

4664.0008 SERVICES INCLUDED AND EXCLUDED FROM LICENSURE.

Subpart 1. **Determination of direct services.** According to Minnesota Statutes, section 144A.75, subdivision 3, a hospice must ensure that at least two core services are regularly provided directly by hospice employees. A service that is provided directly means a service provided to a hospice patient by employees of the hospice provider and not by contract with an independent contractor. The administration of a contract for hospice services is not in itself a direct service. Factors that must be considered in determining whether a business provides hospice services directly include whether the business:

- A. has the right to control and does control the types of services provided;
- B. has the right to control and does control when and how the services are provided;
- C. establishes charges;
- D. collects fees from the patients or receives payment from third-party payers on the patients' behalf;
- E. pays compensation on an hourly, weekly, or similar time basis;
- F. treats the individuals as employees for purposes of payroll taxes and workers' compensation insurance; and
- G. holds itself out as a provider of hospice services or acts in a manner that leads patients or potential patients to reasonably believe that it is a provider of hospice services.

None of the factors listed in items A to G is solely determinative.

Subp. 2. **Contract services.** If a licensee contracts for a hospice service with a business that is not subject to licensure under this chapter, the licensee must require in the contract that the business comply with this chapter and Minnesota Statutes, sections 144A.75 to 144A.755.

Subp. 3. **Governmental providers.** Except as otherwise provided in this chapter or in statute, hospice services that are provided by the state, counties, or other units of government must be licensed under this chapter.

Subp. 4. **Fines.** A fine of \$300 shall be assessed for a violation of subpart 2.

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

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