

By: Hewes

To: Insurance

SENATE BILL NO. 3054

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT CERTAIN MEDICAL INFORMATION SHALL BE EQUALLY  
3 ACCESSIBLE BY EMPLOYEES AND EMPLOYERS IN WORKERS' COMPENSATION  
4 CASES; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 71-3-15, Mississippi Code of 1972, is  
7 amended as follows:

8 71-3-15. (1) The employer shall furnish such medical,  
9 surgical, and other attendance or treatment, nurse and hospital  
10 service, medicine, crutches, artificial members, and other  
11 apparatus for such period as the nature of the injury or the  
12 process of recovery may require. The injured employee shall have  
13 the right to accept the services furnished by the employer or, in  
14 his discretion, to select one (1) competent physician of his  
15 choosing and such other specialists to whom he is referred by his  
16 chosen physician to administer medical treatment. Referrals by  
17 the chosen physician shall be limited to one (1) physician within  
18 a specialty or subspecialty area. Except in an emergency  
19 requiring immediate medical attention, any additional selection of  
20 physicians by the injured employee or further referrals must be  
21 approved by the employer, if self-insured, or the carrier prior to  
22 obtaining the services of the physician at the expense of the  
23 employer or carrier. If denied, the injured employee may apply to  
24 the commission for approval of the additional selection or  
25 referral, and if the commission determines that such request is  
26 reasonable, the employee may be authorized to obtain such  
27 treatment at the expense of the employer or carrier. Approval by

28 the employer or carrier does not require approval by the  
29 commission. A physician to whom the employee is referred by his  
30 employer shall not constitute the employee's selection, unless the  
31 employee, in writing, accepts the employer's referral as his own  
32 selection. Should the employer desire, he may have the employee  
33 examined by a physician other than of the employee's choosing for  
34 the purpose of evaluating temporary or permanent disability or  
35 medical treatment being rendered under such reasonable terms and  
36 conditions as may be prescribed by the commission. If at any time  
37 during such period the employee unreasonably refuses to submit to  
38 medical or surgical treatment, the commission shall, by order,  
39 suspend the payment of further compensation during such time as  
40 such refusal continues, and no compensation shall be paid at any  
41 time during the period of such suspension; provided, that no claim  
42 for medical or surgical treatment shall be valid and enforceable,  
43 as against such employer, unless within twenty (20) days following  
44 the first treatment the physician or provider giving such  
45 treatment shall furnish to the employer, if self-insured, or its  
46 carrier, a preliminary report of such injury and treatment, on a  
47 form or in a format approved by the commission. Subsequent  
48 reports of such injury and treatment must be submitted at least  
49 every thirty (30) days thereafter until such time as a final  
50 report shall have been made. Reports which are required to be  
51 filed hereunder shall be furnished by the medical provider to the  
52 employer or carrier, and it shall be the responsibility of the  
53 employer or carrier receiving such reports to promptly furnish  
54 copies to the commission. The commission may, in its discretion,  
55 excuse the failure to furnish such reports within the time  
56 prescribed herein if it finds good cause to do so, and may, upon  
57 request of any party in interest, order or direct the employer or  
58 carrier to pay the reasonable value of medical services rendered  
59 to the employee.

60 (2) Whenever in the opinion of the commission a physician  
61 has not correctly estimated the degree of permanent disability or  
62 the extent of the temporary disability of an injured employee, the  
63 commission shall have the power to cause such employee to be  
64 examined by a physician selected by the commission, and to obtain

65 from such physician a report containing his estimate of such  
66 disabilities. The commission shall have the power in its  
67 discretion to charge the cost of such examination to the employer,  
68 if he is a self-insurer, or to the insurance company which is  
69 carrying the risk.

70 (3) In carrying out this section, the commission shall  
71 establish an appropriate medical provider fee schedule, medical  
72 cost containment system and utilization review which incorporates  
73 one or more medical review panels to determine the reasonableness  
74 of charges and the necessity for the services, and limitations on  
75 fees to be charged by medical providers for testimony and copying  
76 or completion of records and reports and other provisions which,  
77 at the discretion of the commission, are necessary to encompass a  
78 complete medical cost containment program. The commission may  
79 contract with a private organization or organizations to establish  
80 and implement such a medical cost containment system and fee  
81 schedule with the cost for administering such a system to be paid  
82 out of the administrative expense fund as provided in this  
83 chapter. All fees and other charges for such treatment or service  
84 shall be limited to such charges as prevail in the same community  
85 for similar treatment and shall be subject to regulation by the  
86 commission. No medical bill shall be paid to any doctor until all  
87 forms and reports required by the commission have been filed. Any  
88 employee receiving treatment or service under the provisions of  
89 this chapter may not be held responsible for any charge for such  
90 treatment or service, and no doctor, hospital or other recognized  
91 medical provider shall attempt to bill, charge or otherwise  
92 collect from the employee any amount greater than or in excess of  
93 the amount paid by the employer, if self-insured, or its workers'  
94 compensation carrier. Any dispute over the amount charged for  
95 service rendered under the provisions of this chapter, or over the  
96 amount of reimbursement for services rendered under the provisions  
97 of this chapter, shall be limited to and resolved between the

98 provider and the employer or carrier in accordance with the fee  
99 dispute resolution procedures adopted by the commission.

100 (4) The liability of an employer for medical treatment as  
101 herein provided shall not be affected by the fact that his  
102 employee was injured through the fault or negligence of a third  
103 party, not in the same employ, provided the injured employee was  
104 engaged in the scope of his employment when injured. The employer  
105 shall, however, have a cause of action against such third party to  
106 recover any amounts paid by him for such medical treatment.

107 (5) An injured worker who believes that his best interest  
108 has been prejudiced by the findings of the physician designated by  
109 the employer or carrier shall have the privilege of a medical  
110 examination by a physician of his own choosing, at the expense of  
111 the carrier or employer. Such examination may be had at any time  
112 after injury and prior to the closing of the case, provided that  
113 the charge shall not exceed One Hundred Dollars (\$100.00) and  
114 shall be paid by the carrier or employer where the previous  
115 medical findings are upset, but paid by the employee if previous  
116 medical findings are confirmed.

117 (6) Medical and surgical treatment as provided in this  
118 section shall not be deemed to be privileged insofar as carrying  
119 out the provisions of this chapter is concerned. All findings and  
120 opinions pertaining to a medical, psychological or surgical  
121 examination or treatment obtained pursuant to this chapter shall  
122 be reported on commission forms and shall be equally accessible by  
123 employee and employer or their representative. This section shall  
124 not be interpreted so as to prohibit or limit either the employee  
125 or employer from discussing with any medical provider who treats  
126 or evaluates an employee for an injury or medical condition for  
127 which claim is made any information that is necessary to carry out  
128 the provisions of this chapter. However, any information obtained  
129 pursuant to this section shall not be disseminated by the employer  
130 to any parties for purposes inconsistent with this chapter unless

131 authorized in writing by the employee or his duly authorized  
132 representative or as otherwise required to do so by a court or  
133 administrative body of competent jurisdiction. All findings  
134 pertaining to a second opinion medical examination, at the  
135 instance of the employer shall be reported as herein required  
136 within fourteen (14) days of the examination, except that copies  
137 thereof shall also be furnished by the employer or carrier to the  
138 employee. All findings pertaining to an independent medical  
139 examination by order of the commission shall be reported as  
140 provided in the order for such examination.

141 (7) Any medical benefits paid by reason of any accident or  
142 health insurance policy or plan paid for by the employer, which  
143 were for expenses of medical treatment under this section, are,  
144 upon notice to the carrier prior to payment by it, subject to  
145 subrogation in favor of the accident or health insurance company  
146 to the extent of its payment for medical treatment under this act.  
147 Reimbursement to the accident or health insurance company by the  
148 carrier or employer, to the extent of such reimbursement, shall  
149 constitute payment by the employer or carrier of medical expenses  
150 under this section. Under no circumstances, shall any subrogation  
151 be had by any insurance company against any compensation benefits  
152 paid under this chapter.

153 SECTION 2. This act shall take effect and be in force from  
154 and after July 1, 2000.