

WEST VIRGINIA LEGISLATURE

2019 FIRST EXTRAORDINARY SESSION

ENROLLED

House Bill 133

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAY 28 P 12:16

FILED

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

BY REQUEST OF THE EXECUTIVE

[Passed May 20, 2019; in effect from passage.]

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20 9 MAY 8 P 12:16

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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 rebuttable presumptions that appropriate staffing and adequate
5 supervision of patients to prevent accidents were provided; requiring that if staffing is less
6 than requirements dictated by state law then there is a rebuttable presumption that there
7 was inadequate supervision of patients and that inadequate staffing or inadequate
8 supervision was a contributing cause of the patient's fall and resulting injuries or death;
9 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 certification;
- 7 (3) An accreditation report of a health care provider or health care facility; and
- 8 (4) An assessment of a civil or criminal penalty.

9 (b) In any action brought alleging inappropriate staffing or inadequate supervision, if the
10 health care facility or health care provider demonstrates compliance with the minimum staffing
11 requirements under state law, the health care facility or health care provider is entitled to a
12 rebuttable presumption that appropriate staffing and adequate supervision of patients to prevent
13 accidents were provided, and the jury shall be instructed accordingly.

14 (c) In any action brought alleging inappropriate staffing or inadequate supervision, if
15 staffing is less than the minimum staffing requirements under state law, then there is a rebuttable
16 presumption that there was inadequate supervision of patients and that inadequate staffing or
17 inadequate supervision was a contributing cause of the patient's fall and injuries or death arising
18 therefrom, and the jury shall be instructed accordingly.

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

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

Steve Caputo
.....
Chairman, House Committee

Paul R. Heyman
.....
Chairman, Senate Committee

Originating in the House.

In effect from passage.

Steve Harris
.....
Clerk of the House of Delegates

Jelani
.....
Clerk of the Senate

Ray Haskew
.....
Speaker of the House of Delegates

Nitch B. Carmichael
.....
President of the Senate

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

The within *is* approved this the *28th*
day of *May*, 2019.

James E. Ruston
.....
Governor

PRESENTED TO THE GOVERNOR

MAY 24 2019

Time 3:44 pm