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PERMANENT ADMINISTRATIVE ORDER

PH 16-2017
CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

11/08/2017 2:00 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: In-Home Care Agency and Hospice Agency Licensing Fees

EFFECTIVE DATE: 01/01/2018

AGENCY APPROVED DATE: 10/31/2017

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RULES:

333-035-0055, 333-536-0010, 333-536-0031

AMEND: 333-035-0055

RULE TITLE: Licensing and Fees

NOTICE FILED DATE: 08/31/2017

RULE SUMMARY: Amend OAR 333-035-0055: The 2017 Oregon Legislature approved fee increases for licensure of Hospice agencies. The rule is being amended to remove fee details and reference the statute instead eliminating the need for a future rule change should fees be amended again.

RULE TEXT:

- (1) A person may not establish, conduct or maintain a hospice program providing hospice services, or hold itself out to the public as a hospice program, without obtaining a license from the Division.
- (2) A person may apply to operate a hospice program by submitting a complete application on a form prescribed by the Division, accompanied by the fee established in ORS 443.860. An application that is incomplete or that is not accompanied by the correct fee will be returned to the person applying.
- (3) In order for a license application to be considered complete, it shall include, but is not limited to:
 - (a) Business name;
 - (b) Medicare Certification Number (Medicare Provider Number)(if applicable);
 - (c) Primary and multiple locations (if any);
 - (d) Tax status;
 - (e) Ownership category (for example corporation, partnership, sole proprietorship);
 - (f) Physical and mailing addresses;
 - (g) Owner information;
 - (h) Descriptions of services;
 - (i) Staffing levels; and
 - (j) Average daily census.
- (4) The Division shall conduct an initial survey prior to licensure.

- (5) In lieu of an initial survey required under section (4) of this rule, the Division may accept a CMS certification or a survey conducted within the previous three years by an accrediting organization approved by the Division.
- (6) A hospice program licensed in Washington, Idaho or California must be licensed in Oregon in order to provide care in Oregon within a 60 mile radius of the parent agency in the other state. A hospice program licensed in these other states shall pay the required fee and the Division:
- (a) Shall conduct a licensing survey; or
 - (b) May accept a CMS certification or a survey conducted within the previous three years by an accrediting organization approved by the Division.
- (7) The Division may waive the mileage guideline in section (6) of this rule if the parent hospice program proposes to provide hospice services to an underserved area of the state and adequately demonstrates the ability to manage and control the services.
- (8) The Division shall issue a license to an applicant that has the necessary qualifications, meets all requirements established by the Division, meets the CMS Conditions of Participation for hospice programs found in 42 CFR Part 418, and has paid the fee.
- (9) A license issued under this section is valid for one year and is not transferable.
- (10) A licensee may apply for renewal of a license by completing a renewal application on a form prescribed by the Division and submission of the applicable fee. The Division shall renew a license if the licensee is in compliance with ORS 443.850 through 443.869, these rules, and CMS Conditions of Participation, 42 CFR Part 418.
- (11) The Division may permit a hospice program providing care at multiple locations, to operate under one license for all locations, if:
- (a) All locations are operating under the same Medicare Certification Number;
 - (b) The multiple location provides the same full range of care and services that is required by the hospice program issued the Medicare Certification Number; and
 - (c) The locations are located within a 60 mile radius of the parent hospice program applying for licensure.
- (12) The Division may waive the mileage guideline in subsection (11)(c) of this rule if the parent hospice program proposes to provide hospice services to an underserved area of the state and adequately demonstrates the ability to manage and control the services.
- (13) An applicant or licensee may be required by CMS to obtain a survey by a CMS deemed accrediting organization in addition to any survey conducted by the Division under section (4) of this rule or OAR 333-035-0075.

STATUTORY/OTHER AUTHORITY: ORS 443.860

STATUTES/OTHER IMPLEMENTED: ORS 443.860

AMEND: 333-536-0010

RULE TITLE: Application for Licensure

NOTICE FILED DATE: 08/31/2017

RULE SUMMARY: Amend OAR 333-536-0010: The 2017 Oregon Legislature approved fee increases for licensure of In-Home Care agencies. This rule is being amended to add a reference that the application for licensure must be accompanied by the fee specified in statute.

RULE TEXT:

(1) An agency that establishes, conducts, or represents itself to the public as providing in-home care services must be licensed by the Division and must comply with ORS 443.305 through 443.355 and these rules. The provisions of ORS 443.305 through 443.355 do not apply to organizations licensed, registered or certified under ORS 101.030, 410.495, 443.410, 443.485, 443.725, 443.860, or 443.886. The provisions of ORS 443.305 through 443.355 do not apply to independent individuals, volunteers, family, neighbors, or to agencies offering only housekeeping or on-call staffing for facilities, or to support services provided and funded by the Department of Human Services. Entities that provide referral or matching services that link in-home care services with clients are not required to be licensed under these rules, unless they do one or more of the following:

- (a) Schedule caregivers (as defined in OAR 333-536-0005);
- (b) Assign work;
- (c) Assign compensation rates;
- (d) Define working conditions;
- (e) Negotiate for a caregiver or client for the provision of services; or
- (f) Place a caregiver with a client.

(2) Application for a license to operate an in-home care agency shall be in writing on a form provided by the Division and shall include, but is not limited to, demographic, ownership and administrative information about the agency.

(3) The completed application to license an in-home care agency must be accompanied by a nonrefundable licensing fee specified in ORS 443.315.

(4) If an owner or administrator has direct contact with a client, the owner or administrator must submit background information to the Division in accordance with OAR 333-536-0093 for the purposes of conducting a criminal records check.

(5) If any of the information delineated in an agency's most recent application changes at a time other than the annual renewal date, an agency shall submit a revised application to the Division within 30 days of the change.

(a) An agency that submits a revised application that contains a change to any of the following must obtain Division approval prior to implementation:

- (A) Administrator;
- (B) Agency classification;
- (C) Branch and subunit; and
- (D) Geographic service area exceeding one hour's travel time.

(b) In determining whether to grant approval for changes identified in subsection (4)(a) of this rule, the Division may request agency documents or records for review to determine compliance with in-home care licensing laws and rules, or may conduct an on-site inspection.

(6) No entity shall provide in-home care services or use the term "in-home care agency" in its advertising, publicity, or any other form of communication unless it holds a current valid license as an in-home care agency in accordance with the provisions within.

STATUTORY/OTHER AUTHORITY: ORS 443.340, ORS 443.315

STATUTES/OTHER IMPLEMENTED: ORS 443.315, 443.340

REPEAL: 333-536-0031

RULE TITLE: Fees

NOTICE FILED DATE: 08/31/2017

RULE SUMMARY: Repeal OAR 333-536-0031: The 2017 Oregon Legislature approved fee increases for licensure of In-Home Care agencies. This rule is being repealed in order to remove fee details eliminating the need for a future rule change should fees be amended again.

RULE TEXT:

(1) The fee for an initial in-home care agency license shall be \$1,500. If the agency has subunits, the fee for an initial license shall be \$1,500 for the parent agency, plus an additional \$750 for each subunit.

(2) The fee for a renewed in-home care agency license shall be \$750. If the agency has subunits, the fee for a renewed license shall be \$750 for the parent agency, plus an additional \$750 for each subunit.

(3) If the ownership of an agency changes other than at the time of the annual renewal, the licensure fee shall be \$350, plus an additional \$350 for each subunit.

(4) All application fees are non-refundable.

STATUTORY/OTHER AUTHORITY: ORS 443.340

STATUTES/OTHER IMPLEMENTED: ORS 443.315, 443.340