

# WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

**Senate Bill 487**

SENATORS MARONEY, TRUMP, AND TAKUBO, *original*

*sponsors*

[Passed March 9, 2019; in effect 90 days from  
passage]



1 AN ACT to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended,  
2 relating to the admissibility of health care staffing requirements in medical professional  
3 liability litigation; providing that compliance with minimum staffing requirements under  
4 state law creates a conclusive presumption that appropriate staffing was provided and a  
5 rebuttable presumption that adequate supervision of patients to prevent accidents was  
6 provided; requiring that if staffing is less than requirements dictated by state law then there  
7 is a rebuttable presumption that there was inadequate supervision of patients and that  
8 inadequate staffing or inadequate supervision was a contributing cause of the patient's fall  
9 and resulting injuries or death; and requiring the jury be instructed accordingly.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.**

**§55-7B-7a. Admissibility and use of certain information.**

1 (a) In an action brought, there is a rebuttable presumption that the following information  
2 may not be introduced unless it applies specifically to the injured person or it involves substantially  
3 similar conduct that occurred within one year of the particular incident involved:

4 (1) A state or federal survey, audit, review, or other report of a health care provider or  
5 health care facility;

6 (2) Disciplinary actions against a health care provider's license, registration, or  
7 certification;

8 (3) An accreditation report of a health care provider or health care facility; and

9 (4) An assessment of a civil or criminal penalty.

10 (b) In any action brought alleging inappropriate staffing or inadequate supervision, if the  
11 health care facility or health care provider demonstrates compliance with the minimum staffing  
12 requirements under state law, the health care facility or health care provider is entitled to a  
13 conclusive presumption that appropriate staffing was provided, and a rebuttable presumption that

14 adequate supervision of patients to prevent accidents was provided, and the jury shall be  
15 instructed accordingly.

16 (c) If staffing is less than the requirements dictated by the applicable regulations, then  
17 there is a rebuttable presumption that there was inadequate supervision of patients and that  
18 inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and  
19 injuries or death arising therefrom, and the jury shall be instructed accordingly.

20 (d) Information under this section may only be introduced in a proceeding if it is otherwise  
21 admissible under the West Virginia Rules of Evidence.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*