

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department Arkansas Department of Health
Agency or Division Name Health Services Permit Agency
Other Subdivision or Department, If Applicable _____
Previous Agency Name, If Applicable _____
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Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Health Services Permit Agency

Department Arkansas Department of Health

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Rule Title: HSC Rule 400M Hospice Methodology

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(Check One)

Date

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Traci Harris traci.harris@arkansas.gov June 20, 2024

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)



Signature

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Director

Title

June 20, 2024

Date

HSC REGULATION 400M. Hospice Methodology (12/07)

HOSPICE CARE as defined by state statute means an autonomous, centrally administered, medically directed, coordinated program providing home and outpatient care for the terminally ill patient and family, and which employs an inter-disciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social and economic stresses which are experienced during the final stages of illness and during dying and bereavement. The care shall be available twenty- four (24) hours a day, seven (7) days a week, and provided on the basis of need, regardless of the ability to pay.

HOSPICE PROGRAM -Hospice program is defined as a public agency or private organization or subdivision or either of these that is primarily engaged in providing care to terminally ill individuals (Code of Federal Regulations, Title 42, Volume 2, Part 418).

HOSPICE FACILITY - A Hospice Facility is defined as a facility that houses hospice beds licensed exclusively to the care of terminally ill patients but not beds licensed to a hospital, nursing home or other assisted living or residential facilities. It can provide any of the four levels of hospice care. For purposes of this application, terminally ill patients are defined according to the Social Security Act as those individuals with a terminal diagnosis and a prognosis of six months or less if the diagnosed condition runs its normal course.

Hospice Agencies

This rule regulates the establishment of new hospice agencies and the expansion of existing hospice service areas.

A. NEED

1. The projected number of hospice patients will be 30% of the average of the total deaths that occurred in the county for the four most recent years available as calculated by the Center for Health Statistics.
2. Numeric need for a new hospice is demonstrated if the projected number of patients eligible for hospice per calendar year is 35 or greater in the proposed service area (or expanded area).^{*} The projections for the proposed area would have to indicate a need for 35 or more after the deaths for the existing hospices for the previous four quarters have been subtracted out from the total projected hospice patients.

^{} The service area is the county.*

B. REQUIREMENTS:

Applicants are required to provide a business plan including:

1. Documentation of financial support to provide cost efficient hospice care as measured by industry standards and published by The National Hospice and Palliative Care Organization or The National Association of Home Care and Hospice.
2. A potential office location in the county in which the applicant is applying for a Permit, or documentation that research into a location for an office has been done, with the amount of rent reflected in the budget. An exception exists if an applicant has a hospice office in a contiguous county; in this case, the existing hospice office can serve as the address for the new application.
3. A plan to educate physicians, hospital discharge planners and other appropriate health and social service providers about the need for timely referral of potential hospice patients.
4. Agreement to provide timely and accurate reporting data to the Health Services Permit Agency as requested.

C. Regardless of numeric need, no new hospice agency will be approved unless hospice death data from the last eight quarters for each hospice agency servicing the proposed service area has been available for publishing by the Agency. This provision does not prohibit approval where a new license was granted to an Agency that purchased a hospice agency that had been serving the area for more than two years.

D. Unfavorable Review

1. The Agency may consider an applicant's in-state and out-of-state compliance and enforcement history in determining whether to grant a Permit of Approval.
2. No hospice application will be approved if the applicant has had any condition level deficiencies in the previous 36 months as determined by the applicable state survey agency unless the state survey agency has documented that the deficiency was corrected at least 12 months prior to the application submission.

II. HOSPICE FACILITIES

This rule regulates the establishment of new hospice facilities and expansion of existing hospice facilities.

The objective of this Methodology is to ensure that an adequate supply of hospice beds are available and accessible while avoiding the proliferation of unneeded hospice facilities in the service area.*

- A. APPLICATION REQUIREMENTS are based on federal guidelines including Section 1861 of the Social Security Act that states that a hospice must provide all levels of hospice care and cannot choose to only operate an in-patient facility. It must offer all levels of care including general in-patient, routine, respite and continuous care. The only eligible applicants for a Hospice Facility are those agencies that have operated a licensed Hospice Agency for at least one year prior to seeking application for a Hospice Facility.
- B. BED NEED – The calculations to determine the number of patients eligible for hospice services are the same as those found in Section I. A2.

The formula to determine the need for hospice beds is based on the federal allowance of 20% in-patient days and the Arkansas average of 5.6% in-patient days (5.2% general inpatient and 0.5% respite). The Arkansas average is rounded to 6%. The mean of 6% and 20% is 13%. This mean (13%) is multiplied times the number of projected hospice patients in the county to determine the county need for hospice beds.

Applicants can apply for a minimum of 4 beds and a maximum of 36 beds.

Applicants who have a facility and who propose to expand: (1) can not expand to greater than the maximum number of beds per county (See Bed Need Book Appendix A) and (2) can not exceed 36 beds.

Hospice need is projected five years in the future as of July 1st of each calendar year. The number of projected hospice patient deaths will be computed from the most recent Crude Death available from the Center for Health Statistics, Arkansas Dept. of Health and the most recent available population estimates obtainable from the US Census Bureau.

* The service area is the county

C. REQUIREMENTS:

Applicants are required to provide a business plan including the following:

1. Documentation of financial support to provide cost efficient hospice care as measured by industry standards The National Hospice and Palliative Care Organization or The Hospice Association of America.
2. A street address and city for the proposed facility in the county in which the applicant is applying for a Permit.
3. Agreement to provide timely and accurate reporting data to the Health Services Permit Agency as requested.

D. HOSPICE FACILITY EMERGENCY RULE

Hospice facilities can expand current licensed bed capacity to meet the needs of hospice patients who are displaced as a result of a declared emergency in Arkansas or in a border state. In this circumstance, hospice facilities may temporarily expand without a Permit of Approval if the following conditions are met:

- (a) Life safety will not be jeopardized for any individual.
- (b) The immediate needs of residents and other individuals sheltered at the facility can be met by the facility.
- (c) The facility maintains a log of the additional persons being housed in the facility. The log shall include the individual's name, usual address, and the dates of arrival and departure.
- (d) The admissions and discharge log shall be de-identified and a monthly report provided to the Health Service Permit Agency
- (e) The hospice facility complies with all reporting requirements of state and federal rules and regulations.
- (f) Any hospice facility that temporarily expands its capacity pursuant to this rule must revert to its permit of approval capacity at the end of the 120-day period.