

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

May 17, 2023
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level
Meadowlark Conference Room
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 175, Chapter 16 of the Nebraska Administrative Code (NAC) – *Hospice Services*. The proposed regulations will update requirements to criminal background and registry checks for prospective employees; update requirements for standards of operation, care, and services; and modify general requirements. Other proposed changes include removing duplicative statutory language and any repetitive language found in 175 NAC 1 from the regulations; updating definitions, terminology, and formatting; and restructuring the regulatory chapter.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments in person or by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 175	Prepared by: Pam Kerns
Chapter: 16	Date prepared: 3/10/2023
Subject: Hospice Services	Telephone: 402 471-3651

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 16 HOSPICE SERVICES

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EFFECTIVE ~~NEBRASKA DEPARTMENT OF~~ 175 NAC 16
MAY 1, 2010 ~~HEALTH AND HUMAN SERVICES~~ ~~HOSPICE~~

DRAFT NEBRASKA DEPARTMENT OF
03-10-2023 HEALTH AND HUMAN SERVICES 175 NAC 16

TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 16 HOSPICE SERVICES

~~16-001. SCOPE AND AUTHORITY.:~~ These regulations govern ~~licensure~~ licensing of a hospice or hospice services ~~under. The regulations are authorized by and implement~~ the Health Care Facility Licensure Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 71-401 to 71-~~462~~475.

~~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. Definitions set out in the Health Care Facility Licensure Act, 175 Nebraska Administrative code (NAC) 1, and the following apply to this chapter.~~

~~002.01 ABUSE. Abuse means a~~ 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 consumer.

~~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.~~

002.02 ADVANCE DIRECTIVES. ~~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.~~

002.03 APARTMENT. ~~Apartment means a 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. The attending physician has primary responsibility for the patient's care and treatment.~~

002.04 BASIC THERAPEUTIC CARE. ~~Basic therapeutic care~~ Basic therapeutic care has the meaning found in Neb. Rev. Stat. § 71-6602. ~~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.~~

002.05 BATHING SERVICES. ~~Assisting an individual to perform bathing activities including, but not limited to, performing a sponge bath, a bed bath, a tub bath, or a shower. This includes, but is not limited to, assisting an individual into and out of the tub bath or shower.~~

002.06 BEREAVEMENT COUNSELING. ~~Bereavement counseling means e~~Counseling services provided to the ~~individual consumer~~ and ~~his or her the consumer's~~ family prior to the ~~patient's consumer's~~ death and to the family after the ~~individual's consumer's~~ death.

002.07 BEREAVEMENT SERVICES. ~~Bereavement services means s~~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 consumer~~.

~~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.~~

~~002.08 CAREGIVER. A caregiver has the same meaning as caretaker found in Neb. Rev. Stat. § 71-6721. Caregiver means any person acting as an agent on behalf of a patient or any person aiding and assisting a patient.~~

~~002.09 CERTIFIED SOCIAL WORKER. 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.~~

~~002.10 CHEMICAL RESTRAINT. A psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms. Chemical restraint means a drug or medication when it is used as a restraint to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.~~

~~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.~~

~~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.~~

~~002.11 DEVICE. 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 Public Health of the Division of Public Health.~~

~~Drug means substances as defined in Neb. Rev. Stat. § 38-2819.~~

002.12 DWELLING. Dwelling means A 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.

002.13 EMPLOYEE. Employee An employee, for the purpose of this chapter, is 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.~~

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

002.15 FOOD CODE. Food code means Tthe 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 in the food code.

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

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

002.16 GEOGRAPHIC AREA SERVED. Includes all counties pre-approved by the Department where the hospice can provide hospice care, treatment and services. Counties must be contiguous with the county where the parent hospice is located and travel distance between the county seat for the parent hospice to the county seat for all Department-approved counties must not exceed 150 miles.

~~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.~~

002.17 HEALTH CARE. Health care means aAny 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".)~~

002.18 HOME. ~~The consumer's permanent or temporary residence.~~

~~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.~~

002.19 HOME HEALTH AIDE. ~~Home health aide has the meaning found in Neb. Rev. Stat. § 71-6602. 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.~~

002.20 HOME HEALTH AIDE SERVICES. ~~The use of a trained, supervised paraprofessional to provide one or more of the following: personal care, assistance with activities of daily living, or basic therapeutic care, to consumers of a hospice or hospice service.~~

002.21 HOMEMAKER. ~~Homemaker means~~ A 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.~~

002.22 HOSPICE INTERDISCIPLINARY TEAM. ~~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, and spiritual, and economic needs which are experienced during the final stages of illness, dying, and bereavement.

002.23 HOSPICE CONSUMER. ~~Hospice patient means~~ A a patient consumer who is diagnosed as terminally ill with a medical prognosis that the consumer's ~~his or her~~ life expectancy is six 6 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.~~

002.24 INPATIENT. ~~Inpatient means a~~ A person who receives, or is to receive, 24-hour care ~~or is to receive care, treatment, or services~~ and is admitted to the hospital or inpatient facility by a physician.

002.25 INPATIENT HOSPICE FACILITY. A facility in which the hospice provides inpatient care, treatment, or services directly for respite and general inpatient care.

~~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 Credentialing Act and who holds a current license issued by the Department pursuant to Neb. Rev. Stat. § 38-1801 to 38-1816.~~

~~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. §§ 38-2201 to 38-2236 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.~~

002.26 MEDICAL DIRECTOR. ~~Medical director means~~ A a hospice employee or contracted ~~person~~ individual who is a doctor of medicine or osteopathy who is responsible for the overall coordination of medical care, treatment and services provided by ~~in~~ the hospice.

002.27 MEDICAL PRACTITIONER. ~~Medical practitioner means a~~ Any licensed physician, osteopathic physician, dentist, podiatrist, optometrist, chiropractor, physician assistant, certified registered nurse anesthetist, advanced practice registered nurse, or certified nurse midwife.

002.28 MEDICATION REMINDERS. Verbal reminders to a person to take the person's medication which does not include touching or handling of the medication or the container where the medication is stored. Medication reminders do not include administration or provision of medication as defined in the Medication Aide Act and related regulations.

~~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.~~

~~002.29 MENTAL ABUSE. Mental abuse means h~~Humiliation, harassment, threats of punishment, ~~or~~ deprivation, or other actions causing mental anguish.

~~002.30 MULTIPLE LOCATIONS. Multiple locations means t~~Those locations from which the parent hospice ~~has been approved by the Department to~~ provides the same full range of hospice core services ~~provided by the parent hospice that is required of the hospice~~ issued the license ~~within a portion of the total approved geographic area served by the parent hospice. Multiple locations are part of the parent hospice and share administration, supervision and services with the parent hospice on a daily basis.~~

~~NAC means Nebraska Administrative Code.~~

~~002.31 NEGLECT. Neglect means f~~Failure to provide care, treatment, or services necessary to avoid physical harm or mental anguish ~~of or a patient consumer.~~

~~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.~~

~~002.32 PALLIATIVE CARE. Palliative care means t~~Treatment directed at controlling pain, relieving other physical and emotional symptoms, and focusing on the special needs of the hospice patient consumer and hospice patient's consumer's family as they experience the dying process rather than treatment aimed at cure or prolongation of life.

~~002.33 PARENT HOSPICE. The hospice issued the license and is responsible for consumer admissions; care, treatment, and services provided to consumers and the consumer's family; implementation of the plan of care; and ensuring administrative and supervisory control of its multiple locations.~~

~~Personal care (See definition of "Care".)~~

~~002.34 PHYSICAL ABUSE. Physical abuse means h~~Hitting, slapping, pinching, kicking, or other actions causing injury to the body.

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

002.36 PHYSICIAN. ~~An individual authorized to practice as a physician under the Uniform Credentialing Act to practice medicine and surgery or osteopathic medicine and surgery~~ Physician means any person licensed to practice medicine in this state as provided in Neb. Rev. Stat. §§ 38-2001 to 38-2062.

~~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.~~

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

002.38 RESPITE CARE. ~~Respite care means a~~ 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.~~

002.39 SEXUAL ABUSE. ~~Sexual abuse means s~~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, phoniatriist, or any similar title, term, or description of service.~~

~~002.40 STAFF. An individual who is a direct or contracted employee of the hospice. Staff also refers to a volunteer of the hospice.~~

~~002.41 SUPERVISION. The daily observation and monitoring of the consumer by direct care staff and oversight of staff by the administrator or administrator's designee.~~

~~002.42 TERMINAL CONDITION. Terminal condition means a~~ 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.~~

~~002.43 VERBAL ABUSE. Verbal abuse means t~~The use of oral, written, or gestured language including disparaging and derogatory terms to patients consumers or within ~~their~~ hearing distance of the consumer or within the consumer's sight.

~~002.44 VOLUNTEER. An individual specifically trained and supervised to provide support and supportive services to the hospice consumer and hospice consumer's family under the supervision of a designated hospice volunteer coordinator. A volunteer does not include an individual who provides care, treatment, home health aide services, or medication aide services.~~

~~002.45 5 RIGHTS. Five rights~~ 5 rights has the meaning found in Nebr. Rev. Stat. § 71-6721 means getting the right drug to the right recipient in the right dosage by the right route at the right time.

~~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. To receive a license, an applicant or licensee must submit a complete application, must meet the hospice service settings and services and staffing requirements below, and meet all requirements set out in statute, in 175 NAC 1-003, and in this chapter.~~

~~003.01 HOSPICE SERVICE SETTINGS. Hospice services may be provided in the home of the consumer or a site that serves as an inpatient hospice facility.~~

~~003.02 SERVICES AND STAFFING. To operate as a hospice service a hospice must be primarily engaged in providing care, treatment and services to terminally ill consumers including bereavement counseling. Hospice services must only be provided in approved counties and must include the following:~~

- ~~(A) Nursing services, physician services, and drugs and biologicals routinely available on a 24-hour basis; and~~
- ~~(B) All other covered services available on a 24-hour basis to the extent necessary to meet the needs of consumers for care, treatment or services that are reasonably necessary for the palliation and management of terminal illness and related conditions.~~

~~003.03 APPLICATION EXCEPTIONS. When hospice services are provided in the home of the consumer, the items shown at 175 NAC 1-003.02 are not required as part of the application.~~

~~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.~~

~~16-003.01B1 Citizenship/Qualified Alien Status: For individual providers, the applicant must attest that s/he is a citizen of the United States of America or that s/he is a qualified alien under the federal Immigration and Nationality Act, 8 USC 1101 et seq., as such act existed on January 1, 2009; and is lawfully present in the United States. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.~~

~~16-003.01B1a Verification: For any applicant who has attested that s/he is a qualified alien under the paragraph above, eligibility must be verified through the Systematic Alien Verification for Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required under another provision of state or federal law.~~

~~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.~~

~~16-003.02A1 Citizenship/Qualified Alien Status: For individual providers, the applicant must attest that s/he is a citizen of the United States of America or that s/he is a qualified alien under the federal Immigration and Nationality Act, 8 USC 1101 et seq., as such act existed on January 1, 2009; and is lawfully present in the United States. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.~~

~~16-003.02A1a Verification: For any applicant who has attested that s/he is a qualified alien under the paragraph above, eligibility must be verified through the Systematic Alien Verification for Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required under another provision of state or federal law.~~

~~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 Reinstatement: 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~~

~~11. 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 (TJC); or~~
- ~~2. The Community Health Accreditation program (CHAP).~~

~~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.~~

~~003.04 INITIAL LICENSURE FEES. 16-004.10 Fees: The licensee must pay the fees for licensure and services as set forth below: Following are initial licensure fees for hospice services:~~

- (A) For other than inpatient \$450
- (B) For an inpatient hospice facility \$650

~~1. Initial Licensure fees:~~

- ~~a. For other than inpatient: \$450~~
- ~~b. For inpatient hospice: \$650~~

003.05 RENEWAL LICENSURE FEES. Following are renewal licensure fees for hospice services:

(A) For other than inpatient:

- (i) 0 to 50 consumer admissions during the previous 12 months \$450
- (ii) 51 to 200 consumer admissions during the previous 12 months \$550
- (iii) 201 and over consumer admissions during the previous 12 months \$600

(B) For an inpatient hospice facility:

- (i) 0 to 50 consumer admissions during the previous 12 months \$650
- (ii) 51 to 200 consumer admissions during the previous 12 months \$850
- (iii) 201 and over consumer admissions during the previous 12 months \$950

~~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.~~

004. 16-005 INSPECTIONS. 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. The hospice service must meet all inspection requirements shown at 175 NAC 1 except when hospice services are provided in the home of the consumer, the physical plant standards and physical plant inspection do not apply to such homes.

~~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 performed 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.~~

005. GENERAL REQUIREMENTS. The following requirements are applicable to all licensees as shown below:

005.01 NOTIFICATIONS. Notification requirements are shown below:

- (A) An inpatient hospice facility must meet notification requirements at 175 NAC 1-005 (A), (B), (C)(i), (C)(ii), (D), (E), (F), (G)(i) through (G)(v), and must notify the Department in writing at least 30 working days before the facility would like to increase

their license capacity, would like a change in the building, or would like a change in the usage of the building; and

(B) A hospice service providing care, treatment or services in the home of the consumer, must meet notification requirements at 175 NAC 1-005 (A), (D), (E), (G)(i), (G)(iii); must notify the Department in writing at least 30 working days before the hospice would like to add a county or add a multiple location; and must notify the Department in writing within 24 hours of a consumer's death which occurred while staff were present, or scheduled to be present, in the consumer's home to provide care, treatment, or services and the consumer's death was due to:

(i) Suicide;

(ii) A violent act;

(iii) Drowning; or

(iv) During or immediately after a restraint or seclusion was utilized.

005.02 EFFECTIVE DATE AND TERM OF LICENSE. A hospice license expires on June 30th of each year.

005.03 CHANGE OF OWNERSHIP. Change of ownership or for an inpatient hospice facility, a change of premises terminates the license. If there is a change of ownership and the inpatient hospice facility remains on the same premises and there are no changes to the hospice's daily operations or direct-care staff, the inspection in 175 NAC 1 and 175 NAC 16 is not required. If an inpatient hospice facility changes premises, it must pass the inspection specified in 175 NAC 1 and 175 NAC 16.

005.04 OCCUPANCY. An inpatient hospice facility must not serve more consumers at 1 time than the maximum occupancy for which the inpatient hospice facility is licensed.

005.05 MULTIPLE LOCATIONS. The parent hospice is responsible for all care, treatment, and services provided at the parent and multiple location offices. All deficient practices cited at any hospice multiple location office or parent location apply to all locations under the licensee's hospice license. A multiple location office is not required to independently meet licensure requirements but must meet supervision requirements for multiple location offices as shown below. A hospice must not have more than 2 multiple location offices per hospice license. Multiple location offices must:

(A) Be pre-approved by the Department before becoming operational;

(B) Provide the same full range of hospice services provided by the parent hospice issued the license within a portion of the total Department-approved geographic area served by the parent hospice;

(C) Be part of its parent hospice and share administration, supervision, and services;

(D) Be located no more than 120 miles from the parent hospice;

(E) Have onsite supervisory visits by the hospice administrator or the administrator's designated person of the parent hospice at least once a month with documentation of these supervisory visits being maintained at the parent hospice location;

(F) Maintain copies of all parent hospice policies, procedures and forms at each multiple location office;

- ~~(G) Maintain complete clinical records for all multiple location office consumer's care, treatment and services; and~~
- ~~(H) Maintain in the parent hospice for all consumers receiving services from multiple location offices the following:~~
 - ~~(i) Consumer identifying information;~~
 - ~~(ii) Name, address, and telephone number of the consumer's attending physician;~~
 - ~~(iii) Consumer diagnoses;~~
 - ~~(iv) The service being provided to the consumer; and~~
 - ~~(v) The above information must be maintained until the complete clinical record is either stored at the parent hospice or can be destroyed.~~

~~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:~~

- ~~3. The Joint Commission (TJC); or~~
- ~~4. The Community Health Accreditation program (CHAP).~~

~~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:~~

- ~~4. Made in writing;~~
- ~~5. Submitted within 30 days of receipt of a report granting accreditation; and~~
- ~~6. 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.~~

~~006. CONSTRUCTION. 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. Construction requirements at 175 NAC 1 do not apply to hospice services provided by the hospice in the consumer's home.~~

~~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 conducive 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.~~

~~007. PHYSICAL PLANT. 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. Physical plant requirements in 175 NAC 1 and 175 NAC 16 do not apply to hospice services provided in the consumer's home. An inpatient hospice facility must meet all physical plant requirements shown at 175 NAC 1 and the additional requirements shown below. All buildings must be designed, constructed, and maintained in a manner that is safe, clean and functional for the care, treatment and services provided.~~

~~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:~~

~~007.01 DIETARY. 16-007.01A Dietary: If food preparation is provided on site, the inpatient hospice there must be dedicate space and equipment for the preparation and serving of meals. Such food preparation, serving, physical environment, and equipment 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.~~

007.02 DINING AREAS. 16-007.03E Dining Areas: Dining areas must have an outside wall with windows for natural light and ventilation and meet the following requirements:-

- (A) 16-007.03E1 Dining areas must be furnished with tables and chairs that accommodate or conform to patient consumer needs:-
- (B) 16-007.03E2 Dining areas must have a floor area of 15 square feet per patient consumer in existing facilities and 20 square feet per patient consumer in new construction:-
- (C) 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 2 shifts, or dining during open dining hours; and:-
- (D) 16-007.03E4 Dining areas must not be used for sleeping, offices or corridors.

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

007.03(A) CONTRACT. 16-007.01B1 Contract: If contractual laundry services are used, the inpatient hospice must have areas for soiled linen awaiting pickup and separate areas for storage and distribution of clean linen must be utilized.

007.03(B) ONSITE. 16-007.01B2 On-site: If onsite laundry services are provided, there the inpatient hospice must be have areas dedicated to laundry that include a washer and dryer. In new construction, there must be a conveniently located sink for soaking and hand washing of laundry.

007.03(C) SANITATION. When bed and bath linens are cleaned, water temperatures to laundry equipment must be 160 degrees Fahrenheit or higher. Laundry may be appropriately sanitized or disinfected by another acceptable method in accordance with the manufacturer's instructions or other documentation.

~~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.

007.04 LINENS. There must be an adequate supply of bed, bath, and other linens as necessary for each consumer. The linen must be clean and in good repair.

~~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.

007.05 WASTE PROCESSING. ~~16-007.01C~~ Waste Processing: There inpatient hospice must ~~be 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.

007.06 COSMETOLOGY AND BARBER. ~~16-007.01D~~ Cosmetology and Barber: If ~~c~~Cosmetology and barber services, as defined in the Cosmetology, Electrology, Esthetics, Nail Technology; and Body Art Practice, Neb. Rev. Stat. §§ 38-1001 to 38-10,171 and the Practice of Barbering, Neb. Rev. Stat. §§ 71-201 to 71-248 must be provided such services must be provided in conformance with those ~~laws statutes~~.

007.07 PHARMACY. ~~16-007.01E~~ Pharmaceutical: If ~~p~~Pharmacy or pharmaceutical services are provided they must be provided in conformance with the statutes and regulations governing such practice. ~~as defined in the Practice of Pharmacy, Neb. Rev. Stat. §§ 38-2801 to 38-28,103 must be provided in conformance with such law.~~

007.08 HOUSEKEEPING ROOM. ~~16-007.01F~~ Housekeeping Room: There inpatient hospice must ~~be have~~ a room with a service sink and space for storage of supplies and housekeeping equipment.

007.09 CARE AND TREATMENT AREAS. ~~16-007.02~~ Care and Treatment Areas: The inpatient hospice must ~~not share the~~ following care and treatment areas cannot be shared

among detached structures or with other licensed health care facilities or services, ~~operated by another licensee~~. Care and treatment areas must comply with the following standards.

007.09(A) STAFF AREAS. 16-007.02A—Staff Areas: ~~An inpatient hospice that provides nursing services—There~~ must ~~be provide~~ the following support areas for each distinct care and treatment suite of bedrooms:

007.09(A)(i) CONTROL POINT. 16-007.02A1—Control Point: ~~The inpatient hospice must have~~ An area(s) for charting, consumer and patient records, and call and alarm annunciation systems.

007.09(A)(ii) MEDICATION STATION. 16-007.02A2—Medication Station: ~~The inpatient hospice must have a~~ 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.

007.09(A)(iii) CONSUMER FACILITIES. 16-007.02A3—Patient Facilities: ~~An inpatient hospice must have~~ Space for patient consumer care, treatment, services, and consultation, and a visiting area allowing for consumer privacy.

007.09(A)(iv) UTILITY AREAS. 16-007.02A4—Utility Areas: ~~An inpatient hospice must have a~~ 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—There~~ must ~~be have~~ separate work areas or holding rooms for soiled materials. A workroom for soiled materials must contain a fixture for disposing of wastes and a hand washing sink.

007.09(B) EQUIPMENT AND SUPPLY. 16-007.02B—Equipment and Supply: ~~The inpatient hospice—There~~ must ~~have be~~ services and space to distribute, maintain, clean, and sanitize durable medical instruments, equipment, and supplies required for the care, ~~and treatment,~~ and services performed ~~in the inpatient hospice~~.

007.09(B)(i) DURABLE MEDICAL. 16-007.02B1—Durable Medical: ~~The inpatient hospice must ensure that the~~ Durable medical equipment ~~is~~ must be tested and calibrated in accordance with the manufacturer's recommendations.

007.09(B)(ii) STERILE PROCESSING. 16-007.02B2—Sterile Processing: ~~The inpatient hospice—There~~ must ~~have be~~ areas for decontamination and sterilizing of durable medical instruments and equipment.

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

~~16-007.02B2b~~ ~~Central processing facilities~~ ~~There~~ must ~~have~~ ~~be~~ separate soiled ~~rooms for~~ (sorting and decontamination), and clean ~~rooms for~~ (sterilizing and processing) rooms. ~~The inpatient hospice~~ ~~There~~ must ~~have~~ ~~be~~ hand washing sinks in both clean and soiled rooms.

~~007.09(B)(iii)~~ ~~EQUIPMENT STORAGE.~~ ~~16-007.02B3~~ ~~Equipment Storage:~~ ~~An inpatient hospice~~ ~~There~~ must ~~have~~ ~~be~~ space to store equipment, stretchers, wheel chairs, supplies, and linen out of the path of normal traffic.

~~007.09(B)(iv)~~ ~~EQUIPMENT.~~ ~~16-007.02B4~~ ~~Required Equipment:~~ ~~The inpatient hospice~~ ~~There~~ must ~~be~~ ~~provide~~ equipment adequate for meeting the ~~patients consumer's~~ needs as specified in the contracts, ~~patient consumer~~ service agreements, and ~~patient consumer~~ 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.~~

~~16-007.03A2~~ ~~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.~~

~~007.10 BATHING ROOMS. 16-007.03F Bathing Rooms: Existing or new facilities~~ There must ~~provide be~~ 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 consumer~~. ~~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~~ There must ~~have the following minimum number of be at least 1~~ bathing fixtures ~~of one~~ fixture ~~for each 8 per eight~~ licensed beds in new facilities and new construction.

~~007.11 TOILET ROOMS. 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 ~~or new~~ facilities must have a toilet and sink adjoining each bedroom or shared toilet facilities ~~with a~~ minimum number of ~~one 1 toilet and sink~~ fixture per ~~four 2~~ licensed beds ~~in new facilities and new construction. 16-007.03G2~~ New construction must have a toilet and sink fixture provided adjoining each ~~patient consumer~~ bedroom or in each apartment or dwelling.

~~007.12 SLEEPING ROOMS. 16-007.03H Sleeping Rooms: The inpatient hospice~~ There must ~~provide be~~ bedrooms which allow for sleeping, afford privacy, provide access to furniture and belongings, and accommodate the care and treatment provided to the ~~patient consumer~~ ~~of the following room types.~~

~~007.12(A) BEDROOMS. 16-007.03H1 Bedrooms: The inpatient hospice must not locate bedrooms in a garage, storage area, shed, or similar detached buildings.~~ Bedrooms must be:

- ~~(i)4.~~ Be a A single room located within an apartment, dwelling, or dormitory-like structure;
- ~~(ii)2.~~ Not be accessed through a bathroom, food preparation area, laundry or another bedroom;
- ~~(iii)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 consumers~~. The window must provide an unobstructed view of at least 10 feet;
- ~~(iv)4.~~ Contain at least 25 cubic feet of enclosed storage volume per ~~patient consumer~~ in dressers, closets, or wardrobes;
- ~~(v)5.~~ ~~For multiple bed bedrooms,~~ Allow for an accessible arrangement of furniture; which provides a minimum of three feet between beds ~~in rooms with multiple beds;~~ and
- ~~(vi)6.~~ ~~For apartments and dwellings,~~ also have a Be separate ~~from a~~ room containing a water closet, lavatory, and bathtub or shower; and ~~separate from~~ a kitchen area with a sink, cooking appliance, and refrigeration ~~facilities equipment when located in an apartment or dwelling.~~

007.12(B) EXISTING OR NEW FACILITY. ~~16-007.03H2 Existing or New Facility:~~

Sleeping areas in existing and new facilities must have at least the following floor areas.

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

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

007.12(C) NEW CONSTRUCTION. ~~16-007.03H3 New Construction:~~ Sleeping areas in new construction must have at least the following floor areas.

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

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

007.13 ISOLATION ROOMS. ~~16-007.03J Isolation Rooms:~~ The inpatient hospice licensee must have the capability to provide isolation rooms based on infection control risk assessment of the patients consumers. ~~16-007.03J1 The inpatient hospice~~ There must make be provisions for isolating patients consumers with infectious diseases. ~~16-007.03J2~~ In new construction, the inpatient hospice facility must equip isolation rooms with hand washing and gown changing facilities at the entrance of the room.

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

007.15 DOORS. ~~16-007.03L Doors:~~ The inpatient hospice D doors must be wide enough to allow passage and be equipped for privacy, safety, and with assistive devices to minimize patient consumer 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 consumer-used toilet and bathing rooms with less than 50 square feet of clear floor area must not have doors that swing inward.

007.16 OUTDOOR AREAS. ~~16-007.03M Outdoor Areas:~~ The inpatient hospice must provide A an outdoor area for patient consumer usage must be provided. It must be equipped and situated to protect allow for patient consumers and to promote the safety and abilities of consumers.

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

007.18 PRIVACY. ~~16-007.03O Privacy:~~ Visual privacy and window curtains must be provided for each patient consumer. 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.

007.19 FINISHES. ~~16-007.03P Finishes:~~ An inpatient hospice must provide the following special Rroom finishes must meet the following:

- (A)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
- (B)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.

007.20 ADDITIONAL SERVICES. If additional medical or therapy services are provided there must be adequate space provided to assure privacy and provision of appropriate care, treatment and services.

007.21 BUILDING SYSTEMS. ~~16-007.04 Building Systems:~~ The inpatient hospice must have Bbuilding systems ~~that are~~ must be designed, installed and operated in ~~such~~ a manner ~~as~~ to provide for the safety, comfort, and well-being of the ~~patient~~ consumer and must include at a minimum, the following:-

007.21(A) CALL SYSTEMS. ~~16-007.04G Call Systems:~~ Call systems must be operable from ~~patient beds and patient-used procedure, treatment, operating rooms, recovery areas,~~ toilet rooms and bathing ~~areas~~ rooms. The system must transmit a receivable, ~~(visual, audible, tactile,~~ visual or other type of) signal to on-duty staff which readily notifies ~~and directs the~~ staff to the location where the call was activated. When wireless call systems are used, they must have dedicated devices in all consumer toilet and bathing areas to promptly summon staff to the call location.

007.21(A)(i) NEW CONSTRUCTION. ~~16-007.04G1~~ In Nnew 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~~ i~~n locations where ~~patients~~ consumers are unable to activate the call ~~system,~~ a dedicated staff assist or code call must have a device where staff can ~~must promptly~~ summon other staff for assistance as needed. ~~Wireless call systems must have dedicated devices in all patient occupied central toilet and bathing locations to promptly summon staff to the call location.~~

007.21(B) ELECTRICAL SYSTEM. ~~16-007.04E Electrical System:~~ The inpatient hospice ~~must have an~~ electrical system ~~that has sufficient~~ must have the capacity to maintain the care and treatment services that are provided and that properly grounds care and treatment areas.

007.21(B)(i) NEW CONSTRUCTION. ~~16-007.04E1~~ New construction and new facilities must have ground fault circuit interrupters protected outlets in all wet areas and within ~~six~~ 6 feet of all hand washing sinks.

~~007.21(C) ESSENTIAL POWER SYSTEM. 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 All eExisting and new facilities must maintain an emergency power system for all essential care and treatment areas, equipment and lighting, medical gas systems, and nurse call systems, and any general anesthetics or electrical life support 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.~~

~~007.21(D) ELECTRICAL SUPPORT EQUIPMENT. 16-007.04F3 Facilities with electrical life support equipment must maintain essential power systems that and must be equipped with have an on-site fuel source. The minimum fuel source capacity must allow for non-interrupted system operations.~~

~~007.22 HOT WATER 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. There must be hot and cold water to all hand washing and bathing locations.~~

~~007.23 HEATING AND COOLING SYSTEMS. 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: Airflow must move from clean to soiled locations. Floors in operating, procedure and other locations subject to wet cleaning methods or body fluids must not have opening to the heating and cooling system.~~

~~007.23(A) CENTRAL AIR DISTRIBUTION. In new construction, central air distribution and return systems must have the following dust rated filters:~~

- ~~(i) General areas: 30 +%; and~~
- ~~(ii) Procedure and operating rooms: 90 +%.~~

~~007.23(B) AIR MOVEMENT. In new construction, air movement must be designed to reduce the potential of contamination of clean areas.~~

~~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.

007.24 ILLUMINATION LEVELS. ~~16-007.04E2~~ All facilities must provide minimum illumination levels which are measured at 30 inches above the floor in multiple areas in the room as follows:

<u>(A) Toilet Rooms</u>	<u>30 foot candles;</u>
<u>(B) Corridors</u>	<u>10 foot candles;</u>
<u>(C) Laundry</u>	<u>30 foot candles;</u>
<u>(D) Medication station</u>	<u>75 foot candles;</u>
<u>(E) Care and treatment locations</u>	<u>70 foot candles;</u>
<u>(F) Procedure task lighting</u>	<u>200 foot candles; and</u>
<u>(G) Surgery</u>	<u>1000 foot candles.</u>

- ~~1. General purposes areas5 foot candles;~~
- ~~2. General corridors10 foot candles;~~
- ~~3. Personal care and dining areas20 foot candles;~~
- ~~4. Reading and activity areas30 foot candles;~~
- ~~5. Food preparation areas40 foot candles;~~
- ~~6. Hazardous work surfaces50 foot candles;~~
- ~~7. Treatment and care locations70 foot candles;~~
- ~~8. Examination task lighting100 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.~~

007.25 MEDICAL GAS SYSTEMS. The facility must safely provide medical gas and vacuum by means of portable equipment or building systems as required by the type of care and treatment provided at the clinic. All medical gas systems must comply with the requirements of 153 NAC 1.

007.26 VENTILATION SYSTEM. ~~16-007.04D~~ Ventilation System: ~~The inpatient hospice~~ All facilities must provide exhaust and clean air to prevent the concentrations of contaminants which impair health or cause discomfort to patient consumers and employees. ~~16-007.04D1~~ Existing and new facilities must have adequate ventilation.

007.26(A) MECHANICAL EXHAUST VENTILATION. ~~16-007.04D2~~ New construction must provide a mechanical exhaust ventilation system at a rate of 10 air exchanges per hour for the following areas:

- ~~(i) for windowless toilets;~~
- ~~(ii) baths~~ Bathing areas;
- ~~(iii) Laundry rooms; and;~~

- ~~(iv) Housekeeping rooms, kitchens, and similar rooms at ten air changes per hour (ACH).~~

~~007.26(B) MECHANICAL VENTILATION SYSTEM. 16-007.04D3~~ New construction must provide mechanical ventilation system(s) air exchanges per hour at the following rates: capable of providing ACH as follows:

- ~~(i) 4. Care and treatment areas 5 ACH; and~~
~~(ii) 2. Respiratory Procedure and isolation areas 15 ACH; and~~
~~(iii) Operating rooms 20 ACH.~~

~~007.27 WATER AND SEWER SYSTEMS. 16-007.04A Water and Sewer Systems:~~ There inpatient hospice must have and maintain be an accessible, adequate, and safe and potable supply of water. Where a public water supply system is available, the facility an authorized public water supply of satisfactory quantity, quality, and pressure is available, the inpatient hospice must be connected to it and must use it its supply used exclusively. All water distribution systems must be protected with anti-siphon devices and air-gaps to prevent contamination. All facilities must maintain a sanitary and functioning sewage system and the following:

~~(A) 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 If the facility operates its own water supply system it must be operated as if it is a public water supply system and in compliance with all provisions of Tthe Nebraska Safe Drinking Water Act and Title 179, Regulations Governing Public Water Systems; and-~~

~~(B) 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. Continuously circulated filtered and treated water systems must be provided as required for care and treatment equipment used in the facility.~~

~~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.~~

~~16-007.05 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.~~

008. RECORDKEEPING. The licensee must meet all recordkeeping requirements at 175 NAC 1. The licensee when providing other than inpatient hospice services and sharing space with another entity, must ensure the hospice service has a unique physical address to ensure mail is secured against unauthorized access and must ensure a separate entrance to the hospice service space to ensure verbal communications are protected against unauthorized access.

009. ENVIRONMENTAL SERVICES. The licensee must have a written process for performing routine and preventative maintenance on equipment and furnishings. Equipment and furnishings must be safe and function to meet the intended use.

~~010.16-006~~ STANDARDS OF OPERATION, CARE, AND TREATMENT.: Each hospice licensee must assure protection to hospice consumers 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 and regulations. All services provided by the licensee must be provided in accordance with the Health Care Facility Licensure Act, The Uniform Credentialing Act, the Medication Aide Act, the regulations adopted under those Acts, physician orders, the physician-approved written plan of care, and prevailing standards of practice.

~~010.01 LICENSEE. 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. The licensee is responsible for implementing written policies and procedures to ensure compliance with statutes and regulations as per 175 NAC 1, the Health Care Facility Licensure Act, and this chapter and is responsible for making such available to staff and consumers. The licensee must:

- (A) Ensure all services are provided in accordance with accepted standards of practice and oversee the management and fiscal affairs of the hospice;
- (B) Require each employee to report any evidence of abuse, neglect, or exploitation of a consumer served by the hospice service in accordance with the Adult Protective Services Act or the Child Protection Act, as applicable;
- (C) Ensure any suspected abuse, neglect, or exploitation is reported to the Administrator; and
- (D) Ensure consumers are only discharged for cause based on an unsafe care environment in the consumer's home, consumer non-compliance, including disruptive, abusive, or uncooperative behavior to the extent that delivery of care to the consumer or the ability of the licensee to operate effectively is seriously impaired, or failure to pay for services;
 - (i) The licensee must make a serious effort to resolve the problems presented by the behavior or situation to assure that the proposed discharge is not due to the consumer's use of necessary hospice services, must document the problems and the efforts made to resolve the problems in the consumer's medical record, and must obtain a written physician's order from the consumer's attending physician and the hospice medical director concurring with the discharge.

~~010.02 ADMINISTRATION. 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. The licensee must set out the duties and responsibilities of the administrator in writing. Whether employed, elected, contracted, or appointed, the administrator must report and be directly responsible to the licensee in all matters related to the maintenance, operation, and management of the hospice service. The licensee must ensure each consumer receives care, treatment, and services that optimize the consumer's

comfort and dignity in a manner which is consistent with consumer, family, or designee needs and desires.

010.03 ADMINISTRATOR. ~~16-006.03 Administrator:~~ A hospice A licensee 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 daily management of the hospice to the extent authority is delegated by the licensee. ~~A person~~An equally qualified backup administrator must be designated in writing to act in the absence of the administrator.

The administrator must have ~~at least~~ the following responsibilities:

- (A) Ensuring staff's compliance with all applicable statutes, regulations, and rules;
- (B) Overseeing and being responsible for the provision and coordination of consumer care, treatment, and services;
- (C) Organizing and directing the hospice's ongoing functions;
- (D) Maintaining communication between the licensee and staff;
- (E) Employing sufficient number of staff with appropriate training and skills to meet consumers' care, treatment, and service needs identified in consumers' plan of care and in accordance with job descriptions;
- (F) Implementing written personnel policies, job descriptions, and current hospice policies and procedures that are made available to all personnel;
- (G) Ensuring written policies, procedures and forms are individualized for the hospice service and contain effective dates and revisions dates;
- (H) Ensuring the hospice service maintains a copy of all active policies, procedures and forms which are available for staff use;
- (I) Ensuring the hospice service maintains a copy of all inactive policies, procedures and forms for a minimum of 7 years after the document becomes inactive;
- (J) Ensuring an investigation is completed on suspected abuse, neglect, exploitation, or misappropriation of money or property and take action to prevent recurrence and to protect all consumers from or the potential for such until the investigation is completed;
- (K) Providing orientation for new staff, scheduled in-service education programs, and opportunities for continuing education of the staff;
- (L) Maintaining appropriate personnel and administrative records;
- (M) Ensuring the completion, maintenance, and submission of reports and records as required by the Department; and
- (N) Supervising multiple location offices. Onsite supervision of multiple location staff must be provided by the administrator or the administrator's designated person of the parent hospice service at least once a month. Documentation of these visits must be maintained at the parent hospice service.

- ~~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.~~

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

010.05 STAFF REQUIREMENTS. ~~16-006.05 Staff Requirements:~~ Each hospice must maintain The licensee must have sufficient ~~number of~~ staff with the required training and skills to provide ~~those the~~ services as necessary to meet the needs of each patient consumer accepted for care, treatment or services in a safe and timely manner. ~~There must be~~ Each hospice must have job descriptions for each staff position, which includes minimum qualifications required for the position.

010.05(A) EMPLOYMENT ELIGIBILITY. ~~16-006.05A Employment Eligibility:~~ Each hospice licensee must ~~insure and~~ maintain evidence of the following:

010.05(A)(i) CRIMINAL BACKGROUND CHECKS. ~~16-006.05C Criminal Background and Registry Checks:~~ The hospice must complete Complete and maintain ~~documentation of~~ pre-employment criminal background and registry checks on for each ~~unlicensed~~ direct care staff member 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.~~

010.05(A)(ii) REGISTRY CHECKS. ~~16-006.05C2 Registry Checks:~~ The hospice must check for adverse findings Complete pre-employment checks on for each ~~unlicensed~~ direct care staff for adverse findings on the following Nebraska registries:

- ~~(1-)~~ Nurse Aide Registry;
- ~~(2-)~~ Adult Protective Services Central Registry;
- ~~(3-)~~ Central Registry of Child Protection Cases; and

~~(4-) Nebraska State Patrol~~ Sex Offender Registry.

~~010.05(A)(iii) HIRING DECISIONS. 16-006.05C3~~ The ~~hospice licensee~~ must:

- ~~(1-) Determine how to use the criminal background and registry information, except for the Sex Offender Registry and 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 Sex Offender Registry and the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to consumer safety or patient consumer property.~~

~~010.05(A)(iv) ADVERSE FINDINGS. 16-006.05C4~~ The ~~hospice licensee~~ must not employ a person with adverse findings on the ~~Sex Offender Registry or on the Nurse Aide Registry regarding patient abuse, neglect, or misappropriation of patient property.~~

~~010.05(A)(v) HEALTH STATUS. 16-006.05B—Health Status: Each hospice The licensee must establish and implement written policies and procedures related to regarding the staff's health status of staff to prevent the transmission of disease to patients consumers. 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. The licensee must complete a health screening for each staff person prior to the staff person having contact with or providing direct care, treatment, or services for consumers.~~

~~010.05(B) EMPLOYMENT RECORD. 16-006.05D4—Employment Record: The hospice must maintain a A current employment record must be kept 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. which includes:~~

- ~~(i) The title of that individual's position, qualifications, and description of the duties and functions assigned to that position;~~
- ~~(ii) Evidence of licensure, certification, or approval, if required;~~
- ~~(iii) Performance evaluations made within 6 months of employment and annually thereafter; and~~
- ~~(iv) Post hire and pre-employment health history screening.~~

~~16-006.05A—Employment Eligibility:~~

- ~~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.~~

~~010.05(C) INITIAL ORIENTATION. 16-006.05D1—Orientation: Each hospice must provide and maintain evidence of a~~ An orientation program must be provided for all new staff and, as needed, for existing staff who are given new assignments. Such training must be documented in the employment record. The orientation program ~~includes, but is not limited to~~ must include:

- ~~(i) 1.~~ Job duties and responsibilities;
- ~~(ii) 2.~~ Organizational structure;
- ~~(iii) 3. Patient~~ Consumer rights;
- ~~(iv) 4. Patient~~ Consumer care policies and procedures;
- ~~(v) 5.~~ Personnel policies and procedures; and
- ~~(vi) 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.~~ state law and with hospice policies and procedures.

~~010.05(D) TRAINING. 16-006.05D—Training: Each hospice~~ All staff must ensure staff receive training in order to perform job responsibilities.

~~010.05(D)(i) ONGOING TRAINING. 16-006.05D2—Ongoing Training: Each hospice licensee must provide and maintain evidence of~~ ongoing and continuous in-services or continuing education for staff. ~~The hospice A~~ record must contain the be maintained including date, topic, and participants.

~~010.05(D)(ii) SPECIALIZED TRAINING. 16-006.05D3—Specialized Training: Each hospice licensee 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.~~ This training must be documented in employment records.

~~010.05(D)(iii) RECORDS. The licensee must maintain records of each orientation and in-service or other training program, including the signature of staff attending, subject-matter of the training, the names and qualifications of instructors, dates of training, length of training sessions, and any written materials provided.~~

~~010.05(E) INDIVIDUALS UNDER HOURLY OR PER VISIT CONTRACTS. If individuals or entities under hourly or per visit contracts are utilized, there must be a written contract between the licensee and the individual or entity. The licensee must maintain a copy of all active contracts and retain copies of discontinued contracts for seven years after the contract is discontinued. The contract must include:~~

- ~~(i) A statement that consumers are accepted for care only by the parent hospice;~~
- ~~(ii) A description of the services and the manner in which they are to be provided;~~

- (iii) A statement that the contractor must conform to all applicable hospice policies, including those related to qualifications;
- (iv) A statement that the contractor is responsible for participating in the development of plans of care;
- (v) A statement that the services are controlled, coordinated, and evaluated by the parent hospice;
- (vi) The procedures for submitting clinical and progress notes; scheduling consumer care, treatment, and services; and ongoing periodic consumer evaluations; and
- (vii) The procedures for determining charges and reimbursement.

010.06 CONSUMER RIGHTS. 16-006.06 Patient Rights: The governing authority licensee must ~~establish~~ implement a written bill of rights that ~~will be~~ is equally applicable to all patients consumers. The ~~hospice licensee~~ must protect and promote the exercise of these rights. All consumers, guardians, or authorized designees upon the commencement of services must be given a copy of the bill of rights. The licensee must maintain documentation showing that it has complied with these requirements. Patients Consumers must have the right to:

- (A) ~~1.~~ Choose care providers and communicate with those providers;
- (B) ~~2.~~ Participate in the planning of their care and receive appropriate instruction and education regarding the plan;
- (C) ~~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;
- (D) ~~4.~~ Refuse care and be informed of possible health consequences of this action;
- (E) ~~5.~~ Receive care without discrimination as to race, color, creed, sex, age, or national origin;
- (F) ~~6.~~ Exercise religious beliefs;
- (G) ~~7.~~ Be admitted for service only if the licensee has the ability to provide safe, professional care at the level of intensity needed;
- (H) ~~8.~~ Receive the full range of services provided by the licensee;
- (I) ~~9.~~ Confidentiality of all records, communications, and personal information;
- (J) ~~10.~~ Review and receive a copy of all health records pertaining to them;
- (K) ~~11.~~ Receive both an oral and written explanation regarding discharge if the patient consumer moves out of the hospice's service area or transfers to another hospice; or if the hospice determines the patient consumer is no longer terminally ill. Information regarding community resources must be given to the patient consumer or the patient's consumer's designee;
- (L) ~~13.~~ Voice complaints/ and grievances and suggest changes in service or staff without fear of reprisal or discrimination and be informed of the resolution;
- (M) ~~14.~~ Be fully informed of hospice policies and charges for services, including eligibility for third-party reimbursement, prior to receiving care;
- (N) ~~15.~~ Be free from verbal, physical, and psychological abuse and to be treated with dignity;
- (O) ~~16.~~ Expect pain relief. through Measures will be instituted measures implemented to ensure the consumer's comfort;
- (P) ~~17.~~ Expect all efforts will be made to ensure continuity and quality of care in the home and in the inpatient setting;

- ~~(Q) 18. Have his or her person and property treated with respect;~~
 - ~~(R) 19. Be informed, in advance, about the care to be furnished, and any changes in the care to be furnished;~~
 - ~~(S) 20. Formulate advance directives and have the hospice licensee comply with the directives unless the hospice licensee notifies the patient consumer or designee of the inability to do so; and~~
 - ~~(T) 21. Be free from physical and chemical restraints that are not medically necessary.~~
- ~~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. 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. 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.~~

~~010.07 CONSUMER CARE AND TREATMENT. 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. Hospice services must include:~~

~~010.07(A) PLAN OF CARE. 16-006.09A Plan of Care: A written plan of care must be established and maintained for each individual consumer admitted to a hospice program. A registered nurse must complete an initial assessment to evaluate the patient's consumer's immediate physical, psychosocial, emotional, and spiritual needs. This assessment initiates the plan of care. The care provided to the patient consumer must be in accordance with this plan.~~

~~010.07(A)(i) ESTABLISHMENT OF THE INITIAL PLAN. 16-006.09A1 Establishment of the Plan: A comprehensive plan must be established, within five 5 calendar days of the initial assessment, by the attending physician, who has primary responsibility for the patient's care and treatment or a physician assistant or advanced practice registered nurse affiliated with the attending physician; the medical director; and interdisciplinary team. must be selected by the consumer or consumer's designee in the hospice records and who has primary responsibility for the consumer's care, treatment and services; the medical director; and interdisciplinary team.~~

~~010.07(A)(ii) REVIEW OF THE PLAN. 16-006.09A2 Review of the Plan: The update Updates of the comprehensive assessment must be accomplished by the interdisciplinary team in collaboration with the patient's consumer's attending physician, if any, or a physician assistant or advanced practice registered nurse affiliated with the attending physician and must consider changes that have taken place since the initial assessment. It must include information on the patient's consumer's progress toward desired outcomes, as well as a reassessment of the~~

~~patient's~~ consumer's response to care. ~~The assessment update~~ Updates of the comprehensive assessment must be accomplished as frequently as the condition of the ~~patient~~ consumer requires, but no less frequently than every 15 days.

010.07(A)(iii) CONTENT OF THE PLAN. 16-006.09A3 Content of the Plan: The plan must include an assessment of the ~~individual's~~ consumer'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~~ consumer's and family's needs.

010.07(A)(iv) PHYSICIAN ORDER. 16-006.09A4 Physician Order: Each ~~hospice licensee~~ must have a written process ~~in place~~ by which orders from a physician or ~~representative are~~ medical practitioner must be obtained, incorporated ~~in~~ into the plan of care, and carried out.

010.07(B) HOSPICE CORE SERVICES. 16-006.09B Hospice Core Services: Core services include nursing services, social services, physician services, and counseling services. A ~~hospice licensee~~ 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 of the licensee~~ (with the exception of the physician who can be contracted). A ~~hospice licensee~~ may use contracted staff if necessary to supplement ~~hospice employees~~ to meet the needs of consumers during periods of peak consumer loads or under extraordinary circumstances. If contracting is used, the licensee 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 this chapter. Core services include nursing services, social services, physician services, and counseling services.~~

010.07(B)(i) NURSING SERVICES. 16-006.09B1 Nursing Services: ~~The hospice must provide nursing~~ Nursing care and services must be provided 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~~ consumers are met. The direction and delegation of nursing care must be done in accordance with 172 NAC 99 ~~Regulations Governing the Provision of Nursing Care. 16-006.09B1b~~ Patient Consumer care responsibilities of nursing personnel must be specified in writing. 16-006.09B1c ~~Services must be provided in accordance with recognized standards of practice.~~

010.07(B)(ii) SOCIAL SERVICES. 16-006.09B2 Social Services: Social services must be provided by a qualified certified 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 A social worker must participate in the development, implementation, and revision of the ~~patient's~~ consumer's plan of care.

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

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

010.07(B)(iv)(1) DIETARY COUNSELING. ~~16-006.09B4a Dietary Counseling:~~ Dietary counseling, when required, must be provided by a licensed medical nutrition therapist or others whose scope of practice as defined by the Uniform Credentialing Act 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.

010.07(B)(iv)(2) SPIRITUAL COUNSELING. ~~16-006.09B4b Spiritual Counseling:~~ Spiritual counseling must include notice to patients consumers as to the availability of clergy.

010.07(B)(iv)(3) ADDITIONAL COUNSELING. ~~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.

010.07(B)(iv)(4) BEREAVEMENT COUNSELING. ~~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 1 year following the death of the patient consumer.

010.07(B)(v) HOME HEALTH AIDE AND MEDICATION AIDE. ~~16-006.09B5 Home Health Aide & Medication Aide:~~ Each hospice licensee 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 consumers. ~~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.~~

010.07(B)(v)(1) EMPLOY QUALIFIED AIDES. ~~16-006.09B5a Employ Qualified Aides:~~ ~~A hospice~~ Each licensee must employ only home health aides qualified to provide home health agency/hospice patient care pursuant to Neb. Rev. Stat. §§

71-6601 to 71-6615. Any home health aide not acting as such for a period of 3 years must repeat the 75-hour training course.

010.07(B)(v)(2) DIRECTION AND SUPERVISION. 16-006.09B5c Supervision: Each hospice licensee must provide direction (Plan of Care/Assignment Sheet) by using an aide care plan and assignment sheet written by the a registered nurse (RN), and RN through registered nurse 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. The licensee must ensure a registered nurse is available or on call to the staff during all hours that home health aide services are provided. Any other task the licensee chooses to have a home health aide perform must not include a task which requires a credential under the Uniform Credentialing Act.

010.07(B)(v)(3) IN-SERVICE PROGRAM. 16-006.09B5d Inservice Program: A hospice Each licensee 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 in-service training as required at Neb. Rev. Stat. § 71-6606.

010.07(B)(v)(4) PERMITTED ACTS. 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 only perform acts as allowed by Neb. Rev. Stat. § 71-6605.

010.07(B)(v)(5) REQUIREMENTS. To act as a home health aide, a person must meet the requirements at Neb. Rev. Stat. § 71-6603. To act as a medication aide, a person must be a registered Medication Aide.

010.07(B)(v)(6) HOME HEALTH AIDE TRAINING COURSE. A home health aide training course must meet the requirements at Neb. Rev. Stat. § 71-6608.01.

010.07(B)(v)(7) VERIFY COMPETENCY. 16-006.09B5b Verify Competency: Each hospice licensee must verify and maintain records of document the competency of all home health aides employed by the agency, prior to the aide providing services in a patient's consumer's home or in the inpatient hospice service. The competency evaluation items are set out at Neb. Rev. Stat. § 71-6608.01 in subdivisions (1)(b) through (1)(m). All competency evaluations must be performed by a registered nurse and must be evaluated by observation and a written or oral examination as set out below:

(a) Observations must be made with a live consumer or person when performing the competency evaluation for requirements at Neb. Rev. Stat.

§ 71-6608.01 in subdivisions (1)(c), 1(i), 1(i)(i) through 1(i)(vi), (1)(j) and (1)(k); and

- (b) A written or oral examination must be used when performing the competency evaluation for requirements at Neb. Rev. Stat. § 71-6608.01 in subdivisions (1)(a), (1)(b), (1)(d) through (1)(h), (1)(l) and (1)(m).

010.07(B)(v)(8) HOME HEALTH AIDE CARE PLAN AND SUPERVISION. The home health aide care plan and supervision requirements must meet the requirements in Neb. Rev. Stat. § 71-6607 and the following:

- (a) A registered nurse must make an initial evaluation visit to each consumer prior to home health aide services being provided and must devise a written plan of care for the physician's approval. When aide services are provided the registered nurse must visit the home site at least every two weeks with or without the aide being present. The visit must include an assessment of the aide services and review of the aide care plan; and
- (b) The home health aide must provide services in accordance with the physician-approved written plan of care and the home health aide care plan. The home health aide care plan must include consumer-specific written instructions for each consumer. Visits made by home health aides must be documented in accordance with the plan of care and the home health aide care plan.

010.07(B)(v)(9) REPEAT HOME HEALTH AIDE TRAINING AND COMPETENCY VERIFICATION. Any home health aide not acting as such for a period of three years must repeat the training course as required in this chapter and the licensee must determine and verify competency of the home health aide as required in this chapter.

~~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 Neb. 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.~~

010.07(C) OTHER SERVICES. 16-006.09C Other Services: A hospice must ensure that the other services in 175 NAC 16-006.09C1 through 16-006.09C5 shown in this section are provided directly by hospice employees or under arrangements.

010.07(C)(i) VOLUNTEERS. 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:

010.07(C)(i)(1) TRAINING. 16-006.09C1a Training: The hospice must provide appropriate orientation and training that is consistent with acceptable standards of hospice practice.

010.07(C)(i)(2) ROLES. 16-006.09C1b Roles: Volunteers must be used in administrative or direct consumer care roles.

010.07(C)(i)(3) RECRUITMENT AND RETENTION. 16-006.09C1c Recruitment and Retention: The hospice must document active and ongoing efforts to recruit and retain volunteers.

010.07(C)(i)(4) COST SAVINGS. 16-006.09C1d Cost Saving: The hospice must document the cost savings achieved through the use of volunteers. Documentation must include:

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

010.07(C)(i)(5) LEVEL OF ACTIVITY. ~~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 consumer~~ care in an amount that, at a minimum, equals 5% of the total ~~patient consumer~~ 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, ~~treatment~~ and services achieved through the use of volunteers, including the type of services and time worked.

010.07(C)(ii) LABORATORY SERVICES. ~~16-006.09C2—Laboratory Services:~~ If the ~~hospice licensee~~ engages in laboratory testing outside of the context of assisting ~~an individual a consumer~~ in self-administering a test with an appliance that has been cleared for that ~~purpose testing~~ 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. If the ~~hospice licensee~~ 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~~).

010.07(C)(iii) PHYSICAL THERAPY, OCCUPATIONAL THERAPY, SPEECH LANGUAGE PATHOLOGY SERVICES. ~~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, the services must be provided within the scope of practice as defined by the Uniform Credentialing Act (~~UCA~~). ~~Services must be provided by individuals appropriately credentialed under the UCA.~~

010.07(C)(iv) CLERGY. ~~16-006.09C4—Clergy:~~ The ~~hospice licensee~~ must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to ~~patients consumers~~ who request the visits and must advise ~~patients consumers~~ of this opportunity.

010.07(C)(v) MEDICAL SUPPLIES AND EQUIPMENT. ~~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 licensee~~ must ~~have a process designed for provide~~ routine and preventative maintenance of equipment to ensure that it is safe and works as intended for the use in the ~~patient's consumer's~~ environment. The ~~hospice licensee~~ must ensure that the ~~patient/family/designee consumer, family, and designee~~ understand how to use the equipment and supplies.

010.07(C)(vi) HOMEMAKER QUALIFICATIONS, INSTRUCTIONS AND SUPERVISION. ~~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.~~

The licensee must have a written process for providing homemaker services. Homemaker services may include assistance in maintenance of a safe and healthy environment and services to enable the patient's consumer's family to carry out the plan of care. A member of the interdisciplinary team must coordinate and supervise all 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. and must develop, and update every 2 weeks, written instructions for all homemaker duties.~~ Homemakers must report all concerns about the ~~patient~~ consumer or the ~~patient's~~ consumer's family to the member of the interdisciplinary team who coordinates homemaker services.

1010.07(D) PROFESSIONAL MANAGEMENT. 16-006.09D—Professional Management: Except for those core services described in 175 NAC 16-~~006.09B~~, a hospice licensee may arrange for another individual or entity to furnish services to the hospice's patients consumers. If services are provided under arrangement, the hospice licensee must meet the following:

- (i) ~~1. The hospice program assures~~ Assure the continuity of patient/family consumer and family care in home, outpatient, and inpatient settings;
- (ii) ~~2. The hospice has a legally binding~~ Have a written agreement for the provision of arranged services. The agreement ~~includes the following~~ must include:
 - (1) ~~a.~~ Identification of the services to be provided;
 - (2) ~~b.~~ Have A a stipulation that services may be provided only with the express authorization of the hospice licensee;
 - (3) ~~c.~~ The manner in which Set out how the contracted services are coordinated, supervised, and evaluated by the hospice licensee;
 - (4) ~~d.~~ The A delineation of the roles of the hospice licensee and the contractor in the admission process, patient/family consumer and family assessment, and the interdisciplinary group care conferences;
 - (5) ~~e.~~ Have Rrequirements for documenting that services are furnished in accordance with the agreement; and
 - (6) ~~f.~~ The Set out the required qualifications of the personnel providing the services;
- (iii) ~~3. The hospice retains~~ Retain professional management responsibility for those services and ensure that they are furnished in a safe and effective manner by qualified persons and in accordance with the patient's consumer's plan of care and other requirements of 175 NAC 16; and
- (iv) ~~4. The hospice ensures~~ Ensure 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:~~
 - (1) ~~a.~~ The hospice licensee furnishes to the inpatient provider a copy of the patient's consumer's care plan and specifies the inpatient services to be furnished;
 - (2) ~~b.~~ The inpatient provider has established policies consistent with those of the hospice licensee and agrees to abide by the patient consumer care protocols established by the hospice licensee for its patients consumers;

- (3) ~~e.~~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 licensee;
- (4) ~~d.~~Specifies The the party responsible for the implementation of the provisions of the agreement; and
- (5) ~~e.~~The hospice licensee retains responsibility for appropriate hospice care training of the personnel who provide the care under the agreement.

010.07(E) INTERDISCIPLINARY TEAM. 16-006.09E—Interdisciplinary Team: The hospice licensee must designate an interdisciplinary team composed of individuals who provide or supervise the care, treatment, and services offered by the hospice.

010.07(E)(i) COMPOSITION OF THE TEAM. 16-006.09E1—Composition of Team: 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) ~~1.~~A doctor of medicine or osteopathy;
- (2) ~~2.~~A registered nurse;
- (3) ~~3.~~A social worker; and
- (4) ~~4.~~A pastoral or other counselor.

010.07(E)(ii) ROLE OF THE TEAM. 16-006.09E2—Role of Team: The interdisciplinary team is responsible for:

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

010.07(E)(iii) MULTIPLE INTERDISCIPLINARY TEAMS. 16-006.09E3 If a hospice licensee has more than 1 interdisciplinary team, ~~it~~ the licensee must designate in advance the team ~~it chooses~~ to execute ~~the~~ these functions for the hospice.

010.07(E)(iv) DESIGNATED REGISTERED NURSE. 16-006.09E4 The hospice licensee must designate a registered nurse to coordinate the implementation of the plan of care for each patient consumer. The plan of care must be updated as often as necessary but at least every 62 days.

010.07(F) SHORT-TERM INPATIENT CARE. 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 respite purposes. Such care must be provided in one of the following:

- (i) ~~1.~~An inpatient hospice facility; or
- (ii) ~~2.~~A hospital, skilled nursing facility, nursing facility, or intermediate care facility.

010.07(G) SHORT-TERM INPATIENT RESPITE CARE. 16-006.09F1—For inpatient respite, the RN registered nurse must be available when required by the patient's consumer's plan of care.

010.08 ADMISSION AND RETENTION REQUIREMENTS. 16-006.10—Admission and Retention Requirements: A hospice licensee must accept a patient consumer only when it the licensee reasonably expects that it can adequately meet the patients consumer's medical, therapeutic, and social needs in the patient's consumer's permanent or temporary place of residence. Each consumer receiving services from the hospice is entitled to receive the full range of services.

010.09 ADMINISTRATION OF MEDICATIONS. 16-006.11—Administration of Medications: ~~The hospice must establish and implement policies and procedures to ensure patients Consumers must~~ receive medications only as legally prescribed by a medical practitioner in accordance with the physician-approved plan of care, the 5 rights and prevailing professional standards.

010.09(A) METHODS OF ADMINISTRATION. 16-006.11A—Methods of Administration: When the hospice licensee is responsible for the administration and provision of medication, it must be accomplished by the following methods:

010.09(A)(i) SELF-ADMINISTRATION. 16-006.11A1—Self Administration: Patients Consumers may must be allowed to self-administer medication, with or without supervision, when the hospice licensee determines that the patient consumer 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 licensee must ~~develop and~~ implement written policies to address patient consumer self-administration of medication, including:

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

010.09(A)(ii) LICENSED HEALTH CARE PROFESSIONAL. 16-006.11A2—Licensed Health Care Professional: When the hospice licensee uses a licensed health care professional for whom medication administration is included in the scope of practice, the hospice licensee must ensure the medications are properly administered in accordance with prevailing professional standards and state and federal law.

010.09(A)(iii) PROVISION OF MEDICATIONS BY A PERSON OTHER THAN A LICENSED HEALTH CARE PROFESSIONAL. 16-006.11A3—Provision of Medications by a Person other than a Licensed Health Care Professional: When the hospice licensee uses a person other than a licensed health care professional in the provision of medications, the hospice licensee must ~~follow 172 NAC 95 and 96. Each hospice must establish and implement policies and procedures~~ use individuals who are

registered medication aides and must comply with the Medication Aide Act, and 172 NAC 95 and 96.

010.09(A)(iv) MAINTAIN OVERALL SUPERVISION, SAFETY AND WELFARE OF CONSUMERS. 16-006.11A3 #9. When the hospice licensee is not responsible for medication administration and provision the hospice licensee must maintain retains responsibility for overall supervision, safety, and welfare of the patient consumer.

- ~~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~~~~

~~e. Documented in patient medical records;~~

~~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.~~

~~010.09(B) ADVERSE REACTIONS AND MEDICATION ERRORS. 16-006.11A5~~ Each hospice licensee must have policies and procedures for reporting ~~report~~ any adverse reactions to a medication immediately upon discovery, to the patient's licensed practitioner and document the event in the patient's medical record. ~~by the consumer and any 16-006.11A4~~ Each hospice must have and implement policies and procedures for reporting any errors in administration or provision of prescribed medications ~~medication errors in administration or provision of prescribed medications~~ to the patient's ~~consumer's~~ licensed practitioner ~~in a timely manner immediately~~ upon discovery, and a ~~A~~ written report of the adverse reaction and medication error ~~prepared must be completed immediately upon discovery and kept in the consumer's record.~~ Errors ~~must~~ include any variance from the 5 rights, ~~the prescription, or professional standards.~~

~~010.09(C) VERBAL ORDERS. 16-006.11A6~~ Each hospice licensee must ~~establish and~~ implement ~~appropriate written~~ policies and procedures for those staff authorized to receive telephone and verbal, diagnostic and therapeutic and medication orders.

~~010.10 CLINICAL RECORDKEEPING REQUIREMENTS. 16-006.12—Record Keeping Requirements:~~ Each hospice licensee must maintain records and reports in a manner that ensures accuracy and easy retrieval.

~~010.10(A) CLINICAL RECORDS. 16-006.12A—Clinical Records:~~ In accordance with acceptable principles of practice, ~~the~~ The hospice licensee must establish and maintain ~~have~~ a clinical record for every individual consumer 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 consumer's record must contain:

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

~~010.10(B) INFORMED CONSENT. 16-006.12B—Informed Consent:~~ A hospice ~~The~~ licensee must demonstrate respect for an individual's rights by ensuring that ~~have~~ an informed consent form, ~~signed and dated by the consumer or designee, that which~~ specifies the type of care, ~~treatment~~ and services that may be provided as hospice care

during the course of the illness ~~has been obtained~~ for every individual consumer ~~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.~~

010.10(C) ITEMIZED BILLING STATEMENT. ~~16-006.12G Itemized Billing Statement: A hospice~~ The licensee must provide, upon written request of a patient consumer or a patient's consumer's representative and without charge, an itemized billing statement, including diagnostic codes. The billing statement must be provided within 14 days after the request.

~~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.~~

~~16-006.14D 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.~~

~~010.11 INPATIENT HOSPICE FACILITY AND 24-HOUR NURSING SERVICES. 16-006.15 Inpatient Hospice Services Requirements: A hospice licensee that provides inpatient hospice care directly must 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 provide 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 consumer plan of care. Each patient consumer must receives treatments, medications, and diet as prescribed, and is be kept comfortable, clean, well-groomed, and protected from accident, injury, and infection. Each shift must include a registered nurse who provides direct patient consumer care, when there is a patient consumer in the facility receiving inpatient care for pain control and/or symptom management.~~

~~010.12 FOOD SERVICE. 16-006.16 Food Service: The inpatient hospice A licensee that provides inpatient care must meet insure that the daily nutritional need of all patients consumers are met, including any diet ordered by the attending physician. Food service must include but is not limited to:~~

- ~~(A) 1. Providing food service directly or through a written agreement;~~
- ~~(B) 2. Ensure a A staff member who is trained or experienced in food management or nutrition with the responsibility of:
 - ~~(i) a. Planning menus which meet the nutritional needs of each patient consumer, following the orders of the patient's consumer's physician; and~~
 - ~~(ii) b. Supervising the meal preparation and service to ensure that the menu plan is followed;~~~~
- ~~(C) 3. Be Being able to meet the needs of the patient's consumer's plan of care; nutritional needs, and therapeutic diet; and~~
- ~~(D) 4. Procure, store, prepare, distribute, and serve Procuring, storing, preparing, distributing, and serving all food under sanitary conditions and in accordance with the Food Code.~~

~~010.13 PHARMACEUTICAL SERVICES. 16-006.17 Pharmaceutical Services: The hospice Each licensee that 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 inpatient hospice services is responsible for the 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 provided to each consumer. Pharmaceutical services must be provided in compliance with state law.~~

~~010.13(A) LICENSED PHARMACIST. 16-006.17A Licensed Pharmacist: The hospice licensee must employ a licensed pharmacist or have a formal agreement with a licensed pharmacist to advise the hospice licensee on ordering, storage, administration, disposal, and record keeping of drugs and biologicals.~~

010.13(B) ORDERS FOR MEDICATIONS. ~~16-006.17B—Orders for Medications:~~ A physician, or licensed practitioner within their scope of practice, must authorize the administration of all medications for the ~~patient~~ consumer. If the medication order is verbal:

- (i) ~~1.~~ The physician, or licensed practitioner within their scope of practice, must give it only to a licensed nurse, pharmacist, physician assistant, or another physician; and
- (ii) ~~2.~~ The individual receiving the order must record and sign it immediately and have the prescribing physician, or licensed practitioner within their scope of practice, sign it in a manner consistent with good medical practice state law.

~~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.~~

010.13(C) CONTROL AND ACCOUNTABILITY. ~~16-006.17D—Control and Accountability:~~ The ~~pharmaceutical service has~~ licensee must have written procedures for control and accountability of all drugs and biologicals throughout the inpatient hospice facility. Drugs are must be dispensed in compliance with state and federal law. Records of receipt and disposition of all controlled drugs are must be maintained in sufficient detail to enable accurate reconciliation. ~~The~~ A pharmacist must determine that drug records are in order and that an account of all controlled drugs is maintained and reconciled.

010.13(D) LABELING OF DRUGS AND BIOLOGICALS. ~~16-006.17E—Labeling of Drugs and Biologicals:~~ The labeling of drugs and biologicals ~~is based on currently accepted professional principles,~~ must comply with state and federal law and includes the appropriate accessory and cautionary instructions, ~~as well as~~ and the expiration date when applicable.

010.13(E) STORAGE. ~~16-006.17F—Storage:~~ ~~In accordance with State laws,~~ all drugs and biologicals ~~are~~ must be stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys drugs and biologicals. Separately locked compartments ~~are provided~~ must be used for storage of controlled drugs listed in Schedule II of ~~the Comprehensive Drug Abuse Prevention and Control Act of 1970~~ Neb. Rev. Stat. § 28-405 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.

010.13(F) DRUG DISPOSAL. ~~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. The licensee must have written policies to ensure controlled drugs are disposed of in compliance with State law.~~

~~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. § 38-1,127;~~
- ~~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 report in writing to the Department the conclusion regarding whether to affirm, modify, or dismiss the notice and the specific reasons for the conclusion, and provide a copy of the report to the Director and the applicant or licensee.~~

~~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.~~

~~16-008.02C5 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 April 7, 2010.
Approved by the Governor on April 26, 2010.
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