

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**PART 214**

**HOSPICES**

**333.21401 Definitions; principles of construction.**

Sec. 21401. (1) As used in this part:

(a) "Home care" means a level of care provided to a patient that is consistent with the categories "routine home care" or "continuous home care" described in 42 C.F.R. 418.302(b)(1) and (2).

(b) "Hospice residence" means a facility that meets all of the following:

(i) Provides 24-hour hospice care to 2 or more patients at a single location.

(ii) Either provides inpatient care directly in compliance with this article and with the standards set forth in 42 C.F.R. 418.100 or provides home care as described in this article.

(iii) Is owned, operated, and governed by a hospice program that is licensed under this article and provides aggregate days of patient care on a biennial basis to not less than 51% of its hospice patients in their own homes. As used in this subparagraph, "home" does not include a residence established by a patient in a health facility or agency licensed under this article or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(c) "Inpatient care" means a level of care provided to a patient that is consistent with the categories "inpatient respite care day" and "general inpatient care day" described in 42 C.F.R. 418.302(b)(3) and (4).

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

**Compiler's note:** For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

**Popular name:** Act 368

**333.21411 License for hospice or hospice residence required; exception; use of term "hospice"; representation as hospice residence; exemption from licensure; separate license for health facility or agency; activities of health facility or agency not restricted; inspections and concurrent issuance of licenses.**

Sec. 21411. (1) Except as provided in subsection (5), a hospice or hospice residence shall be licensed as required under this article.

(2) The term "hospice" shall not be used to describe or refer to a health program or agency unless that program or agency is licensed as a hospice by the department as required under this article or is exempted from licensure as provided in subsection (5).

(3) A person shall not represent itself as a hospice residence unless that person is licensed as a hospice residence by the department as required under this article.

(4) A hospital, nursing home, home for the aged, county medical care facility, or any other health facility or agency that operates a hospice or hospice residence shall be licensed as a hospice or hospice residence under this article.

(5) A hospice is exempt from licensure under this article if the hospice meets all of the following requirements:

(a) Provides services to not more than 7 patients per month on a yearly average.

(b) Does not charge or receive fees for goods or services provided.

(c) Does not receive third party reimbursement for goods or services provided.

(6) If a hospice provides inpatient services that meet the definition of a hospital, nursing home, home for the aged, county medical care facility, hospice residence, or other health facility or agency, the hospice or hospice residence shall obtain a separate license as required under this article for that hospital, nursing home, home for the aged, county medical care facility, hospice residence, or other health facility or agency.

(7) This part does not restrict an activity of a health facility or agency if the activity is permitted under the license held by that health facility or agency.

(8) If separate licensure is required under this section, the department may conduct inspections and issue

the required licenses concurrently.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1984, Act 16, Imd. Eff. Mar. 1, 1984;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

**Popular name:** Act 368

### **333.21413 Duties of owner, operator, and governing body of hospice or hospice residence.**

Sec. 21413. (1) The owner, operator, and governing body of a hospice or hospice residence licensed under this article:

(a) Are responsible for all phases of the operation of the hospice or hospice residence and for the quality of care and services rendered by the hospice or hospice residence.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians and other personnel working in the hospice or hospice residence and for whom a license or registration is required be currently licensed or registered.

(c) Shall not discriminate because of race, religion, color, national origin, or sex, in the operation of the hospice or hospice residence including employment, patient admission and care, and room assignment.

(2) As a condition of licensure as a hospice residence, an applicant shall have been licensed under this article as a hospice and in compliance with the standards set forth in 42 C.F.R. part 418 for not less than the 2 years immediately preceding the date of application for licensure. A hospice residence licensed under this article may provide both home care and inpatient care at the same location. A hospice residence providing inpatient care shall comply with the standards in 42 C.F.R. 418.100.

(3) In addition to the requirements of subsections (1) and (2) and section 21415, the owner, operator, and governing body of a hospice residence that is licensed under this article and that provides care only at the home care level shall do all of the following:

(a) Provide 24-hour nursing services for each patient in accordance with the patient's hospice care plan as required under 42 C.F.R. part 418.

(b) Have an approved plan for infection control that includes making provisions for isolating each patient with an infectious disease.

(c) Obtain fire safety approval pursuant to section 20156.

(d) Equip each patient room with a device approved by the department for calling the staff member on duty.

(e) Design and equip areas within the hospice residence for the comfort and privacy of each patient and his or her family members.

(f) Permit patients to receive visitors at any hour, including young children.

(g) Provide individualized meal service plans in accordance with 42 C.F.R. 418.100(j).

(h) Provide appropriate methods and procedures for the storage, dispensing, and administering of drugs and biologicals pursuant to 42 C.F.R. 418.100(k).

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

**Popular name:** Act 368

### **333.21415 Program of planned and continuous hospice care; direction of medical components; coordination, design, and provision of hospice services.**

Sec. 21415. (1) A hospice or a hospice residence shall provide a program of planned and continuous hospice care, the medical components of which shall be under the direction of a physician.

(2) Hospice care shall consist of a coordinated set of services rendered at home or in hospice residence or other institutional settings on a continuous basis for individuals suffering from a disease or condition with a terminal prognosis. The coordination of services shall assure that the transfer of a patient from 1 setting to another will be accomplished with a minimum disruption and discontinuity of care. Hospice services shall address the physical, psychological, social, and spiritual needs of the individual and shall be designed to meet the related needs of the individual's family through the periods of illness and bereavement. These hospice services shall be provided through a coordinated interdisciplinary team that may also include services provided by trained volunteers.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

**Popular name:** Act 368

### **333.21417 Disease or condition with terminal prognosis as prerequisite for admission to or retention for care.**

Sec. 21417. An individual shall not be admitted to or retained for care by a hospice or a hospice residence unless the individual is suffering from a disease or condition with a terminal prognosis. An individual shall be

considered to have a disease or condition with a terminal prognosis if, in the opinion of a physician, the individual's death is anticipated within 6 months after the date of admission to the hospice or hospice residence. If a person lives beyond a 6-month or less prognosis, the person is not disqualified from receiving continued hospice care.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

**Popular name:** Act 368

### **333.21418 Controlled substance disposal policy; requirements; rules; definitions.**

Sec. 21418. (1) Beginning 90 days after the department promulgates rules to implement this section, a hospice or hospice residence that provides services in a patient's private home shall establish and implement a written controlled substance disposal policy establishing procedures to be followed to mitigate the diversion of controlled substances that are prescribed to the patient. The policy must include all of the following:

(a) A procedure for offering to assist with the disposal of a controlled substance that is prescribed to a patient as part of the patient's hospice plan of care.

(b) A requirement that an employee provide the patient or the patient's family education on safe disposal locations for a controlled substance and techniques for the safe disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(c) Procedures for offering assistance with the disposal of a controlled substance to a patient who revokes hospice care and services.

(d) A requirement that an employee document whether the patient or the patient's family accepted or refused an offer to assist with the disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(e) A requirement that if an employee assists with the disposal of a controlled substance, the disposal is performed and witnessed in any of the following ways:

(i) Performed by the employee and witnessed by another competent adult.

(ii) Performed by the patient or the patient's family and witnessed by another competent adult.

(f) A requirement that if an employee assists with the disposal of a controlled substance, the disposal must be performed in the patient's private home.

(2) A hospice or hospice residence that provides services in a patient's private home shall ensure that all of the following are met within 5 days of admission to the hospice or hospice residence and providing hospice care or services to the patient in the patient's private home:

(a) That a copy of the controlled substance disposal policy established under subsection (1) is distributed to the patient or the patient's family and that an offer to discuss the procedures included in the policy is made to the patient and the patient's family.

(b) That the patient and the patient's family are informed that an employee will offer to assist with the disposal of a controlled substance that is included in the patient's hospice plan of care at the time of death or when the controlled substance is no longer needed by the patient.

(3) The department shall promulgate rules to implement this section, including, but not limited to, rules governing the safe disposal of controlled substances in a patient's private home.

(4) As used in this section:

(a) "At the time of death" means within 72 hours after the patient's death.

(b) "Employee" means a registered professional nurse or licensed practical nurse who is employed by the hospice or hospice residence.

(c) "Licensed practical nurse" means an individual who is licensed to engage in the practice of nursing as a licensed practical nurse under article 15.

(d) "Patient's family" means a relative or caregiver who has been designated by the patient.

(e) "Patient's private home" means a patient's home. As used in this subdivision, "home" does not include a residence established by a patient in a health facility or agency or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(f) "Registered professional nurse" means that term as defined in section 17201.

**History:** Add. 2018, Act 396, Eff. Mar. 19, 2019.

**Popular name:** Act 368

### **333.21419 Rules.**

Sec. 21419. (1) Not later than 1 year after the effective date of this part, the department shall submit for a public hearing proposed rules necessary to implement and administer this part.

(2) The rules promulgated pursuant to subsection (1) shall not establish standards related to the credentials

of an individual providing care in a hospice program, whether as an employee of a program or volunteer in a program, unless, with respect to the type of care the individual would provide in the hospice program, a license or other credential is required by law for an individual providing that care.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981.

**Popular name:** Act 368

**Administrative rules:** R 325.13101 et seq. of the Michigan Administrative Code.

**333.21420 Exemption of hospices from license fees and certificate of need fees; period.**

Sec. 21420. Notwithstanding any other provision of this act, all hospices shall be exempt from license fees and certificate of need fees for 3 years after the first hospice is licensed under this article.

**History:** Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1982, Act 245, Imd. Eff. Sept. 23, 1982.

**Popular name:** Act 368

**333.21421 Repealed. 1987, Act 149, Imd. Eff. Oct. 26, 1987.**

**Compiler's note:** The repealed section provided for the expiration of this part.

**Popular name:** Act 368