

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2212

By Delegate Steele

[Introduced February 12, 2025; referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §55-7B-4 of the Code of West Virginia, 1931, as amended, related to
2 limiting the applicability of this article to certain practices by medical care providers.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-4. Health care injuries; limitations of actions; exceptions; venue.

1 (a) A cause of action for medical injury to a person alleging medical professional liability
2 against a health care provider, except a nursing home, assisted living facility, their related entities
3 or employees, or a distinct part of an acute care hospital providing intermediate care or skilled
4 nursing care or its employees, arises as of the date of medical injury, except as provided in
5 subsection (c) of this section, and ~~must~~ shall be commenced within two years of the date of ~~such~~
6 the injury or death, or within two years of the date when ~~such~~ the person discovers, or with the
7 exercise of reasonable diligence, should have discovered ~~such~~ the medical injury, whichever last
8 occurs: *Provided*, That in no event ~~shall~~ may any such action be commenced more than 10 years
9 after the date of medical injury.

10 (b) A cause of action for medical injury to a person alleging medical professional liability
11 against a nursing home, assisted living facility, their related entities or employees, or a distinct part
12 of an acute care hospital providing intermediate care or skilled nursing care or its employees
13 arises as of the date of medical injury, except as provided in subsection (c) of this section, and
14 ~~must~~ shall be commenced within one year of the date of ~~such~~ the medical injury, or within one year
15 of the date when ~~such~~ the person discovers, or with the exercise of reasonable diligence, should
16 have discovered ~~such~~ the injury or death, whichever last occurs: *Provided*, That in no event ~~shall~~
17 may any such action be commenced more than 10 years after the date of medical injury. With the
18 amendments to this subsection enacted in the regular session of the Legislature, 2022, that
19 intends to reinstate and codify a one-year statute of limitations for any cause of action for medical
20 injury resulting in injury or death to a person alleging medical professional liability against a
21 nursing home, assisted living facility, their related entities or employees or a distinct part of an

acute care hospital providing intermediate care or skilled nursing care or its employees.

(c) A cause of action for injury to a minor, brought by or on behalf of a minor who was under the age of 40 18 years at the time of ~~such~~ the injury, shall be commenced within two years of the date of ~~such~~ the injury, or prior to the minor's 42th 20th birthday, whichever provides the longer period.

(d) The periods of limitation set forth in this section shall be tolled for any period during which the health care provider or its representative has committed fraud or collusion by concealing or misrepresenting material facts about the injury.

(e) Any medical professional liability action against a nursing home, assisted living facility, related entity or employee, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees shall be brought in the circuit court of the county in which the nursing home, assisted living facility, or acute care hospital providing intermediate care or skilled nursing care, at which the alleged act of medical professional liability occurred is located, unless otherwise agreed upon by the nursing home, assisted living facility, related entity, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care, and the plaintiff. Nothing in this subsection ~~shall~~ may prohibit a party from removing the action to federal court.

(f) The provisions of this article may not apply to the provision of services relating to the performance of an abortion, which does not include care provided by a separate medical provider to treat an injury resulting from the provision of abortion services, the provision of pharmaceuticals to induce an abortion, the provision of services to carry out or perform euthanasia, the performance of a surgery or provision of medical care, to include the provision of hormone therapy designed to change the gender attributes of a person, or the provision of medical care under Chapter 16A of this code. Any cause of action brought by a plaintiff due to the circumstances outlined in this subsection may not be subject to the provisions of §55-7B-1 et seq.

NOTE: The purpose of this bill is to limit the applicability of this article to certain practices by

medical care providers.

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