be adjudged.

**9. Compliance.** A hospice program must meet all state rules and federal regulations.

**§8623. Rules**

The council shall adopt rules in accordance with Title 5, chapter 375 that specify the requirements for licensure under this chapter. The rules must require, but are not limited to, the following provisions.

**1. Mission statement.** A hospice program must have a clear mission statement that is consistent with hospice philosophy adopted by the council.

**2. Discreet entity.** A hospice program must be a discreet entity with at least the following features:

A. A governing body;

B. A program director;

C. An interdisciplinary team;

D. Volunteers; and

E. A medical director.

**3. Clients.** A hospice program may provide services to any person who consents to receive those services.

**4. Services.** Hospice services must be delivered in accordance with a care plan approved by the interdisciplinary team, regardless of whether the hospice services are provided by hospice program staff or by contractors. The care plan must provide for 24-hours-a-day, 7-days-a-week services. The care plan must be reviewed periodically by the interdisciplinary team and revised as needed. The interdisciplinary team must consider the need for at least the following services when developing the care plan:

A. Social services;

B. Nursing care;

C. Counseling;

D. Pastoral care;

E. Volunteer visits to provide comfort, companionship and respite;

F. Bereavement services for at least one year after the death of the person who is terminally ill; and

G. Medical services.

**5. Nursing.** Nursing services provided by a hospice program must be provided in accordance with a care plan and must be under the direction and supervision of a nurse supervisor. The nurse supervisor shall:

A. Develop nursing objectives, policies and procedures consistent with hospice philosophy;

B. Develop job descriptions for nursing personnel consistent with hospice philosophy;

C. Establish staffing and on-call schedules for nursing staff; and

D. Develop and implement orientation and training programs for nursing staff.

**6. Orientation.** Before providing any hospice service, a direct service provider must receive an orientation of at least 4 hours specific to hospice service. The policy and procedures of the provider define the agenda of the hospice orientation program. The provider shall document in personnel files that staff members have completed the 4-hour orientation. Indirect service volunteers must be oriented according to provider policies.

The hospice orientation program must include, but is not limited to, the following subjects:

A. Hospice philosophy;

B. Personal death awareness;

C. Communication skills;

D. Personnel issues;

E. Identification of hospice resource people;

F. Stress management;

G. Ethics;

H. Stages of dying; and

I. Funeral arrangements.

**7. Training.** A hospice program shall provide an educational program that offers a comprehensive overview of hospice philosophy and hospice care. A minimum of 18 hours of education, including 4 hours of orientation, is required for all direct service providers delivering hospice care. The educational program must include, but is not limited to, the following subjects:

A. Hospice philosophy;

B. Family dynamics;

C. Pain and symptom management;

D. Grief, loss and transition;

E. Psychological perspectives on death and dying;

F. Spirituality;

G. Communication skills;

H. Volunteer roles; and

I. Multidisciplinary management.

Hospice personnel who choose to provide direct service to patients are required to meet the minimum training requirement of 18 hours within one year. Documentation of completion of training is transferable from one hospice program to another.

**8. Continuing education and in-service training.** Hospice direct service providers are required to complete a minimum of 8 hours of continuing education or in-service training each year after the first year, based on date of hire.

**9. Records.** A hospice program shall maintain, at a minimum, the following records:

A. Minutes of governing body meetings;

B. Care plans of interdisciplinary teams;

C. Progress notes regarding the families receiving services;

D. All receipts and expenditures;

E. Training provided to paid staff and volunteers; and

F. A discharge summary for each client, a copy of which must be provided to the primary physician.

**10. Policies.** A hospice program shall have and follow written policies and procedures governing its operation, including, but not limited to, a policy regarding confidentiality and a policy regarding training.

**11. Required information.** A person who enters a hospice program must be given information regarding durable health care power of attorney.

**12. Quality assurance.** The hospice provider shall have a functional quality assurance or improvement plan in place that:

A. Continually monitors and evaluates the care provided;

B. Identifies issues and potential issues;

C. Proposes and implements improvements; and

D. Reevaluates the care provided to determine if further improvement is possible or needed.

## SUBCHAPTER II

## LICENSING OF VOLUNTEER HOSPICE PROGRAMS

### §8631. Volunteer hospice programs

A hospice program shall use volunteers to deliver the services offered by that program. A hospice program that provides volunteer nonmedical assistance and support to clients requesting hospice services must comply with this section. This program must comply with all provisions of subchapter I that are relevant to a volunteer program.

**1. Direct services.** At a minimum, a direct service volunteer must:

A. Submit a written application;

B. Undergo a screening interview and a posttraining interview;

C. Attend a 20-hour standard training program;

D. Submit a confidentiality statement; and

E. If the volunteer will transport individuals, have proof of auto insurance and a valid driver's license.

**2. Policies and procedures.** Hospice programs shall develop and maintain policies and procedures that address the following:

A. Recruitment, retention and dismissal;

B. Screening;

C. Orientation;

D. Scope of function;

E. Supervision;

F. Ongoing training and support;

G. Interdisciplinary team conferencing;

H. Records of volunteer activities; and

I. Bereavement services.

**3. Duties of coordinator.** Volunteer services must be directed by a coordinator of volunteer services who shall:

A. Implement a direct service volunteer program;

B. Coordinate the orientation, education, support and supervision of direct service volunteers; and

C. Coordinate the use of direct service volunteers with other hospice staff.

**4. Demonstrated knowledge.** Volunteers must demonstrate knowledge of and ability to access community resources that reflect the full scope of hospice care.

**Sec. 2. Rules.** The Department of Human Services shall adopt rules to carry out the purposes of the Maine Revised Statutes, Title 22, chapter 1681 no later than one year from the effective date of this Act.

## STATEMENT OF FACT

This bill establishes new licensing requirements for hospice programs beginning January 1, 1995. Licenses would be issued by the State.

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**This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.**