Title 22. Social Security

Division 5. Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies

Chapter 6.5. Hospice

Article 1. Definitions

Adopt section 74800 to read as follows:

Section 74800. Definitions.

(a) The definitions included here apply to this chapter as follows:

(1) Words will have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. Must and will means mandatory. May means permissive. Should means suggested or recommended.

(2) “Addendum” means new documentation added to a patient’s medical record by authorized hospice personnel after the time of original entry.

(3) “Administrator” means an individual who is appointed in writing by the governing body of the hospice to organize and direct the services and functions of the hospice.

(4) “Administrator Designee” means an individual who is appointed in writing by the hospice Administrator and who assumes the same responsibilities and obligations of the Administrator when the Administrator is not available.

(5) “Applicant” means any of the following:

(A) An entity that is applying for a license to the Department to operate a hospice pursuant to Health and Safety Code section 1747.

(B) A current licensee who is applying for a report of changes, or a license suspension reinstatement or an addition of a multiple location.

(C) A prospective licensee who is applying for a change of ownership to assume control of the hospice from the current licensee.

(6) “Application” means a required form provided by the Department which is required to be submitted to obtain or maintain a license.

Draft Confidential

Confidential - Low

(7) “Attending physician” means the physician chosen by the patient or the patient’s representative to be responsible for the medical treatment of the patient or a physician designated by the attending physician to act on the attending physician’s behalf while the attending physician is not available.

(8) “Authenticate” means proof of authorship or identity from an individual who is authorized by the hospice administrator to make entries into patient medical records, ensuring that the content of entries accurately reflects what the author intended.

(9) “Authorized individuals” means:

(A) Hospice personnel involved in the direct care of a patient.

(B) Representatives of the Department.

(C) Any individual or entity authorized to make such a request, pursuant to Civil Code Division 1, Part 2.6.

(10) “Beneficial ownership interest” means any of the following:

(A) The possession of an ownership interest by an entity, including a combination of direct and indirect ownership interests, totaling more than five percent but less than 50 percent in any hospice.

(B) An ownership interest totaling more than five percent but less than 50 percent in any mortgage, deed of trust, note, or other obligation secured by an entity, if that interest equals at least five percent of the value of the property or assets of the hospice.

(C) The following individuals are deemed to have a beneficial ownership interest:

(i) An officer or director of a licensed hospice or applicant for licensure of a hospice that is organized as a corporation.

(ii) A partner in a licensed hospice or applicant for licensure of a hospice that is organized as a partnership.

(iii) A member of a licensed hospice or applicant for licensure of a hospice that is organized as a limited liability company.

(11) “Bereavement services” has the meaning set forth in Health and Safety Code section 1746(a).

(12) “Business entity” means an entity who holds an active status with the California Secretary of State, including a domestic corporation, foreign corporation, limited liability

Draft Confidential

Confidential - Low

company, foreign limited liability company, limited partnership, or foreign limited partnership.

(13) “Business hours” means the hours during the day in which the hospice agency office is open and available to the public. Business hours must be scheduled on a consistent basis in terms of hours and days of operation in accordance with the operational needs of the hospice.

(14) “Comprehensive assessment” has the meaning set forth in Title 42 of the Code of Federal Regulations section 418.3.

(15) “Day” means a calendar day, unless otherwise specified in this chapter. A calendar day includes weekends and holidays.

(16) “Department” means the California Department of Public Health.

(17) “Director of Patient Care Services” means a licensed registered nurse who is appointed in writing by the governing body of the hospice to be responsible for clinical direction and supervision of patient care services.

(18) “Director of Patient Care Services Designee” means a licensed registered nurse who is appointed in writing by the hospice Administrator and who assumes the same responsibilities and obligations of the Director of Patient Care Services when the Director of Patient Care Services is not available.

(19) “Double billing” or “excessive billing” means any of the following:

(A) Billing Medicare or Medi-Cal multiple times for the same service or item.

(B) Billing multiple government programs for the same service or item.

(C) Billing the same service or item to a government program and a private healthcare insurer.

(20) “Electronic health record” means a patient’s health record stored in an electronic health record system and maintained by the hospice which can be shared with other health care providers involved in the patient’s care.

(21) “Entity” means any of the following:

(A) Individual.

(B) Corporation.

(C) Partnership.

Draft Confidential

Confidential - Low

(D) Limited liability company.

(E) Firm.

(F) Association.

(G) Organization.

(H) Business trust.

(I) Public agency.

(J) Company.

(22) “Established place of business” means unshared office space located in a commercial building.

(23) “Geographic service area” means the county or counties approved by the Department in which the parent hospice, including all multiple locations if any, is licensed to provide hospice services to patients.

(24) “Hospice” means an individual hospice, including any approved multiple locations, licensed by the Department and has the meaning set forth in Health and Safety Code section 1746(d).

(25) “Hospice management personnel” or “management personnel” means the key positions responsible for overseeing the hospice, including, but not limited to, the:

(A) Administrator.

(B) Administrator Designee.

(C) Director of Patient Care Services.

(D) Director of Patient Care Services Designee.

(E) Medical Director.

(F) Medical Director Designee.

(26) “Hospice physician” or “physician” means an individual licensed as a physician and surgeon by the Medical Board of California or by the Osteopathic Medical Board of California who is employed or contracted by a hospice.

(27) “Hospice services” mean types of services provided by a hospice as set forth in Health and Safety Code section 1746 and Title 42 of the Code of Federal Regulations section 418.64.

(28) “Immediate family member” means any of the following:

Draft Confidential

Confidential - Low

(A) Spouse or a registered domestic partner or cohabitant.

(B) Natural or adoptive parent.

(C) Grandparent or great grandparent.

(D) Child or grandchild.

(E) Sibling or half-sibling.

(F) Stepparent, stepchild, stepsibling, or step-grandchild.

(G) Mother-in-law or father-in-law.

(H) Brother-in-law or sister-in-law.

(I) Daughter-in-law or son-in-law.

(J) Aunt or uncle.

(K) Niece or nephew.

(L) First cousin

(29) “Immediate jeopardy” means a situation in which the hospice’s non-compliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

(30) “Initial assessment” has the meaning set forth in Title 42 of the Code of Federal Regulations section 418.3.

(31) “Interdisciplinary team” means the hospice care team that includes, but is not limited to:

(A) A physician and surgeon.

(B) A registered nurse.

(C) A social worker, marriage and family therapist, or a mental health counselor.

(D) A volunteer.

(E) A spiritual caregiver.

(F) The patient.

(G) The patient’s family, if they so desire.

(H) The patient’s representative, if applicable, if they so desire.

(I) The patient’s caregiver, if applicable, if they so desire.

(32) "Involuntary suspension" means an enforcement action initiated by the Department to suspend a licensee's privilege to operate a hospice.

Draft Confidential

(33) “License” means the document issued by the Department permitting the operation of a hospice. This document constitutes the authority to accept patients and to perform the services as specified on the hospice license.

(34) “Licensee” means an applicant to whom a license has been issued by the Department to operate a hospice in the State of California.

(35) “Licensed vocational nurse” means an individual who is currently licensed as a licensed vocational nurse by the State of California Board of Vocational Nursing and Psychiatric Technicians.

(36) “Medical direction” has the meaning set forth in Health and Safety Code section 1746(h).

(37) “Medical Director” means an individual who is currently licensed as a physician and surgeon by the Medical Board of California or by the Osteopathic Medical Board of California who is appointed in writing by the governing body of the hospice to be responsible for the overall medical direction of the hospice.

(38) “Medical Director Designee” means an individual who is currently licensed as a physician and surgeon by the Medical Board of California or by the Osteopathic Medical Board of California who is appointed in writing by the hospice Administrator and who assumes the same responsibilities and obligations of the Medical Director when the Medical Director is not available.

(39) “Medical record” or “patient medical record” means documentation of all clinical services provided to a patient in the hospice. A medical record may be a hard copy document or electronic record, including a hard or electronic copy of original content.

(40) “Multiple location” has the meaning set forth in Health and Safety Code section 1746(i).

(41) “Ownership interest” means the possession of equity in capital, stock, principal property, assets, or profits of a licensed hospice. An ownership interest may be either direct or indirect.

(A) A direct ownership interest is an ownership interest in the licensed hospice, applicant for licensure, or licensee of a hospice.

(B) An indirect ownership interest is an ownership interest in an entity that itself has an

Draft Confidential

Confidential - Low

ownership interest in a licensed hospice, applicant for licensure, or licensee of a hospice.

(42) “Palliative care” has the meaning set forth in Health and Safety Code section 1746(j).

(43) “Parent hospice” or “parent agency” has the meaning set forth in Health and Safety Code section 1746(k).

(44) “Patient” means an individual receiving palliative treatment for management of a terminal illness and its related conditions.

(45) “Patient’s representative” or “representative” has the meaning set forth in Health and Safety Code section 1751.100(b)(1). For the purposes of this chapter, “a person delegated by the patient” includes, but is not limited to:

(A) A guardian.

(B) A conservator.

(C) A patient selected representative who participates in making decisions related to the patient’s care or well-being, including but not limited to, a family member or advocate for the patient.

(46) "Personnel" means individuals employed, contracted, or compensated by the hospice.

(47) “Plan of care” has the meaning set forth in Health and Safety Code section 1746(l).

(48) “Primary caregiver” or “caregiver” means a person not employed by the hospice but designated by the patient or patient’s representative as responsible for ensuring the day-to-day needs of the patient are met.

(49) “Registered nurse” means an individual licensed as a registered nurse in the State of California by the Board of Registered Nursing.

(50) “Representative of the Department” means a representative appointed or contracted by the Department to inspect a hospice.

(51) “Residence” means wherever the patient lives, including temporary or permanent stays in health or community care facilities.

(52) “Rural area” means any county within the State of California that has a population of less than 150,000 people, which includes all of the following counties as of January 1,

Draft Confidential

Confidential - Low

2025:

(A) Alpine County.

(B) Amador County.

(C) Calaveras County.

(D) Colusa County.

(E) Del Norte County.

(F) Glenn County.

(G) Humboldt County.

(H) Inyo County.

(I) Lake County.

(J) Lassen County.

(K) Mariposa County.

(L) Mendocino County.

(M) Modoc County.

(N) Mono County.

(O) Napa County.

(P) Nevada County.

(Q) Plumas County.

(R) San Benito County.

(S) Sierra County.

(T) Siskiyou County.

(U) Sutter County.

(V) Tehama County.

(W) Trinity County.

(X) Tuolumne County.

(Y) Yuba County.

(53) “Significant business transaction” means any business transaction or series of transactions that involve health care services, goods, supplies, or merchandise related to the provision of services to Medi-Cal beneficiaries that, during any one fiscal year,

Draft Confidential

Confidential - Low

exceed the lessor of $25,000 or five percent of an applicant's or provider's total operating expenses.

(54) "Subcontractor" means either of the following:

(A) An entity to which the applicant has contracted or delegated some of its management functions or responsibilities of providing healthcare services, equipment or supplies to its patients.

(B) An entity with whom the applicant has entered into a contract, agreement, purchase order, lease, or leases of real property, to obtain space, supplies, equipment, or services provided under the Medi-Cal Program.

(55) "Terminal illness" or "terminal disease" has the meaning set forth in Health and Safety Code section 1746(p).

(56) "Unmet need" means there is a population of terminally ill patients in a county who are likely eligible for hospice care for which the existing hospices in the county are not able to provide care.

(57) "Upcoding" means a form of medical billing fraud in which a healthcare provider submits a code for diagnosis, an item, or service that is reimbursable at a higher rate than the item or service that was actually rendered or condition that was diagnosed.

(58) "Wholly owned supplier" means a supplier whose total ownership interest is held by the applicant or another entity with an ownership interest or control interest, or both, in the applicant.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 20, 1201, 1253.2, 1253.3, 1266.5, 1746, 1746.50, 1746.52, 1747, 1747.1, 1747.3, 1747.5, 1748, 1749, 1749.5, 1750, 1751, 1751.100, 1751.5, 1751.75, 1752, 1752.1, 1753, 1753.1, 1754, 1755, 1756, and 18004.6, Health and Safety Code.

Draft Confidential

Confidential - Low

Article 2. License

Adopt section 74804 to read as follows:

Section 74804. General Licensing Requirements.

(a) An applicant for initial licensure must not admit patients, advertise services, or initiate services until the application process required in section 74812 is complete and the applicant is granted a license by the Department.

(b) Licensed health facilities, as defined in Health and Safety Code section 1250, or home health agencies, as defined in Health and Safety Code section 1727, must obtain a separate license to operate a hospice pursuant to this chapter.

(c) The licensee must:

(1) Retain a current copy of the license issued by the Department.

(2) Conspicuously post an unaltered copy of the license in a location accessible to public view within the hospice's established place of business.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Sections 1748, 1749, 1751.5, and 1752, Health and Safety Code.

Draft Confidential

Adopt section 74808. Inspection.

Section 74808. Inspection.

(a) A hospice is subject to inspection by a representative of the Department prior to issuance of a license and during licensure to ensure compliance with, or to prevent a violation of, Health and Safety Code Division 2, Chapter 8.5, and Title 22 of the California Code of Regulations Division 5, Chapter 6.5.

(b) Inspections may be unannounced.

(c) Inspections may occur any time.

(d) The hospice must provide the Department access to the hospice upon presentation of valid identification from any representative of the Department assigned to conduct the inspection. A hospice that fails to provide access during the inspection is subject to denial, suspension, or revocation of its hospice license.

(e) The hospice must make available all requested written and electronic documents, forms, records, or files of the licensee for the Department to inspect, photocopy, or scan. This includes, but is not limited to:

(1) Patient medical records.

(2) Billing records.

(3) Credentialing and privileging documentation.

(4) Personnel records.

(5) Payroll records.

(6) Training records.

(7) Policies and procedures.

(8) Incident reports.

(9) Equipment maintenance records.

(10) Contracts.

(f) The hospice must provide the Department all necessary passwords and authorizations and enable systems required for the Department to access electronic information.

(g) The hospice must provide the Department access to:

Draft Confidential

Confidential - Low

(1) Interview patients, patient representatives, the hospice applicant or licensee, the governing body, the hospice owners, officials, and hospice management personnel.
(2) Conduct on-site observation of patient care where the care is provided with patient consent.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Section 1747, 1747.3, 1751.5, 1752, and 1755, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74812 to read as follows:

Section 74812. Content of Application.

(a) An applicant must submit a complete application and licensing fees to the Department to commence the application process to obtain a license. The applicant must use the most recent versions of all application forms as applicable when completing an application for initial licensure, initial licensure to add a multiple location, license suspension reinstatement, or another change as specified in section 74828.

(b) The application must include a cover letter which must include the following based on the application type:

(1) The current name of the hospice.

(2) The hospice's license number, if applicable.

(3) A brief explanation of why the application is being submitted to the Department.

(4) Contact information for the applicant, including, but not limited to, name, title, phone number, and email address.

(5) Emergency contact information which the Department may use to contact the provider 24 hours a day, seven days a week, in the event of an emergency. Contact information includes, but is not limited to, name, email, alternate email, phone number, fax, and a phone number that will receive text messages.

(6) Signature of the applicant.

(7) The proposed name for the hospice, if altering due to a change of ownership.

(c) The applicant must provide the following information in the application:

(1) The applicant's legal name as reported to the Internal Revenue Service (IRS), physical address, mailing address, phone number, primary and alternate email addresses, and website, if applicable. The applicant must also provide their legal name as filed with the California Secretary of State, if different from the legal name reported to the Internal Revenue Service.

(2) The type of license the applicant is applying for, whether an initial licensure, addition of a multiple location, change of ownership, license suspension reinstatement, or report of change as specified in section 74828.

(3) The name of the hospice.

Draft Confidential

Confidential - Low

(4) The current physical and mailing address of the hospice. If the application is reporting a change of mailing address, the applicant must also provide the proposed mailing address of the hospice. If the application is reporting a change of location, the applicant must also provide the proposed physical address of the hospice.
(5) The age range of patients the hospice plans to admit at the time of the licensure.
(6) Business days and hours of operation of the hospice agency's commercial office.
(7) If the hospice is under construction, the application must include the following:
(A) A certificate of occupancy.
(B) A copy of the construction approval form issued by the Department of Health Care Access and Information.
(C) The actual or estimated dates of construction commencement and completion.
(8) One form of current and valid photo identification which verifies that the individual completing the application is age 18 years or older. Proof of identity includes, but is not limited to, a driver's license or state identification card issued by the Department of Motor Vehicles, United States or foreign passport or passport card, or United States military card or military dependent's ID card.
(9) The taxpayer identification number or federal employer identification number or both published by the Internal Revenue Service under the legal name of the applicant, or the social security number issued under the legal name of the applicant.
(10) Whether the applying entity is a for-profit corporation; general partnership; city, county, state, public, or another governmental agency; limited liability company; limited liability partnership; limited partnership; corporation, unincorporated association, charitable, religious, or another type of nonprofit; sole proprietorship who is an individual; or other entity type specified by the applicant. Applicants must also provide the following, if applicable:
(A) Filing statements endorsed by the California Secretary of State containing the date when the business was created, the business entity type, and the business entity number, if the applicant is applying as a business entity.

Draft Confidential

Confidential - Low

(B) A signed copy of articles of incorporation and by-laws, if the applicant is an incorporated entity. A copy of the Internal Revenue Service 501(c)(3) determination letter is required for all nonprofit corporations.

(C) A signed copy of articles of organization and an operating agreement, if the applicant is a limited liability company.

(D) A copy of the partnership agreement if the applicant is a partnership.

(E) A copy of the signed resolution if the applicant is applying as a public agency.

(11) A copy of the proposed or existing organizational chart displaying the names of the individuals or entities having authority or responsibility for the operation of the agency.

(12) If there is a parent organization the application must also include, but is not limited to:

(A) The parent organization's name, taxpayer identification number or federal employer identification number, and address.

(B) A copy of the proposed or existing organizational chart displaying the names of the individuals or entities having authority or responsibility for the operation of the parent organization.

(C) A list of all health facilities, clinics, and home health agencies the parent organization is operating.

(13) A list identifying any other agencies, facilities, clinics, or multiple locations that the applicant has been licensed for, operated, managed, held a five percent or more ownership interest or control interest, or serves as a director or officer of, and the basis upon which the applicant exercises control and possession thereof. This must include locations both within and outside of the State of California.

(14) Information on whether any agency, individual, facility, or clinic identified in subdivision (c)(13) has faced any disciplinary action, including, but not limited to:

(A) License revocation action filed.

(B) Final disciplinary orders issued by the Department or another governmental agency.

(C) License placed on probation.

(D) License suspended or revoked.

(E) Disciplinary actions resolved through settlement.

Draft Confidential

(F) A receiver appointed.

(15) Medicaid, Medi-Cal, and all other federal and state health care programs' information. If the applicant currently participates or has ever participated as a provider in the Medi-Cal program or in another state's Medicaid program including if the applicant:

(A) Has had a final Medi-Cal decertification action taken.

(B) Has fines or debts due to any federal, state, or local government that relate to Medicare, Medicaid and all other federal and state health care programs that have not been paid and what arrangements have been made to fulfill the obligations.

(C) Has ever been suspended from a Medicare, Medicaid, or Medi-Cal program and reinstatement information if applicable.

(16) Proof of financial funds to establish and operate a hospice for a minimum of 90 days. Examples of proof of financial funds include, but are not limited to, bank statements, a line of credit, or a certificate of deposit.

(17) The property ownership information, including, but not limited to:

(A) The type of control of the property, including own, rent, lease, or sublease.

(B) Evidence of control of the property, including, but not limited to, a copy of the grant deed, a bill of sale, a lease, or sublease agreement.

(C) Name and address of the property owner or manager.

(D) A floor plan, issued by the property owner, that coincides with the space.

(E) If the property is leased, the tenant's name and physical address of the hospice.

(F) If the property is subleased, the subtenant's name, physical address of the hospice, a copy of the master lease, and a letter that states the owner is aware of the sublet and the occupancy of the subtenant.

(18) Proof the applicant has obtained general liability insurance coverage for the hospice which covers the premises and operation. General liability insurance coverage limits must not be for an amount less than $100,000 per claim nor a minimum annual aggregate of not less than $300,000.

(19) Proof the applicant has obtained and maintain worker's compensation coverage for the hospice that covers the premises and operation. Worker's compensation coverage

Draft Confidential

Confidential - Low

limits must not be for an amount less than $100,000 per claim nor a minimum annual aggregate of not less than $300,000.

(20) A copy of one of the following documents from the Internal Revenue Service:

(A) Internal Revenue Service Employer's Quarterly Federal Tax Return Form 941.

(B) A form with the proposed address including, but not limited to, Change of Address Form 8822 or Change of Address or Responsible Party Business Form 8822-B.

(C) Application for Employer Identification Number (EIN) Form SS-4.

(D) Employer Identification Number (EIN) Verification Letter (147-C).

(21) The type of services for which approval is requested, and a hospice service plan. This must include, but is not limited to:

(A) The number and disciplines of staff to be employed.

(B A list of the services provided by contractors, if applicable, and the provider's name and contact information.

(C) A plan for attracting and training volunteer staff.

(22) Information on any individual with five percent or more direct or indirect ownership interest or control interest in the hospice or any individual employed with the hospice including, but not limited to, directors, board members, corporate officers, limited liability company members and managers, partners, Administrators, Administrator Designees, Directors of Patient Care Services, Director of Patient Care Services Designees, Medical Directors, and Medical Director Designees. The applicant must submit all of the following information and documentation for each applicable individual listed above:

(A) The individual's name and address.

(B) The individual's role or relationship with the hospice.

(C) One form of current and valid photo identification which verifies that the individual is age 18 years or older. Proof of identity includes, but is not limited to, a driver's license or state identification card issued by the Department of Motor Vehicles, United States or foreign passport or passport card, United States military card, or military dependent's ID card.

(D) A current copy of the individual's professional license, if applicable.

(E) Social security number.

Draft Confidential

(F) A resume, including, but not limited to, employment history and contact information for the last ten years of employment, unemployment, and education history. Contact information for previous employers includes, but is not limited to, the name, phone number, and e-mail address for previous employers.
(G) History of affiliated adverse actions including, but not limited to, any action resolved by settlement, bankruptcy, foreclosures, judgements, license revoked, license involuntarily suspended, Medicare or Medi-Cal decertification, placed on any form of probation, receiver appointed, or temporary manager appointed.
(H) If the individual has a current or past relationship with another agency or health facility. This includes, but is not limited to, the name, address, and type of the health facility, the role or relationship with the health facility, the name and type of the entity operating the health facility, the employer identification number, and whether the entity is a parent organization to the applicant's hospice.
(I) The names, principal business address, and the percentage of ownership interest of all board members, officers, directors, stockholders owning five percent or more of stock, members, managers, partners, and all other persons having authority or responsibility for the operation of the agency and if they are related to one another as an immediate family member.
(23) The number of hours that will be spent in the hospice by the Administrator and Administrator Designee each week. If the Administrator or the Administrator Designee are concurrently employed by multiple hospices in a rural area, the number of hours that will be spent at each hospice per week.
(24) Proof that the Medical Director is certified as a hospice medical director according to the requirements established by the Hospice Medical Director Certification Board or certified in hospice and palliative medicine according to the requirements established by a member board of the American Board of Medical Specialties or the American Osteopathic Association, if the Medical Director holds such a certification. The information submitted must include, but is not limited to, the type of certification, the name of the certifying entity, the certificate number or a copy of the certificate, and the individual's board identification number.

Draft Confidential

Confidential - Low

(25) The date the Administrator, Administrator Designee, Director of Patient Care Services, Director of Patient Care Services Designee, Medical Director, or Medical Director Designee assumed office and a fully endorsed copy of the executed employment contract, if applicable.

(26) A written explanation, date of the offense, and supporting documents if the Administrator, Administrator Designee, Director of Patient Care Services, Director of Patient Care Services Designee, Medical Director, or Medical Director Designee has been convicted of a misdemeanor or felony offense.

(27) Documents verifying the Administrator and Administrator Designee meet the qualification requirements of section 74876.

(28) Documents verifying the Director of Patient Care Services and Director of Patient Care Services Designee meet the qualification requirements of section 74852.

(29) Documents verifying the Medical Director and Medical Director Designee meet the qualification requirements of section 74856.

(30) A list of all hospices an individual is currently serving as the Administrator, Administrator Designee, Director of Patient Care Services, Director of Patient Care Services Designee, Medical Director, or Medical Director Designee, if applicable.

(31) A copy of the fictitious name statement if the applicant will be operating under a different name other than the applicant's legal name.

(32) The hospice's proposed geographic service area, including documentation of the proposed geographic service area pursuant to section 74820. Documentation must include, but is not limited to:

(A) The names and zip codes of all counties to be served by the hospice.

(B) A map to show the geographic service area to be served by the hospice.

(C) Documentation of the calculations used to determine the hospice's geographic service area pursuant to section 74820(c) and (d).

(D) If the applicant is applying to add a multiple location as defined in Health and Safety Code section 1746(i), distance calculations showing that the multiple location meets the requirements of section 74820.

Draft Confidential

Confidential - Low

(33) If applicant is applying for the Medicare program, the application must include, but is not limited to:

(A) The hospice's National Provider Identifier.

(B) The fiscal intermediary choice.

(C) All pertinent enrollment forms including, but not limited to:

(i) "Hospice Request for Certification in the Medicare Program," CMS-417 (8/22), published by the Centers for Medicaid and Medicare Services, hereby incorporated by reference.

(ii) "Hospice Survey and Deficiencies Report," CMS-643 (06/01), published by the Centers for Medicaid and Medicare Services, hereby incorporated by reference.

(iii) "Health Insurance Benefit Agreement," CMS-1561 (07/01), published by the Centers for Medicaid and Medicare Services, hereby incorporated by reference.

(iv) "Medicare Enrollment Application," CMS-855A (09/23), published by the Centers for Medicaid and Medicare Services, hereby incorporated by reference.

(v) "Assurance of Compliance," HHS-690 (11/19), published by the United States Department of Health and Human Services, hereby incorporated by reference.

(vi) "Notice Effective Date of Provider Agreement," HS-328 (9/17), published by the California Health and Human Services Agency, hereby incorporated by reference.

(34) If the applicant is applying for the Medi-Cal program, the application must include, but is not limited to:

(A) The hospice's National Provider Identifier.

(B) If the applicant, the parent organization of the applicant, or any of the individuals specified in subdivision (c)(22) have five percent or more ownership interest or control interest, or both, in any of the applicant's subcontractors that provide healthcare services or goods, the applicant must provide the following information:

(i) Subcontractor's full legal name, phone number, address, federal employer identification number, and business entity number.

(ii) Any written agreements related to the subcontractor's functions and responsibilities.

Draft Confidential

Confidential - Low

(iii) Full legal name, phone number, address of the entities other than the applicant with five percent or more ownership interest or control interest, or both, in the subcontractor providing healthcare services or goods.

(C) If an entity identified in subdivision (c)(34)(B) is an individual, the applicant must specify:

(i) The individual's role with the subcontractor, including, but not limited to, as a director, officer, partner, managing employee, or five percent or greater owner. The applicant must specify the percentage of the ownership interest, if applicable.

(ii) If the individual has any partnership interest in the applicant.

(iii) If the individual is related to any of the individuals specified in subdivision (c)(22) that have five percent or more ownership interest or control interest, or both, that relative's name and relationship must be identified.

(D) If the applicant has had any significant business transaction with any wholly owned supplier or with any subcontractor not specified in subdivision (c)(34)(B) during the 5-year period immediately preceding the date of the submission of the application the applicant must also provide the subcontractor's or supplier's full legal name, phone number, address, and a description of all significant business transactions. The applicant must provide this information for each subcontractor or supplier with which a significant business transaction occurred.

(E) Full legal name, phone number, and address of entities with five percent or more ownership interest or control interest, or both, in the subcontractor specified in subdivision (c)(34)(B) with whom the applicant has had business transactions involving health care services, goods, supplies or merchandise related to the provision of services to a Medi-Cal beneficiary that total more than $25,000 during the 12-month period immediately preceding the date of the application, or immediately preceding the date on the Department's request for such information. The applicant must provide this information for each applicable subcontractor or supplier.

(F) All pertinent enrollment forms, including, but not limited to:

Draft Confidential

Confidential - Low

(i) “Medi-Cal Provider Agreement,” DHCS 9098 (07/17), published by the California Department of Health Care Services, hereby incorporated by reference. The signature page must be notarized, and the acknowledgement page must be included.
(ii) “Medi-Cal Disclosure Statement,” DHCS 6207 (02/17), published by the California Department of Health Care Services, hereby incorporated by reference.
(iii) “Notice Effective Date of Provider Agreement,” number HS-328 (9/17), published by the California Health and Human Services Agency, hereby incorporated by reference.
(d) The applicant must sign and date the application. If the individual signing the application is different than the applicant, the individual signing must have the legal authority to bind the application to the applicant. The individual signing the application must provide the following information with the application for licensure:
(1) Full legal name and title.
(2) Date of birth.
(3) One form of current and valid photo identification which verifies that the individual is age 18 years or older. Proof of identity includes, but is not limited to, a driver’s license or state identification card issued by the Department of Motor Vehicles, United States or foreign passport or passport card, United States military card, or military dependent’s ID card.
(e) In signing the application pursuant to subdivision (d), the applicant acknowledges that the applicant will comply with:
(1) Local ordinances including, but not limited to, zoning, sanitation, and building ordinances.
(2) Labor Code on employment practices concerning nondiscrimination, liability insurance, wages, hour and working conditions.
(3) Health and Safety Code and regulations concerning licensing and fire safety.
(f) A copy of the application including any ancillary documents described in subdivision (c) must be retained by the applicant.
(g) If the Department requests additional information necessary to process the application, the applicant must submit the requested information to the Department

Draft Confidential

within 60 days of the date of request. An application will be considered incomplete if the applicant fails to provide information within the prescribed time.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Sections 1748, 1749, 1753.1, and 1755, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74816 to read as follows:

Section 74816. Licensing Fees.

(a) An applicant applying for a license must pay licensing fees for each application submitted to the Department pursuant to Health and Safety Code section 1266.

(b) An applicant must ensure that licensing fees assessed pursuant to Health and Safety Code section 1266 are made payable to the Department at the time an application is filed for initial licensure, license renewal, change of ownership, or report of changes.

(c) No refunds will be issued if the application for initial licensure, license renewal, change of ownership, or report of changes is withdrawn, incomplete, or is denied because the applicant or the licensee fails to meet the requirements of Health and Safety Code Division 2, Chapter 8.5 and Title 22 of the California Code of Regulations Division 5, Chapter 6.5.

(d) Pursuant to Health and Safety Code section 1748(a), each multiple location listed on the license of the parent hospice must pay a separate licensing fee. A licensing fee assessed pursuant to Health and Safety Code section 1266 for each multiple location must be submitted in conjunction with the parent hospice initial licensure, license renewal, change of ownership, or report of changes application.

Note: Authority: Sections 1753, 1753.1, 131000, 131050, 131051, 131052, and 131200, Health and Safety Code.

Reference: Sections 1266, 1266.5, 1748, and 1750, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74820 to read as follows:

Section 74820. Geographic Service Area.

(a) A hospice must guarantee that a licensed nurse appears in person 24 hours a day, seven days a week, to provide services within two hours of receiving information that a patient is in need of care or if a safety concern exists.

(b) A hospice must develop, implement, and maintain documented policies and procedures to ensure patients receive support until a licensed nurse can appear in person.

(c) Pursuant to subdivision (a), a hospice must calculate a geographic service area in which personnel can arrive to provide services within two hours from the parent hospice's address as indicated on the application for hospice licensure.

(d) To calculate a geographic service area, a hospice must:

(1) Determine the maximum distance in miles that hospice personnel can travel by vehicle from the parent agency's address within two hours. To determine the maximum distance, the hospice must collect a minimum of four distance value samples. The samples must be taken between 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m. on a non-holiday weekday to account for traffic conditions.

(2) Determine the average radius in miles based on the maximum distance hospice personnel can travel by vehicle as identified in subdivision (d)(1). To find an average radius, the hospice must add all four distance values together then divide the answer by four.

(3) A hospice must submit proof of the calculations used to determine the hospice's geographic service area pursuant to section 74812(c)(32). Documentation must include a timestamp showing the exact date and time the samples were taken.

(e) A hospice's geographic service area must only include counties that have an unmet need as defined in section 74800(a)(56) for hospice services pursuant to Health and Safety Code section 1749(f)(1).

(f) To determine if there is an unmet need for hospice services in a county, the number of individuals who are likely to be eligible for hospice care must be compared with the average number of patients that all currently operating hospices in the same county can

Draft Confidential

accommodate.

(1) The number of individuals who are likely to be eligible for hospice care in a county must be calculated by:

(A) Accessing the California Health and Human Services Agency Open Data Portal website and downloading the most recently published “Final Deaths by Year by County” dataset from the “Death Profiles by County” webpage.

(B) Filtering the following criteria on the “Final Deaths by Year by County” dataset:

(i) The “Year” column must be filtered to include all available years.

(ii) The “County” column must be filtered to only select the primary county associated with the parent hospice’s address as indicated on the application for hospice licensure.

(iii) The “Geography type” column must be filtered to “Residence.”

(iv) The “Strata” column must be filtered to “Total population.”

(v) The “Cause” column must be filtered to “CAN” which represents deaths caused by cancer.

(C) Adding the “count” column from the filtered dataset results in subdivision (f)(1)(B) together from all available years and dividing the sum by the number of years available to determine the average number of cancer deaths by county per year.

(D) Multiplying the average number of all cancer deaths identified in subdivision (f)(1)(C) by 0.7 to account for patients with terminal illness diagnoses other than cancer.

(E) Adding the value identified in subdivision (f)(1)(D) to the average number of all cancer deaths identified in subdivision (f)(1)(C) to determine all potential hospice patients in the county.

(F) Multiplying the value identified in subdivision (f)(1)(E) by 0.5 to find the number of individuals who are likely to be eligible for hospice care in the county.

(2) The average number of patients that all currently licensed hospices in the county can accommodate must be calculated by:

(A) Accessing the California Department of Public Health, California Health Facilities Information Database “Cal Health Find” website and using the “Find and Compare a Health Care Facility” feature to search the Cal Health Find Database for the number of hospices currently licensed in the county.

Draft Confidential

Confidential - Low

(B) Filtering the following criteria when using the “Find and Compare a Health Care Facility Feature” to search the Cal Health Find Database:

(i) “Facility name” must be left blank.

(ii) “Location” must be set to the primary county associated with the parent hospice’s address as indicated on the application for hospice licensure.

(iii) "Facility type” must be set to “Hospice” only.

(iv) “Types of care and services” must be set to “All Care & Services.”

(C) Identifying the total number of licensed hospices in the county as identified in subdivision (f)(2)(B).

(D) Multiplying the value identified in subdivision (f)(2)(C) by 56 to find the average number of patients that all currently licensed hospices in the county can accommodate.

(3) Notwithstanding subdivisions (f)(1) and (f)(2), calculations may be completed by an automated process or application which differs in its methods of data collection, data filtering, and arithmetic, if the results of the automated process or application do not differ from the results of manual calculations performed pursuant to subdivisions (f)(1) and (f)(2).

(4) If the number of individuals who are likely to be eligible for hospice care in a county identified in subdivision (f)(1)(F) is greater than the average number of patients that all currently licensed hospices in the same county can accommodate as identified in subdivision (f)(2)(D), there is evidence to establish there is an unmet need for hospice services in the identified county.

(5) If a hospice wishes to serve multiple counties, the calculations described in subdivision (f) must be completed for each individual county listed on the application for licensure.

(g) Pursuant to subdivision (e), each county in a hospice’s geographic service area must have evidence to establish there is an unmet need for hospice services and must be approved in writing by the Department. Counties that do not have evidence to establish there is an unmet need for hospice services must be excluded from a hospice’s approved geographic service area lists.

(h) An application must be submitted to the Department for any change to a hospice’s

Draft Confidential

Confidential - Low

geographic service area pursuant to section 74828. A hospice must receive written approval from the Department prior to making any such change.

(i) A hospice must not initiate, advertise, or provide hospice services in a geographic service area until the hospice receives written approval from the Department.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Sections 1749, 1751.5, and 1752, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74824 to read as follows:

Section 74824. Change of Ownership.

(a) The following transactions constitute a change of ownership:

(1) A major change in ownership interest occurs when a transfer of beneficial ownership interest, whether in a single or series of transactions, to any entity results in the receiving entity holding 50 percent or more of the ownership interest of the hospice.

(2) Transactions described in Corporations Code section 5914 if the applicant or licensee is a nonprofit corporation.

(3) A change in partnership including the removal, addition, or substitution of a partner.

(4) The merger of the applicant's or licensee's corporation into another corporation, or the consolidation of two or more corporations of the licensee, resulting in the creation of a new corporation. The transfer of corporate stock, merger of another corporation into the applicant's or licensee's corporation or approved lawful conversion of a corporation to a limited liability company does not constitute a change of ownership unless the series of ownership transactions results in a major change in ownership interest as specified in subdivision (a)(1).

(5) The merger of the applicant's or licensee's limited liability company into another limited liability company, or the consolidation of two or more limited liability companies of the licensee, resulting in the creation of a new limited liability company. The transfer of limited liability company interest, merger of another limited liability company into the applicant's or licensee's limited liability company or approved lawful conversion of a limited liability company to a corporation does not constitute a change of ownership, unless the series of ownership transactions results in a major change in ownership interest as specified in subdivision (a)(1).

(6) When a licensee sells, transfers, or disposes of title and property of their hospice to another entity who is not the licensee and, as a result, the licensee loses the right to use and occupy the buildings and property where the hospice operates.

(7) When all or part of the hospice's property and assets are leased to an entity who is not the licensee. This includes, but is not limited to, a new lease or a transfer, sublease,

Draft Confidential

Confidential - Low

or assignment of the licensee's right to possess or occupy the physical structures, buildings, or real property that comprise the operational location of the hospice.

(b) The applicant must submit a complete change of ownership application and licensing fees to the Department 120 days prior to an anticipated change of ownership taking place. The change of ownership is not effective unless approved by the Department. The application must include, but is not limited to:

(1) A cover letter as specified in section 74812(b).

(2) All application requirements specified in section 74812(c).

(3) The legal name, address, and contact information of the current licensee.

(4) The proposed effective date of the ownership change. This date must reflect the actual date on which the applicant will take charge of the financial and operational management of the hospice and not the date of sale or date of license change.

(5) The following documentation obtained from the current licensee:

(A) A patient medical record storage statement pursuant to section 74896(o).

(B) Supplemental documentation at minimum, identifying the name of the current licensee selling to the name of the prospective licensee, percentage of ownership, date of sale, and signature of all parties with date. The signature page must be notarized. Examples include:

(i) Preliminary purchase agreement.

(ii) Documentation outlining the orderly transfer of the hospice operation upon Department approval.

(6) Evidence that the applicant has the financial resources available for the acquisition of the ownership to be transferred, or the basis on which such transfer is to be financed. If the transfer of ownership is made by a gift, the applicant must submit a statement of the relationship between the donor (gift giver) and the donee (gift receiver).

(c) Pursuant to Health and Safety Code section 1748(f), an applicant may apply for a change of ownership within five years from the date the license was initially issued to the current licensee, if the current licensee can demonstrate and provide evidence to the Department that the change of ownership is necessary to ensure continuity of care for existing patients when the current licensee is encountering emergency conditions,

Draft Confidential

Confidential - Low

limited resources and capacity, or a financial hardship. The hospice must be operational, providing care to patients, and submit an application pursuant to subdivision (b). In addition, the application must include the evidence specified in subdivisions (1), (2), or (3), as applicable:

(1) Evidence which demonstrates that emergency conditions exist as proclaimed by the Governor of California or by a local government entity in which the hospice is located. The emergency conditions must limit the ability of the current licensee to provide care to current hospice patients. The applicant or the current licensee must submit a copy of the proclamation to the Department. Examples of emergency conditions may include, but are not limited to:

(A) Natural hazards, including, but not limited to, floods, tornados, hurricanes, winter storms, wildfires, landslides, earthquakes, tidal waves, volcanos, and dam failures.

(B) Technological hazards, including, but not limited to, hazardous material releases and spills, acts of terrorism, and nuclear accidents.

(C) Public health related hazards, including, but not limited to, contamination and disease outbreaks.

(2) Evidence that the hospice has limited resources and capacity to provide care to patients, including, but not limited to, shortages of equipment or supplies.

(3) The current licensee has a financial hardship and does not have finances to continue operating the hospice beyond 90 days and there is an unmet need for hospice services in the geographic service area served by the hospice. The hospice must submit documentation to the Department as specified in subdivision (b) in addition to evidence which demonstrates the current licensee has a financial hardship.

(A) Documentation outlining the factors causing the financial hardship must include, but not limited to:

(i) Financial institution statements concerning all the current licensee’s assets, income, liabilities, and expenses showing the reduction of income and essential spending in an itemized format which identifies the length of time the hospice can continue operating.

(ii) A cost report outlining accounts receivables and payables of the prior 90 days.

Draft Confidential

Confidential - Low

(iii) A written explanation describing the financial hardship including, but not limited to, the reasons, events, and circumstances causing financial difficulties. The hospice's new proposed service area must satisfy the unmet need for hospice services requirement as described in section 74820(e).

(d) If the Department requests additional information, the applicant must submit the requested information to the Department within 60 days from the date of request. An application required in section 74812 will be considered incomplete and may be denied if the applicant fails to provide information within the prescribed time.

(e) The five-year prohibition of a change of ownership pursuant to Health and Safety Code section 1748(e) will reset any time a change of ownership is approved by the Department.

(f) A licensee may apply for a major change of ownership within 120 days from the anticipated change of ownership by submitting an application pursuant to subdivision (c) and written explanation to the Department detailing how one or more of the following conditions applies to the current licensee:

(1) The current licensee is under a receivership order. The applicant or current licensee must provide a copy of the receivership order to the Department.

(2) The current licensee died. The applicant must provide a copy of the current licensee's death certificate to the Department.

(3) The current licensee has a financial hardship reaching a stage where the current licensee cannot continue operating the hospice beyond 90 days, putting at risk the continuity of care for the hospice's patients. The applicant or the current licensee must provide documentation outlining the factors causing the financial hardship pursuant to subdivision (c)(3)(A).

(4) Emergency conditions exist as specified in subdivision (c)(1).

(g) An applicant applying for a change of ownership after the five-year change of ownership moratorium is exempt from proving there is an unmet need for hospice services in the geographic service area served by the hospice if both conditions are met:

(1) The current licensee previously demonstrated to the Department that there is an

Draft Confidential

Confidential - Low

unmet need for hospice services in the geographic service area served by the hospice.
(2) The geographic service area will not change upon the change of ownership. The applicant must submit documentation pursuant to section 74812(c)(32) to confirm the geographic service area will not change upon the change of ownership.
(h) A current licensee must not relinquish the ownership, operation, or management of a hospice until the Department approves the change of ownership.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Sections 1253.2, 1747, 1747.3, 1748, 1749, 1751.5, and 1755, Health and Safety Code. Section 5914, Corporations Code.

Draft Confidential

Confidential - Low

Adopt section 74828 to read as follows:

Section 74828. Report of Changes.

(a) If a licensee is contemplating or negotiating a change to any of the following, the licensee must submit an application to the Department as specified. The application must include a cover letter pursuant to section 74812(b).

(1) The licensee must submit an application to the Department at least 120 days prior to an anticipated change to the hospice's geographic service area, indirect ownership, or a transfer of beneficial ownership interest of five percent or more but less than 50 percent in a single transaction or in a series of transactions. The licensee must provide the following information on or with the application:

(A) For a change to the hospice's geographic service area, the application must include information pursuant to section 74812(c)(1) through (10), (13), and (32). If the licensee is currently enrolled or applying for enrollment in the Medicare the applicant must also submit the required form specified in section 74812(c)(33)(C).

(B) For a change of indirect ownership or a transfer of beneficial ownership interest of five percent or more but less than 50 percent in a single transaction or in a series of transactions, the application must include information pursuant to section 74812(c)(1) through (4), (8) through (14), (17), (22), and (30). The application must also include, but is not limited to:

(i) A documentation which must include, but is not limited to, the licensee's name, name of the current ownership interest holder and the percentage of ownership to be sold or percentage of stock to be purchased, the date and signature of all parties. The signature page must be notarized.

(ii) If the licensee is currently enrolled or applying for enrollment in the Medicare or Medi-Cal programs, the applicant must also submit all required forms as specified in section 74812(c)(33)(C)(i), (c)(33)(C)(iii), (c)(33)(C)(iv), and (c)(34)(F)(i) when applying for transfer of beneficial ownership interest of five percent or more but less than 50 percent in a single transaction or in a series of transactions.

(2) The licensee must submit an application to the Department at least 60 days prior to an anticipated change in location, addition or deletion of a hospice service, or

Confidential - Low

Draft Confidential

suspension of an existing optional service. The licensee must provide the following information on or with the application pursuant to section 74812(c)(1) through (11), (13), (17), and (22). If the licensee is applying for a change of location, the licensee must provide geographic service area documentations specified in section 74812(c)(32).
(A) If the licensee is currently enrolled or applying for enrollment in the Medicare or Medi-Cal programs, the applicant must also submit the following forms.
(i) For change of location, the licensee must include forms specified in section 74812(c)(33)(C)(i), (33)(C)(iv), and (34)(F)(i).
(ii) For addition or deletion of service, or suspension of an existing optional service, the licensee must include forms specified in section 74812(c)(33)(C)(i).
(B) If a change of location results in a change of geographic service area, the licensee must submit a change of geographic service area application and all required documentation as identified in subdivision (a)(1)(A) to the Department.
Additionally, all of the following requirements must be satisfied:
(i) The hospice's new or updated geographic service area must be within a 2-hour driving distance from the parent hospice's address pursuant to section 74820(a) and (c).
(ii) Any new counties that will be included in the hospice's geographic service area must have an unmet need for hospice services pursuant to section 74820(e) and (f). Previously approved counties that will continue to be served by the hospice are not required to re-satisfy the unmet need requirement.
(iii) The licensee must guarantee that the hospice's new proposed office space meets all applicable requirements for licensure pursuant to section 74908.
(C) An applicant may apply for a change of location within 60 days from the anticipated change of location by submitting an application as specified in subdivision (a)(2) to the Department in addition to a written explanation detailing how one of the following conditions apply:
(i) The sudden termination of the applicant's property lease for the hospice which was not the fault of the licensee or the hospice. The licensee must submit a copy of the lease termination to the Department.

Draft Confidential

Confidential - Low

(ii) Damage to the infrastructure of the hospice which prevents the applicant from operating. The applicant must submit evidence to the Department depicting the infrastructure damage, including, but not limited to, a set of photographs and an inspection report issued by a real estate inspection company detailing the damage or a copy of an insurance claim, if the damage is covered by insurance.

(iii) Emergency conditions exist as proclaimed by the Governor of California or by a local government entity in which the hospice is located as specified in section 74824(c)(1).

(b) A licensee must report a change to the Department by submitting an application within 10 business days whenever there is a change to the hospice's Administrator or Administrator Designee, Director of Patient Care Services or Director of Patient Care Services Designee, Medical Director, or Medical Director Designee. The licensee must provide the information on or with the application pursuant to section 74812(c)(1) through (4), (8), (9), (11) through (13), and (23) through (30), as applicable.

(c) A licensee must report a change to the Department by submitting an application within 10 business days whenever there is a change to the hospice's Medicare or Medi-Cal certification status, including, but not limited to applying for enrollment in Medicare or Medi-Cal. The applicant must submit all required forms as specified in section 74812(c)(33)(C)(i) through (33)(C)(v), (34)(F)(i), and (34)(F)(ii).

(d) A licensee must report a change to the Department by submitting an application within 10 business days whenever there is a change to the hospice's governing body or principal officers of the governing body. The licensee must provide information pursuant to section 74812(c)(1) through (4), (8) through (14), and (22). The application must also include, but is not limited to:

(1) Documentation which must include but is not limited to the licensee's name; name of the current ownership interest holder and the percentage of ownership to be sold, or percentage of stock to be purchased signature and date of all parties. The signature page must be notarized.

Draft Confidential

(2) If the licensee is currently enrolled in or applying for enrollment in the Medicare or Medi-Cal programs, the applicant must also submit all required forms as specified in section 74812(c)(33) and (34), as applicable.

(e) A licensee must report a change to the Department by submitting an application within 10 business days whenever there is a change to the name of the hospice or licensee, mailing address, National Provider Identifier, or property owner of the hospice, multiple location, or both. The licensee must provide information pursuant to section 74812(c)(1) through (4), (9), (10), (13), and (22). If the licensee is applying for change of property owner, the licensee must provide documentation specified in section 74812(c)(17).

(1) If the licensee is currently enrolled or applying for enrollment in the Medicare or Medi-Cal programs, the applicant must also submit the following forms.

(A) For change of name, must include forms specified in section 74812(c)(33)(C)(i), (33)(C)(iv), and (34)(F)(i).

(B) For change of mailing address, must include forms specified in section 74812(c)(33)(C)(iv), and (34)(F)(i).

(C) For change of national provider identifier, must include forms specified in section 74812(c)(34)(F)(i).

(f) The licensee must obtain approval by the Department prior to implementing the following changes.

(1) Geographic service area.

(2) Indirect Ownership.

(3) Transfer of beneficial ownership interest in a single transaction or in a series of transactions resulting in five percent or more but less than 50 percent.

(4) Addition or deletion of a hospice service.

(5) Suspension of an existing optional service.

(6) Location.

(g) An applicant must provide a signature and date in the application.

(1) In signing the application, the applicant acknowledges that the applicant will:

Draft Confidential

Confidential - Low

(A) Comply with local ordinances including, but not limited to, zoning, sanitation, and building ordinances.
(B) Comply with the Labor Code on employment practices concerning nondiscrimination, liability insurance, wages, hour, and working conditions.
(C) Comply with the Health and Safety Code and regulations concerning licensing and fire safety.
(2) If the individual signing the application is different than the applicant, the individual signing must have the legal authority to bind the application to the applicant. The individual signing the application must provide the following information with the application for licensure:
(A) Full legal name and title.
(B) Date of birth.
(C) One form of current and valid photo identification which verifies that the individual is age 18 years or older. Proof of identity includes, but is not limited to, a driver's license or state identification card issued by the Department of Motor Vehicles, United States or foreign passport or passport card, or United States military card or military dependent's ID card.
(h) A copy of the application including any ancillary documents described in subdivisions (a) through (e) must be retained by the applicant.
(i) If the Department requests additional information, the applicant must submit the requested information to the Department within 30 days of the date of request. An application will be considered incomplete if the applicant fails to provide information within the prescribed time.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Section 1747, 1747.3, 1748, 1749, 1754, 1751.5, and 1755, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74832 to read as follows:

Section 74832. Denial of Application.

(a) An application for licensure or renewal of a license may be denied when an applicant or licensee:

(1) Fails to comply with provisions in Health and Safety Code Division 2, Chapter 8.5, and Title 22 of the California Code of Regulations, Division 5, Chapter 6.5.

(2) Fails to comply with provisions in Title 42 of the Code of Federal Regulations, Chapter 4, Subchapter B, Part 418, if applicable.

(3) Fails to implement all plans of correction to deficiencies cited by the Department pursuant to section 74904.

(4) Has had a hospice license involuntary suspended or revoked within the prior 24 months.

(5) Fails to submit a complete application, or remediate all discrepancies in the application, as required by section 74812 after notification by the Department to provide additional information.

(6) Does not demonstrate or provide evidence of an unmet need for hospice services requirement in accordance with section 74820(e) and (f).

(7) Is liable for unpaid licensing fees required in section 74816.

(8) Fails to hold an active status with either the California Secretary of State, the Franchise Tax Board, or both, if the applicant or the licensee is a business entity.

(9) Provides inaccurate information on the application or any documents required to be submitted to the Department or required to be maintained by the hospice pursuant to the provisions of Title 22 of the California Code of Regulations, Division 5, Chapter 6.5.

(b) An application for licensure or renewal of a license will be denied when an applicant or licensee has hospice management personnel whose professional license records indicate the imposition of disciplinary actions within the seven years prior to the date of the application, and the applicant or licensee fails to replace the personnel even after the Department has made the applicant or licensee aware of the need to replace the affected personnel. Examples of actions and behaviors that may lead to disciplinary actions include, but are not limited to:

Draft Confidential

(1) Participation in fraudulent billing activities including, but not limited to:

(A) Billing for services not performed.

(B) Incorrect billing code or upcoding.

(C) Altering dates of service.

(D) Double billing or excessive billing.

(2) Forgery of a document or record with the intent to deceive or gain benefits, which includes, but is not limited to:

(A) Creating or altering a fictitious document, signature, medical record, or prescription to make them appear genuine.

(B) Submitting a falsified academic record, transcript, diploma, or certification with the intent to gain employment.

(3) Use of a fabricated address as a service location.

(4) Improper determination of eligibility for hospice care to a patient.

(5) Record of a felony conviction.

(6) Violation of patient data and federal and state privacy laws, including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Confidentiality of Medical Information Act (CMIA), and Information Practices Act (IPA).

(7) Abusive or negligent conduct towards patients, resulting in either inadequate care or immediate jeopardy.

(c) An applicant has the right to appeal a denial of licensure by presenting a written request for a hearing pursuant to Health and Safety Code section 131071. To contest the Department's denial of licensure, the applicant must submit a written petition to the Department within 15 days after service of the Department's notice of denial of licensure. Upon receipt of such petition, the matter will be set for hearing pursuant to California Government Code section 11504. Absent a final decision, which overturns the Department's denial of licensure, any further licensure or certification activity will require the hospice to submit a new application for licensure.

Note: Authority: Sections 1753, 1753.1, 1755, 131000, 131050, 131051, 131052, and 131200, Health and Safety Code.

Confidential - Low

Draft Confidential

Reference: Sections 1747, 1748, 1749, 1750, 1751.5, 1755, and 131071, Health and Safety Code. Sections 23301, 23301.5, 23305.5, and 23775, Revenue and Taxation Code. Sections 110, 2205, 5008, 15902.06, 17702.10, and 17713.10, Corporations Code. Sections 11504 and 11506, Government Code.

Draft Confidential

Confidential - Low

Adopt section 74836 to read as follows:

Section 74836. Renewal and Expiration.

(a) Each license will expire 24 months from the effective date of the license. If a licensee has not received a license renewal notice from the Department at least 45 days prior to the license expiration date, it is the duty of the licensee to notify the Department and request a license renewal application. For the purposes of this section, “license renewal application” means a required form provided by the Department to a licensee which is required to be submitted for a renewal of a license pursuant to this section.

(b) To renew a license, the licensee must:

(1) Complete and submit a license renewal application accompanied by the required license renewal fees pursuant to Health and Safety Code section 1266 to the Department at least 30 days prior to the expiration of the license.

(2) Review and validate the accuracy of all ownership, licensee, and facility information on the license renewal verification page. If the licensee finds that information in the license renewal verification page is not correct, the licensee must submit a separate application as specified in section 74812 to comply with report of changes requirements in section 74828.

(3) Review and complete applicable fields in the licensee acknowledgement page. The acknowledgement page must include a signature, printed name, date, and the title of the signee. If the information on the licensee acknowledgement page is not accurate, the licensee must specify the submission date and type of report of change application submitted to the Department.

(A) The signee must be the licensee who serves as the owner of the hospice or the chief executive officer or administrator of the hospice.

(B) In signing the application, the licensee acknowledges:

(i) All fees assessed by the Department have been paid.

(ii) The licensee has submitted the required application forms and information to report changes pursuant to section 74828. The licensee must specify the type of report of change application submitted to the Department and provide the submission date, if applicable.

Draft Confidential

(iii) An ongoing obligation to report changes during the license period pursuant to section 74828.
(iv) Compliance with local ordinances including, but not limited to, zoning, sanitation, and building ordinances.
(v) Compliance with Labor Code employment practices concerning nondiscrimination, liability insurance, wages, hours, and working conditions.
(vi) Compliance with Health and Safety Code and regulations concerning licensing and fire safety.
(4) Verify and, if necessary, update the general contact's, emergency contact's, All Facilities Letter contact's, and licensee's contact information, as applicable. Contact information includes, but is not limited to, the contact's name, email address, alternative email, phone number, and fax number, as applicable.
(5) Provide the California Secretary of State business entity number or a printout from the Secretary of State website indicating an active status for the business entity.

Note: Authority: Sections 1753, 1753.1, 131000, 131050, 131051, 131052, and 131200, Health and Safety Code.
Reference: Sections 1266.5, 1750, and 1751, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74840 to read as follows:

Section 74840. Voluntary Cancellation of License.

(a) If a licensee is anticipating the closure of a hospice or a multiple location of the hospice, the current licensee must notify the Department in writing at least 60 days prior to the anticipated closure. The notification must include:

(1) The licensee's contact information, including a telephone number and an email address.

(2) Either a facility ID or a license number.

(3) The reason for and date of the proposed closure.

(4) Printed name, date, and the signature of the current licensee.

(b) The licensee must also submit the closure notification to the following recipients, if applicable:

(1) The Center for Medicare and Medicaid Services, pursuant to Title 42, Code of Federal Regulations section 489.52(a)(1), if certified for Medicare or Medi-Cal, or both.

(2) Hospice accreditation organizations.

(c) The licensee must submit a discharge statement to the Department for existing patients prior to the anticipated closure date. The discharge statement must include the requirements specified in section 74892(w).

Note: Authority: Sections 1753, 1753.1, 131000, 131050, 131051, 131052, and 131200, Health and Safety Code.

Reference: Sections 1754, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74844 to read as follows:

Section 74844. Involuntary License Suspension, Revocation, and Reinstatement.

(a) Pursuant to Health and Safety Code section 1755, a license may be suspended or revoked by the Department if the licensee:

(1) Fails to comply with Health and Safety Code Division 2, Chapter 8.5, and Title 22 of the California Code of Regulations, Division 5, Chapter 6.5.

(2) Fails to implement all plans of corrections to deficiencies cited by the Department.

(3) Fails to report any change identified in section 74828 by application to the Department.

(4) Fails to pay licensing fees and late payment penalties.

(5) Operates a hospice with an expired license.

(6) Provides inaccurate information on the application, and on any documents required to be submitted to the Department or required to be maintained by the hospice pursuant to the provisions of this chapter.

(b) A licensee has 15 days from the receipt of the Department's notice of license revocation or involuntary suspension to request a hearing to contest the action specified in the notice. If the licensee fails to submit a timely appeal within the 15-day period, the revocation or involuntary suspension will be effective on the date stated in the notice once the Department has obtained a default judgment.

(c) The revocation, suspension, or the voluntary surrender of a license does not eliminate the Department's authority to initiate a disciplinary action against the licensee upon any ground provided by law.

(d) A licensee whose license has been revoked or involuntarily suspended, may submit a request to the Department for reinstatement of a license.

(1) To submit a request for reinstatement of a license, the licensee must submit an application specified in section 74812 to the Department.

(2) A licensee is eligible to submit the application to the Department after a period of not less than one year has elapsed from the effective date of the revocation or suspension.

Draft Confidential

Confidential - Low

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 1266, 1266.5, 1748, 1749, 1754, 1755, and 1756, Health and Safety Code, and Section 11506, Government Code.

Draft Confidential

Confidential - Low

Article 3. Services.

Adopt section 74848 to read as follows:

Section 74848. Nursing.

(a) A hospice must provide staffing by licensed nurses within the scope of their licensure 24 hours a day, seven days a week.

(b) A licensed nurse must be assigned 12 or fewer patients. For the purposes of this section “licensed nurse” means either a registered nurse or a licensed vocational nurse, and “assigned” means the licensed nurse has primary responsibility for the provision of care to a particular patient within their scope of practice.

(c) A hospice must develop, implement, and maintain documented policies and procedures:

(1) To determine staffing for on-call nursing services to ensure that a registered nurse can appear in-person to perform services within two hours of receiving information that a patient is in need of care or if a safety concern exists.

(2) For how on-call nursing personnel must contact hospice management personnel, including, but not limited to, the Director of Patient Care Services or Medical Director, for after-hours assistance.

(d) Only licensed nurses who are employed by or contracted with the hospice and are assigned to provide direct patient care can be included in the nurse-to-patient ratio.

(e) Licensed vocational nurses may be assigned to patients, except where registered nurses are required to provide care pursuant to their scope of practice.

(f) To ensure the specific needs of patients are met, a hospice must implement a patient acuity system. A hospice must consult registered nurse personnel to provide input in the implementation of the patient acuity system. For the purposes of this section, “patient acuity system” means a method for establishing staffing requirements based on patient acuity levels which must include, but is not limited to:

(1) A method to predict nursing care requirements for each individual patient based on the patient’s plan of care.

(2) A method to assess and validate the amount of nursing care needed for each patient.

Draft Confidential

Confidential - Low

(3) A method to discern trends and patterns of nursing care delivery by personnel.

(4) A mechanism to test the accuracy of the nursing care validation method described in subdivision (f)(2). This method must address the amount of nursing care needed by patient category and pattern of care delivery on an annual basis, or more frequently if warranted by changes in patient populations, skill mix of the personnel, or method of care delivery.

(5) A method to determine personnel resource allocations based on nursing care requirements for each shift.

(6) A method by which the hospice validates the reliability of the patient acuity system as described in subdivision (i).

(g) Additional personnel, including, but not limited to, home health aides and volunteers, in excess of the prescribed nurse-to-patient ratio must be assigned in accordance with the hospice's documented patient acuity system for determining nursing care requirements as described in subdivision (f). Factors to consider for assigning additional personnel include, but are not limited to:

(1) The stage and severity of the patient's terminal illness.

(2) The need for specialized equipment and technology.

(3) The complexity of clinical judgment needed to implement and evaluate the patient's plan of care.

(4) The ability for patient self-care, or level of caregiver support.

(5) The licensure of personnel required to provide care.

(6) The risk of patient injury.

(7) Patient developmental disabilities.

(8) The need for specialized treatments.

(9) The number of weekly requests made by the patient and the patient's family or representative for symptom management.

(10) Increased psychosocial needs, behavioral health needs, or neurological issues of the patient.

(h) A hospice must develop, implement, and maintain documented policies and procedures that contain the criteria for determining patient acuity levels and nurse

Draft Confidential

Confidential - Low

caseloads.

(i) The reliability of the patient acuity system must be reviewed at least annually by a committee appointed by the Director of Patient Care Services. The committee must determine if the patient acuity system continues to accurately measure patient care needs, and if it continues to accurately determine staffing requirements. The committee must, at minimum, meet all of the following requirements:

(1) At least half of the committee members must be registered nurses who provide direct patient care.

(2) If the committee's review determines that adjustments to the patient acuity system are necessary, such adjustments must be resolved and implemented within 30 days from when the determination was made.

(3) The hospice must maintain complete and accurate records of all committee meetings which must:

(A) Be documented to capture all suggested adjustments to the patient acuity system, and all implemented adjustments made to the patient acuity system since the previous committee meeting.

(B) Contain the date and time of the committee meeting, the meeting agenda, meeting minutes, the personnel in attendance and their title, and the name and contact information of the individual who facilitated the meeting.

(C) Be on file at the hospice.

(D) Be signed by the hospice Administrator.

(4) The hospice must develop, implement, and maintain a documented process by which interested personnel may provide input about the patient acuity system, the system's required revisions, and the overall staffing plan.

(j) Nothing in this section prohibits a licensed nurse from assisting with a patient who is assigned to another nurse. For the purposes of this section, "assist" means that a licensed nurse may provide patient care beyond their patient assignments if the task performed is specific, time-limited, within the licensed nurse's scope of practice, and not on a reoccurring basis.

Draft Confidential

Confidential - Low

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 1746 and 1749, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74852 to read as follows:

Section 74852. Director of Patient Care Services.

(a) The hospice governing body must appoint a Director of Patient Care Services in writing.

(b) The Director of Patient Care Services must qualify for the position by meeting the requirements of either subdivision (b)(1) or (b)(2):

(1) A registered nurse with a baccalaureate or higher degree in nursing or other health related field and a minimum of two years of full-time supervisory or managerial experience in a hospice or a home health agency within the last five years.

(2) A registered nurse with a minimum of four years of full-time supervisory or managerial experience in a hospice or a home health agency within the last five years.

(c) The Administrator must appoint a Director of Patient Care Services Designee in writing, who meets one of the requirements of subdivision (b), that will assume the responsibilities and obligations of the Director of Patient Care Services if the Director of Patient Care Services is not available.

(d) Pursuant to section 74832(b), an individual that has had disciplinary action taken against them within the last seven years is not eligible to be a Director of Patient Care Services or a Director of Patient Care Services Designee of a hospice.

(e) Notwithstanding subdivision (f), a Director of Patient Care Services or a Director of Patient Care Services Designee must not have concurrent employment with another hospice.

(f) A Director of Patient Care Services or a Director of Patient Care Services Designee may be concurrently employed by no more than two hospices so long as both hospices are located in the same rural area.

(g) Any vacancy in the Director of Patient Care Services or the Director of Patient Care Services Designee positions must be filled within 60 days from when the vacancy occurred. A hospice must notify the Department of the replacement within 10 business days of appointment by submitting a change of Director of Patient Care Services application pursuant to section 74828(b).

(h) If a hospice is unable to fill the Director of Patient Care Services or the Director of

Confidential - Low

Draft Confidential

Patient Care Services Designee positions within 60 days, the hospice may submit a request for an extension to the Department. The request for an extension must:

(1) Be submitted in writing with evidence that the hospice made an effort to fill the vacant positions. Evidence must include but not be limited to all of the following:

(A) Copies of job advertisements in local publications or online that demonstrate recruitment efforts for the vacant positions.

(B) Job descriptions for the vacant positions.

(C) Evidence that the pay is competitive for the vacant positions, including but not limited to job advertisements for similar positions with similar pay scales. For the purposes of this section, “similar positions” means jobs that are similar to a hospice Director of Patient Care Services in terms of job duties performed and education, experience, and certification requirements.

(2) Demonstrate that the requested extension will not diminish the quality of care provided to patients.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Section 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Adopt section 74856 to read as follows:

Section 74856. Medical Director.

(a) The hospice governing body must appoint a Medical Director in writing.

(b) The Medical Director must qualify for the position by meeting all of the following requirements:

(1) The Medical Director must possess a current and valid license as a physician and surgeon issued by the Medical Board of California or by the Osteopathic Medical Board of California.

(2) The Medical Director must have a minimum of two years of full-time supervisory or managerial experience in a hospice, home health agency, or providing palliative care to patients within the last five years.

(c) The Administrator must appoint a Medical Director Designee in writing who meets the requirements of subdivision (b) that will assume the responsibilities and obligations of the Medical Director if the Medical Director is not available.

(d) The Medical Director and the Medical Director Designee may be employed by or under contract with the hospice on a full time or part time basis.

(e) Pursuant to section 74832(b), an individual that has had disciplinary action taken against them within the last seven years is not eligible to be a Medical Director or the Medical Director Designee of a hospice.

(f) Notwithstanding subdivision (g), a Medical Director or a Medical Director Designee must not have concurrent employment with other hospices.

(g) A Medical Director or a Medical Director Designee may be concurrently employed or contracted by no more than three hospices so long as all hospices are located in the same rural area.

(h) A hospice may contract with either of the following to be the Medical Director:

(1) A self-employed physician.

(2) A physician employed by a professional entity or physician’s group. When contracting for medical director services, the contract must specify the physician who assumes the responsibilities and obligations of the Medical Director.

Draft Confidential

Confidential - Low

(i) Any vacancy in the Medical Director or the Medical Director Designee positions must be filled within 60 days from when the vacancy occurred. The Department must be notified of the replacement within 10 business days of appointment by submitting a change of Medical Director application pursuant to section 74828(b).

(j) If a hospice is unable to fill the Medical Director or Medical Director Designee position within 60 days, the hospice may submit a request for an extension to the Department. The request for an extension must:

(1) Be submitted in writing with evidence that the hospice made an effort to fill the positions. Evidence must include but not be limited to all of the following:

(A) Copies of job advertisements in local publications or online that demonstrate recruitment efforts for the vacant positions.

(B) Job descriptions for the vacant positions.

(C) Evidence that the pay is competitive for the vacant positions, including but not limited to job advertisements for similar positions with similar pay scales. For the purposes of this section, “similar positions” means jobs that are similar to a hospice Medical Director in terms of job duties performed and education, experience, and certification requirements.

(2) Demonstrate that the requested extension will not diminish the quality of care provided to patients.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Section 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Article 4. Plan of Care.

Adopt section 74860 to read as follows:

Section 74860. Admission.

(a) A hospice must:

(1) Develop, implement, and maintain documented policies and procedures for the admission of hospice patients.

(2) Admit a patient only on physician's orders pursuant to subdivision (c).

(3) Accept and retain patients for which the hospice can provide care pursuant to section 74868.

(b) A patient may be admitted to a hospice with the informed consent of the patient or the patient's representative for either or both of the following reasons:

(1) A need for hospice care and a diagnosis of terminal illness as defined in 74800(a)(55).

(2) A need for preliminary hospice care as identified in Health and Safety Code section 1749(g).

(c) Pursuant to subdivision (b)(1), to be admitted to a hospice a patient must obtain initial certification of terminal illness from the Medical Director or the Medical Director Designee of the hospice, in consultation with the patient's attending physician.

(1) A physician member of the interdisciplinary team may certify that a patient has a terminal illness if the patient does not have an attending physician or if the patient's attending physician is unavailable.

(2) The initial certification must be signed and dated by the Medical Director or the Medical Director Designee, and the patient's attending physician or the hospice physician who performed the certification.

(3) The Medical Director or the Medical Director Designee must include the following documentation in the initial certification of terminal illness:

(A) An attestation that the patient's prognosis includes a life expectancy of 12 months or less if the terminal illness runs its natural course.

(B) A brief narrative explaining the clinical findings that support the patient's life expectancy of 12 months or less. The narrative must be located immediately prior to the

Draft Confidential

Confidential - Low

Medical Director or Medical Director Designee's signature and must include, but is not limited to:

(i) Information on the patient's individual clinical circumstances and must not contain check boxes or standard language used for all patients.

(ii) A statement directly above the Medical Director or Medical Director Designee's signature attesting that by signing the Medical Director or Medical Director Designee confirms composing the narrative based on either or both the patient's medical record or on the physician's personal examination of the patient.

(C) If an addendum to the narrative is added to the initial certification after it has been signed by the Medical Director or Medical Director Designee, the addendum must also be signed by the Medical Director or Medical Director Designee immediately following the added narrative.

(D) Include clinical information that supports the medical prognosis.

(4) The signed initial certification of terminal illness must be filed in the patient's medical record.

(d) Before certifying the terminal illness of a patient pursuant, the Medical Director or Medical Director Designee and the attending physician or hospice physician must consider all of the following:

(1) The diagnosis of the terminal condition of the patient.

(2) Any other diagnoses or health conditions, whether related or unrelated to the terminal condition, if applicable.

(3) Any current clinically relevant information supporting all diagnoses.

(4) Any current medication and treatment orders.

(5) Information about the medical management of any of the patient's conditions unrelated to the terminal illness.

(e) At the time of admission, a hospice must:

(1) Complete an initial assessment of the immediate needs of the patient pursuant to section 74864(a).

Draft Confidential

Confidential - Low

(2) Provide written materials explaining the hospice's policies relating to advance directives and information regarding the benefits of advance directives.
(A) Written materials regarding advanced directives must include, but are not limited to:
(i) The patient's rights to make decisions concerning medical care including, but not limited to, the right to accept or refuse treatment and the right to create advanced directives.
(ii) The hospice's policies regarding the implementation of advanced directives.
(B) Any written materials and information required under this subdivision must be provided in the primary language of the patient or the patient's representatives and included in the patient's medical record.
(3) Pursuant to subdivision (e)(2), at the time of admission the hospice must include in the patient's medical record either:
(A) A copy of the advance directives prepared and signed by the patient or the patient's representative.
(B) A document signed by the patient or the patient's representative acknowledging that the patient does not have any advance directives at the time of admission, but the hospice has provided the patient with written materials explaining the hospice's policies relating to advance directives and information regarding the benefits of advance directives.
(f) A hospice must not accept a patient for service if the patient does not permanently reside in the hospice's approved geographic service area.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Section 1749, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74864 to read as follows:

Section 74864. Assessments.

(a) A registered nurse must complete an initial assessment of the immediate needs of the patient and the patient's family within 48 hours of the patient's admission.

(1) The registered nurse must perform the initial assessment in the location where the patient will receive hospice services.

(2) The registered nurse must document their findings in writing.

(3) The initial assessment must serve as the basis for developing the patient's individualized plan of care pursuant to section 74868.

(4) Documentation of the initial assessment must be filed in the patient's medical record.

(b) All members of the assigned interdisciplinary team must complete a comprehensive assessment in collaboration with the patient's attending physician within five days of the patient's admission to the hospice. If the patient does not have an attending physician, or if the attending physician is unavailable, the hospice's Medical Director or another hospice physician must be consulted.

(1) The comprehensive assessment must identify and evaluate the patient's needs regarding the patient's terminal illness and related conditions that must be addressed to promote the patient's well-being, comfort, and dignity throughout the dying process.

(2) The interdisciplinary team must evaluate and consider the following factors when completing a patient's comprehensive assessment:

(A) The nature and condition that caused the patient to be admitted to the hospice, including the presence or lack of objective data and self-reported symptoms and experiences.

(B) The potential complications and risk factors that may affect the hospice's ability to address the patient's needs through the plan of care.

(C) The patient's physical condition, functional status and abilities, and mental status including the patient's ability to understand and participate in their own care.

(D) The patient's symptoms and severity of pain, including their level of discomfort and symptom relief.

(E) The patient's symptoms indicating the imminence of death.

Draft Confidential

(F) A review of the patient's medication information, including over the counter drugs.
(G) An assessment of the bereavement needs of the patient and the patient's family, if applicable. A bereavement assessment must address the social, spiritual, and cultural factors that may impact the patient's family's ability to cope with the patient's death.
(H) The patient's spiritual orientation and needs.
(I) An evaluation of the caregiver's and family's willingness and capability to care for the patient.
(J) The need for referrals and further evaluation by appropriate health professionals.
(K) Other information identified during the comprehensive assessment and found to be necessary to develop an effective plan of care.
(3) A hospice must develop, implement, and maintain documented policies and procedures to include data elements that allow for measurement of patient outcomes in a comprehensive assessment. The included data elements must:
(A) Be measured and documented the same way for all patients.
(B) Take into consideration aspects of care related to hospice.
(4) A completed comprehensive assessment must be documented in writing and must be filed in the patient's medical record.
(c) The interdisciplinary team must review, revise, and update the patient's comprehensive assessment in collaboration with the patient's attending physician as frequently as the patient's condition requires, but no less than every 15 days. If the patient does not have an attending physician or if the attending physician is unavailable, the hospice's Medical Director or another hospice physician must be consulted.
(1) The interdisciplinary team must perform each periodic comprehensive assessment to include the following updates on the patient's condition:
(A) An evaluation of the changes that have taken place since the most recent assessment was performed.
(B) An evaluation of the patient's progress toward desired outcomes identified in the patient's plan of care.
(C) A reassessment of the patient's response to the care being provided.
(2) All updated comprehensive assessments must be documented in writing and must

Draft Confidential

Confidential - Low

be filed in the patient's medical record.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.
Reference: Sections 1746 and 1749, Health and Safety Code.

Draft Confidential

Adopt section 74868 to read as follows:

Section 74868. Plan of Care.

(a) A hospice must ensure that the assigned interdisciplinary team provides all services to a patient in accordance with the individualized plan of care written in collaboration with the patient's attending physician. If a patient does not have an attending physician or if the attending physician is unavailable, the Medical Director or the Medical Director Designee of the hospice must be consulted in developing the patient's plan of care.

(1) A hospice must guarantee that the interdisciplinary team is composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of the hospice patient experiencing terminal illness, and the patient's family experiencing bereavement.

(A) All members of the interdisciplinary team must be appropriately trained and credentialed in their respective fields of practice.

(B) All members of the interdisciplinary team must be jointly responsible for the provision of care and services provided to patients.

(2) A hospice must assign at least one registered nurse to each interdisciplinary team. The assigned registered nurse has primary responsibility for the following duties:

(A) Implementation of the patient's plan of care.

(B) Coordination of the patient's care among the interdisciplinary team.

(C) Coordination and implementation of periodic comprehensive assessments in accordance with the requirements of this article.

(b) The interdisciplinary team must develop a written plan of care based on the comprehensive assessment of the patient to address their individualized needs in accordance with the requirements of this article.

(c) A hospice must guarantee that each patient's assigned interdisciplinary team writes an individualized plan of care. The plan of care must include, but is not limited to:

(1) The patient's current diagnoses and information on their health status.

(2) The goals and outcome measures that the hospice anticipates will occur as a result of the successful implementation and coordination of the plan of care.

(3) The types and frequency of services to be provided.

Draft Confidential

(4) The identification of the assigned registered nurse who is responsible for coordinating the patient's plan of care.

(5) The identification of the patient's assigned interdisciplinary team members and any family members or caregivers who will provide the services required by the patient's plan of care.

(6) The patient's symptoms.

(7) The patient's prescribed method of pain management.

(8) The ability of the patient or the patient's caregiver to safely self-administer drugs and biologicals to the patient and the level of medication assistance to be provided by the interdisciplinary team, if necessary.

(9) The medical supplies and equipment required to implement the plan of care which must be provided by the hospice while the patient is receiving care.

(10) The orders for treatments and their frequency to be provided and monitored by the interdisciplinary team.

(11) The patient's physical, cognitive, and functional limitations.

(12) The physical activities permitted for the patient.

(13) The patient's special dietary needs.

(14) The patient's food or drug allergies.

(15) The patient's palliative care needs.

(16) The safety measures necessary to protect the patient from injury.

(17) Documentation of all education, training, and written instructions provided to the patient and the patient's caregiver regarding:

(A) The specific responsibilities for the care and services identified in the patient's plan of care.

(B) The assessment of the abilities of the patient and the patient's caregiver to provide care in accordance with the plan of care.

(C) The management and safe disposal of controlled substances in the patient's residence.

(18) The bereavement care needs of the patient's family based on the bereavement assessment described in section 74864(b)(2)(G).

Draft Confidential

Confidential - Low

(19) The patient's anticipated discharge date, if applicable.

(d) A hospice must develop, implement, and maintain documented policies and procedures to ensure that the interdisciplinary team uses a documented system of communication. The system of communication used by the interdisciplinary team must share information:

(1) Between all hospice personnel that provide care and services in all settings, whether the care and services are provided directly or under arrangement with another care provider.

(2) With any other non-hospice health care providers who are providing non-hospice services to a patient.

(e) The registered nurse assigned to the interdisciplinary team must direct, coordinate, and supervise care and services provided by all hospice and non-hospice care providers in accordance with a patient's plan of care and subdivision (b).

(f) A hospice must ensure that the patient's individualized plan of care developed by the interdisciplinary team is approved and signed by the patient's attending physician. If the patient does not have an attending physician or if the attending physician is unavailable, only the Medical Director or the Medical Director Designee may approve and sign the patient's plan of care.

(g) The interdisciplinary team may propose modifications to a patient's plan of care. A proposed modification may only be implemented by the interdisciplinary team once the patient's attending physician, the Medical Director, or the Medical Director Designee has approved the modification in writing.

(h) If a personnel member or a hospice volunteer observes a significant change to the patient's condition that indicates a modification to the plan of care may be necessary, the individual must notify the patient's attending physician, the hospice Medical Director, or the Medical Director Designee as soon as possible within 24 hours of observation.

(i) Pursuant to subdivision (h), a hospice must develop, implement, and maintain documented policies and procedures that include, but are not limited to:

(1) A list that identifies all significant changes that must be reported, which must include but is not limited to, sudden:

Draft Confidential

Confidential - Low

(A) Loss of coherency or cognitive abilities.

(B) Decrease in weight or appetite.

(C) Onset of behavioral conduct issues.

(D) Increase in pain.

(2) A list that identifies any additional individuals who must be notified if there is a significant change to the patient's condition, such as hospice personnel who provide care to the patient and the patient's representative, if applicable.

(3) The methods of notification to all required individuals.

(4) A timeline that instructs when all necessary individuals must be notified once a significant change is identified.

(5) A timeline that instructs when the patient's representative must be notified, and the method of notification, once a significant change to the patient's condition is identified.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Sections 1746, 1749, 1751.5, and 1752, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74872 to read as follows:

Section 74872. Plan of Care – Review.

(a) A patient's plan of care must be updated as frequently as the condition of the patient requires, but not less frequently than every 15 days.

(b) The interdisciplinary team must consider, discuss, and explain in writing the following elements for each periodic review and update to a patient's plan of care:

(1) Information gathered from the patient's most recent comprehensive assessment.

(2) Information on the patient's progress toward desired outcomes identified in the most recent plan of care.

(3) A reassessment of the patient's response to care.

(c) All updates to the plan of care must be documented in writing and must be made in collaboration with the patient's attending physician. If the patient does not have an attending physician or if the attending physician is unavailable, the Medical Director or the Medical Director Designee of the hospice must be consulted when updating the plan of care.

(d) All versions of a patient's plan of care must be filed in the patient's medical record.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Sections 1746, 1749, 1751.5, and 1752, Health and Safety Code.

Draft Confidential

Confidential - Low

Article 5. Administration

Adopt section 74876 to read as follows:

Section 74876. Administrator.

(a) The hospice governing body must appoint an Administrator in writing.

(b) The Administrator must have a baccalaureate degree or higher in a health-related field and a minimum of two years of full-time supervisory or managerial experience in a hospice, home health agency, primary care clinic, or health facility within the last five years.

(c) The Administrator must appoint a Designee in writing who meets the requirements of subdivision (b) that will assume the responsibilities and obligations of the Administrator if the Administrator is not available.

(d) The Administrator or the Administrator Designee must be on the premises of the hospice or accessible by telecommunication during their scheduled work hours.

(e) Pursuant to section 74832(b), an individual that has had disciplinary action taken against them within the last seven years is not eligible to be an Administrator or an Administrator Designee of a hospice.

(f) Notwithstanding subdivision (g), an Administrator or an Administrator Designee must not have concurrent employment with another hospice.

(g) An Administrator or an Administrator Designee may be concurrently employed by no more than two hospices so long as both hospices are located in the same rural area.

(h) Any vacancy in the Administrator or the Administrator Designee positions must be filled within 60 days from when the vacancy occurred. A hospice must notify the Department of the replacement within 10 business days of appointment by submitting a change of Administrator application pursuant to section 74828(b).

(i) If a hospice is unable to fill the Administrator or the Administrator Designee positions within 60 days, the hospice may submit an extension request to the Department. The request for an extension must:

(1) Be submitted in writing with evidence that the hospice made an effort to fill the vacant positions. Evidence must include but is not limited to:

Draft Confidential

Confidential - Low

(A) Copies of job advertisements in local publications or online that demonstrate recruitment efforts for the vacant positions.
(B) Job descriptions for the vacant positions.
(C) Evidence that the pay is competitive for the vacant positions, including, but not limited to, job advertisements for similar positions with similar pay scales. For the purposes of this section, “similar positions” means jobs that are similar to a hospice Administrator in terms of job duties performed and education, experience, and certification requirements.
(2) Demonstrate that the requested extension will not diminish the quality of care provided to patients.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code. Reference: Section 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74880 to read as follows:

Section 74880. Hospice Management Orientation and Annual Training Requirements.

(a) A first-time Administrator or first-time Administrator Designee must satisfy subdivision (a)(1) or (a)(2) within the first 12 months of hire. For the purposes of this section, a “first-time Administrator” or “first-time Administrator Designee” means an individual who has never been designated or served as an Administrator or Administrator Designee at a hospice in the State of California.

(1) A total of 24 hours of educational training in the management of a hospice including, but not limited to:

(A) Hospice operations, administration, and services.

(B) Human resource management.

(C) Personnel onboarding.

(D) Hospice regulatory requirements.

(E) Hospice quality assessment and performance improvement.

(2) A hospice certification program that includes, but is not limited to:

(A) Identifying new practices to integrate quality assessment and performance improvement goals.

(B) Understanding financial management, planning, and operations.

(C) Hospice regulatory requirements.

(b) A first-time Medical Director or first-time Medical Director Designee must satisfy subdivision (b)(1) or (b)(2) within the first 12 months of hire. For the purposes of this section, a “first-time Medical Director” or “first-time Medical Director Designee” means an individual who has never been designated or served as a Medical Director or Medical Director Designee at a hospice in the State of California.

(1) A total of 24 hours of educational training in the clinical management of a hospice including, but not limiting to:

(A) Providing medical direction and support for hospice patients and the patient’s family and representatives.

(B) Effective leadership and communication.

(C) Ethical and professional conduct.

Draft Confidential

Confidential - Low

(D) Hospice regulatory requirements.

(2) A hospice certification program that includes, but is not limited to:

(A) Providing medical direction and support for hospice patients and the patient's family and representatives.

(B) Medical knowledge, including, but not limited to, medication and pain management, assessing and managing diagnoses and symptoms, hospice settings, and patient assessments.

(C) Medical leadership and communication, including, but not limited to, ongoing support and education of hospice personnel.

(D) Ethical and professional conduct.

(E) Hospice regulatory requirements.

(c) A first-time Director of Patient Care Services or first-time Director of Patient Care Services Designee must satisfy subdivision (c)(1) or (c)(2) within the first 12 months of hire. For the purposes of this section, a "first-time Director of Patient Care Services" or "first-time Director of Patient Care Services Designee" means an individual who has never been designated or served as an Director of Patient Care Services or Director of Patient Care Services Designee at a hospice in the State of California.

(1) A total of 24 hours of educational training in the clinical management of a hospice including, but not limited to:

(A) Providing clinical direction and support for hospice staff, hospice patients and the patient's family and representatives.

(B) Effective leadership and communication.

(C) Ethical and professional conduct.

(D) Hospice regulatory requirements.

(2) A hospice certification program that includes, but is not limited to, the following topics:

(A) Patient care assessment and planning.

(B) Patient care pain and symptom management.

(C) Support, education and advocacy for patients, as well as patient's representatives,

Draft Confidential

caregivers, and family.

(D) Regulatory compliance and practical considerations.

(d) Hospice management personnel must complete a minimum of 20 hours of new hire orientation training within 60 days of hire, as provided by the hospice. Hospice management personnel hired prior to the promulgation of these regulations are exempt from this training requirement. New hire orientation training for hospice management personnel must include, but is not limited to:

(1) A minimum of one hour total reviewing, identifying, and discussing the administrative, oversight, and investigative responsibilities of the following public entities:

(A) California Department of Public Health.

(B) California Department of Justice, Office of the Attorney General.

(C) California Department of Health Care Services.

(D) California Department of Social Services.

(E) Centers for Medicare and Medicaid Services.

(F) U.S. Department of Health and Human Services, Office of Inspector General.

(G) U.S. Department of Justice.

(2) A minimum of one hour total reviewing, identifying, and discussing the Department's current hospice licensing requirements, including, but not limited to:

(A) Health and Safety Code, Division 2, Chapter 8.5.

(B) Title 22 of the California Code of Regulations, Division 5, Chapter 6.5.

(C) All applicable requirements for initial licensure, inspections, change of ownership, report of changes, multiple locations, and license renewals pursuant to Article 2 of this chapter.

(3) A minimum of six hours total reviewing the following:

(A) Basic hospice services including, but not limited to:

(i) Physician qualifications and responsibilities, including, but not limited to, the hospice Medical Director, hospice physician, and attending physician.

(ii) Skilled nursing and licensed vocational nursing personnel qualifications and responsibilities.

Draft Confidential

Confidential - Low

(iii) Social work and counseling personnel qualifications and responsibilities.

(iv) Bereavement counseling personnel qualifications and responsibilities.

(v) Volunteer qualifications and responsibilities.

(vi) Home health aide qualifications and responsibilities.

(vii) Inpatient care arrangements.

(B) Hospice administration, including, but not limited to:

(i) The responsibilities and administrative policies of the hospice's governing body, including development, administration, and required content.

(ii) The responsibilities and qualifications of the hospice Administrator, Director of Patient Care Services, and Medical Director.

(C) Human resource management, including, but not limited to:

(i) The Americans with Disabilities Act, The Civil Rights Act of 1991, The Rehabilitative Act of 1993, and The Family and Medical Leave Act of 1993.

(ii) Employee and volunteer requirements, including, but not limited to, state and federal exclusion lists, health screenings, initial and annual competency evaluations, orientation, and education.

(iii) The written agreement content requirements for contracted services including, but not limited to, vendor, facility, and provider services.

(iv) The requirements for human resource policies and procedures and how they will be implemented.

(4) A minimum of six hours total reviewing hospice policies and procedures, including, but not limited to:

(A) The hospice's emergency preparedness plan, including, but not limited to:

(i) Risk assessment.

(ii) Training and testing.

(iii) Implementation.

(iv) Communication plan.

(v) Evaluation.

(vi) Compliance with state and federal statutory and regulatory requirements.

Draft Confidential

Confidential - Low

(B) The hospice's infection control program, including, but not limited to:

(i) Infection control education to personnel, contracted providers, volunteers, patients, patient's families, and caregivers on the science of infectious disease transmission.

(ii) Prevention measures to minimize the spread of infections and communicable diseases through daily activities such as hand hygiene, respiratory hygiene, cough etiquette and the use of personal protective equipment.

(iii) Surveillance and monitoring for compliance with hospice policies and procedures related to infection control.

(iv) Reporting all cases of outbreak or undue prevalence of infections or parasitic disease or infestation to the local health officer and the Department in accordance with applicable law.

(v) Measures for investigating outbreaks.

(C) Complaint management, including, but not limited to:

(i) Documentation required for hospice patients or patient's families to submit a complaint.

(ii) Investigation and review of received complaints.

(iii) Follow-up requirements to resolve a complaint.

(iv) Safety management, such as real or potential threats to the health or safety of personnel or patients.

(v) Criminal misconduct, including investigation and reporting requirements of abuse, neglect, and exploitation to the appropriate law enforcement agency.

(D) Fraud, waste, and abuse, including, but not limited to:

(i) Training to personnel, contracted providers and volunteers on how to prevent fraud, waste and abuse. Personnel, contracted providers, and volunteers must also be trained on how and when to report instances or allegations of fraud, waste, and abuse in accordance with applicable state and federal reporting requirements.

(ii) Surveillance and monitoring for compliance with hospice policies and procedures related to fraud, waste, and abuse.

(iii) Patient rights and protection from retaliation by personnel, contracted providers, or volunteers.

Draft Confidential

(E) Patient medical records, including, but not limited to:

(i) Required content, pursuant to section 74892.

(ii) Proper documentation of services, pursuant to section 74892.

(iii) Proper storage and maintenance, pursuant to sections 74892 and 74896.

(iv) The Health Insurance Portability and Accountability Act requirements, including, but not limited to, the privacy rule requirements pursuant to Title 45 of the Code of Federal Regulations parts 160 and 164, subparts A and E; the security rule requirements pursuant to Title 45 of the Code of Federal Regulations parts 160 and 164, subparts A and C; the breach notification rule requirements pursuant to Title 45 of the Code of Federal Regulations part 164, subpart D; and the confidentiality of substance use disorder patient records pursuant to Title 42 of the Code of Federal Regulations part 2, subpart A, if applicable.

(v) California confidentiality laws including, but not limited to, the confidentiality of medical information requirements pursuant to the Confidentiality of Medical Information Act; medical breach reporting requirements pursuant to Health and Safety Code section 1280.15; patient rights to access health records pursuant to Health and Safety Code Division 106, Part 1, Chapter 1; patient human immunodeficiency virus testing protections pursuant to Health and Safety Code Division 105, Part 4, Chapter 7; and the Information Practices Act of 1977, if applicable.

(F) Controlled substance management, including, but not limited to:

(i) Prescribing.

(ii) Dispensing.

(iii) Administering.

(iv) Accountability, including, but not limited to, receipt and reconciliation of controlled substances.

(v) Storage.

(5) A minimum of six hours total reviewing hospice patient care requirements, including, but not limited to:

(A) Hospice Admission.

(B) Patient rights and responsibilities, including, but not limited to:

Draft Confidential

(i) Policies and procedures.

(ii) Required notifications including, but not limited to, change in advance directives, change in address or telephone number, or a problem or dissatisfaction with patient care.

(iii) Uniform Health Care Decisions Act requirements.

(iv) California End of Life Option Act requirements.

(C) Initial and comprehensive assessments pursuant to section 74864 subdivisions (a) and (b).

(D) Plan and coordination of care pursuant to section 74868.

(E) Live patient discharge or transfer.

(F) Patient discharge by death.

(6) New hire orientation training must also include a minimum of one additional hour total if the hospice maintains optional services including, but not limited to, physical therapy, occupational therapy, and speech-language pathology therapy. This additional training must include information on the qualifications and responsibilities of all personnel of those services.

(e) In addition to subdivision (d), hospice management personnel must complete a minimum of 12 hours total of annual training. For the purposes of this section, “annual” means each 12-month period starting from the individual’s date of hire. Annual training for hospice management personnel must include, but is not limited to:

(1) A minimum of six hours reviewing hospice policies and procedures, including, but not limited to:

(A) The hospice’s emergency preparedness plan as described in subdivision (d)(4)(A).

(B) Infection control program as described in subdivision (d)(4)(B).

(C) Complaint management as described in subdivision (d)(4)(C).

(D) Fraud, waste, and abuse as described in subdivision (d)(4)(D).

(E) Patient medical records as described in subdivision (d)(4)(E).

(F) Controlled substance management as described in subdivision (d)(4)(F).

(2) A minimum of six hours total reviewing hospice patient care requirements as described in subdivision (d)(5).

Draft Confidential

Confidential - Low

(f) Training and certification programs completed by hospice management personnel must be in the form of structured, formalized classes, correspondence courses, competency-based computer courses, training videos, distance learning programs, off-site training courses, or any combination of these training methods. If the training or certification program is not provided by the hospice, it must be provided by a certified or accredited training provider.

(g) A hospice must not accept training or certification programs completed by the individual prior to their first day of employment at the hospice as credit toward the new hire orientation or annual training requirements of this section.

(h) Hospice management personnel are not required to repeat new hire orientation training requirements if they previously held a hospice management personnel position at the same hospice where they are starting a new management position and have previously completed the new hire orientation training requirements of subdivision (d).

(i) A hospice must maintain documentation of all training or certification programs completed by hospice management personnel. This documentation must include but is not limited to:

(1) The name of the training or certification program.

(2) The name of the participant that attended the training or certification program.

(3) A description of the content of the training or certification program.

(4) The name and contact information of the entity that provided the training or certification program.

(5) The name of the instructor who provided the training or certification program.

(6) The hours and dates the participant attended the training or certification program.

(7) A completion certificate for the training or certification program signed by the participant and the participant’s supervisor.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74884 to read as follows:

Section 74884. Personnel Records.

(a) A hospice must maintain a record for each individual hospice personnel member. Personnel records must be current upon hire for each individual and must be maintained by the hospice to include all subsequent reviews or updates made during the individual's employment with the hospice.

(b) The record for each personnel member must include, but is not limited to:

(1) Full legal name.

(2) Social Security number.

(3) Home address.

(4) Mailing address, if different than home address.

(5) Phone number.

(6) A copy of the individual's professional license, including license number and date of expiration, if applicable.

(7) Job title and employment classification, including, but not limited to, a statement of duties performed by the individual.

(8) A resume containing the individual's qualifications for the position.

(9) Verification of employment history and experience, including, but not limited to, reference checks performed by the hospice.

(10) Start date of employment.

(11) Documentation of completion of hospice management personnel orientation and training requirements pursuant to section 74880, if applicable.

(12) Written confidentiality agreements between the hospice and the individual. Agreements must be in accordance with the hospice's policies and procedures and must be signed and dated by the individual and the hospice Administrator.

(13) Proof of clearance from the Office of Inspector General's List of Excluded Individuals and Entities. The hospice must complete the proof of clearance prior to the individual's employment.

(14) Signed and dated conflict of interest forms, including, but not limited to, the initial

Draft Confidential

Confidential - Low

conflict of interest form required at time of hire, and all subsequently required forms during employment.

(15) All performance evaluations completed during employment with the hospice.

(16) Date of separation from the hospice, if applicable.

(c) Personnel records must be retained for at least four years following the individual's date of separation from the hospice.

(d) A hospice must retain records of all hours and dates worked by all personnel during the most recent 12-month period.

(e) All personnel records must be maintained in a confidential manner.

(f) A hospice must make personnel records, including electronic personnel records, available to representatives of the Department within 24 hours upon request.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code. Reference: Section 1749, Health and Safety Code.

Draft Confidential

Adopt section 74888 to read as follows:

Section 74888. Medical Record Service.

(a) A hospice must establish and maintain a patient medical record system to ensure that the care and services provided to each patient are completely and accurately documented, readily accessible, and systematically organized to facilitate the compilation and retrieval of information.

(b) A hospice's medical record service must include, but is not limited to:

(1) Use of a record maintenance system that protects the security of medical record entries and requires authentication of documentation.

(2) Develop, implement, and maintain documented policies and procedures for information governance that the governing body must approve.

(c) A hospice's medical records service must develop, implement, and maintain documented policies and procedures for the following activities pertaining to patient medical records:

(1) The retrieval of medical information.

(2) Reconciliation. For the purpose of this section, "reconciliation" means the process of ensuring that a hospice generates a complete and accurate medical record for a patient upon discharge.

(3) Deficiency analysis. For the purpose of this section, "deficiency analysis" means the process for detecting absent or missing medical information in a patient's medical record.

(4) Coding.

(5) Filing.

(6) Indexing.

(7) Quality and content control.

(8) Release of information.

(d) A hospice must ensure that all patient medical records are accessible to authorized individuals 24 hours a day, seven days a week.

(e) Patient medical records must be accessible for the following reasons which include, but are not limited to:

Draft Confidential

Confidential - Low

(1) Patient care needs.

(2) Release of medical information requests.

(3) Patient requests to amend or correct their record.

(4) Department surveys or other requests from the Department.

(f) Pursuant to subdivision (e)(3), a hospice must uphold a patient's right to examine, obtain, and request corrections or amendments to their medical record, pursuant to Health and Safety Code sections 123110 and 123111, and Title 45 of the Code of Federal Regulations sections 164.524 and 164.526.

(1) A hospice must provide a patient a copy of their medical record within 15 days after receiving a release of medical information request, pursuant to Health and Safety Code section 123110(b).

(2) A hospice must develop, implement, and maintain documented policies and procedures for the following:

(A) How and when the hospice must provide notification to a patient if a request for correction or amendment to a patient's medical record was received.

(B) How to determine if a patient's request to correct or amend their medical record should be approved or denied.

(C) How and when the hospice must provide notification if a request for correction or amendment to a patient's medical record was approved or denied.

(3) Documentation showing that a patient made a request, and whether the request was approved or denied, must be included in the patient's medical record. If a request was denied by the hospice, documentation must include a written justification for denial.

(g) A hospice must develop, implement, and maintain documented policies and procedures in accordance with the federal Health Insurance Portability and Accountability Act and California's Confidentiality of Medical Information Act laws for the planned disposal and destruction of patient medical records after the required retention period pursuant to section 74896(b).

(h) A hospice must obtain a certificate of destruction from a shredding or destruction company if the hospice hires a company for the disposal of patient medical records. The contracted shredding or destruction company must be compliant with the federal Health

Draft Confidential

Insurance Portability and Accountability Act.

(i) A hospice must notify the Department in writing within 24 hours of discovery of the defacement or destruction of patient medical records before termination of the required retention period pursuant to section 74896(b).

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 1746, 1749, and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74892 to read as follows:

Section 74892. Medical Record Content.

A hospice patient's medical record, whether hard copy or electronic, must include, but is not limited to:

(a) An admission record that contains:

(1) The patient's full legal name.

(2) The patient's home address or current place of residence, including zip code.

(3) The patient's age and date of birth.

(4) The patient's social security number or individual taxpayer identification, and one additional identification number such as:

(A) A unique patient identification number created by the hospice.

(B) A Medicare number.

(C) A Medicaid number.

(5) The patient's biological sex assigned at birth.

(6) The patient's gender identity, if identified by the patient or the patient's representative.

(7) The patient's sexual orientation, if identified by the patient or the patient's representative.

(8) The patient's marital or registered domestic partner status.

(9) The patient's religious preference, if identified by the patient or the patient's representative.

(10) The patient's preferred language.

(11) Date of admission.

(12) Reason for admission.

(13) Source of referral.

(14) Date of discharge or transfer from referring facility, if applicable.

(15) Contact information, including, but not limited to, the full legal name, mailing address, and telephone number including area code, and e-mail address if provided of:

(A) The patient's attending physician.

(B) The patient's representative, caregiver, conservator, or guardian, if applicable.

Draft Confidential

Confidential - Low

(C) The patient's representative to be notified in case of emergency or death, as identified in writing by the patient or the patient's representative.

(16) Consent, authorization, and election of hospice care forms signed by the patient, or the patient's representative, in the patient's or patient representative's primary language.

(17) A copy of the written notice provided to the patient or the patient's representative in the patient's primary language regarding advance directives pursuant to section 74860(e)(2) and (e)(3)(B), if applicable. If the patient executes and provides advance directives at any time while receiving hospice services, a copy must be retained in the patient's medical record.

(b) An initial certification of terminal illness signed by a physician, and all subsequent recertifications of terminal illness.

(c) The patient's initial assessment in its entirety, pursuant to section 74864(a).

(d) The patient's initial comprehensive assessment in its entirety pursuant to section 74864(b), and all subsequent comprehensive assessments in their entirety pursuant to section 74864(c).

(e) The patient's diagnosis, condition, and other pertinent health information.

(f) The patient's initial and subsequent plans of care in their entirety, as specified in section 74868(c) and section 74872, covering all periods the hospice provided services to the patient. The medical record must include identification of all individuals who helped develop each plan of care.

(g) Physician consultation reports, orders, and progress notes.

(h) Patient history and physical exams before and during the provision of hospice services, including, but not limited to, previous and new diagnoses, emergency department visits, and the patient's ability to perform daily activities.

(i) Reports of all laboratory tests and imaging records performed, if applicable.

(j) A list of any prescribed medications and written instructions for the use of each medication, pursuant to the patient's plan of care.

(k) A medication administration record if medication is administered by hospice personnel. The medication administration record must include, but is not limited to:

Draft Confidential

(1) Name and dosage of each medication administered.

(2) Route of each administration and site of injection, if applicable.

(3) Time of each administration.

(4) Authentication by personnel administering each medication.

(5) A record of the patient's response to medications, treatments, and services.

(6) Adverse reactions to medications. Any adverse reactions must be reported to the registered nurse assigned to the patient and documented in the patient's medical record.

(7) Notation of any medications not given to the patient, and the reason why the medication was not given to the patient.

(8) Documentation of teaching or instructions to the patient and the patient's caregivers in the patient's and patient's caregiver's primary language, and the results of the teaching or instructions.

(l) Treatment orders, dietary orders, and orders for therapeutic and other program services pursuant to the patient's plan of care. Treatments requiring special precautions must be indicated.

(m) Any allergies and known reactions to drugs and food. This information must be given such prominence in the record that it is obvious to any health practitioner or hospice personnel who provides food or medication to the patient.

(n) Medical supplies, appliances, or special devices needed pursuant to the patient's plan of care.

(o) Complete and accurate notes from all interdisciplinary team meetings held on behalf of the patient. The record must include, but not limited to:

(1) The date and time of the meeting.

(2) A list of all attendees.

(3) A summary of the meeting.

(p) Complete and accurate clinical notes dictated or written on the day of service by the personnel providing the service. Clinical notes must include, but are not limited to:

Draft Confidential

Confidential - Low

(1) A concise and accurate record of all care and services provided to the patient.
(2) Evidence of coordination of services among the interdisciplinary team, pursuant to the patient's plan of care.
(3) Documented observations and changes to the patient's condition or needs. Observations must be recorded frequently enough to indicate the progress in achieving goals from the patient's plan of care.
(q) Pursuant to section 74868(h), documentation recording notifications of a significant change in the patient's condition to all required individuals.
(r) Documentation regarding written instructions and information provided to the patient and the patient's family in the patient's primary language on the use, management, and disposal of controlled substances and durable medical equipment and supplies. Documentation must include a signature made by the recipient acknowledging receipt and comprehension of the instructions provided.
(s) Wound notes documenting stage and details of any active wound care, if applicable.
(t) Vital sign tracking documentation.
(u) Documentation of all supervisory visits including the date and time of visit.
(v) All requests received by the patient or the patient's representative to examine, obtain, and request corrections or amendments to the patient's medical record. Documentation must include notation whether the request was approved or denied by the hospice pursuant to section 74888(f)(3).
(w) A discharge statement, if applicable, that contains:
(1) Live discharge or transfer notes and a summary which must include, but is not limited to:
(A) Date of and reason for termination of service.
(B) Summary of the patient's physical, mental, spiritual, and emotional status at the time of discharge.
(C) Method of initiation of discharge or transfer, whether by physician, hospice, patient, patient's representative, patient's family, or any such combination.
(D) A written physician's discharge order from the hospice Medical Director.

Draft Confidential

Confidential - Low

(E) Documentation of notification of the termination of services to the patient, the patient's representative or family, and the patient's attending physician, as applicable. If an attending physician is involved in the patient's care, the attending physician must be consulted prior to discharge and the attending physician's review and decision must be included in the discharge summary.

(F) Extent to which treatment goals were obtained.

(G) Referrals made, if applicable.

(H) If the patient is transferring to another hospice, copies of consent for care, all certifications of terminal illness, the patient's plan of care, and other information as requested by the receiving hospice must be included.

(2) If discharged by death, written discharge notes and summary must include, but are not limited to:

(A) Date of death.

(B) Location of death.

(C) Cause of death.

(D) Extent to which treatment goals were obtained, including pain and symptom management.

(E) Degree of emotional support extended to the patient's family, caregivers, or other individuals.

(F) Bereavement services plan.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.

Reference: Sections 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74896 to read as follows:

Section 74896. Medical Record Use and Access.

(a) A hospice must maintain a medical record for every patient accepted for service by the hospice.

(b) A hospice must preserve patient medical records, including, but not limited to, imaging records or reproductions thereof, for a minimum of 10 years. The 10-year retention period must be based on the date of the patient's most recent treatment or service listed in the medical record. A hospice must preserve a minor's medical record for at least one year after the minor has reached the age of 18 years or for a minimum of 10 years, whichever is longer.

(c) Hard copy patient medical records must be stored in a confidential manner at the hospice's established place of business, or at an off-site storage facility approved by the Department pursuant to subdivision (p).

(d) Patient medical records, whether hard copy or electronic health records, must:

(1) Be written legibly in permanent ink or by electronic means.

(2) Be on the hospice's standardized forms or electronic templates.

(3) Be current, accurate, and include enough detail for all health care providers to be able to clearly identify the patient's current health status.

(4) Be kept confidential.

(5) Be protected from loss, destruction, and unauthorized use.

(6) Be stored and organized either chronologically by services provided or chronologically in its entirety.

(e) A hospice must develop, implement, and maintain documented policies and procedures that address:

(1) The content of patient medical records, pursuant to section 74892.

(2) The timeliness of entries, corrections, and additions made to patient medical records.

(3) The maintenance, security, and storage of patient medical records.

(4) Patient medical record retention, pursuant to subdivision (b).

(5) Which hospice personnel are authorized to access and to document in patient

Confidential - Low

Draft Confidential

medical records.

(6) The creation of a unique identifier to guarantee that only authorized hospice personnel can document in patient medical records after authenticating their identity.

(7) The use of countersignatures or dual signatures which must include:

(A) The authorized hospice personnels' full legal name.

(B) The authorized hospice personnels' medical or professional credentials.

(C) The authorized hospice personnels' unique identifier, as determined by the hospice's policies and procedures.

(D) The date and time of authentication.

(8) How and when to report a breach or a suspected breach of patient medical record information.

(f) Pursuant to subdivision (e)(6), each entry to the patient medical record must be authenticated by the individual prior to making the entry and include, but is not limited to:

(1) The date of entry.

(2) All services provided by the hospice or under written agreement.

(g) A hospice must guarantee that entries regarding the provision of care or services provided are not altered without a written explanation of the reason for alteration. Authorized hospice personnel who make a medical record entry error or alter an entry, whether in a hard copy or electronic health record, must:

(1) Put a single line through incorrect information, or use an electronic stamp indicating the entry was an error.

(2) Ensure that the reason for correction is documented in a manner that is legible and understandable.

(3) Document the date of discovery.

(4) Document the date of correction.

(5) Authenticate the correction.

(h) Authorized hospice personnel must correct any medical record errors including, but not limited to, record duplications or documentation in the wrong patient record within 48 hours of discovery.

Draft Confidential

Confidential - Low

(i) Authorized hospice personnel must make an addendum in a patient's medical record if they add information after the time of original entry. An addendum must be distinct and traceable and include, but is not limited to, the date and authentication of the authorized hospice personnel making the added entry.

(j) Authorized hospice personnel must make note of a patient mismatch error in the medical record upon discovery of the error.

(k) A hospice must safeguard the information in all patient medical records, whether hard copy or electronic health record, from loss, natural disasters, defacement, destruction, tampering, or unauthorized access.

(l) A hospice must not release any portion of a patient medical record to anyone other than the patient, except as allowed by law.

(m) A hospice must complete all documentation and authenticate a patient's medical record within 30 days following the date of the patient's transfer, discharge, or death, as applicable.

(n) If a hospice ceases operation or becomes inoperable for any reason, the hospice must retain or make arrangements for the safe preservation of all patient medical records in a confidential manner pursuant to this section, including the retention requirements pursuant to subdivision (b). The hospice must notify the Department in writing of the physical address where the medical records will be stored no later than 24 hours from the hospice ceasing operation or becoming inoperable.

(o) If a hospice is experiencing a change of ownership pursuant to section 74824, both the current licensee and the prospective licensee must, prior to the change of ownership, submit to the Department a written medical record storage statement that is signed and dated by both parties. The statement must attest to the following:

(1) The current licensee will maintain custody of all electronic and hard copy patient medical records until the change of ownership is approved by the Department.

(2) The current licensee has made arrangement for the safe preservation of all electronic and hard-copy patient medical records, and the prospective licensee will be granted access if the change of ownership is approved by the Department.

(3) All electronic and hard copy patient medical records must remain available to the

Confidential - Low

Draft Confidential

Department and other authorized individuals 24 hours a day, seven days a week.

(p) A hospice must submit a written request to, and obtain approval from, the Department to store hard copy patient medical records at an off-site storage facility. The written request must include:

(1) The name and physical address of the off-site storage facility.

(2) The number of hard copy medical records to be stored off-site.

(3) The date range of the hard copy medical records that the hospice is sending to off-site storage. The dates provided by the hospice must specify the start date and end date of the patient's medical record retention period pursuant to subdivision (b).

(4) The hospice's policies and procedures for medical record storage and retention.

(5) A copy of the fully executed contract between the hospice and the off-site storage facility that will be storing the patient medical records. The contract must state that the Department has the authority to access the medical records stored off-site.

(6) A copy of the signed contract from the off-site storage company and a Business Associate Agreement compliant with the federal Health Insurance Portability and Accountability Act (HIPAA). The contract must state that the Department has the authority to access the medical records stored off-site.

(q) A hospice must notify in writing and obtain approval from the Department if any one of the following occurs:

(1) The location of the off-site storage facility changes.

(2) The hospice's policies or procedures for medical record storage or retention are amended.

(3) The hospice or the off-site storage facility amends the Business Associate Agreement.

(r) Patient medical records, including, but not limited to, electronic storage media containing medical records, that are stored at an off-site facility approved by the Department must be:

(1) Secure during transport, storage, and electronic transmissions.

(2) Protected from loss, natural disasters, defacement, destruction, tampering, or unauthorized access.

Draft Confidential

Confidential - Low

(3) Accessible 24 hours a day, seven days a week, with an arrangement for emergency record retrieval after normal business hours by authorized personnel.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Sections 1746, 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74900 to read as follows:

Section 74900. Electronic Health Records.

(a) Hospices that use an electronic health record system to store, document, and maintain patient medical records must:

(1) Have access control measures defining who has authorized access to medical records stored in the system.

(2) Have a process for tracking all electronic health record documentation including, but not limited to, dates, times, authors, corrections, amendments, addendums, and change or late entries, for the purpose of creating an audit trail that may be requested by the Department.

(3) Perform regular backups no less than every 24 hours to ensure personnel have access to current and accurate information at all times.

(4) Develop, implement, and maintain documented electronic health record authentication policies and procedures.

(A) The hospice may use electronic authentication in lieu of a physical signature.

(B) The hospice must have a signed statement on file verifying an authorized hospice personnel's sole authorship to document in a patient's electronic health record under a unique identifier. Hospice personnel must not share the unique identifier with another user.

(5) Develop, implement, and maintain a documented disaster recovery policy and procedure for manual clinical documentation if the electronic health record system becomes non-functional. Manual documentation must continue until the hospice's electronic health record system resumes the ability to document and transmit medical record entries.

(6) Ensure that patient electronic health information from multiple providers within the hospice's organization are linked and accessible in the hospice's primary electronic health system.

(b) Electronic health records may be stored remotely on a cloud-based server if Health Insurance Portability and Accountability Act and California's Confidentiality of Medical Information Act compliant security precautions are in place.

Draft Confidential

Confidential - Low

(c) Hospices that use an electronic health record system must request and receive approval from the Department to store a physical server off the hospice's premises, or to use a hybrid model of storing a portion of data on a cloud-based server and a portion of data on a physical server which is located off the hospice's premises in accordance with section 74896.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, 131051, and 131200, Health and Safety Code.
Reference: Sections 1746, 1749 and 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt section 74904 to read as follows:

Section 74904. Plan of Correction.

(a) A hospice must sign and return a completed Statement of Deficiencies and Plan of Correction Form STATE-2567 within 10 days of receipt from the Department. A completed Statement of Deficiencies and Plan of Correction form must include a written plan of correction for each specific deficiency identified by the Department that includes but is not limited to:

(1) The hospice's plan to correct the specific deficiency cited by the Department.

(2) The procedure for implementing a plan of correction for the specific deficiency cited.

(3) The monitoring and tracking procedures to ensure the measures taken in subdivisions (a)(1) and (a)(2) are effective in bringing the hospice into compliance and ensuring continued compliance.

(4) The title or position of all hospice personnel responsible for implementing the plan of correction.

(5) The hospice Administrator's signature, and the date signed.

(b) A hospice must revise and re-submit a plan of correction if it is deemed unacceptable for any of the following reasons:

(1) The action proposed will not correct the specific deficiency cited.

(2) The action proposed cannot be sustained to ensure continuing compliance.

(3) The action proposed will not protect the health, safety, or welfare of patients.

(c) Pursuant to subdivision (b), a hospice must continue to revise a plan of correction as requested by the Department until it is approved in writing.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Section 1752, Health and Safety Code.

Draft Confidential

Confidential - Low

Adopt Section 74908 to read as follows:

Section 74908. Hospice Office Space.

(a) A hospice must have office space that is an established place of business and must:

(1) Be an unshared space where the licensee has exclusive possession.

(2) Located in a commercial building that is either owned by the licensee or leased or subleased exclusively by the licensee for a minimum of 12 consecutive months.

(b) A hospice's office space must include, but is not limited to:

(1) Permanently attached signage that identifies the name of the hospice as indicated on the license issued by the Department. Signage must be visible to the public, and must be posted on the exterior and in the interior of the office space.

(2) Posted business hours visible to the public.

(3) An active business telephone line for the hospice that is answered 24 hours a day, seven days a week.

(4) Administrative personnel to meet the operational needs of the hospice as required by this chapter.

(5) Medical equipment and supplies to meet the needs of hospice personnel and patients as required by this chapter, and secure storage for all medical equipment and supplies.

(6) Office equipment and supplies to meet the operational needs of the hospice as required by this chapter.

(7) Secure storage for patient medical records pursuant to section 74896.

(8) Secure storage for medications.

(9) Secure storage for personnel employment records pursuant to section 74884.

(10) Access to a restroom during business hours.

Note: Authority cited: Sections 1753, 1753.1, 131000, 131050, and 131200, Health and Safety Code.

Reference: Section 1753.1, Health and Safety Code.

Draft Confidential

Confidential - Low