HOUSE BILL NO. 1194

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

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

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

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

SECTION 2. Section 41-85-3, Mississippi Code of 1972, is brought forward 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 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) "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.

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

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

(k) "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 3. Section 41-85-5, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

41-85-7. 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 Five Hundred Dollars ($500.00);
(c) Conduct annual licensure inspections of all licensees which may be the same inspection as the annual Medicare certification inspection; and

(d) 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.

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

41-85-9. Any duly authorized officer or employee of the department shall have the right to make such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of this chapter and of rules or standards in force pursuant hereto. The right of inspection shall also extend to any program which the department has reason to believe is offering or advertising itself as a hospice without a license, but no inspection of any such program may be made without the permission of the owner or person in charge thereof unless a warrant is first obtained authorizing such inspection. Any application for a license or renewal thereof made pursuant to this chapter shall constitute permission for any inspection of the hospice for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.
SECTION 6. Section 41-85-11, Mississippi Code of 1972, is brought forward 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 and their families. Such plan shall contain, but not be limited to:

(a) The estimated average number of terminally ill persons 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 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 7. Section 41-85-13, Mississippi Code of 1972, is brought forward as follows:

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

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

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

(b) An intentional or negligent act materially affecting the health or safety of a patient.
(3) If, three (3) months after the date of obtaining a license, or at any time thereafter, a hospice does not have in operation the home-care component of hospice care, the department shall immediately revoke the license of such hospice.

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

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

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

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

(3) With respect to contractual arrangements for inpatient hospice care:
(a) The aggregate number of inpatient days provided by a hospice through all contractual arrangements between the hospice and licensed health care facilities providing inpatient hospice care may not exceed twenty percent (20%) of the aggregate total number of days of hospice care provided to all patients receiving hospice care from the hospice during a twelve-month period. However, the provisions of this paragraph (a) shall not apply to a hospice facility providing inpatient continue care.

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

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

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

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

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

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

(6) Hospice care shall provide symptom control provided by a hospice care team skilled in medical and psychosocial management of distressing signs and symptoms.
(7) The hospice shall have a medical director, who shall have responsibility for medical direction of the care and treatment of patients and their families rendered by the hospice care teams.

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

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

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

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

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

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

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

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

(16) A registered nurse shall be employed full time by the hospice as a patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice care team. No other full-time personnel are required.
SECTION 9. Section 41-85-17, Mississippi Code of 1972, is brought forward 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 and the family of the terminally ill individual 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 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 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 10. Section 41-85-19, Mississippi Code of 1972, is brought forward as follows:

41-85-19. (1) A hospice program shall have a clearly defined organized governing body, consisting of a minimum of seven (7) persons who are representative of the local community at large, which has autonomous authority for the conduct of the hospice program. This body is not required to meet more often than quarterly.
(2) The hospice program shall have a director, administrator or manager who shall be responsible for the overall coordination and administration of the hospice program.

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

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

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

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

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

41-85-25. (1) It is unlawful for any person or public body to offer or advertise to the public in any way by any medium whatever to be a hospice as defined in this chapter without obtaining a valid current license. It is unlawful for any holder of a license issued pursuant to the provisions of this chapter to advertise or hold out to the public that it holds a license for a hospice program other than that for which it actually holds a license.
(2) Any person found guilty of violating subsection (1) is guilty of a misdemeanor, punishable, upon conviction, by a fine of not more than Ten Thousand Dollars ($10,000.00) or by imprisonment in the county jail for not greater than six (6) months, or both. Each day of a continuing violation shall be considered a separate offense.

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