~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 29, 2012

**H. 3111**

Introduced by Reps. Young, Sandifer, Hayes and D.C. Moss

S. Printed 5/29/12--S.

Read the first time May 11, 2011.

**A** **BILL**

TO AMEND SECTION 38‑73‑525, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT AN INSURER WRITING A WORKERS’ COMPENSATION POLICY SHALL FILE CERTAIN INFORMATION ON WHICH IT RELIES TO SUPPORT ITS RATE REQUEST, SO AS TO REQUIRE THE INSURER TO ADOPT THE MOST RECENT LOSS COST WITHIN ONE HUNDRED TWENTY DAYS OF APPROVAL OF THE LOSS COSTS; AND TO AMEND SECTION 38‑73‑1210, RELATING TO THE REQUIREMENT THAT ITS OBLIGATION TO MAKE CERTAIN FILINGS MAY BE SATISFIED BY MAKING FILINGS AS A MEMBER OF, OR SUBSCRIBER TO, A LICENSED RATING ORGANIZATION THAT MAKES FILINGS, SO AS TO REQUIRE THESE FILINGS BE RULE AND FORM FILINGS AND NOT LOSS COST ADOPTION FILINGS, AND REQUIRE THE INSURER TO FILE FOR CERTAIN APPROVAL IF THE RATING ORGANIZATION TO WHICH IT SUBSCRIBES HAS A RATE INCREASE WITHIN TWELVE MONTHS AFTER THE INSURER BECOMES A MEMBER.

Amend Title To Conform

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

SECTION 1. Section 42‑15‑90 of the 1976 Code is amended to read:

“Section 42‑15‑90. (A) ~~Fees for attorneys and physicians~~ Attorney fees, physician fees, and ~~charges of hospitals~~ hospital charges for services under this title ~~shall be~~ are subject to the approval of the commission~~;~~, but ~~no~~ a physician or hospital ~~shall be entitled to~~ may not collect ~~fees~~ a fee from an employer or insurance carrier until ~~he~~ the physician or hospital has made the reports required by the commission in connection with the case.

(B)(1) ~~Any person who receives any fee or other consideration or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Commission or such court or who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall, for each offense, be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment.~~ A person may not:

(a) receive a fee, gratuity, or other consideration for a service rendered pursuant to this title unless the fee, gratuity, or other consideration is approved by the commission or a court of competent jurisdiction; or

(b) make it a business to solicit employment for an attorney or himself with respect to a claim or award for compensation under this title.

(2) A violation of this section constitutes a misdemeanor and, upon conviction, each offense is subject to a fine of not more than five hundred dollars, imprisonment for not more than one year, or both.

(C)(1) The commission may adopt criteria to establish a new fee schedule or adjust an existing fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory surgery centers based in whole or in part on the requirements of a federally funded program, but if it adopts adjustments to an existing fee schedule, it must adopt these adjustments on an annual basis and the adjustments may not exceed the percentage change indicated by the federally funded program. The commission shall conduct an evidentiary hearing to review a proposed adjustment to increase or reduce these fees by more than ten percent annually to determine whether to:

(a) increase or reduce the proposed adjustment as the commission considers appropriate; or

(b) accept the proposed adjustment.

(2)(a) A decision of the commission to increase or reduce a fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory surgery centers by more than ten percent is reviewable by expedited appeal to the Administrative Law Court pursuant to the Administrative Procedures Act.

(b) On appeal, the court may:

(i) accept the increase or decrease;

(ii) impose a lesser increase or decrease;

(iii) revert the fee schedule to as it was immediately prior to the annual adjustment;

(iv) adjust the appropriate conversion factors as necessary; or

(v) make other adjustments the court considers reasonable.

(c) The court shall issue a decision within ninety days after it receives the appeal.

(d) During the pendency of this appeal, the portion of the fee schedule under review must remain the same as it was immediately prior to the proposed changes, but all other portions of the fee schedule or conversion factors are effective and remain unchanged.”

SECTION 2. Section 1‑23‑600(A)(4), as last amended by Act 334 of 2008, is further amended to read:

“(4) Workers’ Compensation Commission, except as provided in Section 42‑15‑90; or”

SECTION 3. This act takes effect upon approval by the Governor.

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