

Louisiana Revised Statutes of 1950

Title 40 – Public Health and Safety

Chapter 11 – State Department of Hospitals

Part VII. Hospices

[Editor's Note: The Hospice Licensing Law was created by Act 941 of 1988 Legislature. Subsequent amendments are noted herein.]

§2181. Short title

This Part may be cited as the "Hospice Licensing Law."

§2182. Definitions

As used in this Part:

- (1) "Autonomous" refers to a separate and distinct operational entity which functions under its own administration and bylaws, either within or independently of a parent organization.
- (2) "Core services" are nursing services, physician services, social work services, counseling services, and support services, including trained volunteers, and bereavement and pastoral care.
- (3) "Department" means the Louisiana Department of Health.
- (4) "Hospice" means an autonomous, centrally administered, medically directed program providing a continuum of home, outpatient, and homelike inpatient care for the terminally ill patient and his family. It employs 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.
- (5) "Interdisciplinary team" includes representatives from all of the core services as evidenced by documentation, planning, and team meetings.
- (6) "Palliative care" means the reduction or abatement of pain or other troubling symptoms by appropriate coordination of all services of the hospice care team required to achieve needed relief of distress.
- (7) "Terminally ill" refers to a medical prognosis of limited expected survival, of approximately six months or less at the time of referral to a hospice, of an individual who is experiencing an illness for which therapeutic strategies directed toward cure and control of the disease along are no longer appropriate.

§2183. Licensure required; transferability of license; fees; moratorium

- A. It shall be unlawful to operate or maintain a hospice without first obtaining a license therefor from the department.
- B. Application for licensure shall be made by a hospice to the department on forms furnished by the department. Upon determination that the hospice is in compliance with the minimum requirements for licensure as established by the department and with all other applicable state and local laws and regulations, the department shall issue a license for such period as may be provided in the published regulations of the department, but not to exceed two years.
- C. *[Repealed by Act 657 of 1999 Legislature, effective July 1, 1999]*
- D. The license shall be displayed in a conspicuous place inside the hospice program office, shall be valid only in the possession of the person or public agency to which it is issued, shall not be subject to sale, assignment, or other transfer, voluntary or involuntary, and shall not be valid for any hospice other than the hospice for which originally issued.
- E. Notwithstanding any other provision of law to the contrary, the department shall implement a moratorium on the issuance of licenses for hospices. The department shall not approve for licensure any new hospice until December 31, 2008, in order to allow the department and the hospice industry to examine the uncontrolled growth in providers and Medicaid expenditures that could adversely affect the quality of care available to patients in Louisiana. The moratorium shall apply only to applications for licensure for hospices not postmarked by July 1, 2007. Applications received by the department shall be postmarked no later than 12:00 a.m. on July 1, 2007, to be accepted and reviewed for application for hospice licensure. Any application postmarked after 12:00 a.m. on July 1, 2007, shall be returned to the applicant. All applications shall be accompanied by a licensing fee and applicants shall be ready to be fully operational and prepared for a licensing survey within ninety days of submission of the application. If an applicant is

unable to comply with the survey within ninety days of submission of the application, no license shall be issued under the moratorium. A moratorium would allow the department and hospice industry to review the current standards, examine the issues, and promulgate new regulations deemed necessary to resolve uncontrolled growth and other issues identified. The provisions of this Subsection shall not apply to state correctional facilities, including Allen Correctional Center and Winn Correctional Center.

(Amended by Act 657 of 1999 Legislature, effective July 1, 1999; amended by Act 444 of 2007 Legislature, effective July 1, 2007)

§2184. Rules, regulations, and standards for licenses

The administration of this Part is vested in the Louisiana Department of Health. The department shall:

- (1) Prepare and furnish all forms necessary under the provisions of this Part relative to the licensure of hospices.
- (2) Promulgate rules and regulations to carry out the provisions of this Part in accordance with the Administrative Procedure Act. The rules shall include but not be limited to the following:
 - (a) The qualifications for professional and ancillary personnel in order to adequately furnish hospice care, including a requirement that professional personnel shall possess current Louisiana licenses or certificates which are otherwise required by law. The position of social worker shall not require board certification but shall require a master's degree from an accredited graduate school of social work.
 - (b) Standards for the organization and quality of patient care.
 - (c) Procedures for maintaining records.
 - (d) Standards for inpatient facilities.
 - (e) Requirements for informed consent.
 - (f) Standards for contractual arrangements and professional ancillary hospice services.
 - (g) Policies and procedures for:
 - (i) Admissions criteria.
 - (ii) Disclosure of financial information.
 - (iii) Patient and family rights.
 - (iv) Utilization review.
 - (v) Confidentiality.
 - (vi) Quality assurance.
 - (vii) Staff orientation and training.
 - (viii) Continuing education of interdisciplinary team members
 - (h) Requirements for minimum volunteer services of at least five percent of the total hours of service.
 - (i) Interdisciplinary team requirements.

(Amended by Act 657 of 1999 Legislature, effective July 1, 1999)

§2185. Inspection

- A. On-site inspections are required for licensure. For Medicare certified hospice programs, licensure site visits shall coincide with Medicare certification and recertification visits whenever feasible.
- B. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals, not to exceed one year, or such shorter period as may be deemed necessary by the department, and without previous notice, all hospices subject to the provisions of this Part in order to secure compliance with or prevent violation of this Part and department rules and regulations adopted pursuant to this Part,

§2186. Complaints

- A. It shall be the duty of the department, through its duly authorized agents, to investigate all complaints against hospices as defined in this Part. The department may take such action as is authorized by this Part.
- B. The department shall receive, record, and dispose of complaints in accordance with rules and regulations promulgated in accordance with the provisions of this Part.

§2187. Revocation, suspension, or refusal to renew license; issuance of fines; written notice

The department shall have the power to deny, revoke, suspend, or refuse to renew a license for a hospice or to impose fines, if an applicant has failed to comply with the provisions of this Part or any published rule or regulation of the department relating to hospices. If a license is denied, revoked, or withdrawn, or a fine is imposed, the action shall be effective when made, and the department shall notify the applicant or licensee of such action in writing immediately. The notice shall state the reason for the denial, revocation, or withdrawal of the license or imposition of such fine. No fine imposed pursuant to this Section shall exceed five hundred dollars.

§2188. Refusal, revocation, or suspension of license; imposition of fine; appeal procedure

Upon the refusal of the department to grant a license as provided in this Part, or upon the revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within thirty days after receipt of the notification of the refusal, revocation, suspension of a license, or imposition of a fine. The appeal hearings shall take place no later than thirty days after the request therefor, and shall be conducted in accordance with applicable regulations of the department and the provisions of R.S. 46:107, et seq. This provision shall in no way preclude any party aggrieved by any act or inaction of the department from seeking judicial relief by a writ of mandamus to require compliance with this Part.

§2189. Operating without or in violation of license; injunctive relief

If any hospice organization operates without a valid license issued by the department or if any organization or entity uses the term “hospice” in its name or represents itself as a “hospice” without being licensed as provided herein, the department may cause a civil suit for injunctive relief to be instituted in a district court in the parish in which the facility is housed, including a temporary restraining order, to restrain the institution, agency, corporation, person or persons, or any other group operating the facility from continuing the violation. Nothing in this Section shall be construed to prohibit the use of the term “hospice” by nonprofit organizations qualifying under the provisions of 26 C.F.R. 1.501(c)(3)-1, for the express purpose of providing support to licensed hospices in Louisiana.

§2190. Time for making license application

- A. The provisions of this Part shall take effect January 1, 1989, except as provided herein.
- B. The department shall develop appropriate rules and regulations necessary for the administration of this Part, and shall cause the publication in the Louisiana Register of the same not later than February 20, 1989.
- C. No hospice as defined in this Part shall operate in Louisiana without a license issued in accordance with the provisions of R.S. 40:2183 after July 1, 1989.

(Amended by Act 614 of 2016 Legislature, effective August 1, 2016)

§2191. Disposal of deceased patient’s unused controlled substances

- A. Upon death of a patient receiving hospice services, ownership of the patient’s unused Schedule II, III, IV, or V controlled substances under 21 C.F.R. 1308 may transfer to the hospice for immediate disposal pursuant to the following provisions:
 - (1) Each hospice shall establish a written procedure to ensure safe disposal of unused controlled substances by a hospice nurse at the time of a patient’s death.
 - (2) Upon the death of a patient receiving hospice services, in the presence of a witness, the hospice nurse shall record in the medical record the name and quantity of each unused controlled substance.
 - (3) The hospice nurse shall conduct immediate disposal of the controlled substance at the site of care by complying with the Environmental Protection Agency and Drug Enforcement Administration guidelines for safe disposal or immediate mail-back to a registered authorized collector pursuant to 21 C.F.R 1317.40.
 - (a) If conducting immediate disposal at the site of care, the hospice nurse shall perform the disposal in the presence of a witness, who shall sign a document indicating their witnessing the disposal.
 - (b) If participating in immediate mail-back to a registered authorized collector, the hospice nurse shall deposit the unused controlled substance into the mail-back envelope and seal the envelope at the site of care. This shall be done in the presence of a witness, who shall sign a document indicating their witnessing the hospice nurse sealing the controlled substance in the mail-back envelope. The hospice nurse shall immediately initiate its delivery to the registered authorized collector.
 - (4) Hospice employees shall not remove any controlled substances from the site of care, except for the hospice nurse responsible for disposal pursuant to Subparagraph (3)(b) of this Subsection.
 - (5) The hospice nurse shall record the method of disposal in the medical record.
- B. A copy of the written policy established pursuant to this Section shall be furnished to each patient and to the patient’s healthcare representative at the time the patient is enrolled in hospice.

(This Section added by Act 23 of 2018 Legislature, effective August 1, 2018)