

SB487 CC #1 3-9

90 Days

Aubel 7888

Delegate Capito, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Senate Bill No. 487**, Relating to admissibility of health care staffing requirements in litigation.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Senate Bill 487 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

**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 ~~rebuttable~~ conclusive presumption that appropriate staffing was provided, and a rebuttable  
14 presumption that adequate supervision of patients to prevent accidents was provided, and the  
15 jury shall be 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.

And,

That both houses recede from their respective positions as to the title of the bill and agree  
to the same as follows:

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

Respectfully submitted,

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Moore Capito

*Chair.*

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Tom Takubo

*Chair.*

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Geoff Foster

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Greg Boso

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Chad Lovejoy

*Conferees on the part of the House  
of Delegates.*

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Mike Woelfel

*Conferees on the part of the Senate.*