

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 497

BY SENATORS STOLLINGS, TAKUBO, PLYMALE, MARONEY

AND FACEMIRE

[Originating in the Committee on the Judiciary;

reported on March 11, 2017]

1 A BILL to amend and reenact §55-7-19 of the Code of West Virginia, 1931, as amended, relating
2 to liability for health care providers who provide services at school athletic events;
3 providing that persons licensed, certified or registered in this state or another state to
4 provide health care or professional health care services are subject to limited liability if
5 they render emergency care or treatment at a public or private elementary or secondary
6 school athletic event; outlining circumstances under which liability can be limited;
7 eliminating provisions limiting liability to the extent of insurance coverage; eliminating
8 reference to standard of care in medical professional liability act; and establishing that
9 acts of willful misconduct are not subject to limited liability.

Be it enacted by the Legislature of West Virginia:

1 That §55-7-19 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-19. Liability of ~~physicians~~ health care providers who render services at school athletic events; limiting liability; exceptions.

1 (a) Any person licensed ~~to practice medicine and surgery pursuant to the provisions of~~
2 ~~article three, chapter thirty of this code or any person licensed to practice medicine and surgery~~
3 ~~as an osteopathic physician and surgeon pursuant to the provisions of article fourteen, chapter~~
4 ~~thirty of this code:~~ by, or certified or registered in, this state or another state to provide health care
5 or professional health care services: (1) Who is ~~acting in the capacity of a volunteer team~~
6 ~~physician or~~ in attendance at an athletic event sponsored by a public or private elementary or
7 secondary school; and (2) who gratuitously and in good faith ~~prior to the athletic event~~ agrees to
8 render emergency care or treatment to any participant during ~~such~~ the event in connection with
9 an emergency arising during or as the result of ~~such~~ the event, without objection of ~~such~~ the
10 participant, ~~shall~~ may not be held liable for any civil damages as a result of ~~such~~ the care or
11 treatment, or as a result of any act or failure to act in providing or arranging further medical

12 ~~treatment to an extent greater than the applicable limits of his or her professional liability insurance~~
13 ~~policy or policies when such the care or treatment was rendered in accordance with the~~
14 ~~acceptable standard of care established in section three, article seven-b of this chapter.~~

15 (b) The limitation of liability established by the provisions of this section ~~shall~~ does not
16 apply to acts or omissions constituting gross negligence or willful misconduct. For purposes of
17 this section, the term “athletic event” includes scheduled practices for any athletic event.