

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5297

By Delegates Foster, Brooks, Butler, Dillon, Martin,

Kirby, Householder, Jeffries, and Ridenour

[Introduced January 29, 2024; Referred to the

Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-3-20 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §30-14-17 of said code, both relating to removing pubertal modulation
3 and hormonal therapy from prohibited practices.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-20. Prohibited practice.

1 (a) For the purposes of this section:

2 "Biological sex" means the biological indication of male and female in the context of
3 reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones,
4 gonads, and nonambiguous internal and external genitalia present at birth, without regard to an
5 individual's psychological, chosen, or subjective experience or gender.

6 "Gender" means the psychological, behavioral, social, and cultural aspects of being male
7 or female.

8 "Gender altering medication" means the prescribing or administering of the following for
9 the purpose of assisting an individual with a gender transition:

- 10 (1) Puberty blocking medication to stop or delay normal puberty;
- 11 (2) Supraphysiologic doses of testosterone or other androgens to females; and
- 12 (3) Supraphysiologic doses of estrogen to males.

13 "Gender transition" means the process in which a person goes from identifying with and
14 living as a gender that corresponds to the person's biological sex to identifying with and living as a
15 gender different from the person biological sex and may involve social, legal, or physical changes.

16 "Irreversible gender reassignment surgery" means a medical procedure performed for the
17 purpose of assisting an individual with a gender transition, including any of the following:

- 18 (1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male
19 patients or hysterectomy or ovariectomy for biologically female patients

1 (2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or
2 testicular prostheses for biologically female patients; and

3 (3) Augmentation mammoplasty for biological male patient and subcutaneous mastectomy
4 for female patients.

5 (b) Except as otherwise provided in §30-3-20(c), a physician may not provide irreversible
6 gender reassignment surgery or gender altering medication to a person who is under eighteen
7 years of age.

8 (c) A physician may provide any of the following to a person who is under 18 years of age:

9 (1) Services provided to an individual born with a medically verifiable disorder of sex
10 development, including, but not limited to, a person with external biological sex characteristics that
11 are irresolvably ambiguous, such as an individual born with forty-six xx chromosomes with
12 virilization, forty-six xy chromosomes with undervirilization, or having both ovarian and testicular
13 tissue;

14 (2) Services provided to an individual when a physician has otherwise diagnosed a
15 disorder of sexual development and in which the physician has determined through genetic or
16 biochemical testing that the individual does not have normal sex chromosome structure, sex
17 steroid hormone production, or sex steroid hormone action;

18 (3) The treatment of any infection, injury, disease, or disorder that has been caused by or
19 exacerbated by the performance of gender transition procedures, whether or not these
20 procedures were performed in accordance with state and federal law; and

21 (4) Any procedure undertaken because the individual suffers from a physical disorder,
22 physical injury, or physical illness that would, as certified by a physician, place the person in
23 imminent danger of death, or impairment of a major bodily function unless surgery is performed.

24 ~~(5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:~~

25 ~~(A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer~~

1 ~~than two medical or mental health providers with at least one being a mental health provider or~~
2 ~~adolescent medicine specialist, and both having relevant training in the diagnosis and treatment of~~
3 ~~severe gender dysphoria in adolescents;~~

4 ~~(B) The diagnosing medical professionals express in written opinions that treatment with~~
5 ~~pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric~~
6 ~~symptoms and limit self-harm, or the possibility of self-harm, by the minor;~~

7 ~~(C) The minor, the minor's parents, legal guardians, or person or other persons charged~~
8 ~~with medical decision-making for the minor, and the minor's primary physician agree in writing with~~
9 ~~the treatment with pubertal modulating and hormonal therapy for the minor;~~

10 ~~(D) Any use of gender altering medication is for purposes of pubertal modulating and~~
11 ~~hormonal therapy limited to the lowest titratable dosage necessary to treat the psychiatric~~
12 ~~condition and not for purposes of gender transition; and~~

13 ~~(E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where~~
14 ~~the minor is prepubescent, hormonal treatment may not be provided~~

15 (d) The provisions of this section are effective on January 1, 2024 2025.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-17. Prohibited practice.

1 (a) For the purposes of this section:

2 "Biological sex" means the biological indication of male and female in the context of
3 reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones,
4 gonads, and nonambiguous internal and external genitalia present at birth, without regard to an
5 individual's psychological, chosen, or subjective experience or gender.

6 "Gender" means the psychological, behavioral, social, and cultural aspects of being male
7 or female.

8 "Gender altering medication" means the prescribing or administering of the following for

9 the purpose of assisting an individual with a gender transition:

- 10 (1) Puberty blocking medication to stop or delay normal puberty;
- 11 (2) Supraphysiologic doses of testosterone or other androgens to females; and
- 12 (3) Supraphysiologic doses of estrogen to males.

13 "Gender transition" means the process in which a person goes from identifying with and
14 living as a gender that corresponds to the person's biological sex to identifying with and living as a
15 gender different from the person biological sex and may involve social, legal, or physical changes.

16 "Irreversible gender reassignment surgery" means a medical procedure performed for the
17 purpose of assisting an individual with a gender transition, including any of the following:

- 18 (1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male
19 patients or hysterectomy or ovariectomy for biologically female patients;
- 20 (2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or
21 testicular prostheses for biologically female patients; and
- 22 (3) Augmentation mammoplasty for biological male patient and subcutaneous mastectomy
23 for female patients.

24 (b) Except as otherwise provided in §30-14-17(c), a physician may not provide irreversible
25 gender reassignment surgery or gender altering medication to a person who is under eighteen
26 years of age.

27 (c) A physician may provide any of the following to a person who is under 18 years of age:

- 28 (1) Services provided to an individual born with a medically verifiable disorder of sex
29 development, including, but not limited to, a person with external biological sex characteristics that
30 are irresolvably ambiguous, such as an individual born with forty-six xx chromosomes with
31 virilization, forty-six xy chromosomes with undervirilization, or having both ovarian and testicular
32 tissue;

33 (2) Services provided to an individual when a physician has otherwise diagnosed a
34 disorder of sexual development and in which the physician has determined through genetic or
35 biochemical testing that the individual does not have normal sex chromosome structure, sex
36 steroid hormone production, or sex steroid hormone action;

37 (3) The treatment of any infection, injury, disease, or disorder that has been caused by or
38 exacerbated by the performance of gender transition procedures, whether or not these
39 procedures were performed in accordance with state and federal law; and

40 (4) Any procedure undertaken because the individual suffers from a physical disorder,
41 physical injury, or physical illness that would, as certified by a physician, place the person in
42 imminent danger of death, or impairment of a major bodily function unless surgery is performed.

43 ~~(5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:~~

44 ~~(A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer~~
45 ~~than two medical or mental health providers with at least one being a mental health provider or~~
46 ~~adolescent medicine specialist and both having relevant training in the diagnosis and treatment of~~
47 ~~severe gender dysphoria in adolescents;~~

48 ~~(B) The diagnosing medical professionals express in written opinions that treatment with~~
49 ~~pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric~~
50 ~~symptoms and limit self-harm, or the possibility of self-harm, by the minor;~~

51 ~~(C) The minor, the minor's parents, legal guardians, or person or persons charged with~~
52 ~~medical decision-making for the minor and the minor's primary physician agree in writing with the~~
53 ~~treatment with gender altering medication for the minor;~~

54 ~~(D) Any use of gender altering medication is for purposes of pubertal modulating and~~
55 ~~hormonal therapy and is limited to the lowest titratable dosage necessary to treat the psychiatric~~
56 ~~condition and not for purposes of gender transition; and~~

57 ~~(E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where~~
58 ~~the minor is prepubescent, hormonal treatment may not be provided.~~

59 (d) The provisions of this section are effective on January 1, ~~2024~~ 2025.

NOTE: The purpose of this bill is to remove pubertal modulation and hormonal therapy from prohibited practices.

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