

# Statutes of the Department of Health

## DIVISION 30-DIVISION OF HEALTH STANDARDS AND LICENSURE

### CHAPTER 30-HOSPICES

#### Bureau of Home Care and Rehabilitative Standards

##### 197.250 Definitions.--

As used in sections 197.250 to 197.280, the following terms mean:

- (1) "Abuse", any physical, emotional, or sexual maltreatment;
  - (2) "Branch office", a location or site from which a hospice provides services within a portion of the total geographic area served by the parent agency where the area served is contiguous to or part of the area served by the whole agency;
  - (3) "Council", the state hospice advisory council created in section 197.272;
  - (4) "Department", the department of health;
  - (5) "Hospice", a coordinated program of palliative and supportive services provided in both home and inpatient settings which provides for physical, psychological, social and spiritual care for dying persons and their families where services are provided by a medically directed interdisciplinary team of professionals and volunteers and bereavement care is available to the family following the death of the person;
  - (6) "Neglect", the failure to provide, or arrange for the provisions of, the services which are reasonable and necessary to maintain the physical and mental health of a client when such failure presents either an imminent danger to the health, safety or welfare of the client or a substantial probability that death or serious physical harm would result. Such failure shall not constitute neglect if the failure results from circumstances which:
    - (a) Are beyond the control of the person or entity failing to provide such services; and
    - (b) Render it impossible for the person or entity to provide such services and to arrange for the provision of such services;
  - (7) "Parent agency", the agency that develops and maintains administrative control of subunits and branch office, and also maintains supervisory control of branch offices;
  - (8) "Physician", a person licensed by the state board of registration for the healing arts under the provisions of chapter 334, RSMo, to practice in this state as a physician and surgeon;
  - (9) "Residence", the client's actual dwelling place, including institutional dwelling places.
- (L. 1992 H.B. 899)

##### 197.252 Certificate required-standards.

1. No person or other entity shall provide hospice care, or hold himself out as a hospice, unless such person has a certificate pursuant to sections 197.250 to 197.280.
2. All skilled care provided by a hospice shall be provided in accordance with professionally accepted standards. (L. 1992 H.B. 899)

##### 197.254 Application for certificate-fee, how determined-temporary permit-survey and approval-posting of certificate-branch offices.

1. Any person or other entity desiring to provide hospice care shall file, with the department of health, a written application for a certificate on a form to be prescribed by the director of the department. Such application shall be accompanied by a fee to be determined by the department of health with input from the hospice advisory council. The fee will be based on a sliding scale with a minimum of two hundred fifty dollars, maximum seven hundred fifty dollars. Any person or entity which exacts no charge shall be exempt from the provisions of sections 197.250 to 197.280.
2. The department may issue a temporary operating permit to any hospice which has filed an application, pending the approval of such application. Any temporary operating permit or certificate issued pursuant to sections 197.250 to 197.280 shall be issued only for the person or entity listed on the application.
3. Upon the receipt of the application and the fee, if one is required, the department shall conduct a survey to evaluate the quality of services rendered by an applicant for certification. The department shall approve the application of and issue a certificate to any applicant which is in compliance with all the provisions of sections 197.250 to 197.280 and the rules made pursuant thereto, and which passes the department's survey.
4. The hospice shall post the temporary operating permit or certificate under which it is operating in a conspicuous place in its main office.
5. Any certificate issued pursuant to this section shall be subject to renewal as provided in section 197.256.
6. Any pharmacy operated by a licensed hospice shall be licensed and inspected by the board of pharmacy as provided in chapter 338, RSMo.
7. Branch offices shall be located sufficiently close to share administration

and supervision and services in a manner that renders it unnecessary for it to be separately certificated, except as otherwise provided in sections 197.250 to 197.280. (L. 1992 H.B. 899 § 3, A.L. 1996 S.B. 916)

##### 197.256 Renewal, when required, form, fee-survey, approval, renewal of certificate-certificate not renewed is void-statistical reports required.--

1. A hospice shall apply for renewal of its certificate not less than once every twelve months. In addition, such hospice shall apply for renewal not less than thirty days before any change in ownership or management of the hospice. Such application shall be accompanied by the appropriate fee as set forth in subsection 1 of section 197.254. Application shall be made upon a form prescribed by the department.
2. Upon receipt of the application and fee, if a fee is required, the department shall conduct a survey to evaluate the quality of services rendered by an applicant for renewal. The department shall approve the application and renew the certificate of any applicant which is in compliance with section 197.250 to 197.280 and the rules made pursuant thereto and which passes the department's survey.
3. The certificate of any hospice which has not been renewed as required by this section shall be void.
4. The department shall require all certificated hospices to submit statistical reports. The content, format, and frequency of such reports shall be prescribed by the department. (L. 1992 H.B. 899)

##### 197.258 Department authorized to make surveys, when required-visiting of home-survey of other governmental agency, requirements-reciprocal agreements with bordering states-maintenance of branch office in Missouri required, when.--

In addition to any survey pursuant to sections 197.250 to 197.280, the department may make such surveys as it deems necessary during normal business hours. The department shall survey every hospice not less than once annually. The hospice shall permit the department's representatives to enter upon any of its business premises during normal business hours for the purpose of a survey.

2. In lieu of any survey required by sections 197.250 to 197.280, the department may accept in whole or in part the survey of any state or federal agency, or of any professional accrediting agency, if such survey:

(1) Is comparable in scope and method to the department's surveys; and  
(2) Is conducted within one year of initial application for or renewal of the hospice's certificate.

4. The department shall not be required to survey any hospice providing service to Missouri residents through an office located in a state bordering Missouri if such bordering state has a reciprocal agreement with Missouri on hospice certification and the area served in Missouri by the agency is contiguous to the area served in the bordering state.

5. Any hospice which has its parent office in a state which does not have a reciprocal agreement with Missouri on hospice certification shall maintain a branch office in Missouri. Such branch office shall maintain all records required by the department for survey and shall be certificated as a hospice.  
(L. 1992 H.B. 899)

197.260 Report of compliance, service-disclosure of reports, confidentiality of information.--

1. Upon the completion of a survey, the department shall prepare a report of the department's findings with respect to whether the hospice is in compliance or out of compliance with the provisions of sections 197.250 to 197.280 and the rules made pursuant thereto. The report shall contain a list of deficiencies found and cite each statute or rule with which the hospice is found to be out of compliance. A copy of the report shall be served upon the hospice not later than fifteen working days after the survey is completed. The hospice shall inform the department of the time necessary for compliance and shall file a plan of correction with the department within ten days of the receipt of the deficiency list. As used in this subsection, "days" shall exclude weekends and state holidays.

2. The department of health may disclose to the public final reports of the inspections or surveys showing the standards by which inspections or surveys were conducted, whether such standards were met, and, if such standards were not met, in what manner they were not met and how the facility proposed to correct or did correct the deficiencies. All other information whatsoever, including information and reports submitted to the department of health by governmental agencies and recognized accrediting organizations in whole or in part for certification purposes

pursuant to sections 197.250 to 197.280, collected during such inspections or surveys or information which is derived as a result of such inspection or surveys shall be confidential and shall be disclosed only to the person or organization which is the subject of the inspection or survey or a representative thereof.  
(L. 1992 H.B. 899)

197.262 Denial of application, grounds-review.--

1. The department may deny any hospice application for certification or renewal or may suspend or revoke such agency's certificate or invoke intermediate sanctions, if the hospice:

(1) Is out of compliance with any of the provisions of sections 197.250 to 197.280 and the rules made pursuant thereto; or  
(2) Obtained its certificate through misrepresentation of, or concealment of, any fact.

2. Any hospice may seek a review of any denial, suspension, or revocation of its certification or renewal before the administrative hearing commission, as provided in chapter 621, RSMo.  
(L. 1992 H.B. 899)

197.264 Client's bill of rights, contents-discharge planning, contents.--

1. The hospice shall submit to the department for approval a bill of rights that shall be equally applicable to all clients. This bill of rights shall at least include the client's right to be fully informed about his care alternatives, including choice of service providers, charges and payment resources, the right to be a full participant in the development of his plan of care and the right to be treated with dignity and respect. The hospice shall provide each client with a copy of its bill of rights. The hospice shall ensure that each of its clients can fully receive each provision of its approved bill of rights.

2. Discharge planning shall be an ongoing responsibility of the agency. Appropriate discharge activity shall include reasonable notice of discharge to the client or responsible party or both.  
(L. 1992 H.B. 899)

197.266 Abuse and neglect, penalty.--

Any hospice or employee of a hospice who knowingly abuses or neglects any client, or misappropriates the property of any client, shall be guilty of a class D felony.  
(L. 1992 H.B. 899)

197.268 Complaints, grounds, review.--

The department shall receive, process, and dispose of complaints against a

hospice. Any person may complain of any suspected abuse, neglect, or misappropriation by a hospice or employee of a hospice. The department shall make rules providing for the processing of such complaints.  
(L. 1992 H.B. 899)

197.270 Promulgation of rules, procedure.--

The department shall promulgate rules as provided in section 197.080 and chapter 536, RSMo, to effectuate the provisions of sections 197.250 to 197.280.  
(L. 1992 H.B. 899, A.L. 1993 S.B. 52)

197.272 State hospice advisory council established-members, qualifications-appointment, terms, reappointment-compensation-duties.--

1. There is hereby established a "State Hospice Advisory Council" which shall guide, advise and make recommendations to the department of health.

2. Members of the council shall be United States citizens and residents of the state for a period of not less than one year.

The council shall consist of five members who have experience with hospices. Of the members appointed to the council at least one shall be employed by or associated with each of the following:

(1) A home health agency-based hospice;  
(2) A hospital-based hospice; and  
(3) A hospice based in a rural area.

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for five years. Before a member's term expires, the director of the department shall appoint a successor to assume his duties on the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the council shall annually designate one member to serve as chairman and another to serve as secretary.

4. No member of the council who has served two full terms may be reappointed to the council until at least one year after the expiration of his most recent full term of office.

5. Members of the council shall receive no compensation for their service, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

6. The council shall advise and consult with the department of health in carrying out the administration of sections 197.250 to 197.280, and shall:

(1) Consult and advise with the department in matters of policy affecting administration of sections 197.250 to 197.280, and in the development of rules,

regulations and standards provided for under sections 197.250 to 197.280;  
(2) Review and make recommendations with respect to rules, regulations and standards authorized under sections 197.250 to 197.280 prior to their promulgation by the department of health.  
(L. 1992 H. B. 899)

197.274 Action to enjoin violations, where filed.--

The department may file an action to enjoin any violation of sections 197.250 to 197.280, or of the rules made pursuant thereto, or both. Such action shall be filed in the circuit court of the county in which such hospice has its parent office, or in which such violation is alleged to have occurred.  
(L. 1992 H.B. 899)

197.276 Violations, penalty.--

Any person who violates any provision of sections 197.250 to 197.280 shall be guilty of a class A misdemeanor, except as otherwise provided in section 197.266.  
(L. 1992 H.B. 899)

197.278 Department responsibility for inspection and certification.--

Any provision of chapter 198, RSMo, to the contrary notwithstanding, the department shall have sole authority and responsibility for inspection and certification of hospices in this state, including but not limited to, the physical facilities.  
(L. 1992 H.B. 899)

197.280 Order authorizing entry for survey, grounds for.--

Whenever the department has reasonable grounds to believe that a hospice required to be certificated under sections 197.250 to 197.280 is operating without a certificate, and the department is not permitted access to survey the hospice, or when a certificated hospice refuses to permit access to the department to survey the hospice, the department shall apply to the circuit court of the county in which the premises are located for an order authorizing entry for such survey. The court shall issue the order if it finds that a certificated hospice has refused to permit the department access to survey the hospice  
(L. 1992 H.B. 899)