

Patient Access to Home Health & Hospice Care - Oregon Physician Licensure Whitepaper



Overview

The Oregon Health Authority is responsible for licensing home health and hospices operating within Oregon (ORS 443). Under Federal Medicare Conditions of Participation for Medicare Certified agencies, home health agencies may accept a certification / order for home health care from an MD, DO or Podiatrist only (42CFR 484.18). This federal requirement is also reflected in State regulations governing the operation of home health agencies in Oregon (OAR 333-027-0040). Furthermore, in relationship to these statutes and regulations, ORS 677.010 also impacts the provision of home care to Oregon recipients by requiring that all MD/DO and Podiatrists be licensed by the Oregon Medical Board in order to practice medicine (certify and order home health care) in Oregon.

The Oregon Health Authority upholds both State and Federal guidelines by maintaining the licensure program through periodic surveys as prescribed by State statute and directives from the Centers for Medicare and Medicaid Services (CMS).

Background:

Oregon presently has 66 Oregon home health agencies and 48 hospices licensed to provide services to patients herein. Along our borders providers of home health and hospice, primarily rural, provide services to patients whose physicians may be licensed in Washington, Idaho and California. Due in part to availability of primary care, or patients who must receive care from Veterans Administration doctors, distance and access are common issues. Home Health and Hospices who provide curative, rehabilitative and end-of-life care to patients in rural areas commonly must struggle with inflexible state laws / regulations that act as a barrier to access to care. Patients who have no access to an Oregon physician must travel across the borders to see their out-of-state physicians. These physicians follow similar (but different) state laws as well as federal guidelines governing medical practices. Washington's Department of Health [June 30, 2013] opined that its Washington Administrative Code (WAC) defining an 'authorized practitioner' as it pertains to the provision of home health and hospice, to mean 'practitioners licensed in Washington State, including practitioners licensed in other states'. This flexibility with respect to Washington laws allows for the physician certifying / ordering home health and hospice for his/her patients to be an Oregon licensed physician. This flexibility recognizes that the physician is following federal and state guidelines in certifying and ordering the care for his/her patients that is being provided by the home health or hospice located in either Washington or Oregon.

However, Oregon's law does not permit this same flexibility. It requires that any MD/DO or Podiatrist practicing in Oregon must first be licensed in Oregon to certify/order and follow a patients plan of care as provided by the home health agency or hospice program.

Impact:

Primarily in border communities - from Astoria to Ontario and Brookings to Lakeview - home health and hospice providers in Oregon must ensure that the orders they are receiving are from a validly licensed Oregon physician. Current options where the physician is not licensed in Oregon include: Denial of the referral (patient denied access to care); encouragement of physician licensure, or coordinate referral of patient to an Oregon physician (resisted by physician and patient). According to a recent survey conducted by OAHC, 40% of agency respondents, and more importantly patients, experience a delay in access to care due to inflexible state laws regarding Oregon physician licensure. A delay in care is a denial of care in many cases where patients are in great need of home health or end-of-life care services. According to the OAHC survey, more than 100 patients each year are affected. According to one respondent, in sum:

"More than half of [their] patients are served by WA doctors; WA doctors are unaware and angry that agency cannot accept order for patient; unwilling to transfer patients to OR doctors and most not interested in becoming licensed in OR; usually results in patient denial of care and loss of referral."

Action Needed:

*Allow Oregon home health agencies and hospice programs to accept orders for services from duly licensed physicians from any border state utilizing the Oregon Medical Board's Reciprocal Agreement statute ORS 677.125 and initiating an interpretive guidance similar to Washington State's Department of Health for home health and hospice providers (Attached).

**677.125 Reciprocal agreements. The Oregon Medical Board may enter into agreements with medical or osteopathic examining boards of other states and territories of the United States, and the District of Columbia, having qualifications and standards at least as high as those of this state, providing for reciprocal licensing in this state, without further examination, of persons who have been licensed upon written examination in the other state or territory. Approval of these agreements by any other officer or agency of this state is not required. [1967 c.470 §18]*