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QUALITY ASSURANCE DIVISION
LICENSING BUREAU
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HOSPICE PROGRAM SERVICES PROVIDED IN ASSISTED LIVING FACILITIES.

The State Licensure Bureau has received a number of different inquiries regarding hospice program services delivered in Assisted Living Facilities, such as:

- What resident services can the facility provide in the absence of the hospice staff without violating Administrative Rules?
- Does a hospice patient automatically become a category "B" resident?
- Can the Category "A" facility, the resident has lived in for sometime, continue to serve the resident?
- Does a category "A" facility have to give a relocation notice to the resident to move to another level of care?

The Licensure Bureau has provided the following discussion and offers several resolutions to offer guidance to Assisted Living facilities, Hospice Programs, and consumers of hospice services regarding these issues. While the Bureau consulted with the department's office of legal affairs and the Board of Nursing (BON), this document is not to be considered a legal opinion issued by the Department or the Board of Nursing.

Definitions:

"Hospice care" means palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying, and that includes a formal bereavement component.

"Hospice program" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.

"Hospice staff" means paid or unpaid persons, including volunteers, who are directly supervised by the hospice program.

"Family" means individuals who are closely linked with the hospice patient, including the immediate family, the primary care giver, and individuals with significant personal ties.

The ALF staff, where the patient is living, are not hospice program staff; nor are they technically family members, or persons with significant personal interest in the patient. The ALF staff must function within the requirements of the nurse practice act as Unlicensed Assistive Personnel (UAP) or remain compliant to the nursing scope of practice.

* An ALF "facility" may not be considered a primary care giver for Hospice services, and as such its staff, as a whole, not able to be delegated nursing tasks allowed to "family" as defined above. However, in the case where a resident of an ALF is under Hospice care, and *there is no immediate family available to serve* as the primary care giver, there is nothing that would preclude an individual who is employed by the ALF, and who could be defined as "family" per above, to serve as the primary care giver. In this situation, that employee/primary care giver could be delegated nursing tasks by Hospice for the care of the Hospice patient, with Hospice training appropriate to those tasks.

*It should also be noted, <u>for hospice purposes only</u>, a facility's UAPs would be considered as part of the multi disciplinary health care team. Under these circumstances, a hospice nurse could supervise the UAPs in the facility because they would be considered as part of the health team.

<u>Back Ground:</u>

There are essentially two levels of Hospice services available in the State of Montana: One involves freestanding in-patient hospice services and may also be found or provided in a hospital. The inpatient programs are not relevant to this discussion.

The other type of hospice program is an intermittent service provided to the patient in his/her home, or place of residence; in this case a Category A assisted living facility. This type of hospice service may utilize volunteers, "family member(s)" or "person(s) with significant personal ties" to assist or augment the provision of hospice care, in the absence of hospice program staff. A "Hospice Program" providing services to residents of "assisted living facilities" is the subject of the discussion in this memorandum.

<u>Exceptions:</u>

This memorandum does not apply to any Category A assisted living facility that employs or has a consulting nurse(s) readily available to provide nursing intervention and assistance.

This memorandum does not apply when the Hospice nurse delegates tasks under the delegation authority found in the BON rules at ARM 24.159.Subchapter 16, Delegation and Assignment.

<u>Discussion:</u>

Can the Category "A" facility, the resident has lived in for sometime continue to serve the resident once Hospice has been ordered?

Yes. Independent third party skilled services can be provided by the family, if permitted by the assisted living facility resident agreement. This third party arrangement is independent of the facility, but does not absolve the facility from all patient responsibilities. The varying

responsibilities and the development of a treatment plan should be clearly communicated between the Hospice provider and the ALF administrator and staff. Clearly written orders for treatment, progress notes, medications, shall be developed, based on patient needs, and become part of the facility's patient file.

What resident services can the facility provide in the absence of the hospice staff without violating Administrative Rules?

In the absence of family members or other individuals with significant personal ties to assist the hospice program with the provision of care, the burden may fall to the ALF staff. Facility UAP staff, can and do, provide assistance with the activities of daily living and may provide personal care, custodial or supportive care. None of these duties are outside the normal services provided by Category A facility UAP staff and are further defined in 24.159.1604, ARM, Tasks Which May Be Routinely Assigned to an Unlicensed Person in Any Setting When a Nurse-Patient Relationship Exists.

The conflict begins to arise when a Hospice program expects, or requires assisted living staff to function as a patient's family member would in the absence of the required nurse supervision; ALF staff are not family members and can only assist in the context of the definition found for "family member" as a UAP. Such expectation from hospice professionals may force ALF staff to make decisions beyond the scope of a UAP.

A hospice patient's family member, following written instructions from the hospice team, can administer a PRN pain medication. A family member does not need a nursing license if they are following the written patient treatment criteria. Such treatment criteria may include administration of a scheduled medication.

In order for a facility staff to administer a PRN in the same way, staff must be licensed as a nurse or properly supervised by a nurse. When the ALF only has UAPs on shift, they must call the facility or hospice nurse, who can assess the current patient status and authorize the administration of a PRN medication within the limitations of the care plan and nursing scope of practice.

Does a hospice patient in a Category A assisted living facility automatically become a category "B" resident? No.

The Licensure Bureau provides no limitation on the provision of Hospice services. An ALF Category A facility may retain a hospice patient without jeopardizing their license or being required to seek a Category B endorsement as long as the resident's hospice needs can be met by family, persons w/ significant personal ties, or third party nursing service. ALF UAP staff can only provide services as UAPs in the context of the discussion under family and as permitted by the Board of Nursing.

Does a category "A" facility have to give a relocation notice to the resident who is receiving Hospice services to move to another level of care?

If the patient does not receive the services required by their treatment or health care plan because proper support is not (or the facility is unable to provide) provided to the patient; then a facility may have no other choice but to issue a relocation notice to the patient.

All participants in the care of the patient must be guided by a current written healthcare treatment plan that is current and up-dated on any change of patient condition. The treatment plan is

developed and kept up to date by a multi-disciplinary team, which includes family members. There may be a time that the facility--recognizing the decline of the resident, or in the absence of adequate third party nursing services—is no longer able to provide for the needs of the resident even with additional services. In such circumstance a notice to move the resident to a more suitable level of care should be given.