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AN ACT

Relating to hospice care.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 2, 1997
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AN ACT

1 Relating to hospice care.

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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

Chapter 104

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.

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

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

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

9 (1) a governing body;

10 (2) an established set of admission criteria for determining appropriate
11 clients;

12 (3) a program director;

13 (4) an interdisciplinary team;

14 (5) volunteers; and

15 (6) a medical director.

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

17 (1) consents to receive those services; and

18 (2) fits the admissions criteria of the hospice program.

19 (e) Hospice services shall be delivered in accordance with a care plan
20 approved by the interdisciplinary team regardless of whether the hospice services are
21 provided by hospice program staff or by contractors. The care plan must be reviewed
22 periodically by the interdisciplinary team and revised as needed. The client, and the
23 client's family if the client desires, must be given the opportunity to participate in the
24 development of the care plan and must be informed of the opportunity to attend
25 interdisciplinary team meetings. The interdisciplinary team must consider the need for
26 at least the following services when developing the care plan:

27 (1) social services;

28 (2) nursing care;

29 (3) counseling;

30 (4) pastoral care;

31 (5) volunteer visits to provide comfort, companionship, and respite;

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

3 (7) medical services.

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

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

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

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

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

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

22 (1) hospice philosophy;

23 (2) personal death awareness;

24 (3) communication skills;

25 (4) personnel issues;

26 (5) identification of hospice resource people;

27 (6) stress management;

28 (7) ethics;

29 (8) stages of dying; and

30 (9) funeral arrangements.

31 (h) A hospice program shall provide an educational program that offers a

Chapter 104

1 comprehensive overview of hospice philosophy and hospice care. A minimum of 18
2 hours of education, received within a one-year period, including four hours of
3 orientation, is required for all direct service providers delivering hospice care.
4 Documentation of completion of this program is transferable from one hospice program
5 to another. The educational program must include the following subjects:

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

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

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

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

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

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

30 (m) The hospice program shall have a functional quality assurance or
31 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;

Chapter 104

- 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.

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

2 (1) "bereavement services" means emotional support services related
3 to the death of a family member, which may include counseling, provision of written
4 material, social reorientation, and group support for up to one year following the death
5 of the client who was terminally ill;

6 (2) "care plan" means a written service delivery plan that the
7 interdisciplinary team, in conjunction with the client, shall develop to reflect the
8 changing care needs of the client;

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

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

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

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

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

17 (8) "hospice philosophy" means a philosophy that is life affirming,
18 recognizes dying as a normal process of living, focuses on maintaining the quality of
19 remaining life, neither hastens nor postpones death, strengthens the client's role in
20 making informed decisions about care, and stresses the delivery of services in the least
21 restrictive setting possible and with the least amount of technology necessary by
22 volunteers and professionals who are trained to help clients with the physical, social,
23 psychological, spiritual, and emotional issues related to terminal illness so that the
24 clients can feel better prepared for the death that is to come;

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

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

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

Chapter 104

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.