

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 661. HOSPICE**

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 2. Licenses

310:661-2-1 [AMENDED]

310:661-2-2 [AMENDED]

310:661-2-3 [AMENDED]

310:661-2-4 [AMENDED]

310:661-2-5 [AMENDED]

310:661-2-6 [AMENDED]

310:661-2-7 [AMENDED]

Subchapter 3. Administration

310:661-3-2 [AMENDED]

310:661-3-3 [AMENDED]

310:661-3-3.1 [AMENDED]

310:661-3-4 [AMENDED]

310:661-3-5.1 [AMENDED]

310:661-3-5.2 [AMENDED]

310:661-3-5.3 [AMENDED]

Subchapter 5. Minimum Standards

310:661-5-1 [AMENDED]

310:661-5-1.1 [AMENDED]

310:661-5-1.2 [AMENDED]

310:661-5-1.3 [AMENDED]

310:661-5-2 [AMENDED]

310:661-5-2.1 [AMENDED]

310:661-5-2.2 [AMENDED]

310:661-5-2.3 [AMENDED]

310:661-5-2.4 [AMENDED]

310:661-5-3 [AMENDED]

310:661-5-3.1 [AMENDED]

310:661-5-4 [AMENDED]

310:661-5-4.1 [AMENDED]

310:661-5-5 [AMENDED]

310:661-5-6 [AMENDED]

310:661-5-7 [AMENDED]

310:661-5-8 [AMENDED]

310:661-5-9 [AMENDED]

Subchapter 6. Hospice Inpatient Service Requirements

310:661-6-1 [AMENDED]

310:661-6-2 [AMENDED]

310:661-6-3 [AMENDED]

310:661-6-4 [AMENDED]

310:661-6-5 [AMENDED]

310:661-6-6 [AMENDED]

310:661-6-7 [AMENDED]

Subchapter 7. Infractions

310:661-7-1 [AMENDED]

310:661-7-2 [AMENDED]

310:661-7-4 [AMENDED]

**AUTHORITY:**

Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

December 13, 2022

**COMMENT PERIOD:**

January 18, 2022 through February 18, 2022

**PUBLIC HEARING:**

February 18, 2022

**ADOPTION:**

March 4, 2022

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

March 4, 2022

**APPROVED BY GOVERNOR'S DECLARATION:**

Approved by Governor's declaration on June 21, 2022

**FINAL ADOPTION:**

June 21, 2022

**EFFECTIVE:**

September 11, 2022

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**GIST/ANALYSIS:**

The changes to Chapter 661 were editorial to achieve clarity in the rules to facilitate understanding of the requirements and consequently, to facilitate compliance with the rules. Governor Kevin Stitt issued an executive order designed to reduce state regulations by 25%. The order requires that state agencies review their administrative rules and list any that are expensive, ineffective, redundant, or outdated and for all new restrictive rules proposed after February 15, 2020, eliminate at least two existing regulatory restrictions until agencies reduce regulations. This proposal is in compliance with the governor's order for regulation reduction. As such, an effort has been made to remove all unnecessary words and requirements as well as ambiguous wording from regulation.

**CONTACT PERSON:**

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2022:**

**SUBCHAPTER 2. LICENSES**

**310:661-2-1. Licensure**

(a) **Applicant.** Any public or private agency or person desiring to establish a hospice in Oklahoma ~~shall~~ must apply for and obtain a license from the Department.

(b) **Application.** An application for a hospice license ~~shall~~ must be filed on a form prescribed by the Department and ~~shall be accompanied by the~~ include information required by the Act.

(c) **Plan of delivery.** The initial application ~~shall~~ must be accompanied by a plan of delivery of home and inpatient hospice services to patients and their families. ~~The plan shall~~ and include, but not be limited to, those items listed in the Act.

(d) **Expiration/renewal.**

(1) **First-year license.**

(A) The first-year license ~~shall~~ will expire one (1) year from the date of issuance unless suspended or revoked. A hospice holding a first-year license ~~is required to~~ must successfully complete an initial inspection by representatives of the Department prior to the provision of services and ~~shall~~ be subject to a follow-up inspection after providing hospice services for at least six (6) months. The Department may require any hospice to renew the first-year license for one additional year. A hospice ~~shall not~~ cannot hold a first-year license for more than twenty-four (24) months.

(B) A follow-up survey that demonstrates compliance with the Act and these rules ~~shall~~ may be required prior to a hospice program being issued a permanent license.

(2) **Permanent license.** The permanent license ~~shall~~ will expire one (1) year from the date of issuance, unless suspended or revoked. An application for renewal ~~shall~~ must be submitted according to the Act. Only hospice programs in compliance with the Act and these rules ~~shall~~ will be issued a permanent license.

(e) **Base of operation.** Every hospice providing hospice services ~~shall~~ must operate from a place of business which is accessible to the public and physically located in Oklahoma. Staff providing services from the hospice ~~shall~~ must be supervised by personnel at that location.

(f) **Eligibility for license.**

(1) A hospice making appropriate application ~~that has been~~ and determined to be compliant with this Chapter and the Act is eligible for a license.

(2) A hospice may operate alternate administrative offices under one (1) license as long as the following requirements are met:

(A) The offices ~~shall be~~ are located within a geographical area with a radius of no more than fifty (50) miles from the main hospice.

(B) The mileage limit used for approval of each administrative office ~~shall be~~ is the mileage between town centers of the parent location town and the proposed administrative office location town as reported by the Oklahoma Department of Transportation as approximately the shortest route between town centers utilizing both State Highways System (free) and State Turnpike System (toll) roads.

(C) The offices ~~shall be~~ are operated under the same administration and governing body as an extension site for services of the main hospice. These offices ~~shall~~ must operate under the same name(s) as the licensee.

(D) An application for license, or renewal thereof, to establish or operate each hospice alternate administrative office of an agency licensed in the State of Oklahoma ~~shall be accompanied by~~ includes a nonrefundable licensing fee of five hundred dollars (\$500.00) and application is filed at least thirty (30) days before beginning operations.

(g) **Compliance with Federal, State and local laws and regulations.** The hospice and its staff ~~shall~~ must operate and furnish services that comply with all applicable Federal, State, and local laws and rules. ~~The hospice shall~~ and ensure that staff comply with applicable State practice acts and rules in the provision of hospice services.

(h) **Hospice inpatient facility.**

(1) Each licensed hospice program may operate one (1) hospice inpatient facility with twelve (12) or fewer inpatient beds as long as the facility complies with ~~hospice inpatient facility service requirements at OAC 310:661-6 and hospice inpatient facility physical plant requirements at OAC 310:661-8~~ Subchapters 6 and 8 of this Chapter.

(2) A hospice inpatient facility may not be independently licensed as a hospice unless the hospice provides a full continuum of hospice program services to patients in their homes and temporary places of residence including the inpatient hospice facility.

### **310:661-2-2. Deadlines for applications**

The license application ~~shall~~ must be filed in accordance with the following deadlines:-

- (1) ~~The application for~~ A first-year hospice license ~~shall be~~ is filed at least thirty (30) days before beginning operations.
- (2) ~~The application for a license,~~ License application following a transfer of ownership or operation, ~~shall be~~ is filed at least thirty (30) days prior to the transfer. If the Department finds that an emergency exists which threatens the welfare of patients, the thirty (30) day advance filing notice may be waived.
- (3) ~~The application for renewal~~ Renewal of an existing licensed hospice ~~shall be~~ is filed at least sixty (60) days prior to the expiration date of the license.
- (4) If a hospice is ~~considering~~ relocation is considered, the hospice ~~shall~~ must file an amended application with the address change at least thirty (30) days prior to the intended relocation. ~~There shall be no~~ No fee for processing the license address change will be required.
- (5) Incomplete first-year license applications received by the Department ~~shall~~ will be summarily dismissed after thirty (30) days of applicant notification of an incomplete application. Thereafter, ~~the applicant shall be required to resubmit~~ a new application and initial fee will be required.

### **310:661-2-3. Where to file**

The application and the license fee ~~shall~~ must be submitted to the Department. The effective date ~~shall~~ will be the date a complete application and fee are received. All fees ~~shall be~~ are non-refundable.

### **310:661-2-4. Transfer of ownership of a licensed hospice**

- (a) The license of a hospice shall not be subject to sale, assignment, or other transfer, voluntary or involuntary.
- (b) If an entity is considering ~~acquisition of~~ acquiring a licensed hospice, then it must submit to the Department 30 days before the effective date of the acquisition:
  - (1) ~~an application for first year license with an initial application fee of five hundred dollars (\$500.00) and a first year license fee of one thousand five hundred dollars (\$1500.00) and five hundred dollars (\$500.00) [See OAC 310:661-2-5];~~
  - (2) ~~a non-refundable two thousand dollars (\$2,000) fee [See OAC 310:661-2-6];~~
  - (3) ~~a copy of the executed sales agreement; and~~
  - (4) ~~an additional five hundred dollars (\$500) for each alternate administrative office operated by the agency, if applicable shall be submitted to the Department at least thirty (30) days prior to the effective date of the change. A copy of the executed sales agreement shall be provided to the Department.~~
- (c) The following actions ~~shall~~ will not be considered a transfer of ownership or change in control requiring this subsection to apply:
  - (1) Change of a corporate or limited liability company licensee's name through amendments of the articles of incorporation or membership agreement.
  - (2) Sale of stock of a corporation.
  - (3) Sale or merger of a corporation that owns the hospice operating entity.
  - (4) Sale of membership interest of a limited liability company.

### **310:661-2-5. License application form**

The applicant for a license ~~shall~~ must file the following application form: Application for License to Operate a Hospice (ODH Form 924). This form requests: amount of fee submitted; name of hospice; location and mailing address of hospice; name and title of chief executive officer; fiscal year ending date;

operating entity name and address; type of operating entity; board of directors; complete disclosure of ownership including name, finding and mailing address, and percentage of ownership for every stockholder having at least five percent (5%) ownership in the hospice; name, signature, and title of position of persons making the application; and an affidavit attesting to the information provided.

### 310:661-2-6. Licensure fees

- (a) ~~An~~ There is a non-refundable \$500 fee for an application for a first-year license to establish or operate a hospice shall be accompanied by a non-refundable application fee of five hundred dollars (\$500.00) and a non-refundable \$1,500 fee for a first-year license fee of one thousand five hundred dollars (\$1500.00).
- (b) ~~An application for a permanent license to continue operation of a hospice after the first year license period is complete shall be accompanied by a non-refundable permanent license fee of two thousand (\$2000.00).~~
- (c) ~~A~~ There is a non-refundable \$2,000 fee for a renewal application for an existing permanent hospice license shall be accompanied by a non-refundable license fee of two thousand dollars (\$2000.00).
- (d) ~~(c)~~ A late renewal fee of ~~fifty dollars (\$50.00)~~ \$50 shall will be charged for any hospice submitting an application for renewal within ~~thirty (30)~~ 30 days after the expiration date of the license.

### 310:661-2-7. Plan review fees

- (a) Each hospice inpatient facility construction project ~~shall will~~ be charged a review fee based on the cost of the design and construction of the building project. ~~Review fees are as follows:~~
- (1) Project cost less than \$10,000.00: \$250.00 Fee
  - (2) Project cost \$10,000.00 to \$50,000.00: \$500.00 Fee
  - (3) Project cost \$50,000.00 to \$250,000.00: \$1000.00 Fee
  - (4) Project cost \$250,000.00 to \$1,000,000.00: \$1500.00 Fee
  - (5) Project Cost greater than \$1,000,000.00: \$2000.00 Fee
- (b) The review fee ~~shall must~~ be paid when stage one project plans are submitted to the Department for review. The fee ~~shall will~~ cover the cost of review for up to two (2) stage one and two (2) stage two submittals. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee based on the cost of the project ~~shall will~~ be required for the third submittal. Fast-track projects ~~shall will~~ be allowed two (2) reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project ~~shall will~~ be required with the third submittal of the package.

## SUBCHAPTER 3. ADMINISTRATION

### 310:661-3-2. Organization

- (a) **Organization and administration of services.** The hospice ~~shall must~~ organize, manage, and administer its resources to provide the hospice care and services to patients, caregivers and families necessary for the palliation and management of the terminal illness and related conditions.
- (b) **Serving the hospice patient and family.** The hospice ~~shall must~~ provide hospice care that:
- (1) Optimizes comfort and dignity; and
  - (2) Is consistent with patient and family needs and goals, with patient needs and goals as priority.
- (c) **Continuation of care.** A hospice ~~shall not~~ cannot discontinue or reduce care provided because of the inability to pay for that care.
- (d) **Professional management responsibility.** A hospice that has a written agreement with another agency, individual, or organization to furnish any services under arrangement ~~shall must~~ retain administrative and financial management, and oversight of staff and services for all arranged services, to ensure the provision of quality care. Arranged services ~~shall must~~ be supported by written agreements that require that all services be:
- (1) Authorized by the hospice;

- (2) Furnished in a safe and effective manner by qualified personnel; and
  - (3) Delivered in accordance with the patient's plan of care.
- (e) **Narrative program.** Each Hospice ~~shall~~ must provide a narrative program with its application which describes the functions, staffing, services available to the patient and other basic information relating to the fulfillment of the facility's objectives.
- (f) **Governing body.** A hospice ~~shall~~ must have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the total operations of the hospice. The governing body ~~shall~~ will designate an individual who is responsible for the day-to-day management of the hospice program. The governing body ~~shall~~ must also ensure that all services provided are consistent with accepted standards of practice.
- (g) **Hospice team.** A hospice team ~~shall~~ must be developed and function according to the Act. The hospice team is responsible for all of the following:
- (1) Participation in the establishment of the plan of care.
  - (2) Provision or supervision of hospice care and services.
  - (3) Periodic review and updating of the plan of care for each individual receiving hospice care.
  - (4) Implementation of policies governing the day-to-day provisions of hospice care and services.
- (h) **Medical advisor.** The medical advisor ~~shall~~ must be a medical doctor or osteopathic physician and ~~shall assume overall responsibility~~ is responsible for the medical component of the patient care program for the hospice. The physician ~~shall~~ must also serve as medical advisor to the hospice ~~and shall~~, possess a license free of sanctions. ~~The medical advisor shall, and~~ be a doctor of medicine or osteopathy who is an employee, or ~~be~~ under contract with the hospice. When the medical advisor is not available, a physician designated by the hospice assumes the same responsibilities and obligations as the medical advisor.
- (1) **Medical advisor contract.** When contracting for medical advisor services, the contract ~~shall~~ must specify the physician who assumes the medical advisor responsibilities and obligations. A hospice may contract with either of the following:
    - (A) A self-employed physician; or
    - (B) A physician employed by a professional entity or ~~physician~~ physician's group.
  - (2) **Initial certification of terminal illness.** The medical advisor or physician designee reviews the clinical information for each hospice patient and provides written certification that it is anticipated that the patient's life expectancy is one (1) year or less if the illness runs its normal course. The physician ~~shall~~ must consider the following when making this determination:
    - (A) The primary terminal condition;
    - (B) Related diagnosis(es), if any;
    - (C) Current subjective and objective medical findings;
    - (D) Current medication and treatment orders; and
    - (E) Information about the medical management of any of the patient's conditions unrelated to the terminal illness.
  - (3) **Medical advisor responsibility.** The medical advisor or physician designee has responsibility for the medical component of the hospice's patient care program.
- (i) **Patient care coordinator.** A registered nurse ~~shall~~ must be appointed and approved by the hospice governing body and employed by the hospice as patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice team.
- (j) **Medical social services.** Medical social services ~~shall~~ must be provided by a social worker employed by the hospice.
- (k) **Support services.** Support services ~~shall~~ must be available to both the individual and the family. These services include bereavement support provided before the patient's death, spiritual support and any other support or service needed by the patient or family. These services may be provided by members of the interdisciplinary group as well as other qualified professionals as determined by the hospice.
- (l) **Training. A hospice must:**
- (1) ~~A hospice shall~~ provide orientation about the hospice philosophy to all employees and contracted staff who have patient and family contact;

- (2) ~~A hospice shall~~ provide an initial orientation for each employee that addresses the employee's specific job duties.
- (3) ~~A hospice shall~~ assess the skills and competence of all individuals furnishing care, including volunteers furnishing services, and, as necessary, provide in-service training and education programs where required. The hospice shall have written policies and procedures describing its method(s) of assessment of competency and maintain a written description of the in-service training provided during the previous twelve (12) months.
- (m) **Volunteers.** Volunteers ~~shall~~ must be used in defined roles and under the supervision of a designated hospice employee. The hospice ~~shall~~ must provide appropriate orientation and training.
- (1) **Training.** The hospice ~~shall~~ will maintain, document, and provide volunteer orientation and training.
- (2) **Role.** Volunteers ~~shall~~ will be used in day-to-day administrative and/or direct patient care roles.
- (3) **Recruiting and retaining.** The hospice ~~shall~~ will document and demonstrate viable and ongoing efforts to recruit and retain volunteers.
- (4) **Utilization.** The hospice ~~shall~~ must document
- (A) The identification of each position that is occupied by a volunteer.
- (B) The work time spent by volunteers occupying those positions.
- (n) **Criminal background checks.**
- (1) The hospice ~~shall~~ must obtain a criminal background check on all hospice employees who have direct patient contact or access to patient records. Hospice contracts ~~shall~~ must require that all contracted entities obtain criminal background checks on contracted employees who have direct patient contact or access to patient records.
- (2) Each such criminal background check ~~shall~~ must meet the criteria established for certified nurse aides as provided for in ~~O.S.~~ Title 63 O.S. Section 1-1950.1-~~[The Nursing Home Care Act]~~ shall and be obtained in accordance with State requirements.

### **310:661-3-3. Medical records**

- (a) The hospice ~~shall~~ must establish and maintain a medical record for each individual receiving care and services. The record ~~shall~~ must be complete, timely and accurately documented, and readily accessible.
- (b) The medical record ~~shall~~ must contain sufficient information to justify the diagnosis and warrant the treatment and services provided. Entries are made and signed by the person providing the services. The record ~~shall~~ must include all care and services whether furnished directly or under arrangements by the hospice. Each record ~~shall~~ must contain at least, ~~but not be limited to,~~ the following:
- (1) Identification data;
  - (2) Initial and subsequent assessments;
  - (3) Plan of care;
  - (4) Consent, authorization and election forms;
  - (5) Medical history; and
  - (6) Complete documentation of all care, services and events including evaluations, treatments, progress notes, laboratory and x-ray reports, and discharge summary.
- (c) The hospice ~~shall~~ must safeguard the medical record against loss, destruction, and unauthorized use.
- (d) Current records ~~shall~~ must be completed promptly. A plan of care ~~shall~~ must be completed within forty-eight (48) hours following admission. Records of discharged patients ~~shall~~ must be completed within thirty (30) days following discharge.
- (e) Medical records ~~shall~~ must be retained at least five (5) years beyond the date the patient was last seen or at least three (3) years beyond the date of the patient's death.
- (f) A hospice may microfilm medical records in order to conserve space. Records reconstituted from microfilm ~~shall~~ will be considered the same as the original and retention of the microfilmed record constitutes compliance with preservation laws.

(g) The hospice ~~shall~~ must advise the Department in writing at the time of cessation of operation as to where hospice records ~~shall~~ will be archived and how these records ~~shall~~ can be accessed.

### **310:661-3-3.1. Clinical records**

(a) **General.** A clinical record containing past and current findings is maintained for each hospice patient. The clinical record ~~shall contain~~ contains accurate clinical information that is available to the patient's attending physician and hospice staff. The clinical record may be maintained electronically.

(b) **Content.** Each patient's record ~~shall~~ must include ~~at least~~ the following:

- (1) The initial plan of care, updated plans of care, initial assessment, comprehensive assessment, updated comprehensive assessments, and clinical notes;
- (2) Signed copies of the notice of patient rights;
- (3) Responses to medications, symptom management, treatments, and services;
- (4) Outcome measure data elements, as described in 310:661-5-3.1;
- (5) Physician certification of terminal illness;
- (6) Any advance directives; and
- (7) Physician orders.

(c) **Authentication.** All entries ~~shall~~ must be legible, clear, complete, and appropriately authenticated and dated in accordance with hospice policy.

(d) **Protection of information.** The clinical record, its contents and the information contained therein ~~shall~~ must be safeguarded against loss or unauthorized use. ~~The~~ Additionally, the hospice ~~shall be in compliance with~~ is subject to all Federal and State privacy laws.

(e) **Discharge or transfer of care.**

(1) If the care of a patient is transferred to another licensed hospice, the hospice ~~shall~~ will forward to the receiving hospice within twenty-four (24) hours, a copy of:

- (A) The hospice discharge summary; and
- (B) The patient's clinical record, as requested.

(2) If a patient revokes the election of hospice care, or is discharged from hospice, the hospice ~~shall~~ will forward to the patient's attending physician within twenty-four (24) hours, a copy of:

- (A) The hospice discharge summary; and
- (B) The patient's clinical record, if requested.

(3) The hospice discharge summary as required above ~~shall~~ must include:

- (A) A summary of the patient's stay including treatments, symptoms and pain management;
- (B) The patient's current plan of care;
- (C) The patient's current physician orders; and
- (D) Any other documentation that will assist in post-discharge continuity of care or that is requested by the attending physician or receiving hospice.

(f) **Retrieval of clinical records.** The clinical record, whether hard copy or in electronic form, ~~shall~~ must be made readily available on request.

### **310:661-3-4. Confidentiality**

(a) Medical records ~~shall~~ must be kept confidential. Only authorized personnel ~~shall~~ have access to the record. Written consent of the patient, patient representative, the court appointed guardian or a court order ~~shall~~ will be ~~presented~~ accepted as authority for release of medical information.

(b) An individual who is, or has been, a patient of a physician, hospital, or other medical facility, except psychiatric, ~~shall be~~ is entitled to access information contained in the individual's own medical records upon request. A request for minors may be made by parents or legal guardian. The hospice ~~shall~~ must furnish a copy of the medical record upon payment for the charge of such copy.

### **310:661-3-5.1. Number of continuing education hours required**

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



- (b) Hours of continuing education may be completed in person or online.
- (c) Membership in a statewide organization relating to hospice care ~~shall~~ will be considered as completion of one (1) hour of ethics credit each year.

### **310:661-3-5.2. Acceptable continuing education**

- (a) Continuing education curriculum content is acceptable when it includes at least one of the following components:
  - (1) Administrative skills, duties, and responsibilities;
  - (2) Administrative procedures and strategic planning;
  - (3) Community relations and public information;
  - (4) Fiscal and information data management;
  - (5) Human relations;
  - (6) Ethics; or
  - (7) State and federal statutes and rules applicable to Hospice service delivery.
- (b) Continuing education hours may be offered through a graduate or undergraduate course, seminar, workshop, conference, or professional association meeting for the purpose of enhancing professional competency. This excludes independent reading and informal meetings that are informational in nature and are offered as a public service and not for the offering of continuing education.
- (c) An acceptable instructor or entity offering continuing education courses ~~shall~~ must have:
  - (1) Experience in hospice administration; or
  - (2) Expertise in teaching and instructional methods suitable to the subject presented; or
  - (3) Academic qualifications and experience for the subject.

### **310:661-3-5.3. Documentation of attendance**

- (a) A hospice administrator ~~shall~~ must maintain in their personal records verification of course attendance, completion, or membership documents. Acceptable documents include the following:
  - (1) A continuing education validation form furnished by the presenter;
  - (2) A certificate or letter of attendance or completion with an agenda or content outline; or
  - (3) An official college transcript showing courses completed with credit issued or audit credit.
- (b) The presenting organization must be identified in the verification documents through documentation identifying the sponsoring entity, the name of the program, location, dates, subject taught, total number of hours, participant's name and presenter's name and credentials.
- (c) Presentation of fraudulent continuing education documentation ~~shall be~~ is a violation of this Chapter and applicable to the hospice license.

## **SUBCHAPTER 5. MINIMUM STANDARDS**

### **310:661-5-1. Admission**

- (a) Admission to a hospice ~~shall~~ will be in accord with the Act.
- (b) Hospice services ~~shall~~ will be available twenty-four (24) hours a day, seven (7) days a week.
- (c) A hospice program ~~shall~~ will not impose the dictates of any value or belief system on its patients and their families.
- (d) A hospice ~~shall~~ will coordinate its service with those of the patient's primary or attending physician, all hospice caregivers, and nursing facility staff if a patient resides in a nursing facility.
- (e) The hospice team ~~shall~~ will be responsible for coordination and continuity between inpatient and home care aspects of care.

#### **310:661-5-1.1. Admission to hospice care**

- (a) The hospice admits a patient only on the recommendation of the medical advisor in consultation with, or with input from, the patient's attending physician (if any).

(b) In reaching a decision to certify that the patient is terminally ill, the hospice medical advisor ~~shall~~ must consider at least the following information:

- (1) Diagnosis of the terminal condition of the patient;
- (2) Other health conditions, whether related or unrelated to the terminal condition; and
- (3) Current clinically relevant information supporting all diagnoses.

### **310:661-5-1.2. Discharge from hospice care**

(a) **Reasons for discharge.** A hospice may discharge a patient if:

- (1) The patient moves out of the hospice's service area or transfers to another hospice;
- (2) The hospice determines that the patient is no longer terminally ill; or
- (3) The hospice determines, under a policy set by the hospice for the purpose of addressing discharge for cause that meets the requirements of paragraphs (a)(3)(A) through (a)(3)(D) of this section, that the patient's (or other persons in the patient's home) behavior is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired. The hospice ~~shall~~ will do the following before it seeks to discharge a patient for cause:
  - (A) Advise the patient that a discharge for cause is being considered;
  - (B) Document efforts to resolve the problem(s) presented by the patient's behavior or situation;
  - (C) Ascertain that the patient's proposed discharge is not due to the patient's use of necessary hospice services; and
  - (D) Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its medical records.

(b) **Discharge order.** Prior to discharging a patient for any reason listed in paragraph (a) of this section, the hospice must obtain a written physician's discharge order from the hospice medical advisor. ~~If a patient has an~~ Any attending physician involved in ~~his or her~~ the patient's care, ~~this physician shall~~ must be consulted before discharge and his or her review and decision included in the discharge note.

(c) **Discharge planning.**

- (1) The hospice ~~shall~~ must have ~~in place~~ a discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change such that the patient cannot continue to be certified as terminally ill.
- (2) The discharge planning process ~~shall~~ will include planning for any necessary family counseling, patient education, or other services before the patient is discharged because he or she is no longer terminally ill.

### **310:661-5-1.3. Initial and comprehensive assessment of the patient**

(a) **General.** The hospice ~~shall~~ must conduct and document in writing a patient-specific comprehensive assessment that identifies the patient's need for hospice care and services, and the patient's need for physical, psychosocial, emotional, and spiritual care. This assessment includes all areas of hospice care related to the palliation and management of the terminal illness and related conditions.

(b) **Initial assessment.** The hospice registered nurse ~~shall~~ must complete an initial assessment within forty-eight (48) hours after the physician's order for hospice care is received (unless the physician, patient, or representative requests that the initial assessment be completed in less than 48 hours.)

(c) **Timeframe for completion of the comprehensive assessment.** The hospice interdisciplinary group, in consultation with the individual's attending physician (if any), ~~shall~~ must complete the comprehensive assessment no later than five (5) calendar days after the election of hospice care .

(d) **Content of the comprehensive assessment.** The comprehensive assessment ~~shall~~ must identify the physical, psychosocial, emotional, and spiritual needs related to the terminal illness that ~~shall~~ will be addressed in order to promote the hospice patient's well-being, comfort, and dignity throughout the dying process. The comprehensive assessment ~~shall~~ must take into consideration the following factors:

- (1) The nature and condition causing admission (including the presence or lack of objective data and subjective complaints);

- (2) Complications and risk factors that affect care planning;
  - (3) Functional status, including the patient's ability to understand and participate in his or her own care;
  - (4) Imminence of death;
  - (5) Severity of symptoms;
  - (6) A review of all of the patient's prescription and over-the-counter drugs, herbal remedies and other alternative treatments that could affect drug therapy. This includes, but is not limited to, identification of the following:
    - (A) Effectiveness of drug therapy;
    - (B) Drug side effects;
    - (C) Actual or potential drug interactions;
    - (D) Duplicate drug therapy; and
    - (E) Drug therapy currently associated with laboratory monitoring.
  - (7) An initial bereavement assessment of the needs of the patient's family and other individuals focusing on the social, spiritual, and cultural factors that may impact their ability to cope with the patient's death. Information gathered from the initial bereavement assessment ~~shall be~~ is incorporated into the plan of care and considered in the bereavement plan of care; and
  - (8) The need for referrals and further evaluation by appropriate health professionals.
- (e) **Update of the comprehensive assessment.** The update of the comprehensive assessment ~~shall~~ must:
- (1) be accomplished by the hospice interdisciplinary group (in collaboration with the individual's attending physician, if any); ~~and shall~~
  - (2) consider changes that have taken place since the initial assessment; ~~It shall~~
  - (3) include information on the patient's progress toward desired outcomes, as well as a reassessment of the patient's response to care; ~~The assessment update shall be~~ and
  - (4) be accomplished as frequently as the condition of the patient requires, but no less frequently than every fifteen(15) days.
- (f) **Patient outcome measures.**
- (1) The comprehensive assessment ~~shall~~ must include data elements that allow for measurement of outcomes. The hospice ~~shall~~ must measure and document data in the same way for all patients. The data elements ~~shall~~ must take into consideration aspects of care related to hospice and palliation.
  - (2) The data elements ~~shall~~ must be:
    - (A) an integral part of the comprehensive assessment; ~~and shall be~~
    - (B) documented in a systematic and retrievable way for each patient; ~~The data elements for each patient shall be~~
    - (C) used in individual patient care planning and in the coordination of services; ~~and shall be~~
    - (D) used in the aggregate for the hospice's quality assessment and performance improvement program.

### 310:661-5-2. Plan of care

- (a) A written plan of care ~~shall~~ must be established and maintained for each patient admitted to a hospice program and the care provided to an individual ~~shall be~~ is in accordance with the plan.
- (b) The plan ~~shall~~ must be established by the attending physician, the medical advisor, and the interdisciplinary group.
- (c) The plan of care ~~shall~~ must be reviewed and updated by the hospice team at intervals specified in the plan. ~~These reviews shall be~~ and documented by the team members.
- (d) The content of the plan ~~shall~~ must include an assessment of the patient's needs and identify the services provided. The plan ~~shall~~ must state in detail the scope and frequency of services needed to meet the patient's and family's needs.
- (e) Continuous care ~~shall~~ must be provided under a plan of care that ~~shall be~~ is developed specifically to resolve the patient's medical crisis. These plans ~~shall~~ must include:

- (1) Caregiver education;
- (2) Anticipated duration of the continuous care;
- (3) Necessity of continuous care;
- (4) Interventions required;
- (5) Identification of interdisciplinary team members developing the plan; and,
- (6) Physician orders for continuous care.

**310:661-5-2.1. Interdisciplinary group, care planning, and coordination of services**

(a) **General.** The hospice ~~shall~~ must designate an interdisciplinary group or groups which, in consultation with the patient's attending physician, ~~shall~~ will prepare a written plan of care for each patient. The plan of care ~~shall~~ will specify the hospice care and services necessary to meet the patient and family-specific needs identified in the comprehensive assessment as such needs relate to the terminal illness and related conditions.

(b) **Approach to service delivery.**

(1) The hospice ~~shall~~ must designate in writing an interdisciplinary group or groups composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of the hospice patients and families facing terminal illness and bereavement. Interdisciplinary group members ~~shall~~ must provide the care and services offered by the hospice, and the group, in its entirety, ~~shall~~ must supervise the care and services. The hospice ~~shall~~ will designate a registered nurse that is a member of the interdisciplinary group to provide coordination of care and to ensure continuous assessment of each patient's and family's needs and implementation of the interdisciplinary plan of care. The interdisciplinary group ~~shall~~ must include, ~~but is not limited to,~~ individuals who are qualified and competent to practice in the following professional roles:

- (A) A doctor of medicine or osteopathy (who is an employee or under contract with the hospice);
- (B) A registered nurse;
- (C) A social worker; and
- (D) A pastoral or other counselor.

(2) If the hospice has more than one interdisciplinary group, it ~~shall~~ must identify a specifically designated interdisciplinary group to establish policies governing the day-to-day provision of hospice care and services.

(c) **Plan of care.** All hospice care and services furnished to patients and their families ~~shall~~ must follow an individualized written plan of care established by the hospice interdisciplinary group in collaboration with the attending physician (if any), the patient or representative, and the primary caregiver in accordance with the patient's needs. The hospice ~~shall~~ will ensure that each patient and the primary care giver(s) receive education and training provided by the hospice as appropriate to their responsibilities for the care and services identified in the plan of care.

(d) **Content of the plan of care.** The hospice ~~shall~~ must develop an individualized written plan of care for each patient. The plan of care ~~shall~~ will reflect patient and family goals and interventions based on the problems identified in the initial, comprehensive, and updated comprehensive assessments. The plan of care ~~shall~~ must include all services necessary for the palliation and management of the terminal illness and related conditions, including at least the following:

- (1) Interventions to manage pain and symptoms;
- (2) A detailed statement of the scope and frequency of services necessary to meet the specific patient and family needs;
- (3) Measurable outcomes anticipated from implementing and coordinating the plan of care;
- (4) Drugs and treatment necessary to meet the needs of the patient;
- (5) Medical supplies and appliances necessary to meet the needs of the patient; and
- (6) The interdisciplinary group's documentation of the patient's or representative's level of understanding, involvement, and agreement with the plan of care, in accordance with the hospice's own policies, in the clinical record.

- (e) **Review of the plan of care.** The hospice interdisciplinary group (in collaboration with the individual's attending physician, if any) ~~shall~~ must review, revise and document the individualized plan as frequently as the patient's condition requires, but no less frequently than every fifteen (15) calendar days. A revised plan of care ~~shall~~ must include information from the patient's updated comprehensive assessment and ~~shall~~ note the patient's progress toward outcomes and goals specified in the plan of care.
- (f) **Coordination of services.** The hospice ~~shall~~ must develop and maintain a system of communication and integration, in accordance with the hospice's own policies and procedures, to:
- (1) Ensure that the interdisciplinary group maintains responsibility for directing, coordinating, and supervising the care and services provided;
  - (2) Ensure that the care and services are provided in accordance with the plan of care;
  - (3) Ensure that the care and services provided are based on all assessments of the patient and family needs;
  - (4) Provide for and ensure the ongoing sharing of information between all disciplines providing care and services in all settings, whether the care and services are provided directly or under arrangement; and
  - (5) Provide for an ongoing sharing of information with other non-hospice healthcare providers furnishing services unrelated to the terminal illness and related conditions.

### **310:661-5-2.2. Core Services**

- (a) **General.** A hospice ~~shall~~ must provide substantially all core services directly by hospice trained and oriented employees. These services include nursing services, medical social services, and bereavement and spiritual counseling. The hospice may contract for physician services.
- (b) **Physician services.** The hospice medical advisor, physician employees, and contracted physician(s) of the hospice, in conjunction with the patient's attending physician, are responsible for the palliation and management of the terminal illness and conditions related to the terminal illness.
- (1) All physician employees and those under contract, ~~shall~~ must function under the supervision of the hospice medical advisor.
  - (2) All physician employees and those under contract ~~shall~~ must meet this requirement by either providing the services directly or through coordinating patient care with the attending physician.
  - (3) If the attending physician is unavailable, the medical advisor, contracted physician, and/or hospice physician employee is responsible for meeting the medical needs of the patient.
- (c) **Nursing services.**
- (1) The hospice ~~shall~~ must provide nursing care by licensed nurses under the supervision of a registered nurse. Nursing services ~~shall~~ must ensure that the nursing needs of the patient are met as identified in the patient's initial assessment, comprehensive assessment, and updated assessments.
  - (2) If State law permits registered nurses to see, treat, and write orders for patients, then registered nurses may provide services to patients receiving hospice care.
  - (3) Highly specialized nursing services that are provided so infrequently that the provision of such services by direct hospice employees would be impracticable and prohibitively expensive, may be provided under contract.
- (d) **Medical social services.** Medical social services ~~shall~~ must be provided by a qualified social worker, under the direction of a physician. Social work services ~~shall~~ must be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services.
- (e) **Counseling services.** Counseling services ~~shall~~ must be available to the patient and family to assist the patient and family in minimizing the stress and problems that arise from the terminal illness, related conditions, and the dying process. Counseling services ~~shall~~ will include, but are not limited to, the following:
- (1) **Bereavement counseling.** The hospice ~~shall~~ must:
    - (A) Have an organized program for the provision of bereavement services furnished under the supervision of a qualified professional with experience or education in grief or loss counseling;

- (B) Make bereavement services available to the family and other individuals in the bereavement plan of care up to one (1) year following the death of the patient. Bereavement counseling also extends to residents of a care facility when appropriate and identified in the bereavement plan of care;
  - (C) Ensure that bereavement services reflect the needs of the bereaved; and
  - (D) Develop a bereavement plan of care that notes the kind of bereavement services to be offered and the frequency of service delivery.
- (2) **Dietary counseling.** Dietary counseling, when identified in the plan of care, ~~shall~~ must be performed by a qualified individual, which include dietitians as well as nurses and other individuals who are able to address and assure that the dietary needs of the patient are met.
- (3) **Spiritual counseling.** The hospice ~~shall~~ must:
- (A) Provide an assessment of the patient's and family's spiritual needs;
  - (B) Provide spiritual counseling to meet these needs in accordance with the patient's and family's acceptance of this service, and in a manner consistent with patient and family beliefs and desires;
  - (C) Make all reasonable efforts to facilitate visits by local clergy, pastoral counselors, or other individuals who can support the patient's spiritual needs to the best of its ability; and
  - (D) Advise the patient and family of this service.

### **310:661-5-2.3. Physical therapy, occupational therapy, speech-language pathology**

Physical therapy services, occupational therapy services, and speech-language pathology services ~~shall~~ must be available.

### **310:661-5-2.4. Licensed Professional Services**

- (a) Licensed professional services provided directly or under arrangement ~~shall~~ must be authorized, delivered, and supervised only by health care professionals who meet the appropriate qualifications specified by the State and who practice under the hospice's policies and procedures.
- (b) Licensed professionals ~~shall~~ must actively participate in the coordination of all aspects of the patient's hospice care, in accordance with current professional standards and practice, including participating in ongoing interdisciplinary comprehensive assessments, developing and evaluating the plan of care, and contributing to patient and family counseling and education.
- (c) Licensed professionals ~~shall~~ must participate in the hospice's quality assessment and performance improvement program and hospice sponsored in-service training.

### **310:661-5-3. Quality assurance**

- (a) The hospice ~~shall~~ must develop, maintain, and conduct a comprehensive quality assurance program that includes an evaluation of services, quarterly clinical record audits, and organizational review.
- (b) The hospice ~~shall~~ must ensure that appropriate and quality care is provided to include inpatient care, home care, and care provided under arrangements.
- (c) The quality assurance program ~~shall~~ must be reviewed at least ~~one (1) time each~~ once a year. Policies and procedures ~~shall~~ will be revised as needed, reviewed, and approved annually. Goals ~~shall~~ will be established and problems identified with documented results.

### **310:661-5-3.1. Quality Assessment/Performance Improvement**

- (a) The hospice ~~shall~~ must develop, implement, and maintain an effective, ongoing, hospice-wide data-driven quality assessment and performance improvement program. The hospice's governing body ~~shall~~ must ensure that the program: Reflects the complexity of its organization and services; involves all hospice services (including those services furnished under contract or arrangement); focuses on indicators related to improved palliative outcomes; and takes actions to demonstrate improvement in hospice performance. The hospice ~~shall~~ must maintain documentary evidence of its quality assessment and performance improvement program and be able to demonstrate its operation to the Department of Health.

- (b) **Program scope.**
- (1) The program ~~shall~~ must at least be capable of showing measurable improvement in indicators related to improved palliative outcomes and hospice services.
  - (2) The hospice ~~shall~~ must measure, analyze, and track quality indicators, including adverse patient events, and other aspects of performance that enable the hospice to assess processes of care, hospice services, and operations.
- (c) **Program data.**
- (1) The program ~~shall~~ must use quality indicator data, including patient care, and other relevant data, in the design of its program.
  - (2) The hospice ~~shall~~ must use the data collected to do the following:
    - (A) Monitor the effectiveness and safety of services and quality of care; and
    - (B) Identify opportunities and priorities for improvement.
  - (3) The frequency and detail of the data collection ~~shall~~ must be approved by the hospice's governing body.
- (d) **Program activities.**
- (1) The hospice's performance improvement activities ~~shall~~ must:
    - (A) Focus on high risk, high volume, or problem-prone areas;
    - (B) Consider incidence, prevalence, and severity of problems in those areas; and
    - (C) Affect palliative outcomes, patient safety, and quality of care.
  - (2) Performance improvement activities ~~shall~~ must track adverse patient events, analyze their causes, and implement preventive actions and mechanisms that include feedback and learning throughout the hospice.
  - (3) The hospice ~~shall~~ must take actions aimed at performance improvement and, after implementing those actions, the hospice shall measure its success and track performance to ensure that improvements are sustained.
- (e) **Performance improvement projects.** Hospices ~~shall~~ must develop, implement, and evaluate performance improvement projects.
- (1) The number and scope of distinct performance improvement projects conducted annually, based on the needs of the hospice's population and internal organizational needs, ~~shall~~ must reflect the scope, complexity, and past performance of the hospice's services and operations.
  - (2) The hospice ~~shall~~ must document what performance improvement projects are being conducted, the reasons for conducting these projects, and the measurable progress achieved on these projects.
- (f) **Executive responsibilities.** The hospice's governing body is responsible for ensuring the following:
- (1) ~~That an~~ An ongoing program for quality improvement and patient safety is defined, implemented, and maintained, and is evaluated annually;
  - (2) ~~That the~~ The hospice-wide quality assessment and performance improvement efforts address priorities for improved quality of care and patient safety, and that all improvement actions are evaluated for effectiveness; and
  - (3) ~~That one~~ One or more individual(s) who are responsible for operating the quality assessment and performance improvement program are designated.

### 310:661-5-4. Rights and responsibilities

- (a) Every hospice ~~shall~~ must provide, before or at the time of admission, a written statement of rights and responsibilities to each patient, or patient representative, or available family member. The hospice shall ensure that all staff members are familiar with and observe the rights and responsibilities enumerated in the statement.
- (b) The statement ~~shall must include but not be limited to the following patient rights. The inform the patient shall have that he/she has a right to:~~
- (1) A listing of available services, charges, billing process, and services that may be covered by private payment, private insurance, or state or federal medical care payment programs, including Medicaid or Medicare;

- (2) Advance notice of any change in fees or billing as soon as possible but no later than thirty (30) calendar days before the effective date of the change;
  - (3) Receive information explaining the Medicare, Medicaid and insurance benefits which are no longer available to the patient while the patient receives hospice care, any applicable benefit periods, length of time of each benefit period, and the process of revoking and transferring from one hospice to another if the patient desires;
  - (4) Be informed of the right to participate in the planning of care, the right to be advised in advance of any changes in the plan of care, the disciplines that shall furnish care, the proposed frequency of care, the title of the person supervising the patient's care and the manner in which that person may be contacted;
  - (5) Revoke the hospice benefit, without coercion from the hospice;
  - (6) Expect that the hospice shall enter no further into family life and affairs than is required to meet the goals of the hospice care plan;
  - (7) A grievance procedure that includes the right to register a grievance with the hospice regarding treatment or care received or lack of treatment or care without reprisal or discrimination from the hospice; and
  - (8) File a complaint with the Oklahoma State Department of Health at its current mailing address.
- (c) The statement ~~shall must include but not be limited to~~ the following hospice responsibilities. ~~The hospice shall be responsible for:~~
- (1) Accepting patients for service only if they meet hospice admission criteria and have been determined to be terminally ill by a licensed medical doctor or osteopathic physician;
  - (2) Providing services regardless of payment;
  - (3) Providing services if the patient is a nursing facility resident and indicating that care ~~shall will~~ be provided according to the hospice plan of care and that the nursing facility ~~shall will~~ be provided with the plan of care and all subsequent changes to ensure care is coordinated;
  - (4) Informing the patient representative or family of the patient's condition and what future changes may occur in the patient's condition and encouraging the patient or patient representative to express feelings and emotions without fear of reprisal;
  - (5) Providing caregivers who are non-judgmental and conduct themselves in a professional manner;
  - (6) Making and accepting referrals solely in the best interest of the patient;
  - (7) Ensuring that hospice owners, employees, and contractors ~~shall do~~ not knowingly initiate contact with a patient currently treated by another hospice for the purpose of attempting to persuade the patient to change hospice providers, and ensuring that a hospice which has knowledge of contacts initiated by its employees, owners or contractors ~~shall will~~ take reasonable and necessary steps to cease such contacts;
  - (8) Respecting and being sensitive to the ethnic, cultural, socioeconomic, religious and lifestyle diversity of the patients and their families;
  - (9) Ascertaining and honoring the wishes, concerns, priorities and values of the patient and the patient's family including refusal of routine care and treatment consistent with the organization's values as stated by hospice policy;
  - (10) Complying with the patient's advance directive, informing the patient of the right to revoke the advance directive at any time, and discussing the procedures required to revoke;
  - (11) Providing qualified personnel to meet the patient's needs;
  - (12) Supporting, affirming, and empowering families as caregivers while acknowledging and responding with sensitivity to the interruption of privacy that is necessitated by hospice care in the patient's residence; and
  - (13) Ensuring that contracted providers and volunteers are qualified and properly trained and provide care consistent with the values and philosophy of hospice.
  - (14) Ensuring hospice care is established to meet the patient's needs and not to supplement facility staffing if the patient resides in an inpatient facility.



### **310:661-5-4.1. Additional rights of the patient**

- (a) **General.** The patient has the right to be informed of his or her rights, and the hospice ~~shall~~ must protect and promote the exercise of these rights.
- (b) **Notice of rights and responsibilities.**
- (1) During the initial assessment visit in advance of furnishing care the hospice ~~shall~~ must provide the patient or representative with verbal (~~meaning spoken~~) and written notice of the patient's rights and responsibilities in a language and manner that the patient understands.
  - (2) The hospice ~~shall~~ must inform and distribute written information to the patient concerning its policies on advance directives, including a description of applicable State law.
  - (3) The hospice ~~shall~~ must obtain the patient's or representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.
- (c) **Exercise of rights and respect for property and person.**
- (1) The patient has the right:
    - (A) To exercise his or her rights as a patient of the hospice;
    - (B) To have his or her property and person treated with respect;
    - (C) To voice grievances regarding treatment or care that is (or fails to be) furnished and the lack of respect for property by anyone who is furnishing services on behalf of the hospice; and
    - (D) To not be subjected to discrimination or reprisal for exercising his or her rights.
  - (2) If a patient has been adjudged incompetent under state law by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed pursuant to state law to act on the patient's behalf.
  - (3) If a state court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with state law may exercise the patient's rights to the extent allowed by state law.
  - (4) The hospice ~~shall~~ must:
    - (A) Ensure that all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by anyone furnishing services on behalf of the hospice, are reported immediately by hospice employees and contracted staff to the hospice administrator;
    - (B) Immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice and immediately take action to prevent further potential violations while the alleged violation is being verified. Investigations and/or documentation of all alleged violations shall be conducted in accordance with established procedures;
    - (C) Take appropriate corrective action in accordance with state law if the alleged violation is verified by the hospice administration or an outside body having jurisdiction, such as the State survey agency or local law enforcement agency; and
    - (D) Ensure that verified violations are reported to State and local bodies having jurisdiction (including to the State survey and certification agency) within 5 working days of becoming aware of the violation.
- (d) **Rights of the patient.** The patient has a right to the following:
- (1) Receive effective pain management and symptom control from the hospice for conditions related to the terminal illness;
  - (2) Be involved in developing his or her hospice plan of care;
  - (3) Refuse care or treatment;
  - (4) Choose his or her attending physician;
  - (5) Have a confidential clinical record. Access to or release of patient information and clinical records is permitted in accordance with State and Federal law.
  - (6) Be free from mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property;
  - (7) Receive information about the services covered under the hospice benefit; and

- (8) Receive information about the scope of services that the hospice will provide and specific limitations on those services.

### **310:661-5-5. Continuous care**

Every hospice ~~shall~~ must provide continuous care as necessary to meet the medical crisis needs of the hospice patient and family. The provision of continuous care ~~shall~~ must meet the following requirements:

- (1) A skilled nurse ~~shall provide~~ provides at least 51% of the care in a 24-hour period, and a qualified home health aide must provide the balance of care.
- (2) A registered nurse ~~shall reassess~~ reassesses the patient at least every 24-hours to determine the effectiveness of interventions and the need for continued care.
- (3) Continuous care ~~shall be~~ is ordered by a physician upon initiation of the care and every 24-hour period thereafter of the uncontrolled medical crisis.

### **310:661-5-6. Infection Control**

(a) **General.** The hospice ~~shall~~ must maintain and document an effective infection control program that protects patients, families, visitors, and hospice personnel by preventing and controlling infections and communicable diseases.

(b) **Prevention.** The hospice ~~shall~~ must follow accepted standards of practice to prevent the transmission of infections and communicable diseases, including the use of standard precautions.

(c) **Control.** The hospice ~~shall~~ must maintain a coordinated agency-wide program for the surveillance, identification, prevention, control, and investigation of infectious and communicable diseases that:

- (1) Is an integral part of the hospice's quality assessment and performance improvement program; and
- (2) Includes the following:
  - (A) A method of identifying infectious and communicable disease problems; and
  - (B) A plan for implementing the appropriate actions that are expected to result in improvement and disease prevention.

(d) **Education.** The hospice ~~shall~~ must provide infection control education to employees, contracted providers, patients, and family members and other caregivers.

### **310:661-5-7. Supervision of hospice aides**

(a) A registered nurse ~~shall~~ must make an on-site visit to the patient's home:

- (1) No less frequently than every fourteen (14) calendar days to assess the quality of care and services provided by the hospice aide and to ensure that services ordered by the hospice interdisciplinary group meet the patient's needs. The hospice aide does not have to be present during this visit.
- (2) If an area of concern is noted by the supervising nurse, then the hospice ~~shall~~ must make an on-site visit to the location where the patient is receiving care in order to observe and assess the aide while he or she is performing care.
- (3) If an area of concern is verified by the hospice during the on-site visit, then the hospice ~~shall~~ must conduct, and the hospice aide ~~shall~~ must complete a competency evaluation.

(b) A registered nurse ~~shall~~ must make an annual on-site visit to the location where a patient is receiving care in order to observe and assess each aide while he or she is performing care.

(c) The supervising nurse ~~shall~~ must assess an aide's ability to demonstrate initial and continued satisfactory performance in meeting outcome criteria that include, but is not limited to:

- (1) Following the patient's plan of care for completion of tasks assigned to the hospice aide by the registered nurse;
- (2) Creating successful interpersonal relationships with the patient and family;
- (3) Demonstrating competency with assigned tasks;
- (4) Complying with infection control policies and procedures; and
- (5) Reporting changes in the patient's condition.

### **310:661-5-8. Drugs and Biologicals, Medical Supplies, Durable Medical Equipment**

(a) **General.** Medical supplies and appliances; durable medical equipment; and drugs and biologicals related to the palliation and management of the terminal illness and related conditions, as identified in the hospice plan of care, ~~shall~~ must be provided by the hospice while the patient is under hospice care.

(b) **Managing drugs and biologicals.**

(1) The hospice ~~shall~~ must ensure that the interdisciplinary group confers with an individual with education and training in drug management as defined in hospice policies and procedures and State law, who is an employee of or under contract with the hospice to ensure that drugs and biologicals meet each patient's needs.

(2) A hospice that provides inpatient care directly in its own facility ~~shall~~ must provide pharmacy services under the direction of a qualified licensed pharmacist who is an employee of or under contract with the hospice. The provided pharmacist services ~~shall~~ must include evaluation of a patient's response to medication therapy, identification of potential adverse drug reactions, and recommended appropriate corrective action.

(c) **Ordering of drugs.**

(1) Only a ~~icensed~~ licensed independent practitioner with prescriptive authority, in accordance with the plan of care and State law, may order drugs for the patient.

(2) If the drug order is verbal or given by or through electronic transmission:

(A) It ~~shall~~ must be given only to a licensed health care practitioners within their scope of practice under state law and authorized by hospice policy to receive verbal orders; and

(B) The individual receiving the order ~~shall~~ must record and sign it immediately and have the prescribing person sign it in accordance with State and Federal regulations.

(d) **Dispensing of drugs and biologicals.** The hospice ~~shall~~ must obtain drugs and biologicals from community or institutional pharmacists or stock drugs and biologicals itself.

(e) **Administration of drugs and biologicals.** The interdisciplinary group, as part of the review of the plan of care, ~~shall~~ must determine the ability of the patient and/or family to safely self-administer drugs and biologicals to the patient in his or her home.

(f) **Labeling, disposing, and storing of drugs and biologicals.**

(1) **Labeling.** Drugs and biologicals ~~shall~~ must be labeled in accordance with currently accepted professional practice and ~~shall~~ include appropriate usage and cautionary instructions, as well as an expiration date (if applicable).

(2) **Disposing.** The hospice ~~shall~~ must have written policies and procedures for the management and disposal of controlled drugs in the patient's home. At the time when controlled drugs are first ordered the hospice ~~shall~~ must:

(A) Provide a copy of the hospice written policies and procedures on the management and disposal of controlled drugs to the patient or patient representative and family;

(B) Discuss the hospice policies and procedures for managing the safe use and disposal of controlled drugs with the patient or representative and the family in a language and manner that they understand to ensure that these parties are educated regarding the safe use and disposal of controlled drugs; and

(C) Document in the patient's clinical record that the written policies and procedures for managing controlled drugs was provided and discussed.

(g) **Use and maintenance of equipment and supplies.**

(1) The hospice ~~shall~~ must ensure that manufacturer recommendations for performing routine and preventive maintenance on durable medical equipment are followed. The equipment ~~shall~~ must be safe and work as intended for use in the patient's environment. Where a manufacturer recommendation for a piece of equipment does not exist, the hospice ~~shall~~ must ensure that repair and routine maintenance policies are developed. The hospice may use persons under contract to ensure the maintenance and repair of durable medical equipment.

(2) The hospice ~~shall~~ must ensure that the patient, where appropriate, as well as the family and/or other caregiver(s), receive instruction in the safe use of durable medical equipment and supplies. The hospice may use persons under contract to ensure patient and family instruction. The patient, family, and/or caregiver ~~shall~~ must be able to demonstrate the appropriate use of durable medical equipment to the satisfaction of the hospice staff.

### **310:661-5-9. Short-term inpatient care**

(a) Inpatient care ~~shall~~ must be available for pain control, symptom management, and respite purposes.  
(b) If the hospice has an arrangement with another facility to provide for short-term inpatient care, the arrangement is described in a written agreement, coordinated by the hospice, and at a minimum specifies that:

- (1) ~~That~~ the hospice supplies the inpatient provider a copy of the patient's plan of care and specifies the inpatient services to be furnished;
- (2) ~~That~~ the inpatient provider has established patient care policies consistent with those of the hospice and agrees to abide by the palliative care protocols and plan of care established by the hospice for its patients;
- (3) ~~That~~ the hospice patient's inpatient clinical record includes a record of all inpatient services furnished and events regarding care that occurred at the facility; that a copy of the discharge summary be provided to the hospice at the time of discharge; and that a copy of the inpatient clinical record is available to the hospice at the time of discharge;
- (4) ~~That~~ the inpatient facility has identified an individual within the facility who is responsible for the implementation of the provisions of the agreement; and
- (5) ~~That~~ the hospice retains responsibility for ensuring that the training of personnel who will be providing the patient's care in the inpatient facility has been provided and that a description of the training and the names of those giving the training are documented.

## **SUBCHAPTER 6. HOSPICE INPATIENT SERVICE REQUIREMENTS**

### **310:661-6-1. General**

- (a) Each hospice program that operates a hospice inpatient facility ~~shall~~ must comply with service requirements specified in this subchapter.
- (b) Patients ~~shall be permitted~~ are allowed to receive visitors at any hour, including small children and house pets.
- (c) Smoking or possessing a lighted tobacco product is prohibited in a hospice inpatient facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room for use by patients and their visitors. The walkway to the main entrance ~~shall~~ must also be smoke free. ~~No ashtray shall be~~ Ashtrays cannot be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room. An indoor smoking room may be provided if:
- (1) It is completely enclosed;
  - (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
  - (3) It allows for visual observation of the patients from outside of the smoking room; and
  - (4) The plans are reviewed and approved by the Department.

### **310:661-6-2. Compliance with health and safety requirements**

- (a) Each hospice inpatient facility ~~shall~~ must comply with all Federal, State, and local laws, regulations, codes and ordinances as required.
- (b) The facility ~~shall~~ must have written policies and procedures relating to advance directives with respect to all patients receiving care. These policies and procedures ~~shall~~ will comply with existing Federal and State laws.

### **310:661-6-3. Nursing services**

- (a) The facility ~~shall~~ must provide twenty-four (24) hour nursing services sufficient to meet the needs of the hospice inpatients.
- (b) Each patient ~~shall~~ must receive treatments, medications, and diet as prescribed, and ~~shall be~~ kept comfortable, clean, well-groomed, and protected from accident, injury, and infection.
- (c) Each shift ~~shall~~ must include at least one (1) registered nurse to supervise the facility and provide direct patient care.
- (d) There ~~shall~~ must be adequate numbers of other licensed nurses and support staff to provide services established in the patient's plan of care while the patient is in the facility.

### **310:661-6-4. Dietary services**

- (a) The facility ~~shall~~ must provide dietary service adequate to meet the dietary needs of the patients. Services may be provided on a contract basis as long as dietary needs of patients are met.
- (b) Each facility ~~shall~~ must serve at least three (3) meals or their equivalent each day at regular times, with not more than fourteen (14) hours between a substantial evening meal and breakfast.
- (c) Menus ~~shall~~ must be planned and followed to balance patient choice with nutritional needs of patients, in accordance with physicians' orders and to the extent medically possible, in accordance with the Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.
- (d) The facility ~~shall~~ must procure, store, prepare, distribute, and serve all food under sanitary conditions in compliance with Chapter 257 of this Title.
- (e) Nourishments ~~shall be~~ are available for all patients at anytime in accordance with approved diet orders.
- (f) There ~~shall~~ must be adequate trained staff available to manage and provide dietary services. A licensed/registered dietitian ~~shall~~ must be available to provide consultation on patients' dietary needs, supervise services, and ensure medically prescribed special diets are provided as ordered.
- (g) The system to be used for dishwashing ~~shall~~ must be approved by the Department and operated in accordance with approved procedures and requirements of Chapter 257 of this Title.
- (h) Garbage and refuse ~~shall~~ must be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Adequate carriers and containers ~~shall~~ will be provided for the collection and transportation, in a sanitary manner, of garbage and refuse from food service areas of the hospice to the place of disposal in accordance with the requirements of Chapter 257 of this Title.

### **310:661-6-5. Pharmaceutical services**

- (a) The hospice inpatient facility ~~shall~~ must provide appropriate methods and procedures for dispensing and administering drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacies or maintained and stocked by the facility, the facility ~~shall be~~ is responsible for the pharmaceutical services and ensure services are provided in accordance with accepted professional standards of practice in compliance with Federal, State, and local laws.
- (b) Each facility ~~shall~~ must employ or contract with a licensed pharmacist to supervise services and ensure drugs and biologicals are obtained, stored, administered and disposed of as required by Federal and State law.
- (c) A physician or licensed independent practitioner ~~shall~~ must order all medications for each patient. If the physician or practitioner's order is verbal, the physician or practitioner ~~shall~~ must give the order to a licensed nurse or other individual authorized by State law to receive the order. The individual receiving the order ~~shall~~ must record and sign the order immediately and have the prescribing physician or practitioner sign as soon as possible in a manner consistent with good medical practice. Another covering or attending physician or practitioner may sign another physician or practitioner's verbal order if the facility allows this practice and specific procedures are approved by the governing body to permit the

practice. If a covering or attending physician or practitioner authenticates the ordering physician or practitioner's verbal order, such an authentication indicates that the covering or attending physician or practitioner assumes responsibility for his or her colleague's order and verifies the order is complete, accurate, appropriate, and final.

(d) Drugs and biologicals ~~shall~~ must be administered only by a physician, licensed nurse, an individual authorized by State law to administer, or the patient if his or her attending physician has approved.

(e) The pharmaceutical service ~~shall~~ must have procedures for control and accountability of all drugs and biologicals in the facility. Drugs are dispensed in compliance with Federal and State law. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable an accurate reconciliation. The pharmacist ~~shall~~ must ensure the drug records are in order and that an account of all controlled drugs is maintained and reconciled.

(f) The labeling of drugs and biologicals is based on currently accepted professional principles in compliance with State law, and includes the appropriate accessory and cautionary instructions, as well as the expiration date and lot number when applicable.

(g) All drugs and biologicals ~~shall~~ must be stored in locked compartments under proper temperature controls. Only authorized personnel ~~shall~~ must have access. Separately locked compartments ~~shall~~ must be provided for storage of Schedule II controlled drugs. All stores of Schedule II drugs not individually dispensed to a patient ~~shall~~ must be accounted for at regular intervals to ensure the drugs are not diverted.

(h) If the facility only maintains drugs and biologicals by individual patient prescription, an emergency medication kit approved by the Medical advisor ~~shall~~ must also be maintained.

(i) Controlled drugs no longer needed by the patient ~~shall~~ must be disposed of in compliance with Federal and State requirements. The pharmacist and a facility registered nurse or two (2) facility registered nurses ~~shall~~ must document disposal and maintain a record.

### **310:661-6-6. Disaster preparedness**

The hospice inpatient facility ~~shall~~ must have an acceptable written plan, periodically rehearsed with staff, with procedures to be followed in the event of an internal or external disaster and for the care of casualties arising from such disasters.

### **310:661-6-7. Infection control**

Each hospice inpatient facility ~~shall~~ must establish an infection control program to provide a sanitary environment and avoid sources and transmission of infections. The program ~~shall~~ must include written policies and procedures for identifying, reporting, evaluating and maintaining records of infections among patients and personnel, for ongoing review and evaluation of all aseptic, isolation and sanitation techniques employed in the facility, and development and coordination of training programs in infection control for all facility personnel.

## **SUBCHAPTER 7. INFRACTIONS**

### **310:661-7-1. Inspections**

Any duly authorized representative of the Department ~~shall have~~ has the right to conduct such inspections as necessary in order to determine compliance with the provisions of the Act and this Chapter. The right of inspection ~~shall also extend~~ extends to any hospice the Department has a reason to believe is advertising or operating a hospice service without a license.

### **310:661-7-2. Complaints and investigations**

(a) A complaint may be registered by any person who believes a hospice is operating contrary to the Act or is posing a serious threat to the health and welfare of a patient in its care. The complaint may be registered verbally or in writing to the Department. An investigation ~~shall~~ will be conducted by the Department to determine the validity of the complaint and to instigate necessary action thereto. The

Department ~~shall~~ must notify the complainant in writing of the findings, if a name and address is furnished.

(b) If the Department determines there are reasonable grounds to believe that a hospice is operating in violation of the Act or the rules, the Department ~~shall~~ must follow the notice and hearing procedure established by the Act and the Procedures of the Department, Chapter 2 of this Title.

**310:661-7-4. Appeals**

Final orders of the Department ~~may be~~ may be appealed ~~under~~ to the Supreme Court, ~~according to the Act by any party directly affected or aggrieved by the order~~ Appeals must be in accordance with 63 O.S. § 1-860.11.