

**SENATE CS FOR CS FOR HOUSE BILL NO. 152(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered: 5/8/97**

**Referred: Today's Calendar**

**Sponsor(s): REPRESENTATIVES RYAN, Croft, Brice, Dyson,**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to hospice care."**

**2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**3 \* Section 1.** AS 18 is amended by adding a new chapter to read:

**4 Chapter 18. Hospice Care Programs.**

**5 Article 1. Licensing of Hospice Programs.**

**6 Sec. 18.18.005. Policy declaration.** It is the policy of the state that regulation  
**7** of hospice programs should ensure an appropriate standard of care for hospice clients  
**8** without unduly burdening the programs with requirements that consume staff time and  
**9** financial resources that are essential for the delivery of services to hospice clients. In  
**10** furtherance of this policy, this chapter establishes two sets of standards for hospice  
**11** programs that recognize the more limited staff time and financial resources available  
**12** to voluntary hospice programs while requiring all programs to comply with basic  
**13** minimum program standards.

**14 Sec. 18.18.010. License required.** A person, including a partnership,  
**15** association, or corporation, may not represent itself as a hospice program or operate

1 a hospice program unless the person, partnership, association, or corporation has  
2 obtained a license from the department.

3 **Sec. 18.18.020. Issuance and renewal of license.** (a) Upon receiving an  
4 application and fee, if any, for a license under this chapter, the department shall issue  
5 a license if the applicant meets the applicable requirements of this chapter.

6 (b) If an applicant under (a) of this section does not meet the applicable  
7 requirements but makes continued efforts to comply with them and any noncompliance  
8 does not directly affect the safety of clients, the department may issue a temporary or  
9 provisional license that is valid for a reasonable period of time, as determined by the  
10 department.

11 (c) A license under this chapter shall be issued in the name of the person,  
12 agency, or other entity specified in the application and is not transferable or assignable  
13 without the written approval of the department.

14 (d) The department shall, by regulation, establish the application fee, license  
15 fee, length of time that a license is valid, and the standards for license renewal. A  
16 license is not renewable during the time it has been suspended or revoked under this  
17 chapter.

18 **Sec. 18.18.030. Denial, suspension, or revocation of license.** (a) The  
19 department may deny a license, reduce a license to a provisional license, or revoke a  
20 license if the department finds that the applicant or licensee, as appropriate, or the  
21 program director or medical director of the applicant or licensee, as applicable, has

- 22 (1) endangered the health, safety, or welfare of a client;  
23 (2) a history of deficiencies in quality of care;  
24 (3) had a license to operate a hospice program suspended or revoked  
25 in another licensing jurisdiction for a reason other than failure to pay a licensing fee;  
26 (4) been convicted of operating a hospice program without a license in  
27 any jurisdiction;  
28 (5) an insufficient number of staff with the training, experience, or  
29 judgment to provide adequate hospice care;  
30 (6) committed fraud, deceit, misrepresentation, or an offense involving  
31 dishonesty associated with the license application or with the operation of a hospice

1 program in any jurisdiction; or

2 (7) violated this chapter or a regulation adopted under this chapter.

3 (b) The department may, without a hearing, summarily suspend a license of  
4 a hospice program if it finds that the actions or deficiencies of the program have  
5 caused, or present an immediate threat of causing, serious injury to a hospice program  
6 client. A licensee is entitled to a hearing before the department to appeal the summary  
7 suspension within seven days after the order of suspension is issued. A licensee may  
8 appeal an adverse decision of the department on an appeal of a summary suspension  
9 to the superior court. A summary suspension remains in effect until the department  
10 finds that the actions or deficiencies are corrected, the license is revoked, or the  
11 licensee is successful in appealing the suspension.

12 (c) The department may, without a hearing, reduce a hospice license to a  
13 provisional license for a period of time established by the department if the department  
14 finds that the licensee is temporarily unable to comply with this chapter or is in the  
15 process of becoming decertified under the Medicare program but is taking appropriate  
16 steps to bring the program into compliance with this chapter or Medicare certification  
17 requirements. A licensee is entitled to a hearing before the department to appeal a  
18 reduction to a provisional license under this subsection within seven days after the  
19 order to reduce the license is issued. A licensee may appeal an adverse decision of  
20 the department on an appeal of the order reducing the license to a provisional license  
21 to the superior court. A program with a provisional license under this subsection may  
22 not accept new clients. If the program fails to correct its deficiencies and does not  
23 successfully appeal the order reducing the license to provisional status within the  
24 period stipulated in the provisional license, the department shall revoke the license.

25 **Sec. 18.18.040. Right of entry and inspection.** A duly designated employee  
26 of the department may enter the premises of a hospice program that has applied for  
27 a license or who is licensed under this chapter. These employees may inspect  
28 documents of the hospice program to determine whether the program is in compliance  
29 with this chapter and regulations adopted under this chapter. The right of entry and  
30 inspection extends to premises and documents of persons whom the department has  
31 reason to believe are operating a hospice program without a license.

**Sec. 18.18.100. Requirements for licensure.** (a) Except as provided in AS 18.18.200 for volunteer hospice programs, a hospice program shall meet the requirements of this section. If a hospice program meets the requirements of this section and AS 18.18.010 - 18.18.040, the department shall issue a license for the program.

(b) A hospice program shall have a clear mission statement that is consistent with hospice philosophy.

(c) A hospice program shall have at least the following features:

- (1) a governing body;
- (2) an established set of admission criteria for determining appropriate clients;
- (3) a program director;
- (4) an interdisciplinary team;
- (5) volunteers; and
- (6) a medical director.

(d) A hospice program may only provide services to a person if the person

- (1) consents to receive those services; and
- (2) fits the admissions criteria of the hospice program.

(e) Hospice services shall 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 be reviewed periodically by the interdisciplinary team and revised as needed. The client, and the client's family if the client desires, must be given the opportunity to participate in the development of the care plan and must be informed of the opportunity to attend interdisciplinary team meetings. The interdisciplinary team must consider the need for at least the following services when developing the care plan:

- (1) social services;
- (2) nursing care;
- (3) counseling;
- (4) pastoral care;
- (5) volunteer visits to provide comfort, companionship, and respite;

(6) bereavement services for at least one year after the death of the person who is terminally ill; and

(7) medical services.

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

(1) develop nursing objectives, policies, and procedures consistent with hospice philosophy;

(2) develop job descriptions for nursing personnel consistent with hospice philosophy;

(3) establish staffing and on-call schedules for nursing staff to ensure the availability of nursing services 24-hours a day, seven days a week; and

(4) develop and implement orientation and training programs for nursing staff.

(g) Before providing a hospice service in a hospice program, a direct service provider shall receive an orientation of at least four hours specific to hospice service. The policy and procedures of the hospice program define the agenda of the hospice orientation program. The hospice program shall document in personnel files that staff members have completed the four-hour orientation. Indirect service volunteers shall be oriented according to program policies. The hospice orientation program must include the following subjects:

(1) hospice philosophy;

(2) personal death awareness;

(3) communication skills;

(4) personnel issues;

(5) identification of hospice resource people;

(6) stress management;

(7) ethics;

(8) stages of dying; and

(9) funeral arrangements.

(h) 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, received within a one-year period, including four hours of orientation, is required for all direct service providers delivering hospice care. Documentation of completion of this program is transferable from one hospice program to another. The educational program must include the following subjects:

- (1) hospice philosophy;
- (2) family dynamics;
- (3) pain and symptom management;
- (4) grief, loss, and transition;
- (5) psychological perspectives on death and dying;
- (6) spirituality;
- (7) communication skills;
- (8) volunteer roles; and
- (9) multidisciplinary management.

(i) Direct service providers in a hospice program shall complete a minimum of eight hours of continuing education or in-service training each year after the first year, based on date of hire.

(j) A hospice program shall maintain, at a minimum, the following records:

- (1) a record for each client that includes copies of the client's care plan, progress notes, assessments, and a description of services provided to the client and the client's family;
- (2) minutes of governing body meetings;
- (3) all receipts and expenditures; and
- (4) training provided to paid staff and volunteers.

(k) A hospice program shall have and follow written policies and procedures governing its operation, including policies relating to confidentiality, training, and admissions.

(l) A person who enters a hospice program shall be given information regarding living wills and durable health care powers of attorney.

(m) The hospice program shall have a functional quality assurance or improvement plan in place that

1 (1) continually monitors and evaluates the care provided;  
 2 (2) identifies issues and potential issues;  
 3 (3) proposes and implements improvements; and  
 4 (4) reevaluates the care provided to determine if further improvement  
 5 is possible or needed.

6 (n) A hospice program may not use a direct service provider whose name is  
 7 listed on an abuse registry maintained by the Department of Commerce and Economic  
 8 Development, division of occupational licensing. A hospice program shall contact the  
 9 division for a determination of whether a prospective direct service provider's name  
 10 is on an abuse registry maintained by the division and may not allow the person to  
 11 provide hospice services until the division has responded to the inquiry. The  
 12 Department of Commerce and Economic Development may adopt regulations to  
 13 implement this subsection.

## 14 **Article 2. Licensing of Volunteer Hospice Programs.**

15 **Sec. 18.18.200. Licensing requirements.** (a) The department shall issue a  
 16 license to a volunteer hospice program that complies with this section and with  
 17 AS 18.18.010 - 18.18.040 and 18.18.100(a), (b), (c) (1) - (3) and (5), (d), (g), and (j) -  
 18 (l).

19 (b) A direct service volunteer must  
 20 (1) submit a written application;  
 21 (2) undergo a screening interview and an interview after training;  
 22 (3) attend an 18-hour standard training program;  
 23 (4) submit a confidentiality statement in which the volunteer agrees to  
 24 follow the program's policy regarding confidentiality required by AS 18.18.100(k) and  
 25 (a) of this section; and  
 26 (5) if the volunteer will transport individuals, have proof of auto  
 27 insurance and a valid driver's license.

28 (c) Volunteer hospice programs shall develop and maintain policies and  
 29 procedures that address the following with respect to volunteers in the program:  
 30 (1) recruitment, retention, and dismissal;  
 31 (2) screening;

- 1 (3) orientation;
- 2 (4) scope of function;
- 3 (5) supervision;
- 4 (6) ongoing training and support;
- 5 (7) team conferencing;
- 6 (8) records of volunteer activities; and
- 7 (9) bereavement services.

8 (d) Volunteer services in a volunteer hospice program must be directed by a  
 9 coordinator of volunteer services who shall

- 10 (1) implement a direct service volunteer program;
- 11 (2) coordinate the orientation, education, support, and supervision of  
 12 direct service volunteers; and
- 13 (3) coordinate the use of direct service volunteers with other hospice  
 14 staff and community resources.

### 15 **Article 3. General Provisions.**

16 **Sec. 18.18.300. Individual licenses.** A program license received under this  
 17 chapter does not relieve an individual who is an employee, volunteer, or contractor  
 18 with the licensed hospice program from requirements outside this chapter pertaining  
 19 to licensure of the individual.

20 **Sec. 18.18.310 Sanctions.** A person who violates this chapter commits a civil  
 21 violation for which a fine not to exceed \$100 a day of violation may be assessed by  
 22 a court.

23 **Sec. 18.18.320. Administrative Procedure Act.** Regulations and contested  
 24 cases under this chapter are governed by AS 44.62 (Administrative Procedure Act).

25 **Sec. 18.18.330. Regulations.** The department may adopt regulations to  
 26 implement this chapter that are consistent with the policy expressed in AS 18.18.005.

27 **Sec. 18.18.340. Immunity for hospice program volunteers.** Unless the act  
 28 or omission constituted gross negligence, recklessness, or intentional misconduct, a  
 29 person may not recover damages for personal injury, death, or damage to property for  
 30 an act or omission to act in the course and scope of official hospice program duties  
 31 from a volunteer who works for a hospice program that is licensed under this chapter.



**Sec. 18.18.390. Definitions.** In this chapter,

(1) "bereavement services" means emotional support services related to the death of a family member, which may include 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;

(2) "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;

(3) "client" means the person who is receiving the hospice services;

(4) "department" means the Department of Health and Social Services;

(5) "direct service provider" means employees or volunteers who provide hospice services directly to a client under a hospice program;

(6) "family" means a spouse, primary caregiver, biological relatives, and individuals with close personal ties to the client;

(7) "governing body" means the entity that establishes policy and is legally responsible for the overall operation of a hospice program;

(8) "hospice philosophy" means a philosophy that is life affirming, recognizes dying as a normal process of living, focuses on maintaining the quality of remaining life, neither hastens nor postpones death, strengthens the client's role in making informed decisions about care, and 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 issues related to terminal illness so that the clients can feel better prepared for the death that is to come;

(9) "hospice program" means a program that provides hospice services;

(10) "hospice services" means a range of interdisciplinary palliative and supportive services provided in a home or at an inpatient facility to persons who are terminally ill and those persons' families in order to meet their physical, psychological, social, emotional, and spiritual needs;

(11) "interdisciplinary team," for a hospice program providing comprehensive services, means a group comprised of at least a primary health care

1 provider, a licensed registered nurse, a social worker, a pastoral or other counselor, and  
2 a volunteer coordinator or representative;

3 (12) "medical director" means a licensed physician who oversees the  
4 medical components of hospice services and the interdisciplinary team;

5 (13) "nurse supervisor" means a licensed registered nurse with  
6 education, experience, and training in hospice nursing care who is designated by the  
7 program director to oversee nursing services for the hospice program;

8 (14) "primary health care provider" means the physician or advanced  
9 nurse practitioner identified by the client or by the person authorized to make decisions  
10 for the client under a durable health care power of attorney;

11 (15) "program director" means the person designated by the governing  
12 body of a hospice program as responsible for the day-to-day operations of the program;

13 (16) "terminally ill" means that a person has a life expectancy of less  
14 than one year, in the opinion of the person's primary physician or the medical director,  
15 and is no longer receiving curative treatment;

16 (17) "volunteer" means a trained individual who works for a hospice  
17 program without compensation;

18 (18) "volunteer hospice program" means a hospice program that  
19 provides all direct patient care at no charge.