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Code: Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 8.5. California Hospice Licensure Act of 1990 [1745 - 1759] (*Chapter 8.5 added by Stats. 1990, Ch. 1343, Sec. 1.*)

ARTICLE 3. Enforcement [1752 - 1759] (*Article 3 added by Stats. 1990, Ch. 1343, Sec. 1.*)

1752. (a) A licensed hospice, at the state department's option, may periodically be inspected by a duly authorized representative of the state department. Reports of each inspection shall be prepared by the representative who conducted the inspection, upon forms prepared and furnished by the state department, and filed with the state department. The inspection shall be for the purpose of ensuring that this chapter and the rules and regulations adopted under this chapter are being followed.

(b) Any officer, employee, or agent of the state department, who has been assigned the responsibility of enforcing this chapter, may enter and inspect any building or premises where hospice care is being provided, as well as any form, record, or file of a licensee at any reasonable time to assure compliance with, or to prevent the violation of, any provision of this chapter.

(*Added by Stats. 1990, Ch. 1343, Sec. 1.*)

1752.1. (a) Any person may request an investigation of a hospice agency in accordance with this chapter by making a complaint to the department alleging a violation of applicable requirements prescribed by statutes or regulations of this state. A complaint may be made orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the investigation. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided to the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) (1) Upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite investigation within 10 business days after receiving the complaint except when the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(2) Prior to conducting an onsite investigation pursuant to this section, the department shall make a good faith effort, documented in writing, to contact and interview the complainant and inform the complainant of the department's proposed course of action and the relevant deadline for the department to complete its investigation. To the extent practicable, the officer, employee, or agent of the department who will conduct the investigation shall be the representative who interviews and makes contact with the complainant.

(d) Within 10 business days of completing the investigation of a complaint and licensee under this section, the department shall notify the complainant in writing of the department's determination as a result of the investigation.

(*Added by Stats. 2022, Ch. 797, Sec. 5. (AB 2673) Effective January 1, 2023.*)

1753. (a) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter. The department shall consult with licensed hospices, small and rural hospices, and volunteer hospice providers in developing regulations pursuant to this chapter.

(b) The department shall adopt rules and regulations regarding the purchase, storage, furnishing, and transportation of legend devices for a patient of a hospice. As used in this subdivision, "legend devices" means any device that bears the label "Caution: federal law restricts this device to sale by or on the order of a _____" or words of similar meaning.

(Amended by Stats. 2022, Ch. 797, Sec. 6. (AB 2673) Effective January 1, 2023.)

1753.1. On or before January 1, 2026, the department shall adopt emergency regulations to implement the recommendations in California State Auditor Report 2021-123 on the California Hospice Licensure and Oversight (March 29, 2022). The department shall maintain the general moratorium on new hospice agency licenses until the department adopts the regulations. The emergency regulations shall do all of the following:

(a) Establish time and distance standards that define the maximum time and distance hospice agency staff may travel to reach patients, taking into consideration typical traffic conditions and whether the hospice agency is serving patients in rural or urban areas.

(b) Establish standards for a hospice agency's ratio of nurses to patients.

(c) Establish a limit for the number of hospice agencies that hospice agency management personnel can be involved with concurrently.

(d) Require hospice agency management personnel to meet minimum standards of training and experience, including, but not limited to, hospice-specific training or experience.

(e) Establish specific requirements for hospice agency office space.

(f) Establish timelines for reporting changes to application information, including, but not limited to, change of mailing address, change of location, and change of name.

(Amended by Stats. 2024, Ch. 999, Sec. 2. (AB 177) Effective September 30, 2024.)

1754. (a) Any licensee may, with the approval of the state department, surrender his or her license for suspension or cancellation by the state department.

(b) Any license suspended or canceled pursuant to this section may be reinstated by the state department upon receipt of an application showing compliance with this chapter.

(Added by Stats. 1990, Ch. 1343, Sec. 1.)

1755. (a) The department may deny any application for licensure, or suspend or revoke any license issued, under this chapter upon any of the following grounds:

(1) Violation by the applicant or licensee of this chapter or any rules and regulations promulgated by the department under this chapter, including improperly certifying a patient as eligible for hospice care.

(2) Prior termination from the federal Medicare program or the Medi-Cal program due to noncompliance, or licensure suspension or revocation, of a hospice agency owned, operated, or managed by the applicant or licensee.

(3) Demonstration of a pattern and practice of violations of state or federal standards during the last three years of a hospice agency owned, operated, or managed by the applicant or licensee.

(4) Presence on the List of Excluded Individuals/Entities of the United States Department of Health and Human Services Office of Inspector General of the applicant or licensee.

(5) Any felony conviction of the applicant or licensee for the violation of any law of this state.

(6) Any conviction of the applicant or licensee for aiding, abetting, or permitting the commission of any act that is a felony in this state.

(7) The applicant's or licensee's misrepresentation of a material fact in the application for a license under this chapter.

(8) Failure by hospice agency management personnel to cooperate with the department for the purposes of conducting an inspection or complaint investigation.

(9) Failure by a hospice agency to report a change in owner, hospice agency management personnel, service area, or location.

(b) Proceedings for the denial, suspension, or revocation of licenses under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. In the case of a conflict between this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, Chapter 5 (commencing with Section 11500) shall control.

(Amended by Stats. 2022, Ch. 797, Sec. 8. (AB 2673) Effective January 1, 2023.)

1756. (a) The suspension, expiration, or forfeiture by operation of law of a license issued by the state department under this chapter, the suspension or cancellation of a license by order of the state department or by order of a court of law, or the surrender of a license without the written consent of the state department shall not deprive the state department of its authority to institute or continue any disciplinary proceeding against the licensee pursuant to this chapter.

(b) Any license revoked pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

(Added by Stats. 1990, Ch. 1343, Sec. 1.)

1757. Any person who violates any provision of this chapter or any rule or regulation promulgated under this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500), by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(Added by Stats. 1990, Ch. 1343, Sec. 1.)

1758. The director may bring an action to enjoin the violation or threatened violation of Section 1748 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show the lack of an adequate remedy at law or to allege facts necessary to show or tending to show irreparable damage or loss.

(Added by Stats. 1990, Ch. 1343, Sec. 1.)

1759. The district attorney of every county shall, upon application by the state department or its authorized representative, institute and conduct the prosecution within his or her county of any action for violation of this chapter.

(Added by Stats. 1990, Ch. 1343, Sec. 1.)