

**State Corporation Commission**  
**2003 Fiscal Impact Statement**

**1. Bill Number** HB2307

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron** Devolites

**3. Committee** Commerce and Labor

**4. Title** Birth-Related Neurological Injury Compensation Program.

**5. Summary/Purpose:** This bill amends Chapter 5 of Title 38.2 as follows:

1. The Board of Directors of the Virginia Birth-Related Neurological Injury Compensation Program (Program) must establish a procedure in its plan of operation that requires participating physicians and hospitals (as applicable) to give written notice to obstetrical patients that explains the rights and limitations under the Program. The notice also must provide for the informed consent of the patient indicating that any claim for injury of the infant will be pursued through the Program to the exclusion of any other rights and remedies.
2. If the patient does not give prior written consent, the infant, his personal representative, parent, etc. may elect to either participate in the Program or sue the hospital or physician.
3. The Program's Board of Directors (Board) must also establish a procedure in its plan of operation for maintaining a list of Program claimants. Claimants may consent to have their personal information distributed to other claimants in the Program. The Board may not distribute the list to anyone other than claimants who have given their consent.
4. The State Corporation Commission no longer has the authority to suspend the \$250 non-participating physician assessment.
5. Board membership must include one citizen representative that has a child or relative who is a claimant or who has been awarded benefits under the Program.
6. The fetal heart monitor tape must be supplied by the hospital and filed by the claimant. Such tapes and other records of labor and delivery must be retained by the hospital for 10 years.

**6. No Fiscal Impact** on state agencies

**7. Budget amendment necessary** : No

**8. Fiscal implications** : None

**9. Specific agency or political subdivisions affected** : State Corporation Commission Bureau of Insurance

**10. Technical amendment necessary :** The State Corporation Commission Bureau of Insurance recommended the following technical amendment to the patron on House Bill 2307:

1. Subsection G of § 38.2 -5020 was deleted by House Bill 2307. The deletion of this subsection will remove the State Corporation Commission's authority to suspend the \$250 non-participating physician assessment. The Board's authority to reduce the participating physician and participating hospital assessment as provided in subsection F of § 38.2-5016 was not deleted. The provisions are now inconsistent with regard to non-participating versus participating physicians and hospitals, and it is not clear whether this was intentional on the part of the patron.
2. On Line 293, the provision requires the participating physician or participating hospital, or both, as may be applicable, to give the notice that provides for a signature indicating informed written consent. However, on Line 121, the provision refers only to the participating hospital obtaining prior written consent. It does not refer to the participating physician.

**11. Other comments :** None

**Date:** 01/28/03/V. Tompkins

cc: Secretary of Health and Human Resources