TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 16 HOSPICE

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TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 16 HOSPICE

16-001 SCOPE AND AUTHORITY: These regulations govern licensure of a hospice or hospice service. The regulations are authorized by and implement the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-462.

16-001.01 These regulations apply to hospices or hospice services. A hospice must be primarily engaged in providing care and services to terminally ill patients including bereavement counseling. Hospice services must include the following:

1. Nursing services, physician services, and drugs and biologicals routinely available on a 24-hour basis;
2. All other covered services available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonably necessary for the palliation and management of terminal illness and related conditions;
3. Services provided in a manner consistent with accepted standards of practice. A hospice must accept a patient only when it reasonably expects that it can adequately meet the patient's medical, therapeutic, and social needs in the patient's permanent or temporary place of residence;
4. Each patient receiving services from the hospice is entitled to receive the full range of services; and
5. Each hospice that has multiple locations must provide at each location the same full range of services required by these regulations.

16-002 DEFINITIONS

Abuse means any knowing, intentional, or negligent act or omission on the part of a person which results in physical, sexual, verbal, or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of essential care, treatment, or services to a patient.

Activities of daily living (See definition of "Care".)

Administrator means the operating officer for the hospice and may include titles such as administrator, chief executive officer, manager, superintendent, director, or similar designation.

Apartment means a portion of a building that contains: living and sleeping areas; storage room(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink, cooking, and refrigeration appliances.

Applicant means the individual, government, corporation, partnership, limited liability company, or other form of business organization who applies for a license.

Attending physician means the physician named by the patient or designee in the hospice records. An advanced practice registered nurse may also serve as the patient's attending physician. The attending physician has primary responsibility for the patient's care and treatment.

Basic therapeutic care means basic health care procedures, including, but not limited to, measuring vital signs, applying hot and cold applications and non sterile dressings, and assisting with, but not administering internal and external medications which are normally self-administered. Basic therapeutic care does not include health care procedures which require the exercise of nursing or medical judgment.

Bereavement counseling means counseling services provided to the individual and his or her family prior to the patient's death and to the family after the individual's death.

Bereavement services means services provided under the supervision of a qualified professional including a plan of care for bereavement service that reflects family needs and a clear delineation of services to be provided for not less than one year following the death of the hospice patient.

Biological means any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention, treatment, or cure of disease or injuries of humans.

Care means the exercise of concern or responsibility for the comfort, welfare, and habilitation of persons, including a minimum amount of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services. For the purposes of this chapter:

1. Activities of daily living means transfer, ambulation, exercise, toileting, eating, self-administered medication, and similar activities;
2. Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and patient responses are predictable; and
3. Personal care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Caregiver means any person acting as an agent on behalf of a patient or any person aiding and assisting a patient.

Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

Complaint means an expression of concern or dissatisfaction.

Completed application means an application that contains all the information specified in 175 NAC 16-003 and includes all required attachments, documentation, and the licensure fee.

Department means the Division of Public Health of the Department of Health and Human Services ~~Regulation and Licensure~~.

Designee means a person who is authorized by law or the patient to act on his or her behalf, for example, a parent of a minor child, a legal guardian, a conservator, or an attorney in fact named in a durable power of attorney for health care.

Device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, ~~or~~ part, or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so.

Direction and monitoring means, for the purpose of medication administration, the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions and contraindications associated with the medication. Direction and monitoring can be done by a:

1. Competent individual for himself or herself;
2. Caretaker; or
3. Licensed health care professional.

Director means the Director of ~~Regulation and Licensure.~~ Public Health of the Division of Public Health.

Drug means substances as defined in Neb. Rev. Stat. § ~~71-1,142.~~ 38-2819.

Dwelling means a building that contains: living and sleeping areas; storage rooms(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink and cooking and refrigeration appliances.

Employee means an employee of the hospice or, if the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is appropriately trained and assigned to the hospice. Employee also refers to a volunteer under the jurisdiction of the hospice.

Existing facility means a licensed health care facility or a facility whose construction or remodeling plans were approved by the Department prior to the effective date of 175 NAC 16.

Exploitation means the taking of property of a patient by means of undue influence, breach of a fiduciary relationship, deception, extortion, or by any unlawful means.

Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time.

Food code means the Nebraska Food Code, as defined in Neb. Rev. Stat. § 81-2,244.01 and as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

Foreign when applied to corporations means all those created by authority other than that of the State of Nebraska.

Governing authority means, depending on the organizational structure, an owner(s), a board of directors or other governing members of the licensee, or state, county, or city officials appointed by the licensee.

Grievance means a written expression of dissatisfaction which may or may not be the result of an unresolved complaint.

Health care means any treatment, procedure, or intervention to diagnose, cure, care for, or treat the effects of disease, injury, and degenerative conditions.

Health care service means an adult day service, a home health agency, a hospice or hospice service, or a respite care service.

Health maintenance activities (See definition of “Care”.)

Home health agency means a person or any legal entity which provides skilled nursing care or a minimum of one other therapeutic service as defined by the Department on a full-time, part-time, or intermittent basis to persons in a place of temporary or permanent residence used as the person’s home.

Home health aide means a person who is employed by a home health agency or hospice to provide personal care, assistance with the activities of daily living, and basic therapeutic care to the patients of the home health agency or hospice.

Homemaker means a person employed by, or a volunteer of, a hospice to provide domestic services including, but not limited to, meal preparation, laundry, light housekeeping, errands, and chore services as defined by hospice policy.

Hospice or hospice service means a person or legal entity which provides home care, palliative care, or other supportive services to terminally ill persons and their families.

Hospice inpatient facility means a facility in which the hospice provides inpatient care directly for respite and general inpatient care.

Hospice interdisciplinary team means the attending physician, hospice medical director, licensed professional registered nurse, certified social worker, pastoral or other counselor, and, as determined by the interdisciplinary plan of care, providers of special services, such as mental health services, pharmacy services, home health aides, trained volunteers, dietary services, and

any other appropriate health services, to meet the physical, psychosocial, spiritual, and economic needs which are experienced during the final stages of illness, dying, and bereavement.

Hospice patient means a patient who is diagnosed as terminally ill with a medical prognosis that his or her life expectancy is six months or less if the illness runs its normal course and who with informed consent is admitted into a hospice program.

Hospice volunteer means an individual specifically trained and supervised to provide support and supportive services to the hospice patient and hospice patient's family under the supervision of a designated hospice volunteer coordinator. This does not apply to any volunteers working on behalf of a hospice licensed under the Health Care Facility Licensure Act who, as part of their volunteer duties, provide care.

Inpatient means a person who receives 24-hour care or is to receive care and is admitted to the hospital or inpatient facility by a physician.

Licensed health care professional means an individual for whom administration of medication is included in the scope of practice.

Licensed medical nutrition therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Licensing Law and who holds a current license issued by the Department pursuant to Neb. Rev. Stat. § 71-1,290.

Licensed nurse means a person licensed as a registered nurse or as a practical nurse under the provisions of the Nurse Practice Act, Neb. Rev. Stat. §§ 71-1,132.04 to 71-1,143.53 and Title 172 NAC 99.

Licensee means the individual, government, corporation, partnership, limited liability company or other form of business organization legally responsible for the operation of the hospice and to whom the Department has issued a license.

Medical director means a hospice employee or contracted person who is a doctor of medicine or osteopathy who is responsible for the overall coordination of medical care in the hospice.

Medical practitioner means any licensed physician, osteopathic physician, dentist, podiatrist, optometrist, chiropractor, physician assistant, certified registered nurse anesthetist, advanced practice registered nurse, or certified nurse midwife.

Medication means any prescription or non-prescription drug intended for treatment or prevention of disease or to effect body functions in humans.

Medication administration includes but is not limited to:

1. Providing medications for another person according to the five rights;
2. Recording medication provision; and

3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Medication aide means an individual who is listed on the medication aide registry operated by the Department as provided in 172 NAC 95 and 96.

Medication provision means the component of the administration of medication that includes giving or applying a dose of medication to an individual and includes helping an individual in giving or applying the medication to himself or herself.

Mental abuse means humiliation, harassment, threats of punishment, deprivation, or other actions causing mental anguish.

Multiple locations means those locations from which the hospice provides the same full range of hospice core services that is required of the hospice issued the license.

NAC means Nebraska Administrative Code.

Neglect means failure to provide care, treatment, or services necessary to avoid physical harm or mental anguish or a patient.

New construction means a facility or a distinct part of a facility in which care and treatment is to be provided and which is enlarged, remodeled, or altered in any fashion or is built from the ground up on or after the effective date of 175 NAC 16.

New facility means a facility or distinct part of a facility in which care and treatment is to be provided and which is not currently licensed as a health care facility. New facility also includes those facilities which were previously licensed for care and treatment in another licensure category and seek licensure in a different license category.

Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy encompasses evaluation, treatment, and consultation. Occupational therapy may include teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing prevocational capacities; designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment; using specifically designed therapeutic media and exercises to enhance functional performance; administering and interpreting tests such as manual muscle and range of motion; and adapting environments for the handicapped.

Palliative care means treatment directed at controlling pain, relieving other physical and emotional symptoms, and focusing on the special needs of the hospice patient and hospice patient's family as they experience the dying process rather than treatment aimed at cure or prolongation of life.

Personal care (See definition of "Care".)

Physical abuse means hitting, slapping, pinching, kicking, or other actions causing injury to the body.

Physical restraint means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the patient's body that s/he cannot remove easily and that restricts freedom of movement or normal access to his or her own body.

Physical therapy means the treatment of any bodily condition of any person by the use of the physical, chemical, and other properties such as heat, light, water, electricity, massage, and active or passive exercise. It does not include the use of roentgen rays and radium for diagnostic therapeutic purposes, including cauterization.

Physician means any person licensed to practice medicine in this state as provided in Neb. Rev. Stat. §§ 71-102 to 71-110.

Premises means a facility, the facility's grounds, and each building or grounds on contiguous property used for administering and operating a facility.

PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness.

Qualified inspector means a professional architect or engineer licensed to practice in Nebraska, an official or employee of a local jurisdiction authorized by that jurisdiction to make inspections of particular building equipment or systems, or an individual certified by a nationally recognized organization to make the same inspections.

Respite means an interval of rest or relief provided for the caregiver of an individual who is a recipient of hospice services.

Respite care means a person or any legal entity, not otherwise licensed under the Health Care Facility Licensure Act, which provides short term care or related services on an intermittent basis to persons with special needs when the person's regular caregiver is unavailable to provide such care or services and such care or services are not provided at a health care facility licensed under the Act.

Schematic plans means a diagram of the facility which describes the number and locations of beds, the location of care and treatment rooms, Life Safety Code construction and occupancy classifications locations, fire compartments, and Fire Marshall approved points of safety.

Sexual abuse means sexual harassment, sexual coercion, or sexual assault.

Social worker, certified means a person who has received a baccalaureate or master's degree in social work from an approved educational program, and holds a current certificate issued by the Department.

Social work practice means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their

capacities for personal and social functioning and the professional application of social work values, knowledge, principles.

Speech-language pathologist means an individual who is licensed as a Speech Language Pathologist by the Department and who presents himself or herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logpedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatrist, or any similar title, term, or description of service.

Speech pathology means the application of principles, methods, and procedures for evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, swallowing, or language for the purpose of preventing, identifying, evaluating, and minimizing the effect of such disorders and conditions.

Terminal condition means an incurable and irreversible medical condition caused by injury, disease, or physical illness which, to a reasonable degree of medical certainty, will result in death within six months regardless of the continued application of medical treatment including life-sustaining procedures.

Treatment means a therapy, modality, product, device, or other intervention used to maintain well being or to diagnose, assess, alleviate, or prevent a disability, injury, illness, disease, or other similar condition.

Unlicensed direct care staff means personnel who are not licensed or certified under the Uniform Licensing Law or other state laws governing the practice of health care and whose primary responsibility is to manage, supervise, and/or provide direct care to patients. Unlicensed direct care staff includes home health aides, medication aides, and other personnel with this responsibility and with job titles designated by the hospice. .

Verbal abuse means the use of oral, written, or gestured language including disparaging and derogatory terms to patients or within their hearing distance.

16-003 LICENSING REQUIREMENTS AND PROCEDURES: Any person intending to establish, operate, or maintain a hospice or hospice service must first obtain a license from the Department. An entity must not hold itself out as a hospice or hospice service providing health care services unless licensed under the Health Care Facility Licensure Act. An applicant for an initial or renewal license must demonstrate that the hospice meets the care, treatment, and physical plant standards contained in 175 NAC 16.

16-003.01 Initial License: The initial license process occurs in two stages. The first stage consists of the applicant's submission of affirmative evidence of the ability to comply with the operational and physical plant standards contained in 175 NAC 16-006 and 16-007. The application is not complete until the Department receives documents specified in 175 NAC 16-003.01B.

The second stage consists of the Department's review of the completed application together with an inspection of the hospice. The Department determines whether the

applicant meets the standards contained 175 NAC 16 and the Health Care Facility Licensure Act.

16-003.01A Applicant Responsibilities: An applicant for an initial hospice license must:

1. Intend to provide the hospice services as defined;
2. Comply with the applicable codes, guidelines, and standards specified in 175 NAC 16-007;
3. Submit a written application to the Department as provided in 175 NAC 16-003.01B;
4. Receive approval, in writing from the Department, of schematic plans and, if new construction, of construction plans; and
5. Notify the Department at least 30 days prior to planned occupancy of an inpatient hospice.

16-003.01B Application Requirements: The applicant may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the hospice to be licensed, street and mailing address; telephone and facsimile number, if any;
2. Type of health care facility or service to be licensed and geographical area served;
3. Name of the administrator;
4. Name(s) and address(es) of the hospice owner(s);
5. Ownership type;
6. Mailing address(es) for the owner(s);
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the hospice. The list must include all individual owners, partners, limited liability company members, parent companies, if any, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the hospice. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that the individual or organization accepts the legal responsibility for compliance with 175 NAC 16;
10. Applicant's federal employer identification number, if not an individual;
11. Applicant's social security number if the applicant is an individual. (To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document.);
12. Number of beds or patient admissions;
13. Signature(s) of:

a. The owner, if the applicant is an individual or partnership;
b. Two of its members, if the applicant is a limited liability company;
c. Two of its officers, if the applicant is a corporation; or
d. The head of the governmental unit having jurisdiction over the hospice to be licensed, if the applicant is a governmental unit;

14. Copy of the registration as a foreign corporation filed with the Nebraska Secretary of State, if applicant is a foreign corporation;
15. Schematic plans;
16. For new inpatient construction, construction plans completed in accordance with The Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 to 81-3455. Construction plans must include the following:
    a. Project name; description of the project with quantity and floor area information on bed, care, treatment, bathing, toileting, dining, and activity locations; building systems; medical equipment; street address; and contact person;
    b. Site plan, floor plans, elevations, wall and building sections, construction details, plumbing and electrical diagrams, construction component schedules;
    c. Complete list of names, titles and telephone numbers of other authorities reviewing or inspecting the construction;
    d. Upon Department request, any additional information that may be required for review, such as structural and mechanical calculations, electrical system calculations, and product and equipment information; and
    e. Certification, if any, from a licensed architect or engineer that the construction plans and any revisions meet the requirements of 175 NAC 16-007;
    f. An applicant may construct a project description and/or certification document, or obtain a form from the Department;
17. Planned occupancy date;
18. Copies of zoning approval from the relevant jurisdiction;
19. Occupancy certificates issued by the State Fire Marshal or delegated authority; and
20. Required licensure fee specified in 175 NAC 16-004.10.

16-003.01C Department Responsibilities: The Department will:

1. Review the application for completeness;
2. Provide notification to the applicant of any information needed to complete the application;
3. Confirm, either by Department review or by accepting certification from an architect or engineer, that the schematic plans and, if new construction, the construction plans meet the standards of 175 NAC 16-007;
4. Upon receipt of the requested information, conduct an on-site inspection in accordance with 175 NAC 16-005 prior to issuance of a license; and
5. Issue or deny a license based on the results of the initial inspection.

16-003.01D Denial of License: See 175 NAC 16-008.01 and 16-008.02 for grounds and procedures for the Department's denial to issue an initial license.

16-003.02 Renewal Licenses

16-003.02A Licensee Responsibilities: The licensee must submit a written application to the Department. The licensee may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the hospice to be licensed, street and mailing address, telephone and facsimile number, if any;
2. Type of facility or service to be licensed and geographical area served;
3. Name of the administrator;
4. Name(s) and address(es) of the hospice owner(s);
5. Ownership type;
6. Mailing address(es) for the owner(s);
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the hospice. The list must include all individual owners, partners, limited liability company members, parent companies, if any, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the hospice. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that such individual or organization accepts the legal responsibility for compliance with 175 NAC 16;
10. Applicant's federal employer identification number, if not an individual;
11. Applicant's social security number if the applicant is an individual. (To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document.);
12. Number of beds or patient admissions;
13. Signature(s) of:
    a. The owner, if the applicant is an individual or partnership;
    b. Two of its members, if the applicant is a limited liability company;
    c. Two of its officers, if the applicant is a corporation; or
    d. The head of the governmental unit having jurisdiction over the hospice to be licensed, if the applicant is a governmental unit;
14. For inpatient hospice only, occupancy certificates issued by the State Fire Marshal or delegated authority dated within the 18 months prior to the license expiration date; and
15. Required licensure fee as specified in 175 NAC 16-004.10.

16-003.02B Department Responsibilities: The Department will:

1. Send a notice of expiration and an application for renewal to the licensee's preferred mailing address not later than 30 days prior to the expiration date. The licensure renewal notice specifies:
   a. Date of expiration;
   b. Fee for renewal;
   c. License number; and
   d. Name and address of the hospice;
2. Issue a renewal license when it determines that the licensee has submitted a completed renewal application;
3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
   a. The licensee failed to pay its renewal fees or submit an application or both;
   b. The license has expired;
   c. The Department will suspend action for 30 days following the date of expiration;
   d. Upon receipt of the renewal fee and completed renewal application, the Department will issue the renewal license; and
   e. Upon failure to receive the renewal fee and completed renewal application, the license will be lapsed; and
4. Place the license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the hospice may not operate. The license remains in lapsed status until it is reinstated.

16-003.02C Refusal to Renew: See 175 NAC 16-008.01 and 16-008.02 for grounds and procedures for the Department's refusal to renew a license.

16-003.03 Reinstatement from Lapsed Status: A hospice requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required licensure fee specified in 175 NAC 16-004.10. The application must conform to the requirements specified in 175 NAC 16-003.02.

16-003.03A The Department will review the application for completeness and will decide if an onsite inspection is needed to determine compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 16-006 and 16-007. The decision is based on the following factors:

1. The length of time that has transpired from the date the license was placed on lapsed status to the date of the reinstatement application; and
2. Whether the hospice has provided care or treatment from the site under a license that is different from the lapsed license.

16-003.03B When the Department decides that a reinstatement inspection is warranted, it will conduct an inspection in accordance with 175 NAC 16-005.

16-003.03C When the Department decides that a reinstatement inspection is not warranted, it will reinstate the license.

16-003.03D Refusal to Reinstate: See 175 NAC 16-008.01 and 16-008.02 for grounds and procedures for the Department's refusal to reinstate a lapsed license.

16-004 GENERAL REQUIREMENTS

16-004.01 Separate License: An applicant must obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. All buildings in which care and treatment is provided must comply with 175 NAC 16-006 and 16-007. A single license may be issued for:

1. A hospice operating in separate buildings or structures on the same premises under one management,
2. An inpatient facility that provides services on an outpatient basis at multiple locations.

16-004.02 Single License Document: The Department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed.

16-004.03 Effective Date and Term of License: A hospice license expires on June 30th of each year.

16-004.04 License Not Transferable: A license is issued only for the premises and persons named in the application and is not transferable or assignable. Change of ownership (sale, whether of stock, title, or assets, lease, discontinuance of operations), or for an inpatient hospice facility, a change of premises terminates the license. If there is a change of ownership and the hospice remains on the same premises, the inspection in 175 NAC 16-005 is not required. If there is a change of premises, the inpatient hospice must pass the inspection specified in 175 NAC 16-005.

16-004.05 Bed Capacity, Usage, and Location: For inpatient hospice, the hospice must not use more beds than the total number of beds for which it is licensed. Changes in the use and location of beds may occur at any time without prior Departmental approval for licensure purposes. A licensee must not locate more patients in a bedroom than the capacity for which the room was originally approved.

16-004.06 Change of Ownership or Premises: The licensee must notify the Department in writing ten days before a hospice is sold, leased, discontinued, or moved to a new location.

16-004.07 Notification: An applicant or licensee must notify the Department in writing by electronic mail, facsimile, or postal service:

1. At the time of license renewal, of any change in the use or location of hospice inpatient beds;
2. Of changes in the geographical area served;

3. At least 30 working days prior to the date it wishes to increase the number of hospice inpatient beds for which it is licensed;
4. To request a single license document;
5. To request simultaneous facility or service licensure inspections for all types of licensure held or sought; or
6. If new construction is planned for inpatient hospice, and submit construction plans for Department approval prior to any new construction affecting patient care and treatment areas of the hospice. The Department may accept certification from an architect or engineer in lieu of the review;
7. For inpatient hospice, within 24 hours of any patient death that occurred due to an individual's suicide, a violent act, or the individual's leaving the facility without staff knowledge when departure presented a threat to the safety of the individual or others;
8. Within 24 hours if the hospice has reason to believe that a patient death was due to abuse or neglect by staff;
9. In an inpatient hospice, within 24 hours of any facility fires requiring fire department response; and
10. For inpatient hospice, within 24 hours of an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of individuals. This must include a description of the well-being of the hospice's patients and the steps being taken to assure patients' safety, well-being, and continuity of care and treatment. The notification may be made by telephone if the accident or natural disaster has affected the hospice's capacity to communicate.

16-004.08 Information Available to Public: The licensee must make available for public inspection, upon request, licenses, license record information, and inspection reports. This information may be displayed on the licensed premises.

16-004.09 Deemed Compliance

16-004.09A Accreditation: The Department may deem an applicant or licensee in compliance with 175 NAC 16-006 based on its accreditation as a hospice by the:

1. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or
~~2.~~ The Community Health Accreditation program (CHAP)~~; or~~ .
~~3. The Medicare or Medicaid certification program.~~

16-004.09A1 An applicant or licensee must request the Department to deem its hospice in compliance with 175 NAC 16-006 based upon its accreditation. The request must be:

1. Made in writing;
2. Submitted within 30 days of receipt of a report granting accreditation; and
3. Accompanied by a copy of the accreditation report.

16-004.09A2 Upon receipt of the request, the Department will deem the hospice in compliance with 175 NAC 16-006 and will provide written notification of its decision to the hospice within 10 working days of the receipt of the request.

16-004.09A3 The Department will exclude a hospice that has been deemed in compliance with 175 NAC 16-006 from the random selection of up to 25% of hospices for compliance inspections under 175 NAC 16-005.04A. The hospice may be selected for a compliance inspection under 175 NAC 16-005.04B.

16-004.09A4 To maintain deemed compliance, the licensee must maintain the accreditation on which its license was issued. If the accreditation has been sanctioned, modified, terminated or withdrawn, the licensee must notify the Department within 15 days of receipt of notification of the action. After notifying the Department, the hospice may continue to operate unless the Department determines that the hospice no longer meets the requirements for licensure under the Health Care Facility Licensure Act. If the Department determines the hospice no longer qualifies for deemed compliance, the hospice is subject to inspections under 175 NAC 16-005.

16-004.10 Fees: The licensee must pay the fees for licensure and services as set forth below:

1. Initial Licensure fees:
   a. For other than inpatient: $450
   b. For inpatient hospice: $650

2. Renewal Licensure fees for other than inpatient:

   a. 1 to 50 unduplicated patient admissions in the past year: $450
   b. 51 to 200 unduplicated patient admissions in the past year: $550
   c. 201 and over unduplicated patient admissions in the past year: $600

3. Renewal Licensure fees for inpatient:

   a. 1 to 50 unduplicated patient admissions in the past year: $650
   b. 51 to 200 unduplicated patient admissions in the past year: $850
   c. 201 and over unduplicated patient admissions in the past year: $950

4. Duplicate license: $ 10

5. Refunds for denied applications:
   a. If the Department did not conduct an inspection, the Department will refund the license fee except for an administrative fee of $25.
   b. If the Department conducted an inspection, the license fee is not refunded.

16-004.11 Itemized Billing Statement: A hospice must provide, upon written request of a patient or a patient's representative and without charge, an itemized billing statement, including diagnostic codes, without charge to the patient or patient's representatives. The billing statement must be provided within 14 days after the request.

16-005 INSPECTIONS: To determine compliance with operational, care, treatment, and physical plant standards, the Department inspects hospices prior to and following licensure. The Department determines compliance through initial on-site inspections, and for inpatient hospice, review of schematic and construction plans and reports of qualified inspectors. Re-inspections are conducted by on-site inspection or review of documentation requested by the Department.

16-005.01 Initial Inspection: The Department will conduct an announced initial on-site inspection to determine compliance with 175 NAC 16-006 and 16-007. The inspection will be conducted within 30 working days, or later if requested by the applicant, of receipt of a completed application for an initial license. The Department will provide a copy of the inspection report to the hospice within ten working days after completion of an inspection.

16-005.02 Results of Initial Inspection

16-005.02A When the Department finds that the applicant fully complies with the requirements of 175 NAC 16-006 and 16-007, the Department will issue a license.

16-005.02B When the Department finds that the applicant has complied substantially but has failed to comply fully with the requirements of 175 NAC 16-006 and 16-007 and the failure(s) would not pose an imminent danger of death or physical harm to persons residing in or served by the hospice, the Department may issue a provisional license. The provisional license:

1. Is valid for up to one year; and
2. Is not renewable.

16-005.02C When the Department finds the applicant has one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse relationship to the health, safety, or security of the persons residing in or served by the hospice, the Department may send a letter to the hospice requesting a statement of compliance. The letter must include:

1. A description of each violation;
2. A request that the hospice submit a statement of compliance within ten working days; and
3. A notice that the Department may take further steps if the statement of compliance is not submitted.

16-005.02D The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the hospice submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will issue either a regular license or a provisional license; or

2. If the hospice fails to submit and implement a statement of compliance that indicates a good faith effort to correct the violations, the Department may deny the license.

16-005.02E When the Department finds the applicant fails to meet the requirements of 175 NAC 16-006 and 16-007 and the failure(s) would create an imminent danger of death or serious physical harm, the Department will deny the license.

16-005.03 Physical Plant Inspections: For inpatient hospice, the Department will conduct inspections for conformity with construction plans and compliance with 175 NAC 16-007 at new facilities or new construction prior to use or occupancy.

16-005.03A On-site progress inspections of the physical plant by qualified inspectors for conformity to construction documents and compliance with code requirements may occur at any time after construction has begun and prior to the concealment of essential components.

16-005.03B The Department will conduct an on-site final inspection of the physical plant prior to use or occupancy. In lieu of an on-site final inspection by the Department, the Department may accept a certification from a licensed architect or engineer that the physical plant meets the requirements of the Health Care Facility Licensure Act and 175 NAC 16, and that the hospice is complete and ready for occupancy in accordance with Department-approved plans. The architect or engineer may construct a certification form or obtain a certification form from the Department.

16-005.03B1 The certification must state:

1. Name of the architect or engineer;
2. Name of the professional entity with which he or she is affiliated, if any;
3. Address and telephone number;
4. Type of license held, the state in which it is held, and the license number;
5. Name and location of the hospice;
6. Name(s) of the owner(s) of the hospice;
7 New construction had the building structure and plumbing rough-in inspected by a qualified inspector prior to the time these would be concealed and preclude observation;
8. All new construction, care and treatment room sizes, bedroom sizes, handrails, grab bars, hardware, building systems, protective shielding, privacy curtains, appropriate room finishes, and other safety equipment are completed in accordance with approved construction plans; and
9. The hospice is furnished, cleaned, and equipped for the care and treatment to be preformed in compliance with 175 NAC 16-007, and approved for use and occupancy.

16-005.03B2 The certification must have attached to it:

1. Copies of documents from other authorities having jurisdiction verifying that the hospice meets the codes specified in 175 NAC 16-007.03A, and approved for use and occupancy;
2. Copies of certifications and documentation from equipment and building system installers verifying that all equipment and systems installed are operating and approved for use and occupancy; And
3. Schematic floor plans documenting actual room numbers and titles, bed locations, capacity, and life safety information.

16-005.04 Compliance Inspections: The Department may, following the initial licensure of a hospice, conduct an unannounced onsite inspection at any time as it deems necessary to determine compliance with 175 NAC 16-006 and, for an inpatient hospice, 16-007. Any inspection may occur based on random selection or focused selection.

16-005.04A Random Selection: Each year the Department may inspect up to 25% of the hospices based on a random selection of licensed hospices.

16-005.04B Focused Selection: The Department may inspect a hospice when the Department is informed of one or more of the following:

1. An occurrence resulting in patient death or serious physical harm;
2. An occurrence resulting in imminent danger to or the possibility of death or serious physical harm to patients;
3. For inpatient hospice only, an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of patients;
4. The passage of five years without an inspection;
5. A complaint alleging violation of the Health Care Facility Licensure Act or 175 NAC 16;
6. Complaints that, because of their number, frequency, or type, raise concerns about the maintenance, operation, or management of the hospice;
7. Financial instability of the licensee or of the licensee's parent company;
8. Outbreaks or recurrent incidents of physical health problems at an inpatient hospice such as dehydration, pressure sores, or other illnesses;
9. Change of services, management or ownership;
10. Change of status of accreditation or certification on which licensure is based as provided in 175 NAC 16-004.09; or
11. Any other event that raises concerns about the maintenance, operation, or management of the hospice.

16-005.05 Results of Compliance Inspections

16-005.05A When the inspection reveals violations that create imminent danger of death or serious physical harm or have a direct or immediate adverse effect on the health, safety, or security of persons residing in or served by the hospice, the Department will review the inspection findings within 20 working days after the inspection. If the evidence from the inspection supports the findings, the Department will impose discipline in accordance with 175 NAC 16-008.03.

16-005.05B When the inspection reveals one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse effect on the health, safety, or security of persons residing in or served by the hospice, the Department may request a statement of compliance from the hospice. The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the hospice submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will not take any disciplinary action against the license; or
2. If the hospice fails to submit and implement a statement of compliance, the Department will initiate disciplinary action against the hospice license, in accordance with 175 NAC 16-008.

16-005.06 Re-inspections

16-005.06A The Department may conduct re-inspections to determine if a hospice fully complies with the requirements of 175 NAC 16-006 and 16-007:

1. After the Department has issued a provisional license;
2. Before a provisional license is converted to a regular license;
3. Before a disciplinary action is modified or terminated; or
4. After the Department receives a statement of compliance or a plan of correction for cited violations.

16-005.06B Following a re-inspection, the Department may:

1. Convert a provisional license to a regular license;
2. Affirm that the provisional license is to remain effective; ~~or~~
3. Modify a disciplinary action in accordance with 175 NAC 16-008.02 ; or
4. Grant full reinstatement of the license.

16-006 STANDARDS OF OPERATION, CARE, AND TREATMENT: Each hospice must be organized to promote the attainment of its objectives and purposes. The major organizational divisions in each hospice must include a governing authority, administration, and a medical staff. In addition, the basic organization, responsibility, and operation of each licensed hospice must assure adequate protection to hospice patients and compliance with state statutes.

16-006.01 Governing Authority: A hospice must have a governing authority which assumes full legal responsibility for determining, implementing, and monitoring policies governing the hospice's total operation. The governing authority must designate an individual who is responsible for the day-to-day management of the hospice program. The governing authority must also ensure that all services provided are consistent with accepted standards of practice.

16-006.02 Administration: The hospice must organize, manage, and administer its resources to assure that each patient experiences care that optimizes the patient's comfort and dignity in a manner which is consistent with patient, family, or designee needs and desires.

16-006.03 Administrator: A hospice must have an administrator who has training and experience in hospice care or a related health care program. The administrator must be a person responsible for the management of the agency to the extent authority is delegated by the governing authority. A person must be designated in writing to act in the absence of the administrator. The administrator must have at least the following responsibilities:

1. Have bylaws, rules, or its equivalent which delineate how the governing authority conducts its business;
2. Oversee the management and fiscal affairs of the agency; and
3. Establish and implement written policies and procedures that encompass all care and treatment provided to patients. The policies and procedures are consistent with generally accepted practice, delineate the scope of services provided in the hospice, and encompass aspects to protect the health and safety of patients. These policies must be available for visual review to staff, patients, family and legal designees of the patients. Policies and procedures should include, but are not limited to:
   a. Range of services to be provided;
   b. Geographical areas to be served;
   c. Criteria for admission, discharge, and transfer of patients; which ensure only individuals whose needs can be met by the hospice or by providers of services under contract to the hospice will be admitted as patients;
   d. Policies and procedures describing the method to obtain and incorporate physician orders into the plan of care; and
   e. Policies and procedures which require each employee of the hospice to report any evidence of abuse, neglect, or exploitation of any patient served by the hospice in accordance with Neb. Rev. Stat. § 28-372 of the Adult Protective Services Act or, in the case of a child, in accordance with Neb. Rev. Stat. § 28-711. The hospice must ensure any abuse, neglect, or exploitation must be reported.

16-006.04 Medical Director: A hospice must have a medical director who is a hospice employee or a contracted person who is a doctor of medicine or osteopathy who assumes overall responsibility for the medical component of the hospice's patient care program.

16-006.05 Staff Requirements: Each hospice must maintain sufficient number of staff with the required training and skills to provide those services necessary to meet the needs of each patient accepted for care. Each hospice must have job descriptions for each staff position, which include minimum qualifications required for the position.

16-006.05A Employment Eligibility: Each hospice must insure and maintain evidence of the following:

1. Staff Credentialing: Any staff who provide care or treatment for which a license, certification, registration, or credential is required must hold the license, certification, registration, or credential in accordance with applicable State laws and regulations. Each hospice must verify the licensure, registration, certification, or required credentials of staff prior to staff assuming job responsibilities.
2. If unlicensed staff assist in provision of care or treatment, these staff should be supervised by the appropriate licensed health care professional.

16-006.05B Health Status: Each hospice must establish and implement policies and procedures related to the staff's health to prevent the transmission of disease to patients.

16-006.05B1 Health History Screening: All employees must have a health history screening after accepting an offer of employment and prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening.

16-006.05C Criminal Background and Registry Checks: The hospice must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed direct care staff.

16-006.05C1 Criminal Background Checks: The hospice must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information on each unlicensed direct care staff.

16-006.05C2 Registry Checks: The hospice must check for adverse findings on each unlicensed direct care staff on the following registries:

1. Nurse Aide Registry;
2. Adult Protective Services Registry;
3. Central Register of Child Protection Cases; and
4. Nebraska State Patrol Sex Offender Registry.

16-006.05C3 The hospice must:

1. Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
2. Decide whether employment can begin prior to receiving the criminal background and registry information; and
3. Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must the basis for the decision and how it will not pose a threat to patient safety or patient property.

16-006.05C4 The hospice must not employ a person with an adverse finding on the Nurse Aide Registry regarding patient abuse, neglect, or misappropriation of patient property.

16-006.05D Training: Each hospice must ensure staff receive training to perform job responsibilities.

16-006.05D1 Orientation: Each hospice must provide and maintain evidence of an orientation program for all new staff and, as needed, for existing staff who are given new assignments. The orientation program includes, but is not limited to:

1. Job duties and responsibilities;
2. Organizational structure;
3. Patient rights;
4. Patient care policies and procedures;
5. Personnel policies and procedures; and
6. Reporting requirements for abuse, neglect, and exploitation in accordance with the Adult Protective Services Act, Neb. Rev. Stat. § 28-372 or, in the case of a child, in accordance with Neb. Rev. Stat. § 28-711 and with hospice policies and procedures.

16-006.05D2 Ongoing Training: Each hospice must provide and maintain evidence of ongoing/continuous inservices or continuing education for staff. The hospice record must contain the date, topic, and participants.

16-006.05D3 Specialized Training: Each hospice must provide specialized training of staff to permit performance of particular procedures or to provide specialized care, whether as part of a training program or as individualized instruction, and have documentation of the training in personnel records.

16-006.05D4 Employment Record: The hospice must maintain a current employment record for each staff person. Information kept in the record must include information on the length of service, orientation, inservice, credentialing, performance, health history screening, and previous work experience.

16-006.06 Patient Rights: The governing authority must establish a bill of rights that will be equally applicable to all patients. The hospice must protect and promote the exercise of these rights. Patients must have the right to:

1. Choose care providers and communicate with those providers;
2. Participate in the planning of their care and receive appropriate instruction and education regarding the plan;
3. Request information about their diagnosis, prognosis, and treatment, including alternatives to care and risks involved, in terms that they and their families or designee can readily understand so that they can give their informed consent;
4. Refuse care and be informed of possible health consequences of this action;
5. Receive care without discrimination as to race, color, creed, sex, age, or national origin;
6. Exercise religious beliefs;
7. Be admitted for service only if the hospice has the ability to provide safe, professional care at the level of intensity needed;
8. Receive the full range of services provided by the hospice;
9. Confidentiality of all records, communications, and personal information;
10. Review and receive a copy of all health records pertaining to them;
11. Receive both an oral and written explanation regarding ~~termination if services are terminated for any reason other than~~ discharge if the patient moves out of the hospice's service area or transfers to another hospice; or if the hospice determines the patient is no longer terminally ill. Information regarding community resources must be given to the patient or his/her designee. ~~Patients must receive at least a two-week notice prior to termination of services. When a patient is discharged by the physician's written order, a two-week notice is not required. A two-week notice is not required when patient services are being terminated~~
12. A hospice patient may be discharged for cause based on an unsafe care environment in the patient's home, patient non-compliance (including disruptive, abusive, or uncooperative behavior to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired); or failure to pay for services. ~~rendered;~~ The hospice must make a serious effort to resolve the problem(s) presented by the behavior or situation to assure that the proposed discharge is not due to the patient's use of necessary hospice services; document the problem(s) and the efforts made to resolve the problem(s) in the patient's medical record; and obtain a written physician's order from the patient's attending physician and the hospice medical director concurring with the discharge.

1~~2~~3. Voice complaints/grievances and suggest changes in service or staff without fear of reprisal or discrimination and be informed of the resolution;

1~~3~~4. Be fully informed of hospice policies and charges for services, including eligibility for third-party reimbursement, prior to receiving care;

1~~4~~5. Be free from verbal, physical, and psychological abuse and to be treated with dignity;

1~~5~~6. Expect pain relief. Measures will be instituted to ensure comfort;

1~~6~~7. Expect all efforts will be made to ensure continuity and quality of care in the home and in the inpatient setting;

1~~7~~8. Have his or her person and property treated with respect;
1~~8~~9. Be informed, in advance, about the care to be furnished, and any changes in the care to be furnished; ~~and~~
~~19~~20. Formulate advance directives and have the hospice comply with the directives unless the hospice notifies the patient of the inability to do so. Advance directives include living wills, durable powers of attorney, powers of attorney for health care, or other instructions recognized by state law that relate to the provision of medical care if the individual becomes incapacitated; and
21. Be free from physical and chemical restraints that are not medically necessary.

All patients, guardians, or authorized designees upon the commencement of services must be given a copy of the bill of rights. The hospice must maintain documentation showing that it has complied with the requirements of 175 NAC 16-006.06.

16-006.06A In-Home Assessment and Consent: Authorized agents of the Department have the right, with the consent of the patient/designee, to visit patient's homes during the provision of hospice services in order to make an assessment of the quality of care being given to patients.

16-006.06A1 Consent: A patient/designee whose home is to be visited by an authorized representative of the Department must be notified by the hospice or the Department before the visit, to ascertain a verbal consent for the visit. A written consent form clearly stating that the patient voluntarily agrees to the visit must be presented to and signed by the patient/designee prior to observation of care or treatment by the Department representative. The hospice must arrange this visit.

16-006.06A2 Right to Refuse: All hospice patients have the right to refuse to allow an authorized representative of the Department to enter their homes for the purposes of assessing the provision of hospice services.

16-006.06B Competency of Patients

16-006.06B1 In the case of the patient adjudged incompetent under the laws of the State by a court of competent jurisdiction, the rights of the patient are exercised by the persons authorized under State law to act on the patient's behalf.

16-006.06B2 In the case of the patient who has not been adjudged incompetent by the State court, any person designated in accordance with State law may exercise the patient's rights to the extent provided by the law.

16-006.07 Complaints/Grievances: Each hospice must establish and implement a process that promptly addresses complaints/grievances filed by patients or their designee. The process includes, but is not limited to:

1. A procedure for submission of complaints/ grievances that is made available to patients or designee;
2. Time frames and procedures for review of complaints/grievances and provision of a response; and
3. How information from complaints/grievances and responses are utilized to improve the quality of patient care and treatment.

16-006.08 Quality Assurance/Improvement: The hospice must conduct an ongoing comprehensive, integrated self-assessment of the quality and appropriateness of care provided, including inpatient care, home care, and care provided under arrangements. The hospice must use the findings to correct identified problems and to revise hospice policies if necessary. Those responsible for the quality assurance program must:

1. Implement and report on activities and mechanisms for monitoring the quality of patient care;
2. Identify and resolve problems; and
3. Make suggestions for improving patient care.

16-006.09 Patient Care and Treatment: Each hospice must establish and implement written policies and procedures that encompass all care and treatment provided to patients. The policies and procedures must be consistent with prevailing professional standards, delineate the scope of services provided in the hospice, and encompass aspects to protect the health and safety of patients.

16-006.09A Plan of Care: A written plan of care must be established and maintained for each individual admitted to a hospice program. A registered nurse must complete an initial assessment to evaluate the patient's immediate physical, psychosocial, emotional, and spiritual needs. This assessment initiates the plan of care. The care provided to the patient must be in accordance with this plan.

16-006.09A1 Establishment of the Plan: A comprehensive plan must be established by the attending physician, the medical director or physician representative, and interdisciplinary team ~~prior to providing care~~ within five calendar days of the initial assessment 16-006.09A2 Review of the Plan: The plan must be reviewed and updated as necessary at intervals specified in the plan, by the attending physician, the medical director or physician representative, and interdisciplinary team. These reviews must be documented at least every ~~62~~ 15 days or as patient condition warrants.

16-006.09A3 Content of the Plan: The plan must include an assessment of the individual's needs and identification of the services including the management of discomfort and symptom relief. It must state in detail the scope and frequency of services needed to meet the patient's and family's needs.

16-006.09A4 Physician Order: Each hospice must have a process in place by which orders from a physician or representative are obtained, incorporated in the plan of care, and carried out.

16-006.09B Hospice Core Services: A hospice must ensure that substantially all the core services described in 175 NAC 16-006.09B1 through 16-006.09B4 are routinely provided directly by hospice employees (with the exception of the physician who can be contracted). A hospice may use contracted staff if necessary to supplement hospice employees to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice must maintain professional, financial, and administrative responsibility for the services and must assure that the qualifications of staff and services provided meet the requirements specified in 175 NAC 16. Core services include nursing services, social services, physician services, and counseling services.

16-006.09B1 Nursing Services: The hospice must provide nursing care and services by or under the supervision of a registered nurse.

16-006.09B1a Nursing services must be directed and staffed to assure that the nursing needs of patients are met. The direction must be done in accordance with 172 NAC 99 Regulations Governing the Provision of Nursing Care

16-006.09B1b Patient care responsibilities of nursing personnel must be specified.

16-006.09B1c Services must be provided in accordance with recognized standards of practice.

16-006.09B2 Social Services: Social services must be provided by a qualified social worker, under the direction of a physician. All social work services must be provided in accordance with the plan of care and recognized standards of practice. The social worker must participate in the development, implementation, and revision of the patient's plan of care.

16-006.09B3 Physician Services: In addition to palliation and management of terminal illness and related conditions, physician employees of the hospice, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent that these needs are not met by the attending physician.

16-006.09B4 Counseling Services: Counseling services must be available to both the individual and the family. Counseling includes bereavement counseling, provided before and after the patient's death, as well as dietary, spiritual, and any other counseling services for the individual and family provided while the individual is enrolled in the hospice.

16-006.09B4a Dietary Counseling: Dietary counseling, when required, must be provided by a licensed medical nutrition therapist or others whose scope of practice permits dietary counseling. Such individuals include, but are not limited to, a physician, a registered nurse, or a

dietitian registered by the American Dietetic Association or an equivalent entity.

16-006.09B4b Spiritual Counseling: Spiritual counseling must include notice to patients as to the availability of clergy.

16-006.09B4c Additional Counseling: Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice.

16-006.09B4d Bereavement Counseling: There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient).

16-006.09B5 Home Health Aide & Medication Aide: Each hospice that employs or contracts home health aides or medication aides must meet the following requirements for training and testing prior to providing care and services to patients. The home health aide services must be provided by a person who meets the training, attitude, and skill requirements specified in 175 NAC 14-006.04G. A hospice must ensure the following requirements are met.

16-006.09B5a Employ Qualified Aides: A hospice must employ only home health aides qualified to provide home health agency/hospice patient care.

16-006.09B5b Verify Competency: Each hospice must verify and maintain records of the competency of all home health aides employed by the agency, prior to the aide providing services in a patient's home.

16-006.09B5c Supervision: Each hospice must provide direction (Plan of Care/Assignment Sheet) written by the registered nurse (RN), and RN supervision of home health aides. A registered nurse must visit the home site at least every two weeks if aide services are provided with or without the aide being present. The visit must include an assessment of the aide services and review of the plan of care.

16-006.09B5d Inservice Program: A hospice must provide or make available to its home health aides four one-hour inservice programs per year on subjects relevant to hospice or home health care and must maintain documentation of such programs.

16-006.09B5e Permitted Acts: Home health aides may perform only personal care, assistance with the activities of daily living, and basic therapeutic care. A home health aide must only provide medication in

compliance with the Medication Aide Act. Home health aides must not perform acts which require the exercise of nursing or medical judgment.

16-006.09B5f Qualifications: To act as a home health aide, a person must:

1. Be at least 18 years of age;
2. Be of good moral character;
3. Not have been convicted of a crime under the laws of this State or another jurisdiction, the penalty for which is imprisonment for a period of more than one year and which is rationally related to the person's fitness or capacity to act as a home health aide;
4. Be able to speak and understand the English language or the language of the hospice patient and the hospice staff member who acts as the home health aide's supervisor;
5. Meet one of the following qualifications and provide proof of meeting the qualifications to the hospice:
   a. Has successfully completed a 75-hour home health aide training course which meets the standards described in Neb. Rev. Stat. § 71-6608.01;
   b. Is a graduate of a practical or professional school of nursing;
   c. Has been employed by a licensed hospice or a home health agency as a home health aide II prior to September 6, 1991;
   d. Has successfully completed a course in a practical or professional school of nursing which included practical clinical experience in fundamental nursing skills and has completed a competency evaluation as described in Neb. Rev. Stat. § 71-6608.02;
   e. Has successfully completed a 75-hour basic course of training approved by the Department for nursing assistants as required by Nev. Rev. Stat. § 71-6039 and has completed a competency evaluation as described in Neb. Rev. Stat. § 71-6608.02;
   f. Has been employed by a licensed home health agency as a home health aide I prior to September 6, 1991 and has completed a competency evaluation as described in Neb. Rev. Stat. § 71-6608.02; or
   g. Has met the qualifications equal to one of those contained in 175 NAC 16-006.09B5f, item 5 in another state or territory of the United States; and
6. Has been listed on the Medication Aide Registry operated by the Department, if identified as a medication aide.

16-006.09B6 Homemaker Qualifications and Supervision: Homemaker services may include assistance in maintenance of a safe and healthy

environment and services to enable the patient's family to carry out the plan of care. A member of the interdisciplinary team must coordinate homemaker services; the homemaker must be supervised by a member of the interdisciplinary team. Instructions for homemaker duties must be prepared by a member of the interdisciplinary team. Homemakers must report all concerns about the patient or the patient's family to the member of the interdisciplinary team who coordinates homemaker services.

16-006.09C Other Services: A hospice must ensure that the services in 175 NAC 16-006.09C1 through 16-006.09C5 are provided directly by hospice employees or under arrangements.

16-006.09C1 Volunteers: The hospice uses volunteers, in defined roles, under the supervision of a designated hospice employee and in accordance with the following requirements:

16-006.09C1a Training: The hospice must provide appropriate orientation and training that is consistent with acceptable standards of hospice practice.

16-006.09C1b Roles: Volunteers must be used in administrative or direct patient care roles.

16-006.09C1c Recruitment and Retention: The hospice must document active and ongoing efforts to recruit and retain volunteers.

16-006.09C1d Cost Saving: The hospice must document the cost savings achieved through the use of volunteers. Documentation must include:

1. The identification of necessary positions which are occupied by volunteers;
2. The work time spent by volunteers occupying those positions; and
3. Estimates of the dollar costs which the hospice would have incurred if paid employees occupied the positions.

16-006.09C1e Level of Activity: The hospice must document and maintain a volunteer staff sufficient to provide day-to-day administrative or direct patient care in an amount that, at a minimum, equals 5% of the total patient care hours of all paid hospice employees and contract staff. The hospice must document a continuing level of volunteer activity. The hospice must record expansion of care and services achieved through the use of volunteers, including the type of services and time worked.

16-006.09C2 Laboratory Services: If the hospice engages in laboratory testing outside of the context of assisting an individual in self-administering a test with an appliance that has been cleared for that purpose by the Food And Drug Administration, the testing must be in compliance with all applicable requirements of the Clinical Laboratory Improvement Amendments of 1988, as amended (CLIA). If the hospice chooses to refer specimens for laboratory testing to a reference laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the applicable requirements of the Clinical Laboratory Improvement Amendments of 1988, as amended (CLIA).

16-006.09C3 Physical Therapy, Occupational Therapy, Speech Language Pathology Services: Physical therapy services, occupational therapy services, and speech-language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice. Services must be provided by individuals qualified in accordance with State law.

16-006.09C4 Clergy: The hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request the visits and must advise patients of this opportunity

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16-006.09C5 Medical Supplies/Equipment: Medical supplies/equipment and appliances, including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness and related conditions. The hospice must have a process designed for routine and preventative maintenance of equipment to ensure that it is safe and works as intended for the use in the patient's environment. The hospice must ensure that the patient/family/designee understand how to use the equipment and supplies.

16-006.09D Professional Management: Except for those core services described in 175 NAC 16-006.09B, a hospice may arrange for another individual or entity to furnish services to the hospice's patients. If services are provided under arrangement, the hospice must meet the following:

1. The hospice program assures the continuity of patient/family care in home, outpatient, and inpatient settings;
2. The hospice has a legally binding written agreement for the provision of arranged services. The agreement includes the following:
   a. Identification of the services to be provided;
   b. A stipulation that services may be provided only with the express authorization of the hospice;
   c. The manner in which the contracted services are coordinated, supervised, and evaluated by the hospice;

d. The delineation of the role(s) of the hospice and the contractor in the admission process, patient/family assessment, and the interdisciplinary group care conferences;
e. Requirements for documenting that services are furnished in accordance with the agreement; and
f. The qualifications of the personnel providing the services;

3. The hospice retains professional management responsibility for those services and ensures that they are furnished in a safe and effective manner by qualified persons and in accordance with the patient's plan of care and other requirements of 175 NAC 16; and
4. The hospice ensures that inpatient care is furnished only in a facility which meets the requirements of a 24-hour registered nurse coverage in a skilled nursing facility and that also specifies, at a minimum:
   a. The hospice furnishes to the inpatient provider a copy of the patient's care plan and specifies the inpatient services to be furnished;
   b. The inpatient provider has established policies consistent with those of the hospice and agrees to abide by the patient care protocols established by the hospice for its patients;
   c. The medical record includes a record of all inpatient services and events and that a copy of the discharge summary and, if requested, a copy of the medical record are provided to the hospice;
   d. The party responsible for the implementation of the provisions of the agreement; and
   e. The hospice retains responsibility for appropriate hospice care training of the personnel who provide the care under the agreement.

<u>16-006.09E Interdisciplinary Team:</u> The hospice must designate an interdisciplinary team composed of individuals who provide or supervise the care and services offered by the hospice.

<u>16-006.09E1 Composition of Team:</u> The interdisciplinary team must include at least the following individuals who are employees of the hospice (with the exception of the doctor of medicine or osteopathy who may be a contracted employee):

1. A doctor of medicine or osteopathy;
2. A registered nurse;
3. A social worker; and
4. A pastoral or other counselor.

16-006.09E2 Role of Team: The interdisciplinary team is responsible for:

1. Participation in the establishment of the plan of care;
2. Provision or supervision of hospice care and services;
3. Periodic review and updating of the plan of care for each individual receiving hospice care; and
4. Establishment of policies governing the day-to-day provision of hospice care and services.

16-006.09E3 If a hospice has more than one interdisciplinary team, it must designate in advance the team it chooses to execute the functions of the hospice.

16-006.09E4 The hospice must designate a registered nurse to coordinate the implementation of the plan of care for each patient. The plan of care must be updated as often as necessary but at least every 62 days.

16-006.09F Short Term Inpatient Care: A hospice must have an established agreement with a participating Medicare or Medicaid facility to provide short term care for pain control, symptom management, or ~~and~~ respite purposes. ~~16-006.09F1 Inpatient care for pain control and symptom management~~ Such care must be provided in one of the following:

1. An inpatient hospice ~~that meets the requirements for providing inpatient care directly and must have 24 hour nursing service and patient areas~~; or
2. A hospital, ~~or~~ skilled nursing facility, nursing facility, or intermediate care facility. ~~that also meets the standards and has 24 hour nursing services and patient areas.~~

16-006.09F1 For inpatient respite, the RN must be available when required by the patient's plan of care.

~~16-006.09F2 Inpatient Care for Respite Purposes: Inpatient care for respite purposes must be provided by one of the following:~~

~~1. A provider specified in 175 NAC 16-006; or~~
~~2. A nursing facility or intermediate care facility that also meets the standards regarding 24 hour nursing service and patient areas; meets the nursing needs of all patients; and is furnished in accordance with each patient's plan of care.~~

16-006.10 Admission and Retention Requirements: A hospice must accept a patient only when it reasonably expects that it can adequately meet the patients medical, therapeutic, and social needs in the patient's permanent or temporary place of residence.

16-006.11 Administration of Medications: The hospice must establish and implement policies and procedures to ensure patients receive medications only as legally prescribed

by a medical practitioner in accordance with the five rights and prevailing professional standards.

16-006.11A Methods of Administration: When the hospice is responsible for the administration and provision of medication, it must be accomplished by the following methods:

16-006.11A1 Self Administration: Patients may be allowed to self-administer medication, with or without supervision, when the hospice determines that the patient is competent and capable of doing so and has the capacity to make an informed decision about taking medications in a safe manner. The hospice must develop and implement policies to address patient self-administration of medication, including:

1. Storage and handling of medications;
2. Inclusion of the determination that the patient may self-administer medication in the patient's plan of care; and
3. Monitoring the plan of care to assure continued safe administration of medications by the patient.

16-006.11A2 Licensed Health Care Professional: When the hospice uses a licensed health care professional for whom medication administration is included in the scope of practice, the hospice must ensure the medications are properly administered in accordance with prevailing professional standards.

16-006.11A3 Provision of Medications by a Person other than a Licensed Health Care Professional: When the hospice uses a person other than a licensed health care professional in the provision of medications, the hospice must follow 172 NAC 95 and 96. Each hospice must establish and implement policies and procedures:

1. To ensure that medication aides and other unlicensed persons who provide medications are trained and have demonstrated the minimum competency standards specified in 175 NAC 95-004;
2. To ensure that competency assessments and/or courses for medication aides and other unlicensed persons are provided in accordance with the provisions of 175 NAC 96-005;
3. That specify how direction and monitoring will occur when the hospice allows medication aides to perform the additional routine/acceptable activities authorized by 172 NAC 95-005, and as follows:
   a. Provide routine medication; and
   b. Provision of medications by the following routes;
      (1) oral which includes any medication given by mouth including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;

(2) inhalation which includes inhalers and nebulizers, including oxygen given by inhalation;
(3) topical application of sprays, creams, ointments, and lotions and transdermal patches; and
(4) instillation by drops, ointments, and sprays into the eyes, ears and nose.

4. That specify how direction and monitoring will occur when the hospice allows medication aides to perform the additional routine/acceptable activities authorized by 172 NAC 95-005, and as follows:
   a. Provision of PRN medications;
   b. Provision of medications by additional routes including but not limited to gastrostomy tube, rectal, and vaginal; and/or
   c. Participation in monitoring;
5. That specify how competency determinations will be made for medication aides and other unlicensed persons to perform routine and additional activities pertaining to medication provision;
6. That specify how written direction will be provided for medication aides and other unlicensed persons to perform the additional activities authorized by 175 NAC 95-009;
7. That specify how records of medication provision by medication aides and other unlicensed persons will be recorded and maintained;
8. That specify how medication errors made by a medication aide and adverse reactions to medications will be reported. The reporting must be:
   a. Made to the identified person responsible for direction and monitoring;
   b. Made immediately upon discovery; and
   c. Documented in patient medical records;
9. When the hospice is not responsible for medication administration and provision the hospice must maintain responsibility for overall supervision, safety, and welfare of the patient;
10. Each hospice must have a policy for the disposal of controlled drugs maintained in the patient's home when those drugs are no longer needed by the patient.

16-006.11A4 Each hospice must have and implement policies and procedures for reporting any errors in administration or provision of prescribed medications to the patient's licensed practitioner in a timely manner upon discovery and a written report of the error prepared. Errors must include any variance from the five rights.

16-006.11A5 Each hospice must have policies and procedures for reporting any adverse reaction to a medication immediately upon discovery, to the patient's licensed practitioner and document the event in the patient's medical record.

16-006.11A6 Each hospice must establish and implement appropriate policies and procedures for those staff authorized to receive telephone and verbal, diagnostic and therapeutic and medication orders.

16-006.12 Record Keeping Requirements: Each hospice must maintain records and reports in a manner that ensures accuracy and easy retrieval.

16-006.12A Clinical Records: In accordance with acceptable principles of practice, the hospice must establish and maintain a clinical record for every individual receiving care and services. The record must be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval. Entries must be made for all services provided, and must be made and signed by the person providing the services. The record must include all services whether furnished directly or under arrangements made by the hospice. Each individual's record must contain:

1. The initial and subsequent assessments;
2. The plan of care;
3. Identification data;
4. Consent and authorization and election forms;
5. Pertinent medical history; and
6. Complete documentation of all services and events (including evaluations, treatments, progress notes, etc.).

16-006.12B Informed Consent: A hospice must demonstrate respect for an individual's rights by ensuring that an informed consent form that specifies the type of care and services that may be provided as hospice care during the course of the illness has been obtained for every individual, either from the individual or designee.

16-006.12C Protection of Information: The hospice must safeguard the clinical record against loss, destruction and unauthorized use. The patient has the right to confidentiality of their records maintained by the hospice. Patient information and/or records will be released only with consent of the patient or designee or as required by law.

16-006.12D Retention of Records: Patient records are retained in a retrievable form for at least five years after the death or discharge of the patient. Policies provide for retention even if the hospice discontinues operation. If a patient is transferred to another health care provider, a copy of the record or abstract must be sent with the patient. The records must be subject to inspection by an authorized representative of the Department.

16-006.12E Destruction of Records: Clinical records may be destroyed after five years following the last discharge date or date of death. All records must be disposed of by shredding, mutilation, burning, or other similar protective measures in order to preserve the patient's rights of confidentiality. Records or documentation of the actual fact of clinical record destruction must be permanently maintained.

16-006.12F Other Hospice Records: The hospice must have and maintain the written policies and procedures governing services provided by the hospice.

16-006.13 Infection Control: Each hospice must have an infection control program to minimize sources and transmissions of infections and communicable diseases for services provided in patient home settings and if applicable, for the inpatient hospice facility, as follows:

1. Use of good handwashing techniques;
2. Use of safe work practices and personal protective equipment;
3. Proper handling, cleaning and disinfection of patient care equipment, supplies and linens; and
4. Patient teaching to include information concerning infections and modes of transmission, hygienic practices, methods of infection prevention, and methods for adapting available resources to maintain appropriate hygienic practices.

16-006.14 Environmental Services: The inpatient hospice must provide necessary housekeeping and maintenance to protect the health and safety of patients. Every detached building on the same premises used for care and treatment must comply with 175 NAC 16.

16-006.14A Housekeeping and Maintenance: The inpatient hospice's building and grounds must be kept clean, safe and in good repair.

1. The inpatient hospice must take into account patient habits and lifestyle preferences when housekeeping services are provided in the patient bedrooms/living area;
2. The inpatient hospice must provide and maintain adequate lighting, environmental temperatures and sound levels in all areas that are conducive to the care and treatment provided; and
3. All garbage and rubbish must be disposed of in a manner that prevents the attraction of rodents, flies, and all other insects and vermin. Disposal must be done in such a manner as to minimize the transmission of infectious diseases and minimize odor. The inpatient hospice must maintain and equip the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

16-006.14B Equipment, Fixtures, Furnishings: The inpatient hospice must provide and maintain all equipment, fixtures and furnishings clean, safe and in good repair.

1. The inpatient hospice must provide adequate equipment to meet patient needs as specified in each patient care plan;
2. Common areas and patient sleeping areas must be furnished with beds, chairs, sofas, tables, and storage items that are comfortable and reflective of patient needs and preferences. Furnishings may be provided by either the patient or the inpatient hospice;

3. The inpatient hospice must establish and implement a process designed for routine and preventative maintenance of equipment and furnishings to ensure that the equipment and furnishings are safe and function to meet their intended use.

16-006.14C Linens: The inpatient hospice must provide an adequate supply of bed, bath, and other linens as necessary for each patient.

1. The inpatient hospice must maintain an adequate supply of linens and towels that are clean and in good repair;
2. The inpatient hospice must establish and implement procedures for the storage and handling of clean and soiled linens; and
3. When the inpatient hospice launders bed and bath linens, water temperatures to laundry equipment must exceed 140 degrees Fahrenheit. Laundry may be appropriately sanitized or disinfected by another acceptable method in accordance with the manufacturer's instructions or other documentation.

16-006.14D Pets: If the inpatient hospice has a pet belonging to the inpatient hospice, the inpatient hospice must assure that the pet does not negatively affect the patients residing at the inpatient hospice. The inpatient hospice must have policies and procedures regarding pets that include:

1. An annual examination by a licensed veterinarian;
2. Vaccinations as recommended by the licensed veterinarian which must include at a minimum current vaccination for rabies for dogs, cats, and ferrets;
3. Provision of pet care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites; and
4. Responsibility for the care and supervision of the pet by inpatient hospice staff.

16-006.14E Environmental Safety: The inpatient hospice must be responsible for maintaining the inpatient hospice in a manner that minimizes accidents.

1. The inpatient hospice must maintain the environment to protect the health and safety of patients by keeping surfaces smooth and free of sharp edges, mold or dirt; keeping floors free of objects and slippery or uneven surfaces and keeping the environment free of other conditions which may pose a potential risk;
2. The inpatient hospice must maintain all doors, stairways, passageways, aisles or other means of exit in a manner that provides safe and adequate access for care and treatment;
3. The inpatient hospice must provide water for bathing and handwashing at safe and comfortable temperatures:
   a. The inpatient hospice must protect patients from burns and scalds secondary to unsafe water temperatures.

b. The inpatient hospice must establish and implement policies and procedures to monitor and maintain water temperatures that accommodate patient comfort and preferences but not to exceed the following temperatures:
   (1) Water temperature at bathing fixtures must not exceed 115 degrees Fahrenheit;
   (2) Water temperature at handwashing fixtures must not exceed 120 degrees Fahrenheit;
c. The inpatient hospice must establish and implement policies and procedures to ensure hazardous/poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation, or consumption of the hazardous/poisonous materials by patients.
d. The inpatient hospice must restrict access to mechanical equipment which may pose a danger to patients.

16-006.14F Disaster Preparedness and Management: The inpatient hospice must establish and implement disaster preparedness plans and procedures to ensure that patient care and treatment, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) or other disasters, disease outbreaks, or other similar situations. The plans and procedures must address and delineate:

1. How the hospice will maintain the proper identification of each patient to ensure that care and treatment coincide with the patient's needs;
2. How the hospice will move patients to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the hospice will protect patients during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the hospice will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
5. How the hospice will provide for the comfort, safety, and well-being of patients in the event of 24 or more consecutive hours of:
   a. Electrical or gas outage;
   b. Heating, cooling, or sewer system failure; or
   c. Loss or contamination of water supply.

16-006.14F1 For other hospice patients, the hospice must establish and implement disaster preparedness plans and procedures to ensure that:

1. Patients and families are educated on how to handle patient care and treatment, safety, and well-being during and following instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations; and
2. How staff is educated on disaster preparedness and staff safety is assured.

16-006.15 Inpatient Hospice Services Requirements: A hospice that provides inpatient care directly must comply with 175 NAC 16-006 and 16-007.

16-006.15A 24-Hour Nursing Services: The inpatient hospice provides 24-hour nursing services which are sufficient to meet total nursing needs and which are in accordance with the patient plan of care. Each patient receives treatments, medications, and diet as prescribed, and is kept comfortable, clean, well-groomed, and protected from accident, injury, and infection. Each shift must include a registered nurse who provides direct patient care, when there is a patient in the facility receiving inpatient care for pain control and/or symptom management.

16-006.16 Food Service: The inpatient hospice must insure that the daily nutritional need of all patients are met, including any diet ordered by the attending physician. Food service must include but is not limited to:

1. Providing food service directly or through a written agreement;
2. Ensure a staff member is trained or experienced in food management or nutrition with the responsibility of:
   a. Planning menus which meet the nutritional needs of each patient, following the orders of the patient's physician; and
   b. Supervising the meal preparation and service to ensure that the menu plan is followed;
3. Be able to ~~serve at least three meals or their equivalent each day at regularly scheduled times or at other times in order to accommodate patient preferences and nutritional needs~~ meet the needs of the patient's plan of care; nutritional needs, and therapeutic diet.
4. Procure, store, prepare, distribute, and serve all food under sanitary conditions and in accordance with the Food Code.

16-006.17 Pharmaceutical Services: The hospice provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacists or stocked by the inpatient hospice, the inpatient hospice is responsible for drugs and biologicals for its patients, insofar as they are covered under the program and for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate State laws.

16-006.17A Licensed Pharmacist: The hospice must employ a licensed pharmacist or have a formal agreement with a licensed pharmacist to advise the hospice on ordering, storage, administration, disposal, and record keeping of drugs and biologicals.

16-006.17B Orders for Medications: A physician must authorize the administration of all medications for the patient. If the medication order is verbal:

1. The physician must give it only to a licensed nurse, pharmacist, physician assistant, or another physician; and

2. The individual receiving the order must record and sign it immediately and have the prescribing physician sign it in a manner consistent with good medical practice.

16-006.17C Administering Medications: Medications are administered only by one of the following individuals:

1. A licensed nurse or physician;
2. The patient; or
3. Other individual in accordance with applicable State laws.

16-006.17D Control and Accountability: The pharmaceutical service has procedures for control and accountability of all drugs and biologicals throughout the inpatient hospice. Drugs are dispensed in compliance with State laws. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable accurate reconciliation. The pharmacist determines that drug records are in order and that an account of all controlled drugs is maintained and reconciled.

16-006.17E Labeling of Drugs and Biologicals: The labeling of drugs and biologicals is based on currently accepted professional principles, and includes the appropriate accessory and cautionary instructions, as well as the expiration date when applicable.

16-006.17F Storage: In accordance with State laws, all drugs and biologicals are stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys. Separately locked compartments are provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other drugs subject to abuse, except under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected. An emergency medication kit is kept readily available

16-006.17G Drug Disposal: Controlled drugs no longer needed by the patient are disposed of in compliance with State requirements. In the absence of State requirements, the pharmacist and registered nurse dispose of the drugs and prepare a record of the disposal.

16-007 PHYSICAL PLANT CONSTRUCTION STANDARDS: All facilities must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided. The physical plant standards for facilities, which include support services, care and treatment areas, construction standards, building systems and waivers, are set forth below.

16-007.01 Support Areas: The inpatient hospice may share the following support service areas among the detached structures, care and treatment suites, and with other licensed facilities.

16-007.01A Dietary: If food preparation is provided on site, the inpatient hospice must dedicate space and equipment for the preparation of meals. Inpatient hospice food services and facilities must comply with the Food Code. Food service locations providing food services for 16 or fewer patients, used only for training or activity purposes, must comply with the Food Code, except that:

1. Instead of a three compartment food preparation and handwashing sink, a two-compartment sink may be used for clean up, dishwashing, and hand washing;
2. Instead of a final rinse cycle temperature of not less than 160 degrees Fahrenheit, an automatic dishwasher may have a final rinse cycle temperature not less than 150 degrees Fahrenheit;
3. Instead of storage space for food items and cooking and serving utensils no less than 6 inches above the floor, the space may be no less than 4 inches above the floor; and
4. Service sink and indirect waste plumbing connections are optional.

16-007.01B Laundry: The inpatient hospice must provide laundry services. The service may be provided by contract or on-site by the inpatient hospice.

16-007.01B1 Contract: If contractual services are used, the inpatient hospice must have areas for soiled linen awaiting pickup and separate areas for storage and distribution of clean linen.

16-007.01B2 On-site: If on-site services are provided, the inpatient hospice must have areas dedicated to laundry.

16-007.01B2a Personal laundry areas are provided and equipped with a washer and dryer for use by patients. In new construction, the inpatient hospice must provide a conveniently located sink for soaking and handwashing of laundry.

16-007.01B2b The inpatient hospice laundry area for facility processed bulk laundry must be divided into separate soiled (sort and washer areas) and clean (drying, folding, and mending areas) rooms. In new facilities a separate soaking and hand washing sinks, and housekeeping room must be provided in the laundry area.

16-007.01B2c Separate clean linen supply storage facilities must be conveniently located in each care and treatment location.

16-007.01C Waste Processing: The inpatient hospice must provide areas to collect, contain, process, and dispose of medical and general waste produced within the inpatient hospice in a manner that prevents the attraction of rodents, flies, and all other insects and vermin, and to minimize the transmission of infectious diseases.

16-007.01D Cosmetology and Barber: Cosmetology and barber services as defined in the Practice of Cosmetology and Electrology, Neb. Rev. Stat. §§ 71-301 to 71-3,179 and the Practice of Barbering, Neb. Rev. Stat. §§ 71-201 to 71-249 must be provided in conformance with those laws.

16-007.01E Pharmaceutical: Pharmacy services as defined in the Practice of Pharmacy, Neb. Rev. Stat. §§ 71-1,142 to 71-1,147.61 must be provided in conformance with such law.

16-007.01F Housekeeping Room: The inpatient hospice must have a room with a service sink and space for storage of supplies and housekeeping equipment.

16-007.02 Care and Treatment Areas: The inpatient hospice must not share the following care and treatment areas among detached structures or with other licensed facilities operated by another licensee. Care and treatment areas must comply with the following standards. ÷

16-007.02A Staff Areas: An inpatient hospice that provides nursing services must provide the following support areas for each distinct care and treatment suite of bedrooms:

16-007.02A1 Control Point: The inpatient hospice must have an area(s) for charting and patient records and call and alarm annunciation systems.

16-007.02A2 Medication Station: The inpatient hospice must have a medication station for storage and distribution of drugs and routine medications. Distribution may be done from a medicine preparation room or unit, from a self-contained medicine-dispensing unit, or by another system. If used, a medicine preparation room or unit must be under visual control of nursing staff and must contain a work counter, sink, refrigerator, and double-locked storage for controlled substances.

16-007.02A3 Patient Facilities: An inpatient hospice must have space for patient care, treatment, and consultation, and visiting area.

16-007.02A4 Utility Areas: An inpatient hospice must have a work area where clean materials are assembled. The work area must contain a work counter, a handwashing fixture, and storage facilities for clean and sterile supplies. If the area is used only for storage and holding as part of a system for distribution of clean and sterile supply materials, the work counter and handwashing fixtures may be omitted. An inpatient hospice must have separate work areas or holding rooms for soiled materials. A workroom for soiled materials must contain a fixture for disposing wastes and a handwashing sink.

16-007.02B Equipment and Supply: The inpatient hospice must have services and space to distribute, maintain, clean, and sanitize durable medical instruments,

equipment, and supplies required for the care and treatment performed in the inpatient hospice.

16-007.02B1 Durable Medical: The inpatient hospice must ensure that the durable medical equipment is tested and calibrated in accordance with the manufacturer's recommendations.

16-007.02B2 Sterile Processing: The inpatient hospice must have areas for decontamination and sterilizing of durable medical instruments and equipment.

16-007.02B2a The inpatient hospice must provide separate central sterile processing and waste processing facilities.

16-007.02B2b Central processing facilities must have separate soiled (sorting and decontamination) and clean (sterilizing and processing) rooms. The inpatient hospice must have handwashing sinks in both clean and soiled rooms.

16-007.02B3 Equipment Storage: An inpatient hospice must have space to store equipment, stretchers, wheel chairs, supplies, and linen out of the path of normal traffic.

16-007.02B4 Required Equipment: The inpatient hospice must provide equipment adequate for meeting the patients needs as specified in the contracts, patient service agreements, and patient care plans.

16-007.02C In-patient Hospice Care: A facility providing in-patient hospice services must have at least one private patient bedroom, over-night and dining accommodations for family members, private family visiting areas, areas that allow for toileting, bathing, dressing and handwashing, storage for equipment and supplies, call system, medication storage and distribution.

16-007.03 Construction Standards: All facilities must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided. The standards for such facilities are set forth below.

16-007.03A Codes and Guidelines

16-007.03A1 New Construction: New construction must comply with the following codes and guidelines to provide a safe and accessible environment that is conductive to the care and treatment to be provided:

1. Building: Building Construction Act, Neb. Rev. Stat. §§ 71-6401 to 71-6407;
2. Plumbing: Plumbing Ordinance or Code, Neb. Rev. Stat. § 18-1915;
3. Electrical: State Electrical Act, Neb. Rev. Stat. §§ 81-2101 to 81-2143;

4. Elevators: Nebraska Elevator Code, Neb. Rev. Stat. § 48-418.12 and Department of Labor Regulations, 230 NAC 1;
5. Boiler: Boiler Inspection Act, Neb. Rev. Stat. §§ 48-719 to 48-743;
6. Accessibility: Nebraska Accessibility Requirements, State Fire Marshal Regulations, 156 NAC 1 to 12; and
7. Energy: Nebraska Energy Code, Neb. Rev. Stat. §§ 81-1608 to 81-1626, for construction initiated on or after July 1, 2005.

16-007.03A2 All Facilities: All facilities must comply with the following applicable codes and standards to provide a safe environment.

1. Fire Codes: Nebraska State Fire Code Regulations, State Fire Marshal, 153 NAC 1; and
2. The Food Code, Neb. Rev. Stat. § 81-2,244.01, as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

16-007.03A3 Existing and New Facilities: Existing and new facilities must comply with the physical plant standards contained in 175 NAC 16-007. The inpatient hospice must maintain all building materials and structural components so that total loads imposed do not stress materials and components more than one and one-half times the working stresses allowed in the buildings of similar structure, purpose, or location.

16-007.03B Conflicts in Standards: In situations where the referenced codes and guidelines conflict with these regulations, the adopted rules and regulations of the Department and the Nebraska State Fire Marshal must prevail.

16-007.03C Interpretations: All dimension, sizes, and quantities; noted herein must be determined by rounding fractions to the nearest whole number.

16-007.03D: Floor area is the space with ceilings at least seven feet in height and excludes enclosed storage, toilets and bathing rooms, corridors and halls. The space beyond the first two feet of vestibules and alcoves less than five feet in width must not be included in the required floor area. In rooms with sloped ceilings, at least half of the ceiling must be at least seven feet in height. Areas less than five feet in height must not be included in the required floor area.

16-007.03E Dining Areas: Dining areas must have an outside wall with windows for natural light and ventilation.

16-007.03E1 Dining areas must be furnished with tables and chairs that accommodate or conform to patient needs.

16-007.03E2 Dining areas must have a floor area of 15 square feet per patient in existing facilities and 20 square feet per patient in new construction.

16-007.03E3 Dining areas must allow for group dining at the same time in either separate dining areas or a single dining area, or dining in two shifts, or dining during open dining hours.

16-007.03E4 Dining areas must not be used for sleeping, offices or corridors.

16-007.03F Bathing Rooms: Existing or new facilities must provide a bathing room consisting of a tub and/or shower adjacent to each bedroom or provide a central bathing room on each floor. Tubs and showers regardless of location must be equipped with hand grips or other assistive devices as needed or desired by the patient.

16-007.03F1 In new construction a central bathing room must open off the corridor and contain a toilet and sink or have an adjoining toilet room.

16-007.03F2 Fixture Numbers: The inpatient hospice must have the following minimum number of bathing fixtures of one fixture per eight licensed beds in new facilities and new construction.

16-007.03G Toilet Rooms: The inpatient hospice must provide at least one room with a toilet and sink for patient use.

16-007.03G1 Existing facilities must have a toilet and sink adjoining each bedroom or shared toilet facilities minimum number of one fixture per four licensed beds in new facilities and new construction.

16-007.03G2 New construction must have a toilet and sink fixture provided adjoining each patient bedroom or in each apartment or dwelling.

16-007.03H Sleeping Rooms: The inpatient hospice must provide bedrooms which allow for sleeping, afford privacy, provide access to furniture and belongings, and accommodate the care and treatment provided to the patient of the following room types.

16-007.03H1 Bedrooms: The inpatient hospice must not locate bedrooms in a garage, storage area, shed, or similar detached buildings. Bedrooms must be:

1. A single room located within an apartment, dwelling, or dormitory-like structure;
2. Not be accessed through a bathroom, food preparation area, laundry or another bedroom;
3. Be located on an outside wall or an atrium with an operable window opening to allow natural ventilation with a minimum glass size of 10% of the required bedroom floor area for the number of room patients. The window must provide an unobstructed view of at least 10 feet;
4. Contain at least 25 cubic feet of enclosed storage volume per patient in dressers, closets, or wardrobes;
5. For multiple bed bedrooms, allow for an accessible arrangement of furniture; which provides a minimum of three feet between beds; and

6. For apartments and dwellings, also have a separate room containing a water closet, lavatory, and bathtub or shower; and a kitchen area with a sink, cooking appliance, and refrigeration facilities.

16-007.03H2 Existing or New Facility: Sleeping areas in existing and new facilities must have at least the following floor areas.

16-007.03H2a Floor areas for single bed sleeping rooms must be 100 square feet.

16-007.03H2b Floor areas for multiple bed sleeping rooms must be 80 square feet per patient with a maximum of 2 beds.

16-007.03H3 New Construction: Sleeping areas in new construction must have at least the following floor areas.

16-007.03H3a Floor areas for single bed sleeping rooms must be 120 square feet.

16-007.03H3b Floor area for apartments or dwellings must have 150 square feet for one patient plus 110 square feet for each additional patient with a maximum of 1 patient in any single bedroom.

16-007.03J Isolation Rooms: The inpatient hospice must have the capability to provide isolation rooms based on infection control risk assessment of the patients.

16-007.03J1 The inpatient hospice must make provisions for isolating patients with infectious diseases

16-007.03J2 In new construction, the inpatient hospice must equip isolation rooms with hand washing and gown changing facilities at the entrance of the room.

16-007.03K Corridors: The inpatient hospice corridors must be wide enough to allow passage and be equipped as needed by the patient with safety and assistive devices to minimize injury. All stairways and ramps must have handrails.

16-007.03L Doors: The inpatient hospice doors must be wide enough to allow passage and be equipped for privacy, safety, and with assistive devices to minimize patient injury

16-007.03L1 All bedroom, toilet, and bathing room doors must provide privacy yet not create seclusion or prohibit staff access for routine or emergency care.

16-007.03L2 In new construction, all patient-used toilet and bathing rooms with less than 50 square feet of clear floor area must not have doors that swing inward.

16-007.03M Outdoor Areas: The inpatient hospice must provide an outdoor area for patient usage. It must be equipped and situated to allow for patient safety and abilities.

16-007.03N Hand Washing Sinks: The inpatient hospice must provide a hand washing facility equipped with sink, disposable towels, and soap dispenser in all examination, treatment, isolation, and procedure rooms.

16-007.03O Privacy: Visual privacy and window curtains must be provided for each patient. In new facilities the curtain layout must totally surround each care and treatment location which will not restrict access to the entrance to the room, lavatory, toilet, or enclosed storage facilities.

16-007.03P Finishes: An inpatient hospice must provide the following special room finishes:

1. Washable room finishes provided in existing isolation rooms, clean workrooms, and food-preparation areas must have smooth, non-absorptive surfaces which are not physically affected by routine housekeeping cleaning solutions and methods. Acoustic lay-in ceilings, if used, must not interfere with infection control. Perforated, tegular, serrated cure, or highly textured tiles are not acceptable; and
2. Scrubbable room finishes provided in new isolation rooms must have smooth, non-absorptive, non-perforated surfaces that are not physically affected by harsh germicidal cleaning solutions and methods.

16-007.04 Building Systems: The inpatient hospice must have building systems that are designed, installed and operated in such a manner as to provide for the safety, comfort, and well being of the patient.

16-007.04A Water and Sewer Systems: The inpatient hospice must have and maintain an accessible, adequate, safe and potable supply of water. Where an authorized public water supply of satisfactory quantity, quality, and pressure is available, the inpatient hospice must be connected to it and its supply used exclusively.

16-007.04A1 The collection, treatment, storage, and distribution potable water system of an inpatient hospice that regularly services twenty-five or more individuals must be constructed, maintained, and operated in accordance with all provisions of the Nebraska Safe Drinking Water Act and Title 179, Regulations Governing Public Water Systems.

16-007.04A2 The collection, treatment, storage, and distribution potable water system of an inpatient hospice that serves less than twenty-five individuals on a regular basis must be maintained and operated as if it were a public water system in accordance with the Regulations Governing Public Water Systems, Title 179 2-002, 3 and 4. The inpatient hospice must report to the Department the result of all tests that indicate the water is in violation of the standards in 179 NAC 2-002 or 3. The inpatient hospice must construct all water wells in accordance with 178 NAC 12, Water Well Construction, Pump Installation, and Water Well Decommissioning Standards.

16-007.04A3 The water distribution system must be protected with anti-siphon

devices, and air-gaps to prevent potable water system and equipment contamination.

16-007.04A4 Continuously circulated filtered and treated water systems must be provided as required for the care and treatment equipment used in the inpatient hospice.

16-007.04A5 Facilities must maintain a sanitary and functioning sewage system.

16-007.04B Hot Water System: The inpatient hospice must maintain hot and cold water to all hand washing and bathing locations. The hot water system must have the capacity to provide continuous hot water at a temperature in a range between 100 and 160 degrees Fahrenheit.

16-007.04C Heating and Cooling Systems: The inpatient hospice must provide a heating and air conditioning system for the comfort of the individual that is capable of maintaining the temperature in patient care and treatment areas as follows:

16-007.04C1 In existing and new facilities, the systems must be capable of producing a temperature of at least 70 degrees Fahrenheit during heating conditions and that does not exceed 85 degrees Fahrenheit during cooling conditions.

16-007.04C2 In new construction, the systems must be capable of producing a temperature of at least 75 degrees Fahrenheit during heating conditions and that does not exceed 80 degrees Fahrenheit during cooling conditions.

16-007.04C3 In new construction, central air distribution and return systems must have the following percent dust spot rated filters:

1. General areas……30+%; and
2. Care, treatment, clean processing areas……..80+% filters.

16-007.04C4 Airflow must move from clean to soiled locations. In new construction, air movement must be designed to reduce the potential of contamination of clean areas.

16-007.04C5 Floors in locations subject to wet cleaning methods or body fluids must not have openings to the heating and cooling system.

16-007.04D Ventilation System: The inpatient hospice must provide exhaust and clean air to prevent the concentrations of contaminants which impair health or cause discomfort to patient and employees.

16-007.04D1 Existing and new facilities must have adequate ventilation.

16-007.04D2 New construction must provide a mechanical exhaust ventilation system for windowless toilets, baths, laundry rooms, housekeeping rooms, kitchens, and similar rooms at ten air changes per hour (ACH).

16-007.04D3 New construction must provide mechanical ventilation system(s) capable of providing ACH as follows:

1. Care and treatment ……5 ACH; and
2. Respiratory isolation……15 ACH.

16-007.04E Electrical System: The inpatient hospice must have an electrical system that has sufficient capacity maintain the care and treatment services that are provided and that properly grounds care and treatment areas.

16-007.04E1 New construction and new facilities must have ground fault circuit interrupters protected outlets in wet areas and within six feet of sinks.

16-007.04E2 All facilities must provide minimum illumination levels as follows:

1. General purposes areas ……5 foot candles;
2. General corridors ……..10 foot candles;
3. Personal care and dining areas ……..20 foot candles;
4. Reading and activity areas ……30 foot candles;
5. Food preparation areas ……40 foot candles;
6. Hazardous work surfaces ……50 foot candles;
7. Treatment and care locations ……70 foot candles;
8. Examination task lighting ……100 foot candles;
9. Reduced night lighting in bedrooms where nursing services are provided, corridors, and patient-used toilet and bathing rooms.

Light levels are measures at 30 inches above the floor in multiple areas in the room being evaluated and the readings are averaged.

16-007.04F Essential Power System: The inpatient hospice must have an emergency power generator for all care and treatment locations that involve electrical life support equipment.

16-007.04F1 Existing and new facilities must maintain emergency power for essential care and treatment equipment and lighting, medical gas systems, and nurse call systems.

16-007.04F2 New construction must maintain emergency power for essential care and treatment equipment and lighting, medical gas systems, ventilation and heating systems, and nurse call systems.

16-007.04F3 Facilities with electrical life support equipment must maintain essential power systems that must be equipped with an on-site fuel source. The minimum fuel source capacity must allow for non-interrupted system operation.

16-007.04G Call Systems: Call systems must be operable from patient beds and patient-used toilet and bathing areas. The system must transmit a receivable (visual, audible,

tactile or other) signal to on-duty staff which readily notifies and directs the staff to the location where the call was activated.

16-007.04G1 In new construction, the call system must have dedicated emergency call devices which allows activation by a patient from each treatment room and cubicle and toilet and bathing fixtures.

16-007.04G2 In locations where patients are unable to activate the call, a dedicated staff assist or code call device must promptly summon other staff for assistance. Wireless call systems must have dedicated devices in all patient occupied central toilet and bathing locations to promptly summon staff to the call location.

16-007.05 Waivers: The Department may waive any provision of these regulations relating to construction or physical plant requirements of a licensed health care facility or health care service upon proof by the licensee satisfactory to the department (a) that such waiver would not unduly jeopardize the health, safety, or welfare of the persons residing in or served by the hospice, (b) that such provision would create an unreasonable hardship for the hospice and (c) that such waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of Medicare or Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

16-007.05A Unreasonable Hardship: In evaluating the issue of unreasonable hardship, the Department will consider the following:

1. The estimated cost of the modification or installation;
2. The extent and duration of the disruption of the normal use of areas used by persons residing in or served by the hospice resulting from construction work;
3. The estimated period over which the cost would be recovered through reduced insurance premiums and increase reimbursement related to costs;
4. The availability of financing; and
5. The remaining useful life of the building.

16-007.05B Waiver Terms and Conditions: Any such waiver may be granted under such terms and conditions and for such period of time as are applicable and appropriate to the waiver. Terms and conditions and period of waiver include but are not limited to:

1. Waivers that are granted to meet the special needs of a patients remain in effect as long as required by the patient.
2. Waivers may be granted for a period of time that ends at the time the conditions of approval no longer exist.
3. Waivers may be granted to permit a inpatient hospice time to come into compliance with the physical plant standards for a period of one year. Upon submission of proof of ongoing progress, the waiver may be continued for an additional year.
4. An applicant or licensee must submit any request for waiver of any construction or physical plant requirements specified in 175 NAC 16-007.

16-007.05C Denial of Waiver: If the Department denies a inpatient hospice's request for waiver, the inpatient hospice may request an administrative hearing as provided in the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA.

16-008 DENIAL, REFUSAL TO RENEW, OR DISCIPLINARY ACTION

16-008.01 Grounds for Denial, Refusal to Renew, or Disciplinary Action

16-008.01A The Department may deny or refuse to renew a hospice license for failure to meet the requirements for licensure, including:

1. Failing an inspection specified in 175 NAC 16-005;
2. Having had a license revoked within the two-year period preceding an application; or
3. Any of the grounds specified in 175 NAC 16-008.01B.

16-008.01B The Department may take disciplinary action against a hospice license for any of the following grounds:

1. Violation of any of the provisions of the Health Care Facility Licensure Act or 175 NAC 16;
2. Committing, permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of a hospice patient or employee;
4. A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the hospice;
5. Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the hospice for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the departments;
6. Discrimination or retaliation against a hospice patient or employee who has submitted a complaint or information to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;
7. Discrimination or retaliation against a hospice patient or employee who has presented a grievance or information to the office of the state long-term care ombudsman;
8. Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the hospice for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in 15 NAC 3;
9. Violation of the Emergency Drug Box Act;
10. Failure to file a report of payment made or action taken due to a liability claim or an alleged violation, as required by Neb. Rev. Stat. § 71-168.02;

11. Violation of the Medication Aide Act; or
12. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. § 28-372 and 28-711.

16-008.02 Procedures for Denial, Refusal to Renew, or Disciplinary Action

16-008.02A If the Department determines to deny, refuse renewal of, or take disciplinary action against a license, the Department will send a notice to the applicant or licensee by certified mail to the last address shown on its records. The notice will state the determination, including a specific description of the nature of the violation and the statute or regulation violated, and the type of disciplinary action pending.

16-008.02B The denial, refusal to renew, or disciplinary action becomes final 15 days after the mailing of the notice unless the applicant or licensee, within the 15-day period, makes a written request to the Director for an:

1. Informal conference with a representative peer review organization;
2. Informal conference with the Department; or
3. Administrative hearing.

16-008.02C Informal Conference

16-008.02C1 At the request of the applicant or licensee, the peer review organization or the Department will hold an informal conference within 30 days of the receipt of the request. The conference may be held in person, or by other means, at the request of the applicant or licensee.

If the pending action is based on an inspection, the Department's representative at the informal conference will not be the individual who did the inspection.

16-008.02C2 Within 20 working days of the conference, the peer review organization or the Department representative will ~~state~~ report in writing to the Department the conclusion regarding whether to ~~the specific reasons for~~ affirm~~ing~~, modify~~ing~~, or dismiss~~ing~~ the notice and the specific reasons for the conclusion, and provide a copy of the report to the Director and the applicant or licensee. ~~The representative will send a copy of the statement to the applicant or licensee by certified mail to the last address shown in the Department's records and a copy to the Director.~~

16-008.02C3 If the applicant or licensee successfully demonstrates at the informal conference that the deficiencies should not have been cited in the notice, the Department will remove the deficiencies from the notice and rescind any sanction imposed solely as a result of those cited deficiencies.

16-008.02C4 Within ten working days after receiving the report under 16-008.02C2, the Department will consider the report and affirm, modify, or dismiss the notice and state the specific reasons for the decision, including, if applicable, the specific reasons for not adopting the conclusion of the peer review organization or the Department representative as stated in the report. The Department will provide the applicant or licensee with a copy of the decision by certified mail to the last address shown in the Department's records.

16-008.02C~~4~~5 If the applicant or licensee contests the affirmed or modified notice, the applicant or licensee must submit a request for hearing in writing to the Director within five working days after receipt of the statement.

16-008.02C6 The Department will collect a fee from any applicant or licensee requesting an informal conference with a representative peer review organization to cover all costs and expenses associated with the conference.

16-008.02D Administrative Hearing

16-008.02D1 When an applicant or a licensee contests the notice and requests a hearing, the Department will hold a hearing in accordance with the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who must be allowed fees at the rate prescribed by Neb. Rev. Stat. §§ 33-139 and 33-139.01.

16-008.02D2 On the basis of evidence presented at the hearing, the Director will affirm, modify, or set aside the determination. The Director's decision will:

1. Be in writing;
2. Be sent by registered or certified mail to the applicant or licensee; and
3. Become final 30 days after mailing unless the applicant or licensee, within the 30-day period, appeals the decision.

16-008.02D3 An applicant or a licensee's appeal of the Director's decision must be in accordance with the APA.

16-008.03 Types of Disciplinary Action

16-008.03A The Department may impose any one or a combination of the following types of disciplinary action against the license:

1. A fine not to exceed $10,000 per violation;
2. A prohibition on admissions or re-admissions, a limitation on enrollment, or a prohibition or limitation on the provision of care or treatment;

3. A period of probation not to exceed two years during which the hospice may continue to operate under terms and conditions fixed by the order of probation;
4. A period of suspension not to exceed three years during which the hospice may not operate; and
5. Revocation which is a permanent termination of the license. The licensee may not apply for a license for a minimum of two years after the effective date of the revocation.

16-008.03B In determining the type of disciplinary action to impose, the Department will consider:

1. The gravity of the violation, including the probability that death or serious physical or mental harm will result;
2. The severity of the actual or potential harm;
3. The extent to which the provisions of applicable statutes, rules, and regulations were violated;
4. The reasonableness of the diligence exercised by the health care facility or health care service in identifying or correcting the violation;
5. Any previous violations committed by the hospice; and
6. The financial benefit to the hospice of committing or continuing the violation.

16-008.03C If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action as described in 175 NAC 16-008.03A.

16-008.03D Temporary Suspension or Temporary Limitation: If the Department determines that hospice patients are in imminent danger of death or serious physical harm, the Director may:

1. Temporarily suspend or temporarily limit the hospice license, effective when the order is served upon the inpatient hospice. If the licensee is not involved in the daily operation of the hospice, the Department will mail a copy of the order to the licensee, or if the licensee is a corporation, to the corporation's registered agent;
2. Order the immediate removal of patients; and
3. Order the temporary closure of the hospice pending further action by the Department.

The Department will simultaneously institute proceedings for revocation, suspension, or limitation of the license, and will conduct an administrative hearing no later than ten days after the date of the temporary suspension or temporary limitation.

16-008.03D1 The Department will hold a hearing in accordance with the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses,

who must be allowed fees at the rate prescribed by Neb. Rev. Stat. §§ 33-139 and 33-139.01.

16-008.03D2 If a written request for continuance of the hearing is made by the licensee, the Department will grant a continuance, which may not exceed 30 days.

16-008.03D3 On the basis of evidence presented at the hearing, the Director will:

1. Order the revocation, suspension, or limitation of the license; or
2. Set aside the temporary suspension or temporary limitation.

If the Director does not reach a decision within 90 days of the date of the temporary suspension or temporary limitation, the temporary suspension or temporary limitation will expire.

16-008.03D4 Any appeal of the Department's decision after hearing must be in accordance with the APA..

16-008.04 Reinstatement from Disciplinary Probation, Suspension, and Re-licensure Following Revocation

16-008.04A Reinstatement at the End of Probation or Suspension

16-008.04A1 Reinstatement at the End of Probation: A license may be reinstated at the end of probation after the successful completion of an inspection, if the Department determines an inspection is warranted.

16-008.04A2 Reinstatement at the End of Suspension: A license may be reinstated at the end of suspension following:

1. Submission of an application to the Department for renewal that conforms to the requirements of 175 NAC 16-003.02;
2. Payment of the renewal fee as specified in 175 NAC 16-004.10; and
3. Successful completion of an inspection.

The Department will reinstate the license when it finds, based on an inspection as provided for in 175 NAC 16-005, that the health care facility or health care service agency is in compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 16-006 and 16-007.

16-008.04B Reinstatement Prior to Completion of Probation or Suspension

16-008.04B1 Reinstatement Prior to the Completion of Probation: A licensee may request reinstatement prior to the completion of probation and must meet the following conditions:

1. Submit a petition to the Department stating:

a. The reasons why the license should be reinstated prior to the probation completion date; and
b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the probation; and

2. Successfully complete any inspection the Department determines necessary.

16-008.04B2 Reinstatement Prior to Completion of Suspension: A licensee may request reinstatement prior to the completion of suspension and must meet the following conditions:

1. Submit a petition to the Department stating:
   a. The reasons why the license should be reinstated prior to the suspension completion date; and
   b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the suspension;
2. Submit a written renewal application to the Department as specified in 175 NAC 16-003.02;
3. Pay the renewal fee as specified in 175 NAC 16-004.10; and
4. Successfully complete an inspection.

16-008.04B3 The Director will consider the petition submitted and the results of any inspection or investigation conducted by the Department and:

1 Grant full reinstatement of the license;
2. Modify the probation or suspension; or
3. Deny the petition for reinstatement.

16-008.04B4 The Director's decision is final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within the 30-day period. The requested hearing must be held according to rules and regulations of the Department for administrative hearings in contested cases.

16-008.04C Re-Licensure After Revocation: A hospice license that has been revoked is not eligible for re-licensure until two years after the date of revocation.

16-008.04C1 A hospice seeking re-licensure must apply for an initial license and meet the requirements for initial licensure in 175 NAC 16-003.01.

16-008.04C2 The Department will process the application for relicensure in the same manner as specified in 175 NAC 16-003.01.

Approved by the Attorney General on
Approved by the Governor on
Filed by the Secretary of State on
Effective Date: