
ADMINISTRATIVE RULE OF MONTANA
HEALTHCARE FACILITIES
37.106 Subchapter 23
Hospice

RULE

37.106.2301 GENERAL

*RULES 37.106.2302 THROUGH 37.106.2304 RESERVED*

37.106.2305 INPATIENT HOSPICE FACILITY

*RULES 37.106.2306 THROUGH 37.106.2310 RESERVED*

37.106.2311 RESIDENTIAL HOSPICE FACILITY

**37.106.2301 MINIMUM STANDARDS FOR A HOSPICE PROGRAM: GENERAL**

(1) The following definitions apply in this rule and ARM 37.106.2305 and 37.106.2311:

(a) "Bereavement" means that period of time during which survivors mourn a death and experience grief.

(b) "Bereavement services" means support services to be offered during the bereavement period.

(c) "Contract services" means persons or organizations who, under written agreement, provide goods and services to the hospice and its patients and their families.

(d) "Core services" means physician services, nursing services, pastoral counseling, services provided by trained volunteers, and counseling services routinely provided by hospice staff.

(e) "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.

(f) "Hospice" or "hospice program" means a public agency or private organization (or a subdivision thereof) as defined in 50-5-101(22), MCA, which is primarily engaged in providing hospice care.

(g) "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.

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

(i) "Interdisciplinary team" means the number of appropriately qualified interdisciplinary health care professionals and volunteers that are needed to meet the hospice's patients' care needs.

(j) "Managed directly by" means that core services are provided by a hospice program.

(k) "Palliation" means controlling pain and other symptoms which are manifested during the dying process and are consistent with professional practice and regulations of the Montana Board of Pharmacy.

(l) "Respite care" means short-term in-patient care provided to the individual only when necessary to relieve the family members or other persons caring for the individual.

(2) A hospice program may be licensed to operate either:

(a) as a part of a licensed hospital without its own license when the department finds that the hospital's hospice program meets the requirements set forth in this rule; or

(b) with its own hospice license when the department finds that it meets the requirements set forth in this rule.

(3) A hospice program must have the following organizational components:

(a) a formally established governing body, individual, group, or corporation with authority to make decisions affecting the operation of the hospice;

(b) an organization chart defining reporting relationships among hospice workers;

(c) a statement of patient rights and the rights of a patient's family;

(d) established policies for the administration and operation of the program, including but not limited to:

(i) written criteria for program admission and discharge;

(ii) procedures for bereavement referrals and assistance;

(iii) development of a plan of care;

(iv) agreements with other licensed health care facilities for proper transfer of patients and follow up of plans of care;

(v) system(s) for recordkeeping;

(vi) patient care procedures; and

(vii) in-service education.

(e) development of annual budgets; and

(f) annual evaluation of each aspect of the hospice program, including the program's quality assessment and improvement measures and a system to implement recommendations for future program planning.

(4) A hospice program must have an interdisciplinary team responsible for the provision of hospice care. The interdisciplinary team must:

(a) confer or meet regularly;

(b) have responsibility for implementation of each individual plan of care as directed by an identified coordinator; and

(c) encourage the patient/family to participate in developing the interdisciplinary team plan of care and in the provision of hospice services.

(5) A hospice program must assure that each patient has a physician who is the patient's primary physician and assists in the development of the patient's care plan.

(6) A hospice program must maintain a medical record for every individual accepted as a hospice patient. The medical record must include:

(a) patient identification, diagnosis, and prognosis;

(b) patient's medical history:

(c) patient's plan of care;

(d) a record of doctor's hospice orders;

(e) progress notes, dated and signed; and

(f) evidence of timely action by the patient care team.

(7) A hospice program which utilizes volunteers must provide volunteer training which includes:

(a) information concerning hospice philosophy;

(b) instruction on the volunteer's role, responsibilities, restrictions, and expectations; and

(c) information concerning the physical, emotional, and spiritual issues encountered by hospice patients and families.

(8) A hospice program must allow the patient and the patient's family to make the decision to participate in a hospice program and shall encourage the patient and the patient's family to assume as much responsibility for care as they choose.

(9) A hospice program must assure that all services identified in the hospice plan of care for a patient, including skilled nursing services, are offered to the patient.

(10) A hospice program must:

(a) have a plan for providing bereavement follow up for families desiring it;

(b) monitor and assess the quality of contract services through annual review;

(c) ensure that hospice nursing emergency care is available on a 24-hour basis;

(d) hire, train, and supervise hospice staff and ensure that hospice staff adhere to hospice policies; and

(e) establish, update, and implement infection control policies and procedures that are sufficient to prevent transmission of disease.

(11) The hospice program must comply with ARM 37.106.2901, 37.106.2902, 37.106.2904, 37.106.2905, and 37.106.2908, pertaining to restraints, safety devices, assistive devices, and postural supports.

**Authorizing statute(s):** 50-5-103, 50-5-210, MCA

**Implementing statute(s):** 50-5-103, 50-5-204, 50-5-210, MCA

---

**History:** NEW, 1983 MAR p. 1460, Eff. 10/14/83; AMD, 1984 MAR p. 879, Eff. 6/1/84; AMD, 1994 MAR p. 2436, Eff. 8/26/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2009 MAR p. 351, Eff. 3/27/09.

**37.106.2305 MINIMUM STANDARDS FOR AN INPATIENT HOSPICE FACILITY**

(1) In addition to complying with the standards contained in ARM 37.106.2301, an inpatient hospice facility must comply with the requirements of the conditions of participation for hospices providing inpatient care directly, as set forth in 42 CFR Part 418, subparts C through E. Those conditions of participation include, but are not limited to, requirements concerning the following:

(a) 24-hour nursing service;

(b) disaster preparedness;

(c) health and safety laws;

(d) fire protection;

(e) fire protection waivers;

(f) patient areas;

(g) patient rooms and toilet facilities;

(h) bathroom facilities;

(i) linen;

(j) isolation areas;

(k) meal service, menu planning, and supervision; and

(l) pharmaceutical hospice service.

(2) The department hereby adopts and incorporates by reference 42 CFR Part 418, subparts C through E, which contain the conditions that a hospice must meet in order to participate in the medicare program. A copy of the above conditions of participation may be obtained from the Department of Public Health and Human Services, Quality Assurance Division, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

**Authorizing statute(s):** Sec. 50-5-103 and 50-5-210, MCA

**Implementing statute(s):** Sec. 50-5-210, MCA

---

**History:** NEW, 1994 MAR p. 2436, Eff. 8/26/94; TRANS, from DHES, 2002 MAR p. 185.

**37.106.2311 MINIMUM STANDARDS FOR A RESIDENTIAL HOSPICE FACILITY**

(1) A residential hospice facility must meet all of the requirements contained in ARM 37.106.2301 in addition to those contained in this rule.

(2) A residential hospice facility must be managed directly by a licensed hospice program.

(3) A residential hospice facility must be staffed with qualified personnel in numbers sufficient to provide required core services and those indicated in each patient's hospice plan of care, including:

(a) nursing services;

(b) therapies;

(c) monitoring of the ongoing medical needs of patients;

(d) timely response to emergency situations;

(e) volunteer services; and

(f) recreational and social activities.

(4) A residential hospice must assure that individuals providing personal care to residential hospice patients have received, prior to delivering such care, documented training that includes the following elements, or the documented equivalent of such training:

(a) hospice philosophy and orientation;

(b) basic needs of the frail elderly and/or physically disabled persons;

(c) first aid and handling emergencies;

(d) basic techniques in observation of patient's mental and physical health;

(e) basic personal care procedures, including grooming;

(f) methods of making patients comfortable;

(g) bowel and bladder care;

(h) assisting patient mobility, including transfer (e.g. from bed to wheelchair);

(i) techniques in lifting;

(j) food and nutrition;

(k) basic techniques of identifying and correcting potential safety hazards in the home; and

(l) health oriented record keeping.

(5) A residential hospice facility must meet the life-safety requirements set forth in the 2012 NFPA 101 Life Safety Code for residential board and care occupancies.

(6) In patient areas, a residential hospice must:

(a) provide areas that ensure private patient and patient family visiting;

(b) provide or arrange for accommodations for family members to remain with the patient overnight;

(c) provide accommodations for family privacy after a patient's death;

(d) ensure that hospice visiting hours are flexible and that children or pets are not excluded;

(e) provide a handicapped accessible telephone for patient use;

(f) be equipped with furnishings which are home-like in design and function and contribute to a safe environment; and

(g) provide one or more areas for dining, recreation and/or social activities, and refrain from utilizing these areas for corridor traffic.

(7) In patient bedrooms, a residential hospice must:

(a) allow each patient to bring personal items to locate in the patient's bedroom so long as the health and safety of any patient, patient's family members, or hospice staff are not jeopardized;

(b) allow no more than two beds per patient room and ensure that each patient bedroom is located at or above ground level, has a window to the outside of the facility, and has a direct entry from the corridor;

(c) provide at least 100 square feet in one-bed rooms and 80 square feet per bed in two-bed rooms, exclusive of closets, lockers, wardrobes, alcoves, or vestibules;

(d) provide each bedroom with a comfortable, appropriately sized bed for each occupant, equipped with a mattress protected by waterproof material, mattress pad, and comfortable pillow, as well as a comfortable chair and other furniture as appropriate to the decor and patient needs;

(e) provide a separate dresser and wardrobe or closet space for each occupant in a bedroom;

(f) provide clean, flame-resistant shades or the equivalent for every bedroom window;

(g) in each two-bed room, provide either flame-resistant cubicle curtains for each bed or movable flame-resistant screens to provide privacy upon request of a patient; and

(h) if the needs of a patient require a call system or communication device to be in place, make it available; otherwise, the hospice may, but is not required to, provide a patient bedroom with a call system or communication device that is connected to an area in the hospice that is consistently staffed.

(8) A residential hospice must provide the following bathroom and toilet facilities:

(a) a toilet and lavatory in each toilet room and at least one toilet for every four patients;

(b) at least one bathing facility for every 12 patients;

(c) grab bars at each toilet, shower, and tub, with a minimum of 1-1/2 inch clearance between the bar and the wall and strength and anchorage sufficient to sustain a concentrated 250-pound load;

(d) at least one bathroom and one toilet accessible to individuals with mobility impairments;

(e) all doors to resident bathrooms shall open outward or slide into the wall and shall be unlockable from the outside. Dutch doors, bi-folding doors, sliding pocket doors, and other bi-swing doors may be used if they do not impede the bathroom access width and are approved by the department. A shared bathroom with two means of access is also acceptable; and

(f) if the needs of a patient require a call system or communication device to be in place in the patient's bathroom, make it available; otherwise, the hospice may, but is not required to, provide a patient bathroom with a call system or communication device that is connected to an area in the hospice that is consistently staffed.

(9) A residential hospice must do the following for infection control:

(a) either be equipped to provide an isolation area for patients who have diseases with a high risk of transmission or have in place a method to ensure that such patients are transferred to a health care facility which is adequately equipped to admit such a patient;

(b) develop a procedure to monitor the infection control program on a regular basis; and

(c) ensure that residents maintain an acceptable level of personal hygiene at all times.

(10) A residential hospice must meet the following meal service, menu planning, and supervision standards:

(a) foods must be served in amounts and variety to meet the needs of each hospice patient.

(b) the hospice must provide a practical freedom-of-choice diet to patients and assure that patients' favorite foods are included in their diets whenever possible.

(c) the food service must establish and maintain standards relative to food sources, refrigeration, refuse handling, pest control, storage, preparation, procuring, serving, and handling that are sufficient to prevent food spoilage and transmission of infectious disease.

(d) a staff member trained or experienced in food management must be appointed to:

(i) provide diets as indicated on the plan of care for each patient; and

(ii) supervise meal preparation and service.

(e) if a hospice patient or patient's family wishes to provide meal services for an individual independent of the required food service of the hospice, either on a periodic or continuous basis, the hospice and patient, and patient's family when appropriate, must work out reasonable arrangements so that the hospice staff may plan accordingly.

(11) In order to provide pharmaceutical services to patients, a residential hospice must:

(a) develop and maintain a system for the administration and provision of pharmaceutical services that are consistent with the drug therapy needs of the patient as determined by the hospice medical director and patient's primary physician;

(b) ensure that medications ordered are consistent with the hospice philosophy which focuses on palliation;

(c) ensure that all prescription medications are ordered in writing by someone licensed to write prescriptions under Montana state law, dispensed by a licensed pharmacy, received by the patient, the patient's family, or other designated individual(s), and maintained in the hospice;

(d) unless the pharmacy provides a unit dose system, ensure that all prescription drugs are labeled with a label that includes:

(i) name of pharmacy;

(ii) name of patient;

(iii) name of prescribing physician;

(iv) date prescription filled;

(v) prescription number;

(vi) name of medication;

(vii) directions and dosage;

(viii) expiration date; and

(ix) quantity dispensed.

(e) document all medication administration in the patient's record;

(f) ensure that medications are administered only by one of the following individuals:

(i) a licensed nurse, physician, or physician assistant;

(ii) the patient or patient's family if the physician allows them to do so and an order acknowledging that fact is noted in the hospice care plan; and

(iii) anyone authorized to administer medications by 37-8-103, MCA.

(g) allow medications to be left at the bedside of a hospice patient when to do so is approved in the hospice plan of care, and, whenever such approval exists, provide for the storage of such medications in a safe and sanitary manner;

(h) ensure that medications not stored at the bedside are maintained in locked storage in a central location in the hospice that is near or adjacent to an area for medication preparation and has appropriate refrigeration, a sink for handwashing, and locking cabinets;

(i) destroy medications when the label is mutilated or indistinct, the medication is beyond the expiration or shelf life date, or unused portions remain due to discontinuance of use or death or discharge of the patient; and

(j) develop and follow written policies and procedures for destruction of legend drugs that include listing the type of drug(s) destroyed and the amount destroyed.

(12) The department adopts and incorporates by reference the 2012 NFPA 101 Life Safety Code which establishes building construction requirements for residential board and care occupancies. Copies

of the above standards may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MD 02169, or by using their web site, www.nfpa.org.catalogue .

(13) Respite care may be provided only on an occasional basis for no more than five consecutive days at a time.

**Authorizing statute(s):** 50-5-103, 50-5-210, MCA

**Implementing statute(s):** 50-5-210, MCA

---

**History:** NEW, 1994 MAR p. 2436, Eff. 8/26/94; AMD, 1995 MAR p. 851, Eff. 5/12/95; TRANS, from DHES, 2002 MAR p. 185; AMD, 2009 MAR p. 351, Eff. 3/27/09; AMD, 2022 MAR p. 1876, Eff. 9/24/22.