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SB 1575 Hospice Licensure Rulemaking Advisory Committee (RAC)

September 11, 2026
1:00 pm via Microsoft Teams

RAC MEMBER ATTENDEES

Barb Hansen	Oregon Hospice and Palliative Care Association
Brandi Martin	Signature Home Health and Hospice
Christiana Harrison	Legacy Hospice Services
Claire Cepuran	Compassion & Choices
Dana Miller, RN	Health Care Professional
Sen. Deb Patterson	Oregon State Senate, Senate District 10
Iria Nishimura	Willamette Vital Health
Jeff Meyers, PA	Health Care Professional
Jennifer Traeger	Providence Hospice
Kira Buresh	Eden Home Health of Bend
Kristin Milligan	LeadingAge Oregon
Larry Lombard	Consumer/Consumer Advocate
Loril Eaton	SEIU

OTHER INTERESTED PARTY ATTENDEES

Megan Wai	Chief of Staff for Sen. Patterson

OHA ATTENDEES

Anna L Davis	PHD-HCRQI	Liana Walta	PHD-HCRQI
Cady Handley	PHD-HCRQI	Mellony Bernal	PHD-HCRQI
Dana Selover	PHD-HCRQI	Sadie Morrissey	PHD-HCRQI
Jeremiah Adams	ODHS-SOQ	Sarah Knipper	HPA-HCMO
Jerry Walker	PHD-HCRQI		

WELCOME AND MEETING PROCEDURES

Mellony Bernal welcomed RAC members, reviewed the agenda, and went over meeting procedures and expectations.

- It was noted that the meeting is being recorded and all information shared is a matter of public record and may be disclosed.
- Per OHA policy, members of the public may observe only. Should public members have information they would like to share, they can send information by email to mellony.c.bernal@oha.oregon.gov or to sadie.morrissey@oha.oregon.gov following the meeting. Any information received will be shared with RAC members and OHA staff.
- Microsoft Teams features such as Chat and Raise Hand features were reviewed and instructions on how to communicate during the RAC were shared.
- Information about the Health Care Regulation and Quality Improvement (HCRQI) Section's rulemaking activity website was shared including where people can find information about new and amended rules, temporary rules, proposed rules, and other relevant information. (http://healthoregon.org/hcrqirules)

INTRODUCTIONS

RAC members introduced themselves.

OVERVIEW, SCOPE AND TIMELINE

Mellony Bernal provided an overview of the rulemaking process explaining the steps involved, including when a RAC may or may not be convened, the rule drafting process, convening rulemaking advisory committees (RACs), submitting rules to the Secretary of State's Office, holding a public hearing, responding to public comment, and finalizing rules.

The purpose of this rulemaking was reviewed. The following key topics will be considered:

- Application requirements
- Licensure fees
- Qualifications for administrator and medical director
- Criminal background check requirements
- CAHPS submission to CMS or exemption
- Notice requirements for discontinuing operations permanently
  RAC members will be asked to provide input on the proposed changes to administrative rules, the fiscal and economic impact, and how the rule may affect racial equity in Oregon.

Two additional meetings have been scheduled for September 25 and October 5, 2026. Meeting dates may change based on how quickly the RAC is able to review the proposed rules.

The tentative time frames for the rulemaking process were shared:

Scope – Rule Text Filing Deadlines

October 16, 2026	Deadline to submit rule text and filing forms to PHD Rules Coordinator
October 28-30, 2026	• PHD Rules Coordinator to file notice of proposed rulemaking with Secretary of State • Notify interested parties about public hearing and how persons may provide oral testimony or submit written comments.
November 1, 2026	Notice appears in the Oregon Bulletin
November 16 (or later)*	Public hearing to be held to seek public comments
November 21 (or later)*	Public comment period will close
November 30 – December 18, 2026*	Program to review public comments, consider possible changes to rule and respond to public comments
December 21, 2026*	Final rule text showing changes and responses to public comment due to the PHD Rules Coordinator. PHD Rules Coordinator files permanent rules
January 1, 2027	Effective Date

- Date(s) will adjust based on when the public hearing is scheduled, receipt of Hearing's Officer report, and length of time needed to review public comment

ADMINISTRATIVE RULE REVIEW

Anna Davis reviewed the following proposed rule changes with RAC members:

OAR 333-035-0115 – This is an existing rule that has been updated to remove a compliance requirement date that is no longer needed in the rule text.

No comments from RAC members.

OAR 333-035-0120 – The following definitions were reviewed:

- Criminal records check; this definition was modeled after the definition adopted by the Oregon Department of Human Services, Criminal Background Check Unit administrative rules. It was noted that the OHA is proposing to require fingerprint-based checks for persons specified in SB 1575 and staff noted that language regarding use of 'fingerprint cards' will be updated to reflect current electronic processes. It was further noted that in response to an FBI audit, the OHA is working with the Oregon State Police on proposed statutory changes that will be needed to obtain fingerprint-based, nationwide background checks. RAC discussion:
  - RAC member noted that the proposed language is different than what is required for nursing facilities or assisted living facilities and asked OHA to

consider recent legislation that allows a background check to be 'portable' across different facility types. It was requested that the OHA consider aligning this language for purposes of portability.

  - Staff noted additional discussions will occur regarding this topic when the RAC reviews the Criminal Background check rule including OHA responsibilities for criminal background checks, the hospice agency's responsibilities, and provider types that are not subject to a criminal records check.
  - RAC members reiterated comments regarding electronic processes and portability.
  - Dana Selover noted that the ability to allow the portability of criminal background checks may be limited based on statutes which staff will need to consider further.
- Medical director; this definition was modeled after requirements in the federal requirements for hospice programs and includes that the medical director must be licensed to practice in Oregon. RAC members had no comment.

OAR 333-035-0125 – This rule is specific to the application process, and the following changes were noted:

- New section (1) adds specific definitions for this rule only, which is why the definitions do not appear in OAR 333-035-0120. The definition for the term "applicant" is specified in SB 1575. The OHA has also added a definition for how it will interpret the term "health care license" used in SB 1575, section 1, subsection 4 related to an applicant's negative performance history with other health care license types the applicant holds. RAC discussion:
  - RAC member asked whether the definition for 'residential facility' was meant to be 'residential care facility.' Staff noted that pursuant to ORS 443.400, the proposed definition would capture residential care facility, residential training facility, residential treatment facility, residential training home, residential treatment home or conversion facility.
  - Via Chat, RAC member suggested including Adult Foster Homes in the definition of health care license.
  - Via Chat, RAC member suggested adding Home Health.
  - Via Chat, RAC member, noted that many companies license for home health, hospice and in-home care.
- Section (2) modifies verb from 'conduct' to 'operate.' RAC members had no comments.

- Section (3) adds additional clarifying terms for the type of application, i.e. initial application; renewal application. RAC members had no comments.
- Section (4) adds new application requirements in response to SB 1575 that an applicant must submit including disclosures of any person who owns five percent or more ownership interest; disclosure of any negative performance history associated with a health care license in Oregon or any other state which includes adverse regulatory finding or sanction, any license suspension or revocation, any determination or settlement related to health care fraud or abuse; any exclusion from Medicare, Medicaid, or any other state or federal health care program; documentation that the medical director and administrator meet specified qualification and training; documentation of tax status; written consent for criminal records checks; and documentation of submission of the Consumer Assessment of Health Care Providers and Systems (CAHPS) survey for the previous year if the applicant holds a separate hospice license in Oregon or any other state.

  A. Davis shared information about applications submitted where the OHA has observed that many hospices list multiple layers of ownership, where one entity owns another entity, which owns another entity, and so on. In several cases, there are no individual people disclosed within the first four or five—or even more—levels of ownership. Because of this, the definition in SB 1575 does not necessarily lead to the identification of actual individuals when the top ownership layers contain only entities. It also remains unclear whether OHA has the authority to continue digging through additional layers of ownership to reach individual persons rather than stopping at disclosed entities.

  RAC discussion on ownership interest:

  - RAC member questioned use of 5% and indicated that it should be any person who has any ownership interest. OHA staff noted that the language comes from the Oregon law. Sen. Patterson, chief sponsor of the legislation, shared that the work group struggled with this language and noted the intent is to identify the person or entity that is primarily responsible for any harm caused to a person receiving services. The senator noted that some hospices are under private equity or hedge fund ownership, meaning that stockholders own part or all of an entity that owns multiple hospices. Persons were encouraged to share ideas on this topic.
  - Via Chat, RAC member suggested the following language: **(a) For an applicant with an ownership interest, identification of each**

person who directly or indirectly owns five percent or more of the applicant, including disclosure of all intermediate ownership entities necessary to identify the natural persons with an ultimate ownership interest of five percent or more. For an applicant organized as a nonprofit entity without ownership interests, identification of the applicant's nonprofit status and the persons or entities exercising governance or controlling authority, as specified by the Authority.

- RAC members orally and via Chat noted that the 5% language also comes from CMS, including 5% or more ownership identification on the 855A form required to apply for CMS certification.
- RAC member via Chat shared, "Hedge fund involvement in extracting more money from hospice care appears to be a trend. Strong economic oversight is needed to prevent exploitation." RAC member expressed uncertainty on the best way to monitor.
- RAC member questioned whether or how to clarify the difference between owners and operators. Owners are those who are actually investing or paying, and then there are operators who report to the CEO. RAC member also noted that 5% is a standard rate which is a significant stake in a company.
- RAC member remarked whether the rules should clarify both ownership and operation; who is responsible for day-to-day operations. It was shared that non-profits should not get hung-up in the application process in terms of identifying owners. (Reference suggested language in bold above). A. Davis noted that health districts operating a hospice would be like non-profits for purposes of ownership.
- S. Knipper noted that it may be very difficult to get to an individual as opposed to entities holding minority stakes in ownership.
- D. Selover noted that there are individuals for purposes of criminal records checks, and entities for which OHA will review performance history and CAHPS submission.

RAC discussion on negative performance history (how bad is bad):

- D. Selover noted that it's important to receive feedback as currently written it can be interpreted to be very inclusive. For example, an adverse regulatory finding could be any citation for anything. There may be regulatory citations that should not be raised to the level of denying a license.

- RAC member suggested that the adverse regulatory finding should focus on patient harm.
- RAC member suggested that the OHA consider further defining the term "sanction" which as currently written, appears to focus on the entity versus, for example, a sanction on a provider or owner's individual license.
- RAC member suggested that the OHA consider not necessarily the citation but historical information including whether it was a first occurrence, second occurrence, etc.; any established patterns of non-compliance or lack of correction; stop placement; and how often those occur.
- RAC member via Chat for adverse regulatory finding/sanction, possibly focusing on substantiated findings involving patient harm, serious non-compliance, fraud, abuse, exclusion, license suspension/revocation, or termination.
- RAC member via Chat recommended using existing CMS framework to provide guidance around how OHA evaluates negative performance history. The rule could direct OHA to consider factors such as the severity, frequency and recency of deficiencies; whether deficiencies are repeated or condition-level; whether they resulted in actual harm or immediate jeopardy; whether they reflect a systemic failure or failure to provide quality care; the provider’s overall compliance history; and whether corrective action was successfully implemented and sustained.
- RAC member asked what is the definition of 'applicant' and staff directed them to definition at top of rule and placed in Chat. RAC member suggested that the term be capitalized in the rule text.

RAC discussion on CAHPS submission:

- It was noted by A. Davis that there has been a variety of different kinds of information submitted for proof of CAHPS submission including information shared by survey vendors which is significantly different across vendors. A. Davis asked RAC members about whether there is consistent documentation through the CMS data warehouse that could be submitted rather than looking at 18 different types of documentation from the individual CMS approved vendors.
- RAC member commented that it's important for the rule to identify exactly what information is needed, including time period (e.g. calendar year, fiscal year, etc.)

- RAC member indicated that the rule should specify what we're looking for in terms of data versus mandating that the agencies all use a specific vendor which could be cost prohibitive. The OHA should consider identifying specific metrics, time period and source used to obtain the data. A. Davis inquired whether this information could be obtained directly from the CMS data warehouse. RAC member responded that providers would need to know how to access the data and have the right tools. There are companies that will do all the reconciliation, but the provider is paying for that which may be cost prohibitive to smaller, rural agencies.
- RAC member via Chat shared information from the CAHPS Hospice Specific FAQ webpage (https://hospicecahpssurvey.org/en/hospice-tools/hospice-specific-faqs/) which notes how a hospice can access the CAHPS Hospice Survey Data Warehouse. Providers can obtain a login through the RAND Corporation and review quarterly data submission reports.
- RAC member supported information shared in the Chat on how to obtain information from the Warehouse and noted that pulling the information is free and is direct consumer assessment feedback.
- RAC member in response asked if there's an opportunity to work with some of the associations that might also have supportive data, they could be considered an additional resource. It was noted that this would not necessarily be for rulemaking.

- Section (5) clarifies the revised application requirements for a renewal application. RAC members had no comments.
- Section (6) minor update to rule reference. RAC members had no comments.
- Section (7) no change.
- Section (8) modifies required change of information reporting including any change in medical director and any change in ownership including when any person who owns or previously owned five percent or more of licensed entity is either added or removed.

  RAC discussion regarding reporting changes and change in ownership:

  - RAC member noted that it is already a requirement when those items identified are changed that require submission of the CMS 855A form. A. Davis noted that the 855A is for purposes of CMS certification only and not state licensure.

- RAC member via Chat noted "ownership/leadership" changes for purposes of reporting. Staff questioned whether language should be added to reference 'organizational structure' which would align with home health rules.
- RAC member questioned whether, as in the case of Providence Health, whether a "change in management" would result in a new application and new license when the ownership has not changed. A. Davis noted that CMS generally determines whether it's a change in information versus a change in ownership and the OHA aligns with the CMS decision.
- RAC member noted that based on previous work, change of management would fall under a change of information since the owner remains the same.
- RAC member questioned whether a hospice owned by an entity located outside the state of Oregon is required to comply with Oregon rules. A. Davis clarified that if a hospice is seeking a license to operate in Oregon, they must comply with Oregon rules and regulations.

- Section (9) minor update to rule reference. RAC members had no comments.
- Sections (10) and (11) no change.
- Section (12) minor grammatical correction. RAC members had no comments.
- Section (13) no change.

333-035-0130 – This rule specifies what the OHA will do in reviewing an application. Section (2) was added indicating that the OHA will conduct a criminal records check on the proposed administrator, medical director, and any individual owner of the applicant entity who holds 5% or more ownership interest. Section (3) was added clarifying that the OHA will review any reported performance history and other information submitted in the application.

A. Davis noted that if an application is incomplete, the OHA will not complete the review until the missing information has been submitted. It was also noted that in accordance with ORS 183.430, if a licensee has made timely application for renewal in accordance with the rules of the agency, the license shall not be deemed to expire until the OHA has granted licensure or denied renewal.

RAC members had no comments.

333-035-0135 – This rule summarizes the approval of an initial license application or renewal application including the evaluation of potentially disqualifying convictions or potentially disqualifying conditions identified during a criminal background check and the evaluation of the severity, frequency, and timing of reported negative performance history. RAC discussion:

- RAC member expressed concern that for purposes of renewal applications, the disclosure of negative performance history is self-reported. D. Selover noted that for hospices with multiple licenses in Oregon, it is likely that OHA will have information about possible negative performance; however, for entities with hospices licensed in other states, it's likely that OHA will not have that information. The importance of being able to identify criteria to determine "how bad is bad" was reiterated. RAC members were encouraged to consider and provide feedback or proposed language.
- A. Davis noted that for purposes of a renewal application, the OHA would not re-evaluate negative history that was previously reported and evaluated rather would focus only on newly reported information.
- RAC member inquired whether an owner from outside the state, or multiple owners, with 5% or more ownership interest would be investigated. A. Davis responded that persons with ownership interest regardless of whether they are in-state or out-of-state will be subject to a fingerprint-based criminal background check. RAC member asked what time period a person would have to wait to be able to reapply for a license or to correct an error. A. Davis noted it would depend on the performance history. RAC member expressed concern for hospice programs that are subject to this requirement for renewal now, when they are in such short supply.

333-035-0135 – This rule identifies criteria for the OHA to deny an application, including providing false information, failing to disclose persons with ownership interest or negative performance history, failing to provide required documentation or consenting to a criminal background check, etc. RAC discussion:

- RAC member expressed that the term "patient" is usually only used in hospital setting. It was noted that the term "patient" is used within the hospice setting and is also used by CMS.
- RAC member asked if the rules would clarify what could potentially be a disqualifying condition during a criminal records check and staff noted that this would be discussed further in the criminal records check rule.

333-035-0145 – This rule clarifies when a license expires and the process for renewal. Language has been added under section (2) to specify that an applicant for a renewal application must provide negative performance history information. Section (3) has been added indicating that applicants who delay submitting their renewal application between 1-30 days prior to expiration will be charged a late fee. Section (4) has been modified to clarify that a hospice program that does not submit its renewal application prior to expiration must submit a new initial license application with the initial license fee.

A. Davis noted that a hospice will need to submit patient census information as part of the renewal application. She asked RAC members whether the OHA should consider renewing a hospice application if the hospice has reported zero patients or a very low census. It was noted that a hospice with no census or an extremely low census in urban areas may be a sign of fraud.

A. Davis also provided an overview of license expiration dates and the requirement to submit application renewal a minimum of 30 days in advance of expiration. Timely renewal is especially important in December given the number of facilities that are licensed and expire. Timely renewal alleviates pressures on staff who must scramble to get license renewals in place before expiration.

RAC discussion relating to census:

- RAC member inquired how "low census" would be defined. A hospice with no census should not be renewed. RAC member further acknowledged that quality and general requirements are hard to meet if there are not enough patients.
- RAC member asked OHA to identify the time period in which a hospice program must capture the census. It was noted that the renewal application currently asks for the average outpatient daily census and the

and the annual census total. The hospice program is required to specify the time frame for the average daily census.

- RAC member recommended that the time frame be specified in rule, so it is clear, consistent and fair. The need for a uniform time frame was noted so fluctuations, such as seasonality or community size, can be appropriately considered. Rules should provide parameters so a hospice program can explain fluctuations and reflect differences between urban and rural populations. It was further suggested that the business decide what is considered low.
- RAC member noted that fluctuations in census could be for a variety of reasons including small population, staffing shortages, seasonal trends or new providers entering the area. Low census should not automatically trigger a license denial; rather indicate a need to look more closely into why a hospice's numbers are low including adequate and consistent leadership and staffing.
- RAC member suggested defining annual census or at least clarifying on the application form what is needed, e.g. unduplicated admissions, time frame, etc.
- RAC member via Chat suggested a time frame tied to the program's initial license. Also, it was suggested that OHA consider benchmarking against other hospice programs in the service area, or density of hospice programs as a factor in looking at census.

RAC discussion relating to late fees:

- No comments from RAC members.

333-035-0155 – Section (1) of this rule was amended to clarify that a hospice program's license that has been suspended, revoked or expires does not need to be mailed back to OHA; rather, the program administrator must submit a statement acknowledging that the license has been destroyed. Sections (2) and (3) have been added clarifying notice responsibilities if a hospice program were to temporarily close (more than 45 days) or decides to permanently close. It was noted that the OHA needs to review this language further as CMS is likely to treat a closure of 45 days as a voluntary termination for federal purposes. A shorter temporary closure may be treated by CMS as a voluntary termination depending on the length of time. The OHA must be informed of the proposed closure date, reason for closure, actions considered to avoid closure, communication plan, assisting or transferring patients to another hospice program, plan for medical records,

and primary points of contact. The rule prescribes what must be addressed in the communication plan. OHA will review the information submitted and notify the hospice program if additional information is needed. It is expected that the hospice program updates the OHA every 30 days and one week prior to closure providing an update on activities. The rule further notes that medical records not claimed that are less than seven years old must be stored for a minimum of seven years from last date of discharge.

RAC discussion:

- RAC member via Chat asked how long patient records need to be kept in the receiving hospice. Rules specify that clinical records, not claimed that are less than seven years old from the last state of discharge, shall be stored for a minimum of seven years from the last date of discharge. Clinical records greater than seven years old may be destroyed.

The RAC concluded the discussion and will begin discussing fees at the September 25th RAC meeting.

Next steps –

- Meeting notes will be drafted and will be emailed to RAC members and posted on the HCRQI Rulemaking Activity webpage. Meeting notes will summarize the discussion as well as identify information provided in the Chat.
- A meeting reminder for the September 25 RAC meeting will be sent out along with material. It was noted that the same rule document that was distributed for the September 11 meeting will be used and that OHA will not share any revised language until the October 5th meeting.
- RAC members were encouraged to submit any follow-up comments or proposed language changes to Mellony Bernal via email, and it was further noted that any information shared will be distributed to all RAC members.

RAC member expressed appreciation for how well organized the meeting was and valued the interaction and opportunity to hear different perspectives.

Next meeting is scheduled for September 25, 2026 at 9:00 a.m.