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SB 1575 Hospice Licensure Rulemaking Advisory Committee (RAC)

October 5, 2026
9:00 am via Microsoft Teams

RAC MEMBER ATTENDEES

Barb Hansen	Oregon Hospice and Palliative Care Association
Claire Cepuran	Compassion & Choices
Dana Miller, RN	Health Care Professional
Emily Cronan	Oregon Nurses Association
Iria Nishimura	Willamette Vital Health
Kira Buresh	Eden Home Health of Bend
Jeff Meyers, PA	Health Care Professional
Kristin Milligan	LeadingAge Oregon
Larry Lombard	Consumer/Consumer Advocate

OTHER INTERESTED PARTY ATTENDEES

Linda DeSitter

OHA & ODHS ATTENDEES

Anna L Davis	PHD-HCRQI
Cady Handley	PHD-HCRQI
Dana Selover	PHD-HCRQI
David Allm	ODHS-SOQ
Jeremiah Adams	ODHS-SOQ
Jerry Walker	PHD-HCRQI
Liana Walta	PHD-HCRQI
Mellony Bernal	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.
- Instructions on how to communicate during the RAC were shared.
- RAC members were reminded where to find rulemaking information on the Health Care Regulation and Quality Improvement (HCRQI) Section's website (http://healthoregon.org/hcrqirules).

INTRODUCTIONS

In lieu of introductions, participants were asked to enter their first and last name into the Chat and identify whether they were RAC member, state employee or member of the public.

REVIEW OF CHANGES BASED ON WRITTEN FEEDBACK AND RAC DISCUSSIONS

Anna Davis thanked RAC members for their participation in previous meetings and sharing both written and oral comments. Based on feedback received, the program has worked to clarify and provide additional language. The following modifications to rule language were shared and discussed:

333-035-0120 - Definitions

The definition of "criminal records check" was modified removing references to "cards" given that fingerprints can be captured electronically. In response to a RAC member's request to allow the portability of criminal records from community-based care facilities or long-term care facilities to hospice programs, in alignment with HB 4115 (2026), staff shared that the legislation does not include hospice programs. Administrative rule language from the OHA/ODHS Background Check Unit and Assisted Living Facilities was noted.

- RAC member commented that the intent behind the legislation was to allow portability across similar position types. Staff shared they will consult with the Department of Justice to determine if portability could be allowed.

333-035-0125 – Application for Licensure

Section (1) - The definition for the term "health care license" relating to the disclosure of negative performance history was amended to include a home health agency license. The program did not include in-home care agency or adult foster home licenses because they do not have the same federal condition-level, or non-condition-level regulatory structure as the other facility types.

- RAC member via Chat expressed support for this decision.

Subsection (4)(b) – Language was added to clarify that the list of negative performance history criteria was not exclusive and language relating to adverse regulatory findings was amended to capture findings that focus on patient harm including immediate jeopardy citations or civil monetary penalty enforcement. The OHA will also consider severity, frequency, and recency which is identified under OAR 333-035-0130.

- RAC member via Chat expressed support and noted that the severity is described well.

Subsection (4)(i) – Clarifying language has been added relating to CAHPS reporting requirements based on information shared by CMS about reporting requirements and information available from the data warehouse. Per CMS, a hospice program may only acquire 6-months of data from the warehouse; however, SB 1575 requires a year's worth of data. As such, the rule has been amended to require hospice programs to submit a copy of the quarterly reports submitted to CMS to qualify for renewal. A. Davis stressed the importance of a hospice program obtaining and saving these quarterly report submissions.

In addition, CMS shared with staff that it does not provide formal notification that an exemption application has been approved. As such, a hospice program that submits an exemption request to CMS will need to provide documentation of the request submitted. A. Davis noted that if the average daily census reported at time of renewal does not align with an exemption request, the OHA would investigate further. Discussion:

- RAC member expressed concern that there is no formal process for notifying providers of approval. The RAC member shared that the fraud issues identified in California involved hospice programs that purposely kept their average daily census low to avoid quality data reporting requirements, which could potentially impact patient outcomes.
- RAC member expressed concern about a small hospice program that misses quality data reporting due to staff turnover resulting in no corresponding CAHPS data. RAC member asked if the hospice program would be able to

submit a waiver. A. Davis noted that the OHA would need to consult with the Department of Justice because statutory requirements usually cannot be waived.

- A. Davis encouraged RAC members to share other ideas on how to address the issue of CMS not providing documentation for exemption approval.

333-035-0130 – Review of License Application

As identified previously, language was added to clarify that when reviewing reported performance history, the OHA will consider the frequency of occurrence, established pattern of non-compliance, and the severity and recency of deficiencies.

- RAC member recommended adding the word "any" in front of "...established patterns..."

333-035-0140 – Denial of License Application

Rule language was modified to align with quarterly CAPHS reporting requirements or documentation that an exemption request was submitted to CMS.

- RAC members had no comments.

333-035-0145 – Expiration and Renewal of License

Language was modified to establish that if a hospice program reports an average daily census of zero, or there are zero unduplicated admissions, then the hospice program is not eligible for license renewal.

- RAC members had no comments.

333-035-0157 – Fees

Fees were modified based on previous discussion. Revised fees are on a sliding scale based on the reported average daily census. An additional fee for a "Change of Information (CHOI)" was added that aligns with the "Change of Ownership (CHOW)" fees. A CHOI fee will be required when there is a change to operating multiple locations or change in managing control when such changes are not part of a CHOW. A. Davis noted examples of changes that CMS may not consider a CHOW but involve the same amount of work. A change in administrator or a change in location that's less than 30 miles would not be considered a CHOI that would require a fee.

- RAC members expressed concern that a CHOI on the CMS 855 form includes a change of administrator. RAC member asked that a definition be added for

operational or managing control to ensure that a change in administrator would not result in CHOI fee.

- RAC member reiterated concerns shared in writing, noting that the proposed fees will have a significant impact on smaller providers. It was noted that hospice programs with an average daily census (ADC) of 70 or less already face challenges and the proposed fees would quadruple costs. It was further noted that the legislation was intended to protect individuals, improve safety, and prevent 'bad actors' from entering the system. Increasing renewal fees may make it more challenging for existing providers to continue to deliver quality care. A. Davis responded that the statutory requirements apply to both initial and renewal licenses. While the legislation was designed to screen new applicants and prevent 'bad actors,' it also requires ongoing oversight and new requirements for renewal licenses. Ownership, management, and business practices can change overtime, and the statute requires continued monitoring of licensed providers. If the fees were assessed only to initial licenses, the OHA would not collect enough revenue to cover the costs associated with the increased work resulting from the bill. D. Selover further noted that the initial license fee remains flat because a provider's size and census cannot be verified at the time of initial licensure. She further emphasized that the intent of the sliding scale is to distribute costs more equitably, with larger providers contributing more to minimize the burden on smaller hospice programs. The OHA must be able to collect sufficient revenue to cover program costs.
- RAC member via Chat shared concerns on the impact to small hospice programs. The revenue needs to match the work that is needed, but RAC member expressed concern about the challenges to smaller hospice programs.
- RAC member asked about data relating to Oregon hospice programs and ADC. Staff noted that the ADC was identified based on the most current submission of data reporting from hospice programs to CMS.
    - 18 hospice programs = ADC 1-24
    - 19 hospice programs = ADC 25-49
    - 22 hospice programs = ADC 50-99
    - 15 hospice programs = ADC >100
- RAC member expressed concern about fees and questioned whether the ADC scale is appropriate based on other states with higher populations. RAC member further noted that more than 50% of licensed hospice programs fall

under an ADC of less than 50 which may have an impact; whereas, 15 agencies theoretically would not be impacted by the fee change.

- RAC member asked when license fees were last raised. Staff responded 10 years ago (2017). Staff further provided an overview of how fees are calculated including addressing possible negative balances or increased workload due to legislative action. It was noted that the increased fees not only address increased workload due to legislation, but also address the electronic licensing system, and electronic payment. Hospice programs are next in queue to move to the new online licensing system. Additionally, a small portion of costs related to management are included as well as increased Department of Justice fees. The OHA does not receive any General Fund to conduct licensing work; and while it does receive Federal Funds to conduct some work for CMS, those funds have not been increased in over 25 years. RAC member reiterated concerns and noted that the enrolled bill was significantly different than the introduced bill to try and avoid significantly increased costs.

333-035-0160 – Geographic Service Area

Definition of "underserved population" was modified clarifying the list was not an exclusive list; removed reference to the nine federally recognized Tribal Nations allowing other tribal communities; added pediatric patients as a criterion; and removed reference to "English proficiency" and replaced with language barriers.

- RAC member via Chat noted the edits were good.
- RAC member asked what "language barriers" means. A. Davis responded that language barriers could include persons that have various communication disorders or may need to use sign language. The intent is to broaden to include other communication needs and not limit to foreign language.

333-035-0161 – Medical Director and Administrator Criteria

Language was modified based on previous RAC discussions. A. Davis noted that the program is setting minimum requirements and that a hospice program can request a waiver if a rule creates a particular hardship. Reference to "palliative care related activities" was included at the request of the RAC and a definition was added based on ORS 413.273. A legacy clause was added that allows currently employed administrators or medical director to continue in their role that do not meet minimum qualifications. The hospice program will be required to retain documentation of appointment, scope of duties and ongoing performance. Minimum qualifications were amended and residency requirement was amended.

Legacy clause:

- RAC member asked whether an administrator or medical director that qualifies under the legacy clause can move to a different hospice program without having to meet the revised qualifications. The RAC member inquired about what "continuous service" means, for example what if the medical director was on medical leave for extended time. A. Davis responded that the legacy clause is not portable; however, the hiring hospice agency could request a waiver. She further noted that medical leave would not be a break in service. RAC members expressed concern about relying on waivers including time to review and approve.
- RAC member expressed appreciation for the legacy clause and supported comments about portability to another hospice program.
- RAC member noted that an administrator, per CMS Conditions for Participation cannot be contracted, but the Medical Director can.

Degree requirements

- RAC member questioned requirement of degrees and referred to previous written comments that would not have to rely on a waiver process. A. Davis responded that many of the suggested revisions described individual, unique situations; however, rules cannot be built around individual cases. The goal is to create a set of minimum requirements and when general requirements do not apply, then the waiver process allows for a flexible option.
- RAC member expressed appreciation for business degree language and suggested adding "or advance degree" after 4-year degree.
- RAC member strongly objected to degree requirement for an administrator stating that a degree requirement will exclude talented persons entering the field through different paths and who have gained valuable skills over time. Workforce limitations were noted and the degree requirement will narrow the pool even further including persons from diverse backgrounds. It was stated that persons can be taught skills including regulations. Another RAC member supported these comments and noted that the long-term care industry has moved away from degree requirements.
- RAC member via Chat asked whether the language "allow education and experience equivalency" could be included. Another RAC member expressed support and possibly including language that demonstrates familiarity with CMS hospice certification requirements. D. Selover expressed that beyond CMS training, it's unknown what other types of trainings would be available

and developing training would be very expensive. RAC member via Chat noted that Associations could assist in training administrators.

- RAC member noted that intent was not to focus on education requirements rather requiring that administrators have or receive specific training related to regulations. Concerns were noted that many administrators around the county do not understand CMS Conditions of Participation (CoPs). In the Chat this RAC member stated the minimum training discussed in a previous work group would be to require training in hospice CoPs.
- RAC member suggested the following language which aligns with ORS 678.733(1)(c)(A), as amended by 2026 Oregon Laws, chapter 109, section 2: "The administrator of a hospice program must have been employed for at least two of the last five years in a professional or managerial capacity in a health or social service-related field, or have a combination of experience and education deemed sufficient by the Authority."
- RAC member stated via Chat, "An objective measure could be certificate of completion from a CMS Hospice COP training program (including the CMS Hospice Surveyor training module/program.)"
- D. Selover reiterated that the proposed language is reasonably measurable versus using language such as "deemed sufficient by Authority" which could lead to every decision being disputed. RAC member shared that for the same reason, waivers are not the best option. D. Selover responded that waivers do have specific criteria that must be met.

<u>Residency</u>:

- RAC member questioned the mileage residency requirement and how it connects to supporting communities. Strict distance thresholds could exclude qualified individuals, and use of waivers is not a good long-term approach.

<u>Serving or managing more than one hospice program</u>

- RAC member stated that rules should not limit an administrator to only one hospice program. The RAC member follow-up up via Chat recommending allowing an administrator to oversee no more than two hospice programs when all the following requirements are met:
    - The combined average daily census of the two hospice programs does not exceed 85, or another predetermined threshold that is reasonable based on Oregon's average hospice census data;
    - Each hospice has designated responsible leadership physically based at the hospice when the administrator is not regularly on site;

- The administrator maintains documented on-site involvement at both hospice programs;
- Neither hospice has an unresolved condition-level deficiency;
- Neither hospice is currently subject to state license suspension or revocation or Medicare termination; and
- Each hospice maintains its required QAPI program.

If all these requirements are met, the administrator should be permitted to oversee both hospice programs. The RAC member further noted in the Chat that "two" may not be the right number either and indicated that maybe the number isn't the requirements but it is based on census.

- A. Davis noted that this could be a waiver criterion and exception for rural areas. RAC member reiterated concerns on relying on a waiver process.
- Via Chat, RAC member noted that multiple national advocacy groups strongly recommend against mandating a one hospice requirement.
- RAC member concurred with concerns about waiver process and the lack of support from national advocacy groups. D. Selover noted that if the program receives multiple waiver requests, it can look at the criteria being used to approve waivers and amend administrative rules.
- RAC member noted via Chat that reflecting back to the goal to reduce fraud, catch bad actors—rules should be flexible, and use unusual arrangements as a risk indicator for additional review, rather than automatically prohibiting specific items like more than one hospice for a medical director, or greater than 60 miles. It was acknowledged that this course introduces an administrative burden.
- RAC member via Chat supported comments in the Chat and noted that they know of at least one Hospice Administrator who currently oversees two hospice programs located > 60 miles apart and probably also > 85 ADC.

Statement of Need and Fiscal Impact

A. Davis reviewed the Statement of Need, Fiscal and Equity Impact statements. Mellony Bernal shared that in determining costs for participation in the CAHPS survey, several CMS approved vendors were contacted and who provided estimated costs.

- RAC member asked whether more current data was available in terms of equity impact. M. Bernal asked RAC members to share any articles or if they

are aware of any equity data to forward for consideration so the data can be updated.

Next Steps

- Staff thanked RAC members for their participation and asked that final suggested changes or additional comments be submitted to M. Bernal no later than October 9, 2026.
- Staff will review information shared in this RAC meeting and any follow-up comments received and will consider additional changes. Final proposed rule language is due to the Public Health Division's Administrative Rule's Coordinator by October 16, 2026.
- Proposed rules will be filed and published in the November 1, 2026 Oregon Bulletin and a public hearing will be held on or after November 16, 2026. The written comment deadline will be on or after November 20, 2026. These dates may change by one or two days.
- Interested parties will be notified through our Hospice listserv and information was posted in the Chat on how to subscribe to the listserv.
- M. Bernal will draft meeting notes and share via Email.

Staff thanked RAC members for their suggestions and input during this process.

Meeting adjourned at 11:10 A.M.