

# House Research Act Summary

**CHAPTER:** 252

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**TOPIC:** Licensure of hospice providers

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## Overview

Under current law hospice providers are licensed by the commissioner of health as a specific class of home care provider licensure. This act separates hospice provider licensure from home care provider licensure, establishes some new licensure requirements for hospice providers, and authorizes the commissioner of health to adopt rules on the licensure of hospice providers.

- 1 **Home care and hospice provider.** Amends § 13.381, subd. 10. In the Data Practices Act, modifies cross-references to sections classifying data on home care providers and hospice providers.
- 2 **Applicability.** Amends § 144A.43, subd. 1. In a subdivision listing the sections to which home care provider definitions apply, changes a cross-reference (section 144A.48, the section stricken in this section, is being repealed in this act).
- 3-4 Amends § 144A.43, subds. 3 and 4. Amends the definitions of home care service and home care provider to specify that the terms do not include a hospice program.
- 5-12 In eight sections that apply to home care providers, changes cross-references (section 144A.48, the section stricken in these sections, is being repealed in this act).
- 13 **Definitions.** Adds § 144A.75. Defines terms for a series of new sections governing hospice providers. The following or similar terms defined here are the same as or similar to terms defined in the current hospice provider law: commissioner, hospice patient, hospice patient's family, hospice services/hospice care, interdisciplinary team, residential hospice facility, and volunteer services. The following terms defined here differ from definitions of the same terms in the current hospice provider law, or are not defined in the current hospice provider law: core services, counseling services, hospice provider, medical director, other services, and palliative care.
- 14 **Hospice bill of rights.** Adds § 144A.751. Establishes a bill of rights for hospice patients,

describes how these rights are to be interpreted and enforced, and describes when these rights must be disclosed to hospice patients. This section is similar to a section in current law that applies to hospice providers, except that this section also gives hospice patients the right to have pain and symptoms managed to the patient's desired comfort level, and this section lists circumstances in which patients need not be given 10 days' advance notice that a provider is terminating services.

**Subd. 1. Statement of rights.** Lists the rights that hospice patients and their families have.

**Subd. 2. Interpretation and enforcement of rights.** Specifies that these rights are established for hospice patients, prohibits a patient from having to surrender these rights to receive care, specifies who may enforce these rights, and states that the above statement of rights does not diminish a patient's other rights and liberties.

**Subd. 3. Disclosure.** Requires a copy of the bill of rights to be given to a hospice patient when hospice care is begun and lists additional information that must be disclosed with the bill of rights.

15 **Regulation of hospice care.** Adds § 144A.752. Authorizes the commissioner to adopt rules regulating hospice providers, lists regulatory functions of the commissioner of health, specifies how regulation of these providers relates to the regulation of other specified providers, and specifies that the state cannot condition the receipt of Medical Assistance payments on having federal Medicare certification.

**Subd. 1. Rules.** Authorizes the commissioner to adopt rules on the listed topics to regulate hospice providers. This subdivision is similar to a subdivision in current law that applies to hospice providers, except that this subdivision does not include provisions in current law requiring rules on supervision of services, the establishment of different classes of licenses, and operating procedures to implement the bill of rights.

**Subd. 2. Regulatory functions.** Lists activities the commissioner of health must undertake to regulate hospice providers. This subdivision is similar to a subdivision in current law that applies to hospice providers, except that this subdivision also requires the commissioner to comply with all applicable laws when regulating hospice providers.

**Subd. 3. Relation to other regulatory programs.** In regulating hospice providers, prohibits the commissioner from (1) duplicating requirements of other regulatory programs; (2) imposing additional training or education requirements on providers except as necessary to address unique hospice problems; and (3) requiring Medicare-certified hospice providers to comply with a state rule if the provider must comply with an equivalent federal requirement. This subdivision is similar to a subdivision in existing law that applies to hospice providers.

**Subd. 4. Medicaid reimbursement.** Prohibits certification by the federal Medicare program from being a requirement for a hospice provider to receive Medicaid payment for room and board services delivered in a residential hospice facility. There is no corresponding subdivision in existing law that applies to hospice providers.

16 **Licensure.** Adds § 144A.753. Requires hospice providers to be licensed to operate in the state and to use protected titles, and establishes licensure requirements and requirements for applying for licensure.

**Subd. 1. License required; application.** Requires hospice providers to be licensed by the commissioner to operate in the state. Establishes time frames within which the commissioner must acknowledge receipt of and approve applications, and provides that an application not acted on within 90 days of submission is deemed granted. Requires all applicants for licensure or license renewal to also send an application or renewal fee, and lists the fees that must be paid. This subdivision is similar to a subdivision in existing law, except that the fees are currently set

in rule, not statute.

**Subd. 2. Licensing requirements.** To receive a license, requires a hospice provider to satisfy the listed criteria relating to providing centrally coordinated core services, providing medical components and palliative components of hospice care under the direction of licensed physicians, the use of an interdisciplinary team, the provision of care 24 hours a day and seven days a week, quality assurance, volunteer services, supportive services and bereavement counseling, and inpatient services. This subdivision is similar to a subdivision in existing law that applies to hospice providers, except this subdivision also establishes requirements for service agreements and requires hospice providers to make available other services besides core services, that can be provided by employees or contracted staff.

**Subd. 3. Nomenclature.** Prohibits hospice providers from operating in the state or using certain terms (hospice, hospice care, hospice care program, or hospice provider) without being licensed, except that St. Anne Hospice may continue to use the name hospice. This subdivision is similar to a provision in existing law that applies to hospice providers, except this subdivision lists more protected titles than in current law and allows St. Anne Hospice to continue to use the name hospice.

17 **Enforcement.** Adds § 144A.754. Lists circumstances under which the commissioner may refuse to grant or renew a hospice provider license or may suspend or revoke a license and procedures for doing so. Also allows the commissioner to seek injunctive relief against hospice providers and issue subpoenas pursuant to an investigation. Establishes time limits for appeals. Requires background studies to be conducted of applicants for licensure or license renewal as a hospice provider. This section is similar to several subdivisions in existing law that apply to hospice providers.

**Subd. 1. Enforcement.** Allows the commissioner to refuse to grant or renew a license or to suspend or revoke a license for violating hospice statutes or rules or for conduct detrimental to a patient's welfare. Authorizes temporarily suspension of a license if a patient's health or safety is in imminent danger, prohibits applying for a license for five years after lapse or revocation of a license, establishes time frames for enforcement actions, and specifies who are owners or managerial officials of a hospice provider.

**Subd. 2. Injunctive relief.** Allows the commissioner to seek injunctive relief to stop a hospice provider from illegally engaging in hospice provider activities, and specifies when the court may grant a temporary restraining order.

**Subd. 3. Subpoena.** When investigating hospice providers, allows the commissioner issue subpoenas, compel the attendance of witnesses, and compel the production of materials. If a person fails to comply with an order or subpoena, allows the commissioner to apply to district court for an order to compel compliance. Provides for the service of subpoenas, and allows costs to be paid to persons under subpoena.

**Subd. 4. Time limits for appeals.** Requires hospice providers to appeal certain orders by the commissioner by requesting a hearing within 15 days of receiving notice of the commissioner's action.

**Subd. 5. Prior criminal convictions.** Before the commissioner issues or renews a hospice provider license, requires the provider's owner or manager to complete a background study, and prohibits any person from managing, operating, or controlling a hospice provider if the person was disqualified under the human services licensing act. Specifies who is subject to the background study requirement. Also requires background studies of hospice provider employees, contractors, and volunteers. Classifies background study data as private data. Gives a hospice provider immunity from civil liability and from liability for unemployment benefits if the provider terminates an employee in good faith reliance on the results of a background study.

- 18 **Information and referral services.** Adds § 144A.755. Requires the commissioner to ensure that information and referral services about hospice care are available in all regions of the state. Lists information the commissioner must collect and make available and information that may be made available. This section is similar to a section in existing law that applies to hospice providers.
- 19 **Penalty.** Adds § 144A.756. If a hospice provider operates without a license, makes a person involved in the management, operation, or control of the hospice provider guilty of a misdemeanor. This section is similar to a section in existing law that applies to hospice providers.
- 20 **Health care facility.** Amends § 145C.01, subd. 7. Amends the definition of health care facility in the chapter on health care directives, to separately list hospice providers since this bill removes them from the definition of home care provider.
- 21 **Registration.** Amends § 157.17, subd. 2. In a provision listing the personnel to which criminal background check requirements apply, specifies that the criminal background check provisions apply to personnel that provide hospice care (listing these personnel separately in addition to listing home care service providers, since this bill removes hospice providers from the definition of home care provider).
- 22 **Definitions.** Amends § 609.7495, subd. 1. Makes conforming changes.
- 23 **Facility.** Amends § 626.5572, subd. 6. Amends the definition of facility for the section on reporting maltreatment of vulnerable adults, to separately list hospice providers since this bill removes them from the definition of home care providers.
- 24 **Effective date.** Makes section 15, subdivision 1 (authorizing rulemaking) effective the day following final enactment, and makes the rest of sections 1 to 23 effective upon adoption of licensure rules.
- 25 **Repealer.** Repeals § 144A.48 (licensure of hospice programs), effective upon adoption of licensure rules for hospice providers.