

By: Representative Ford

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 787

1 AN ACT TO REENACT SECTIONS 7-5-301 THROUGH 7-5-309,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE INSURANCE INTEGRITY
3 ENFORCEMENT BUREAU; TO REPEAL SECTION 7-5-311, MISSISSIPPI CODE OF
4 1972, WHICH PROVIDES FOR A REPEALER ON THE INSURANCE INTEGRITY
5 ENFORCEMENT BUREAU; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 7-5-301, Mississippi Code of 1972, is
8 reenacted as follows:

9 7-5-301. There is created within the Office of the Attorney
10 General an Insurance Integrity Enforcement Bureau. The duty of
11 the bureau is to investigate and prosecute claims of insurance
12 abuses and crimes involving insurance. The Attorney General may
13 employ the necessary personnel to carry out the provisions of
14 Sections 7-5-301 through 7-5-311.

15 **SECTION 2.** Section 7-5-303, Mississippi Code of 1972, is
16 reenacted as follows:

17 7-5-303. (1) As used in this section:

18 (a) "An insurance plan" means a plan or program that
19 provides health benefits whether directly through insurance or
20 otherwise and includes a policy of life or property and casualty
21 insurance, a contract of a service benefit organization, workers'
22 compensation insurance or any program or plan implemented in
23 accordance with state law or a membership agreement with a health
24 maintenance organization or other prepaid programs.

25 (b) "Insurance official" means:

26 (i) An administrator, officer, trustee, fiduciary,
27 custodian, counsel, agent or employee of any insurance plan;



28 (ii) An officer, counsel, agency or employee of an
29 organization, corporation, partnership, limited partnership or
30 other entity that provides, proposes to, or contracts to provide
31 services through any insurance plan; or

32 (iii) An official, employee or agent of a state or
33 federal agency having regulatory or administrative authority over
34 any insurance plan.

35 (2) A person or entity shall not, with the intent to
36 appropriate to himself or to another any benefit, knowingly
37 execute, collude or conspire to execute or attempt to execute a
38 scheme or artifice:

39 (a) To defraud any insurance plan in connection with
40 the delivery of, or payment for, insurance benefits, items,
41 services or claims; or

42 (b) To obtain by means of false or fraudulent pretense,
43 representation, statement or promise money, or anything of value,
44 in connection with the delivery of or payment for insurance claims
45 under any plan or program or state law, items or services which
46 are in whole or in part paid for, reimbursed, subsidized by, or
47 are a required benefit of, an insurance plan or an insurance
48 company or any other provider.

49 (3) A person or entity shall not directly or indirectly
50 give, offer or promise anything of value to an insurance official,
51 or offer or promise an insurance official to give anything of
52 value to another person, with intent to influence such official's
53 decision in carrying out any of his duties or laws or regulations.

54 (4) Except as otherwise allowed by law, a person or entity
55 shall not knowingly pay, offer, deliver, receive, solicit or
56 accept any remuneration, as an inducement for referring or for
57 refraining from referring a patient, client, customer or service
58 in connection with an insurance plan.

59 (5) A person or entity shall not, in any matter related to
60 any insurance plan, knowingly and willfully falsify, conceal or



61 omit by any trick, scheme, artifice or device a material fact,
62 make any false, fictitious or fraudulent statement or
63 representation or make or use any false writing or document,
64 knowing or having reason to know that the writing or document
65 contains any false or fraudulent statement or entry in connection
66 with the provision of insurance programs.

67 (6) A person or entity shall not fraudulently deny the
68 payment of an insurance claim.

69 **SECTION 3.** Section 7-5-305, Mississippi Code of 1972, is
70 reenacted as follows:

71 7-5-305. (1) To fund the Insurance Integrity Enforcement
72 Bureau, the Workers' Compensation Commission may assess each
73 workers' compensation carrier and self-insurer, in the manner
74 provided in Section 71-3-99, an amount based upon the proportion
75 that the total gross claims for compensation and medical services
76 and supplies paid by such carrier or self-insurer during the
77 preceding one-year period bore to the total gross claims for
78 compensation and medical services and supplies paid by all
79 carriers and self-insurers during such period. The total amount
80 assessed and collected by the commission from all workers'
81 compensation carriers and self-insurers used to fund the Insurance
82 Integrity Enforcement Bureau during each fiscal year shall be
83 based upon the recommendation of the Insurance Integrity
84 Enforcement Bureau, but shall not exceed One Hundred Fifty
85 Thousand Dollars (\$150,000.00). The funds received from the
86 assessment in this subsection (1) shall be used primarily for the
87 purpose of investigating and prosecuting workers' compensation
88 fraud. Within thirty (30) days of receipt, the Workers'
89 Compensation Commission shall transfer such assessment from the
90 Administrative Expense Fund into a special fund of the Office of
91 the Attorney General created in the State Treasury and designated
92 as the "Insurance Integrity Enforcement Fund."



93 (2) In addition to the monies collected under the assessment
94 provided in this section to fund the Insurance Integrity
95 Enforcement Bureau, for fiscal year 1999 the sum of One Hundred
96 Fifty Thousand Dollars (\$150,000.00) shall be appropriated by the
97 Legislature to the Insurance Integrity Enforcement Fund from the
98 State General Fund. The funds received from the appropriation in
99 this subsection (2) shall be used primarily for the purpose of
100 investigating and prosecuting insurance fraud other than workers'
101 compensation fraud.

102 (3) The Insurance Integrity Enforcement Bureau may accept
103 gifts, grants and appropriations of state and federal funds for
104 deposit in the Insurance Integrity Enforcement Fund. The
105 Insurance Integrity Enforcement Fund shall be used solely to
106 defray the expenses of the Insurance Integrity Enforcement Bureau,
107 and any interest earned on monies in such fund shall be credited
108 to the fund. Expenditures from the Insurance Integrity
109 Enforcement Fund shall be made upon requisition by the Attorney
110 General and subject to appropriation by the Legislature.

111 **SECTION 4.** Section 7-5-307, Mississippi Code of 1972, is
112 reenacted as follows:

113 7-5-307. (1) If any workers' compensation provider, health
114 insurance provider, employee of the Workers' Compensation
115 Commission or other person or entity has a belief or has any
116 information that a false or misleading statement or representation
117 or fraud or fraudulent denial has been made in connection with or
118 relating to a workers' compensation claim or in connection with or
119 relating to any insurance claim in relation to an insurance plan
120 as defined in Section 7-5-303, such person or entity may report
121 such belief to the Insurance Integrity Enforcement Bureau, furnish
122 any information which may be pertinent and cooperate in an
123 investigation conducted by the bureau. Investigators for the
124 Insurance Integrity Enforcement Bureau are authorized law
125 enforcement officers and they are authorized to investigate and



126 exercise such powers as are granted to other authorized law
127 enforcement officers; however, the Insurance Integrity Enforcement
128 Bureau and its investigators and personnel shall not have any
129 authority to impede, interfere with or control the operations and
130 functions of the Mississippi Workers' Compensation Commission.

131 (2) Prosecutions for violations under Sections 7-5-301
132 through 7-5-311 or for violations of any other criminal law
133 arising from cases of insurance fraud, may be instituted by the
134 Attorney General, his designee or the district attorney of the
135 district in which the violation occurred, and shall be conducted
136 in the name of the State of Mississippi. In the prosecution of
137 any criminal proceeding in accordance with this subsection by the
138 Attorney General, or his designee, and in any proceeding before a
139 grand jury in connection therewith, the Attorney General, or his
140 designee, shall exercise all the powers and perform all the duties
141 which the district attorney would otherwise be authorized or
142 required to exercise or perform. The Attorney General, or his
143 designee, shall have the authority to issue and serve subpoenas in
144 the investigation of any matter which may violate Sections 7-5-301
145 through 7-5-311 or any matter relating to insurance fraud which
146 may violate any criminal law.

147 (3) The Attorney General, or his designee, shall notify the
148 Workers' Compensation Commission when the Insurance Integrity
149 Enforcement Bureau opens or closes or otherwise disposes of an
150 investigative file relating to workers' compensation fraud. Such
151 notification shall be confidential and shall not be subject to
152 release to any third party except as otherwise provided by law.
153 After such notification, it is solely within the discretion of the
154 Mississippi Workers' Compensation Commission whether to modify or
155 alter the proceedings in any such workers' compensation claims
156 from the normal course of proceedings.

157 (4) On or before January 1 of each year, the Insurance
158 Integrity Enforcement Bureau shall file a report with the Senate



159 and House of Representatives Insurance Committees detailing its
160 work during the preceding calendar year and shall include the
161 following:

162 (a) The number and types of cases or complaints
163 reported to the bureau;

164 (b) The number and types of cases assigned for
165 investigation;

166 (c) The number of criminal warrants issued and the
167 types of cases;

168 (d) The number and types of cases referred to a
169 district attorney for prosecution;

170 (e) The number and types of cases retained by the
171 Attorney General for prosecution;

172 (f) The number and types of cases closed without
173 prosecution;

174 (g) The number and types of cases closed by the
175 district attorney without prosecution;

176 (h) The number and types of cases pending; and

177 (i) The amount of actual expenses of the bureau during
178 the preceding year classified by the types of cases.

179 (5) The jurisdiction of the Insurance Integrity Enforcement
180 Bureau shall not infringe upon any matters under the jurisdiction
181 of the Medicaid Fraud Control Unit created in Section 43-13-201 et
182 seq.

183 **SECTION 5.** Section 7-5-309, Mississippi Code of 1972, is
184 reenacted as follows:

185 7-5-309. (1) A person who violates any provision of Section
186 7-5-303 shall be guilty of a felony and, upon conviction thereof,
187 shall be punished by imprisonment for not more than three (3)
188 years, or by a fine of not more than Five Thousand Dollars
189 (\$5,000.00) or double the value of the fraud, whichever is
190 greater, or both. Sentences imposed for convictions of separate
191 offenses under this act may run consecutively.



192 (2) If the defendant found to have violated any provisions
193 of Section 7-5-303 is an organization, then it shall be subject to
194 a fine of not more than One Hundred Fifty Thousand Dollars
195 (\$150,000.00) for each violation. "Organization" for purposes of
196 this subsection means a person other than an individual. The term
197 includes corporations, partnerships, associations, joint-stock
198 companies, unions, trusts, pension funds, unincorporated
199 organizations, governments and political subdivisions thereof and
200 nonprofit organizations.

201 (3) In a proceeding for violations under Section 7-5-303,
202 the court, in addition to the criminal penalties imposed under
203 this section, shall assess against the defendant convicted of such
204 violation double those reasonable costs that are expended by the
205 Insurance Integrity Enforcement Bureau of the Office of Attorney
206 General or the district attorney's office in the investigation of
207 such case, including, but not limited to, the cost of
208 investigators, process service, court reporters, expert witnesses
209 and attorney's fees. A monetary penalty assessed and levied under
210 this section shall be deposited to the credit of the State General
211 Fund, and the Attorney General may institute and maintain
212 proceedings in his name for enforcement of payment in the circuit
213 court of the county of residence of the defendant and, if the
214 defendant is a nonresident, such proceedings shall be in the
215 Circuit Court of the First Judicial District of Hinds County,
216 Mississippi.

217 **SECTION 6.** Section 7-5-311, Mississippi Code of 1972, which
218 provides for the repeal of the laws that create the Insurance
219 Integrity Enforcement Bureau within the Office of the Attorney
220 General, is repealed.

221 **SECTION 7.** This act shall take effect and be in force from
222 and after July 1, 2003.

