

## State Corporation Commission 2005 Fiscal Impact Statement

**1. Bill Number** HB2659

<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** Kilgore

**3. Committee** Courts of Justice

**4. Title** Medical malpractice.

**5. Summary/Purpose:.** Requires an expert witness to certify that the health care practitioner deviated from the standard of care before service of process is made. The bill also provides that an admission of sympathy or general sense of benevolence to a patient or a patient's relative is not admissible as evidence of an admission of liability or as evidence of an admission against interest. The bill further provides that the impressions, observations, evaluations, and histories obtained or formulated during the course of the practitioner's treatment may be disclosed. The bill also requires all medical malpractice claims settled or adjudicated to final judgment as well as all claims closed without payment to be reported annually to the State Corporation Commission. These claims must be reported by the insurer. A statistical summary must be provided as well as individual reports on each claim. The bill allows these reports to be submitted in an electronic format. The bill requires the reports to be filed by July 1 of the year following the applicable calendar year, but the report containing data for calendar year 2002, 2003, and 2004 must be filed by September 1, 2005.

**6.** Minimal Fiscal Impact on the State Corporation Commission: see Line 8.

**7. Budget amendment necessary:** No

**8. Fiscal implications:** House Bill 2659 requires the State Corporation Commission Bureau of Insurance to develop data calls, collect and aggregate data. The cost for the Bureau's consulting actuaries to analyze the data would increase Bureau actuarial costs approximately \$15,000 to \$20,000 per year for the analysis of the closed claims data. The Bureau of Insurance would pay the increased actuarial costs out of its existing actuarial budget.

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

**10. Technical amendment necessary:** No

**11. Other comments:** This fiscal impact statement discusses the provisions of § 38.2-2228.2 of the Code of Virginia as added to the Code in this legislation and makes no attempt to analyze the numerous provisions of Title 8.01 of the Code of Virginia pertaining to civil procedure or § 16.1-

83.1 or § 54.1-2912.3 (pertaining to competency evaluations of physicians). House Bill 2659 would add to the Code of Virginia language very similar to what was Section 38.2-2228.1, which was repealed a number of years ago. The information reported would assist the Bureau of Insurance in determining how claims frequency and severity is trending over time with regard to certain medical specialties. House Bill 2659 is similar to 2005 House Bill 1903, House Bill 1953, House Bill 2718, and Senate Bill 1173.

**Date:** 01/17/05 / V. Tompkins

cc: Secretary of Commerce and Trade

cc: Secretary of Health and Human Resources