

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 661. HOSPICE**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administration

310:661-3-5 [NEW]

310:661-3-5.1 [NEW]

310:661-3-5.2 [NEW]

310:661-3-5.3 [NEW]

310:661-3-5.4 [NEW]

SUMMARY:

This proposal implements the provisions of House Bill 1438 (2015) creating Section 1-862 in Title 63 of the Oklahoma Statutes, relating to continuing education of hospice program administrators. The proposal defines acceptable curriculum and instructors for meeting the education requirement. The proposal establishes documentation requirement of educational training and penalty for violation of the proposal. The effect of the Rule change will result in industry trained hospice administrators that are equipped to manage a hospice entity and oversee all components of patient care.

AUTHORITY:

Commissioner of Health, 63 O.S. § 1-104; 63 O.S. § 1-862.

COMMENT PERIOD:

February 15, 2019 through March 21, 2019. Persons wishing to submit written comments may do so in person, by mail, or by email through March 21, 2019 at: Oklahoma State Department of Health, Attn: Agency Rule Liaison, Health Policy, Partnerships and Planning. 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, OSDHRules@health.ok.gov

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on March 19, 2019 at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10am. In the event of state offices closing due to inclement weather, there will be an alternate hearing date on March 21, 2019, at the same location in room 1102, beginning at 10 am.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through March 21, 2019.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contract person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.health.ok.gov.

CONTACT PERSON:

LaTrina Frazier, Administrative Programs Manager, Home Services Section, Medical Facilities

Service, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; phone (405) 271-6576, e-mail latrinaf@health.ok.gov. Spencer Kusi, Agency Rule Liaison, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; Email: OSDHRules@health.ok.gov

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
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1. **DESCRIPTION:** *(a brief description of the proposed rule [75 O.S. § 303(D)(2)(a)])*
This proposal implements the provisions of House Bill 1438 (2015), creating Section 1-862 in Title 63 of the Oklahoma Statutes, relating to continuing education of hospice program administrators. The proposal defines acceptable curriculum and instructors for meeting the education requirement. The proposal establishes documentation requirement of educational training and penalty for violation of the proposal. The effect of the Rule change will result in industry trained hospice administrators that are equipped to manage a hospice entity and oversee all components of patient care.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:** *(a description of the persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities [75 O.S. § 303(D)(2)(b)])*
Those classes of persons potentially affected are the Hospice Administrators and the Hospice Agencies. There is the potential for an increase in the level of direct costs such as fees for the continuing education units to the hospice administrators. There are also indirect costs such as reporting, and recordkeeping expected expenses that will be incurred by the Hospice agencies and the administrators, due to compliance with the proposed rule.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:** *(a description of the classes of persons who will benefit from the proposed rule [75 O.S. § 303(D)(2)(c)])*
The benefit of the proposed rule change will result in industry trained hospice administrators that are equipped to manage a hospice entity and oversee all components of patient care; improved Hospice Administrator awareness and understanding of the requirements for regulatory compliance; and improved Hospice quality of care. The Department intends to verify the benefit of the rule through outcome measures associated with verified compliance during survey.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:** *(a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change [75 O.S. §303(D)(2)(d)])*

There are no fee changes associated with the proposed rule change. The Department will seek public comment on the economic impact and cost of compliance for this rule change.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:** *(the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency [75 O.S. §303(D)(2)(e)])*

The proposed rule change will add approximately 15 minutes to each Hospice agency survey. The workload cost to the Department will be approximately \$385.00 annually. The costs of rule drafting, adoption, publication, distribution, and education are approximately \$3,800. The proposed rules will be

implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.

6. **IMPACT ON POLITICAL SUBDIVISIONS:** *(a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule [75 O.S. §303(D)(2)(f)])*

The implementation of the proposed rule will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

7. **ADVERSE EFFECT ON SMALL BUSINESS:** *(a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act [75 O.S. § 303(D)(2)(g)])*

The adverse effect on small business is the potential of unavailability of the Hospice Administrator during business hours while receiving training. The Department requests businesses provide, during the comment period, estimates, in dollar amounts if possible, of any increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:** *(an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule [75 O.S. § 303(D)(2)(h)])*

The agency has taken measures to minimize the cost of assessing compliance by adding the review of the Hospice Administrator continuing education records to the current survey process, thereby allowing the review to occur simultaneous with existing regulatory review and surveys.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:** *(a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk [75 O.S. § 303(D)(2)(i)])*

The benefit of the proposed rule change will result in industry trained hospice administrators that are equipped to manage a hospice entity and oversee all components of patient care; thereby improving a core public health function to ensure quality of patient care.

According to English and Wilson (2014), the primary cause of failure of hospice agencies is untrained and inexperienced management. The hospice administrator must have operational knowledge of all agency functions in the hospice regulations and program, which greatly impacts patient outcomes and the quality of care (Paradis, 2014).

Paradis, L. F. (2014). *Stress and burnout among providers caring for the terminally ill and their families*. Routledge.

Wilson, D. C., & English, D. J. (2014). *Issues in Hospice Administration. The Hospice: Development and Administration*, 50.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:** *(a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented [75 O.S. § 303(D)(2)(j)])*

Without adoption of the proposed rule there is the potential detrimental effect of Hospice Administrators being employed that are not knowledgeable of hospice standards of care, resulting in poor performing hospices that lack improvement in patient quality of care, and/or lack improved patient outcomes.

11. **PREPARATION AND MODIFICATION DATES:** *(the date the rule impact statement was prepared and if modified, the date modified [75 O.S. § 303(D)(2)(k)])*

This rule impact statement was prepared on January 24, 2019.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
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SUBCHAPTER 3. ADMINISTRATION

310:661-3-5. Continuing education

The section implements the provisions of Title 63 O.S. 1-862 concerning hospice administrator continuing education.

310:661-3-5.1 Number of hours required

(a) All hospice administrators operating a hospice program in this state shall be required to complete eight (8) hours of continuing education each calendar year.

(b) Hours of continuing education may be completed in person or online.

(c) Membership in a statewide organization relating to hospice care shall be considered as completion of one (1) hour of ethics credit each year.

310:661-3-5.2. Acceptable continuing education

(a) Continuing education curriculum content is acceptable when it includes at least one of the following components:

(1) Administrative skills, duties, and responsibilities;

(2) Administrative procedures and strategic planning;

(3) Community relations and public information;

(4) Fiscal and information data management;

(5) Human relations;

(6) Ethics; or

(7) State and federal statutes and rules applicable to Hospice service delivery.

(b) Continuing education hours may be offered through a graduate or undergraduate course, seminar, workshop, conference, or professional association meeting for the purpose of enhancing professional competency. This excludes independent reading and informal meetings that are informational in nature and are offered as a public service and not for the offering of continuing education.

(c) An acceptable instructor or entity offering continuing education courses shall have:

(1) Experience in hospice administration; or

(2) Expertise in teaching and instructional methods suitable to the subject presented; or

(3) Academic qualifications and experience for the subject.

310:661-3-5.3. Documentation of attendance

(a) A hospice administrator shall maintain in their personal records verification of course attendance, completion, or membership documents. Acceptable documents include the following:

(1) A continuing education validation form furnished by the presenter;

(2) A certificate or letter of attendance or completion with an agenda or content outline; or

(3) An official college transcript showing courses completed with credit issued or audit credit.

(b) The presenting organization must be identified in the verification documents through documentation identifying the sponsoring entity, the name of the program, location, dates, subject taught, total number of hours, participant's name and presenter's name and credentials.

(c) Presentation of fraudulent continuing education documentation shall be a violation of this Chapter and applicable to the hospice license.

310:661-3-5.4. Penalty for failure to fulfill continuing education

Failure to meet the continuing education requirements is a violation of Title 63, Section 1-862 and this Chapter and therefore, subject to a written notice of violation.