

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 197

BY SENATOR TAKUBO

[Introduced February 8, 2017; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §57-5-4j of the Code of West Virginia, 1931, as amended, relating
 2 to preventing compensatory damage awards for medical expenses from including sums
 3 that the claimant has not and will not pay for medical care or treatment.

Be it enacted by the Legislature of West Virginia:

1 That §57-5-4j of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-4j. Hospital records; evidence of ~~reasonableness~~ of medical expenses.

1 (a) Proof that medical, hospital and doctor bills were paid or incurred because of any
 2 illness, disease or injury shall be prima facie evidence that such bills so paid or incurred were
 3 necessary and reasonable up to the amount actually paid. To the extent that charges for medical,
 4 hospital and doctor services or treatment were satisfied by way of discount, reduction or write-off
 5 and not paid, proof of the charges incurred, but not paid, shall not be used to establish the
 6 necessity or reasonableness of medical expenses.

7 (b) Evidence offered regarding the cost or value of any future medical expenses claimed
 8 by the injured person shall be limited to evidence of those sums that will be sufficient to provide
 9 for any future necessary and reasonable health care services or treatment for the injured person.

10 (c) The Legislature hereby declares that the purpose of this section is to abrogate the
 11 common-law collateral source rule in determining the sums recoverable by injured persons as
 12 damages for medical expenses and to prevent compensatory damage awards for the value of
 13 reasonable and necessary health care services from exceeding the sums accepted by the health
 14 care service provider for treating the injured party.

15 (d) The Legislature further declares that the decision of the Supreme Court of Appeals of
 16 West Virginia in *Kenney v. Liston*, Case No. 13-0427 (W. Va. June 4, 2014) is contrary to the
 17 Legislature’s intent and shall be deemed overruled by the enactment of this statute.

NOTE: The purpose of this bill is to prevent compensatory damage awards for medical expenses from including sums that the claimant has not and will not pay for medical care or treatment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.