

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 487

BY SENATORS MARONEY, TRUMP, AND TAKUBO

[Introduced January 31, 2019; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating
 2 to the admissibility of health care staffing requirements in litigation; providing that
 3 compliance with minimum staffing requirements creates a rebuttable presumption that
 4 appropriate staffing and adequate supervision were provided; and requiring that jury shall
 5 be instructed that presumption may be rebutted by clear and convincing evidence.

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, if the health care facility or health care provider demonstrates
 10 compliance with the minimum staffing requirements under state law, the health care facility or
 11 health care provider is entitled to a rebuttable presumption that appropriate staffing ~~was provided~~
 12 and adequate supervision to prevent accidents were provided. The presumption may be rebutted
 13 only by clear and convincing evidence, and the jury shall be instructed accordingly.

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

NOTE: The purpose of this bill is to clarify that meeting minimum staffing requirements in a health care facility includes the provision of adequate supervision.

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