~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 19, 2016

**H. 4327**

Introduced by Rep. G.M. Smith

S. Printed 5/19/16--S.

Read the first time April 19, 2016.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (H. 4327) to amend Chapter 71, Title 44, Code of Laws of South Carolina, 1976, relating to hospice programs, so as to add definitions; to establish certain licensing requirements, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 71, Title 44 of the 1976 Code is amended to read:

“CHAPTER 71

~~Licensure of~~ Quality Hospice Programs Act

Section 44‑71‑10. This chapter may be cited as the ‘Quality Hospice ~~Licensure~~ Programs Act’.

Section 44‑71‑20. As used in this chapter:

(1) ‘Board’ means the South Carolina Board of Health and Environmental Control.

(2) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(3) ‘Hospice’ means a centrally administered, interdisciplinary health care program~~. This program must provide~~, which provides a continuum of medically supervised palliative and supportive care for the terminally ill patient and the family including, but not limited to, outpatient and inpatient services provided directly or through written agreement. Inpatient services include, but are not limited to, services provided by a hospice in a licensed hospice facility.

Admission to a hospice program of care is based on the voluntary request of the hospice patient alone or in conjunction with designated family members.

(4) ‘Hospice facility’ means an institution, place, or building in which a licensed hospice provides room, board, and appropriate hospice services on a twenty‑four hour basis to individuals requiring hospice care pursuant to the orders of a physician.

(5) ‘Licensee’ means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the hospice or hospice facility.

(6) ‘Multiple location’ means a properly registered additional site, other than the licensed primary office, from which a parent hospice organization provides hospice services. ‘Multiple location’ does not mean a ‘work station’ as defined in item (7).

(7) ‘Work station’ means a site operated within the licensed service area of a hospice solely for the convenience of the staff where they may conduct activities including, but not limited to, completing paperwork, checking messages, or storing equipment. These work stations must not have signage with an address or operating hours, must not be advertised, and must not be open to the public for any reason, such as to distribute supplies or to receive referrals.

(8) ‘Parent hospice organization’ means a properly licensed hospice that, in addition to its primary office, also provides hospice services from a multiple location as defined in item (6).

Section 44‑71‑30. (A) No person, private or public organization, political subdivision, or other governmental agency may establish, conduct, or maintain a hospice or represent itself as a hospice without first obtaining a license from the department.

(B) ~~This~~ A license obtained pursuant to this section is effective for a twelve‑month period following the date of issue ~~and must prescribe by county the geographic area authorized to be served~~.

(C) The license must prescribe by county the geographic area authorized to be served. A hospice that wishes to expand its licensed service area to include additional counties authorized in this section must first notify the department, in accordance with Section 44‑71‑40, and then receive approval from the department.

(D) A license issued under this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this chapter.

(E) The department shall publish a current list of all licensed hospices, including all registered multiple locations, on its website and shall include a list of all counties served by the licensed hospice and each multiple location.

Section 44‑71‑35. (A) A parent hospice organization, or any other hospice, may not establish, conduct, or maintain a multiple location or represent itself as such without first registering the multiple location with the department and receiving approval of the registration from the department. Upon approval by the department, a multiple location must be listed on the license of the parent hospice organization.

(B) A registration may be filed at any time and is effective until the expiration of the license of the parent hospice organization that is in effect at the time of the initial approval of the multiple location. The registration and approval of a multiple location is effective for a period running coterminous with the parent hospice organization’s license, and, as such, the registration and approval of a multiple location must be reviewed by the department annually at the time of the parent hospice organization’s license renewal and as a part of that process as prescribed by the department in regulation.

(C) The registration of a multiple location must prescribe by county the geographic area authorized to be served. A multiple location that wishes to expand its service area to include additional counties authorized in this section shall first notify the department, in accordance with Section 44‑71‑40, and then receive approval from the department.

(D) A multiple location approval granted pursuant to this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this chapter.

Section 44‑71‑40. (A) A person, private or public organization, political subdivision, or other governmental agency desiring to obtain a license must file with the department an application on a form prescribed, prepared, and furnished by the department.

(B) A parent hospice organization, or any other hospice, desiring to obtain approval for the registration of a multiple location shall file with the department an application on a form prescribed, prepared, and furnished by the department.

(C) A parent hospice organization, or any other hospice, desiring to expand its licensed service area to include additional counties authorized in this chapter shall first file with the department an application on a form prescribed, prepared, and furnished by the department.

Section 44‑71‑50. The department is authorized to establish reasonable fees to be used in the administration of the program.

Section 44‑71‑60. The department shall promulgate regulations which define needs, services, and standards for the care, treatment, health, safety, welfare, and comfort of patients and their families served by hospices and for the maintenance and operation of hospices, including hospice facilities and multiple locations, which will promote safe and adequate care and treatment of the patients and their families.

Section 44‑71‑65. Notwithstanding any other provision of law, a hospice facility must comply with the regulations promulgated by the department pursuant to this chapter and is not subject to regulations pertaining to the licensure and regulation of nursing homes or community residential care facilities.

Section 44‑71‑70. (A) The department is authorized to issue, deny, suspend, or revoke licenses in accordance with regulations promulgated pursuant to this section. Such regulations must include hearing procedures related to denial, suspension, or revocation of licenses.

(B) The department shall approve a request of a properly filed application for the expansion of a hospice’s licensed service area to include additional counties in accordance with Section 44‑71‑75.

Section 44‑71‑75. (A) The department shall approve a registration for a multiple location for which a parent hospice organization submits an application as long as:

(1) the parent hospice organization is properly licensed, operating in accordance with all South Carolina laws and regulations;

(2) the multiple location will provide the full scope of hospice services in all areas outlined in Section 44‑71‑30;

(3) the multiple location will share administration, supervision, and services with the parent hospice organization; and

(4) the multiple location will be included in the quality improvement activities of the parent hospice organization.

(B) The department is authorized to deny, suspend, or revoke approvals of multiple locations in accordance with regulations promulgated pursuant to this section when there is evidence or reason to believe that any of the requirements or conditions in subsection (A) are not being met.

(C) The department shall approve a request to expand the service area of a multiple location to include additional counties only when the additional counties are requested in a properly filed application.

(D) Regulations pertaining to the denial, suspension, or revocation of approvals must include hearing procedures related to denial, suspension, or revocation of licenses.

Section 44‑71‑80. (A) Each hospice for which a license has been issued must be inspected by an authorized representative of the department at least once a year for the purpose of ensuring that the provisions of this chapter are being followed. Inspections of hospices that have multiple locations must be rotated annually among all locations to ensure the full provisions of this chapter are being followed.

(B) All hospices shall complete and return a Joint Annual Report to the Department and the Revenue and Fiscal Affairs Office (RFA) on a form prescribed by the department within a time period specified by the department or RFA. In the development of this form the department shall incorporate input from hospice providers to ensure the report will capture data on all services that are to be provided by hospices.

Section 44‑71‑90. Hospices must not discriminate based on age, sex, race, color, religion, or source of payment, location of patient, acceptance or provision of goods and services to patients of potential patients.

Section 44‑71‑95. Nothing in this chapter may be construed to prohibit a health care facility from providing hospice services through contractual arrangements with a licensed hospice operation.

Section 44‑71‑100. Hospices may not participate in, or offer, or imply an offer to participate in the practice known generally as rebate, kickbacks, or fee‑splitting arrangements.

Section 44‑71‑110. Any person who violates the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be fined not to exceed five hundred dollars or imprisoned for a period not to exceed six months or both.

Section 44‑71‑115. (A) There is created a task force to study potential geographic limitations on the region for which a hospice may be licensed to serve. This task force shall consider the approach taken by other states and other industries where ensuring prompt timely service is of critical importance. The task force shall report to the General Assembly on its findings, and as a part of this report, shall include a draft of any legislation that may be needed to enact this policy.

(B) The task force shall be composed of ten members as follows: four members from The Carolinas Center for Hospice and End of Life Care, one of which must be relevant association staff; four appointees from the SC Home Care and Hospice Association, one of which must be relevant association staff; and two appointments by the director of the Department of Health and Environmental Control with expertise in the area of hospice.

(C) The task force must be staffed by the staff of the Senate Medical Affairs Committee and the House Medical, Military, Public and Municipal Affairs Committee.

(D) Members of the task force shall serve without compensation and may not receive mileage or per diem.

(E) The task force shall complete its review and submit its recommendation to the General Assembly no later than December 1, 2016. Upon submission of its recommendation, the task force is dissolved.”

SECTION 2. This act takes effect six months after approval by the Governor, except that the provisions of Section 44‑71‑30(C) and (E), Section 44‑71‑35(C), Section 44‑71‑75, and Section 44‑71‑115 of this act take effect immediately upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

RAYMOND E. CLEARY III for Committee.

**A** **BILL**

TO AMEND CHAPTER 71, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HOSPICE PROGRAMS, SO AS TO ADD DEFINITIONS; TO ESTABLISH CERTAIN LICENSING REQUIREMENTS; TO PROVIDE FOR THE REGISTRATION OF MULTIPLE OFFICE LOCATIONS OF LICENSED HOSPICES; TO PROVIDE FOR EXPANSION OF HOSPICE SERVICE AREAS; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO APPROVE APPLICATIONS FOR REGISTRATION OF MULTIPLE OFFICE LOCATIONS AND FOR EXPANSION OF HOSPICE SERVICE AREAS, WITH EXCEPTIONS; AND FOR OTHER PURPOSES.

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

SECTION 1. Chapter 71, Title 44 of the 1976 Code is amended to read:

“CHAPTER 71

~~Licensure of~~ Quality Hospice Programs Act

Section 44‑71‑10. This chapter may be cited as the ‘Quality Hospice ~~Licensure~~ Programs Act’.

Section 44‑71‑20. As used in this chapter:

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(2) ‘Department’ means the South Carolina Department of Health and Environmental Control.

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Admission to a hospice program of care is based on the voluntary request of the hospice patient alone or in conjunction with designated family members.

(4) ‘Hospice facility’ means an institution, place, or building in which a licensed hospice provides room, board, and appropriate hospice services on a twenty‑four hour basis to individuals requiring hospice care pursuant to the orders of a physician.

(5) ‘Licensee’ means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the hospice or hospice facility.

(6) ‘Multiple location’ means a properly registered additional site, other than the licensed primary office, from which a parent hospice organization provides hospice services. ‘Multiple location’ does not mean a ‘work station’ as defined in item (7).

(7) ‘Work station’ means a site operated within the licensed service area of a hospice solely for the convenience of the staff where they may conduct activities including, but not limited to, completing paperwork, checking messages, or storing equipment. These work stations must not have signage with an address or operating hours, must not be advertised, and must not be open to the public for any reason, such as to distribute supplies or to receive referrals.

(8) ‘Parent hospice organization’ means a properly licensed hospice that, in addition to its primary office, also provides hospice services from a multiple location as defined in item (6).

Section 44‑71‑30. (A) No person, private or public organization, political subdivision, or other governmental agency may establish, conduct, or maintain a hospice or represent itself as a hospice without first obtaining a license from the department.

(B) ~~This~~ A license obtained pursuant to this section is effective for a twelve‑month period following the date of issue ~~and must prescribe by county the geographic area authorized to be served~~.

(C) The license must prescribe by county the geographic area authorized to be served. A hospice must be licensed only to serve eligible patients in the county in which the hospice claims as its primary location or counties that are contiguous to the county in which the hospice claims as its primary location. Upon licensure, a hospice shall inform the department of the primary location for which the license is requested. A hospice may elect to claim the county in which the hospice’s primary or sole office is housed as its primary location, or, in the case of a hospice geographically located in a postal zip code that encompasses more than one county, a hospice may elect to claim as its primary location either the county in which the hospice’s primary or sole office is housed or one of the other counties encompassed by the same postal zip code for the area in which its primary or sole office is housed. A hospice that wishes to expand its licensed service area to include additional counties authorized in this section must first notify the department, in accordance with Section 44‑71‑40, and then receive approval from the department.

(D) A license issued under this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this chapter.

(E) The department shall publish a current list of all licensed hospices, including all registered multiple locations, on its website and shall include a list of all counties served by the licensed hospice and each multiple location.

Section 44‑71‑35. (A) A parent hospice organization, or any other hospice, may not establish, conduct, or maintain a multiple location or represent itself as such without first registering the multiple location with the department and receiving approval of the registration from the department. Upon approval by the department, a multiple location must be listed on the license of the parent hospice organization.

(B) A registration may be filed at any time and is effective until the expiration of the license of the parent hospice organization that is in effect at the time of the initial approval of the multiple location. The registration and approval of a multiple location is effective for a period running coterminous with the parent hospice organization’s license, and, as such, the registration and approval of a multiple location must be reviewed by the department annually at the time of the parent hospice organization’s license renewal and as a part of that process as prescribed by the department in regulation.

(C) The registration of a multiple location must prescribe by county the geographic area authorized to be served. A multiple location must be approved only to serve eligible patients in the county in which the multiple location is housed or counties that are contiguous to the county in which the multiple location is housed. A multiple location that wishes to expand its service area to include additional counties authorized in this section shall first notify the department, in accordance with Section 44‑71‑40, and then receive approval from the department.

(D) A multiple location approval granted pursuant to this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this chapter.

Section 44‑71‑40. (A) A person, private or public organization, political subdivision, or other governmental agency desiring to obtain a license must file with the department an application on a form prescribed, prepared, and furnished by the department.

(B) A parent hospice organization, or any other hospice, desiring to obtain approval for the registration of a multiple location shall file with the department an application on a form prescribed, prepared, and furnished by the department.

(C) A parent hospice organization, or any other hospice, desiring to expand its licensed service area to include additional counties authorized in this chapter shall first file with the department an application on a form prescribed, prepared, and furnished by the department.

Section 44‑71‑50. The department is authorized to establish reasonable fees to be used in the administration of the program.

Section 44‑71‑60. The department shall promulgate regulations which define needs, services, and standards for the care, treatment, health, safety, welfare, and comfort of patients and their families served by hospices and for the maintenance and operation of hospices, including hospice facilities and multiple locations, which will promote safe and adequate care and treatment of the patients and their families.

Section 44‑71‑65. Notwithstanding any other provision of law, a hospice facility must comply with the regulations promulgated by the department pursuant to this chapter and is not subject to regulations pertaining to the licensure and regulation of nursing homes or community residential care facilities.

Section 44‑71‑70. (A) The department is authorized to issue, deny, suspend, or revoke licenses in accordance with regulations promulgated pursuant to this section. Such regulations must include hearing procedures related to denial, suspension, or revocation of licenses.

(B) The department shall approve a request of a properly filed application for the expansion of a hospice’s licensed service area to include additional counties if additional requested counties are contiguous to the county in which the hospice’s primary or sole office or properly registered multiple locations are housed.

Section 44‑71‑75. (A) The department shall approve a registration for a multiple location for which a parent hospice organization submits an application as long as:

(1) the parent hospice organization is properly licensed, operating in accordance with all South Carolina laws and regulations;

(2) the multiple location will provide the full scope of hospice services in all areas outlined in Section 44‑71‑30;

(3) the multiple location will share administration, supervision, and services with the parent hospice organization; and

(4) the multiple location will be included in the quality improvement activities of the parent hospice organization.

(B) The department is authorized to deny, suspend, or revoke approvals of multiple locations in accordance with regulations promulgated pursuant to this section when there is evidence or reason to believe that any of the requirements or conditions in subsection (A) are not being met.

(C) The department shall approve a request to expand the service area of a multiple location to include additional counties only when the additional counties requested in a properly filed application are counties that are contiguous to the county in which the multiple location is housed.

(D) Regulations pertaining to the denial, suspension, or revocation of approvals must include hearing procedures related to denial, suspension, or revocation of licenses.

Section 44‑71‑80. Each hospice for which a license has been issued must be inspected by an authorized representative of the department at least once a year for the purpose of ensuring that the provisions of this chapter are being followed. Inspections of hospices that have multiple locations must be rotated annually among all locations to ensure the full provisions of this chapter are being followed.

Section 44‑71‑90. Hospices must not discriminate based on age, sex, race, color, religion, or source of payment, location of patient, acceptance or provision of goods and services to patients of potential patients.

Section 44‑71‑95. Nothing in this chapter may be construed to prohibit a health care facility from providing hospice services through contractual arrangements with a licensed hospice operation.

Section 44‑71‑100. Hospices may not participate in, or offer, or imply an offer to participate in the practice known generally as rebate, kickbacks, or fee‑splitting arrangements.

Section 44‑71‑110. Any person who violates the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be fined not to exceed five hundred dollars or imprisoned for a period not to exceed six months or both.”

SECTION 2. This act takes effect twenty‑four months after approval of the Governor, except that the provisions of Section 44‑71‑30(E) of this act take effect immediately upon the approval of the Governor.

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