

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1194

1 AN ACT TO BRING FORWARD SECTIONS 41-85-1 THROUGH 41-85-25,  
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI HOSPICE LAW,  
3 FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 41-85-1, Mississippi Code of 1972, is  
6 brought forward as follows:

7 41-85-1. This act shall be known and may be cited as the  
8 "Mississippi Hospice Law of 1995."

9 **SECTION 2.** Section 41-85-3, Mississippi Code of 1972, is  
10 brought forward as follows:

11 41-85-3. When used in this chapter, unless the context  
12 otherwise requires:

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

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

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

21 (d) "Hospice" means an autonomous, centrally  
22 administered, nonprofit or profit, medically directed,  
23 nurse-coordinated program providing a continuum of home,  
24 outpatient and homelike inpatient care for not less than four (4)  
25 terminally ill patients and their families. It employs a hospice  
26 care team to assist in providing palliative and supportive care to  
27 meet the special needs arising out of the physical, emotional,

28 spiritual, social and economic stresses which are experienced  
29 during the final stages of illness and during dying and  
30 bereavement. This care is available twenty-four (24) hours a day,  
31 seven (7) days a week, and is provided on the basis of need  
32 regardless of inability to pay.

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

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

42 (g) "Medically directed" means that the delivery of  
43 medical care is directed by a licensed physician who is employed  
44 by the hospice for the purpose of providing ongoing palliative  
45 care as a participating care giver on the hospice care team.

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

50 (i) "Patient" means the terminally ill individual  
51 receiving hospice services.

52 (j) "Person" means an individual, a trust or estate,  
53 partnership, corporation, association, the state, or a political  
54 subdivision or agency of the state.

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

61           **SECTION 3.** Section 41-85-5, Mississippi Code of 1972, is  
62 brought forward as follows:

63           41-85-5. (1) It is unlawful for a person to operate or  
64 maintain a hospice, use the title "hospice," or represent that the  
65 person provides a hospice program of care, without first obtaining  
66 a license therefor from the department.

67           (2) The license shall be displayed in a conspicuous place  
68 inside the hospice program office; shall be valid only in the  
69 possession of the person to which it is issued; shall not be  
70 subject to sale, assignment or other transfer, voluntary or  
71 involuntary; and shall not be valid for any hospice other than the  
72 hospice for which originally issued.

73           (3) Services provided by a hospital, nursing home or other  
74 health care facility or health care provider shall not be  
75 considered to constitute a hospice program of care unless such  
76 facility, provider or care giver establishes a freestanding or  
77 distinct hospice unit, staff, facility and services to provide  
78 hospice home care, homelike inpatient hospice care, or outpatient  
79 hospice care under the separate and distinct administrative  
80 authority of a hospice program.

81           (4) A license for a hospice program shall not be issued if  
82 the hospice is to be located in an area in violation of any local  
83 zoning ordinances or regulations.

84           **SECTION 4.** Section 41-85-7, Mississippi Code of 1972, is  
85 brought forward as follows:

86           41-85-7. The administration of this chapter is vested in the  
87 Mississippi Department of Health, which shall:

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

91           (b) Collect in advance at the time of filing an  
92 application for a license or at the time of renewal of a license a  
93 fee of Five Hundred Dollars (\$500.00);

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

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

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

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

105                   (iii) Procedures for maintaining records; and

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

109           **SECTION 5.** Section 41-85-9, Mississippi Code of 1972, is  
110 brought forward as follows:

111           41-85-9. Any duly authorized officer or employee of the  
112 department shall have the right to make such inspections and  
113 investigations as are necessary in order to determine the state of  
114 compliance with the provisions of this chapter and of rules or  
115 standards in force pursuant hereto. The right of inspection shall  
116 also extend to any program which the department has reason to  
117 believe is offering or advertising itself as a hospice without a  
118 license, but no inspection of any such program may be made without  
119 the permission of the owner or person in charge thereof unless a  
120 warrant is first obtained authorizing such inspection. Any  
121 application for a license or renewal thereof made pursuant to this  
122 chapter shall constitute permission for any inspection of the  
123 hospice for which the license is sought in order to facilitate  
124 verification of the information submitted on or in connection with  
125 the application.

126           **SECTION 6.** Section 41-85-11, Mississippi Code of 1972, is  
127 brought forward as follows:

128           41-85-11. (1) An application shall be filed on a form  
129 prescribed by the department and shall be accompanied by the  
130 appropriate license fee as well as satisfactory proof that the  
131 hospice is in compliance with this chapter and any rules and  
132 minimum standards promulgated hereunder and proof of financial  
133 ability to operate and conduct the hospice in accordance with the  
134 requirements of this chapter. The initial application shall be  
135 accompanied by a plan for the delivery of home, outpatient and  
136 inpatient hospice care to terminally ill persons and their  
137 families. Such plan shall contain, but not be limited to:

138                   (a) The estimated average number of terminally ill  
139 persons to be served monthly;

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

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

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

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

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

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

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

156 If the applicant is an existing health care provider, the  
157 application shall be accompanied by a copy of the most recent

158 profit-loss statement and, if applicable, the most recent  
159 licensure inspection report.

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

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

180 **SECTION 7.** Section 41-85-13, Mississippi Code of 1972, is  
181 brought forward as follows:

182 41-85-13. (1) The department may deny, revoke or suspend a  
183 license.

184 (2) Any of the following actions by a hospice program or any  
185 of its employees shall be grounds for action by the department  
186 against a hospice program:

187 (a) A violation of the provisions of this chapter or of  
188 any standard or rule promulgated hereunder.

189 (b) An intentional or negligent act materially  
190 affecting the health or safety of a patient.

191 (3) If, three (3) months after the date of obtaining a  
192 license, or at any time thereafter, a hospice does not have in  
193 operation the home-care component of hospice care, the department  
194 shall immediately revoke the license of such hospice.

195 (4) If, twelve (12) months after the date of obtaining a  
196 license, or at any time thereafter, a hospice does not have in  
197 operation the outpatient and homelike inpatient components of  
198 hospice care, the department shall immediately revoke the license  
199 of such hospice.

200 **SECTION 8.** Section 41-85-15, Mississippi Code of 1972, is  
201 brought forward as follows:

202 41-85-15. (1) A hospice care program shall coordinate its  
203 services with those of the patient's primary or attending  
204 physicians.

205 (2) A hospice shall coordinate its services with  
206 professional and nonprofessional services already in the  
207 community. A hospice program may contract out for some elements  
208 of its services for a patient and family; however, direct patient  
209 care must be maintained with the patient and the hospice care team  
210 so that overall coordination of services, which is responsive and  
211 appropriate to the patient and family needs, can be maintained by  
212 the hospice care team. A majority of hospice services available  
213 through an individual hospice shall be provided directly by the  
214 licensee. Any contract entered into between a hospice and a  
215 health care facility or service provider shall specify that the  
216 hospice retain the responsibility for planning, coordinating and  
217 prescribing hospice services and care on behalf of a hospice  
218 patient and his family. No hospice which contracts for any  
219 hospice service may charge fees for services provided directly by  
220 the hospice care team which are duplicative of contractual  
221 services provided to the individual patient or his family.

222 (3) With respect to contractual arrangements for inpatient  
223 hospice care:

224           (a) The aggregate number of inpatient days provided by  
225 a hospice through all contractual arrangements between the hospice  
226 and licensed health care facilities providing inpatient hospice  
227 care may not exceed twenty percent (20%) of the aggregate total  
228 number of days of hospice care provided to all patients receiving  
229 hospice care from the hospice during a twelve-month period.  
230 However, the provisions of this paragraph (a) shall not apply to a  
231 hospice facility providing inpatient continue care.

232           (b) The designation of a specific room or rooms for  
233 inpatient hospice care shall not be required if beds are available  
234 through contract between an existing health care facility and a  
235 hospice.

236           (c) Licensed beds designated for inpatient hospice care  
237 through contract between an existing health care facility and a  
238 hospice shall not be required to be delicensed from one type of  
239 bed in order to enter into a contract with a hospice, nor shall  
240 the physical plant of any facility be required to be altered,  
241 except that a homelike atmosphere may be required.

242           (d) Staffing standards for inpatient hospice care  
243 provided through a contract may not exceed the staffing standards  
244 required under the license held by the contractee.

245           (e) Under no circumstance may a hospice contract for  
246 the use of a licensed bed in a health care facility or another  
247 hospice that has, or has had within the last eighteen (18) months,  
248 a suspended, revoked or conditional license, accreditation or  
249 rating.

250           (4) A hospice care team shall be responsible for inpatient,  
251 outpatient and home-care aspects of care.

252           (5) Any inpatient component of care shall be under the  
253 direct administration of the hospice program.

254           (6) Hospice care shall provide symptom control provided by a  
255 hospice care team skilled in medical and psychosocial management  
256 of distressing signs and symptoms.



257 (7) The hospice shall have a medical director, who shall  
258 have responsibility for medical direction of the care and  
259 treatment of patients and their families rendered by the hospice  
260 care teams.

261 (8) Hospice care will be available twenty-four (24) hours a  
262 day, seven (7) days a week.

263 (9) A hospice program shall have a bereavement program which  
264 shall provide a continuum of supportive and therapeutic services  
265 for the family, including formal and informal individual, family  
266 and group treatment modalities used as needed to support the  
267 bereaved family.

268 (10) A hospice program shall foster independence of the  
269 patient and his family by providing training, encouragement and  
270 support so that the patient and family can care for themselves as  
271 much as possible.

272 (11) The unit of care in a hospice program shall be the  
273 patient and family.

274 (12) A hospice program will provide a continuum of care and  
275 a continuity of care givers throughout the length of care for the  
276 patient and to the family through the bereavement period.

277 (13) A hospice program of care shall not impose the dictates  
278 of any value or belief system on its patients and their families.

279 (14) Admission to a hospice program shall be made by a  
280 licensed physician and shall be dependent on the expressed request  
281 and informed consent of the patient and family.

282 (15) Accurate and current records shall be kept on all  
283 patients and their families.

284 (16) A registered nurse shall be employed full time by the  
285 hospice as a patient care coordinator to supervise and coordinate  
286 the palliative and supportive care for patients and families  
287 provided by a hospice care team. No other full-time personnel are  
288 required.

289           **SECTION 9.** Section 41-85-17, Mississippi Code of 1972, is  
290 brought forward as follows:

291           41-85-17. Each hospice program shall consist of at least  
292 three (3) of the four (4) components or modes of care described in  
293 this section which afford the terminally ill individual and the  
294 family of the terminally ill individual a range of service  
295 delivery which can be tailored to specific needs and preferences  
296 of the patient and family at any point in time. These four (4)  
297 components are:

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

303           (b) Inpatient hospice care. The inpatient component of  
304 care, when contracted for through an institution which is not a  
305 hospice providing inpatient continue care, is an adjunct to  
306 hospice home care and shall primarily be used only for short-term  
307 stays. The facility or rooms within a facility used for the  
308 hospice inpatient component of care shall be arranged,  
309 administered and managed in such a manner to provide privacy,  
310 dignity, comfort, warmth and safety for the terminally ill patient  
311 and the family. Every possible accommodation shall be made to  
312 create as homelike an atmosphere as practicable. To facilitate  
313 overnight family visitation within the facility, rooms shall be  
314 limited to no more than double occupancy; and, whenever possible,  
315 both occupants shall be hospice patients. There shall be a  
316 continuum of care and a continuity of care givers between the  
317 hospice home program and the inpatient aspect of care to the  
318 extent practicable and compatible with the preferences of the  
319 patient and his family. The hours for daily operation and the  
320 location of the place where the services are provided shall be  
321 determined, to the extent practicable, by the accessibility of

322 such services to the patients and families served by the hospice  
323 program.

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

333 (d) Inpatient continue care. The inpatient continue  
334 care component of hospice care may be provided directly by the  
335 hospice. The facility used for the hospice inpatient continue  
336 care shall be arranged, administered and managed in such a manner  
337 to provide privacy, dignity, comfort, warmth and safety for the  
338 terminally ill patient and the family. Every possible  
339 accommodation shall be made to create as homelike an atmosphere as  
340 practicable. To facilitate overnight family visitation within the  
341 facility, rooms shall be limited to no more than double occupancy.  
342 The hospice shall be in operation twenty-four (24) hours a day and  
343 must provide hospice home care, inpatient hospice care, and  
344 outpatient care.

345 **SECTION 10.** Section 41-85-19, Mississippi Code of 1972, is  
346 brought forward as follows:

347 41-85-19. (1) A hospice program shall have a clearly  
348 defined organized governing body, consisting of a minimum of seven  
349 (7) persons who are representative of the local community at  
350 large, which has autonomous authority for the conduct of the  
351 hospice program. This body is not required to meet more often  
352 than quarterly.

353           (2) The hospice program shall have a director, administrator  
354 or manager who shall be responsible for the overall coordination  
355 and administration of the hospice program.

356           **SECTION 11.** Section 41-85-21, Mississippi Code of 1972, is  
357 brought forward as follows:

358           41-85-21. An up-to-date, interdisciplinary record of care  
359 being given and patient and family status shall be kept. Records  
360 shall contain pertinent past and current medical, nursing, social  
361 and other therapeutic information and such other information that  
362 is necessary for the safe and adequate care of the patient and the  
363 family. Notations regarding all aspects of care for the patient  
364 and family shall be made in the record. When services are  
365 terminated, the record shall show the date and reason for  
366 termination.

367           **SECTION 12.** Section 41-85-23, Mississippi Code of 1972, is  
368 brought forward as follows:

369           41-85-23. Information received by persons employed by, or  
370 providing services to, a hospice or received by the licensing  
371 agency through reports or inspection shall be deemed privileged  
372 and confidential information and shall not be disclosed to any  
373 person other than the patient or the family without the written  
374 consent of that patient, the patient's guardian or the patient's  
375 family.

376           **SECTION 13.** Section 41-85-25, Mississippi Code of 1972, is  
377 brought forward as follows:

378           41-85-25. (1) It is unlawful for any person or public body  
379 to offer or advertise to the public in any way by any medium  
380 whatever to be a hospice as defined in this chapter without  
381 obtaining a valid current license. It is unlawful for any holder  
382 of a license issued pursuant to the provisions of this chapter to  
383 advertise or hold out to the public that it holds a license for a  
384 hospice program other than that for which it actually holds a  
385 license.

386           (2) Any person found guilty of violating subsection (1) is  
387 guilty of a misdemeanor, punishable, upon conviction, by a fine of  
388 not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment  
389 in the county jail for not greater than six (6) months, or both.  
390 Each day of a continuing violation shall be considered a separate  
391 offense.

392           **SECTION 14.** This act shall take effect and be in force from  
393 and after July 1, 2007.