

CHAPTER 122—H.F.No. 675

An act relating to health; modifying the hospice care bill of rights; requiring hospice providers to complete a specified survey; modifying death report requirements for recipients of hospice care; amending Minnesota Statutes 2004, sections 144A.751, subdivisions 1, 3; 144A.755; 383B.225, subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 144A.751, subdivision 1, is amended to read:

Subdivision 1. **STATEMENT OF RIGHTS.** An individual who receives hospice care and the individual's family have has the right to:

(1) receive written information about rights in advance of receiving hospice care or during the initial evaluation visit before the initiation of hospice care, including what to do if rights are violated;

(2) receive care and services according to a suitable hospice plan of care and subject to accepted hospice care standards and to take an active part in creating and changing the plan and evaluating care and services;

(3) be told in advance of receiving care about the services that will be provided, the disciplines that will furnish care, the frequency of visits proposed to be furnished, other choices that are available, and the consequence of these choices, including the consequences of refusing these services;

(4) be told in advance, whenever possible, of any change in the hospice plan of care and to take an active part in any change;

(5) refuse services or treatment;

(6) know, in advance, any limits to the services available from a provider, and the provider's grounds for a termination of services;

(7) know in advance of receiving care whether the hospice services are may be covered by health insurance, medical assistance, Medicare, or other health programs, the charges for services that will not be covered by Medicare, and the charges that the individual may have to pay in which the individual is enrolled;

(8) know what the charges are for services, ~~no matter who will be paying the bill receive, upon request, a good faith estimate of the reimbursement the provider expects to receive from the health plan company in which the individual is enrolled. A good faith estimate must also be made available at the request of an individual who is not enrolled in a health plan company. This payment information does not constitute a legally binding estimate of the cost of services;~~

(9) know that there may be other services available in the community, including other end of life services and other hospice providers, and know where to go for information about these services;

(10) choose freely among available providers and change providers after services have begun, within the limits of health insurance, medical assistance, Medicare, or other health programs;

New language is indicated by underline, deletions by ~~strikeout~~.

(11) have personal, financial, and medical information kept private and be advised of the provider's policies and procedures regarding disclosure of such information;

(12) be allowed access to records and written information from records according to section 144.335;

(13) be served by people who are properly trained and competent to perform their duties;

(14) be treated with courtesy and respect and to have the patient's property treated with respect;

(15) voice grievances regarding treatment or care that is, or fails to be, furnished or regarding the lack of courtesy or respect to the patient or the patient's property;

(16) be free from physical and verbal abuse;

(16) (17) reasonable, advance notice of changes in services or charges, including at least ten days' advance notice of the termination of a service by a provider, except in cases where:

(i) the recipient of services engages in conduct that alters the conditions of employment as specified in the employment contract between the hospice provider and the individual providing hospice services, or creates an abusive or unsafe work environment for the individual providing ~~home care~~ hospice services; or

(ii) an emergency for the informal caregiver or a significant change in the recipient's condition has resulted in service needs that exceed the current service provider agreement and that cannot be safely met by the hospice provider; or

(iii) the recipient is no longer certified as terminally ill;

(17) (18) a coordinated transfer when there will be a change in the provider of services;

(18) ~~voice grievances regarding treatment or care that is, or fails to be, furnished, or regarding the lack of courtesy or respect to the patient or the patient's property;~~

(19) know how to contact an individual associated with the provider who is responsible for handling problems and to have the provider investigate and attempt to resolve the grievance or complaint;

(20) know the name and address of the state or county agency to contact for additional information or assistance;

(21) assert these rights personally, or have them asserted by the hospice patient's family when the patient has been judged incompetent, without retaliation; and

(22) have pain and symptoms managed to the patient's desired level of comfort.

Sec. 2. Minnesota Statutes 2004, section 144A.751, subdivision 3, is amended to read:

Subd. 3. **DISCLOSURE.** A copy of these rights must be provided to an individual at the time hospice care is initiated. The copy shall contain the address and telephone

New language is indicated by underline, deletions by ~~strikeout~~.

number of the Office of Health Facility Complaints and the Office of the Ombudsman for Older Minnesotans and a brief statement describing how to file a complaint with these offices. Information about how to contact the Office of the Ombudsman for Older Minnesotans shall be included in notices of change in client provider fees and in notices where hospice providers initiate transfer or discontinuation of services.

Sec. 3. Minnesota Statutes 2004, section 144A.755, is amended to read:

144A.755 INFORMATION AND REFERRAL SERVICES.

The commissioner shall ensure that information and referral services relating to hospice care are available in all regions of the state. The commissioner shall collect and make available information about available hospice care, sources of payment, providers, and the rights of patients. ~~The commissioner may require hospice providers to provide information requested for the purposes of this section as a condition of licensure~~ The commissioner shall, as a condition of licensure, require a hospice provider to complete the sections entitled Identification and Contact Information, Program Demographics, Patient Volume, Patient Demographics, and Inpatient and Residential Facilities in the National Hospice and Palliative Care Organization National Data Set survey and to submit the survey to the National Hospice and Palliative Care Organization once in the 12 calendar months before the hospice provider's license renewal date. If the Center for Medicare and Medicaid Services requires hospice providers to complete a different data set as a condition of certification, the commissioner shall accept the completion and submittal of such data set as compliance with this requirement. The commissioner shall not use any data or information about any hospice provider submitted to the National Hospice and Palliative Care Organization in connection with this data set in any regulatory function with respect to the hospice provider. The commissioner may publish and make available:

- (1) general information describing hospice care in the state;
- (2) limitations on hours, availability of services, and eligibility for third-party payments, applicable to individual providers; and
- (3) other information the commissioner determines to be appropriate.

Sec. 4. Minnesota Statutes 2004, section 383B.225, subdivision 5, is amended to read:

Subd. 5. **REPORTS OF DEATH.** All sudden or unexpected deaths and all deaths which may be due entirely, or in part, to any factor other than natural disease must be reported to the medical examiner for evaluation. These include, but are not limited to:

- (1) unnatural deaths, including violent deaths arising from homicide, suicide, or accident;
- (2) deaths associated with burns or chemical, electrical, or radiational injury;
- (3) maternal deaths due to abortion;
- (4) deaths under suspicious circumstances;

New language is indicated by underline, deletions by ~~strikeout~~.

(5) deaths of inmates of public institutions who have not been hospitalized primarily for organic disease and deaths of persons in custody of law enforcement officers;

(6) deaths that occur during, in association with, or as the result of diagnostic, therapeutic, or anesthetic procedures;

(7) deaths due to neglect;

(8) stillbirths of 20 weeks or longer gestation unattended by a physician;

(9) sudden deaths of persons not disabled by recognizable disease;

(10) unexpected deaths of persons notwithstanding a history of underlying disease;

(11) deaths of persons to be cremated if an autopsy was not performed;

(12) deaths in which a fracture of a major bone such as a femur, humerus, or tibia, has occurred within the past six months;

(13) deaths unattended by a physician occurring outside of a licensed health care facility;

(14) deaths of persons not seen by their physician within 90 days of demise, or within 180 days for deaths of persons under the care of a licensed hospice provider;

(15) physician attended deaths of persons occurring in an emergency department;
or

(16) deaths of unborn or newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances.

No person, other than the medical examiner, shall issue a record of death in cases of accidental, suicidal, violent, or mysterious deaths, including suspected homicides, occurring in the county.

Sec. 5. **EFFECTIVE DATE; APPLICATION.**

Section 3 is effective August 1, 2005, and applies to:

(1) licenses renewed beginning January 1, 2006, for hospices serving more than 400 patients a year;

(2) licenses renewed beginning January 1, 2007, for hospices serving at least 300 patients a year; and

(3) licenses renewed beginning January 1, 2008, for hospices serving fewer than 300 patients a year.

Presented to the governor May 24, 2005

Signed by the governor May 26, 2005, 8:10 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.