

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3003**

By Delegates C. Pritt, Chiarelli, Keaton, and Kirby

Introduced January 24, 2023; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend and reenact §30-1-26 of the Code of West Virginia, 1931, as amended, relating to  
2 clarifying that telehealth services are prohibited for abortion services.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF  
EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-26. Telehealth practice.**

1 (a) For the purposes of this section:

2 "Abortifacient" means any chemical or drug prescribed or dispensed with the intent of  
3 causing an abortion.

4 "Established patient" means a patient who has received professional services, face-to-  
5 face, from the physician, qualified health care professional, or another physician or qualified health  
6 care professional of the exact same specialty and subspecialty who belongs to the same group  
7 practice, within the past three years.

8 "Health care practitioner" means a person authorized to practice under §30-3-1 *et seq.*,  
9 §30-3E-1 *et seq.*, §30-4-1 *et seq.*, §30-5-1 *et seq.*, §30-7-1 *et seq.*, §30-7A-1 *et seq.*, §30-8-1 *et*  
10 *seq.*, §30-10-1 *et seq.*, §30-14-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et seq.*, §30-20A-1 *et seq.*,  
11 §30-21-1 *et seq.*, §30-23-1 *et seq.*, §30-26-1 *et seq.*, §30-28-1 *et seq.*, §30-30-1 *et seq.*, §30-31-1  
12 *et seq.*, §30-32-1 *et seq.*, §30-34-1 *et seq.*, §30-35-1 *et seq.*, §30-36-1 *et seq.*, §30-37-1 *et seq.*  
13 and any other person licensed under this chapter that provides health care services.

14 "Interstate telehealth services" means the provision of telehealth services to a patient  
15 located in West Virginia by a health care practitioner located in any other state or commonwealth  
16 of the United States.

17 "Registration" means an authorization to practice a health profession regulated by §30-1-1  
18 *et seq.* of this code for the limited purpose of providing interstate telehealth services within the  
19 registrant's scope of practice.

20 "Telehealth services" means the use of synchronous or asynchronous telecommunications  
21 technology or audio only telephone calls by a health care practitioner to provide health care  
22 services, including, but not limited to, assessment, diagnosis, consultation, treatment, and  
23 monitoring of a patient; transfer of medical data; patient and professional health-related education;  
24 public health services; and health administration. The term does not include internet  
25 questionnaires, e-mail messages, or facsimile transmissions.

26 (b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-  
27 1-1 *et seq.* of this code, shall propose an emergency rule for legislative approval in accordance  
28 with the provisions of §29A-3-15 *et seq.* of this code to regulate telehealth practice by a telehealth  
29 practitioner. The proposed rule shall consist of the following:

30 (1) The practice of the health care service occurs where the patient is located at the time  
31 the telehealth services are provided;

32 (2) The health care practitioner who practices telehealth shall be:

33 (A) Licensed in good standing in all states in which he or she is licensed and not currently  
34 under investigation or subject to an administrative complaint; and

35 (B) Registered as an interstate telehealth practitioner with the appropriate board in West  
36 Virginia;

37 (3) When the health care practitioner-patient relationship is established;

38 (4) The standard of care for the provision of telehealth services. The standard of care shall  
39 require that with respect to the established patient, the patient shall visit an in-person health care  
40 practitioner within 12 months of using the initial telemedicine service or the telemedicine service  
41 shall no longer be available to the patient until an in-person visit is obtained. This requirement may  
42 be suspended, in the discretion of the health care practitioner, on a case-by-case basis, and it  
43 does not to the following services: acute inpatient care, post-operative follow-up checks,  
44 behavioral medicine, addiction medicine, or palliative care;

45 (5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform

46 Controlled Substance Act, unless authorized by another section: *Provided*, That the prescribing  
47 limitations contained in this section do not apply to a physician or a member of the same group  
48 practice with an established patient;

49 (6) Establish the conduct of a registrant for which discipline may be imposed by the board  
50 of registration;

51 (7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the  
52 interstate telehealth practitioner registered in the state;

53 (8) A reference to the Board's discipline process; and

54 (9) A prohibition of prescribing or dispensing an abortifacient, or otherwise providing  
55 abortion services.

56 (c) A registration issued pursuant to the provisions of or the requirements of this section  
57 does not authorize a health care professional to practice from a physical location within this state  
58 without first obtaining appropriate licensure.

59 (d) By registering to provide interstate telehealth services to patients in this state, a health  
60 care practitioner is subject to:

61 (1) The laws regarding the profession in this state, including the state judicial system and  
62 all professional conduct rules and standards incorporated into the health care practitioner's  
63 practice act and the legislative rules of registering board; and

64 (2) The jurisdiction of the board with which he or she registers to provide interstate  
65 telehealth services, including such board's complaint, investigation, and hearing process.

66 (e) A health care professional who registers to provide interstate telehealth services  
67 pursuant to the provisions of or the requirements of this section shall immediately notify the board  
68 where he or she is registered in West Virginia and of any restrictions placed on the individual's  
69 license to practice in any state or jurisdiction.

70 (f) A person currently licensed in this state is not subject to registration but shall practice  
71 telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

NOTE: The purpose of this bill is to clarify that telehealth services are prohibited for abortion services.

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