MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Banks

To: Public Health and Human Services

HOUSE BILL NO. 910

AN ACT TO AMEND SECTIONS 41-85-3, 41-85-7, 41-85-11 AND 41-85-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH MAY AUTHORIZE HOSPICE LICENSEES TO PROVIDE HOSPICE SERVICES TO INDIVIDUALS WHO ARE NOT TERMINALLY ILL BUT WHO CAN BENEFIT FROM PALLIATIVE CARE AND SUPPORTIVE CARE SERVICES, IF SUCH EXPANSION OF THE MINIMUM QUALIFICATIONS OF INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE HOSPICE SERVICES IS APPROVED BY THE UNITED STATES CENTERS FOR MEDICARE AND MEDICAID SERVICES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-85-3, Mississippi Code of 1972, is amended as follows:

41-85-3. When used in this chapter, unless the context otherwise requires:

(a) "Autonomous" means a separate and distinct operational entity which functions under its own administration and bylaws, either within or independently of a parent organization.

(b) "Department" means the Mississippi Department of Health.

(c) "Freestanding hospice" means a hospice that is not a part of any other type of health care provider.

(d) "Hospice" means an autonomous, centrally administered, nonprofit or profit, medically directed, nurse-coordinated program providing a continuum of home, outpatient and homelike inpatient care for not less than four (4) terminally ill patients or other authorized patients and their families. It employs a hospice care team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social and economic stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need regardless of inability to pay.

(e) "Hospice care team" means an interdisciplinary team which is a working unit composed by the integration of the various helping professions and lay persons providing hospice care. Such team shall, as a minimum, consist of a licensed physician, a registered nurse, a social worker, a member of the clergy or a counselor and volunteers.

(f) "Hospice services" means items and services furnished to an individual by a hospice, or by others under arrangements with such a hospice program.

(g) "Medically directed" means that the delivery of medical care is directed by a licensed physician who is employed

by the hospice for the purpose of providing ongoing palliative care as a participating care giver on the hospice care team.

(h) "Other authorized patient" means an individual who is not terminally ill but who can benefit from palliative care and supportive care services and who are authorized by the department under Section 41-85-7(2) to receive hospice services.

(i) "Palliative care" means the reduction or abatement of pain and other troubling symptoms by appropriate coordination of all elements of the hospice care team needed to achieve needed relief of distress.

(* * *j) "Patient" means the terminally ill individual or other authorized patient receiving hospice services.

(* * *k) "Person" means an individual, a trust or estate, partnership, corporation, association, the state, or a political subdivision or agency of the state.

(* * *l) "Terminally ill" refers to a medical prognosis of limited expected survival, of six (6) months or less at the time of referral to a hospice, of an individual who is experiencing an illness for which therapeutic strategies directed toward cure and control of the disease alone outside the context of symptom control are no longer appropriate.

SECTION 2. Section 41-85-7, Mississippi Code of 1972, is amended as follows:

41-85-7. (1) The administration of this chapter is vested in the Mississippi Department of Health, which shall:

(a) Prepare and furnish all forms necessary under the provisions of this chapter in relation to applications for licensure or renewals thereof;

(b) Collect in advance at the time of filing an application for a license or at the time of renewal of a license a fee of One Thousand Dollars ($1,000.00) for each site or location of the licensee; any increase in the fee charged by the department under this paragraph shall be in accordance with the provisions of Section 41-3-65;

(c) Levy a fee of Eighteen Dollars ($18.00) per bed for the review of inpatient hospice care; any increase in the fee charged by the department under this paragraph shall be in accordance with the provisions of Section 41-3-65;

(d) Conduct annual licensure inspections of all licensees which may be the same inspection as the annual Medicare certification inspection; and

(e) Promulgate applicable rules and standards in furtherance of the purpose of this chapter and may amend such rules as may be necessary. The rules shall include, but not be limited to, the following:

(i) The qualifications of professional and ancillary personnel in order to adequately furnish hospice care;

(ii) Standards for the organization and quality of patient care;

(iii) Procedures for maintaining records; and

(iv) Provision for the inpatient component of hospice care and for other professional and ancillary hospice services.

(2) The department may authorize hospice licensees under this chapter to provide hospice services to individuals who are not terminally ill but who can benefit from palliative care and supportive care services, if such expansion of the minimum qualifications of individuals who are eligible to receive hospice services is approved by the United States Centers for Medicare and Medicaid Services.

(3) All fees collected by the department under this section shall be used by the department exclusively for the purposes of licensure, regulation, inspection, investigations and discipline of hospices under this chapter.

(* * *4) The State Department of Health shall not process any new applications for hospice licensure or issue any new hospice licenses, except renewals; however, the department shall process applications for new hospice licenses filed during the period from and including March 27, 2017, through and until July 1, 2017, and shall issue no more than five (5) new hospice licenses in accordance with this chapter so long as the related applicant can show good cause for the issuance of the hospice license(s) for which application is made (including specifically, without limitation, the capability and capacity to provide unique or otherwise unavailable services related to serving patients

under eighteen (18) years of age in the service area to which such application relates). If the applicant at the time of filing holds one or more hospice licenses, the applicant must be in good standing with the department regarding those licenses. Not more than two (2) of the new hospice licenses issued under this subsection shall be issued to the same applicant. This subsection (* * *4) shall stand repealed on July 1, 2022.

(* * *5) The provisions of subsection (* * *4) prohibiting the processing of any new applications for hospice licensure shall not be applicable to an application for license reinstatement by a hospice whose license was temporarily suspended as a result of a federal audit by the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG), and the audit has been concluded without any penalty imposed by the federal agency.

SECTION 3. Section 41-85-11, Mississippi Code of 1972, is amended as follows:

41-85-11. (1) An application shall be filed on a form prescribed by the department and shall be accompanied by the appropriate license fee as well as satisfactory proof that the hospice is in compliance with this chapter and any rules and minimum standards promulgated hereunder and proof of financial ability to operate and conduct the hospice in accordance with the requirements of this chapter. The initial application shall be accompanied by a plan for the delivery of home, outpatient and inpatient hospice care to terminally ill persons or other

authorized patients and their families. Such plan shall contain, but not be limited to:

(a) The estimated average number of terminally ill persons and other authorized patients to be served monthly;

(b) The geographic area in which hospice services will be available;

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers;

(d) Provisions for the implementation of hospice home care within three (3) months of licensure;

(e) Provisions for the implementation of hospice outpatient and homelike inpatient care within twelve (12) months of licensure;

(f) The qualifications of any existing or potential contractee;

(g) The projected annual operating cost of the hospice; and

(h) A statement of financial resources and personnel available to the applicant to deliver hospice care.

If the applicant is an existing health care provider, the application shall be accompanied by a copy of the most recent profit-loss statement and, if applicable, the most recent licensure inspection report.

(2) A license issued for the operation of a hospice program, unless sooner suspended or revoked, shall expire automatically one (1) year from the date of issuance. Sixty (60) days prior to the expiration date, an application for renewal shall be submitted to the department on forms furnished by the department; and the license shall be renewed if the applicant has first met the requirements established under this chapter and all rules promulgated hereunder and has provided the information described in subsection (1) in addition to the application. However, the application for license renewal shall be accompanied by an update of the plan for delivery of hospice care only if information contained in the plan submitted pursuant to subsection (1) is no longer applicable.

(3) A hospice program against which a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the department of such proceeding. If judicial relief is sought from the final disposition, the court having jurisdiction may issue a conditional permit for the duration of the judicial proceeding.

SECTION 4. Section 41-85-17, Mississippi Code of 1972, is amended as follows:

41-85-17. Each hospice program shall consist of at least three (3) of the four (4) components or modes of care described in this section which afford the terminally ill individual <u>or other</u>

authorized patient and the family of the terminally ill individual or other authorized patient a range of service delivery which can be tailored to specific needs and preferences of the patient and family at any point in time. These four (4) components are:

(a) Hospice home care. This form of delivery of services shall be the primary form of care except for facilities providing inpatient care. The services of the hospice home care program shall be of the highest quality and shall be provided by the interdisciplinary, interactive qualified hospice team members.

(b) Inpatient hospice care. The inpatient component of care, when contracted for through an institution which is not a hospice providing inpatient continue care, is an adjunct to hospice home care and shall primarily be used only for short-term stays. The facility or rooms within a facility used for the hospice inpatient component of care shall be arranged, administered and managed in such a manner to provide privacy, dignity, comfort, warmth and safety for the terminally ill patient or other authorized patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy; and, whenever possible, both occupants shall be hospice patients. There shall be a continuum of care and a continuity of care givers between the hospice home program and the inpatient aspect of care to the extent practicable and compatible with the preferences of

the patient and his family. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.

(c) Outpatient hospice care. The hospice outpatient service shall meet the same standards of quality as applied to inpatient care and hospice home care, considering the inherent differences between inpatients and outpatients with respect to their needs and modes of treatment. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.

(d) Inpatient continue care. The inpatient continue care component of hospice care may be provided directly by the hospice. The facility used for the hospice inpatient continue care shall be arranged, administered and managed in such a manner to provide privacy, dignity, comfort, warmth and safety for the terminally ill patient or other authorized patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy. The hospice shall be in operation

twenty-four (24) hours a day and must provide hospice home care, inpatient hospice care, and outpatient care.

SECTION 5. This act shall take effect and be in force from and after July 1, 2021.

ST: Hospice care; authorize to be provided to persons who are not terminally ill under certain circumstances.