WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4770

By Delegates Worrell, Hite, and Petitto

[Introduced January 23, 2026; referred to the

Committee on Health and Human Resources then

Finance]

1   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto six new

2   sections, designated §5-16-15a, §33-15-4y, §33-16-3ii, §33-24-7z, §33-25-8w, §33-25A-

3   8z; amending and reenacting §5A-6-9; and adding new article, designated §33-57-2,

4   establishing limitations on the use of artificial intelligence and artificial intelligence

5   technology to deliver mental health care, with exceptions for administrative support

6   functions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE

GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;

BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,

COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-15a. Artificial Intelligence Limitations.

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq*. of this code.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 6. OFFICE OF TECHNOLOGY.

§5A-6-9.   West   Virginia   Task   Force   on   Artificial   Intelligence.

1   (a) As used in this Section, "Task Force" means the West Virginia Task Force on Artificial

2   Intelligence established by this section.

3   (b) The West Virginia Task Force on Artificial Intelligence is created and shall be organized

4   within the Office of the Governor.

5   (c) The Task Force shall be composed of the following members:

6   (1) One ex officio, non-voting member from the House of Delegates, appointed by the

7   Speaker of the House of Delegates.

8   (2) One ex officio, non-voting member from the State Senate, appointed by the President

9   of the Senate.

10   (3) The Chief Information Officer of the Office of Technology or his or her designee.

11   (4) The State Superintendent of Schools or his or her designee.

12   (5) The Chancellor of the West Virginia Higher Education Policy Commission or his or her

13 designee.

14   (6) The Attorney General or his or her designee.

15   (7) The Secretary of the Department of Administration or his or her designee.

16   (8) The Secretary of the Department of Homeland Security or his or her designee.

17   (9) The Secretary of Health or his or her designee.

18   (10) One member representing the cybersecurity industry with experience relevant to the

19 work of the Task Force, appointed by the Governor.

20   (11) One member representing the artificial intelligence industry with experience relevant

21 to the work of the Task Force, appointed by the Governor.

22   (12) One member representing a statewide business association, appointed by the

23 Governor.

24   (13) One member from the West Virginia Fusion Center.

25   (14) One member representing either the West Virginia University Health System or the

26 Marshall Health Network, appointed by the Governor.

27   (15) One member representing health care practitioners, specifically licensed to provide

28 mental health care in West Virginia with knowledge of the use of AI in clinical practice.

29   (d) The Governor shall designate the Chair of the Task Force.

30   (e) The responsibilities of the Task Force shall include, but not be limited to, the following:

31   (1) Recommending a definition of artificial intelligence as it pertains to its use in technology

32   for use in legislation;

33   (2) Determining the relevant state agency or agencies to develop and oversee artificial

34   intelligence policy and implementation of that policy;

35   (3) Determining which public interest use cases exist or may exist for artificial intelligence;

36   (4) Developing best practices for public sector uses of artificial intelligence in the State;

37   (5) Recommending legislation to protect individual rights, civil liberties, <u>health</u> and

38   consumer data as it relates to generative artificial intelligence;

39   (6) Recommending model policies for schools to address the use of artificial intelligence by

40   students in the classroom;

41   (7) Determining and making recommendations regarding whether the Task Force should

42   be extended to monitor, analyze, and make findings and recommendations to keep pace with

43   changes in artificial intelligence technology and uses of the technology;

44   (8) Assessing the use of artificial intelligence in the workforce and its effect on employment

45   levels, types of employment, and the deployment of workers;

46   (9) Taking an inventory of the current or proposed use of artificial intelligence within state

47   agencies;

48   (10) Identify economic opportunities related to AI that the state may support or promote;

49   (11) Other topics related to artificial intelligence that may arise from testimony or reports to

50   the Task Force submitted by its members, invited guests, or the public.

51   (f) The Office of Technology shall provide administrative and technical support to the Task

52   Force.

53   (g) All initial appointments to the task force shall be made not later than 90 days after the

54   effective date of this section. Any vacancy shall be filled by the appointing authority, as applicable,

55   within 90 days of such vacancy arising.

56   (h) The Task Force shall hold its first meeting not later than 120 days after the effective date

57   of this section and shall meet quarterly thereafter with options to either attend in-person or online.

58   (i) The Task Force shall submit an annual electronic report by July 1, to the House of

59   Delegates, Senate, and the Governor and present the report to the Joint Committee on

60   Government and Finance covering the Task Force's findings and recommendations related to the

61   responsibilities under subsection (e) of this section.

62   (j) The Task Force shall terminate on July 1, 2027.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4y.   Artificial   Intelligence   Limitations.

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq.* of this code.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3ii. Artificial Intelligence Limitations.

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq*. of this code.

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

§33-24-7z.   Artificial   Intelligence   Limitations.

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq*. of this code.

ARTICLE 25. HEALTHCARE CORPORATION.

§33-25-8w.   Artificial   Intelligence   Limitations.

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq*. of this code.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8z.   **Artificial**   **Intelligence**   **Limitations.**

1   Notwithstanding any provision of this code to the contrary, a policy, plan, or contract that is

2   issued or renewed on or after January 1, 2027, and that is subject to this article, shall comply with

3   the provisions of §33-57-2, *et. seq*. of this code.

ARTICLE 57. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-57-2.   **Limitations**   **on**   **Artificial**   **Intelligence.**

1   (a) The following terms are defined:

2   (1) "Artificial intelligence", "artificial intelligence technology", or "AI" means a machine-

3   based system that can, for a given set of human-defined objectives, make predictions,

4   recommendations, or decisions influencing real or virtual environments, and that uses machine-

5   and human-based inputs to perceive real and virtual environments, abstract such perceptions into

6   models through analysis in an automated manner, and use model inference to formulate options

7   for information or action.

8   (2) "Generative artificial intelligence" means a class of AI models that emulate the structure

9   and characteristics of input data to generate derived synthetic content, including, but not limited to,

10   images, videos, audio, text, and other digital content.

11   (3) "AI model" means a component of an information system that implements artificial

12   intelligence technology and uses computational, statistical, or machine-learning techniques to

13   produce outputs from a given set of inputs.

14   (4) (A) "AI companion" means a system using artificial intelligence, generative artificial

15   intelligence, and/or emotional recognition algorithms designed to simulate a sustained human or

16   human-like relationship with a user by:

17   (i) Retaining information on prior interactions or user sessions and user preferences to

18   personalize the interaction and facilitate ongoing engagement with the AI companion;

19   (ii) Asking unprompted or unsolicited emotion-based questions that go beyond a direct

20   response to a user prompt; and

21   (iii) Sustaining an ongoing dialogue concerning matters personal to the user.

22   (B) Human relationships include, but shall not be limited to, intimate, romantic or platonic

23   interactions or companionship.

24   (c) "AI companion" shall not include:

25   (i) Any system used by a business entity solely for customer service or to strictly provide

26   users with information about available commercial services or products provided by such entity,

27   customer service account information, or other information strictly related to its customer service;

28   (ii) Any system that is primarily designed and marketed for providing efficiency

29   improvements or, research or technical assistance; or

30   (iii) Any system used by a business entity solely for internal purposes or employee

31   productivity.

32   (5) "Operator" means any person, partnership, association, firm, or business entity, or any

33   member, affiliate, subsidiary or beneficial owner of any partnership, association, firm, or business

34   entity who operates for or provides an AI companion to a user, and any insurer subject to §5-16-15

35   *et. seq*., §33-15-4 *et. seq.,* §33-16-3 *et. seq.*, §33-24-7 *et. seq.*, §33-25-8 *et seq.*, and §33-25A8 *et.*

36   *seq*. of this code.

37   (6) "Person" means any natural person.

38   (7) "Consent" means clear, explicit affirmative act by a person that unambiguously

39   communicates the individual's express, freely given, informed, voluntary, specific, and

40   unambiguous written agreement, including a written agreement provided by electronic means,

41   and (ii) is revocable by the individual. "Consent" does not include an agreement that is obtained by

42   the following:

43   (i) The acceptance of a general or broad terms of use agreement or a similar document

44 that contains descriptions of artificial intelligence along with other unrelated information;

45   (ii) An individual hovering over, muting, pausing, or closing a given piece of digital content,

46 or;

47   (iii) An agreement obtained through the use of deceptive actions.

48   (7) "Emotional recognition algorithms" means artificial intelligence that detects and

49 interprets human emotional signals in text (using natural language processing and sentiment

50 analysis), audio (using voice emotion AI), video (using facial movement analysis, gait analysis, or

51 physiological signals), or a combination thereof.

52   (8) "Licensed professional" means an individual who holds a valid license issued by this

53 State to provide therapy or psychotherapy services, including:

54   (i) A licensed clinical psychologist;

55   (ii) A licensed clinical social worker;

56   (iii) A licensed social worker;

57   (iv) A licensed professional counselor;

58   (v) A licensed clinical professional counselor;

59   (vi) A licensed marriage and family therapist;

60   (vii) A certified alcohol and other drug counselor authorized to provide therapy or

61 psychotherapy services;

62   (viii) A licensed advanced practice psychiatric nurse;

63   (ix) Physician; and

64   (x) Any other professional authorized by this State to provide therapy or psychotherapy

65 services.

66   (9) "Therapeutic communication" means any verbal, non-verbal, or written interaction

67 conducted in a clinical or professional setting that is intended to diagnose, treat, or address an

68 individual's mental, emotional, or behavioral health concerns, including but not limited to direct

69 interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or

70   experiences; providing guidance, therapeutic strategies, or interventions designed to achieve

71   mental health outcomes; offering emotional support, reassurance, or empathy in response to

72   psychological or emotional distress; collaborating with clients to develop or modify therapeutic

73   goals or treatment plans; and offering behavioral feedback intended to promote psychological

74   growth or address mental health conditions. Therapeutic communication does not does not

75   include generic, non-individualized educational or wellness content that is not tailored to a specific

76   person and does not purport to diagnose, treat, or respond to that person's individual mental or

77   behavioral health condition.

78   (10) "Peer support" means services provided by individuals with lived experience of mental

79   health conditions or recovery from substance use that are intended to offer encouragement,

80   understanding, and guidance without clinical intervention.

81   (11) "Religious counseling" means counseling provided by clergy members, pastoral

82   counselors, or other religious leaders acting within the scope of their religious duties if the services

83   are explicitly faith-based and are not represented as clinical mental health services or therapy or

84   psychotherapy services.

85   (12) "Digital mental wellness service" means a tool, application, or program that provides

86   general education, self-help, or wellness content related to mental or emotional well-being but

87   does not diagnose, treat, or claim to treat a mental or behavioral health condition and is not

88   represented as therapy or psychotherapy services.

89   (12) "Therapy or psychotherapy services" means services provided to diagnose, treat, or

90   improve an individual's mental health or behavioral health. "Therapy or psychotherapy services"

91   does not include religious counseling or peer support.

92   (13) "Self-harm" means intentional self-injury with or without the intent to cause death.

93   (b) An operator or licensed professional is permitted to use artificial intelligence technology

94   and AI tools or systems to assist in providing administrative support or supplementary support in

95   therapy or psychotherapy services with the operator or licensed professional maintaining full

96   responsibility for all interactions, outputs and data use associated with the system and satisfies the

97   requirements of this article; *Provided*, that no decision for patient care, reimbursement or claims

98   adjudication shall be based exclusively on AI-generated information.

99   (c) An operator or licensed professional shall provide a clear and conspicuous notification

100   to a user at the beginning of any AI companion interaction which need not exceed once per day

101   and at least every three hours for continuing AI companion interactions which states either verbally

102   or in writing that the user is not communicating with a human.

103   (d) No operator or licensed professional shall be permitted to use artificial intelligence to

104   assist in providing supplementary support in therapy or psychotherapy where the client's

105   therapeutic session is recorded or transcribed unless:

106   (1) The patient or the patient's legally authorized representative is informed in writing of the

107   following that artificial intelligence will be used; and the specific purpose of the artificial intelligence

108   tool or system that will be used; and

109   (2) The patient or the patient's legally authorized representative provides consent to the

110   use of artificial intelligence.

111   (e) No operator or licensed professional may provide, advertise, or otherwise offer therapy

112   or psychotherapy services, including through the use of Internet-based artificial intelligence, to the

113   public in this State unless the therapy or psychotherapy services are conducted by an individual

114   who is a licensed professional, and shall not design, market or present any AI system that

115   reasonably would cause a person to believe the AI system is a licensed professional or crisis

116   service.

117   (f) Peer support services, religious counseling services and digital mental wellness

118   services shall not, through the use of artificial intelligence, diagnose, develop or modify treatment

119   plans, conduct suicide or self-harm risk assessments, or otherwise provide therapy or

120   psychotherapy services as defined in this section.

121   (g) An operator or licensed professional may use artificial intelligence only to the extent the

122   use meets the requirements of subsection (b). A licensed professional may not allow artificial

123   intelligence to do any of the following:

124   (1) Make independent therapeutic decisions;

125   (2) Directly interact with clients in any form of therapeutic communication;

126   (3) Generate therapeutic recommendations or treatment plans without review and

127   approval by the licensed professional; or

128   (4) Detect emotions or mental states for the purpose of making diagnostic, therapeutic, or

129   treatment decisions, or for targeting or manipulating a person's mental or emotional state.

130   (h) An operator or licensed professional may use artificial intelligence solely to flag or triage

131   communications that may indicate self-harm, suicide risk, or other acute safety concerns, provided

132   that any such flags are promptly reviewed and addressed by a licensed professional who retains

133   sole authority for clinical assessment and decision-making.

134   (i) An operator employing AI in any capacity for the delivery of mental health services shall

135   disclose the scope, purpose, and operational details of such AI systems to the Offices of the

136   Insurance Commission and make summary reports available to the public. These reports must

137   include:

138   (1) The role of AI in decision-making processes;

139   (2) Data on the performance and outcomes of AI-assisted services; and

140   (3) Evidence that human oversight has been consistently maintained.

141   (j) An operator or a licensed professional found in violation of this article shall pay a civil

142   penalty of an amount not to exceed $10,000 per violation, as determined by the Offices of the

143   Insurance Commissioner.

144   (k) The Offices of the Insurance Commissioner shall adopt rule to implement this article.

145   (l) This article shall be effective January 1, 2027.

NOTE: The purpose of this bill is to establish regulations governing the use of artificial

intelligence in the administration and delivery of mental health care in West Virginia.

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