**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3653**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Sandifer

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Introduced in the House on February 10, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Workers' Compensation Commission, attorney fees

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/10/2011 House Introduced and read first time ([House Journal‑page 5](file:///h:\hj%20archive\2011\02-10-11.docx))

2/10/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 5](file:///h:\hj%20archive\2011\02-10-11.docx))

**VERSIONS OF THIS BILL**

[2/10/2011](file:///p:\pprever\2011-12\3653_20110210.docx)

**A** **BILL**

TO AMEND SECTION 42‑15‑90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANDATORY APPROVAL OF CERTAIN ATTORNEY AND PHYSICIAN FEES BY THE WORKERS COMPENSATION COMMISSION, SO AS TO PROVIDE FOR THE ADOPTION AND ADJUSTMENT OF FEE SCHEDULES BY THE COMMISSION, TO PROVIDE FOR THE ADJUSTMENT OF PROPOSED FEE SCHEDULES BY THE COMMISSION, AND TO PROVIDE FOR AN APPEAL PROCESS FROM A DECISION OF THE COMMISSION CONCERNING A FEE SCHEDULE.

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 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 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. The commission shall 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 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. This act takes effect upon approval by the Governor.

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