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SENATE BILL NO. 367

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact § 65.2-605 of the Code of Virginia, relating to workers' compensation; employer liability for medical services.

Patron—Puckett

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 65.2-605 of the Code of Virginia is amended and reenacted as follows:**

§ 65.2-605. Liability of employer for medical services ordered by Commission; malpractice.

A. The pecuniary liability of the employer for medical, surgical, and hospital service herein required when ordered by the Commission shall be limited to such charges as prevail in the same community for similar treatment ~~when such treatment is paid for by the injured person and the~~. However, if more than one covered surgical procedure is performed during an operative session, the pecuniary liability of the employer shall be based on (i) 100 percent of the applicable prevailing community rate for the procedure performed during an operative session that has the highest prevailing community rate and (ii) 50 percent of the prevailing community rate for all other covered surgical procedures performed. If in the performance of a covered surgical procedure:

1. A physician serves as an assistant-at-surgery and such service is necessary, the pecuniary liability of the employer for such service shall not exceed 20 percent of the prevailing community rate payable to the primary surgeon; and

2. An individual who is not a physician serves as an assistant-at-surgery and is licensed to provide such service, the pecuniary liability of the employer for such service shall not exceed 10 percent of the prevailing community rate payable to the primary surgeon.

B. A health care provider who renders, in a state outside of the Commonwealth that has in effect a workers' compensation fee schedule, medical services to an injured worker whose claim and injuries have been as compensable under this title shall be reimbursed for authorized, reasonable, and necessary medical treatment in the amount that is provided therefor in accordance with that state's fee schedule. A health care provider who renders, in a state outside of the Commonwealth that does not have in effect a workers' compensation fee schedule, medical services to an injured worker whose claim and injuries have been as compensable under this title shall be reimbursed for authorized, reasonable, and necessary medical treatment at the prevailing community rate.

C. An employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of § 65.2-603, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

INTRODUCED

SB367