**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑11‑790 SO AS TO ENACT THE “SOUTH CAROLINA OBESITY TREATMENT AND MANAGEMENT ACT” TO CREATE A PROGRAM DESIGNED TO ADDRESS THE PROBLEM OF THE HIGH RATE OF OBESITY IN SOUTH CAROLINA THROUGH THE USE OF BARIATRIC SURGERY, AMONG OTHER METHODS AND TREATMENT OPTIONS, TO PROVIDE THE PROGRAM MUST BE DEVELOPED THROUGH THE STATE HEALTH PLAN BY THE STATE BUDGET AND CONTROL BOARD, TO CREATE THE BARIATRIC ADVISORY BOARD AND TO PROVIDE THE COMPOSITION AND RESPONSIBILITIES OF THE BOARD, TO PROVIDE WHEN A PERSON MAY BE ELIGIBLE FOR PARTICIPATION IN THE PROGRAM AND WHEN A MEDICAL CENTER OR HOSPITAL MAY PROVIDE A SERVICE UNDER THE PROGRAM, TO PROVIDE LIMITS ON THE NUMBER OF PEOPLE THE PROGRAM MAY ACCEPT DURING ITS FIRST TWO YEARS OF OPERATION, TO PROVIDE A REPORTING REQUIREMENT AT THE END OF THE PROGRAM’S FIRST TWO‑YEAR PERIOD OF OPERATION, TO ENSURE THE LEAST INITIAL COST TO THE STATE IN THE FIRST TWO YEARS OF THE PROGRAM’S IMPLEMENTATION, EIGHTY‑FIVE PERCENT OF PARTICIPANTS MUST BE ELIGIBLE FOR GASTRIC BANDING SUCH AS LAP BANDS, AND TO PROVIDE ON A FUTURE DATE A BENEFIT PROVIDED UNDER THIS PROGRAM IS AVAILABLE TO A PARTICIPANT IN THE STATE HEALTH PLAN WHO IS ELIGIBLE FOR THE PROGRAM UNDER CRITERIA ESTABLISHED IN THIS SECTION.

Whereas, obesity is a very serious problem in South Carolina with more than sixty-five percent of our state’s adult citizens being overweight, constituting the fifth highest percentage in the country; and

Whereas, there are a number of unfavorable health conditions and illnesses that directly result from obesity including heart disease, hypertension, and diabetes. As a consequence of our high rate of obesity, South Carolinians have greater incidences of these conditions and illnesses; and

Whereas, in addition to the human suffering caused by obesity, our state faces major economic expense from the high costs of treating the ailments that result from being overweight. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act is known and may be cited as the “South Carolina Obesity Treatment and Management Act”.

SECTION 2. Article 5, Chapter 11, Title 1 of the 1976 Code is amended by adding:

“Section 1‑11‑790. (A) There is established in the State Health Plan a program designed to address the problem of the high rate of obesity in South Carolina by providing for the treatment and management of obesity and related conditions through various methods including, but not limited to, bariatric surgery as a treatment option.  The State Health Plan through the State Budget and Control Board must conduct this program as provided in this section.

(B)(1) There is created a Bariatric Advisory Board (the board) consisting of seven members appointed as follows:

(a) three members appointed by the Speaker of the House of Representatives, one of whom is a bariatric surgeon;

(b) three members appointed by the President Pro Tempore of the Senate, one of whom is a bariatric surgeon; and

(c) one member appointed by the Executive Director of the State Budget and Control Board.

(2) The board, in consultation with the State Health Plan, shall develop criteria for patient and facility eligibility for the program which shall include, but not be limited to, bariatric surgical guidelines and criteria of the American Association of Clinical Endocrinologists (AACE), The Obesity Society (TOS), and American Society for Metabolic & Bariatric Surgery (ASMBS) Guidelines for Clinical Practice for the Perioperative Nutritional, Metabolic, and Nonsurgical Support of the Bariatric Surgery Patient.

(3) A person may be eligible for bariatric surgery in the program if he:

(a)(i) has a body mass index greater than forty; or

(ii) has a body mass index greater than thirty‑five and with two comorbidities such as diabetes, hypertension, gastro esophageal reflux disease, sleep apnea, or asthma;

(b) participates in the State Health Plan for at least one year;

(c) has documented with his primary practitioner at least two failed attempts at sustained weight loss using methods such as Weight Watchers, the Atkins diet, the South Beach diet, or Sugar Busters; and

(d) satisfies other criteria the board requires.

(4) A medical center or hospital may be eligible to deliver bariatric surgery in the program if it:

(a) is a nationally designated Center of Excellence, a ASMBS, ACS, or Blues Center of Distinction affiliated with national Blue Cross Blue Shield (BCBS) criteria, or has satisfied the criteria for one of these designations and has an application for one of these designations pending approval and accepted by the board as sufficient;

(b) has all the critical post‑surgical patient support in place including, but not limited to:

(i) a nutritionist or dietician for patient access;

(ii) individual and group support meetings;

(iii) development of personalized weight loss goals and management and support for lifelong life style changes; and

(iv) a physical activity component;

(c) imposes an initial surgical fee that must include eighteen months follow‑up care for the patient that includes, but is not limited to, all band adjustments, use of COE support staff, use of nutritionists, and access to group meetings; and

(d) satisfies other criteria the board requires.

(5)(a)(i) The program in its first year of operation may approve not more than one hundred patients from different regions in the state for the program based on the guidelines developed by the board;

(ii) the program in its second year of operation may approve not more than an additional one hundred patients from different regions in the state for the program based on the same guidelines;

(6) At the end of the first two-year period of operation of the program, the board shall report back to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Finance Committee with detailed information on the program’s initial trends, including, but not be limited to:

(a) presurgical prescription costs for each patient associated with obesity and its comorbidities;

(b) postsurgical prescription cost reductions associated with each patient’s improved medical comorbidities; and

(c) comorbidities documented before surgery and the resolution or improvement of those comorbidities after surgery including, but not limited to, changes in drug costs, health care costs, and productivity. A patient must serve as his own control by comparing health care costs in the preceding two years while he was obese with comorbid conditions to his health care costs following surgery. When measuring productivity, information provided must be translated to total cost savings instead of only health care savings.

(7) To ensure the least initial cost to the state in the first two years of the program’s implementation, eighty‑five percent of participants must be eligible for gastric banding such as lap bands.

(8) Beginning on July 1, 2012, a benefit provided under this program is available to a participant in the State Health Plan who is eligible for the program under criteria established in this section.”

SECTION 3. This act takes effect upon approval by the governor except that it is effective for the State Health Plan beginning July 1, 2012.

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