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**HOUSE BILL NO. 1326**

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Commerce and Labor  
on February 11, 2010)

(Patron Prior to Substitute—Delegate Merricks)

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

**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 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.

B. A health care provider rendering medical services in a state other than the Commonwealth to an injured worker whose claim and injuries have been accepted as compensable under this title shall be reimbursed for authorized, reasonable, and necessary medical treatment in an amount equal to the workers' compensation fee schedule, if any, adopted by the state where the services were rendered. If the state has not adopted a fee schedule, the health care provider shall be reimbursed consistent with subsection A.

2. That the Workers' Compensation Commission shall appoint a task force to review and make recommendations exclusively on the following subjects: (i) whether and the extent to which reductions and discounts shall be allowed for multiple surgical procedures performed during a single operative session; (ii) whether and the extent to which an employer shall be liable for the costs of assistants-at-surgery; and (iii) whether and the extent to which prompt payment to medical providers should be required. The Workers' Compensation Commission shall appoint as members of the task force individuals recommended by interested parties, including but not limited to the Virginia Manufacturers Association, the Business Coalition on Workers' Compensation, the Virginia Hospital and Healthcare Association, the Medical Society of Virginia, the Virginia Trial Lawyers Association, and the Virginia Association of Defense Attorneys. The task force shall gather information and receive testimony from interested parties and shall deliver its recommendations to the Workers' Compensation Commission by September 15, 2010. Upon receiving such recommendations, the Workers' Compensation Commission, pursuant to the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia, shall develop regulations, if any, it deems appropriate to address the issues described in clauses (i) through (iii), with such regulations to be effective by November 30, 2011.