

ARKANSAS
STATE BOARD OF HEALTH

**RULES ~~AND REGULATIONS~~ FOR HOSPICE
IN ARKANSAS**



Promulgated under the Authority of [Ark. Code Ann. § 20-7-117](#)

Revision effective date: [January 1, 2020](#)

ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

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DRAFT ONLY

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SECTION 3: PURPOSE

To establish rules, ~~regulations~~ and minimum standards for hospice programs operating in the State of Arkansas ~~in accordance with Ark. Code Ann. § 20-7-117~~. These rules will ensure high quality professional care for terminally ill patients and their families by providing for the safe, humane and appropriate palliative care of all admitted to hospice program regardless of setting and shall apply to both new and existing agencies.

SECTION 4: DEFINITIONS

The word **shall** as used in these ~~regulation~~rules means mandatory.

- A. Administrator means the person responsible for the management of a hospice.
- B. Attending APRN means an advanced practice registered nurse who is licensed in the State of Arkansas and is identified by the patient, at the time he/she elects to receive hospice care, as having the most significant role in the determination and delivery of the patient's hospice care.
- C. Attending physician means a doctor of medicine or osteopathy who is licensed in the State of Arkansas and is identified by the patient, at the time he/she elects to receive hospice care, as having the most significant role in the determination and delivery of the patient's medical care.
- C. Autonomous means a separate and distinct entity which functions under its own administrations and bylaws either within or independently of a parent organization.
- D. Bereavement counseling means counseling services provided to the patient's family after the patient's death.
- E. Clergy or Pastoral Counselor means an individual with training in spiritual counseling.
- F. Department means the Arkansas Department of Health ~~and Human Services and Human Services.~~
- G. Election Statement means the initial election for hospice care signed by the patient or patient's representative.
- H. Employee means an individual paid either through a salary or on an hourly or per visit basis and a W2 is issued on his/her behalf. An "employee" also refers to a volunteer under the jurisdiction of the hospice.
- I. Health Facility Services is the facility licensing division of the Department.
- J. Hospice Agency means any agency, person, partnership, association, corporation, or other organization whether public or private, proprietary, or non-profit, that provides hospice service.
- K. Hospice or hospice care means an autonomous, centrally administered, medically directed, coordinated program providing a continuum of home, outpatient, and home-like inpatient care for the terminally ill patient and family,

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employing an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social and economic stresses which are experienced during the final stages of illness and during dying and bereavement, with such care being available 24 hours a day, 7 days a week and provided on the basis of need regardless of ability to pay

- L. Informed Consent specifies the type of care and services agreed upon by the hospice patient or the patient's representative.
- M. In-patient Direct Care Hospice means a licensed hospice facility that provides direct in-patient care to the terminally ill.
- N. Functional Program describes those services to be provided by the Hospice for the operation of the facility.
- O. Registered Nurse (RN) means a person licensed in the State of Arkansas as a registered nurse.
- P. Representative means a person who is, because of the patient's mental or physical incapacity, authorized in accordance with State law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill patient.
- Q. Satellite Office or Alternate Delivery Site - An approved location or site from which a hospice provides services within a portion of the total geographic area served by the parent hospice agency.
- R. Service Area - The geographic land area for which the agency shall be licensed consistent with the agency's Permit of Approval (POA) or the service area of record prior to the requirement for a POA.
- S. Social Worker means a person who has at least a Bachelor's Degree from a school accredited or approved by the Council on Social Work Education and is licensed by the State of Arkansas as a Social Worker.
- T. Terminally ill means that the patient is in the last phases of an incurable illness or condition and has a limited prognosis.

SECTION 5: REQUIREMENTS AND CODES

All agencies providing hospice services in the home shall comply with Sections 1 thru 21. In-Patient Direct Care Hospices shall comply with Sections 1 thru 34.

A. Licensure

1. No public or private agency or person shall establish, conduct, or maintain a hospice or hold itself out to the public as a hospice without first obtaining licensure from the department.
2. Licensure to operate a hospice issued by the Department shall be based upon the results of an operational and physical plant survey conducted by the Department to determine compliance with the Rules ~~and Regulations of~~ for Hospice. Licensure for the operation of a hospice program shall, unless sooner revoked, be for a period of one year.

B. Revocation

1. The department may deny, suspend or revoke a license on any of the following grounds:
 - a. Violation of any of the ~~r~~Rules for Hospice and regulations promulgated as developed under the authority of Ark. Code Ann. § 20-7-117.
 - b. Permitting, aiding or abetting the commission of any unlawful act in connection with the operation of a hospice.
2. Revocation shall be effective for a minimum of 90 days before the Department accepts reapplication.
3. Right of Appeal shall be through the Arkansas Board of Health.

C. Application

1. An applicant shall file applications under oath with the Department upon forms prescribed by the Department. The application shall be signed by the owner; if a partnership or corporation, by two of its officers; in the case of a governmental unit by the head of the governmental unit having jurisdiction.
2. The application shall set forth the full name and address of the hospice for which state licensure is sought and such additional information as the

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department may require.

3. An agency making initial application or requesting a change in service area shall submit a Permit of Approval (POA) from the appropriate agency.

D. Change of Ownership

1. The hospice shall notify Health Facility Services in writing at least 30 days prior to the effective date of change of ownership.
2. The following information shall be submitted:
 - a) License application;
 - b) Request for Medicare Certification (where applicable);
 - c) Legal documents, ownership agreements, the license previously issued to the hospice, and other information to support re-license requirements; and
 - d) Licensure fee.
 - e) Name/Address Change
3. The hospice shall notify Health Facility Services in writing of any name and/or address change.
4. The following information shall be submitted:
 - a) The new address.
 - b) The previously issued license shall be returned to Health Facility Services.
 - c) Appropriate fee.

E. Management Contract

The licensed hospice shall notify Health Facility Services in writing at least 30 days prior to entering into a contract for overall management of the hospice. A copy of the contract shall be submitted to Health Facility Services.

F. Inspections

Any authorized representative of the department shall have the right to enter a

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hospice at any time in order to make whatever inspection is deemed necessary in accordance with the minimum standards and ~~regulations~~ rules prescribed herein.

SECTION 8: ADMINISTRATION

A. Administration shall provide and document the following:

1. Job descriptions for all employees and volunteers;
2. Policies and procedures for each available service;
3. In-services pertinent to hospice care shall be ongoing for employees, volunteers, and contracted staff;
4. Orientation for all employees, volunteers and contracted staff; and
5. Annual review of policies and procedures.
6. Criminal history checks for employees and volunteers as required by Ark. Code Ann. §20-38-101 et seq.

B. Services by Arrangement

A hospice may arrange for another individual or entity to furnish services to the patients. If services are provided under arrangement (i.e. under contract), the following standards shall be met:

1. Continuity of Care

The hospice program shall ensure the continuity of patient/family care in home, outpatient, and in-patient settings.

2. Written Agreement

The hospice shall have a written agreement for the provision of contracted services. The contract shall include at least the following:

- a. Identification of services to be provided; and
- b. Qualifications of personnel providing the services.

C. Short Term Inpatient care

The hospice shall have a written agreement approved with an area hospital, hospice in-patient facility, or qualified skilled nursing facility which states that the hospice may continue to follow any hospice patient admitted to that facility.

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D. Continuation of Care

A hospice may not discontinue or diminish care because of the lack of a payer source.

E. Licensure

The hospice and all hospice employees shall be licensed in accordance with applicable Federal, State and local laws.

F. Core Services

A hospice shall ensure all core services (i.e., Nursing, Medical Social Services, and Counseling) described in the following section are routinely provided directly by hospice employees. A hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice shall maintain professional, financial, and administrative responsibility for the services and shall assure the qualifications of staff and services provided meet the requirements specified for Nursing, Medical Social Services, Physician Services, and Counseling.

NOTE: Physician Services may be provided by an individual contract. The contract must specify the physician will assume all responsibilities as outlined in Section 11.

G. Post Mortem Procedures

The Hospice Agency shall have a procedure addressing post mortem procedures.

H. Pet Therapy

Pet Therapy may be provided by the hospice in the patient's home. Birds, cats, dogs, and other animals may be permitted in the patient's home. Therapy animals shall have appropriate vaccinations and licenses. A veterinary record shall be kept on all therapy animals to verify vaccinations and be made readily available for review and shall not negatively affect the well-being of the patient.

I. Employee Health

It shall be the responsibility of Administration, with advice and guidance from the Medical Staff and the Infection Control Committee, to establish and enforce policies concerning pre-employment physicals and employee health. The policies shall include but are not limited to:

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1. Requirements for an up-to-date health file for each employee;
2. ~~Annual testing of each employee having direct patient contact for tuberculosis. Each employee having direct patient contact, regardless of whether the employee is a reactor, non-reactor, or converter, shall be tested or evaluated in accordance with the applicable section of the Tuberculosis Manual of the Arkansas Department of Health and Human Services; There shall be measures for prevention of communicable disease outbreaks, especially mycobacterium tuberculosis (TB). All plans for the prevention of transmission of TB shall conform to the most current CDC Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Healthcare Facilities;~~ and
3. Work restrictions shall be placed on personnel who are known to be affected with any disease in a communicable stage. Such individuals shall not work in any area in any capacity in which there is the likelihood of transmitting disease to patients, personnel or other individuals within the hospice or a potential of contaminating food, food contact surfaces, supplies or any surface with pathogenic organisms.

J. Complaints

Each agency shall keep a record of complaints received. Documentation shall include the name of the complainant, the relationship to the patient, the nature of the complaint, and the action taken to resolve the complaint.

K. Informed Consent

An informed consent shall be signed by the patient or patient's representative for provision of hospice care.

L. Certification of Terminal Illness

The agency shall have certification signed by the attending physician and medical director or physician designee stating the patient has a terminal illness.

M. Election of Hospice Care

1. Duration of election. An election to receive hospice care shall be considered to continue as long as the patient remains in the care of a hospice or does not revoke the election for hospice care and remains certified as appropriate for hospice.
2. Effective date of election. A patient or patient's representative may designate an effective date for the election period that begins with the first

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day of hospice care.

3. Waiver of other benefits. A patient or patient's representative can elect hospice care from only one hospice provider at any given time.
- N. Elements of the Election Statement. The election statement shall include the following:
1. Identification of the hospice that provides care to the patient;
 2. The patient's or the patient's representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the patient's terminal illness;
 3. The effective date of the election; and
 4. The signature of the patient or patient's representative.
- O. Revoking the Election of Hospice Care
1. A patient or patient's representative may revoke the patient's election of hospice care at any time during an election period.
 2. To revoke the election of hospice care, the patient or patient's representative shall file a statement with the hospice that includes the following information:
 - a. A signed statement that the patient or patient's representative revokes the patient's election for hospice care.
 - b. The date the revocation is effective. (A patient or patient's representative may not designate an effective date earlier than the date that the revocation is made.)

SECTION 15: COUNSELING SERVICES

Counseling services shall be available to the patient and the family and shall include the following:

A. Bereavement Services

There shall be an organized program for provision of bereavement services under the supervision of an individual with specialized bereavement training. The plan of care for these services shall reflect family needs which shall include personal visits up to one year following the patient's death. Refusal or variations from the visits or contacts shall be documented.

B. Dietary Counseling

~~A qualified dietitian shall provide dietary counseling, when required. Dietary counseling shall be provided by qualified individuals, which may include registered nurses, dieticians or nutritionists when identified in the patient's plan of care.~~

C. Spiritual Counseling

The hospice shall notify the patient of the opportunity for spiritual counseling either from the hospice pastoral counselor or clergy of the patient's choice. If the patient elects to have his/her clergy visit, the hospice shall make reasonable efforts to arrange for the visit(s).

D. Social Services

Social Services shall be provided by a qualified Social Worker.

Section 21: SEVERABILITY.

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, such provisions or applications of these Rules that can give effect without the invalid provisions or applications will be enforced, and to this end the provisions hereto are declared to be severable.

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CERTIFICATION

This will certify that the foregoing revisions to the Rules for Hospice in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the _____ day of _____, 2019.

Nathaniel Smith, M.D., MPH
Secretary of Health

Date