John D. Rockefeller IV
Governor

Obsolete Has 180 Days Elapsed

L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

June 28, 1983

Honorable A. James Manchin
Secretary of State
1800 Washington Street, East
Building 1, Room W-157
Charleston, WV 25305

Dear Secretary Manchin:

Enclosed are an original and a copy of Requirements for Hospice Care Programs to be filed as emergency legislative rules under the provisions of Chapter 29A, Article 3, Section 15 of the West Virginia Code relating to the filing of emergency legislative rules.

This rule has been promulgated by the Continuum of Care Board under the authority of Chapter 16, Article 5D, Section 9 of the West Virginia Code. It is necessary to file this rule in order to preserve the public health, safety and welfare by providing detailed programmatic requirements for hospices in West Virginia. This rule will facilitate the provision of insurance coverage for hospice services by insurance carriers as of July 1, 1983 as required by Chapter 16, Article 5D, Section 10 of the West Virginia Code.

The Continuum of Care Board is currently considering further revisions of this emergency rule with respect to the filing of a regular legislative rule and has therefor not scheduled a public hearing at this time. The Board will proceed regarding a hearing in accordance with the requirements and prohibitions of the State Administrative Procedures Act concerning legislative rules and regulations.

Sincerely,

L. Clark Hansbarger, M.D.
Director of Health
Chairperson
Continuum of Care Board

lpk

cc: John Homburg, Counsel
Legislative Rule-Making Review Committee

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE July 1, 1983
Administrative Law Division

[EMERGENCY]

WEST VIRGINIA LEGISLATIVE RULES
CONTINUUM OF CARE BOARD

Requirements for Hospice Care Programs

Chapter 16-5D
Series I
(1983)

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[EMERGENCY]

WEST VIRGINIA LEGISLATIVE RULES
CONTINUUM OF CARE BOARD

Chapter 16-5D
Series I
(1983)

Subject: Requirements for Hospice Care Programs

Section 1. General

1.1. Scope - These legislative rules establish standards for hospice programs in West Virginia. These rules are designed to assist in the establishment of comprehensive hospice care programs for the treatment of physicial, emotional and mental symptoms of terminal illness, and to that end, shall serve as basic programmatic requirements for a hospice.

1.2. Authority - These legislative rules are issued under the authority of Chapter 16, Article 5D, Section 9 and are related to Chapter 16, Article 5D, Section 1 et seq of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were promulgated on the 27th day of June, 1983, and were filed on the 1st day of July, 1983, in the Secretary of State's office according to the provisions of Chapter 29A, Article 3, Section 15 of the West Virginia Code of 1931, as amended, relating to the filing of emergency rules.

1.4. Effective Date - These legislative rules became effective on the 1st day of July,1983.

Section 2. Application - These legislative rules 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.

Section 3. Definitions

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

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

3.3. Curative Care - Medical treatment aimed at investigation and intervention for the purposes of cure or the prolongation of life.

3.4. 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.

3.5. 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 individuals 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.

3.6. Interdisciplinary Team - The individual and the individual's family, the attending physician and the following hospice personnel: physician, nurse, social worker, clergy, and trained volunteer. Providers of special 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 individual dictate.

3.7. Palliative Care - Treatment directed at controlling pain, relieving other symptoms and focusing on the special needs of the individual and family as they experience the stress of the dying process, rather than treatment designed for investigation and intervention for the purpose of cure or prolongation of life.

3.8. Respite Care Services - Temporary full-time or part-time care provided to people 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 individual's physical or mental well-being, or the well-being of his family.

3.9. Social Worker - A person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education.

3.10. Terminally Ill - Means that the individual has a medical prognosis that his life expectancy is six (6) months or less.

Section 4. [Reserved]

Section 5. Organization and Management

5.1. Governing Body - A hospice must have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the hospice's total operation. The governing body must also ensure that all services provided are consistent with accepted standards of practice.

5.2. Admission Criteria

5.2.1. At the time an individual is accepted for care or no later than two (2) calendar days after care is initated, the hospice shall obtain documentation that the individual is terminally ill. Such documentation shall be in writing and signed by:

(a) The medical director of the hospice or the physician member of the hospice interdisciplinary team; and

(b) The individual's personal physician if any.

5.2.2. New documentation as defined in Section 5.1 shall be obtained at the end of the first ninety (90) days of care and again at the end of the second ninety (90) days of care, if the individual remains under the care of the hospice.

5.2.3. The documentation of Sections 5.2.1 and 5.2.2 of these rules shall be a part of the individual's clinical record.

5.2.4. An individual remaining under the care of the hospice for a period of time in excess of six months shall be reevaluated every thirty

(30) days with respect to the prognosis for life expectancy and should be considered for transfer to other types of health care providers.

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

5.3. Management - A hospice may arrange for another individual or entity to furnish services to the hospice patients. If services are provided under arrangement, the hospice must meet the following standards:

5.3.1. The hospice shall have a legally binding agreement for the provision of those services.

5.3.2. The provider of a 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 patients;

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

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

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

5.3.4. The individual's interdiciplinary team shall review the medical record to ensure conformance with the established plan of care.

5.4. Continuation of Care - A hospice shall not discontinue or diminish care provided to an individual because of the individual's inability to pay for the care.

5.5. 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.

5.6. Hospice Plan - The hospice shall establish and maintain a current written plan for the hospice which shall be reviewed at least once every year by the State Continuum of Care Board. Such plan shall include:

(a) a description of services to be provided;

(b) a description of clients to be served;

(c) an organizational plan which includes all positions and delineates responsibilities, authority, and relationships of positions within the hospice; and

(d) linkages to other services and levels of care within the health care system.

Section 6. Hospice System of Care

6.1. Minimum Services - A hospice shall at a minimum provide the following services in a manner consistent with accepted standards of practice:

6.1.1. Home care.

6.1.2. Coordinated inpatient care when home care is not feasible for pain control, symptom management and respite purposes. It must be provided in a licensed facility that is most appropriate to the needs of the individual such as a hospital or nursing home.

6.1.3. Palliative care.

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

6.1.5. Interdisciplinary care (which is described further in Section 10).

6.1.6. Respite services.

6.1.7. Bereavement services.

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

6.1.9. Medical social services.

6.1.10. Counseling services shall be available to both the individual and the family. Counseling includes bereavement counseling for the family after the individual's death as well as dietary, spiritual and any other counseling services for the individual and family while the individual is enrolled in the hospice.

6.1.11. Physical therapy services, occupational therapy services and speech-language pathology services shall be available, and when provided, offered in a manner consistent with accepted standards of practice.

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

6.1.13. 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 for the destruction of controlled drugs maintained in the patient's home if they are no longer needed by the patient, in compliance with state and federal requirements.

6.2. Availability of Services

6.2.1. Hospice services shall be available seven days a week, 24 hours a day.

6.2.2. A hospice shall provide the services described in Section 6.1 to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness.

6.2.3. 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 patients' needs.

Section 7. Plan of Care

7.1. A written plan of care shall be established and maintained for each individual admitted to a hospice program, and the care provided to an individual must be in accordance with the plan.

7.2. The plan shall be established by the attending physician, the medical director and interdisciplinary team prior to providing care.

7.3. The plan shall be reviewed and updated at intervals specified in the plan by the attending physician, the medical director and the interdisciplinary team. These reviews must be documented in the patient's clinical record.

7.4. The plan shall include assessment of the individual's needs and identification of the services including the management of discomfort and symptom relief.

Section 8. Quality Assurance - A hospice shall conduct an ongoing, comprehensive self-assessment of the quality and appropriateness of care

provided, including inpatient care. The findings shall be used by the hospice to correct identified problems and to revise hospice policies if necessary.

Section 9. Clinical Records

9.1. In accordance with accepted principles of practice, the hospice shall establish and maintain a clinical record for every individual receiving care and services. The record shall be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval.

9.2. 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. Each individual's record shall contain:

(a) the initial and subsequent assessments;

(b) the plan of care;

(c) identification data;

(d) consent and authorization forms; and

(e) pertinent medical history.

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

Section 10. Staffing Requirements

10.1. 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.

10.2. Interdisciplinary Team

10.2.1. The hospice shall designate for each patient an interdisciplinary team as defined in Section 3.6 of these rules to provide or supervise the care and services offered.

10.2.2. The interdisciplinary team may also include the following individuals as determined by the patient'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.

10.2.3. The interdisciplinary team shall be responsible for:

(a) Participation in the development of the plan of care as described in Section 7 of these rules;

(b) Provision or supervision of hospice care and services;

(c) Periodic review and updating of the plan of care for each individual receiving hospice care; and

(d) Establishment of policies governing the day-to-day provision of hospice care and service.

10.2.4. The hospice shall designate a registered nurse to coordinate

the overall plan of care for each patient.

10.2.5. Hospice interdisciplinary team members shall be qualified for their jobs by virtue of training, experience or a combination of both. 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.

10.3. Ratio of Staff to Patients - The ratio of staff to hospice patients shall be adequate to meet the needs of the hospice patients 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 patient 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.

10.4. Volunteers

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

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

10.4.3. The hospice shall document a continuing level of volunteer

activity. Expansion of care and services achieved through the use of volunteers, including the type of services and the time worked, shall be documented.

10.4.4. The hospice shall document the cost savings achieved through the use of volunteers. Documentation must include a comparison of volunteer time to the amount of time that a paid employee would have spent for the same purpose.

10.5. 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, coping mechanisms, 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.