

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled
Committee Substitute
for
Senate Bill 487

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 27 P 5:11

FILED

SENATORS MARONEY, TRUMP, AND TAKUBO, *original*
sponsors

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

SB 487 vetoed

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]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 27 P 5:12

FILED

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.

Mark R. Raynor
.....
Chairman, Senate Committee

Scott L. Caputo
.....
Chairman, House Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 27 P 5:11

FILED

Originated in the Senate.

In effect 90 days from passage.

Joe Linn
.....
Clerk of the Senate

Steve Harrison
.....
Clerk of the House of Delegates

Will R. Combs
.....
President of the Senate

Ray Houchens
.....
Speaker of the House of Delegates

The within *is disapproved* this the *27th*
Day of *March*, 2019.

James E. Justice
.....
Governor

PRESENTED TO THE GOVERNOR

11/12/2019

Time 11:16am