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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED: 10/29/2026 1:57 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Hospice Program Licensure Requirements

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/23/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Public Health Division
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/23/2026
TIME: 11:00 AM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 532713474
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral (spoken) testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register to receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 532 713 474# for audio (listen) only. This hearing will close no later than 12:00PM (noon) but may close as early as 11:30AM if everyone who signs up to provide testimony has been heard from.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S):

The Oregon Health Authority (OHA), Public Health Division, Health Care Regulation and Quality Improvement section is amending and adopting administrative rules in OAR chapter 333, division 035 in response to the passage of SB 1575 (2026 OL ch.133). These rules amend requirements for licensing hospice programs including requiring the adoption of fees in rule; criminal records check requirements for administrators, medical directors, and persons with direct ownership; applicant disclosure of negative performance history in Oregon or other states; minimum qualification requirements for the administrator and medical director; criteria for denying a license application; and modifies definitions for the purpose of geographic restrictions if a hospice program is seeking a waiver.
Additional rule changes outside the scope of the legislation include notification requirements if a hospice program intends to permanently discontinue providing services in response to recommendations after the closure of multiple health care facilities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- SB 1575 (2026): https://olis.oregonlegislature.gov/liz/2026R1/Downloads/MeasureDocument/SB1575/Enrolled
- Centers for Medicare and Medicaid Services (CMS), State Operations Manual, Appendix M - Hospice: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_m_hospice.pdf
- 91 Federal Register, 49118-49176 (August 3, 2026): https://www.govinfo.gov/content/pkg/FR-2026-08-03/pdf/2026-15686.pdf
- American Academy of Hospice and Palliative Medicine, Certification Pathways: https://aahpm.org/career-resources/certification/
- 2024 National Board for Home Care and Hospice Certification, Certification Candidate Handbook: https://www.cahsah.org/file/secure/2024nbhhccandidatehandbook.pdf
- 2025 Hospice Medical Director Certification Board, Candidate Handbook: https://hmdcb.org/uploads/HMDCB_Initial_Handbook_2025.pdf
- State of California, Title 22, Division 5, Chapter 6.5 – Licensing and Certification of Hospice: https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IA4293620712C11F185488884101179C5&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)&bhcp=1
- American Academy of Hospice and Palliative Medicine, Letter to Early Blumenauer – Hospice CARE Act of 2024, July 12, 2024: https://aahpm.org/wp-content/uploads/2024/08/AAHPM_Comments_on_Hospice_CARE_Act_Discussion_Draft_07.12.2024__FINAL.pdf
- Hospice Program Integrity Ideas, January 13, 2023, Submitted by LeadingAge, National Association for Home Care and Hospice, National Hospice and Palliative Care Organization and National Partnership for Healthcare and Hospice Innovation submitted Congress and CMS: https://leadingage.org/wp-content/uploads/2023/01/Hospice-Program-Integrity-Ideas_Hospice-Industry-Consensus-Final-1.13.23-.pdf
- Consumer Assessment of Healthcare Providers and Systems (CAHPS) Hospice Survey; Information for Vendors, Hospices, Survey Materials, Quality Assurance Guidelines, Public Reporting: https://www.hospicecahpssurvey.org/
- CMS Medicare Enrollment Application, Institutional Providers, CMS-855A, OMB No. 0938-0685: https://www.cms.gov/medicare/cms-forms/cms-forms/downloads/cms855a.pdf

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

These rules implement the provisions required under SB 1575 (2026 OL ch. 133) which also placed a moratorium on issuing new hospice licenses with certain exceptions for hospice programs that serve underserved areas where people do not have adequate access to hospice services and underserved populations for people that experience barriers accessing hospice services. These proposed administrative rules seek to reduce or eliminate fraud among hospice providers and providers that may target vulnerable populations for inappropriate enrollment in Medicaid or Medicare. By identifying high risk providers and preventing them from obtaining a license, it may help reduce patient harms that disproportionately affect vulnerable communities. Additionally, strengthening the licensing requirements can help ensure more consistent hospice quality across the state and address the possible disparities in pain management, family support, and end-of-life dignity that can be worsened by fraud and low-quality care

Among Medicare patients who died in 2010, 45.8% of whites used hospice compared to 34% of African Americans, 37% of Hispanics, 28.1% of Asian Americans, and 30.6% of Native North Americans. Data on disparities in the experiences of minority hospice enrollees are limited. There is some evidence that disparities in the quality of care are smaller between whites and African Americans enrolled in hospice compared to those in the general population. Other studies document higher rates of hospice disenrollment for African Americans than whites and more concerns about care coordination and quality among hospices with a higher proportion of African American enrollees. Disenrollment refers to patients disenrolling from hospice services before their death https://pmc.ncbi.nlm.nih.gov/articles/PMC3822363/.

Based on recent data shared by Berg Data Solutions (https://www.bergdatasolutions.com/) at the request of the Oregon Hospice and Palliative Care Association, among patients who died in 2025, 64.3% of white persons used hospice compared to 49.6% of Black or African American persons, 41.6% of Hispanic or Latino persons, 50.3% of Asian or Asian American persons, and 61.1% of North American Native persons.

In information posted on the Oregon Legislative Information System, key provisions of SB 1575 are meant to prevent "bad actors" from taking advantage of patients, protect the integrity of Oregon's licensing process, and strengthen the vetting for hospice licenses by implementing safeguards to protect vulnerable patients and ensure high-quality compassionate care. It was noted that "…mega corporations are increasingly buying up community hospices. When corporate owners take over a local hospice, they maximize profits by reducing staff and services and by spending less on patient care. Many corporations also selectively target patients who require less care or are likely to live longer, such as dementia patients. In essence, corporations and private equity firms are gaming the system to profit from the dying. Patients enter hospice at the end of their lives, when they cannot advocate for themselves."
https://olis.oregonlegislature.gov/liz/2026R1/Downloads/PublicTestimonyDocument/255234

While the state licensure moratorium will end with the adoption of amended rules, the existing rules already include an equity-focused provision allowing the OHA to waive geographic restrictions if the hospice proposes to provide services to an underserved area or underserved population and can adequately demonstrate the capacity and capability to manage the services. Definitions have been amended to align with SB 1575.

FISCAL AND ECONOMIC IMPACT:

There are currently 75 licensed Hospice Programs of which 3 also have a Special Inpatient Care Facilities (SICF) license to operate a freestanding hospice facility. Licensed hospices will be required to meet revised requirements at time of license renewal including being subject to revised renewal licensure fees.

After the moratorium was issued, there were 13 applicants in the queue for hospice licensure. Three of the 13 applicants were granted an exemption, one applicant withdrew and nine were denied. The applicants granted an exemption to the state licensure moratorium will be subject to revised license requirements, fees and criminal background checks. Applicants that are not granted an exemption to the state licensure moratorium may reapply for licensure after new rules are adopted.

The proposed fee increases are necessary to pay for existing staff and one Compliance Specialist 2 to conduct the enhanced licensure and renewal reviews. These fees will be used to develop and implement the new licensing process, including revising forms, material, training staff, and providing education and training to new and existing applicants; conducting new criminal background check requirements; Department of Justice consultations; and a prorated share of costs will support and maintain the on-line licensing database, including a mechanism for online payment benefiting both providers and the hospice program.

Hospice Program OLD Fee NEW Fee

Initial license fee: $1,140 $10,000

Renewal license: $1,140
- Average daily census 1-24 $2,000
- Average daily census 25-49 $3,000
- Average daily census 50-99 $5,000
- Average daily census 100-199 $8,000
- Average daily census 200 or more $9,000

Change of ownership $1,140
- Average daily census 1-24 $4,000
- Average daily census 25-49 $6,000
- Average daily census 50-99 $8,000
- Average daily census 100-199 $9,000
- Average daily census 200 or more $10,000

Hospice Program OLD Fee NEW Fee

Change of information that reflects a change to operating multiple locations, a change in operational control, or a change in managing control when such changes are not part of a change of ownership.
- Average daily census 1-24 $4,000
- Average daily census 25-49 $6,000
- Average daily census 50-99 $8,000
- Average daily census 100-199 $9,000
- Average daily census 200 or more $10,000

Late fee:
- Average daily census 1-24 $500
- Average daily census 25-49 $1,000
- Average daily census 50-99 $1,500
- Average daily census 100-199 $2,000
- Average daily census 200 or more $2,500

Administrators, medical directors, and persons with a 5% or more ownership interest will be subject to a nationwide criminal records check. These persons will be subject to a fee of $60.50 payable at time of fingerprinting.

Negative performance history may impact license renewal and may result in an administrative licensing action, such as suspension or revocation.

New qualification requirements for administrators and medical directors may result in additional costs related to recruitment. A legacy exemption has been added so that a hospice program may continue to employ or contract with an individual that is serving as the medical director or administrator when rules go into effect provided that the hospital program retains specific documentation.

A hospice program must participate in the Centers for Medicare and Medicaid Services (CMS), Consumer Assessment of Health Care Providers and Systems (CAHPS) hospice survey and provide documentation of quarterly reports submitted in response to the survey or must provide documentation that a request for an exemption was submitted to CMS. The CAHPS survey must be conducted by an approved survey vendor which will result in costs to the hospice program. Hospice programs that have served fewer than 50 survey-eligible decedents/caregivers may be eligible for an exemption from CMS.

- The OHA has limited data on hospice CAHPS participation and is unable to estimate the number of programs that may be eligible for an exemption. Information posted in the August 3, 2026 Federal Register, page 49158, stated that nationally in FY 2025, the percentage of non-compliant hospices increased to 23.53 percent and in FY 2026 the percentage of non-compliant hospices was 20.37 percent. https://www.govinfo.gov/content/pkg/FR-2026-08-03/pdf/2026-15686.pdf
- The OHA anticipates that more than 75% of existing licensed programs currently participate in the CAHPS survey. It is estimated that vendor costs will be lower for hospice programs that serve fewer patients and more costly for programs that serve a large number of patients. The OHA queried six CMS approved vendors on possible costs based on average daily census and survey modality. It is estimated that costs could range between $80/month to $3,600/month.

A hospice program that decides to permanently discontinue operations must comply with new notification requirements including the development of a communication plan to notify patients, the community, and external partners. Staff time and resources will be needed to develop and implement the plan which includes updating information on the hospice webpage and posting information on social media if such applications are used.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There are three hospice programs that are operated by a special district or a local county government (Pioneer Memorial Home Health and Hospice, Harney County Home Health, and Blue Mountain Hospice) that will be impacted by these rule changes. These hospice programs will be required to comply with revised licensure requirements and pay revised license renewal fees.

The OHA, Public Health Division will need to ensure that revised requirements are met and may see an increase in enforcement actions and contested case hearings for denying license applications. Additional enforcement and contested case hearings may result in increased Department of Justice fees.

There is no anticipated cost of compliance impact on members of the general public.

(2)(a) The OHA does not collect data on the number of persons employed by hospice programs and therefore cannot

estimate with accuracy how many of these organizations may be a small business. It is estimated that at least half of the 75 licensed organizations in Oregon may be considered a small business.

(b) The OHA anticipates that additional staff time and resources will be needed to comply with new license requirements that will also affect license renewal outlined under fiscal and economic impact above.

(c) The OHA does not anticipate any additional equipment or supplies will be needed to comply with the rules. The legacy exemption added to rule will alleviate the possible barriers for an existing administrator or medical director meeting qualification or training requirements with proper documentation.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Participants on the rule advisory committee included representation from hospice programs and professional associations representing hospice programs.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
333-035-0115, 333-035-0120, 333-035-0125, 333-035-0130, 333-035-0135, 333-035-0140, 333-035-0145, 333-035-0150, 333-035-0155, 333-035-0157, 333-035-0160, 333-035-0161, 333-035-0180, 333-035-0210, 333-035-0230, 333-035-0240, 333-035-0260, 333-035-0270, 333-035-0280, 333-035-0290

AMEND: 333-035-0115

RULE SUMMARY: Amend OAR 333-035-0115: Amendments to this rule removes the compliance deadline, which no longer applies.

CHANGES TO RULE:

333-035-0115
Compliance with Centers for Medicare and Medicaid Services (CMS) Conditions of Participation
(1) Hospice programs must comply with the Conditions of Participation governing hospice programs prescribed by ~~CMS~~the Centers for Medicare and Medicaid Services (CMS), under 42 CFR Part 418, adopted by reference.~~¶~~
(2) In addition to the requirements of 42 CFR 418, hospice programs must also comply with OAR 333-035-0110 through 333-035-0300.~~ A hospice program licensed on or after January 27, 2023, shall have until March 1, 2023 to comply with these rules.~~
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0120

RULE SUMMARY: Amend OAR 333-035-0120: The rule was modified to add a definition for "criminal records check" and "medical director."

CHANGES TO RULE:

333-035-0120
Definitions ¶

As used in OAR chapter 333, division 35, the following definitions apply:¶
(1) "Accreditation" means a designation by an accrediting organization that a hospice program has met standards that have been developed to indicate a quality program.¶
(2) "Administrator" means a hospice employee responsible for the administrative functions and day-to-day operations of the hospice program.¶
(3) "Authority" means the Oregon Health Authority, Public Health Division.¶
(4) "CMS" means Centers for Medicare and Medicaid Services.¶
(5) "Certification" means a state agency's official recommendations and findings to CMS regarding a hospice program's compliance with federal CMS regulations.¶
(6) "Criminal records check" means a check of criminal records obtained from the state and the Federal Bureau of Investigation (FBI) through the submission of a full set of fingerprints sent to the Oregon State Police (OSP) with identifying information. A nationwide criminal records check also includes criminal records obtained from the FBI exclusively through the use of identifying information if the FBI has determined that the person's fingerprints are illegible.¶
(7) "Conditions of Participation" mean the applicable federal regulations that hospice programs are required to comply with to participate in the federal Medicare and Medicaid programs.¶
(~~7~~8) "Hospice aide" means a person:¶
(a) Certified by the Oregon State Board of Nursing as a certified nursing assistant (CNA) under ORS 678.442;¶
(b) Who has successfully completed a training program and competency evaluation in accordance with 42 CFR 418.76(a); or¶
(c) Who has successfully completed a competency evaluation in accordance with 42 CFR 418.76(c).¶
(~~8~~9) "Hospice program" means a coordinated program of home and inpatient care, available 24 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and supportive services to a patient-family unit experiencing a life-threatening disease with a limited medical prognosis. A hospice program is an institution for purposes of ORS 146.100.¶
(~~9~~10) "Hospice services" means items and services provided to a patient-family unit by a hospice program or by other individuals or community agencies under a consulting or contractual arrangement with a hospice program. Hospice services include home care, inpatient care for acute pain and symptom management or respite, and bereavement services provided to meet the physical, psychosocial, emotional, spiritual and other special needs of a patient-family unit during the final stages of illness, dying and the bereavement period.¶
(1~~0~~1)(a) "Interdisciplinary team" means a group of individuals working together in a coordinated manner to provide hospice care. An interdisciplinary team includes, but is not limited to, the patient-family unit, the patient's attending physician or clinician and one or more of the following hospice program personnel who are trained and experienced to provide hospice care:¶
(A) Physician;¶
(B) Physician associate;¶
(C) Nurse practitioner;¶
(D) Nurse;¶
(E) Nurse's aide or hospice aide;¶
(F) Occupational therapist;¶
(G) Physical therapist;¶
(H) Trained lay volunteer;¶
(I) Clergy or spiritual counselor;¶
(J) Credentialed mental health professional such as psychiatrist, psychologist, psychiatric nurse or social worker; or¶
(K) Naturopathic physician.¶
(b) The interdisciplinary team is not the same as the interdisciplinary group as that term is defined under 42 CFR 418.56; however, interdisciplinary team members may be included in the interdisciplinary group meetings. The purpose of the interdisciplinary team is to include the patient, patient's family, and the patient's attending

physician or clinician when formulating a plan of care to ensure that the full range of needs of the patient and family are met.~~-~~¶
(12) "Medical director" means a doctor of medicine or osteopathy who is licensed under ORS chapter 677 and meets the requirements established under 42 CFR 418 and OAR 333-035-0161.¶
(~~11~~13) "Medicare Certification Number" means the unique identification number, also referred to as the Medicare Provider Number, assigned to a qualifying hospice program by CMS.¶
(~~12~~14) "Nurse's aide" means a CNA certified by the Oregon State Board of Nursing under ORS 678.442.¶
(~~13~~15) "Palliative care" has the meaning given that term in ORS 413.273.~~-~~¶
(~~14~~16) "Parent hospice program" means the program that provides supervision and administrative control to multiple locations providing care that are within a 60-mile radius from the parent hospice program's physical location.¶
(~~15~~17) "Patient-family unit" includes an individual who has a life-threatening disease with a limited medical prognosis and all others sharing housing, common ancestry or a common personal commitment with the individual.¶
(~~16~~18) "Person" includes individuals, organizations and groups of organizations.¶
(~~17~~19) "Survey" means an inspection of an applicant for a hospice program license or a hospice program to determine the extent to which the applicant or hospice program is in compliance with state hospice program statutes, these rules and CMS Conditions of Participation.¶
(~~18~~20) "These rules" means OAR 333-035-0110 through 333-035-0300.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.850, 443.867

AMEND: 333-035-0125

RULE SUMMARY: Amend OAR 333-035-0125: This rule was amended by adding definitions for the term "health care license" and "applicant" that are specific only to this rule. It was revised by adding requirements necessary for an initial hospice license application to be considered complete incorporating requirements from SB 1575 (2026 Oregon Laws, chapter 133). These additional requirements include identification of any person who owns five percent or more ownership interest in the entity applying for a license; disclosure of any negative performance history; documentation that the administrator and medical director meet minimum training and qualification requirements; documentation of tax status; written consent from individuals subject to a criminal records check; and submission of quarterly reports submitted to the Centers for Medicare and Medicaid Services (CMS) in response to the Consumer Assessment of Health Care Providers and Systems hospice survey. The rule further clarifies requirements for a complete renewal application and reporting requirements for a change in ownership. Reporting requirements were amended to include a change in the medical director. The rule was amended to clarify that a change in ownership requires the hospice program to submit an application for initial license. Grammatical changes were also made for clarity.

CHANGES TO RULE:

333-035-0125
Application for Licensure ~~and Fees~~ ¶

(1) A ~~person may not establish, conduct~~s used in section (4) of this rule:¶
(a) "Health care license" means a hospital or long-term care facility as defined under ORS 442.015, a residential facility as defined under ORS 443.400, or a home health agency defined under ORS 443.014.¶
(b) "Applicant" includes any entity managed by the proposed administrator or proposed medical director of the applicant and any entity in which an owner of the applicant holds a five percent or greater ownership interest, but does not include an individual health care practitioner.¶
(2) A person may not establish, operate 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 Oregon Health Authority (Authority).¶
(~~2~~)(~~a~~3) A person applying for a new or renewal license to operate a hospice program shall submit a complete initial or renewal application on a form prescribed by the Authority, accompanied by the fee specified in O~~RS 443.860~~AR 333-035-0157.¶
(~~b~~4) A complete initial application for an initial license includes, but is not limited to~~:¶~~
~~(A~~ the following:¶
(a) Identification of any person who owns five percent or more ownership interest in the entity that is applying for the license; ¶
(b) Disclosure of any negative performance history of the applicant in Oregon or any other state for a currently or previously held license including but not limited to:¶
(A) Any license suspension or revocation for any health care license or hospice license;¶
(B) Any adverse regulatory finding or sanction for any health care license or hospice license including but not limited to:¶
(i) Denial, involuntary termination, or voluntary termination that occurred due to a state or federal termination process; ¶
(ii) Any non-compliance with one or more Centers for Medicare and Medicaid Services (CMS) Conditions of Participation that places patients at risk of harm; ¶
(iii) Any survey result citing immediate jeopardy; or ¶
(iv) Any enforcement action resulting in civil monetary penalties;¶
(C) Any determination, adjudication or settlement related to health care fraud or abuse; and¶
(D) Any exclusion from Medicare, Medicaid, or any other federal or state health care program;¶
(c) Documentation demonstrating that the proposed administrator and proposed medical director meet the minimum training and qualification requirement specified in OAR 333-035-0161; ¶
(d) Documentation verifying whether the tax status of the applicant is a for-profit entity, not-for-profit entity, or non-profit entity; ¶
(e) Documentation of written policies and procedures, including any forms and curricula to direct all administrative, personnel, and patient care operations;¶
(~~B~~f) Documentation that patient care and documentation systems have been developed; ~~and~~¶
(~~C~~g) Documentation demonstrating that the hospice program maintains a workforce of qualified and trained

employees or contractors capable of meeting hospice service demands, with personnel records properly established for each employee or contractor.¶
(3; ¶
(h) Written consent from individuals subject to a criminal records check including the proposed administrator, proposed medical director, and if the applicant is a privately owned entity, any individual who holds a five percent or greater ownership interest in the applicant entity; and ¶
(i) If the applicant for a new license currently holds a license for another hospice program in Oregon or any other state, a copy of the quarterly reports submitted in response to the Consumer Assessment of Health Care Providers and Systems (CAHPS) hospice survey to Centers for Medicare and Medicaid Services (CMS) for the preceding 12-months or documentation that the hospice program submitted an exemption request to CMS. ¶
(5) A complete renewal application for a renewal license includes but is not limited to the requirements specified in subsection (4)(a) through (d), (g), and (i).¶
(6) The Authority may deem an application incomplete if it does not include the information required by the Authority, is not accompanied by the appropriate fee, or at the time of initial survey fails to comply with subsection (2)(b4) of this rule.¶
(47) The Authority may reject an application that is incomplete.¶
(58)(a) Within 30 days of the change, a hospice program must inform the Authority in writing of any change in:¶
(A) Ownership, including when any person who owns or previously owned five percent or more of the licensed entity is added or removed;¶
(B) Ownership category (for example, corporation, partnership, sole proprietorship);¶
(C) Administrator;¶
(D) Medical director;¶
(E) Business name;¶
(EF) Medicare certification number;¶
(FG) Primary and multiple locations;¶
(GH) Physical location; or¶
(HI) Mailing address.¶
(b) If ownership of a hospice program changes, the hospice program must submit a new licensen initial application for an initial license indicating change of ownership along with the required fee.¶
(c) If a parent hospice program moves 30 miles or more from its current physical location, the parent hospice program must apply for a newn initial license and pay the required fee.¶
(69) The Authority may issue a civil penalty for failure to timely notify the Authority of any changes under section (58) of this rule or suspend, revoke or deny the license.¶
(710) A hospice program may provide palliative care in addition to hospice services as defined in these rules. A hospice program providing palliative care is not subject to licensure as an in-home care agency under ORS 443.867.¶
(811) A hospice program licensed in a bordering state must be licensed in Oregon to provide care to patients located in Oregon. The hospice program must apply and be licensed in accordance with these rules. The hospice program is subject to these rules including, the geographic service area restrictions specified in OAR 333-035-0160.¶
(912) A hospice program license is nont transferable.¶
(1013) Licensure fees are not prorated and are non-refundable.
Statutory/Other Authority: ORS 443.860, 2026 OL Ch. 133
Statutes/Other Implemented: ORS 443.860, ORS 443.867, 2026 OL Ch. 133

AMEND: 333-035-0130

RULE SUMMARY: Amend OAR 333-035-0130: Sections were added clarifying new application review requirements including conducting criminal records checks on the proposed administrator, proposed medical director, and any individual owner of the applicant who holds five percent or more ownership interest. Additionally, the Oregon Health Authority will review reported negative performance history considering frequency of occurrence, patterns of non-compliance, and the severity and recency of deficiencies. Grammatical changes were also made for clarity.

CHANGES TO RULE:

333-035-0130
Review of License Application
In reviewing an application for a hospice program license, the Oregon Health Authority shall:¶
(1) Confirm receipt of the required fee specified under OAR 333-035-0157 and determine if the application is complete~~; ¶~~
~~(2.¶~~
(2) Conduct a criminal records check in accordance with OAR 333-035-0210 on the proposed administrator, proposed medical director, and any individual owner of the applicant entity who holds five percent or more ownership interest. ¶
(3) Review reported performance history, including information provided under OAR 333-035-0125(4), and consider the frequency of occurrence, any established patterns of non-compliance, and the severity and recency of deficiencies. ¶
(4) Verify that the program is primarily engaged in providing hospice services and complies with hospice program licensing laws under ORS 443.860 through 443.869 and these rules~~; and~~. ¶
(~~3~~5) Assess capacity for compliance with the Conditions of Participation prescribed by ~~CMS~~the Centers for Medicare and Medicaid Services (CMS), under 42 CFR 418.¶
(~~4~~6) Conduct a survey of the hospice program in accordance with OAR 333-035-0240.¶
(~~5~~7) If a hospice program is in compliance with ORS chapter 443 and these rules and intends to provide hospice services to patients, a license may be issued for the operation of the hospice program.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0135

RULE SUMMARY: Amend OAR 333-035-0135: Sections were added clarifying application approval noting that the Oregon Health Authority (Authority) will evaluate potentially disqualifying convictions or conditions identified during a criminal records check of proposed administrators, medical directors and persons with ownership interest. Additionally, the Authority will evaluate the severity, frequency, and timing of negative performance history. Grammatical changes were also made for clarity.

CHANGES TO RULE:

333-035-0135
Approval of License Application
(1) The ~~Authority~~Oregon Health Authority (Authority) shall notify an applicant in writing if a license application is approved.¶
(2) In determining whether to issue an initial license, the Authority shall evaluate potentially disqualifying convictions or potentially disqualifying conditions identified during a criminal records check of the persons specified under OAR 333-035-0130(2). ¶
(3) In determining whether to issue an initial license or renewal license, the Authority shall evaluate the severity, frequency, and timing of any reported negative performance history specified under OAR 333-035-0130(3). ¶
(4) A license shall be issued only for the hospice program and person(s) named in the application and may not be transferred or assigned.¶
(~~3~~5) The license shall be posted in a clearly visible location in an office that is open to the public.¶
(~~4~~6) A licensed hospice program shall not in any manner or by any means assert, represent, offer, provide or imply that the program is or may render care or services other than that is permitted or within the scope of the issued license. A licensed hospice program shall not offer or provide any service that is not authorized within the scope of the license.¶
(~~5~~7) The Authority 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) All locations provide the same full range of care and services that is offered by the C~~MS~~enters for Medicare and Medicaid Services (CMS) certified hospice program issued the Medicare Certification Number; and¶
(c) The locations comply with OAR 333-035-0160.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0140

RULE SUMMARY: Amend OAR 333-035-0140: This rule was amended to identify elements when the Oregon Health Authority can refuse to issue or renew a license including if a hospice program provides false or misleading information; fails to disclose required ownership information or past compliance problems; cannot show that its administrator and medical director meet required qualifications; does not provide documentation of required policies, procedures, or patient care systems; cannot demonstrate that it has a qualified workforce to care for patients; fails to complete required criminal background checks; does not provide required Centers for Medicare and Medicaid Services (CMS) hospice survey information or documentation of an approved exemption; the proposed administrator, medical director and persons with ownership interest have concerning criminal history or other disqualifying conditions identified through background checks; has a history of serious or repeated regulatory or performance problems; fails to report ownership or other required organizational changes; does not submit renewal applications and fees prior to license expiration; or reports no patients or no hospice admissions, suggesting the program is not actively operating.

CHANGES TO RULE:

333-035-0140
Denial of License Application
(1) The Oregon Health Authority (Authority) may deny an application for:¶
(a) Providing false information; ¶
(b) Failing to submit identification information of any person who owns five percent or more ownership interest of the entity that is applying for a license or holds the license; ¶
(c) Failing to disclose any negative performance history as described under OAR 333-035-0125(4);¶
(d) Failing to provide documentation that the administrator or medical director meets the minimum training and qualification requirement specified under OAR 333-035-0161;¶
(e) Failing to provide documentation verifying whether the applicant is organized and operated as a for-profit entity, not-for-profit entity, or non-profit entity;¶
(f) Failing to provide documentation of written policies and procedures;¶
(g) Failing to provide documentation that patient care and documentation systems are in place; ¶
(h) Failing to provide evidence that the hospice program maintains a qualified and trained workforce capable of meeting the needs of patients;¶
(i) Failing to consent to and complete the criminal records check for persons specified under OAR 333-035-0130(2); or¶
(j) Failing to provide a copy of the quarterly reports submitted in response to the Consumer Assessment of Health Care Providers and Systems (CAHPS) hospice survey to the Centers for Medicare and Medicaid Services (CMS) or documentation that the hospice program submitted an exemption request to CMS as described under OAR 333-035-0125(4).¶
(2) The Authority may deny an application if the Authority determines:¶
(a) There is a potentially disqualifying conviction or potentially disqualifying condition identified during a criminal records check of the persons specified under OAR 333-035-0130(2); ¶
(b) The severity, frequency, and timing of any reported negative performance history prevent licensure; ¶
(c) The hospice program failed to report a change of ownership or other required changes specified under OAR 333-035-0125;¶
(d) The renewal application and fees were not submitted prior to the license expiration date; or¶
(e) The average daily census reported is zero or there are zero unduplicated admissions. ¶
(3) If the Authority intends to deny a license application, it shall issue a Notice of Intent to Deny in accordance with ORS 183.411 through 183.470.
Statutory/Other Authority: ORS 443.860, 2026 OL Ch. 133
Statutes/Other Implemented: ORS 443.860, 2026 OL Ch. 133

AMEND: 333-035-0145

RULE SUMMARY: Amend OAR 333-035-0145: The rule was amended to clarify that a hospice renewal application must include any negative performance history. It further clarifies that a late fee must be added to the application fee for any renewal application that is submitted 1-30 days before the license expires. A hospice program that fails to submit a renewal application prior to expiration must submit a new initial application and meet all of the requirements in the rules. The rule further clarifies that a hospice program with an average daily census of zero or there are zero unduplicated admissions is not eligible for license renewal. Grammatical changes were also made for clarity.

CHANGES TO RULE:

333-035-0145
Expiration and Renewal of License
(1) Each license to operate a hospice program expires 12 months from the date of issue.~~.~~¶
(2) A hospice program shall submit a complete~~d~~ renewal application ~~for renewal~~ on a form prescribed by the ~~Authority~~Oregon Health Authority (Authority), accompanied by the required fee, to the Authority not less than 30 days prior to the license expiration date.~~¶~~
~~(~~3 The renewal application shall include an update on any negative performance history specified under OAR 333-035-0125(4). ¶
(3) The late fee specified under OAR 333-035-0157 shall be added to the required renewal license fee for any renewal application received between 1-30 days before the license expiration date and must be paid by the hospice program before the Authority may renew the license.¶
(4) A hospice program is not eligible for renewal if ~~a~~:¶
(a) A complete renewal application and fees have not been ~~submitt~~received ~~to~~by the Authority ~~within 30 days after~~before the license ~~has~~ expire~~d. To be licensed, the hospice program~~ation date. A hospice program that fails to timely renew its license must submit a new initial license application under OAR 333-035-0125.~~¶~~
~~(~~4 with the initial license fee.¶
(b) In the preceding 12 months, the average daily census is zero or there are zero unduplicated admissions. ¶
(5) The Authority may deny a renewal license if the hospice program failed to timely notify the Authority of any changes specified under OAR 333-035-0125(~~5~~8) or if there are violations of ORS chapter 443 or these rules.~~.~~¶
(~~5~~6) The Authority may deem an application incomplete if it does not include the information required by the Authority or is not accompanied by the appropriate fee. The Authority may reject an application that is incomplete.¶
(~~6~~7) If the ownership of a hospice program changes, other than at the time of the annual renewal, the hospice program shall comply with OAR 333-035-0125(~~5~~8) and submit a change of ownership form along with the fee for a new license.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0150

RULE SUMMARY: Amend OAR 333-035-0150: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0150
Denial, Suspension, or Revocation of License
(1) The ~~Authority~~Oregon Health Authority (Authority) may impose a civil penalty or deny, suspend or revoke a program's license for failure to comply with ORS chapter 443 or these rules.¶
(2) If the Authority intends to impose a civil penalty or deny, suspend or revoke a hospice program license, it shall do so in accordance with ORS 183.411 through 183.745.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.864, 443.869

AMEND: 333-035-0155

RULE SUMMARY: Amend OAR 333-035-0155: This amendment requires a hospice program that ceases operations to provide the Oregon Health Authority with a statement verifying that its license certificate has been destroyed. It also adds specific notice and reporting requirements for temporary and permanent closures, including the development of a communication plan to inform patients, the public, and other stakeholders, and establishes requirements for public notification of the closure.

CHANGES TO RULE:

333-035-0155
Return of License and Hospice Program Closure
(1) If a hospice program's license is suspended, revoked, expires, or if the hospice program decides to discontinue operations, the hospice program administrator shall submit a statement to the Oregon Health Authority (Authority) acknowledging that the license certificate in the licensee's possession ~~s~~hall~~s~~ be ~~returned to the Authority immediately.~~en destroyed.¶
(2) If a hospice program needs to temporarily close, it must immediately notify the Authority and comply with the notice and communication plan requirements specified in sections (3) and (4) of this rule. Continued certification by the Centers for Medicare and Medicaid Services may be affected depending on the length of the temporary closure. ¶
(~~2~~3) ~~A~~If a hospice program ~~that~~decides to voluntarily discontinue~~s~~ operations ~~must:¶~~
~~(a) Inform patients or the patient's representative about the closure at least 14 calendar days prior to closure;~~permanently, it shall notify the Authority in writing at least 90 days prior to closure. The hospice program must include the following information in its notice:¶
(a) Proposed closure date;¶
(b) Reason for closure;¶
(c) Actions considered to avoid closure;¶
(d) A copy of its communication plan to notify patients, the community, and external partners about the closure and how a patient or a patient's representative may obtain clinical records;¶
(e) Plan to assist or transfer a patient to another hospice program for continuation of care, including plan to transfer clinical records to the receiving hospice program;¶
(f) Plan for physical or electronic storage, including location for physical storage or an electronic address for electronic storage, and disposal of clinical records in accordance with section (6) of this rule; and¶
(~~b~~g) Pr~~ovide information about how an individual may obtain a copy of their clinical record~~imary points of contact for the closure process, including both the hospice program contacts and corporate contacts, if applicable. ¶
(4) The communication plan specified under section (3) of this rule must include the following information for purposes of notifying the public about the hospice program closure:¶
(a) Issuing a press release to multiple media outlets;¶
(~~c~~b) ~~Notify the Authority~~Informing patients or the patient's representative in writing about the closure at least ~~14~~60 calendar days prior to closure, and ~~submit plans for the transfer, storage and disposal of clinical records and how stored records can be accessed, including the name of the entity for handling access requests~~how to obtain a copy of their clinical records;¶
(c) Updating the hospice program's website to identify information about the closure; and¶
(d) Posting information through any social media applications used by the hospice program.¶
(e) Information posted on the hospice program's website, through social media, and released to media outlets shall include information about how a patient or a patient's legal representative may obtain their medical records.¶
(5) The Authority will review the information provided under sections (3) and (4) of this rule and contact the hospice program to discuss closure operations for additional information as required.¶
(6) After notifying the Authority under sections (2) or (3) of this rule that the hospice program is either temporarily closing or voluntarily discontinuing operations permanently, the hospice program shall update the Authority every 30 days and one week prior to closure providing an update on activities described in sections (3) and (4) of this rule. ¶
(~~3~~7)(a) Clinical records not claimed that are less than seven years old from the last date of discharge shall be stored for a minimum of seven years from last date of discharge. Clinical records that are greater than seven years old from last date of discharge may be destroyed.¶
(b) The clinical records of a patient less than 18 years of age shall be kept at least seven years after the patient reached the age of 18.¶
(c) Storage and destruction of clinical records shall comply with 45 CFR Part 160, subparts A and E of 45 CFR Part

164, and ORS 192.553 through 192.581.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

ADOPT: 333-035-0157

RULE SUMMARY: Adopt OAR 333-035-0157: Due to passage of SB 1575 (2026 Oregon Laws, chapter 133) this new rule adopts fees in rule and includes initial application fees, renewal application fees, change in ownership fees, change of information fees, and late fees.

CHANGES TO RULE:

333-035-0157
Fees
(1) As used in this rule:¶
(a) "Average daily census" means the average number of patients a hospice cares for each day over the last 12 months; and ¶
(b) "Managerial control" means the authority, whether exercised directly or indirectly, to direct, oversee, or significantly influence the day-to-day management, policies, operations, finances, or administration of a hospice program. Managerial control includes the authority to make or approve major operational, financial, personnel, strategic, or regulatory compliance decisions on behalf of the hospice, whether through ownership, employment, contract, management agreement, or other arrangement. Managerial control does not include the routine replacement of an administrator, medical director, clinical supervisor, or other employee when the ownership, governing body, and persons exercising ultimate decision-making authority over the hospice remain unchanged.¶
(2) An applicant or a licensee is subject to the following:¶
(a) Initial license fee: $10,000.¶
(b) Renewal license fee:¶
(A) Average daily census 1-24: $2,000.¶
(B) Average daily census 25-49: $3,000.¶
(C) Average daily census 50-99: $5,000.¶
(D) Average daily census 100-199: $8,000.¶
(E) Average daily census 200 or more: $9,000.¶
(c) Change of ownership (CHOW): ¶
(A) Average daily census 1-24: $4,000.¶
(B) Average daily census 25-49: $6,000.¶
(C) Average daily census 50-99: $8,000.¶
(D) Average daily census 100-199: $9,000.¶
(E) Average daily census 200 or more: $10,000.¶
(d) Change of information (CHOI) that reflects a change to operating multiple locations or a change in managerial control when such changes are not part of a change of ownership: ¶
(A) Average daily census 1-24: $4,000.¶
(B) Average daily census 25-49: $6,000.¶
(C) Average daily census 50-99: $8,000.¶
(D) Average daily census 100-199: $9,000.¶
(E) Average daily census 200 or more: $10,000.¶
(3) A hospice program that fails to submit its license renewal application and fee 30 days before the license expiration date shall be charged a late fee as follows: ¶
(a) Average daily census 1-24: $500.¶
(b) Average daily census 25-49: $1,000.¶
(c) Average daily census 50-99: $1,500.¶
(d) Average daily census 100-199: $2,000.¶
(e) Average daily census 200 or more: $2,500.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0160

RULE SUMMARY: Amend OAR 333-035-0160: This rule was amended to remove the definition of "underserved area or population" and replaces it with definition for the terms "underserved area" and "underserved population" to incorporate language from SB 1575 (2026 Oregon Laws, chapter 133) and adds that underserved populations include pediatric patients and members of all federally recognized Tribal communities.

CHANGES TO RULE:

333-035-0160
Geographic Service Area
(1) A ~~hospice program serves~~s used in this rule: ¶
(a) "Underserved area" means a geographic area in Oregon in which residents do not have adequate access to hospice services including: ¶
(A) An area with no hospice program currently serving residents;¶
(B) An area in which existing hospice programs lack capacity to meet community need; or ¶
(C) An area designated by state or federal laws or regulations as rural, frontier or medically underserved.¶
(b) "Underserved population" means a group of individuals that experience barriers to accessing hospice services, including but not limited to:¶
(A) Residents of rural or frontier counties;¶
(B) Members of federally recognized Tribal communities;¶
(C) Pediatric patients; ¶
(D) Individuals with language barriers;¶
(E) Individuals with disabilities;¶
(F) Members of racial or ethnic minority communities; and¶
(G) Individuals with low incomes or inadequate health care coverage.¶
(2) A hospice program may only serve a geographic service area that is within a 60-mile radius from the physical location of the hospice program.¶
(~~2~~3) Multiple locations may only provide services within a portion of the parent hospice program's geographical service area.¶
(~~3~~4) The ~~Authority~~Oregon Health Authority (Authority) 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) All locations provide the same range of care and services offered by the parent hospice program certified by ~~CMS~~the Centers for Medicare and Medicaid Services; and¶
(c) The multiple locations are located within a 60-mile radius of the parent hospice program applying for licensure.¶
(4~~5~~) The Authority may waive the geographic~~al~~ restrictions specified in this rule in accordance with OAR 333-035-0300, including but not limited to, if the parent hospice program proposes to provide hospice services to an underserved area or underserved population of the state and adequately demonstrates the capacity and capability to manage and control th~~e services.~~ ¶
~~(5) As used in this rule, "underserved area or population" means an area in which residents have a shortage of available hospice services or a group of persons who face economic, racial, cultural, linguistic, religious, sexual orientation, gender identity, or age related barriers to hospic~~e services.
Statutory/Other Authority: ORS 443.860, 2026 OL Ch. 133
Statutes/Other Implemented: ORS 443.860, 2026 OL Ch. 133

ADOPT: 333-035-0161

RULE SUMMARY: Adopt OAR 333-035-0161: This is a new rule that adopts requirements for a hospice program administrator and medical director. The rule includes specific definitions for the term "hospice-related activities" and "palliative care related activities" for purposes of qualifications. A legacy clause was added to allow current hospice program administrators and medical directors to continue in their roles that do not meet revised minimum requirements as long as the hospice program maintains specified documentation. The rule specifies minimum education and training requirements as well as a residency proximity requirement. The administrator or the administrator's designee must be on the premises of the hospice during scheduled work hours or available by phone. The rule also limits the number of hospice programs that an administrator may manage and the number of hospice programs a medical director may serve.

CHANGES TO RULE:

333-035-0161
Medical Director and Administrator Criteria
(1) As used in this rule:¶
(a) "Hospice-related activities" means activities within the hospice setting including but not limited to engagement in an interdisciplinary group, patient care, certification process, medication management, participating in performance improvement and administrative activities; and¶
(b) "Palliative care-related activities" means patient-centered and family-centered medical care that optimizes a patient's quality of life by anticipating, preventing and treating the suffering caused by serious illness and involves addressing the patient's physical, social and spiritual needs and facilitating the patient's autonomy, access to information and choice.¶
(2) Effective [insert effective date of rule], a hospice program may continue to employ or contract with an individual that serves as the hospice program's medical director or may continue to employ an administrator who does not meet the minimum qualifications specified in section (3) through (6) of this rule, provided that: ¶
(a) The individual served as the medical director or administrator of the hospice program on or before the effective date of this rule; and¶
(b) The individual has maintained continuous service in the role of medical director or administrator for the hospice program since that date. ¶
(c) The hospice program must maintain documentation demonstrating:¶
(A) The medical director's date of appointment, scope of duties, and ongoing performance of hospice-related or palliative care-related activities as defined in section (1) of this rule.¶
(B) The administrator's date of appointment, scope of duties, and ongoing performance for the day-to-day operations of the hospice program. ¶
(3) The medical director for a hospice program must have a current, unrestricted license as a doctor of medicine or osteopathy under ORS chapter 677 issued by the Oregon Medical Board (a current, unrestricted license does not include an administrative medicine license issued under OAR 847-008-0037) and must meet one of the following minimum qualifications:¶
(a) Current, valid certification by the American Board of Medical Specialties with a subspecialty in hospice and palliative medicine; American Osteopathic Association with a subspeciality and conjoint examination in hospice and palliative medicine; or Hospice Medical Director Certification Board; ¶
(b) Documentation of at least 400 hours of hospice-related or palliative care-related activities during the previous five years; ¶
(c) Two years of full-time supervisory or managerial experience in a hospice or home health program during the past five years; or¶
(d) Currently enrolled in, or successful completion of, a 12-month clinical hospice and palliative medicine training program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.¶
(4) A hospice program whose medical director meets the qualification requirement due to current enrollment in a 12-month clinical hospice and palliative medicine training program specified under subsection (3)(d) of this rule must provide proof of the medical director's successful completion of the training program at time of license renewal. ¶
(5) The medical director must reside within 60 miles of the hospice program's physical location. ¶
(6) The administrator for a hospice program must meet the following minimum qualifications: ¶
(a) Hold a bachelor's degree or higher in one of the following health-related fields:¶
(A) Nursing;¶

(B) Physician associate;¶
(C) Public health;¶
(D) Occupational therapy;¶
(E) Physical therapy; ¶
(F) Speech-Language pathology; ¶
(G) Psychology;¶
(H) Counseling;¶
(I) Social work;¶
(J) Behavioral health;¶
(K) Health care administration;¶
(L) Public health administration;¶
(M) Health policy;¶
(N) Healthcare management; ¶
(O) Gerontology; or¶
(b) Hold a two-year or four-year degree or advanced degree in business administration including documentation of a minimum of two years of full-time supervisory or managerial experience in a hospice, home health agency, hospital, long term care facility or residential care facility within the last five years, if the hospice program employs a registered nurse responsible for the clinical operations of the hospice program.¶
(7) The administrator must reside within 60 miles of the hospice program's physical location. ¶
(8) The administrator of a hospice program must appoint a designee in writing who has at least two years of supervisory or management experience in a hospice, home health agency, hospital, long term care facility, residential care facility or another health care setting that will assume responsibilities and obligations of the administrator if the administrator is not available.¶
(9) The administrator or the administrator's designee must be on the premises of the hospice during the hospice program's scheduled work hours or accessible by telephone.¶
(10)(a) The administrator or administrator designee of a hospice program may manage only one hospice program. ¶
(b) The medical director of a hospice program may serve only one hospice program.¶
(11) Notwithstanding section (10) of this rule:¶
(a) An administrator or administrator designee may manage no more than two hospice programs if both hospice programs are located in the same rural area; ¶
(b) A medical director may serve no more than three hospice programs if the hospice programs are all located in the same rural area.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0180

RULE SUMMARY: Amend OAR 333-035-0180: Grammatical changes and rule citation correction were made for clarity.

CHANGES TO RULE:

333-035-0180
Clinical Records
(1) If a hospice program changes ownership, the hospice program shall retain all clinical records in written or electronic form, and it shall be the responsibility of the successor hospice program to protect and maintain these records in accordance with OAR 333-035-0155(~~3~~7).¶
(2) In the event of dissolution of a hospice program, the hospice program administrator shall notify the Oregon Health Authority where the clinical records will be stored and how clinical records may be accessed in accordance with OAR 333-035-0155.¶
(3) A hospice program shall comply with 45 CFR Part 160, subparts A and E of 45 CFR Part 164, and ORS 192.553 through 192.581.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0210

RULE SUMMARY: Amend OAR 333-035-0210: This rule was amended to add language relating to criminal background checks for the proposed administrator, proposed medical director and individuals who hold a five percent or greater ownership interest. Fitness determinations will be made by the Oregon Health Authority (Authority) using criteria established under ORS 181A.195. Persons found unfit will be notified of how to appeal to the source of the criminal records information if records are believed to be in error. Information on background checks is confidential and used solely to determine eligibility for employment, contracting, or to hold ownership interest. A hospice administrator, medical directors, or individuals with ownership interest are required to report to the Authority any criminal conviction, arrest, indictment, or charges for crimes and the Authority must conduct a fitness determination to determine whether these individuals continue to be fit to hold position or have ownership interest.

CHANGES TO RULE:

333-035-0210
Criminal Records Check ¶

(1) As used in this rule:¶
(a) "Disqualifying condition" means a non-criminal personal history issue that makes a subject individual unsuitable for employment, contracting or volunteering for a hospice program, including but not limited to discipline by a licensing or certifying agency, or drug or alcohol dependency;~~-~~¶
(b) "Subject individual (SI)" means~~-~~:¶
(A) Aan individual on whom a hospice program may conduct a criminal records check including:¶
(~~A~~i) An employee or prospective employee;¶
(~~B~~ii) A contractor, temporary worker, or volunteer who may have contact with patients or access to personal information about patients, including but not limited to Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information, or criminal background information; and¶
(~~C~~iii) A prospective contractor, temporary worker, or volunteer who may have contact with patients or access to personal information about patients including but not limited to Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information, or criminal background information~~.~~;¶
(B) An individual on whom the Oregon Health Authority (Authority) shall conduct a criminal records check including: ¶
(i) The proposed administrator;¶
(ii) The proposed medical director; or ¶
(iii) If an applicant for a hospice license or the hospice license holder is a privately owned entity, any individual who holds a five percent or greater ownership interest in the applicant entity. ¶
(c) "Fitness determination" means~~-a~~:¶
(A) A decision made by a hospice program pursuant to the policy established in accordance with section (3) of this rule, that a subject individual is or is not fit to hold a position, paid or not paid, have direct access, or otherwise provide services to a patient; or¶
(B) A decision made by the Authority using the criteria specified under ORS 181A.195(10)(c) and (11)(a) that a subject individual is or is not fit to a position, provide care, or granted licensure.¶
(2)(a) Except as provided in section (~~8~~9) of this rule, a hospice program must conduct a criminal records check on a subject individual and make a fitness determination prior to employment, and prior to entering into a contract, or permitting a volunteer to have direct patient contact or access to personal information about a patient.¶
(b) The Authority shall conduct a criminal records check on a subject individual defined under paragraph (1)(b)(B) of this rule and make a fitness determination using criteria established under ORS 181A.195(10)(c) and (11)(a).¶
(3) A hospice program must have written policies and procedures for conducting a criminal records check and making a fitness determination in accordance with subsection (2)(a) of this rule including a description of any criminal conviction or other disqualifying condition that would disqualify a SI from being employed, contracted with or working as a volunteer. The policies and procedures must include at a minimum:¶
(a) Provisions for performing a weigh test; and¶
(b) Weigh test actions should a criminal records check indicate that a SI has been convicted of crimes against an individual or property, or other disqualifying condition.¶
(4) In performing a weigh test, the hospice program shall consider circumstances regarding the nature of the potentially disqualifying conviction or condition using the criteria established under ORS 181A.195(10)(c).~~-~~¶
(5)(a) If a SI has been found unfit in accordance with subsection (2)(a) of this rule, the hospice program shall notify

the SI and provide the SI with information on how to appeal to the source of the criminal records check if the SI believes the records are in error.¶
(~~6) A hospice program shall keep the information obtained from a criminal records check confidential and use it solely to determine a SI's eligibility to be employed, contracted with or to be a volunteer.~~b) If a SI has been found unfit in accordance with subsection (2)(b) of this rule, the Authority shall notify the SI and provide the SI with information on how to appeal to the source of the criminal records check if the SI believes the records are in error. ¶
(6)(a) A hospice program shall keep the information obtained from a criminal records check confidential and use it solely to determine a SI's eligibility to be employed, contracted with or to be a volunteer.¶
(b) The Authority shall keep the information obtained from a criminal records check confidential and use it solely to determine a SI's eligibility to be employed by or contracted with a hospice agency or hold an ownership interest in the hospice program. ¶
(7)(a) A hospice program shall require a SI to report to the hospice program within 10 days any criminal conviction, arrest, indictment, or charge for a sexual offense or property crime, or any disciplinary action taken by a health professional regulatory board or agency.¶
(b) A hospice program shall conduct a fitness determination in accordance with section (3) to determine whether the SI is fit to continue to hold position.¶
(8)(a) A hospice program shall require a SI specified under paragraph (1)(b)(B) of this rule to report to the Authority within 10 days any criminal conviction, arrest, indictment, or charge for a crime of violence or abuse, property crime, or crimes relating to the possession, delivery, manufacture, or use of controlled substances, or any disciplinary action taken by a health professional regulatory board or agency.¶
(b) The Authority shall conduct a fitness determination in accordance with subsection (2)(b) to determine whether the SI is fit to continue to hold position or ownership interest in the hospice program.¶
(9) Notwithstanding subsection (2)(a) of this rule, a hospice program is not required to complete a ~~background~~criminal records check on:¶
(a) A SI licensed by a health professional regulatory board as defined in ORS 676.160; or¶
(b) A contractor employed by a company that has completed a criminal records check on the contractor and has determined the contractor is fit to have contact with patients, have access to personal information about the patient, or otherwise provide services to a patient on behalf of the hospice program.¶
(~~9~~10) A hospice program shall have policies and procedures that ensure the entities it contracts with have conducted criminal records checks on a SI that will have direct contact with a patient of the hospice program or access to personal information about a hospice patient.¶
(1~~0~~1) A hospice program shall ensure that a criminal records check is performed on a SI every three years from the date of the SI's last criminal records check in accordance with these rules.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0230

RULE SUMMARY: Amend OAR 333-035-0230: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0230
Investigations ¶

(1) As soon as practicable after receiving a complaint, taking into consideration the nature of the complaint, ~~Authority~~Oregon Health Authority (Authority) staff may conduct an unannounced complaint investigation.¶
(2) A hospice program shall permit Authority staff access to any location from which it is operating its program or providing services during an investigation.¶
(3) An investigation may include but is not limited to:¶
(a) Interviews of the complainant, caregivers, patients, a patient's representative, a patient's family members, witnesses, and hospice program management and staff;¶
(b) On-site observations of the patient(s), staff performance, or patient environment; and¶
(c) Review of documents and records.¶
(4) A hospice program shall timely make all requested documents and records available to the surveyor for review and copying.¶
(5) The hospice program shall cooperate with investigations of allegations of abuse and neglect conducted by the Oregon Department of Human Services (ODHS), Oregon Health Authority, Adult Protective Services, and other agencies such as law enforcement.¶
(6) Information obtained by the Authority during an investigation of a complaint or reported violation under this rule will not be disclosed unless required by law. Upon the conclusion of the investigation, except as otherwise specified in 42 CFR § 401, Subpart B, the Authority may publicly release a report of its findings. The Authority may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a hospice program and may report information obtained during an investigation to a health professional licensing regulatory board as defined in ORS 676.160 as that information pertains to a licensee of the board.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0240

RULE SUMMARY: Amend OAR 333-035-0240: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0240
Surveys ¶

(1) The ~~Authority~~Oregon Health Authority (Authority) shall, in addition to any investigations conducted under OAR 333-035-0230, conduct at least one in-person site inspection of each hospice program prior to licensure and once every three years thereafter as a requirement for licensure, and at such other times as the Authority deems necessary.¶
(2) In lieu of a survey required under section (1) of this rule, the Authority may accept deemed status by a Centers for Medicare and Medicaid Services (CMS)-approved accrediting organization following a survey conducted within the previous three years by that accrediting organization if:¶
(a) The certification or accreditation is recognized by the Authority as addressing the standards and Condition for Participation requirements of the CMS and other standards set by the Authority;¶
(b) The hospice program notifies the Authority to participate in any exit interview conducted by the accrediting body; and¶
(c) The hospice program provides copies of all documentation concerning the certification or accreditation requested by the Authority including:¶
(A) Written evidence of all corrective actions underway, or completed, in response to approved accrediting organizations recommendations; ¶
(B) All progress reports; and¶
(C) The letter from CMS indicating its deemed status.¶
(3) A hospice program administrator must notify the Authority within seven calendar days if: ¶
(a) The deemed status of the hospice program changes; or¶
(b) The hospice program decides not to renew its affiliation with the accrediting organization. ¶
(4) A hospice program shall permit Authority staff access to any location from which it is operating its program or providing services during a survey.¶
(5) A survey may include but is not limited to:¶
(a) Interviews of patients, patient family members, hospice program management and staff;¶
(b) On-site observations of patients and staff performance;¶
(c) Review of documents and records; and¶
(d) Patient audits.¶
(6) A hospice program shall timely make all requested documents and records available to the surveyor for review and copying.¶
(7) Following a survey, Authority staff may conduct an exit conference with the hospice program administrator or the administrator's designee. During the exit conference Authority staff may:¶
(a) Inform the hospice program representative of the preliminary findings of the inspection; and¶
(b) Give the person a reasonable opportunity to submit additional facts or other information to the surveyor in response to those findings.¶
(8) Following the survey, Authority staff shall prepare and provide the hospice program administrator or administrator's designee specific and timely written notice of the findings.¶
(9) If the findings result in a referral to another regulatory agency, Authority staff shall submit the applicable information to that referral agency for its review and determination of appropriate action.¶
(10) If no deficiencies are found during a survey, the Authority shall issue written findings to the hospice program administrator indicating that fact.¶
(11) If deficiencies are found, the Authority shall take informal or formal enforcement action in compliance with OAR 333-035-0260 or 333-035-0270.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0260

RULE SUMMARY: Amend OAR 333-035-0260: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0260
Informal Enforcement ¶

(1) If during an investigation or survey ~~Authority~~Oregon Health Authority (Authority) staff document violations of hospice program licensing laws or ~~c~~Conditions of ~~p~~Participation, the Authority may issue a statement of deficiencies that cites the law alleged to have been violated and the facts supporting the allegation.¶
(2) A signed plan of correction must be received by the Authority within 10 business days from the date the statement of deficiencies was received by the hospice program. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the statement of deficiencies.¶
(3) A hospice program shall correct all deficiencies within 60 days from the date of the exit conference unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.¶
(4) The Authority shall determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority, the Authority shall notify the hospice program administrator in writing or by telephone:¶
(a) Identifying which provisions in the plan the Authority finds unacceptable;¶
(b) Citing the reasons the Authority finds them unacceptable; and¶
(c) Requesting that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was received by the administrator.¶
(5) If the hospice program does not come into compliance by the date of correction reflected on the plan of correction or 60 days from date of the exit conference, whichever is sooner, the Authority may propose to deny, suspend, or revoke the hospice program license, or impose civil penalties.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0270

RULE SUMMARY: Amend OAR 333-035-0270: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0270
Formal Enforcement ¶

(1) If during an investigation or survey ~~Authority~~Oregon Health Authority (Authority) staff document a substantial failure to comply with hospice program licensing laws or ~~c~~Conditions of ~~p~~Participation, or if a hospice program fails to pay a civil penalty imposed under ORS 443.869 and these rules, the Authority may issue a Notice of Proposed Suspension or Notice of Proposed Revocation in accordance with ORS 183.411 through 183.471.¶
(2) The Authority may issue a Notice of Imposition of Civil Penalty for violations of hospice program licensing laws.¶
(3) At any time the Authority may issue a Notice of Emergency License Suspension under ORS 183.430.¶
(4) If the Authority revokes a hospice program license, the order shall specify when, if ever, the hospice program may reapply for a license.¶
(5) The Authority may reinstate a hospice program license that has been suspended after the Authority determines that compliance with these rules have been achieved.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860

AMEND: 333-035-0280

RULE SUMMARY: Amend OAR 333-035-0280: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0280
Civil Penalties ¶

(1) In addition to any other liability or penalty provided by law, the ~~Authority~~Oregon Health Authority (Authority) may impose a civil penalty of $1,000 per day, up to $10,000 in any 30-day period, for any of the following:¶
(a) Violation of any of the terms or conditions of a license issued under these rules;¶
(b) Violation of any of these rules or an order issued by the Authority to a hospice program licensed under these rules;¶
(c) Violation of any final order of the Authority that pertains specifically to a hospice program owned or operated by the person incurring the penalty; or¶
(d) Violation of ORS 443.860 or the rules adopted under ORS 443.860.¶
(2) In determining the amount of a civil penalty, the Authority shall consider whether:¶
(a) The Authority made repeated attempts to obtain compliance;¶
(b) There is a history of noncompliance with hospice program licensing laws;¶
(c) The violation poses a serious risk to the public's health;¶
(d) The person or licensee gained financially from the noncompliance; and¶
(e) There are mitigating factors, such as a person or licensee's cooperation with an investigation or actions to come into compliance.¶
(3) The Authority shall document its consideration of the factors in section (2) of this rule.¶
(4) Each day a violation continues is an additional violation.¶
(5) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.869

AMEND: 333-035-0290

RULE SUMMARY: Amend OAR 333-035-0290: Grammatical changes were made for clarity.

CHANGES TO RULE:

333-035-0290
Approval of Accrediting Organizations ¶

(1) An accrediting organization must request approval by the ~~Authority~~Oregon Health Authority (Authority) to accredit hospice programs in Oregon.¶
(2) An accrediting organization shall request approval in writing and shall provide, at a minimum:¶
(a) Evidence that it is recognized as a Centers for Medicare and Medicaid Services (CMS)-approved accrediting organization; or¶
(b) Documentation of program policies and procedures that the accreditation meets standards and conditions established for hospice programs by CMS;¶
(c) Accreditation history; and¶
(d) References from a minimum of two hospice programs currently receiving services from the organization.¶
(3) If the Authority finds that an accrediting organization's qualifications are equal to or exceed state licensing requirements in Oregon, the Authority may enter into an agreement with the accrediting organization permitting it to accredit hospice programs in Oregon.
Statutory/Other Authority: ORS 443.860
Statutes/Other Implemented: ORS 443.860