

Arch A. Moore, Jr.
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

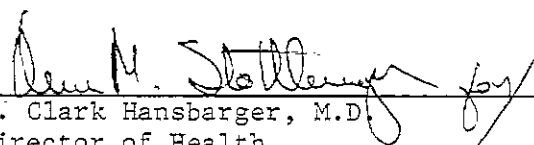
DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF CONTINUATION OF PUBLIC HEARING

Pursuant to Section 7, Article 3, Chapter 29A of the West Virginia Code, the West Virginia Department of Health announces a continuation of the public hearing of January 21, 1985 for the purpose of receiving comments pertaining to the filing of the proposed Licensure of Hospice Care Programs, West Virginia Board of Health Legislative Rules, Chapter 16-5I, Series I (1985).

Any citizen or other interested party may submit written evidence to the Regulatory Services Program of the West Virginia Department of Health, by mail to 1800 Washington Street, East, Charleston, West Virginia 25305 or in person at Room 7, second floor, P & G Building, 2019 Washington Street, East, Charleston, West Virginia 25305 not later than February 6, 1985. All comments received during this extension period will be made part of the public record of comments received and will be considered as part of the public hearing.

The issues for comment shall be limited to the actual information contained in the above-mentioned proposed rules. Copies of the proposed rules may be obtained from the address heretofore appearing or by telephoning (304) 348-3223 or from the Office of the Secretary of State, Capitol Complex, Charleston, West Virginia 25305, telephone (304) 345-4000.



L. Clark Hansbarger, M.D.
Director of Health

SECRETARY OF STATE
OFFICE OF WEST VIRGINIA
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John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF PUBLIC HEARING

Pursuant to Section five, Article three, Chapter twenty-nine-A of the Code of West Virginia, one thousand nine-hundred thirty-one, as amended, the West Virginia Department of Health shall convene a public hearing at 1:00 p.m. on January 21, 1985, in the first floor Conference Room of the P & G Building, 2019 Washington Street, East, Charleston, West Virginia for the purpose of taking evidence pertaining to the filing of Licensure of Hospice Care Programs, West Virginia Board of Health Legislative Rules, Chapter 16-51, Series I (1985). The proposed regulation is a revision of the document which was offered for public hearing and comment on October 22, 1984.

Any citizen or other interested party may appear in person to present evidence. Any citizen or other interested party may submit written evidence to the Regulatory Services Program of the West Virginia Department of Health, by mail to 1800 Washington Street, East, Charleston, West Virginia 25305 or in person at Room 7, second floor, P & G Building, 2019 Washington Street, East, Charleston, West Virginia not later than 4:30 p.m., January 21, 1985. All comments, written and oral, will be made part of the public record of comments received and will be considered as a part of the public hearing. The Department requests that parties wishing to comment make an effort to submit written copies of their comments in order to facilitate review of the comments.

The issues to be heard shall be limited to the proposed and above-mentioned rule. Copies of the proposed rule may be obtained from the address heretofore appearing or by telephoning 304-348-3223 or from the Office of the Secretary of State, Capitol Complex, Charleston, West Virginia 25305, telephone 345-4000.

L. Clark Hansbarger
L. Clark Hansbarger, M.D.
Director of Health

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OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA
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FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensure of Hospice Care Programs

Type of Rule: Legislative Interpretive Procedural

Agency Health Department Address 1800 Washington Street, East
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
				6,200	\$6,510
Personal Services				4,000	4,200
Current Expense				2,200	6,310
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates. Personal Services includes fractional surveyor and clerical positions. Current expense includes travel funds. Funds for this program (and others) have been incorporated into the Health Department budget request for fiscal 1986.

3. Objectives of these rules: This rule establishes standards and procedures for the licensure of hospice care programs. This is a new licensure program established by the 1984 Legislature.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The cost of the administration of the licensure program will be supported by the General Revenue Fund.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

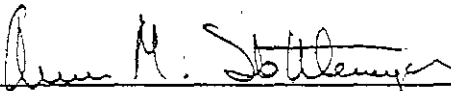
Specific data on costs of programs currently operating is not available. Preliminary review of this rule by hospice programs indicates no major or unreasonable increase in costs due to this rule.

C. Economic Impact on Citizens/Public at Large.

None

Date October 22, 1984

Signature of Agency Head or Authorized Representative



L. Clark Hansbarger, M.D.
Director

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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PROPOSED RULE ABSTRACT
WEST VIRGINIA BOARD OF HEALTH

TITLE: Licensure of Hospice Care Programs

TYPE: Legislative Rule

NUMBER: Chapter 16-5I, Series I (1985)

AUTHORITY: Chapter 16, Article 5I

RELATED: Chapter 16, Article 5D

ABSTRACT: This proposed rule establishes standards and procedures for the licensure of hospices, a new type of licensure program mandated by the 1984 Legislature in Chapter 16, Article 5I of the West Virginia Code. The rule is designed to assist in the establishment of comprehensive hospice care programs for the treatment of physical, emotional and mental symptoms of terminal illness and to that end establishes basic programmatic requirements.

CONTACT PERSON: Kay Howard, Regulatory Services Division, 348-3223

RESPONSIBLE DIVISION: Health Facilities Evaluation Division, 348-0050
John J. Jarrell, Director

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Licensure of Hospice Care Programs

Chapter 16-51
Series I
(1985)

For Public Hearing
1-21-85

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Licensure of Hospice Care Programs

Chapter 16-51
Series I
(1985)

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[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Chapter 16-51
Series I
(1985)

Subject: Licensure of Hospice Care Programs

Section 1. General

1.1. Scope - This legislative rule establishes general standards and procedures for the licensure of hospice programs in West Virginia. This rule is designed to assist in the establishment of comprehensive hospice care programs for the treatment of physical, emotional and mental symptoms of terminal illness, and to that end, shall serve as basic programmatic requirements for a hospice. This rule is not intended to serve as a substitute for Federal standards for certification of hospices to participate in the Medicare program and compliance with this rule should not be interpreted as qualification for such participation.

1.2. Authority - This rule is issued under the authority of Chapter 16, Article 51, of the West Virginia Code. This rule is related to Chapter 16, Articles 5D and 5I of the West Virginia Code.

1.3. Filing Date - This rule was promulgated on the ____ day of _____, 19__, and was filed on the ____ day of _____, 19__, Secretary of State's office.

1.4. Effective Date - This rule became effective on the ____ day of _____, 19__.

Section 2. Supersession and Repeal of Former Rules [Reserved]

Section 3. Application and Enforcement

3.1. Application - This rule shall apply to any person, partnership, association or corporation and any local governmental unit or any division, department, board or agency thereof establishing, conducting, managing or

operating a hospice. A hospice program maintained and operated by a hospital, nursing home or other licensed health care facility shall comply with the applicable portions of this rule, but shall not be required to submit an additional license fee for the hospice program. Compliance with the hospice standards herein shall be evaluated independently from compliance with other licensure standards and sharing of staff, space, physical facilities and equipment or other shall be permitted only if the requirements of each applicable rule are satisfied in full.

3.2. Enforcement - The enforcement of this rule is vested with the director of the West Virginia department of health or his or her lawful designee.

Section 4. Definitions

4.1. Bereavement Services - Support services designed to assist clients to experience, respond emotionally to, and adjust to the death of another person.

4.2. Chore Services - Assistance provided to a client in performing necessary household chores and tasks which the client is unable to do for himself or herself because of limiting conditions of health. Chore services include: housecleaning, meal preparation, dishwashing, laundry, running errands such as paying bills, picking up prescriptions and shopping, lawn care, walk and step cleaning, snow removal and carrying in wood, coal or other types of fuel.

4.3. Director - The director of the West Virginia department of health.

4.4. Governing Body - The policy-making body of a government agency, the board of directors or trustees of a corporation whether for profit or not, or the proprietors of an organization.

4.5. Home Health Aide - An individual who assists, under supervision, in the provision of home health services and who provides related health care to hospice clients. Such services may include simple health care tasks, personal hygiene services, and housekeeping tasks essential to the client's health.

4.6. Homemaker Services - Services which are designed to preserve independent living through teaching and demonstrating household management for self care and independent living, as well as assistance during a crisis situation. Training shall include such topics as: money management; nutrition; personal care which does not require nursing supervision; social and emotional support to alleviate loneliness or depression; light housekeeping; and safety techniques.

4.7. Hospice - A coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration which provides palliative and supportive medical and other health services to terminally ill clients and their families. Hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness, and during dying and bereavement.

4.8. Interdisciplinary Team - The hospice client and the client's family, the attending physician and the following hospice personnel: physician, nurse, social worker, clergy, and trained volunteer. Providers of supportive services such as mental health, pharmaceutical, and any other appropriate allied health services may also be included on the team as the needs of the client dictate.

4.9. Palliative Care - Treatment directed at controlling pain, relieving

other symptoms and focusing on the special needs of the client and family as they experience the stress of the dying process, rather than curative care.

4.10. Respite Care Services - Temporary full-time or part-time care provided to clients who are dying in order to offer short term relief to regular caretakers. Respite care is designed to relieve families or residential caretakers to meet planned or emergency needs; to assist caretakers during a period of crisis such as illness, hospitalization, or death of a family member; to provide relief to the caretakers for vacations or other necessities or activities associated with family life; and to restore or maintain the client's physical or mental well-being, or the well-being of his family.

4.11. Terminally III - Means that the client has a medical prognosis that his or her life expectancy is six months or less.

Section 5: State Administrative Procedures

5.1. General Licensure Provisions

5.1.1. No person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof may operate a hospice in the State of West Virginia without first obtaining a license under this rule.

5.1.2. Any hospice in operation prior to the effective date of this rule which desires to continue operating as a hospice shall apply for a license within thirty days after the effective date of this rule.

5.1.3. Neither an original nor a renewal license shall be issued under these rules for a project reviewable under Chapter 16, Article 2D of the West Virginia Code unless the state health planning and development agency has issued a finding, after a final conformance review, that the completed project conforms to the terms of the certificate of need decision issued for the project.

Evidence of compliance shall be supplied with licensure applications.

5.1.4. A license shall be valid only for the premises and persons named and described in the application, shall not be transferable or assignable and shall be surrendered to the director upon written demand stating the cause for the demand.

5.1.5. If the ownership of a hospice with a valid unexpired license changes, the new owner shall apply for a new license. The application of the new owner for a license shall have the effect of a valid license for three months from the date the application is received by the director.

5.1.6. A license shall state: (a) the specific name of the hospice to which it applies; (b) the date of issuance; and (c) the expiration date. A hospice name change shall be shown in the next license issued.

5.1.7. The license shall be posted in a conspicuous and public place of the hospice.

5.1.8. Neither the name of the hospice nor any advertising of the hospice's services shall suggest or claim any services other than those given on the application and for which the hospice is licensed.

5.2. Initial License

5.2.1. An applicant shall submit a completed application to the director, on a form prescribed by the director, not less than thirty days and not more than ninety days prior to the date proposed for commencement of operation. Information required may include affirmative evidence of ability to comply with this rule. A nonrefundable fee of one hundred dollars (\$100) shall be submitted with the application for an initial license.

5.2.2. The hospice shall identify the following as part of the application:

(a) name, address, principal occupation, and official position of all persons who have ownership interest in the hospice or the name, address, principal occupation, and official position of each member of the board of directors, if a corporation; and

(b) if a hospice is located on or in leased real estate, the name of the lessor and any direct or indirect interest of the applicant or licensee;

5.2.3. An initial license shall be issued only after the director inspects the hospice and only if he or she finds that the hospice complies with this rule.

5.2.4. An initial license issued after the effective date of this rule shall be valid for a period of one year from the date of issuance.

5.3. Renewal License

5.3.1. An applicant for a renewal license shall submit a completed application to the director on a form prescribed by the director not less than sixty days and not more than ninety days prior to the scheduled expiration date of the current license. A nonrefundable fee of one hundred dollars (\$100) shall be submitted with the license renewal application for a hospice whose yearly caseload exceeds ten or more clients, and fifty dollars (\$50) for a hospice whose yearly caseload is less than ten clients.

5.3.2. The director shall issue a renewal license when he or she finds the hospice in compliance with this rule and the licensee submits a completed application and the correct renewal fee.

5.3.3. A renewal license shall be valid for a period of one year from the date of issuance.

5.4. Provisional License

5.4.1. If the director finds that an applicant for a renewal license is

not in compliance with the requirements of this rule the director may, in his or her discretion, issue a provisional license.

5.4.2. A provisional license may be issued only when the director finds that: (a) the care given by the hospice is adequate to meet client needs; and (b) the hospice has demonstrated improvement in and potential for compliance within the term of the license for which renewal is requested.

5.4.3. A provisional license shall not be issued for a period greater than twelve months; shall not be renewed; and shall not be issued to a hospice with uncorrected violations of these regulations which would pose an imminent danger to the health and safety of any client.

5.5. Inspections

5.5.1. The director shall conduct at least one inspection of a licensed hospice annually to determine compliance with the provisions of this rule, which shall consist of an unannounced visit to the hospice office and announced visits to a sample of clients.

Visits conducted in the homes of hospice clients shall be announced in advance and conducted only with the permission of the hospice client. The state of health of the hospice client shall be respected in determining which clients will be visited in the home. The health department staff shall seek the advice of hospice staff to identify suitable hospice clients for home visits. The hospice shall, at the time of admission, inform clients of the possibility and purpose of such visits and shall request such informed signed consent. The director may, at his or her discretion or at the client's request, request the presence of hospice staff at such home visits. An individual client's refusal to permit home visits by health department staff shall not in any way affect the hospice's licensure

status.

5.5.3. The director shall have the right to enter the premises of a hospice which he or she has reason to believe is being operated or maintained as a hospice without a license.

5.5.4. If the owner or person in charge of a licensed hospice or of an unlicensed hospice which the director has reason to believe is being operated as a hospice refuses entry pursuant to this rule, the director shall take action to secure a lawful warrant authorizing inspection.

5.5.5. If the director finds on the basis of the inspection that any person, partnership, association or corporation and any local governmental unit or any division, department, board or agency thereof is operating as a hospice without a license, the hospice shall apply within ten days for a license in accordance with the provisions of this rule.

5.5.6. Failure to apply for a license shall be subject to the penalties established by Chapter 16, Article 51, Section 6 of the West Virginia Code.

5.5.7. A report of any inspection made pursuant to this rule shall be made in writing and shall be maintained on file by the director.

5.5.8. Inspection reports shall specifically list each deficiency in the hospice's compliance with applicable statutes and rules.

5.5.9. The director shall send a copy of a report of an inspection to the hospice.

5.6. Plans of Correction

5.6.1. A hospice found on the basis of an inspection to have deficiencies in compliance with this rule shall develop a plan of correction and submit it to the director within fifteen working days of receipt of the inspection report.

5.6.2. A plan of correction shall specify a reasonable time within which

the hospice shall correct each deficiency cited in the report, which time shall be the shortest possible time within which the hospice reasonably can be expected to correct the deficiency.

5.6.3. The time stated shall be subject to approval or modification by the director. In determining whether to approve the time submitted by the hospice the director shall consider the following factors: (a) the seriousness of the deficiency; (b) the availability of required equipment or personnel; (c) the estimated time required for delivery and installation of required equipment; and (d) any other relevant circumstances.

5.6.4. A plan of correction submitted by a hospice shall be approved, modified or rejected by the director. The director shall notify the hospice within fifteen working days as to whether a plan of correction has been approved, modified or rejected. If the director rejects or modifies the plan, the reasons for the action shall be stated. When the director rejects a plan of correction, a reasonable time for submission of a revised plan may be allowed.

5.6.5. Upon the failure by a hospice with deficiencies to submit a plan of correction which is approved by the director or to correct any deficiency within the time specified in an approved plan of correction, the director may initiate legal action available to him or her in accordance with the West Virginia Code and this rule.

5.7. Complaint Investigation

5.7.1. Any person may register a complaint with the director alleging violation of applicable laws or rules and regulations by the hospice. A complainant shall state the substance of the complaint and shall identify the hospice involved.

5.7.2. The director may conduct either an announced or an un-

announced inspection of the hospice to determine the validity of the complaint. The director shall conduct such other investigations as may be necessary to determine the validity of the complaint. The department shall provide the hospice with notice of the substance of the complaint only at the completion of the investigation of the complaint.

5.7.3. The director shall notify the complainant and the hospice in writing of the results of the investigation no later than fifteen working days after completing an investigation of a complaint. If the complaint is substantiated by the investigation as a violation of this rule or of the Hospice Licensure Law (Chapter 16, Article 51 of the West Virginia Code), the director may require a plan of correction or may take other action authorized by state law or this rule.

5.7.4. Upon written request, the director will send the complainant a description of any action the hospice will be required to take and of any disciplinary action to be taken.

5.7.5. The name of a complainant or of any person named in a complaint shall be safeguarded by the director and shall not be disclosed without the individual's prior written authorization. Before any complaint is disclosed to a hospice or to the public pursuant to this rule, any information in the complaint which could reasonably identify the complainant or a client shall be deleted. If a complaint becomes the subject of a judicial proceeding, nothing in this rule shall be construed to restrict disclosure of information which would otherwise be disclosed in a judicial proceedings.

5.8. Availability of Reports and Records

5.8.1. The director shall make available for public inspection and upon written request may provide copies of the following documents: (a) inspection

reports; (b) reports of investigations conducted in response to complaints; and (c) any other reports filed with or issued by the director pertaining to the compliance of a hospice with applicable laws, rules and regulations. A fee may be charged to cover the cost of research and copying.

5.8.2. The director shall treat a report of inspection of a hospice as public information from the time a written plan of correction is submitted.

5.8.3. If the hospice does not submit a written plan of correction within the time specified by the director pursuant to this rule, reports pertaining to the hospice shall be made public at the expiration of the specified time.

5.8.4. Other records and reports shall be treated as public information from the time they are issued by the director.

5.8.5. Nothing contained in this section shall be construed to require or permit the public disclosure of confidential medical, social, personal or financial records of any clients.

5.8.6. Before releasing a report or record deemed public information the director shall delete any confidential information which could reasonably permit identification of clients or of complainants or of any other information required to be held confidential under this rule.

Section 6. Organization and Management

6.1. Governing Body

6.1.1. A hospice shall have a governing body that shall determine, implement and monitor policies governing the hospice's total operation, except that: if the hospice is operated by a hospital, nursing home or other type of organization, there shall be an identifiable separate administration which shall serve the function of the governing body for the hospice program, although a separate ownership or board of directors shall not be required. The govern-

ing body shall also ensure that all services provided are consistent with accepted standards of practice.

6.1.2. The governing body shall designate an individual who is responsible for the management of the hospice program.

6.2. Admission Criteria

6.2.1. At the time an individual is accepted for care or no later than five calendar days after care is initiated, the hospice shall obtain documentation that the client is terminally ill.

6.2.2. A client remaining under the care of the hospice for a period of time in excess of six months shall be reevaluated every thirty days with respect to the prognosis for life expectancy and should be considered for transfer to other types of health care providers.

6.2.3. A hospice shall not deny acceptance to any client for services of the hospice on grounds of race, color, national origin, age, sex, religion or ethnicity.

6.3. Contractual Services - A hospice may contract with other health care providers to provide services to the hospice patients. If services are provided under contract arrangement, the following standards shall be met:

6.3.1. The hospice shall have a legally binding agreement for the provision of those services. Contracts shall be written and shall clearly delineate the authority and responsibility of each of the contracting parties and the manner in which the contracted services are coordinated, supervised and evaluated by the hospice.

6.3.2. The provider of the hospice service under arrangement shall:

- (a) have established policies consistent with those of the hospice;
- (b) agree to abide by the patient care protocols established by the

hospice for its clients;

(c) agree to furnish a record of all services and events to the client;
and

(d) be licensed or credentialed in accordance with applicable state laws
and regulations.

(e) The hospice shall maintain documentation of such licenses or credentials.

6.3.3. The hospice shall furnish to the provider a copy of the client's plan of care that specifies the care to be provided.

6.3.4. The client's interdisciplinary team shall review the medical record to ensure conformance with the established plan of care.

6.4. Continuation of Care - A hospice shall not discontinue or diminish care provided to a client because of the client's inability to pay for the care.

6.5. Informed Consent - A hospice shall include in the clinical record a signed informed consent form that specifies type of care and services that may be provided as hospice care during the course of the illness.

6.6. Policies and Procedures - Every hospice shall develop and implement written policies consistent with this rule pertaining to the services provided. Such policies and procedures shall accurately reflect a description of the hospice's goals, methods by which these goals are sought, and mechanisms by which the basic hospice care services are delivered. All policies and procedures shall be reviewed annually, such review to be documented by the dated signature of the hospice administrator, and shall be revised as needed.

Section 7. Hospice System of Care

7.1. Minimum Services - A hospice shall at a minimum provide the fol-

lowing services:

7.1.1. Physician directed medical care which shall meet the medical needs of the clients for palliation and for management of terminal illness.

7.1.2. Nursing care and services which shall be provided by our under the supervision of a registered nurse.

7.1.3. Medical social services.

7.1.4. Spiritual care.

7.1.5. Bereavement services

7.2. Additional Services - A hospice may offer additional services as needed for the support and care of hospice clients such as:

7.2.1. Respite services.

7.2.2. Physical therapy services, occupational therapy services and speech language pathology services.

7.2.3. Nutritional, pharmaceutical, psychiatric, psychological, radiological, pediatric, and oncologic specialists available for consultation or direct services.

7.2.4. Home health aide and homemaker services to meet the needs of the clients. Home health aide services shall be provided under the general supervision of a registered nurse.

7.2.5. Medical supplies and appliances, including drugs and biologicals, as needed for the palliation and management of the terminal illness. A hospice shall have a policy to recommend the destruction of controlled drugs maintained in the client's home if they are no longer needed by the client, in compliance with state and federal requirements.

7.3. Availability and Delivery of Services

7.3.1. Hospice services shall be available seven days a week, twenty-

four hours a day.

7.3.2. A hospice shall provide the services described in Section 7.1 to the extent necessary to meet the needs of clients for care that is reasonable and necessary for the palliation and management of terminal illness.

7.3.3. Services shall be made available in the client's home.

7.3.4. When home care is not feasible for pain control, symptom management and respite purposes, inpatient care shall be arranged as part of the hospice program. Inpatient care shall be provided in a licensed facility which is most appropriate to the needs of the client, such as a hospital or nursing home.

7.3.5. Hospice care shall be offered in the least costly setting that can assure the quality of care and the kinds and amounts of services necessary to meet the client's needs.

7.3.6. Services shall be provided in a manner consistent with accepted standards of practice.

Section 8. Plan of Care

8.1. A written plan of care shall be established by the interdisciplinary team and maintained for each client admitted to a hospice program, within seven days of admission and the care provided to a client must be in accordance with the plan.

8.2. The plan shall be reviewed and updated monthly by the interdisciplinary team. These reviews shall be documented in the client's clinical record.

8.3. The plan shall include assessment of the client's needs and identification of the services needed including the management of discomfort and symptom relief.

Section 9. Quality Assurance - A hospice shall conduct annually, a comprehensive self-assessment of the quality and appropriateness of care provided, including inpatient care. The findings which shall be documented, shall be used by the hospice to correct identified problems and to revise hospice policies if necessary. The review shall include but not be limited to:

- (a) review and evaluation of the hospice program goals and objectives;
- (b) evaluation of the appropriateness of the scope of services offered;
- (c) review of administrative and client care policies and procedures;
- (d) review of professional and volunteer staffing qualifications, responsibilities and needs

- (e) review of financial policies and practices;

- (f) review of a random sample of client and family (if any) records and written evaluation on quality of services provided; and

- (g) linkages to other services and levels of care within the health care system. Review of clinical matters shall be conducted by an interdisciplinary team composed of members relevant for services provided and coordinated by the hospice.

Section 10. Clinical Records

10.1. In accordance with accepted principles of practice, the hospice shall establish and maintain a clinical record for every client receiving care and services. The record shall provide for identification, security, confidentiality, control, retrieval and preservation of client care data and information.

10.2. Each clinical record shall be a comprehensive compilation of information. Entries shall be made for all services provided. Entries shall be made and signed by the staff providing the services. The record shall include

all services whether furnished directly or under arrangements made by the hospice. In addition, each client's record shall contain:

- (a) the initial and subsequent assessments, including documentation that the client is terminally ill;
- (b) the plan of care;
- (c) identification data;
- (d) consent and authorization forms; and
- (e) pertinent medical history.

10.3. The hospice shall safeguard the clinical record against loss, destruction and unauthorized use.

10.4. All records shall be maintained for a period of five years after death or discharge. In the case of a minor, the records shall be maintained for a period of five years after death or, if a minor attains majority, for a five year period thereafter.

10.5. The hospice shall establish written policies and procedures specifying who may use the records, under what conditions they may be removed from the center and under what conditions information from them may be released.

Section 11. Staffing Requirements

11.1. Medical Director - A hospice shall have a licensed physician to serve as medical director and who shall assume overall responsibility for the hospice's patient care program.

11.2. Interdisciplinary Team

11.2.1. The hospice shall designate for each client an interdisciplinary team as defined in this rule to provide or supervise the care and services offered.

11.2.2. The interdisciplinary team shall also include the following individuals as determined by the client's needs:

- (a) physical therapists;
- (b) occupational therapists;
- (c) speech therapists;
- (d) pastoral or other counselor;
- (e) homemaker/home health aides;
- (f) chore workers;
- (g) family and friends; and
- (h) consultants, including nutritionists, pharmacists, psychiatrists, psychologists, oncologists, funeral home directors, and other caregivers as may be appropriate.

11.2.3. The interdisciplinary team shall be responsible for:

- (a) participation in the development of the plan of care as described in Section 8 of this rule;
- (b) provision or supervision of hospice care and services;
- (c) periodic review and updating of the plan of care for each client receiving hospice care; and
- (d) establishment of policies governing the day-to-day provision of hospice care and service.

11.2.4. The hospice shall designate a registered nurse to coordinate the overall plan of care for each client.

11.2.5. Hospice interdisciplinary team members shall be qualified for their jobs by virtue of training, experience or a combination of both. There shall be a written record for each team member to include verification of education, training, and license/certification, if applicable. The hospice program

shall develop written policies which state the minimum education, experience and training requirements for each team member. These policies shall be reviewed annually and revised as necessary in accordance with the hospice program policy. Each interdisciplinary team member shall have a current license or certification, as appropriate, in accordance with state law.

11.3. Ratio of Staff to Patients - The ratio of staff to hospice clients shall be adequate to meet the needs of the hospice clients and their families, consistent with:

(a) the number of and intensity of services provided by the hospice program;

(b) the number of and intensity of services required by the hospice client and family;

(c) the experience and efficiency of the hospice program; and

(d) documentation in records that the hospice program has fulfilled its obligations under law and this rule.

11.4. Volunteers

11.4.1. The hospice shall use volunteers in the provision of care and services.

11.4.2. The hospice shall document active and ongoing efforts to recruit and retain volunteers.

11.5. Staff Development - The hospice program shall provide or arrange an employee and volunteer training and continuing education program which shall provide at a minimum:

(a) orientation and training for new employees and volunteers to acquaint them with the philosophy, organization, services, practices and goals of the hospice program;

- (b) the physiological and psychological aspects of terminal disease;
- (c) family dynamics and psychosocial issues surrounding terminal disease, death, and bereavement;
- (d) communication skills; and
- (e) additional initial and continued training needed specific to the duties, the responsibilities and the competency of the employee or volunteer.

Section 12. Client Rights

12.1. Clients shall be informed in writing of their rights and responsibilities.

12.2. Clients shall be clearly informed of the responsibilities of the hospice for care of the client, including services to be provided.

12.3. Clients shall be clearly informed at the time of admission, in writing, of the materials and equipment available to the patient and family; any existing pre-payment, refund and sliding scale fee policies; and, a statement of patient and family financial responsibility.

12.4. Upon written request, the hospice shall supply a client with an itemized statement detailing services provided and charges assessed at no additional cost to the client.

12.5. Clients shall have the right to participate in the development of their care plans.

12.6. Clients or their lawfully authorized agents or representatives shall have the right to examine their records at reasonable times and shall upon written request be provided with a copy or a summary of their record within a reasonable period of time. The hospice shall also comply with other provisions of State law found at Chapter 16, Article 29, Section 1 et seq. of the West Virginia Code relating to client records. The hospice shall have the right to

charge a reasonable fee to cover the cost of expenses incurred in providing the copy.

Section 13. Penalties

13.1. Director's Authority

13.1.1. The director is authorized to suspend or revoke a hospice license according to the provision of Chapter 16, Article 51 of the West Virginia Code, if he or she finds upon inspection that there has been a substantial failure to comply with the provisions of this rule or with the laws of this state or with any order or final decision of the director.

13.2. The director may refuse to grant a license if he or she finds that the applicant has attempted to obtain the license by means of fraud or deceit.

13.3. The director may suspend or revoke a license if he or she finds that the license has been obtained by means of fraud or deceit.

13.4. When the director takes action pursuant to the suspension or revocation of a license issued under this rule, he or she shall comply with the requirements and procedures specified by Chapter 16, Article 51, of the West Virginia Code.

Section 14. Administrative Due Process

14.1. An applicant for a license or a licensee or any other person aggrieved by an order or other action by the director pursuant to this rule or the laws of this state shall have the opportunity for a hearing by the director, upon written request to the director in a manner prescribed in and by the Rules of Procedure for Contested Case Hearing and Declaratory Rulings, West Virginia Board of Health Procedural Rules, Chapter 16-1, Series I (1983) promulgated by the board of health. The aforementioned rules of procedure are incorporated herein by reference.

14.2. A hearing pursuant to this section shall be conducted in accordance with the pertinent provisions of Chapter 29A, Article 5 of the West Virginia Code and the aforementioned Rules of Procedure for Contested Case Hearings and Declaratory Rulings (1983).

14.3. The director's order shall be final unless vacated or modified by judicial review in accordance with the provisions of the law of this State.

Section 15. Severability - The provisions of this rule are declared to be severable. If any provisions of this rule shall be held invalid, the remaining provisions of this rule shall remain in effect.