State Corporation Commission
2010 Fiscal Impact Statement

1. Bill Number: HB11

House of Origin	X	Introduced	___	Substitute	___	Engrossed
Second House	___	In Committee	___	Substitute	___	Enrolled

2. Patron: Marshall, R.G.

3. Committee: Health, Welfare and Institutions

4. Title: **Health services; peer utilization reviews.**

5. Summary: Revises the definition of "peer of the treating health care provider" to delete other health care professional. The definition is changed to require "a peer of the treating health care provider" to be a physician with a nonrestricted license to practice medicine in Virginia or another state that maintains the same or similar specialty or subspecialty as defined by the American Board of Medical Specialties, as the treating provider. If the treating provider is not a physician licensed in Virginia or another state, the definition of "peer of the health care provider" includes another health care professional with a nonrestricted license in Virginia or another state in the same or similar specialty. The bill revises the reconsideration of adverse decision section to delete physician advisors and a panel of appropriate health care providers from those who may make a decision on a reconsideration. The bill leaves a peer of the treating health care provider as the only one eligible to reconsider an adverse decision.

6. No Fiscal Impact on the State Corporation Commission

7. Budget amendment necessary: No

8. Fiscal implications: None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance, Virginia Department of Health

10. Technical amendment necessary: The Bureau of Insurance in conjunction with the Virginia Department of Health offered the following technical comments to the patron of House Bill 11:

(1) The proposed revisions to the definition of "Peer of the treating health care provider" ("peer") in §32.1-137.7 impose different standards in defining a peer, depending upon whether or not the treating health care provider is licensed in Virginia or in another jurisdiction. The Bureau of Insurance assumed that the patron intended to define a "peer" as an individual who practices within the same specialty or subspecialty and who holds a license (i.e. physician or other health care provider) similar to the treating health care provider and suggested the following language to reflect that objective beginning on Line 34:

> "Peer of the treating health care provider" means a physician ~~or other health care professional~~ who holds a nonrestricted license to practice medicine in the Commonwealth ~~of Virginia~~ or under a comparable licensing law of a state of the United States and ~~in~~ who maintains the same or similar scope of practice or specialty or subspecialty, as defined by the American Board of Medical Specialties, as the treating health care provider. If the treating health care provider is not a physician licensed to practice medicine in the Commonwealth **or under a comparable licensing law of a state of the United States**, "peer of the treating health care provider" includes another health care professional who holds a nonrestricted license in the Commonwealth or under a comparable licensing law of a state of the United States in the same or similar specialty as **the treating health care provider and** typically manages the medical condition, procedure or treatment under review.

(2) In consideration of the changes proposed in HB 11, the Bureau of Insurance recommended the patron consider amending the definition of final adverse decision in § 32.1-137.7, so as to remove any potential inconsistencies concerning the types of practitioners that may review utilization review determinations. The Bureau offered the patron the following changes to remove any ambiguities concerning the practitioners that may review an appeal of a final adverse decision and also achieve more consistency with the definition of "final adverse decision" in § 38.2-5900 beginning on Line 28:

> "Final adverse decision" means a utilization review determination ~~made by a physician advisor or peer of the treating health care provider in a reconsideration of an adverse decision~~, **denying benefits or coverage and concerning which all appeals available to the covered person have been exhausted except as prescribed in § 32.1-137.15.** ~~and upon which a provider or patient may base an appeal.~~

(3) HB 11 as introduced did not amend § 32.1-137.15 E, which addresses appeals made on expedited basis. The Bureau of Insurance advised the patron that if it was his intention to establish similar requirements for practitioners reviewing expedited appeals as will be established by this bill for non-expedited appeals, the following revisions would be necessary to § 32.1-137.15 E:

> E. When an adverse decision or adverse reconsideration is made and the treating health care provider believes that the decision warrants an immediate appeal, the treating health care provider shall have the opportunity to appeal the adverse decision or adverse reconsideration by telephone on an expedited basis. The treating health care provider shall have the opportunity to appeal immediately, by telephone, on an expedited basis, an adverse decision or adverse reconsideration relating to a prescription to alleviate cancer pain.

The decision on an expedited appeal shall be made by a ~~physician advisor~~, peer of the treating health care provider~~, or a panel of other appropriate health care providers with at least one physician advisor on the panel~~.

The utilization review entity shall decide the expedited appeal no later than one business day after receipt by the entity of all necessary information.

An expedited appeal may be requested only when the regular reconsideration and appeals process will delay the rendering of health care in a manner that would be detrimental to the health of the patient or would subject the cancer patient to pain. Both providers and utilization review entities shall attempt to share the maximum information by telephone, facsimile machine, or otherwise to resolve the expedited appeal in a satisfactory manner.

An expedited appeal decision may be further appealed through the standard appeal process established by the entity unless all material information and documentation were reasonably available to the provider and to the entity at the time of the expedited appeal, and the physician advisor reviewing the case under expedited appeal was a peer of the treating health care provider, was board certified or board eligible, and specialized in a discipline pertinent to the issue under review.

11. Other comments: House Bill 11 is assigned to Health, Welfare and Institutions Subcommittee #1.

Date: 01/30/10/V. Tompkins
cc: Secretary of Health and Human Resources