

Senate Bill No. 1049

CHAPTER 492

An act to amend Sections 1746, 1747, 1748, and 1749 of the Health and Safety Code, relating to hospice.

[Approved by Governor September 24, 1997. Filed
with Secretary of State September 25, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1049, Maddy. Hospice services.

Existing law provides for the licensure and regulation by the State Department of Health Services of persons or agencies providing hospice services for persons, and the families of persons, who are experiencing the last phases of life due to a terminal disease. Violation of provisions of law or regulations relating to hospices is a crime.

This bill would provide that multiple locations, as defined, of a hospice need not obtain separate hospice licenses, would require multiple locations to be listed on the license of the parent agency, as defined, would require multiple locations to each pay the licensing fee, and would make conforming changes.

Existing law defines hospice to mean a specialized form of multidisciplinary health care, and defines the plan of care as a plan developed by the multidisciplinary team.

This bill would, instead, define hospice as a specialized form of interdisciplinary health care, and would make conforming changes. This bill would define the plan of care to mean a written plan developed by the attending physician and surgeon, the medical director, or physician and surgeon designee, and the interdisciplinary team. This bill would provide that "skilled nursing services" means nursing services provided by or under the direction of a registered nurse under the plan of care.

Existing law permits any person or governmental agency that is operating a hospice as of January 1, 1991, to continue to operate the hospice if certain conditions are met, including, but not limited to, that they do not charge for services and they do not receive 3rd-party payment for services rendered.

This bill would permit continued operation of hospices that meet the conditions if, instead, they do not charge patients or families for hospice services and do not receive 3rd-party insurance payments for services rendered.

Existing law requires an applicant for hospice licensure to make provision for certain basic services, including, but not limited to, skilled nursing services and bereavement services, and requires that the services meet the Standards for Quality Hospice Care, 1993.

This bill would include home health aide services, as defined, within these basic services, and would make conforming changes. The bill would require that the services, instead, meet the Standards for Quality Hospice Care, 1996.

The people of the State of California do enact as follows:

SECTION 1. Section 1746 of the Health and Safety Code is amended to read:

1746. As used in this chapter, the following definitions shall apply:

(a) "Bereavement services" means those services available to the surviving family members for a period of at least one year after the death of the patient. These services shall include an assessment of the needs of the bereaved family, and the development of a care plan that meets these needs, both prior to, and following the death of the patient.

(b) "Hospice" means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, to provide supportive care to the primary care giver and the family of the hospice patient, and which meets all of the following criteria:

(1) Considers the patient and the patient's family, in addition to the patient, as the unit of care.

(2) Utilizes a interdisciplinary team to assess the physical, medical, psychological, social, and spiritual needs of the patient and the patient's family.

(3) Requires the interdisciplinary team to develop an overall plan of care and to provide coordinated care which emphasizes supportive services, including, but not limited to, home care, pain control, and limited inpatient services. Limited inpatient services are intended to ensure both continuity of care and appropriateness of services for those patients who cannot be managed at home because of acute complications or the temporary absence of a capable primary care giver.

(4) Provides for the palliative medical treatment of pain and other symptoms associated with a terminal disease, but does not provide for efforts to cure the disease.

(5) Provides for bereavement services following death to assist the family to cope with social and emotional needs associated with the death of the patient.

(6) Actively utilizes volunteers in the delivery of hospice services.

(7) To the extent appropriate, based on the medical needs of the patient, provides services in the patient's home or primary place of residence.



(c) “Inpatient care arrangements” means arranging for those short inpatient stays that may become necessary to manage acute symptoms or due to the temporary absence, or need for respite, of a capable primary care giver. The hospice shall arrange for these stays, ensuring both continuity of care and the appropriateness of services.

(d) “Medical direction” means those services provided by a licensed physician and surgeon who is charged with the responsibility of acting as a consultant to the interdisciplinary team, a consultant to the patient’s attending physician and surgeon, as requested, with regard to pain and symptom management, and liaison with physicians and surgeons in the community.

(e) “A interdisciplinary team” means the hospice care team that includes, but is not limited to, the patient and patient’s family, a physician and surgeon, a registered nurse, a social worker, a volunteer, and a spiritual care giver. The team shall be coordinated by a registered nurse and shall be under medical direction. The team shall meet regularly to develop and maintain an appropriate plan of care.

(f) “Plan of care” means a written plan developed by the attending physician and surgeon, the medical director or physician and surgeon designee, and the interdisciplinary team that addresses the needs of a patient and family admitted to the hospice program. The hospice shall retain overall responsibility for the development and maintenance of the plan of care and quality of services delivered.

(g) “Skilled nursing services” means nursing services provided by or under the supervision of a registered nurse under a plan of care developed by the interdisciplinary team and the patient’s physician and surgeon to a patient and his or her family that pertain to the palliative, supportive services required by patients with a terminal illness. Skilled nursing services include, but are not limited to, patient assessment, evaluation and case management of the medical nursing needs of the patient, the performance of prescribed medical treatment for pain and symptom control, the provision of emotional support to both the patient and his or her family, and the instruction of care givers in providing personal care to the patient. Skilled nursing services shall provide for the continuity of services for the patient and his or her family. Skilled nursing services shall be available on a 24-hour on-call basis.

(h) “Social service/counseling services” means those counseling and spiritual care services that assist the patient and his or her family to minimize stresses and problems that arise from social, economic, psychological, or spiritual needs by utilizing appropriate community resources, and maximize positive aspects and opportunities for growth.

(i) “Terminal disease” or “terminal illness” means a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course.



(j) “Volunteer services” means those services provided by trained hospice volunteers who have agreed to provide service under the direction of a hospice staff member who has been designated by the hospice to provide direction to hospice volunteers. Hospice volunteers may be used to provide support and companionship to the patient and his or her family during the remaining days of the patient’s life and to the surviving family following the patient’s death.

(k) “Multiple location” means a location or site from which a hospice makes available basic hospice services within the service area of the parent agency. A multiple location shares administration, supervision, policies and procedures, and services with the parent agency in a manner that renders it unnecessary for the site to independently meet the licensing requirements.

(l) “Home health aide” has the same meaning as set forth in subdivision (c) of Section 1727.

(m) “Home health aide services” means those services as set forth in subdivision (d) of Section 1727 provided for the personal care of the terminally ill patient and the performance of related tasks in the patient’s home in accordance with the plan of care in order to increase the level of comfort and to maintain personal hygiene and a safe, healthy environment for the patient.

(n) “Parent agency” means the part of the hospice that is licensed pursuant to this chapter, and develops and maintains administrative controls of multiple locations. All services provided by the multiple location and parent agency are the responsibility of the parent agency.

SEC. 2. Section 1747 of the Health and Safety Code is amended to read:

1747. (a) No person, political subdivision of the state, or other governmental agency, that is not operating a hospice as of January 1, 1991, shall establish or operate a hospice without first obtaining a license under this chapter.

(b) Any person, political subdivision of the state, or other governmental agency, that is operating a hospice as of January 1, 1991, may continue to operate the hospice only under the following conditions:

(1) The person, political subdivision of the state, or other governmental agency shall apply to the state department for a license under this chapter within 60 days after forms for the application of licensure under this chapter are available from the state department.

(2) The person, political subdivision of the state, or other governmental agency shall cease calling or referring to itself as a hospice upon the final decision of the director upholding the state department’s denial of an application for licensure under this chapter.



(c) Nothing in this chapter shall preclude the ongoing use of the title “volunteer hospice” by those organizations that satisfy all of the following:

(1) They do not provide skilled nursing services.

(2) They do not charge patients or families for hospice services, and they do not receive third-party insurance payments for services rendered.

(3) They satisfy the disclosure requirements specified in subdivision (c) of Section 1748.

(d) A small and rural hospice is exempt from the licensing provisions of this chapter and the disclosure requirements of subdivision (c) of Section 1748. A small and rural hospice may provide skilled nursing services and may use the title “volunteer hospice.” For purposes of this chapter, a “small and rural hospice” means a hospice that provides services to less than 50 patients per year, does not charge for services, does not receive third-party payment for services rendered, and is not located in a standard metropolitan statistical area.

SEC. 3. Section 1748 of the Health and Safety Code is amended to read:

1748. (a) Except as otherwise provided in subdivision (b) or (d) of Section 1747, no person, political subdivision of the state, or other governmental agency shall establish, conduct, maintain, or represent itself as a hospice unless a license has been issued under this chapter. Multiple locations need not obtain a separate license. Multiple locations shall be listed on the license of the parent agency and each shall pay a licensing fee in the amount prescribed by subdivision (a) of Section 1750.

(b) Any person, political subdivision of the state, or other governmental agency desiring a license to establish a hospice shall file with the state department a verified application on a form prescribed and furnished by the state department which contains any information as may be required by the state department for the proper administration and enforcement of this chapter.

(c) Any hospice that is not required to obtain a license under this chapter shall disclose in all advertisements and information provided to the public all of the following information:

(1) It is not required to be licensed and is not regulated by the state department.

(2) Any complaint against the hospice should be directed to the local district attorney and the state department.

(3) Any complaint against personnel licensed by a board or committee within the Department of Consumer Affairs and employed by the hospice should be directed to the respective board or committee. Any complaint against a certified home health aide or certified nurse assistant shall be directed to the state department.



The address and phone number of any state agency, board, or committee which is responsible for addressing complaints shall be provided by the hospice, upon request, to any patient of the hospice.

SEC. 4. Section 1749 of the Health and Safety Code is amended to read:

1749. (a) To qualify for a license under this chapter, an applicant shall satisfy all of the following:

(1) Be of good moral character. If the applicant is a franchise, franchisee, firm, association, organization, partnership, business trust, corporation, company, political subdivision of the state, or governmental agency, the person in charge of the hospice for which the application for a license is made shall be of good moral character.

(2) Demonstrate the ability of the applicant to comply with this chapter and any rules and regulations promulgated under this chapter by the state department.

(3) File a completed application with the state department that was prescribed and furnished pursuant to Section 1748.

(b) In order for a person, political subdivision of the state, or other governmental agency to be licensed as a hospice it shall satisfy the definition of a hospice contained in Section 1746, and also provide, or make provision for, the following basic services:

- (1) Skilled nursing services.
- (2) Social services/counseling services.
- (3) Medical direction.
- (4) Bereavement services.
- (5) Volunteer services.
- (6) Inpatient care arrangements.
- (7) Home health aide services.

(c) The services required to be provided pursuant to subdivision (b) shall be provided in compliance with the "Standards for Quality Hospice Care, 1996," as available from the California State Hospice Association, until the state department adopts regulations establishing alternative standards pursuant to subdivision (d).

(d) The state department may adopt regulations establishing standards for any or all of the services required to be provided under subdivision (b). The regulations of the state department adopted pursuant to this subdivision shall supersede the standards referenced in subdivision (c) to the extent the regulations duplicate or replace those standards.

